

statement of  
environmental effects



46-50 hoxton park road  
liverpool

# statement of environmental effects



46-50 hoxton park road  
liverpool

demolition of existing dwelling houses and  
construction of an in-fill affordable housing  
development in accordance with SEPP (Affordable  
Rental Housing) 2009 for a residential flat building

prepared for  
Hoxten Pty Ltd

prepared by

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# appendices

## Appendix A – Social Impact Assessment

*This document has been prepared for Hoxten Park Pty Ltd by Willana Associates Pty Ltd to accompany a DA to Liverpool City Council. Reproduction of all or part of this document is prohibited without the prior permission of Willana Associates Pty Ltd.*

# 1 introduction

## 1.1 The Client

This Statement of Environmental Effects (SEE) has been prepared for Hoxten Pty Ltd to accompany a Development Application (DA) to Liverpool City Council.

## 1.2 The Proposal

The application includes a residential development involving an in-fill affordable housing proposal in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) to form a residential flat building (RFB) development. The applicant proposes to demolish the existing structures on the subject site and construct a five storey residential flat building, which will include:

- 30 apartments (5 x 1 bed + study, 7 x 2 bedroom, 16 x 2 bedroom + study, 2 x 3 bedroom + study);
- Basement level with 29 car spaces including 3 accessible spaces.

A more detailed description of the proposed development is provided in Section 4 of this SEE.

## 1.3 This Report

This report addresses Schedule 1 (2) (4) of the *Environmental Planning & Assessment Regulation 2000* (the Regulations) and therefore includes only what a 'Statement of Environmental Effects' accompanying a DA needs to include (in the case of development other than designated development or State significant development).

Schedule 1 (2) (4) of the Regulations states that:

*A statement of environmental effects must indicate the following matters:*

- (a) *the environmental impacts of the development,*
- (b) *how the environmental impacts of the development have been identified,*
- (c) *the steps to be taken to protect the environment or to lessen the expected harm to the environment,*
- (d) *any matters required to be indicated by any guidelines issued by the Director-General for the purposes of this clause.*

This SEE is divided into the following sections that address matters (a) to (d) above.

**Section 1** - This introduction.

**Section 2** - A description of the site and its surrounds.

**Section 3** - A list of the applicable environmental planning instruments (including any drafts), development control plans, codes and policies.

**Section 4** - A description of the proposal in detail.

**Section 5** - An assessment of the proposal in accordance with the relevant matters for consideration prescribed by Section 79C of the Environmental Planning and Assessment Act, 1979 (as amended).

**Section 6** - The conclusion to the assessment.

## 2 the site and locality

### 2.1 Description of the Site

#### *Area / Shape / Dimensions*

The subject site has a legal description of Lot 103 in DP 594256 and Lot 9 in DP 26897 and is known as 46 and 50 Hoxton Park Road, Liverpool (the Site). The front (northern) boundary is 39m, the rear (southern) boundary is 39.49m, the side (western) boundary is 39.625m and the side (eastern) boundary is 40.090m. The total site area is 1584.5m<sup>2</sup> (refer to accompanying survey plan).

**Figure 2.1 | The Site**



Source: <http://maps.six.nsw.gov.au/>



The Site, 46-50 Hoxton Park Road, Liverpool



N



### ***Use / Buildings / Structures***

46 - 48 Hoxton Park Road contains a single storey dwelling-house with a pitched tiled roof. Vehicular access is off Hoxton Park Road. The remainder of the property is landscaped.

50 Hoxton Park Road contains a single storey fibro dwelling house with a pitched tiled roof and a detached single garage. Vehicular access is off Hoxton Park Road. The remainder of the property is landscaped.

### ***Site Constraints***

The Site is within close proximity to, but not within the flood planning area indicated in the Liverpool Local Environmental Plan 2008 (LLEP 2008). No other natural hazards apply.

## **2.2 The Locality**

Hoxton Park Road, Liverpool is a classified road and is located between the Hume Highway to the east, the M5 to the south and Elizabeth Drive to the north. To the north east of the Site is the Liverpool Commercial Centre.

The Site is located on Hoxton Park Road and is directly opposite Woodward Park, a large public recreation area. The locality surrounding the Site has a suburban built form with large blocks accommodating primarily low density residential development in the form of single or double storey detached dwellings.

Council has zoned the properties surrounding the Site as R4 High Density Residential, R3 Medium Density, RE1 Public Recreation and a small amount of B6 Enterprise Corridor according to the Liverpool Local Environmental Plan 2008 (LLEP 2008). The existing streetscape is predominately low density residential with public recreation areas. The locality has not yet been redeveloped in accordance with the R4 and R3 zoning, floor space ratio (FSR) and height controls under the LLEP to any substantial degree.



**Figure 2.2 | Locality aerial view**



Source: <http://maps.six.nsw.gov.au/>

#### ***Adjoining Sites to the North***

##### **Woodward Park**

Directly to the north across Hoxton Park Road is Woodward Park, which is a public recreational area.

#### ***Adjoining Sites to the East***

##### **42-44 Hoxton Park Road**

The property immediately to the east of the Site currently contains a single storey dwelling (42 Hoxton Park Road) and a double storey dwelling (44 Hoxton Park Road). A development application was recently approved for the demolition of the existing structures on the sites and the construction of a five storey residential flat building containing 33 apartments and one basement level with 30 car spaces including 4 accessible spaces.

#### ***Adjoining Sites to the South***

##### **33 - 35 Pearce Street**

The properties directly to the south of the Site contain two storey brick dwelling-houses with attached double garages. The front and rear of the properties are landscaped.

### *Adjoining Sites to the West*

#### **52 Hoxton Park Road**

The property directly to the west of the Site is a single storey brick dwelling-house, with a large front and rear landscaped yard.

#### **Site and locality photos – June 2014**



**Photo 1 | 46-48 Hoxton Park Road**



**Photo 2 | 50 and 52 Hoxton Park Road**



**Photo 3 | 42 and 44 Hoxton Park Road**



**Photo 4 | 40 Hoxton Park Road**

# 3 the statutory framework

The environmental planning instruments, (including draft instruments), applicable to the subject DA are identified below.

## 3.1 Relevant Acts

- Section 79C (1) of the Environmental Planning and Assessment Act, 1979 (EP& A Act)
- Environmental Planning and Assessment Regulation 2000.

## 3.2 State Environmental Planning Policies (SEPPs)

- SEPP 55 – Remediation of Land
- SEPP 65 – Design Quality of Residential Apartment Development
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Affordable Rental Housing) 2009

## 3.3 Local Environmental Plans (LEPs)

- Liverpool LEP 2008

## 3.4 Development Control Plans (DCPs)

- Liverpool DCP 2008

# 4 the proposal

## 4.1 General Description

The proposal is for the demolition of existing structures on the Site and the construction of a five storey residential flat building with basement parking. The proposal will include:

- Demolition of the existing structures on the Site.
- Land consolidation.
- Construction of a five (5) storey residential flat building consisting of thirty (30) dwelling units across the Site.
- 1 basement level containing twenty-nine (29) car parking spaces, including 3 accessible spaces.
- External works and landscaped areas.
- Strata title on completion of project subject to a separate DA.

SEPP 65 and the 'Apartment Design Guide' place significant emphasis on detailed and rigorous analysis of Site context, opportunities and constraints to inform the design process and ultimately improve the design quality of residential flat buildings. The proposal is consistent with the objectives of SEPP 65; the design quality therein and the relevant requirements of the 'Apartment Design Guide'.

## 4.2 The Building

The main components of each level of the proposed development are listed in the Table 4.1 below. Reference can be made to the architectural plans that accompany the DA, with all figures provided by Ghazi Al Ali Architects.

**Table 4.1 | Level Components**

Level	Components
Basement Level 1	29 car spaces (including 3 accessible) Bicycle parking Apartment storage units Lift and stair access



Level	Components
Ground Floor	Lift, stair and parking access 3 x 1 bedroom + study 1 x 2 bedroom 2 x 2 bedroom + study Communal open space and landscaped area Bin storage and pump room
Level 1	Lift and stair access 1 x 1 bedroom + study 2 x 2 bedroom 3 x 2 bedroom + study 1 x 3 bedroom + study
Level 2	Lift and stair access 1 x 1 bedroom + study 2 x 2 bedroom 2 x 2 bedroom + study 1 x 3 bedroom + study
Level 3	Lift and stair access 1 x 2 bedroom 4 x 2 bedroom + study
Level 4	Lift and stair access 2 x 2 bedroom 4 x 2 bedroom + study

The internal and external areas of each apartment of the proposed development are listed in Table 4.2 below.

**Table 4.2 | Apartment Areas**

Unit	No. of Beds	Area	Private Open Space
G01	2 bedroom + study	83.59m <sup>2</sup>	31.50m <sup>2</sup>
G02	1 bedroom + study	61.41m <sup>2</sup>	26.90m <sup>2</sup>
G03	1 bedroom + study*	52.58m <sup>2</sup>	31.20m <sup>2</sup>
G04	2 bedroom	75.68m <sup>2</sup>	9.46m <sup>2</sup> + 27.11m <sup>2</sup>
G05	1 bedroom + study	48.13m <sup>2</sup>	27.34m <sup>2</sup>
G06	2 bedroom + study	77.09m <sup>2</sup>	11.06m <sup>2</sup> + 27.84m <sup>2</sup>
101	2 bedroom + study	78.80m <sup>2</sup>	14.15m <sup>2</sup>
102	2 bedroom + study	79.76m <sup>2</sup>	12.13m <sup>2</sup>
103	2 bedroom*	81.20m <sup>2</sup>	14.18m <sup>2</sup>
104	3 bedroom + study	94.97m <sup>2</sup>	16.17m <sup>2</sup>
105	2 bedroom	75.68m <sup>2</sup>	6.48m <sup>2</sup> + 9.46m <sup>2</sup>
106	1 bedroom + study	48.13m <sup>2</sup>	10.25m <sup>2</sup>
107	2 bedroom + study	76.79m <sup>2</sup>	11.13m <sup>2</sup> + 18.15m <sup>2</sup>
201	2 bedroom + study	78.80m <sup>2</sup>	14.15m <sup>2</sup>
202	2 bedroom + study	79.76m <sup>2</sup>	12.13m <sup>2</sup>
203	2 bedroom	81.20m <sup>2</sup>	14.18m <sup>2</sup>
204	3 bedroom + study	94.97m <sup>2</sup>	16.17m <sup>2</sup>
205	2 bedroom	75.68m <sup>2</sup>	6.48m <sup>2</sup> + 9.46m <sup>2</sup>
206	1 bedroom + study	48.13m <sup>2</sup>	10.25m <sup>2</sup>
207	2 bedroom + study	76.79m <sup>2</sup>	9.80m <sup>2</sup> + 11.13m <sup>2</sup>
301	2 bedroom + study	78.71m <sup>2</sup>	45.93m <sup>2</sup>

Unit	No. of Beds	Area	Private Open Space
302	2 bedroom + study	87.45m <sup>2</sup>	12.38m <sup>2</sup>
303	2 bedroom + studio	82.98m <sup>2</sup>	41.74m <sup>2</sup>
304	2 bedroom + studio	75.82m <sup>2</sup>	24.60m <sup>2</sup>
305	2 bedroom	77.28m <sup>2</sup>	22.22m <sup>2</sup>
401	2 bedroom + study	78.71m <sup>2</sup>	20.77m <sup>2</sup>
402	2 bedroom + study	87.45m <sup>2</sup>	11.02m <sup>2</sup>
403	2 bedroom + study	82.98m <sup>2</sup>	13.94m <sup>2</sup>
404	2 bedroom + study	75.82m <sup>2</sup>	12.38m <sup>2</sup>
405	2 bedroom	77.28m <sup>2</sup>	10.98m <sup>2</sup>

\* - accessible units

*Note: Numerical calculations provided by Ghazi Al Ali Architects*

### 4.3 Subdivision

As noted above and on the application form, the proposed includes the concurrent consolidation of the allotments in order to effect the development as follows:

- Consolidation of two (2) allotments; and
- Strata subdivision of the RFB into thirty (30) strata lots (subject to separate development application).

### 4.4 Landscaping

In order to accommodate the proposal, all existing vegetation on the Site will be removed. None of the existing vegetation is identified to be of significance.

The accompanying architectural plans indicate the proposed total landscape area is 374.96m<sup>2</sup>. Of the landscaped area 363.25m<sup>2</sup> is dedicated to deep soil landscaping.

All dwelling units have private open space, either in the form of a ground floor terrace or balconies associated with the above ground dwellings, as indicated on the architectural plans, prepared by Ghazi Al Ali Architects.



#### **4.5 Building Design**

The submitted 3D modelling and external schedule of colours, finishes, textures and materials, that accompany the subject DA, are indicative of the finished appearance of the proposed development. In general, the colours have been chosen to complement the architectural style of the proposed development.

# 5 environmental assessment

## 5.1 Environmental Planning & Assessment Regulation 2000

This report considers the environmental consequences of the development as required under Schedule 1 (2) (4) of the Environmental Planning & Assessment Regulation 2000 (the Regulations).

Any environmental impacts of the development have been identified through a review of applicable planning instruments as outlined below; review of the site and review of other related documents. Our assessment of the proposal, against the planning instruments guiding development, concludes that environmental impacts, as a result of the development, are minimal.

## 5.2 SEPP Provisions

### 5.2.1 SEPP No 55 – Remediation of Land (SEPP 55)

In relation to development applications, in summary, SEPP 55 requires the consent authority to consider whether the land is contaminated. The Site is not within an investigation area or contained land uses referred in Table 1 of the contaminated land planning guidelines. Accordingly, the proposal is suitable for the proposed use.

### 5.2.2 SEPP No 65 – Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 was introduced to improve the design of Residential Flat Buildings (RFBs). It contains design quality principles, which must be incorporated into new or substantially altered existing RFBs.

The proposal is consistent with the objectives of SEPP 65; the design quality principles therein and with the relevant requirements of the Apartment Design Guide (ADG). The scheme has been designed by Ghazi Al Ali Architect.

The development is well-designed; will provide excellent amenity for future residents and will not diminish, to any unreasonable extent, the amenity to adjoining properties. The design quality principles of SEPP 65 and the ADG have been important guiding documents for the proposed development. Consistency with SEPP 65 and the ADG ensures that a high quality urban design outcome will be achieved.

### 5.2.3 SEPP (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)

SEPP (BASIX) relates to the BASIX scheme, which encourages sustainable residential development via the achievement of energy and water saving targets. The BASIX Scheme aims to:

- Reduce consumption of mains-supplied potable water and reduce emissions of greenhouse gases, in use of a building or in use of the land on which the building is situated; and
- Improve the thermal performance of the building.

The proposed development is within the category of dwelling affected by the SEPP BASIX. Accordingly, the subject DA is accompanied by a BASIX Certificate. The submitted plans indicate the commitments proposed in the BASIX Certificate.

#### 5.2.4 SEPP (Affordable Rental Housing) 2009 (SEPP ARH)

The proposal will comprise in-fill affordable housing within the meaning of SEPP ARH.

##### Clause 4 – Objectives

Clause 4 sets out the objectives of the SEPP ARH, which include the following:

- “(b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work”.*

The proposal satisfies the above objectives for the following reasons:

- The proposal will provide affordable new dwellings as required by the SEPP ARH.
- The Site is located close to the T-Way system and Liverpool Town Centre. The proposal will therefore increase the accessibility of the occupants to employment and will support the Liverpool Town Centre.

##### Clause 13 – Floor Space Ratio

In accordance with the SEPP ARH, 17 of the proposed 30 units will be dedicated to affordable rental housing. The proposed gross floor area of the development to be used for affordable rental housing is 1187.5m<sup>2</sup>.

Clause 13 states:

- (2) 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:*
  - (a) If the existing maximum floor space ratio is 2.5:1 or less:*
    - (i) 0.5:1 – if the percentage of gross floor area of the development that is used for affordable housing is 50 per cent or higher, or*
    - (ii) Y:1 – if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:*

*AH is the percentage of the gross floor area of the development that is used for affordable housing.*

$$Y = AH / 100."$$

The FSR bonus will be based on the percentage of gross floor area dedicated to affordable rental housing.

Accordingly, the following calculations are provided:

- Under the LLEP 2008 the maximum FSR is 1:1.
- Under the ARH SEPP the maximum FSR bonus is 0.5:1 if the percentage of gross floor area of the development that is used for affordable housing is 50 per cent or higher.
- Units G02, G03, G04, G05, G06, 102, 103, 105, 106, 202, 203, 205, 206, 302, 304, 402 and 404 are dedicated to affordable rental housing.
- The total proposed affordable rental housing GFA is 1187.5m<sup>2</sup>.
- Therefore the maximum FSR for the Site (including the FSR bonus under the SEPP ARH) is 1.5:1.

The proposal has a total FSR of 1.5:1 and a total GFA of 2373m<sup>2</sup>. The proposal satisfies Clause 13 of the SEPP ARH.

#### Clause 14 – Standards that cannot be used to refuse consent

Clause 14 includes a number of standards that if achieved, cannot be used by a consent authority to refuse consent. Where the standards are not achieved, the proposal is assessed on its merits. Table 5.1 provides an assessment of the proposal against Clause 14 standards of the SEPP ARH.

**Table 5.1 | SEPP ARH Compliance Table**

Design Element	Control	Proposed	Compliance
Site Area	450m <sup>2</sup>	1584.5m <sup>2</sup>	Yes
Landscape Area	30% site area to be landscaped	503.85m <sup>2</sup> (31.8%)	Yes
Deep Soil Zones	15% site area – minimum dimension of 3m	363.25m <sup>2</sup> (22.9%)	Yes

Design Element	Control	Proposed	Compliance
Solar access to living rooms and private open space	>3hrs between 9am and 3pm 22 June > 70% dwellings	22 units achieve the required 3 hours direct sunlight to living rooms and private open space in mid-winter. This equates to 73% of the development achieving minimum solar access requirements.	Yes
Parking	0.5 space per 1 bedroom dwelling (2.5) 1 space per 2 bedroom dwelling (23) 1.5 spaces per 3 bedroom dwelling (3) Total = 31.5	The proposal includes a total of 29 car parking spaces, including 3 accessible car parking spaces.	No, however provided basement parking considered adequate as Site located in accessible area.
Dwelling Size	35sqm – bedsitter or studio 50sqm – 1 bedroom 70sqm – 2 bedroom 95sqm – 3 bedroom	1 bed – 48.13-61.41m <sup>2</sup> 2 bed – 75.82-87.45m <sup>2</sup> 3 bed – 94.97m <sup>2</sup>	Partial non-compliance (units G05, 104, 106, 204 and 206 - but satisfactory as adequate levels of residential amenity achieved).



#### Clause 16A – Character of local area

Clause 16A of the SEPP ARH states:

*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.*

Surrounding the Site, the locality currently has a mix of land uses and residential densities. The Site itself is zoned R4 High Density Residential. The development will be compatible with the character of the local area for the following reasons:

- The construction of the residential flat building is permissible in R4 High Density Residential Zone and it is adjacent to a residential area;
- The proposal is of an appropriate scale, height and bulk and massing which responds to the surrounding and future residential context;
- The proposed is located within an area well-served by public transport as well as private vehicular access and is a land use that is consistent with the surrounding neighbourhood; and
- The property directly to the east at 42-44 Hoxton Park Road, has recently been approved for a 5 storey residential flat building. The proposed built form will be of a similar scale to that proposed in the subject development application. Both developments will complement one another, and the proposed design as adopted key design aspects of 42-44 Hoxton Park Road to ensure the proposal is compatible with the desired future character.

The Site is zoned R4 High Density Residential under the LLEP 2008. Residential Flat Buildings are permissible with consent under the current zoning. The planning controls allows for a 15m building. The proposal has a marginal variance to the maximum height limit 0.31m. A Clause 4.6 Exception to Development Standards accompanies this application. The proposal is generally consistent with the character of the area, as represented in the prescribed zone objectives and the surrounding development.

The planning principle in *Project Venture Development Pty Ltd v Pittwater Council* can be used as a reference in determining the compatibility of the proposal against the character of the local area. Compatibility between the building and its surrounds is desirable. The planning principle states:

*There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing in harmony. Compatibility is this different from sameness. It is generally accepted that buildings can exist together in harmony without harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.*

*Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked:*

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The words in *Project Venture* about compatible developments being “capable of existing together in harmony” and “generally accepted that buildings could exist together in harmony without having the same density, scale or appearance” are important considerations in assessing the character of the local area.

Furthermore, the findings in *Northcote Trust v Hornsby Shire Council* states:

*On the important question of whether the design of the proposed development is compatible with the character of the local area, it must be accepted that development lodged under the ARH SEPP should not slavishly follow the form of development anticipated for Residential A (Low Density) Zone. The test in cl 16A is compatibility and not replication. SEPP ARH is a statewide planning policy and clearly allows for a form of development that may not necessarily reflect the exact form anticipated by local planning controls. This is highlighted by cl. 8 that gives primacy to the SEPP ARH over any environmental planning instrument (but only so far as any development is compatible with the character of [the] local area).*

The building forms and character of the development is compatible with the form of development permissible under R4 High Density Residential Zones, which includes RFBs. In the *Project Venture* case, it was accepted that buildings can exist together in harmony without having the same density, scale and appearance. Surrounding the Site, the locality is generally zoned R4 High Density Residential. This area is likely to incorporate much more substantial built forms in the near future. Giving the zoning context the proposal is considered compatible with the likely emerging character of the area, with higher densities expected within the vicinity of the Site.

The proposal will mitigate amenity impacts to adjoining properties in terms of privacy, overshadowing and view loss. The proposed five storey building incorporating thirty (30) dwelling units is compatible with the design and development in the locality, including anticipated future built forms.

The modern design will positively contribute to the streetscape and architectural styles anticipated for the area. Given that the Site is within close proximity to major arterial routes and has a number of regular bus services with the Site's located in close proximity to the T-Way system, the proposal is also in line to encourage public transport use.

Ghazi Al Ali Architects have recognised the importance of the design of the proposal in terms of being one of the first developments within the context of the higher density planning controls. It is important that as one of the first development site within the surrounding high density zone to move towards realizing the desired



future character, the proposal sets a high benchmark in terms of design quality. This will in turn inform the overall development of the precinct.

Accordingly, the proposal meets the character test required under Clause 16A of SEPP ARH.

### **5.3 LEP Provisions**

#### **5.3.1 Liverpool Local Environmental Plan 2008 (LLEP 2008)**

##### Clause 1.4 – Definitions

The proposed development is defined as 'Residential Flat Building' which is defined in the LLEP 2008 as:

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

##### Clause 2.3 – Zoning

The Site is located within the R4 High Density Zone under the LLEP 2008.

The objections 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 provide facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The proposal satisfies the above objections by providing an appropriate and permissible housing type for a high density residential environment. The proposal provides for the housing needs of the community in close proximity to the adjacent recreation facilities, public transport and Liverpool Town Centre. The proposal does not result in a fragmentation of land that prevents the achievement of high density residential development.

**Table 5.2 | Liverpool LEP 2008 Compliance Table**

	<b>LLEP Standard</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Height of Building</b>	15m	Maximum variation 15.31m	No – refer to accompanying Clause 4.6 variation
<b>Floor Space Ratio</b>	1:1	1.5:1	No – but compliant under SEPP (Affordable Rental Housing) 2009
<b>Minimum Building Street Frontage</b>	24m	39m	Yes

The proposal complies with the FSR maximum as modified by the SEPP (Affordable Rental Housing) 2009. It is therefore necessary to lodge a Clause 4.6 application in respect to FSR.

#### Clause 4.6 Variations – Building Height

##### Exception Sought

An exception to development standards is sought under Clause 4.6 of the HLEP 2012 for the variation to the height control, as detailed in Table 5.3 below.

**Table 5.3 | LLEP 2008 Variation**

<b>Clause</b>	<b>Control</b>	<b>Proposed development</b>	<b>Variation</b>
<b>4.3 Building Height</b>	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.

**Figure 5.1 | 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.

## **5.4 DCP Provisions**

### **5.4.1 Liverpool DCP 2008**

The Liverpool Development Control Plan 2008 (LDCP 2008) has objectives for RFBs within the R4 High Density Residential zone. The objectives include the following:

- (a) *To provide controls for residential development to ensure that it achieves a high standard of urban design, that is compatible with the amenity and character of the area.*
- (b) *To provide for a variety of housing choice within residential areas in Liverpool.*
- (c) *Additional objectives are listed in the detailed controls for the various land uses.*

The proposal meets the objectives by achieving high standard of urban design and the envisaged future character by the prescribed planning controls. This has been explained in further detail in Section 5.2.4 above. The proposal provides a variety of housing choices including adaptable and affordable housing.

Table 5.4 below provides an assessment of the proposal in terms of its compliance with Part 3.7 Residential Flat Buildings in the R4 Zone of the LDCP 2008.

**Table 5.4 | LDCP 2008 Compliance Table**

	<b>LDCP Standard</b>	<b>Proposed</b>	<b>Compliance</b>
Min Lot Width	24m	39m	Yes
Front Setback (classified road)	7m	7 - 7.6m to the building line	Yes

	<b>LDCP Standard</b>	<b>Proposed</b>	<b>Compliance</b>
Side Setback	<10m high – 3m >10m high – 8m	<10m - 3m >10m - 7-8m	Satisfactory – the side elevations are satisfactorily articulated through various 'steps', throughout the elevations, windows and the like.  The setbacks have been developed to ensure a rhythm or pattern of development can be developed for surrounding R4 zoned land, in accordance with LLEP2008.
Rear Setback	8m	8m to the building wall	Yes
Landscaped Area	25% of Site area	31.8%	Satisfactory.
Open Space	Provide communal open space, which is appropriate and relevant to the context and the building's setting	Communal open space is located to the rear of the building and will provide adequate space for communal use.	Satisfactory
Private Open Space	<65m <sup>2</sup> – 10m <sup>2</sup> 65m <sup>2</sup> -100m <sup>2</sup> – 12m <sup>2</sup>	10.25m <sup>2</sup> - 41.74m <sup>2</sup>	Yes



	<b>LDCP Standard</b>	<b>Proposed</b>	<b>Compliance</b>
Parking	1 per small dwelling <65m <sup>2</sup> 1.5 per medium dwelling 65m <sup>2</sup> -110m <sup>2</sup> 2 per large dwelling >110m <sup>2</sup> 1 visitor per 4 dwellings Total - 55	29 resident car spots are provided.  There are no parking spaces dedicated to visitor parking as they are not required as part of the ARH SEPP.	Satisfactory, the Site is located in an accessible area and adequate parking has been provided.

## 5.5 Social Impact Assessment

Council recently adopted a Social Impact Assessment Policy (the Policy) and amendments to the LDCP 2008 to provide a framework for assessing the potential social impacts that may be associated with a range of development types and decision-making processes within the Liverpool Council Area. Table 1 of the Policy requires a Social Impact Comment (SIC) for all Affordable Housing development within the meaning of the ARH SEPP. The SIC provided in Appendix A has been prepared in accordance with Council's policy and is based on Council's SIC Initial Impact Form.

Having regard to the provisions contained in Section 10 of the Policy regarding Community Consultation, it is considered that Council's standard notification and advertising protocols for development applications will satisfy the objectives and requirements of the Policy and that a separate consultation exercise is not required.

## 5.6 Other possible impacts of the development

Impacts to the built environment and social environments will be within acceptable and anticipated limits. It is envisaged that the development will provide additional housing opportunities within an area designated for development, consistent with the desired future character of the area as outlined by Council's planning controls.

The likely social and economic impacts and outcomes have been taken into account in the preparation of this assessment. Social and economic outcomes are considered to be positive, given that employment opportunities will be generated during construction, as well as additional housing opportunities located close to public transport, schools and employment. Impacts on the natural environment are negligible as the proposal does not involve hazardous materials or processes.

As discussed in the previous sections of this report, the proposed development will not result in any significant environmental impacts. The scheme will not incur any unreasonable impacts to the character of the locality. No unacceptable safety, security and traffic implications are expected, particularly given the density and anticipated residential use and vehicular access. Safe and efficient vehicular pedestrian access will be possible from the established road system.

In this case, the proposal's likely impacts are acceptable.

## **5.7 Suitability of the Site**

The SEE has demonstrated in detail that the Site is suitable for the proposed development. In summary, suitability is achieved given:

- The proposed development is permissible and will be consistent with the relevant Zone objectives.
- The development will respect both the existing and desired future character of the immediate locality.
- Considerable compliance is achieved with the relevant non-statutory controls, and in those cases of non-compliance, the relevant objectives are satisfied and a better environmental outcome achieved.
- Likely impacts from the proposal are reasonable.
- The identified constraints have been suitably mitigated to the point that they will not result in the Site's development cannot be achieved, without significant adverse impacts.
- The Site is ideally located adjacent to a range of public and private services.

## **5.8 Community Consultation**

It is anticipated that Council will notify the proposal in accordance with Liverpool Council's Notification Requirements and the relevant statutory requirements contained in the EP&A Act 1979 and the Regulations. The applicant is willing to consider any submissions, should they be received by Council.

## **5.9 The Public Interest**

Approval of the application is not contrary to the public interest given:

- The proposed development will provide a new RFB in an accessible location in accordance with the desired future character of the areas, as expressed by the R4 High Density Residential Zone.
- The local supply and choice of housing form will be supplemented by the proposal.
- The environmental impacts of the proposal are reasonable and within anticipated limits.

## 6 conclusion

The Development Application is for the amalgamation of two lots, the demolition of the existing structures on the Site and the construction of a five storey Residential Flat Building, containing a total of 30 apartments with one level of basement parking, at 46-50 Hoxton Park Road, Liverpool. The proposal will contain affordable rental housing apartments.

The proposed development is permissible with consent under the provisions of the Liverpool Local Environmental Plan 2008 and the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposed development is consistent with the provisions of the relevant State Planning Policies and Council's Local Environmental Plan and Development Control Plan.

The Site is capable of accommodating the proposed Residential Flat Building and is not expected to have any detrimental impacts on the amenity of the locality. In this regard, the proposal is considered to be a positive development response to the Site.

Housing affordability in Sydney is becoming increasingly difficult. The proposed development provides a higher density that currently exists on the Site, and affordable housing. The proposed development provides additional residential development within an area earmarked for future high density residential development, which is located near public infrastructure. The area can support the increase in density and is encouraged by Council. The built form of the proposal is considered to respond appropriately to the surrounding context and comply with the relevant built form controls.

As outlined in the body of this report, 46-50 Hoxton Park Road, Liverpool, is capable of accommodating the proposed development and in this regard, the proposal is considered to be a suitable development of the Site. The proposal will provide good amenity for residents, and the community, and has acceptable impacts on neighbours and the streetscape.

Accordingly, the proposed development will be satisfactory from an environmental planning perspective and approval of the application, subject to appropriate conditions, is recommended.