

SYDNEY SOUTH WEST PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SSW019
DA Number	DA-1113/2015
Local Government Area	Liverpool City Council
Proposed Development	Construction of a five-storey residential flat building containing 30 units above a basement car park. The proposal is lodged pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
Street Address	46-50 Hoxton Park Road, Liverpool (Lot 103 DP 594256 and Lot 9 DP 26897)
Applicant	Hoxten Pty Ltd
Owner	Forlife Development Pty Ltd
Date of DA Lodgement	16 November 2015
Number of Submissions	One (1)
Regional Development Criteria (Schedule 4A of the EP&A Act)	The proposal includes Affordable Housing (50% of gross floor area) and has a capital investment value of over \$5 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 Buildings in the R4 zone. -

	<ul style="list-style-type: none"> 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) 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"> 1. Architectural plans 2. Landscape plan 3. Recommended conditions of consent 4. Clause 4.6 Variation Written Justification to Height 5. Statement of Environmental Effects 6. SEPP 65 Verification Statement, Design Principles and Compliance Table 7. Gross Floor Area Calculation 8. Breezeway detail section 9. Cross-ventilation Study 10. Affordable Housing Dedications 11. Solar Access Study 12. Social Impact Statement 13. Accessibility Report 14. Waste Management Plan 15. Traffic Report 16. BCA Compliance Report 17. Acoustic Report 18. BASIX Certificate
Recommendation	Approval subject to conditions
Report prepared by	Ivan Kokotovic – Senior Development Planner
Report date	13 March 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (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**

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney South West Planning Panel is the determining body as the proposal includes Affordable Housing (50% of gross floor area) and has a capital investment value of over \$5 million, pursuant to Schedule 4A(6b) of the Environmental Planning and Assessment Act 1979.

1.1 The proposal

The application proposes the construction of a five storey residential flat building development containing 30 units with basement car park.

1.2 The site

The site is identified as Lot 103 DP 594256 and Lot 9 DP 26897, No. 46-50 Hoxton Park Road, Liverpool.

1.3 The issues

The main issues are identified as follows:

- Non-compliance with the Liverpool Local Environmental Plan (LLEP) 2008 - Clause 4.3 Height of Buildings;
- Non-compliance with the Apartment Design Guide – building separation distances;
- Non-compliance with Liverpool Development Control Plan 2008 (LDCP 2008) – side and rear setback controls; and
- Concerns raised as part of the notification process.

1.4 Exhibition of the proposal

The development application was advertised for a period of 14 days between 20 January 2016 and 3 February 2016 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). One (1) submission was received to the proposed development in response to the public consultation process.

1.5 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act (EP&AA) 1979. Based on the assessment of the application and the consideration of the written requests to vary development standards pursuant to Clause 4.6 of the LLEP 2008, it is recommended that the application be approved subject to conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site



Figure 1: Location of the Site of Proposed Works at 46-50 Hoxton Park Road, Liverpool

The site of the proposed development is generally rectilinear with a frontage of 40.19m to Hoxton Park Road (identified as a major road corridor and classified road) and with an area of approximately 1584.5sqm. The rear boundary is slightly irregular. The site is north facing with a minor slope falling 1m from the rear to the front boundary. The subject site comprises two allotments known as 46-50 Hoxton Park Road, Liverpool, and is legally described as Lot 103 in DP 594256 and Lot 9 in DP 26897. There are no significant trees and no vegetation on site, and the site is not flood or bushfire prone land.

The site currently comprises one (1) single storey dwelling at 46 Hoxton Park Road and a vacant allotment at 50 Hoxton Park Road. Adjoining the site to the west side is a single storey dwelling and to its west, on the corner of Hoxton Park Road and Gil Avenue, is a 2-storey dwelling house. There is a residential apartment building currently under construction immediately to the east of the site. To the rear is one (1) single storey and one (1) two storey dwelling.

A site inspection carried out on 12 October 2016 witnessed that no works as described in this application have commenced.

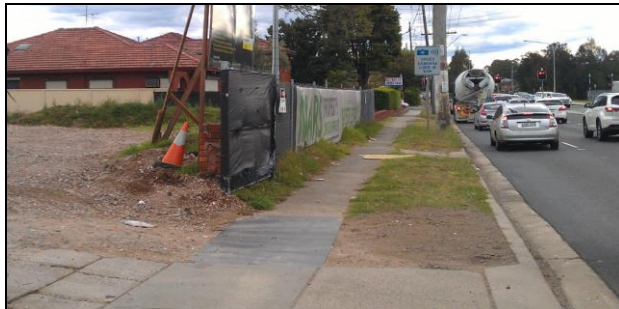
Site Inspection Photos



1. Front of Site



2. Front of site and adjoining RFB



3. Hoxton Park Road, along the frontage



4. The existing dwelling on-site

2.1 The locality



Figure 2: Locality surrounding the proposed development

The subject site is bounded by Hoxton Park Road to the north and Pearce Street in the south, with an area of R3 medium density zoned land further to the south. Beyond Hoxton Park Road to the north is Woodward Park and the large area of playing fields and courts which includes the Liverpool Aquatic Centre. The site is located approximately 840m south-west of the Liverpool CBD and the major intersection of Hoxton Park Road and the Hume Highway is located 420m to the east. The site is in the Georges River Catchment and naturally drains to Brickmakers Creek which is located 210m to the west.

It is noted that the immediate area is undergoing urban renewal. The locality is zoned R4 High Density Residential under Liverpool Local Environmental Plan 2008. Development consent has been granted to the adjoining site immediately to the east of the proposed development, being:

- 42-44 Hoxton Park Road, Liverpool – Development Consent No DA-716//2014 granted approval for the construction of a 5 storey residential flat building containing 33 apartments. Construction of this development is underway.

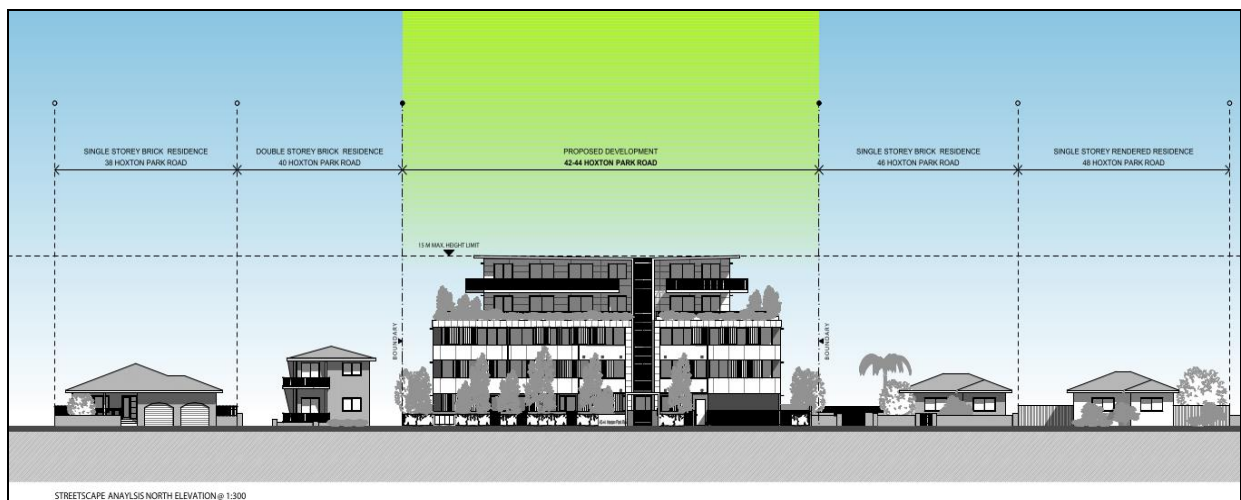


Figure 3: Streetscape Elevation of the approved development at 42-44 Hoxton Park Road

2.3 Site affectations

The subject site has only one constraint, which is listed below:

Road Noise / Classified Road

The site is affected by Road Noise as it is located adjacent to a classified road (Hoxton Park Road).

The applicant has provided an Acoustic Report to assess noise attenuation measures for the proposed dwellings, which is supported by Council's Environmental and Health section.

The application was referred to the Roads and Maritime Service for comment, who have responded in support of the application, subject to conditions, including restricting access to the development to a left in/left out movements only.

2.4 Deposited Plan

The DP 26897 registered on 27 June 1956 and the DP 594256 registered on 20 February 1978 and the survey plans show no restrictions/easements relating to the site. An extract of the DPs is provided below.

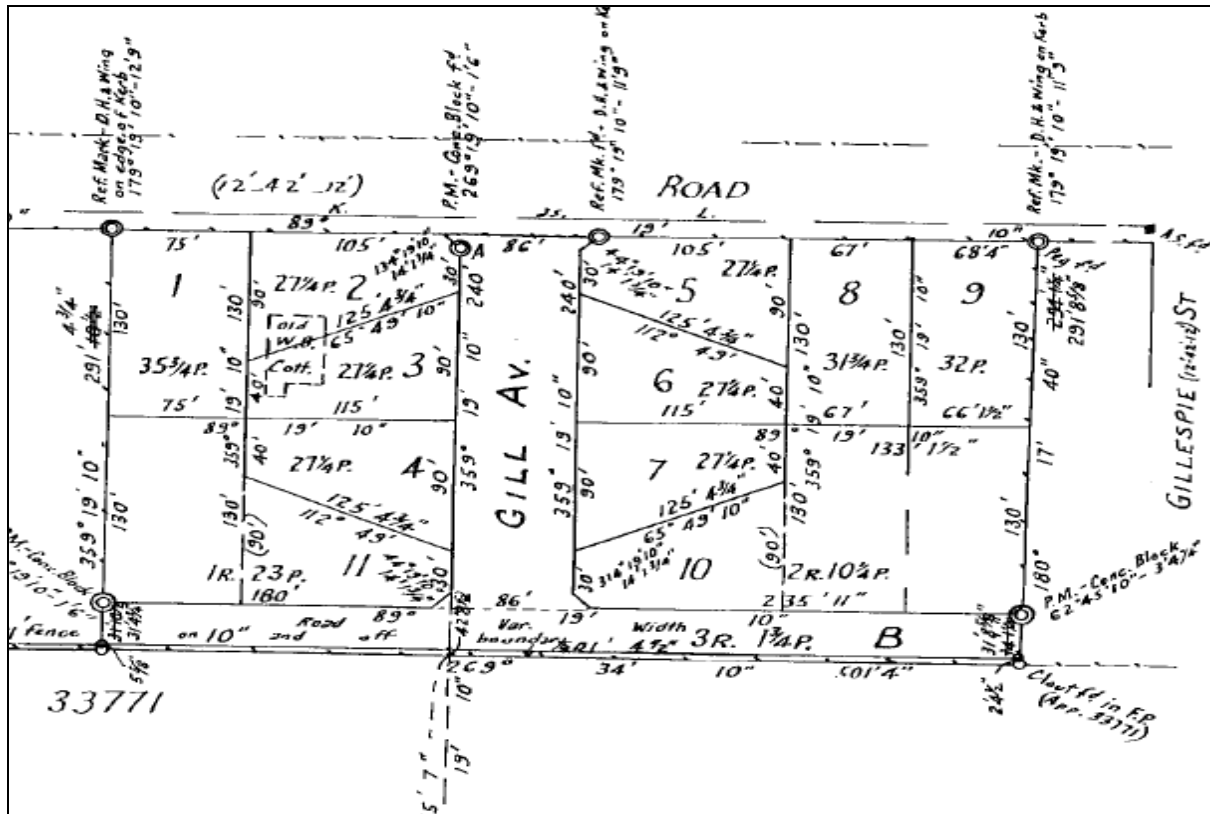


Figure 4: Extract of the DP 26897

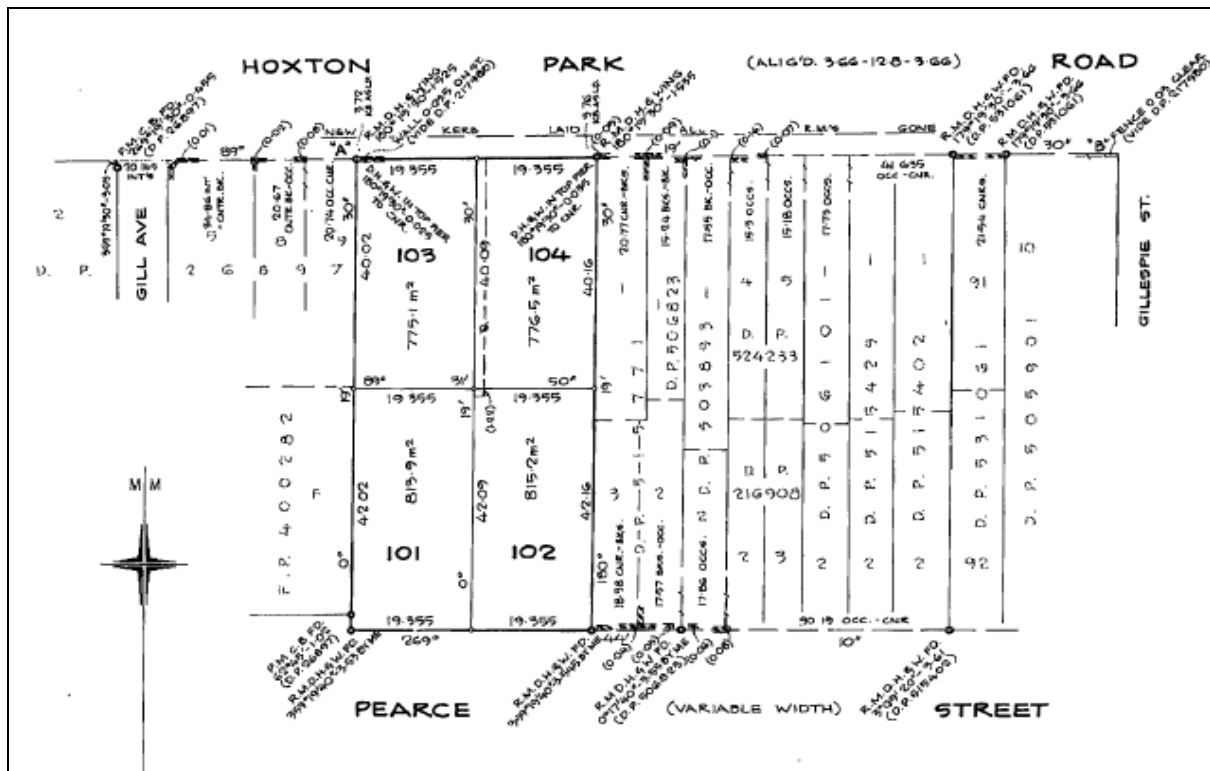


Figure 5: Extract of the DP 594256

3. BACKGROUND

3.1 Issues Identified in Initial Assessment

Following on from a preliminary assessment of the application, Council sought further information and clarification regarding the following items:

- *Floor Space Calculation - Exclusion of Breezeways from floor area.*

Comment: Revised details provided clarification that the three lower floors provide cross-ventilation through the building and as such should not be included in floor area.

- *Deep Soil Zones – Additional deep soil zones to be provided.*

Comment: Additional deep soil zones were provided through basement re-alignment, allowing the re-designed 3m side setbacks to be included in the deep soil zones.

- *Privacy and Separation issues in relation to adjoining approved residential flat building*

Comment: The proposal has been amended as requested, with highlight windows and privacy screen devices to mitigate privacy issues.

3.2 Related applications

A Pre-DA and three DAs have been submitted for the site.

- PL-102/2014: Construction of 12 Townhouses and basement parking.
- DA-232/2015: Construction of a 2 storey multi-dwelling development for 12 dwellings and basement carpark. Approved 29/02/2016.
- DA-1112/2015: Demolition of two existing dwellings. Approved 22/01/2016.

3.3 Design Review Panel Briefing

The subject application was considered by the DEP on 25 February 2016. The DEP were supportive of the proposal subject to the following amendments which are summarised below. Comments are also provided on how these issues have been resolved.

- *The east and west facades of the building to be redesigned to avoid habitable rooms of opposite buildings facing one another, by either blank wall or splayed (flipper) windows at 3m from the boundary.*

Comment: The development has been amended to incorporate privacy mitigating devices which are considered appropriate as discussed in the ADG assessment further in the report.

- *Redesign units 106 and 206 to remove the windowless bedrooms.*

Comment: Amended plans provide windows to all bedrooms.

- *Ensure that the living room in unit 304 is 4m wide.*

Comment: Amended plans provide minimum 4m width to all living rooms.

- *Ensure that ground floor units facing the street have individual entrances.*

Comment: Amended plans show the three ground floor units facing the street with individual entrances.

3.4 Planning Panel Briefing

The planning panel has not been briefed with respect to this proposal.

4. DETAILS OF THE PROPOSAL

The application proposes the construction of a five storey residential flat building containing 30 units above basement car park.

Building Design

- The development provides a row building form divided into two main separate horizontal elements – base, and top floors, with communal open space area located to the rear of the building.
- The development provides 30 apartments (3 accessible) comprised of:
 - 3 x 1 studio units;
 - 1 x 1 bedroom units;
 - 1 x 1 bedroom unit and study;
 - 18 x 2 bedroom units;
 - 5 x 2 bedroom units and study;
 - 2 x 3 bedroom units;

Ground Floor Building Layout (6 units)

Front Units with front private open space: 1 x 2 bedroom + study, 1 x 1 bedroom + study, and 1 x 1 bedroom (accessible)

Rear Units with rear private open space: 1 x studio and 2 x 2 bedroom

Pedestrian access to the building consists of one main entry and hallway to access the 3 rear ground floor units and elevator, and private access from Hoxton Park Road to the 3 front ground level units.

Communal open space is oriented to the south between the building and rear boundary. Deep soil and landscaped areas are located in both side and rear setbacks, with some located at the front of the site.

A garbage bin storage room is proposed amongst the units and adjacent to the eastern side vehicular access ramp.

A fire exit, pump room, communal accessible WC and storage area are located with access from the central breezeway.

Level 1 Building Layout (7 units)

Front Units with front balconies: 1 x 2 bedroom + study, 1 x 2 bedroom, 1 x 2 bedroom (accessible), 1 x 3 bedroom

Rear Units with rear balconies: 1 x studio, 2 x 2 bedroom

Level 2 Building Layout (7 units)

Front Units with front balconies: 1 x 2 bedroom + study, 1 x 2 bedroom, 1 x 2 bedroom (accessible), 1 x 3 bedroom

Rear Units with rear balconies: 1 x studio, 2 x 2 bedroom

Level 3 Building Layout (5 units)

Front Units with front balconies:	1 x 2 bedroom + study, 2 x 2 bedroom
Rear Units with side balconies:	2 x 2 bedroom

Level 4 Building Layout (5 units)

Front Units with front balconies:	1 x 2 bedroom + study, 2 x 2 bedroom
Rear Units with side balconies:	2 x 2 bedroom

Parking Provisions and Basement Design

- The development provides for a total of 29 car parking spaces comprising of:
 - 29 spaces in total allocated to the residential units;
 - 3 of these spaces designated as accessible;
 - 1 space designated as a loading area;
- Bicycle parking to accommodate 6 bicycles.
- 31 storage areas.
- Pedestrian access is facilitated by 1 elevator, a pedestrian stair and a fire stair
- Vehicular access is provided via a 6.6m wide driveway ramp with left-in left-out traffic control onto Hoxton Park Road, which allows forward direction entry and exit to the site.

Resident access to other units and the basement is via the internal elevator.

Landscaping

- Landscaping consists of native tree species planted along all boundaries, as well as surrounding the private courtyards of the ground floor units.
- The majority of deep soil landscaping is provided along the side and rear boundaries of the development site. Deep soil landscaping is also provided along the front boundary within small pockets.

Site Service Facilities

- A garbage bin storage area has been provided on the ground floor within a bin holding room located adjacent to the basement driveway ramp. This is accessed via the central breezeway with access via a side path to the Hoxton Park Road.

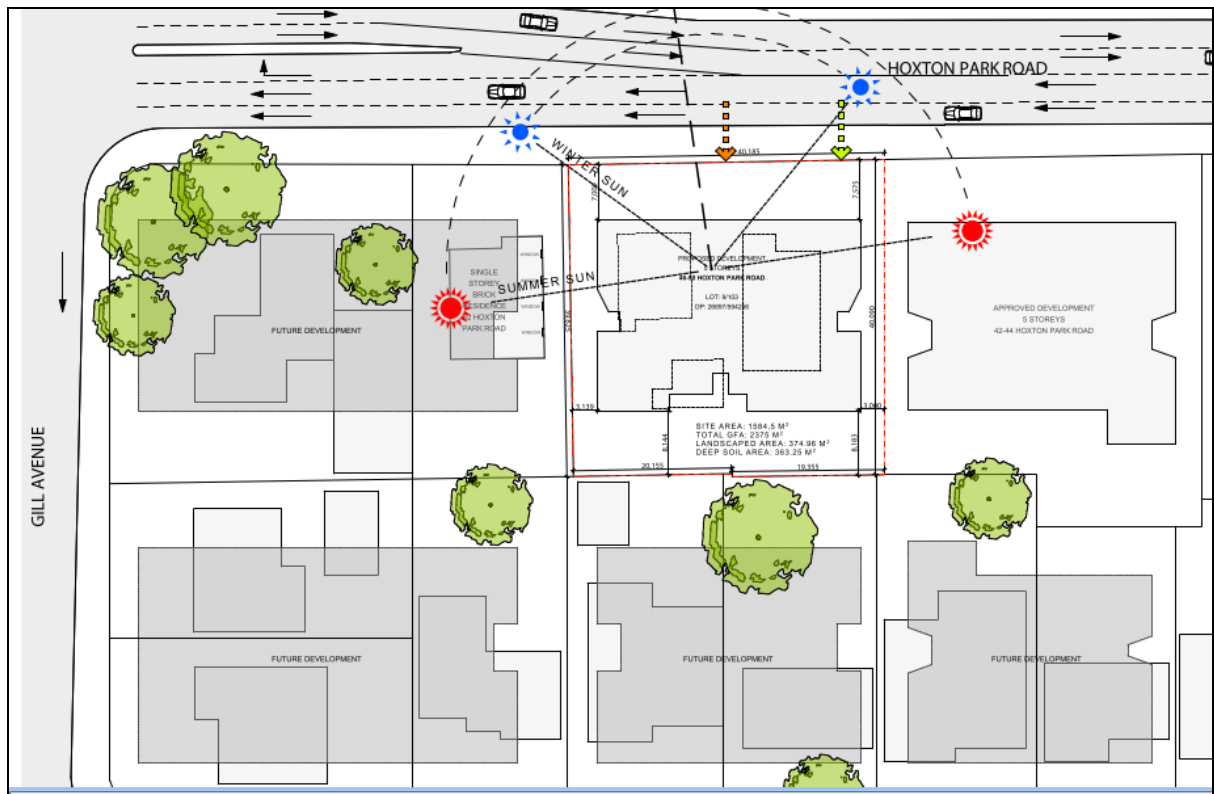


Figure 6: Extract of Site Analysis Plan



Figure 7: Extract of North (streetscape) elevation

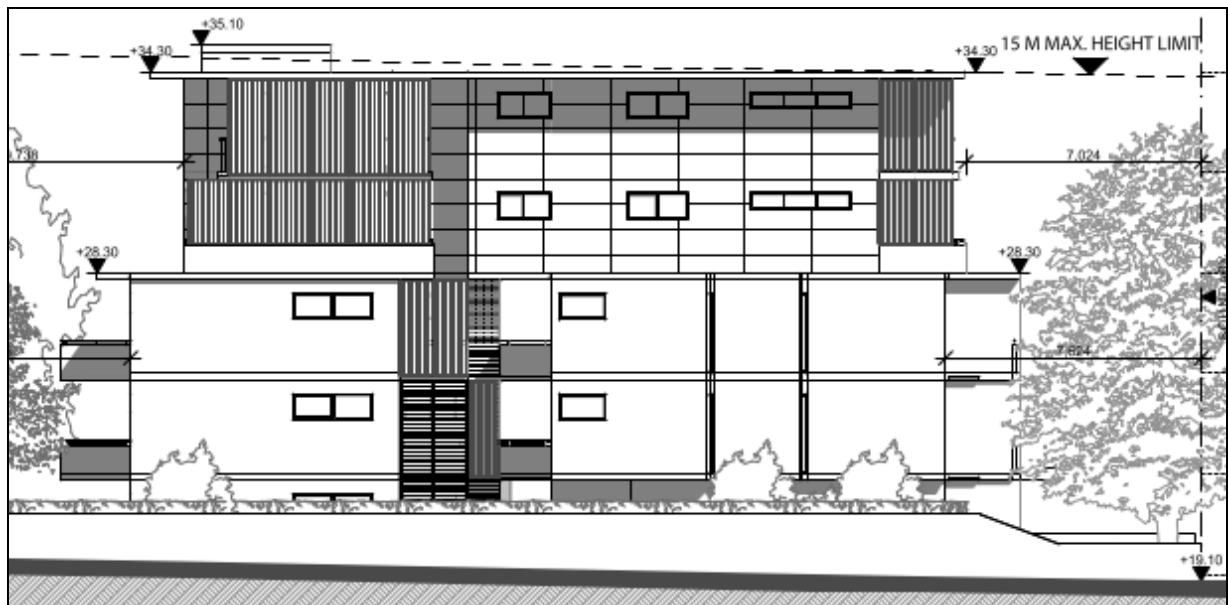


Figure 8: Extract of East elevation



Figure 9: Extract of South elevation

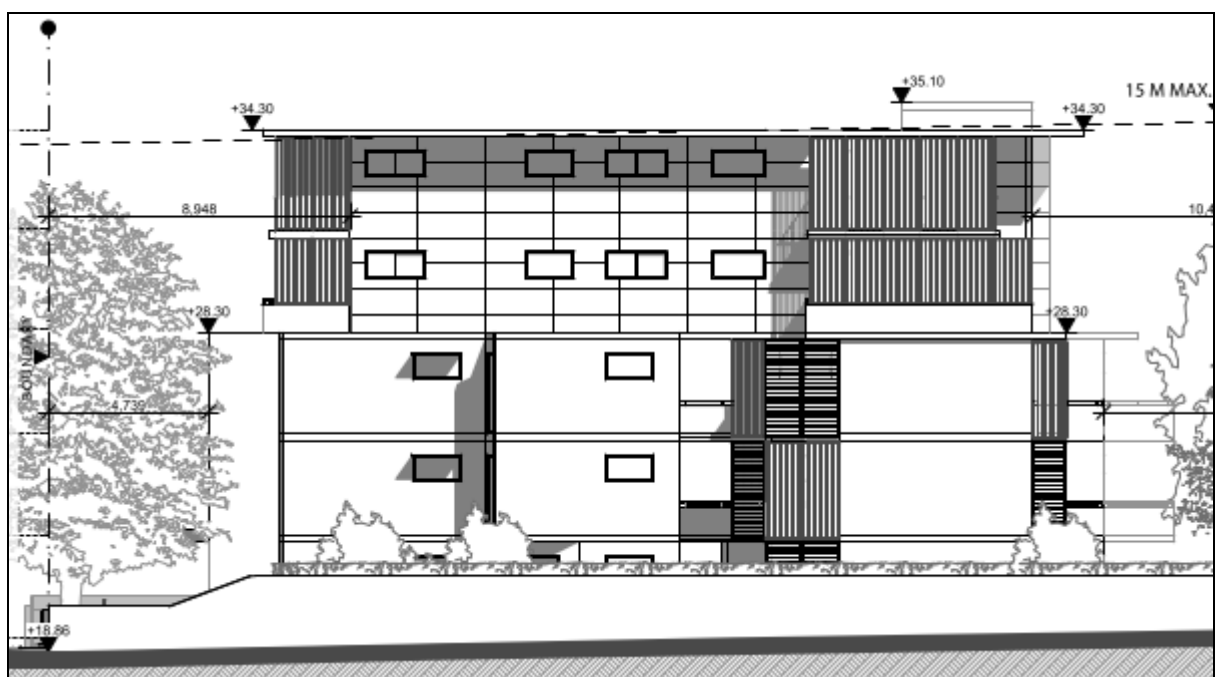


Figure 10: Extract of West elevation

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 (now deemed SEPP); and
- Liverpool Local Environmental Plan (LLEP) 2008;

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Other Plans and Policies

- Apartment Design Guide

Development Control Plans

- *Liverpool Development Control Plan 2008*
 - Part 1 - Controls applying to all development
 - Part 3.7 - Residential Flat Buildings in the R4 zone (Outside Liverpool City Centre)

Contributions Plans

- Liverpool Contributions Plan 2009 applies to all development pursuant to Section 94 of the EPA & Act.

5.2 Zoning

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

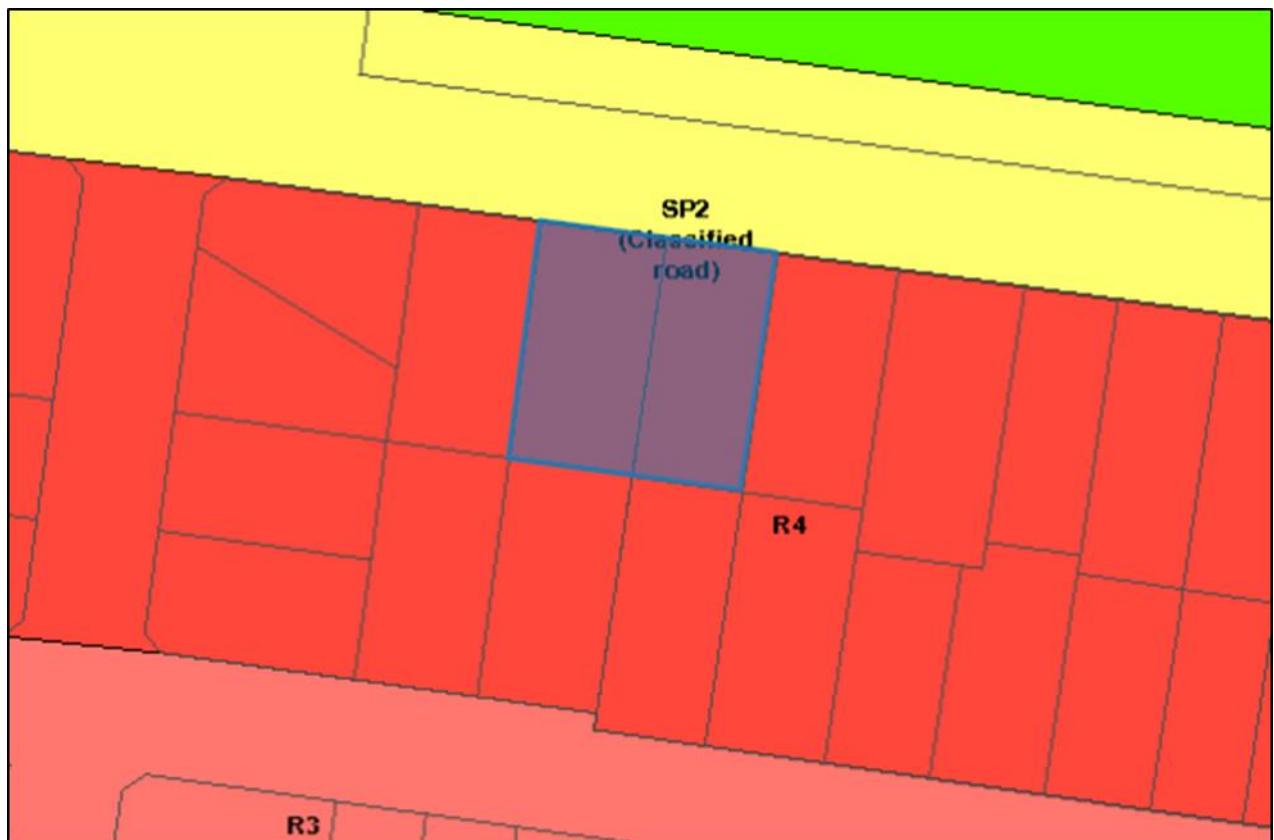


Figure 11: Extract of zoning map

5.3 Zoning

The proposed development is defined as “residential flat building” which is permissible within the R4 High Density Residential zoning.

6. ASSESSMENT

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

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

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

The DA has been lodged pursuant to the SEPP (ARH) 2009. The proposal demonstrates full compliance with the relevant provisions, as detailed 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 style="padding-left: 40px;">(a) <i>the development concerned is permitted with consent under another environmental planning instrument, and</i></p> <p style="padding-left: 40px;">(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 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 within 400m of a bus stop. Bus services run along the T80 Liverpool-Parramatta Transit way bus-stop which is 250m to the North-west of the site.</p> <p>The above bus services operate within the parameters specified in the SEPP.</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>The clause applies</p> <p>It is proposed that 17 of the 30 units will be dedicated to affordable housing representing 1187.5m² of gross floor area or 50% of the gross floor area of the development (2375m²).</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 style="padding-left: 40px;">(a) <i>if the existing maximum floor space ratio is 2.5:1 or less;</i></p> <p style="padding-left: 40px;">(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>Complies</p> <p>The permitted FSR for the site is 1:1 under LLEP 2008. It is proposed that 50% of the gross floor area of the development will be utilised for affordable housing. Therefore a bonus FSR of 0.5 applies to the development. The permissible FSR for the site increases to 1.5:1</p> <p>The development proposes 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><i>if the site area on which it is proposed to carry out the development is at least 450 square metres,</i></p>	<p>Complies</p> <p>The development site has an area of 1584.5m².</p>

<p>(c) landscaped area: if:</p> <ul style="list-style-type: none"> (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 (ii) in any other case—a minimum of 30% of the area of the site is to be landscaped, 	<p>Complies by condition</p> <p>The development provides for a landscaped area of 26.76% (424m²) of the site area, which is a deficiency to the required area. A condition of consent will ensure compliance by the removal of the western side path from the plans to be replaced by landscaped area, and the addition to each of the 3 front ground floor unit courtyards of 9.5sqm of landscaping.</p> <p>This ensures that the minimum requirement of 30% landscaping of the site is provided.</p>
<p>(d) Deep Soil Zones</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) 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 (ii) each area forming part of the deep soil zone has a minimum dimension of 3m, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area, 	<p>Complies by condition</p> <p>17.86% (263m²) of the site area is a deep soil zone, as enforced by a condition of consent requiring the removal of the western side path from the plans, to be replaced by deep soil landscaping of a minimum 3m width. Without the condition of consent the proposed plan results in a deficiency to the required deep soil area.</p> <p>The main part of the deep soil area is located to the rear of the site.</p> <p>The site is designed with a rear communal courtyard which is largely overshadowed through the day due to the North Orientation of the site. As such, more of the deep soil areas are located in the side setbacks of the development. This is considered to comply on merit as the proposed location of the vegetation allows greater opportunity for it to become established and be maintained.</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>Complies</p> <p>73.3% of the development (i.e. 22/30 units) receive 3 hours of solar access or more.</p>
<p>(2) General</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>(a) parking</p> <ul style="list-style-type: none"> (ii) 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 parking spaces are provided for each dwelling containing 3 or more bedrooms. 	<p>Complies</p> <p>1 bed x 5 = 2.5 2 bed x 23 = 23 3 bed x 2 = 3</p> <p>A total of 28.5 spaces are required. A total of 29 spaces including accessible parking is proposed within the basement.</p>

<p><i>(b) dwelling size</i> <i>if each dwelling has a gross floor area of at least:</i></p> <ul style="list-style-type: none"> <i>(i) 35m² in the case of a bedsitter or studio, or</i> <i>(ii) 50m² in the case of a dwelling having 1 bedroom, or</i> <i>(iii) 70m² in the case of a dwelling having 2 bedrooms, or</i> <i>(iv) 95m² in the case of a dwelling having 3 or more bedrooms.</i> 	<p>Complies</p> <p>Minimum dwelling sizes are as follows:</p> <ul style="list-style-type: none"> - Studio / 1 Bed: 48.13m² - 1 Bed: 52.58m² - 61.41m² - 2 Bed Unit: 75.68m² - 88.49m² - 3 Bed Unit: 94.97m²
<p>Clause 16 Continued Application of SEPP 65</p>	
<p><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></p>	<p>Complies</p> <p>An assessment of SEPP 65 has been carried out and is found to be satisfactory. Further discussion is provided within Section 6.1(b) of this report.</p>
<p>Clause 16A Character of Local Area</p>	
<p><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></p>	<p>Complies</p> <p>The current character of the area is generally comprised of single and double storey detached dwellings which was influenced primarily by the architecture of mid to late twentieth century brick and tile bungalows with hipped roofs, together with front and rear gardens.</p> <p>The immediate locality has recently been rezoned to R4 – High Density Residential development. The area is currently in transition from low density residential to high density residential with the adjoining site to the east under construction for a 5-storey RFB. The site is located on a main road corridor.</p> <p>The proposed development comprises a residential flat building that accommodates a total of 30 dwellings over five storeys, above a basement level for car parking. Although the proposed development does not strictly conform to the current character of the area, it is the second of its type within the immediate locality, and it nevertheless conforms to the future desired character of the area.</p> <p>It is expected that adjoining development would be constructed in accordance with the current LLEP 2008 and LDGP 2008, and the applicant has demonstrated that this can be achieved through the amalgamation of adjacent lots. As such, the proposed development generally complies with these requirements and therefore contributes to the desired future character of the area. It should be noted that Hoxton Park Road is a main road corridor with excellent access to public transport and the intra-city road network.</p>

Clause 17 Must Be Used for Affordable Housing for 10 Years	
<i>(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:</i>	
<i>(a) for 10 years from the date of the issue of the occupation certificate:</i> <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> <i>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</i> <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 1919, that will ensure that the requirements of paragraph (a) are met.</i>	Complies The applicant has provided detail showing which units shall be affordable housing units. To ensure that the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing; conditions of consent have been imposed.

In summary, the proposal, lodged under the provisions of SEPP ARH 2009, meets the development standards that Council cannot use as a reason for refusal due to that compliance.

Significantly, it meets the provision of Clause 16A of the ARH SEPP, in relation to compatibility with the character of the local area.

(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 flat development. SEPP 65 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles; and against the guidelines of the associated Apartment Design Guide (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

The nine key design quality principles that must be considered are listed below. In its amended form, the application demonstrates consistency with the principles and is acceptable

- | | |
|--------------------------------------|---|
| 1. Context & Neighbourhood Character | 5. Landscape |
| 2. Built Form & Scale | 6. Amenity |
| 3. Density | 7. Safety |
| 4. Sustainability | 8. Housing Diversity & Social Interaction |
| | 9. Aesthetics |

Assessment of the application against the principles of SEPP 65 and the guidelines of the ADG, together with advice from Council's independent Design Excellence Panel (DEP) has concluded that the proposal is generally satisfactory with respect to the provisions of SEPP 65 and the guidelines of the ADG. A number of design changes were requested, which have been provided to the satisfaction of Council's City Architect as is presented further in the report.

In a larger planning context and having regard for desired future outcomes in the locality of the proposal, and considering the general compliance on merit with LLEP 2008 and LDCP 2008, the proposal is supported, as follows.

SEPP 65 Design Quality Principles table

Principle	How does the development address the principles?
<p>Principle 1:</p> <p>Context and Neighbourhood Character</p> <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. Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<ul style="list-style-type: none"> • The proposed development consists of a 5-storey building, and construction of 30 residential apartments of various sizes and one level of basement car parking. • The proposed development includes 50% floor area for affordable housing consistent with the SEPP Affordable Housing, and as such considers the need for affordable rental housing in close proximity to public transport and in the vicinity of the Liverpool City Centre and surrounding schools and services. • The proposed development seeks to provide an aesthetical and contextually pleasing design respectful of the surroundings enhancing the visual interest within the surrounding neighbourhood. • The future desired character of this precinct is high density residential living and the application responds well to the future desired character.
<p>Principle 2:</p> <p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. 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>	<ul style="list-style-type: none"> • Although not complying with height, the bulk and design of the building is considered appropriate to its current and future desired context, as demonstrated by the applicant. The proposed development positively contributes to the future streetscape along Hoxton Park Road and sits comfortably within the other relevant controls. Otherwise, minor screening and landscaping conditions of consent improve the built up nature of the site, and limit impacts on adjoining properties. • The proposed built form of the development is divided into two main separate horizontal elements – base, and top floors, that are adequately articulated by using recess balconies to break down the building facade and also adding louvre sliding/fixed screens on the façade to break down the flatness of the building and to give natural shade and an acoustic buffer to the balconies. • The proposed building has been articulated to break down the verticality of the tower into a mixture of horizontal and vertical elements that will help break down the height and prepare a suitable proportional building consistent with the adjoining approved development. • This will not be the only residential flat building in the surroundings, and consequently, as encouraged by the controls, there is a further potential for a number of other similar buildings to be developed within this area. The proposed development does not restrict adjoining

	<p>sites and does not cause them to be isolated.</p> <ul style="list-style-type: none"> • Liverpool City Council's future vision for this area is buildings at a maximum height of 15m. Although providing a variation to the maximum allowed height, the design corresponds well to the topography and otherwise the design corresponds well to the topography. The design features appropriate scale and use of materials which reinforce the articulation of the building and achieves an appropriate residential height, consistent with the desired future height of the area. • The height, bulk and placement of a proposed development on site achieve a positive response to fundamental principles including the defining of a street front façade setting as required by the relevant controls. • The proposition strongly relates back to the provisions of SEPP Affordable Housing, LDCP 2008 as well as considering the FSR, setbacks and height in LLEP 2008. • The landscaping has been designed to deal with the privacy issues at the main frontage facing Hoxton Park Road and the rear and side setbacks of the development by implementing natural and visual screens to maintain amenities of the surrounding buildings.
<p>Principle 3:</p> <p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<ul style="list-style-type: none"> • The proposal provides a suitable response in relation to its appropriate density on the site and within its existing and future character in comparison with statutory controls SEPP Affordable Housing and with LLEP 2008 as it sits within the permissible controls. • The maximum floor space ratio for this particular site is with the additional amount allowed through SEPP Affordable housing is 1.5:1. The proposed FSR is 1.5:1 which complies with the maximum permissible controls and therefore is considered satisfactory. • The proposed density is anticipated and therefore appropriate to the site and its unique setting. A high level of amenity for residents is achieved through various design features such as orientation of the majority of living spaces towards north as well as visually minimising the impact towards the neighbouring properties. • Front setback, side setbacks and large communal open space at the rear of the site create a pleasant airy amenity and provide a pleasant breakout space for all occupants. • Setbacks to the boundaries have been applied in line with the required setbacks as well as LDCP 2008 provisions so the development suitably achieves the desired density.
<p>Principle 4:</p> <p>Sustainability</p> <p>Good design combines positive environmental, social and economic</p>	<ul style="list-style-type: none"> • The proposal aims to provide an environmentally friendly development. Moreover, there is a set of guidelines the residents must abide by with regards to the overall sustainability of the building.

<p>outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</p>	<ul style="list-style-type: none"> • In general, conventional building materials have been selected for their low embodied energy and maintenance characteristics. Low use lighting and appliances have been selected. Low water use fixtures and appliances have also been implemented. The landscape design features massive planting and trees capable of holding moisture during dry day minimising the need for watering. • Appropriate solar access contributes to the overall thermal comfort in the mid-winter, allowing for natural light to warm up the apartments, and thus minimising the need for cooling in summer due to the use of passive controls through ventilation. • In addition to the above, the entire development has been thoroughly assessed by an independent thermal energy assessor in order to achieve the highest possible rating for the entire building as mentioned in the BASIX report submitted with the application. Hence, the development can be considered contributory to society by minimising the trace on the natural environment.
<p>Principle 5:</p> <p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.</p>	<ul style="list-style-type: none"> • The landscape design has been prepared in co-ordination between the architect and a Landscape Architect. The landscape design and ample vegetation is implemented in specific areas around the building to increase the desirability of the area as well as in the private open spaces. The landscape design also deals with the privacy issues by implementing natural visual screens to maintain amenities within the site and of the surroundings especially by providing natural screening along Hoxton Park Road and the side and rear boundaries. • Ample landscaping within planter boxes and definition of passive and active recreational areas has been introduced in the courtyard, along the rear boundary of the proposed development to enhance the amenity of the current and future adjoining developments. The communal open space has been adequately landscaped to provide for better amenity of the future residents and also to soften up the building presence within its setting.
<p>Principle 6:</p> <p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and</p>	<ul style="list-style-type: none"> • The design of the proposed development features a high proportion of north facing units. The proposal provides appropriate solar access (73.3%) and cross-ventilation (77%) of the units adding to the overall amenity of the development. Thus, natural ventilation and natural day lighting add to the amenity and reduce reliance upon mechanical equipment. The use of vegetation in the setbacks on ground level, communal open space and in the private open spaces, are considered effective. • Planning within the units achieves separation of the more active spaces from the passive rooms.

<p>outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility</p>	<p>Generously designed private open spaces are to offer a variety of passive and recreational opportunities for the tenants. Walls between the apartments and those enclosing communal and service areas shall meet the Building Code of Australia requirements to reduce the noise levels under the minimum requirements.</p> <ul style="list-style-type: none"> • Ground floor units will benefit from large private open spaces as well as patios to the rear and garden at the front. Dwellings on upper levels will profit from large balconies and verandas with ample solar access as well as cross-ventilation given the two-aspect orientation of these dwellings.
<p>Principle 7:</p> <p>Safety</p> <p>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. 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>	<ul style="list-style-type: none"> • The proposal incorporates suitable definition of the public, communal and private domains. Basement car parking is also secured by a remote-controlled roller door and an intercom system. • The proposal will also benefit from ample passive surveillance along with a large number of units facing the street. • Entry to the communal space within the site is controlled by the main security door at the building entry and a security gate to the Northern site of the property. Communal spaces are well lit and benefit from passive surveillance. • The communal open space creates a pleasant domain for all the family activities and minimises the safety and security issues as it is located within the rear of the site and is protected by an intercom security system that allows only residents to access.
<p>Principle 8:</p> <p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</p>	<ul style="list-style-type: none"> • The proposal features a balanced variety of 1-bedroom, 2-bedroom and 3-bedroom apartments. The diversity of the units offers accommodation to meet the demands of many different occupants across the multiple levels of prices. • Affordable dwellings make up 50% of the floor area (17 units) as per the SEPP Affordable Housing. The proposal is considered to offer a well balanced mix of accommodation that shall translate to an equally represented group of residents which will result in an outcome of high desirability and diversity.
<p>Principle 9:</p> <p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well-designed apartment development responds to the existing or future local</p>	<ul style="list-style-type: none"> • The proposed built form at the front part of the property is considered a suitable response to the site as well as desired future character of the area. • The aesthetics of the building is divided into two main areas and has been highlighted: visually the top floors are in contrast with the bottom part of the building visually contrast in framing structure for the variation in the depth of the facade. • In terms of materials a fluent combination of traditional and modern materials creates a vibrant appearance

context, particularly desirable elements and repetitions of the streetscape.	<p>although respectful and decent to the future residential presence across Hoxton Park Road. The use of modern and contrasting dark and white render in combination with dark aluminium louvers create a harmonious and more traditional look distinct between the old and new.</p> <ul style="list-style-type: none"> • Furthermore, strong although decent articulation along all facades is considered to achieve a better definition of the spaces, entries and uses as well as to enhance the overall appeal to the streetscape. The side elevations are broken down into 2 distinct portions to achieve better articulation, for a somewhat rectilinear building. • Operable louvres in the design of the building gives privacy, security and an acoustic buffer to the occupants while creating visual interest. The landscaping areas at the main frontage and at the side and rear setbacks provide better amenities to the building which substantially improve the appearance of the area. • In terms of its appeal, the development is sympathetic in natural colour and material finishes as it is also more characteristic in materials and thus contributing to the existing and also newly set-up standards in the area. The use of dark grey render in the upper part of the building complements the built form below and makes the top part inflict less visual impact.
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Apartment Design Guide Compliance Table

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with associated ADG. The following table outlines compliance with the ADG.

Provisions	Comment
PART 1 IDENTIFYING THE CONTEXT	
1A Apartment Building Types	
A range of apartment building designs are presented and a variety of concepts are provided with desired building types for specific development outcomes depending on orientation, location and local context.	<p>Complies</p> <p>The proposed development is a Row Apartment Building. The building type is consistent with the context of the locality as it provides an urban character to the major road. Although the orientation results in overshadowing of the communal open space, solar access to the units meets the provisions of the ADG.</p>
1B Local Character and Context	
Context is to be provided in relationship with the existing and desired future character and whether the proposal relates to a strategic or local centre, or is designed within the context of an urban or suburban neighbourhood.	<p>Complies</p> <p>The proposed building meets the zone requirements and objectives and controls for the subject site, and responds to the urban neighbourhood desired outcome, within close vicinity of a strategic centre including transport and educational facilities.</p>
1C Precincts and individual sites	
Individual sites especially if amalgamated should be considered in terms of desired future character of the neighbourhood and street scales, and should not restrict adjoining sites by way of causing isolation. If	<p>Complies</p> <p>The site is not subject to a precinct plan. Even-so the locality is in transition from low to a high density due to recent rezoning of land. The applicant has provided detail indicating that adjoining sites can</p>

the site is subject to a precinct plan it must consider all relevant elements of the strategic outcome expectations.	be developed to their full potential with a similar amalgamation as proposed.
PART 2 DEVELOPING THE CONTROLS	
2A Primary Controls	
Sets out the objectives of the provisions and in the developing of the controls in assessing apartment buildings.	Variations proposed – Considered Acceptable The proposed development is considered to be generally compliant with the primary controls and proposed minor variations are either justified or are conditioned to comply to ensure full compliance, given the site has no significant constraints.
2B Building Envelopes	
<p>Sets out the appropriate scale of future development in terms of bulk and height relative to streetscape, public and private open space, and block and lot size.</p> <p>They help to define the three dimensional form of buildings and inform decisions about density, open space and future mass and scale of new development.</p>	Variations proposed – Considered Acceptable The proposed building envelope provides for a desired future outcome and proposed minor variations to separation is overcome through privacy mitigating devices. The density is compliant and the height is justified as the overall impact is restricted to the front of the site, and as the variation is minimal and is relative to the streetscape.
2C Building Height	
Helps shape the desired future character and defines the relationship between buildings and public and private spaces in terms of physical and visual amenity. It informs the maximum number of storeys especially for residential development.	Variation Proposed – Considered Acceptable The design of the building meets the expected maximum number of floors, and despite not fully responding to the topography (cross-slope) the design of the building responds to the variation to the maximum height such that it is not evident in causing onerous physical or visual impact. As such, it provides a desired outcome in terms of bulk and height relative to the streetscape. This is discussed further in section 6.1(g) of the report.
2D Floor Space Ratio	
Helps ensure that optimum capacity and desired density for the site and local area is achieved. It also provides opportunities for building articulation within a building envelope.	Complies The FSR complies with the requirements for the proposed development and the building envelope includes active breezeways which help limit overall density across the site.
2E Building Depth	
Sets out the appropriate building depth and how it relates to the maximum apartment depths, helping to ensure that natural ventilation and access to sunlight.	Complies The proposal responds to the general principals of building depth design in ensuring the minimum requirements for solar access and natural ventilation for the development are met.
2F Building Separation	
Sets out minimum setbacks between buildings relative to height, communal open space, visual privacy and acoustic privacy controls.	Variations proposed – Considered Acceptable The proposed development is considered to generally be compliant with the primary controls and conditions of consent mitigate side separation variations as discussed further in the report.
2G Street setbacks	
Sets out the objectives of the front setback in ensuring a coherent threshold between the public and private realms and to promote appropriate entries points and establishing landscaped areas and a passive surveillance and outlook to the street.	Complies The building front setback complies.
2H Side and rear setbacks	
Sets out setbacks to boundaries relative to the height of buildings in helping to achieve	Variations proposed – Considered Acceptable The proposed development is considered to

amenity for development and buildings on adjacent sites, and also providing for open space areas and separation between buildings.		generally be compliant with the primary controls and conditions of consent mitigate side separation variations as discussed below this table. Otherwise the rear setback fully complies.	
PART 3 SITING THE DEVELOPMENT			
3A Site Analysis			
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context		Complies The proposed development is considered appropriate for its context. This is the second significant redevelopment in the immediate locality and it continues to set the tone for future development.	
3B Orientation			
3B-1. Building types and layouts respond to the streetscape and site while optimising solar access within the development		Complies The building layout has been designed to address Hoxton Park Road. The site's orientation allows the building to completely maximise the northern aspect. Strategic window location and design results in desirable amenity for future residents Overshadowing of neighbouring properties during mid-winter is appropriate as per the proposed design, due to appropriate separation and complying height at the rear of the building, limiting impact to the properties to the south.	
3B-2. Overshadowing of neighbouring properties is minimised during mid-winter			
3C Public Domain Interface			
3C-1 Transition between private and public domain is achieved without compromising safety and security		Complies A transition between the private and public domain is achieved through low height fencing while living area balconies are orientated towards the public domain to ensure a safe and secure transition between the private and public domain.	
3C-2 Amenity of the public domain is retained and enhanced			
3D Communal and public open space			
3D-1. An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)		Complies The proposal incorporates an area of communal open space, equivalent to 25.8% of the site area. This is located at Ground Level and, is co-located with landscaping and comprises a mix of passive and active spaces. The multiple landscape elements provide various spaces for residents to relax or be active. Communal garden beds, fixed seating and tables, and a BBQ area are provided within the development. The proposed areas of communal open space are accessible and visible from habitable rooms and private open space areas. Public open space is not included as part of the proposed development.	
3D-2. Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting			
3D-3. Communal open space is designed to maximise safety			
3D-4. Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood			
3E Deep soil zones			
Site Area >1500m ² Min. Dimensions 6m Deep soil zone (% of site area) - 7%		Complies The proposal provides 17.86% deep soil landscaping adjacent to the front and rear boundaries.	

3F Visual Privacy																														
<div>Requirement:</div> <table><tr><td>Building Height</td><td>Habitable Rooms and Balconies</td><td>Non Habitable Rooms</td></tr><tr><td>Up to 12m (4 Storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 Storeys)</td><td>9m</td><td>4.5m</td></tr></table>			Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 Storeys)	6m	3m	Up to 25m (5-8 Storeys)	9m	4.5m	<div>Variations proposed – Considered Acceptable</div> <div><div>Provided:</div><table><tr><td>Building Height</td><td>Habitable Rooms and Balconies</td><td>Non Habitable Rooms</td></tr><tr><td>Ground Floor</td><td>3m</td><td>3m</td></tr><tr><td>Level 1</td><td>3m</td><td>3m</td></tr><tr><td>Level 2</td><td>3m</td><td>3m</td></tr><tr><td>Level 3</td><td>6m</td><td>7.3m</td></tr><tr><td>Level 4</td><td>6m</td><td>7.3m</td></tr></table></div> <div>The balconies and windows from habitable rooms generally comply. Where there are incidences of variation to the sides (windows on Ground and Level 1 & 2 and balconies for Level 4) fixed translucent highlight windows privacy screens are proposed and restrict direct side views. The Level 3 side aspect balconies are setback to the required 6m. Otherwise all balustrades are to be of translucent design which will be imposed on the development to restrict inadvertent overlooking impact from a seated position.</div>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Ground Floor	3m	3m	Level 1	3m	3m	Level 2	3m	3m	Level 3	6m	7.3m	Level 4	6m	7.3m
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3G Pedestrian access and entries																														
3G-1. Building entries and pedestrian access connects to and addresses the public domain		<div>Complies</div> <div>Building access areas, entries and pathways are clearly visible from the public domain. The entrance to the residential foyers is easily identifiable and distinguishable.</div> <div>Entries and pathways from the front of the building and to the communal open areas are accessible.</div> <div>A through site connection is identified and connects from the rear courtyard to the street via the foyer.</div>																												
3G-2. Access, entries and pathways are accessible and easy to identify																														
3G-3. Large sites provide pedestrian links for access to streets and connection to destinations																														
3H Vehicle Access																														
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes		<div>Complies</div> <div>The proposal provides vehicle access via Hoxton Park Road which is considered acceptable.</div>																												
3J Bicycle and Car Parking																														
3J-1. Minimum car parking requirement for residents and visitors to comply with Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.		<div>Complies</div> <div>Car parking has been provided as per the requirements of SEPP Affordable Housing.</div> <div>Dedicated undercover bike storage is provided in the basement.</div> <div>Access to the car parking within the basement levels will require swipe card access and motion sensor lights will be installed.</div> <div>The vehicle access point has been integrated into the building design and the underground car park is not readily visible from the public domain.</div> <div>No on-grade car parking is proposed.</div>																												
3J-2. Parking and facilities are provided for other modes of transport																														
3J-3. Car park design and access is safe and secure																														
3J-4. Visual and environmental impacts of underground car parking are minimised																														
3J-5. Visual and environmental impacts of on-grade car parking are minimised																														
3J-6. Visual and environmental impacts of above ground enclosed car parking are minimised																														

PART 4 DESIGNING THE BUILDING	
4A Solar and Daylight Access	
1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	Complies A total of 90% (27 of 30) apartments achieve a minimum of two hour solar access.
2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	A maximum of 10% (3 of 30) apartments receive no solar access on June 21 between 9am and 3pm.
4A-2 Daylight access is maximised where sunlight is limited	Complies The site provides appropriate solar access to apartments given the orientation of the site. The BASIX Certificate for the proposed development identifies that it achieves the required thermal comfort levels. Proposed materials and finishes incorporate shading and glare control measures including external louvres and awnings.
Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months	
4B Natural Ventilation	
4B-1 All habitable rooms are naturally ventilated to create healthy indoor living environments.	Complies The site analysis contained within the architectural plans illustrates that prevailing winds originate from the north east. All habitable rooms have access to natural ventilation. Natural ventilation is maximised through a design that encourages corner units and cross-through apartments A total of 77% (23 of 30) apartments achieve natural cross ventilation. No cross-through apartments exceed a depth of 16m, when measured glass line to glass line.
1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	
2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	
4B-2 The layout and design of single aspect apartments maximises natural ventilation	
4B-3 The number of apartments with natural cross ventilation is maximised	
4C Ceiling Heights	
4C-1 Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Minimum ceiling height for apartment and mixed use buildings Habitable Rooms 2.7m Non-Habitable 2.4m If located in mixed use areas 3.3m for ground and first floor	Complies All floors achieve a minimum floor-to-ceiling height of 2.7m.
4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.	Complies All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms.
4C-3 Ceiling heights contribute to the flexibility of use over the life of the building	Complies

building	The floor to ceiling heights at ground floor and above is consistent with the residential use. Given the number of residential apartments on each level, following strata subdivision it is unlikely that these would be converted to commercial uses in future, as the site is zoned for residential purpose.
4D Apartment Size and Layout	
<p>4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> <p>1. Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio 35m² • 1 bedroom 50m² • 2 bedroom 70m² • 3 bedroom 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Complies</p> <p>All units meet the required minimum areas</p> <p>All habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room.</p>
<p>4D-2 Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Complies</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m. The scheme complies with this requirement, noting that the proposal incorporates open plan layouts.</p> <p>2. No open plan layout has a habitable room depth more than 8m from a window.</p>
<p>4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>Complies</p> <p>All master bedrooms and other bedrooms achieve the required areas.</p> <p>All bedrooms achieve the minimum dimension All apartments achieve the minimum dimension requirements to living/dining rooms.</p> <p>Cross through apartments are 4.9m in width</p>

4E Private Open Space and Balconies

4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity

1. All apartments are required to have primary balconies as follows:

Dwelling type	Minimum Area	Min. Depth
Studio	4m ²	
1 bedroom	8m ²	2m
2 bedroom	10m ²	2m
3+ bedroom	12m ²	2.4m

2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.

Variation for 1 units – Considered acceptable

All apartments comply with and otherwise exceed the minimum numeric requirements and the depth of the balconies except for unit 405 on level 4.

This unit provides a balcony area of 9.18m² where 10m² is required. This is considered a minor non-compliance as the dimension (depth of 2m and width of 4.7m) enables an acceptable area for outdoor private use and as such meets the principles of the provision of private open space.

Studios	Min. Area (sqm)	Depth (m)
G05	28.14	6.5
106	10.25	3
206	10.25	3

1 Bedroom	Min. Area (sqm)	Depth (m)
G02	31.15	3.5
G03	35.88	3.5

2 Bedroom	Min. Area (sqm)	Depth (m)
G01	35.71	3.5
G04	28.07	3
G06	30.17	3
101	14.15	2.19
102	12.13	2.19
103	14.18	2.19
105	15.94	2
107	18.15	2.1
201	14.15	2.19
202	12.13	2.19
203	14.18	2.19
205	15.94	2
207	20.93	2.1
301	23.85	2.5
302	12.61	2.5
303	15.84	2.5
304	14.5	2
305	11.31	2
401	20.71	2.4
402	11.02	2.4
403	13.94	2.4
404	12.38	2
405	9.38	2

3 Bedroom	Min. Area (sqm)	Depth (m)
104	16.17	2.19
204	16.17	2.19

4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents

4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building

4E-4 Private open space and balcony design maximises safety

Complies

Private open space is directly accessible from the living area of each dwelling and can be used in conjunction with these.

The balconies are integrated into the overall design of the development and form part of the detail of the building.

All balconies shall be conditioned to comprise balustrades of 1.4m in height to ensure safety is maintained.

4F Common circulation and spaces											
<p>4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>1. The maximum number of apartments off a circulation core on a single level is eight.</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Complies</p> <p>One area is proposed on each level comprising a lift lobby. The proposed development provides amenity to the common circulation spaces through the provision of breezeways which offer direct access to the lift as well as providing natural ventilation.</p> <p>A total of 5 to 7 apartments per floor are proposed, which is consistent to the numeric design criteria requiring a maximum of 8.</p> <p>One lift serves 30 apartments.</p>										
<p>4F-2 Common circulation spaces promote safety and provide for social interaction between residents</p>	<p>The proposal incorporates a common foyer which provides opportunities for residents to interact.</p>										
4G Storage											
<p>4G-1 Adequate, well designed storage is provided in each apartment.</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><td>Dwelling Type</td><td>Storage volume</td></tr><tr><td>Studio</td><td>4m3</td></tr><tr><td>1 bedroom</td><td>6m3</td></tr><tr><td>2 bedroom</td><td>8m3</td></tr><tr><td>3+ bedroom</td><td>10m3</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling Type	Storage volume	Studio	4m3	1 bedroom	6m3	2 bedroom	8m3	3+ bedroom	10m3	<p>Complies</p> <p>The proposal provides for storage within each apartment, and also provides for 31 dedicated storage areas in the basement. These areas comply with the minimum volume specified in the ADG.</p>
Dwelling Type	Storage volume										
Studio	4m3										
1 bedroom	6m3										
2 bedroom	8m3										
3+ bedroom	10m3										
<p>4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments</p>	<p>Complies</p> <p>Storage is provided within each apartment and within the basement which is accessed via the lift.</p>										
4H Acoustic Privacy											
<p>4H-1 Noise transfer is minimised through the siting of buildings and building layout</p>	<p>Complies</p> <p>Noise transfer between units and within units has been minimised through an appropriate building layout locating bedrooms mostly away from balconies and living areas.</p>										
<p>4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	<p>The apartments have been configured so that quiet spaces (e.g. bedrooms) are co-located, and louvre screens are proposed along the balconies facing Hoxton Park Road.</p>										
4J Noise Pollution											
<p>4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	<p>Complies</p> <p>An acoustic report has been provided to demonstrate the proposed apartments will not be adversely affected by external or internal noise subject recommendations which Council's Environmental Health Officer supports.</p> <p>Louvre screens are proposed along the balconies facing Hoxton Park Road.</p>										
<p>4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>											
4K Apartment Mix											
<p>4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>	<p>Complies</p> <p>The development provides the following unit mix:</p>										

4K-2 The apartment mix is distributed to suitable locations within the building.	<ul style="list-style-type: none">• One bedroom: 16.66% (5).• Two bedroom: 76.66% (23).• Three Bedroom: 6.66% (2).
4L Ground Floor Apartments	
4L-1 Street frontage activity is maximised where ground floor apartments are located	Complies The ground floor apartment face Hoxton Park Road and provide opportunities for passive surveillance while achieving privacy to the residents by way of landscaping and low-level fencing.
4L-2 Design of ground floor apartments delivers amenity and safety for residents	
4M Facades	
4M-1 Building facades provide visual interest along the street while respecting the character of the local area	Complies Building façades are articulated and modulated through the use of balconies, varying windows, awnings and recessed elements. Ground floor building entries and uses are clearly defined and articulated by the façade.
4M-2 Building functions are expressed by the facade	
4N Roof Design	
4N-1 Roof treatments are integrated into the building design and positively respond to the street	Complies As demonstrated in the elevation drawings and photomontage a flat roof treatment is proposed, which assists in mitigating building bulk and overshadowing. Rooftop is not required to provide for communal open space, as it is provided on ground level. The proposal complies with requirements of BASIX and will include the required thermal insulation techniques.
4N-2 Opportunities to use roof space for residential accommodation and open space are maximised.	
4N-3 Roof design incorporates sustainability features	
4O Landscape Design	
4O-1 Landscape design is viable and sustainable	Complies The landscape plan incorporates sustainable environmental design and landscaping to the site. The landscape design maximises the use of drought tolerant species.
4P Planting on Structures	
4P-1 Appropriate soil profiles are provided	Complies As demonstrated in the Landscape Plan the species selected are appropriate for the soil depths and volumes.
4P-2 Plant growth is optimised with appropriate selection and maintenance	
4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces	
4R Adaptive Reuse	
4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The development does not proposed new additions or adaptations to an existing building.
4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable
4S-2 Residential levels of the building are integrated within the development, and	

safety and amenity is maximised for residents	
4Q Universal Design	
4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members	Complies A total of 3 apartments, which equates to 10%, are capable of adaptation.
4Q-2 A variety of apartments with adaptable designs are provided	
4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs	
4U Energy Efficiency	
4U-1 Development incorporates passive environmental design	Complies The BASIX Certificate provided with the application identifies that the proposed development achieves the required levels of thermal comfort for a development of this scale. The proposed development satisfies the natural ventilation design criteria
4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
4U-3 Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
4V-1 Potable water use is minimised	Complies Portable water use will be minimised where possible. The BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements. Stormwater will be treated on site, prior to being discharged into Council's stormwater system. The site is not flood affected and the proposed hydraulic designs are appropriate as assessed by Council's engineers.
4V-2 Urban stormwater is treated on site before being discharged to receiving waters	
4V-3 Flood management systems are integrated into site design	
4W Waste Management	
4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Complies The residential waste facilities are incorporated into the design of development and are not readily visible from the public domain. A separate residential waste room is provided on the ground floor.
4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling	
4X Building Maintenance	
4X-1 Building design detail provides protection from weathering	Complies Building has been designed and will be detailed in a manner to provide protection from weathering. Systems and access enable ease of maintenance. All plant equipment is accessible, being located on the Ground Floor. Finishes selected on the basis of reducing maintenance costs.

Side setback

The objectives of Visual Privacy principles in the ADG seek to mitigate privacy impact through the separation of buildings. For apartment buildings which address a side boundary with habitable rooms and balconies, the ADG requires a 6m side setback (height up to 12m) and a 9m side setback (height above 12m) to achieve the desired separation.

Lower levels

The proposed Ground Floor, Level 1 and Level 2 side facing habitable room windows are setback 3m to 3.4m from the side boundaries (east and west). This does not strictly comply with the 6m side setback required by the ADG.

The Ground Level side facing windows (Unit G01: east facing and Unit G04: west facing) do not cause any significant privacy impact on adjoining sites, however, it is pertinent to mitigate inadvertent privacy impact by requiring windows which are translucent/obscure below 1.5m height from the internal floor level.

To overcome the privacy issues for Level 1 and Level 2, the windows of Unit 105 (level 1) and Unit 205 (Level 2) shall be conditioned by consent to be fixed translucent/obscure in design. Although the highlight windows could be deleted, it is not considered necessary in this case because there is minimal amenity impact to adjoining properties, but importantly these highlight windows provide additional lighting and outlook to the units.

Level 4

The proposed two rear side facing balconies (Units 404 and 405) are setback 5.9m and 6.1m from the side boundaries respectively. This does not strictly comply with the 9m side setback required by the ADG. Although the proposed balconies are oriented towards the side boundaries, the balconies are provided with a privacy screen to ensure any overlooking to adjoining sites is minimised. In view of the proposed measures incorporated into the development, notwithstanding the reduced setback, it is considered that the applicant has satisfactorily demonstrated that any loss of amenity to adjoining sites (acoustic, visual and overshadowing) is acceptable.

Overall, it is considered the proposed measures and conditions of consent to mitigate amenity impact are acceptable, also the built form would still enable the adjoining sites to be appropriately re-developed.

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

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.

Consideration has been given to this issue. A search of Council's available records suggest that the site appears to have been used for residential purposes at least since May 2002. This is based on aerial imagery showing that the current dwelling on-site was in existence and has not been physically altered. On this basis, it is unlikely that the site is contaminated and it is considered that no further investigation, such as, the submission of a contamination report is necessary. Council is satisfied that the land is suitable for ongoing residential use.

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

The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the Plan.

(e) State Environmental Planning Policy (Infrastructure) 2007

The proposed development constitutes a proposal specified within **Column 3** of Schedule 3 (Traffic Generating Developments) of State Environmental Planning Policy (Infrastructure) 2007 as the site is on a classified road, being Hoxton Park Road. In accordance with Clause 104 of SEPP (Infrastructure) 2007, the application was referred to the Roads and Maritime Services for comment.

RMS advised by letter dated 20 January 2017 that they have no objections to the proposal subject to conditions of consent, as detailed later in the report.

Clause 101 of the SEPP requires that the consent authority not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposed development is considered to satisfy the above criteria in that although vehicular access cannot be achieved other than from the classified road (Hoxton Park Road), the Roads and Maritime Services have no objections to the proposal.

Clause 102 of the SEPP deals with noise and vibration and requires a determining authority, before granting consent to a building for residential use adjacent to a road corridor development fronting a road with an annual average daily traffic volume of more than 40,000 vehicles, 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 applicant was requested to submit an acoustic report to address the above requirements and Council's Environmental Health Officer is satisfied that the proposed development meets the requirements of the SEPP with respect to Clause 102, having regard to an assessment of the submitted acoustic report.

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

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

When a consent authority determines a development application planning principles are to be applied (Clause 7(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:	
(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	Stormwater concept plan reviewed by Council's Engineers. Minimal effects.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries	A Stormwater concept plan submitted and reviewed by Council's Development Engineers. Minimal impact.
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)	Consistent with the strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice	Not required to be referred.
(g) whether there are any feasible alternatives to the development or other proposal concerned	No. The site is located in an area nominated for high density residential development.
Clause 9 Specific Principles	Comment
(1) Acid sulphate soils	The land is not identified as containing Acid Sulfate Soils
(2) Bank disturbance	No bank disturbance.
(3) Flooding	The land is identified as low risk Flood Prone land. The plans have been viewed by Council's floodplain engineers who do not require any specific conditions of development consent.
(4) Industrial discharges	Not applicable.
(5) Land degradation	An erosion and sediment control plan to minimise erosion and sediment loss required prior to CC.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Stormwater Concept Plan submitted.
(10) Urban development areas	Not in an urban development area.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control to be implemented in construction.
(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

As stated previously the subject site is zoned R4 High Density Residential zoning under Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposed development is defined as a “residential flat building”

Zone Objectives

The objectives of the R4 High Density Residential Zone are;

- *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 generally 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 adjoining site to the east contains a residential flat building under construction. Further, 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 Parramatta - Liverpool Transit Way.
- It does not result in the fragmentation of land in preventing future high density residential development.

Principal Development Standards

The following principal development standards are applicable to the proposal:

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
2.7 Demolition	The demolition of a building or work may be carried out only with development consent	Development consent is sought for the demolition of the existing building on the development site.	Complies

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
4.1 Minimum subdivision lot size	1000sqm	No subdivision proposed	N/A
4.3 Height of Buildings (as per HOB Map)	15m	15.31m	Does Not Comply The proposal provides for a maximum building height of 15.31m which is a 2.07% variation. A Clause 4.6 variation has been submitted showing that the design does not fully comply with the standard due to construction of the ground floor at the Natural Ground Level at the rear of the building, which slopes towards the front of the site.
4.4 Floor Space Ratio (as per FSR Map)	Maximum FSR of 1.0:1	The SEPP (Affordable Rental Housing) 2009 prescribes a maximum FSR of 1.5:1 and 1.5:1 is proposed	N/A
4.6 Exceptions to development standards	Provisions relating to exceptions to development standards	A Clause 4.6 variation to address non-compliance with building height standard.	Provided below this table and supported
5.10 Heritage Conservation	To protect existing items/locations identified as containing significant heritage value	Not identified as a heritage listed site and not in the immediate vicinity of a heritage listed item	Complies
7.7 Acid Sulfate Soils		The site does not contain acid sulfate soils	Complies
7.14 Minimum Building Street Frontage	Minimum building street frontage of 24m	The site has a street frontage of 40.185m	Complies
7.31 Earthworks		No earthworks proposed other than those ancillary to the development being excavation for the proposed basement	Complies

Variation to Clause 4.3 Height of Buildings

Clause 4.3 of LLEP 2008 identifies a maximum height of 15m for the site. The development

proposes a height ranging from 14.7m (south-east of the site) and 15.31m (north-west of the site due to the slope of land from the rear to the front. The extent of variation is 2.06%, and is shown in the front elevation extract below:

A lift overrun located towards the rear of the site adds a further 0.8m on top of the building, bringing the non-compliance to 15.93m

The applicant has provided justification for the departure to the development standard summarised as follows: This request is attached in full as **Attachment A**.

Clause 4.6 Variations – Building Height Exception Sought

An exception to development standards is sought under Clause 4.6 of the LLEP 2008 for the variation to the height control, as detailed in Table 5.3 below.

Table 5.3 | LLEP 2008 Variation

Clause	Control	Proposed development	Variation
4.3 Building Height	15m	15.06 (eastern elevation) 15.41m (northern elevations)	0.06m 0.41m

The relationship between the height limit and the proposal is demonstrated in the submitted architectural plans. This variation relates to a departure from the numeric standards for building height from 15.06m to 15.41m. Clause 4.3 (2) Building Height is considered to be a development standard in accordance with the definition contained in Section 4(1) of the Environmental Planning and Assessment Act 1979 and not a prohibition.

The minor non-compliance as discussed in Table 5.3 states that the built form, to the roof, is 0.31m over the LLEP2008 maximum height limit. The figures below illustrates the maximum variation on the northern elevation.



Variation from maximum building height, northern elevation

The placement of the taller component of the development on the northern elevation, street frontage, of the building minimises additional overshadowing.

Assessment of the Exception Sought – is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

This assessment has been set out to address the following parts of Clause 4.6 of LLEP 2008:

- (1) The objectives of this clause are as follows:*
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Director-General has been obtained.*

The following section provides an assessment of the appropriateness of the variation to the height standard against both the objective of the standard and underlying Zone objectives detailed previously.

In this instance, the strict application of the development standard for maximum building height is unreasonable and unnecessary.

The proposal satisfies the objectives of the Building Height under clause 4.3 of LLEP 2008, as follows:

- **to establish the maximum height limit in which buildings can be designed and floor space can be achieved**

The proposal is consistent with the existing and desired future character of the immediate area. The proposal is also considerate of the adjoining residential dwellings and existing streetscape, with the bulk of the building located towards the east. The proposal complies with the FSR maximum as modified by the SEPP (Affordable Rental Housing) 2009. Despite the marginal variation to the maximum building heights, the majority of the built form achieves compliance with the maximum building height.

In summary, the underlying objectives of the height standard is to manage the scale of any future built form in order to mitigate any adverse impacts to the character and amenity of the surrounding area. This outcome is not compromised by the variation of the height towards the middle of the development.

- **to permit building heights that encourage high quality urban form**

The overall built form (including the height) encourage quality built form through bulk and scale, as well as improving residential amenity. The built form of the proposal uses suburban typology, form and elements that are not inconsistent with the desired future development of the surrounding areas.

The built form responds to the Site, in terms of building alignment, proportion and building type. The articulation and quality materials will result in a modern and desirable development. Despite the minor variation, the proposed density is appropriate to the Site and within the context of the Site area and the development is contextually in keeping with the scale of the future character of the area.

- **to ensure buildings and public areas continue to reserve satisfactory exposure to the sky and sunlight**

The non-compliance will cause minimal overshadowing to adjoining properties (refer to accompanying solar access diagrams). Additionally, the proposal achieves the required levels of internal amenity, achieving adequate solar access for future residents.

- **to nominate heights that will provide appropriate transition in built form and land use intensity**

The proposed building height will provide a transition in built form and land use intensity within the surrounding area, providing a better planning outcome in terms of bulk and scale. The minor exceedance in height will be viewed against the backdrop of the future development of area.

The relevant objectives of the R4 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 provides facilities or services to meet the day to day needs of residents.*
- *To provide 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 is consistent with the objectives. The proposal provides residential accommodation in proximity to a major transport link and to surrounding community facilities

The proposed building height is consistent with the approved RFB to east, 42-44 Hoxton Park Road. Therefore the proposed development is also respectful to the desired future character as reflected in Council's development controls and recently approved developments.

Are There Sufficient Environmental Planning Controls

The assessment above and that shown throughout this SEE demonstrates that there are sufficient environmental planning grounds to justify the variation. Compliance with the standard is unreasonable as the development does not contravene the objects specified within 5(a)(i) of the EP & A Act and R4 High Density Residential zone.

Is the variation well founded?

The proposed variation is well founded, as demonstrated in the preceding sections of this submission. Compliance with the standard is unreasonable as the development does not contravene the objects specified within 5(a)(i) and (ii) of the Act and R4 Residential zone.

Public Interest

The provision of in-fill affordable housing is a significant issue in the community. An increasingly growing population places significant demands for a particular housing type to meet the needs of a particular demographic. The State Policy also recognises that providing this form of housing in accessible areas, where there are high volumes of public transport, services and other amenities, enhances the desired future character of the area.

The proposed development, albeit a minor increase on the allowable height in the LLEP 2008, better meets the community needs and expectations.

Planning Comment on the Clause 4.6 Exception for Height

Despite the building height resulting in non-compliance with the development standard, the proposal remains consistent with the objectives of the R4 High Residential zone and the objectives of the building height standard. The following comments are provided in relation to how the proposed development satisfies the objectives of Clause 4.3:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*

The additional height does not increase the floor space of the development, and does not result in the addition of any storeys other than expected for a site with a 15m height limit. The floor space ratio is within the maximum allowed. The addition of a lift overrun on the rooftop is required to service the elevator shaft which is a required element of the building design. Overall, the additional height is considered to not add to the bulk and scale of the development.

- (b) to permit building heights that encourage high quality urban form,*

The proposal delivers quality urban form despite the numerical variation. The proposed height non-compliance relates to the natural slope of land beneath the building footprint, which falls from the rear to front of the site approximately 1m. Overall the design provides the opportunity for a 5 level residential flat building as desired within the high density residential zone, particularly as it is located along a major road corridor. A complying scheme would either restrict the building to a 4 level building or would restrict internal floor to ceiling dimensions on each floor to less than 2.7m which although fully complying, would not

fulfil the intentions of the objectives and would likely result in an inconsistent urban form along Hoxton Park Road, in comparison to future adjoining site development.

(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,

The additional height provides a minor additional overshadowing impact than could be reasonably expected for the site. Even so, the building envelope is within the compliant rear and setback for the top floor (Level 4) so as to not exacerbate the minor variation. The proposed development meets the solar access requirements to adjoining sites and has no impact on public space due to its location on the south side of Hoxton Park Road. Accordingly, the proposed development is considered to maintain a good level of solar access in the locality.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

Liverpool City Council's future vision for this area is buildings at a maximum height of 15m, with this proposed development the second in the locality to respond in transitioning to high-density residential buildings due to recent rezoning of land. Although providing a variation to the maximum allowed height, the design overall responds well to the topography of the site and is in the majority below the 15m height maximum, which results in an appropriate bulk and scale for the land use, consistent with the desired future height of the area.

The proposed variation to building height control is reasonable and appropriate in the particular circumstances on the basis that:

- The variation is realised across the 40m depth of the site due to the slope (south to north), such that the height of the roof complies at the rear southern side of the building. It is considered an appropriate building solution in order to achieve a coherent built form, for the proposed building to not respond to the slope by way of stepping down as this would cause issues with accessibility on each level.
- The proposed development will not impose any significant adverse impacts on the amenity of adjoining development as a result of the height. The area of non-compliance is not excessive and relates primarily to the front elevation of the building which is appropriately setback from adjoining property.
- As demonstrated above, the proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

Given the circumstances of the case, the provision of a strict numerical compliance would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard, and is compatible with the anticipated scale of new development within this section of the Liverpool.

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

There is no planning agreement or draft planning agreement applying to the site.

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

Part 1 - General Controls for all Development and Part 3.7 – Residential Flat Buildings in the R4 Zone of the Development Control Plan apply to the proposed development and prescribe standards and criteria relevant to the proposal.

The following compliance table outlines compliance with these controls.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
2. Tree Preservation	No trees on-site to be removed.	N/A
3. Landscaping	The DA is accompanied by a landscape plan.	Complies by condition
4. Bushland And Fauna Habitat Preservation	The site does not include any significant native vegetation.	N/A
5. Bush Fire Risk	The site is not identified as bush fire prone	N/A
6. Water Cycle Management	Plans showing roof runoff directed to discharge to Georges River catchment via Council stormwater system.	Complies by condition
7. Development Near A Watercourse	The subject site is not within 40m of a watercourse	N/A
8. Erosion And Sediment Control	Soil and erosion measures reviewed by Council Engineers and conditions of consent imposed	Complies by condition
9. Flooding Risk	The site is not identified as flood prone	N/A
10. Contamination Land Risk	The site is unlikely to be contaminated and no remediation is required for the proposed works	Complies on merit
11. Salinity Risk	Site is not affected by salinity	N/A
12. Acid Sulfate Soils	Site is not identified as affected by Acid Sulfate Soils	Complies
13. Weeds	Site is not affected by Weeds	N/A
14. Demolition Of Existing Development	Demolition of existing structures is to comply with the with the relevant standards	Complies by condition
15. On-Site Sewerage Disposal	No additional services required	N/A
16. Aboriginal Archaeological Sites	The proposal does not impact on any aboriginal heritage	N/A
17. Heritage And Archaeological Sites	Not identified as a heritage listed site and not in the vicinity of a heritage item.	N/A
18. Notification Of Applications	Was notified as per DCP requirements and one submission was received	Complies
20. Car-parking And Access	29 car-spaces proposed and complies with the	N/A

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
	requirements of SEPP Affordable Housing	
21.Subdivision Of Land And Buildings	None Proposed	N/A
22. Water Conservation	To comply with BCA requirements	Complies by condition
23.Energy Conservation	To comply with BCA requirements	Complies by condition
24.Landfill	None Proposed	N/A
25.Waste Disposal And Re-Use	None Proposed	N/A
26.Outdoor Advertising	No signage proposed	N/A
27. Social Impact Assessment	<p>The proposal was reviewed by Council's Community Planning section who have provided comments to the effect that the development is a positive response to the community need for new affordable housing.</p> <p>Otherwise development aligns with the objectives of the zone and will be a catalyst for future affordable housing residential development in the locality. The design includes three accessible / adaptable units and three accessible car spaces in the basement which has elevator access.</p> <p>Overall the design achieves a reasonable impact to adjoining properties through privacy impact mitigation.</p>	Complies

Waste Management

The objectives of the LDCP 2008 regarding waste management are:

- Minimise waste and maximise resource recovery
- Encourage improved environmental outcomes through increased source separation of materials
- Ensure more efficient management of waste and recyclable materials
- Ensure waste management for the end use of the development is designed to provide satisfactory amenity for occupants and provide appropriately designed collection systems
- Minimise ongoing waste to landfill and maximise recycling of ongoing waste.

Proposed

The applicant has provided a Waste Management Plan which forms part of the Development Application and provides an overview of how construction waste, including demolition containing asbestos is to be disposed of by licensed contractors.

The details provided in relation to ongoing waste management indicate that 30 x 240 litre bins are to be provided (15 garbage and 15 recycling), 1 per every two dwellings, and these will be collected once a week.

The plans for the proposed development indicate the following:

- A residential garbage room with a volume of 134m³ is provided on the ground level capable of accommodating the bins and for the storage of bulky waste.
- The application also indicates that a caretaker/building manager will be responsible for the management of waste. On collection day bins will be collected from the garbage room located on the site.

Comment:

To further ensure compliance with the LDCP 2008, conditions of consent shall ensure detailed waste management plans (for demolition/construction and waste collection) are provided.

To ensure optimal outcomes for waste collection and to minimise the impacts of garbage collection on the street kerb, and the footpath immediately in front of the site (on the classified road), the proposed weekly collection of 240L bins is not supported. A bi-weekly service is considered more appropriate in reducing the number of bins required for the building. As such, consistent with Council's *Waste Management Services for Residential Flat Buildings and Multi-Dwelling Housing* policy (1 per 4 units for both garbage and recycling bins for bi-weekly collection), a condition of consent will require the provision of 8 x 240 litre mobile garbage bins, and 8 x 240 litre mobile recycling bins for bi-weekly collection.

Part 3.7 – Residential Flat Buildings in the R4 Zone		
Frontage and Site Area		
	Minimum frontage of 24m	Frontage is 40.185m
Site Planning		
	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies Minimal earthworks are proposed except for the basement level.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	Complies Application is accompanied by a BASIX certificate. The proposal is considered to be relatively efficient in terms of solar access and cross-ventilation and the built form provides an efficient central communal open space within the centre of the site that add to the amenity of the residents, though this area would be in shade most of the time.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Complies Safe access is provided directly from the street via two main

		pedestrian entries and a 6.6m wide driveway crossing.
	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 results in acceptable impacts due to appropriate scale, setbacks, bulk and visual amenity.
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate	Complies Stormwater Plans have been reviewed by Council's engineers and demonstrate compliance subject to conditions of any consent
	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 complies with SEPP 65 and the ADG.
Setbacks		
Front Setback	Front setback of 7m is required from a classified road.	Complies 7m is provided
	Verandas, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.	Variation - Complies on merit The Level 1 & 2 balconies encroach more than 1m on the Front Setback with the closest balcony at 4.74m (2.26m encroachment). Even so, this is considered acceptable as acoustic/privacy louvres are provided to these front balconies to reduce noise impact upon the units. It is noted the units of the building façade fully comply with the 7m setback. The front courtyards are 3.3m at closest and are visually softened through the provision of landscaping.
Side Setback	Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, first floor and second floor)	Complies A minimum of 3m side setback is provided to the building for a height of 10m
	Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m (i.e. third and fourth floor)	Variation – complies on merit Level 3 & 4 are setback 7m (east side) and 7.39m (west side). Further discussion is provided below this table.
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all	Complies

	building heights	Ground/Level 1 & 2 is set back 8m Level 3 & 4 is set back 9.7m
Landscaped Area and Private Open Space		
Landscaped Area (Deep Soil Zone)	A minimum of 25% of the site area shall be landscaped area.	Complies 30% of the site area is landscaped as required by a condition of consent to ensure compliance with SEPP Affordable Housing.
	A minimum of 50% of the front setback area shall be landscaped area	Complies 50% of front setback area is landscaped, excluding the area required by the driveway, as required by a condition of consent to ensure compliance with SEPP Affordable Housing.
	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, rear and side setbacks, and the basement does not fully cover the site.
	Promote landscape health by supporting for a rich variety of vegetation type and size	Complies A variety of native plant species are provided.
Open Space	Provide communal open space, which is appropriate and relevant to the context and the building's setting.	Complies Communal open space is provided at the ground level.
	Where communal open space is provided, facilitate its use for the desired range of activities by: - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking.	Complies The communal open space is well located.
	Locate open space to increase the potential for residential amenity.	Complies The ground level communal open space increases the potential for residential amenity enabling 3 units to open out to the open space.
Private Open Space	Private open space shall be provided as follows: - 10m ² for a dwelling size less than 65m ² - 12m ² for a dwelling size over 65m ²	Complies on merit Despite a variation with the DCP to the size of 2 balconies, the entire proposal provides POS courtyards and balconies which comply with the minimum ADG balcony size

		controls, and POS principles.
	Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor.	Complies Private courtyards are provided for units on the ground floor.
	Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like.	Complies The POS acts as an extension of the internal living rooms.
	Private open space should be clearly defined for private use.	Complies The POS is clearly defined.
Building Design, Style and Streetscape		
Building Appearance and Streetscape	Objectives of the controls are as follows: a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which 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 will complement the existing and likely future character of the area. The proposed building is well articulated however the height, bulk and scale, will dominate the existing streetscape, given that the area is undergoing transition from low density to high density.
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 flat rooftop design would contribute positively to the design of the building and reduces the overall bulk and envelope 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. c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings. d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address.	Complies Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.

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 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>Entrances to buildings are 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>
Building Layout	<p>Objectives of the controls are:</p> <p>a) To provide variety in appearance.</p> <p>b) To provide increasing privacy between dwellings within the building.</p> <p>c) To assist with flow through ventilation.</p> <p>d) To improve solar access.</p>	<p>Complies</p> <p>Proposed building layout is allows for natural light and ventilation, whilst presenting an articulated presentation.</p>
Storage Areas	<p>A secure storage space is to be provided for each dwelling with a minimum volume of 8m³ (minimum dimension 1m²). This</p>	<p>Complies</p> <p>Storage provided in all 30 units and 31 separate storage areas in the</p>

	must be set aside exclusively for storage as part of the basement or garage.	basement.
	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies 31 separate storage areas in the basement.
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. d) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality. e) To provide privacy, summer shade and allow winter sun. f) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality. g) 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 and increase residential amenity. There are no existing mature trees on-site.
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 podiums of the Level 3 and Level 4 balconies to provide amenity and to mitigate privacy issues.
Fencing	Maximum height of front fence is 1.2m. The front fence may be built to a maximum height of 1.5m if the fence is setback 1m from the front boundary with suitable landscaping in front of the proposed fence.	Complies by condition
	Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.	Complies Given the condition of consent establishing the height of the fence, it will be unlikely to prevent casual surveillance.
	The front fence must be 30% transparent.	Complies by condition
	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 by condition
	The maximum height of side boundary fencing within the setback to the street is 1.2m.	Complies by condition

	Boundary fences shall be lapped and capped timber or metal sheeting.	Complies by condition
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.	Not Applicable Parking spaces have been provided in accordance with the SEPP (Affordable Rental Housing) 2009. As such, visitor spaces are not required
	Pedestrian paths and driveways shall be separated.	Complies Pedestrian paths and driveways are separated.
	Driveways shall be designed to accommodate removalist vehicles.	Complies
	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 is provided.
Pedestrian Access	Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts.	Complies Pedestrian entries are clearly defined and shall be accessible by condition of consent.
Amenity and Environmental Impact		
Overshadowing	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space.	Complies The shadow diagrams demonstrate that the proposal is unlikely to generate an overshadowing impact on the immediate properties to the south.
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.	Complies Despite the minor variation to the side setbacks, the building design results in an acceptable level of

	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.	overlooking to adjoining properties.
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 by condition The development is able to achieve an acceptable level of amenity, subject to the implementation of noise attenuation measures as recommended in the Acoustic submitted Report
Site Services		
	Objectives of the controls are: a) To ensure that the required services are provided. b) To ensure that the services provided are easily protected or maintained.	Complies All required site services will be provided to the site and maintained.

Side Setback

The required side setback above 10m height is 8m. The building is proposed with a 7m side setback (east side) and 7.39m side setback (west side) to Level 3 and Level 4.

Despite the variation to LDCP 2008, the proposed design of Level 3 complies with the 6m setback required under the ADG, and although the Level 4 setback does comply with the required 9m under the ADG, any impact is mitigated as discussed below. As such, the variations are considered consistent with the key controls outlined in the LDCP 2008 for the following reasons.

- i) The design of the building complies with the front and rear setbacks, thus limiting depth through the site. As such, the variations are only realised along 50% of each side boundary.
- ii) The side setbacks of the lower levels and the front and rear setbacks fully comply, with Level 3 and 4 located within this footprint and considerably setback. Due to this design, the upper levels do not appear overbearing or an overdevelopment from the adjoining sites.
- iii) The Levels 3 and 4 side facing units with non-compliant setbacks will not cause any significant privacy impact, as provided in an amended design, side facing windows are to be translucent and highlight in design, and side balconies are to be provided with privacy screens to reduce any inadvertent overlooking.

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

There is no planning agreement or draft planning agreement applying to the site.

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

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the BCA and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

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

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

The proposed development has been assessed against the requirements of the relevant planning instruments and Development Control Plans. The proposal complies with the objectives of the Local Environmental Plan and Development Control Plan, and is consistent with the relevant principles for development in the high density residential zone.

The design is in scale and is compatible with approved residential flat building on the adjoining site, and is appropriate for an area which is in transition, without restricting the adjoining property opportunities for future development, and not causing any isolation issues for adjoining sites. The building is designed to be compatible with the desired future character of the area and is not an overdevelopment of the site.

Natural Environment

The proposed development does not require the removal of any vegetation and is unlikely to cause detrimental impact to any endangered and non-endangered species of flora and fauna. The approved 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. Satisfactory planting is proposed to compensate for the additional built form.

(b) Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality by accommodating the future provision of employment and is unlikely to generate any identifiable detrimental social impacts, rather resulting in a positive social impact with the provision of 17 affordable dwellings within the building.

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. The site constraint of the adjoining classified road will be appropriately managed through the recommended conditions provided by the Roads and Maritime Service and the Acoustic Report.

The proposal is generally compliant with the provisions of LLEP 2008 and LDGP 2008 as outlined in the report. The identified variations have been considered and are supported as

they do not result in any long term adverse impacts. Overall the development is considered to satisfy the relevant controls for site selection.

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

(a) Internal Referrals

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

Internal Department	Status and Comments
City Architect – Design Excellence Panel	No objection, subject to conditions
Community Planning	No objection, subject to conditions
Environmental Health	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Traffic Engineering	No objection, subject to conditions

Design Excellence Panel Issues

As discussed earlier in the report, the DEP is supportive of the proposal, subject to amended plans, which were provided and reviewed by the City Architect who is satisfied with the amended scheme subject to two conditions of consent requiring the sound and odour proofing of the bin-holding room, and for full height windows and doors for the balconies, from the floor to the underside of the slab above to the North and South elevations.

(b) External Referrals

The following comments have been received from External agencies:

External Department	Status and Comments
Roads and Maritime Service	No objection, subject to conditions

Roads and Maritime Service Issues

The RMS required a design to be provided by the applicant due to the location of the proposed driveway in context to the adjoining approved RFB and the traffic signal lights located 60m to the west along Hoxton Park Road. The design was provided and is approved by the RMS subject to conditions of consent.

(c) Community Consultation

The proposal was notified in accordance with the provisions of Part 1 of the DCP 2008 and the EP&A Regulation 2000 and one (1) submission was received.

ISSUE 1: *Privacy Impacts to the rear*

Comment:

The proposed building rear setback and height complies along the rear elevation and as

such, appropriate separation is achieved for the existing low density developments to the south and the expected future RFB developments. Further, despite the development providing 10 units which face the rear on the upper levels, only 6 of these are provided with small rear facing balconies, and these are located on Levels 1 and 2. It is considered the applicant has actively sought to reduce an accumulated overlooking impact to the rear and has sought to distribute this impact across the rear and side setbacks.

Even so, to reduce the potential for inadvertent privacy impact from the 6 balconies and from within the units into the adjoining rear yards, a condition of consent will require that the balustrades be translucent in finish, and to be 1.2m in height. This would mitigate privacy impact by blocking views through the balustrade and by creating a greater angle to achieve a downward view, thereby screening the rear yards of adjoining lots from a seated position on the balconies.

ISSUE 2: *Overshadowing of the rear yard*

Comment:

The proposed building rear setback and height complies along the rear elevation, which is the point from which the maximum shadows will be projected. As such it is considered that a reasonable and expected overshadowing impact will result, consistent with the intentions of the height and building bulk controls. Further, as the site is located to the north of the objector's premises, it is virtually impossible for the site to be without impact given the 15m height control in the locality. Even so, it is assessed that 50% of the objector's rear yard and private open space would receive a minimum required 3 hours of solar access between 9am and 5pm in mid-winter.

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

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

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

7. Liverpool Contributions Plan

A Section 94 Development Contributions is applicable to the proposed development in accordance with Liverpool Contributions Plan 2009 and will be imposed as a condition of consent of any approval for the proposed development.

8. CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.

- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to some development standards, however these are considered acceptable on merit.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built form is consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.
- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The application was externally referred to the RMS with no objections raised, subject to imposition of conditions.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

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

9. ATTACHMENTS

1. Architectural plans
2. Landscape plan
3. Recommended conditions of consent
4. Clause 4.6 Variation Written Justification to Height
5. Statement of Environmental Effects
6. SEPP 65 Verification Statement, Design Principles and Compliance Table
7. Gross Floor Area Calculation
8. Breezeway detail section
9. Cross-ventilation Study
10. Affordable Housing Dedications
11. Solar Access Study
12. Social Impact Statement
13. Accessibility Report
14. Waste Management Plan
15. Traffic Report
16. BCA Compliance Report
17. Acoustic Report
18. BASIX Certificate