



STATEMENT OF ENVIRONMENTAL EFFECTS

129-131 MEMORIAL AVE, LIVERPOOL

DEMOLITION OF EXISTING STRUCTURES AND
CONSTRUCTION OF RESIDENTIAL FLAT BUILDING
WITH IN-FILL AFFORDABLE HOUSING

OCTOBER 2016

SUBMITTED TO
LIVERPOOL CITY COUNCIL

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TABLE OF CONTENTS

1.	Introduction.....	1
2.	Site Analysis.....	2
2.1	The Site	2
2.2	The Locality.....	4
3.	The Proposal	5
4.	Environmental Planning Assessment.....	6
4.1	SEPP (Affordable Rental Housing) 2009	6
4.2	SEPP (Building Sustainability Index: BASIX) 2004.....	10
4.3	SEPP 55 Remediation of Land	10
4.4	SEPP 65 Design Quality of Residential Apartment Development	11
4.5	Liverpool Local Environmental Plan 2008	11
4.6	Liverpool Development Control Plan 2008	14
4.7	Matters for Consideration S79C (1) EPA Act 1979	14
4.7.1	S79C (1) (a) – Statutory Policy and Compliance	14
4.7.2	S79C (1) (b) – Natural Environmental Impacts	14
4.7.3	S79C (1) (b) – Built Environmental Impacts	14
4.7.4	S79C (1) (b) – Social and Economic Impacts.....	15
4.7.5	S79C (1) (c) – Suitability of the Site for the Development	15
4.7.6	S79C (1) (d) – The Public Interest	15
5.	Conclusion	16
	Appendix 1 Site Photos	17
	Appendix 2 ADG Compliance Table	20
	Appendix 3 DCP Compliance Table	24
	Appendix 4 Clause 4.6	34

FIGURES

Figure 1. Aerial Map of 129-131 Memorial Avenue, Liverpool (SIX Maps)	2
Figure 2. Land Reservation Acquisition for Memorial Avenue (Liverpool Council E-Planning).....	3
Figure 3. Street view of the existing dwellings at 129-131 Memorial Avenue, Liverpool (Google Maps Street View)	3
Figure 4. Locality Map of the Subject Site 129-131 Memorial Avenue, Liverpool (SIX Maps)	4
Figure 5. Walking distance to Memorial T-way Station – To Liverpool.....	7
Figure 6. Walking distance to Memorial T-way Station – To Parramatta.....	7
Figure 7. Existing residential flat building 125 Memorial Avenue, Liverpool (photo taken by author)	17
Figure 8. Direct eastern adjoining property 127 Memorial Avenue, Liverpool (photo taken by author).....	17
Figure 9. The subject site 129-131 Memorial Avenue, Liverpool (photo taken by author)	18
Figure 10. The direct western adjoining property 133-137 Memorial Avenue, Liverpool (photo taken by author)	18
Figure 11. Liverpool-Parramatta Transit way (photo taken by author).....	19
Figure 12. Existing front setback of 133-137 Memorial Avenue, Liverpool (photo taken by author).....	19
Figure 13. Streetscape of 129-131 Memorial Avenue, Liverpool	36
Figure 14. North Elevation of 129-131 Memorial Avenue, Liverpool	37
Figure 15. West Elevation of 129-131 Memorial Avenue, Liverpool.....	37

TABLES

Table 1. Documents contained in this Development Application	1
Table 2. Proposed Unit Mix by Level	5
Table 3. SEPP ARH Clause 14 Summary	8
Table 4. Liverpool Local Environmental Plan 2008	11

1. Introduction

This Statement of Environmental Effects (SEE) has been prepared for Ishrat Kathia to support the Development Application (DA) to Liverpool City Council (the Council). The application seeks consent for

- i. the demolish all existing structure on site and to construct a five storey residential development; and
- ii. the construction of a five (4) storey residential flat building comprising thirty-two (32) dwellings, Seventeen (17) of which are to be dedicated as affordable housing, with one basement level of car parking for thirty-three (33) vehicles. The development comprises five (5) studio apartments, twenty-one (21) two bedroom apartments, and six (6) three bedroom apartments. Four (4) dwellings are adaptable and accordingly four (4) accessible parking spaces are proposed.

This report should be read in conjunction with the following documents.

Table 1. Documents contained in this Development Application

No.	Document	Prepared by
1	Architectural plans	Ghazi Al Ali Architect
2	Survey plan	Sydney Registered Surveyors
3	Landscape plans	Conzept Landscape Architect
4	Stormwater concept design	ACE
5	BCA Report	Design Right Consulting Pty Ltd
6	Traffic	ANA
7	Acoustic	ANA
8	Accessibility	Access Solution
9	Geotechnical	Geo Environment
10	Quantity Survey	MMDCC
11	Waste Management Plan	Ghazi Al Ali Architect
12	BASIX	STS

This SEE is composed of five sections as following.

- Section 1** Introduction
- Section 2** Site analysis and locality
- Section 3** Detailed description of the proposed development
- Section 4** Environmental planning assessment
- Section 5** Conclusion

2. Site Analysis

2.1 The Site

The subject site (see Figure 1) is legally described as Lot A and Lot B in Deposit Plan 385460, known as No. 129-131 Memorial Avenue, Liverpool, having an area a 1532.98m². The site is rectangular in shape with a 33.53m frontage to Memorial Avenue, a 33.53m frontage to the rear, and a depth of 45.72m. The site falls towards the north-eastern corner which has a change in topography of approximately 400mm, from its highest point of RL 16.20 at north-western corner to its lowest point of RL 15.82 at north-eastern corner.

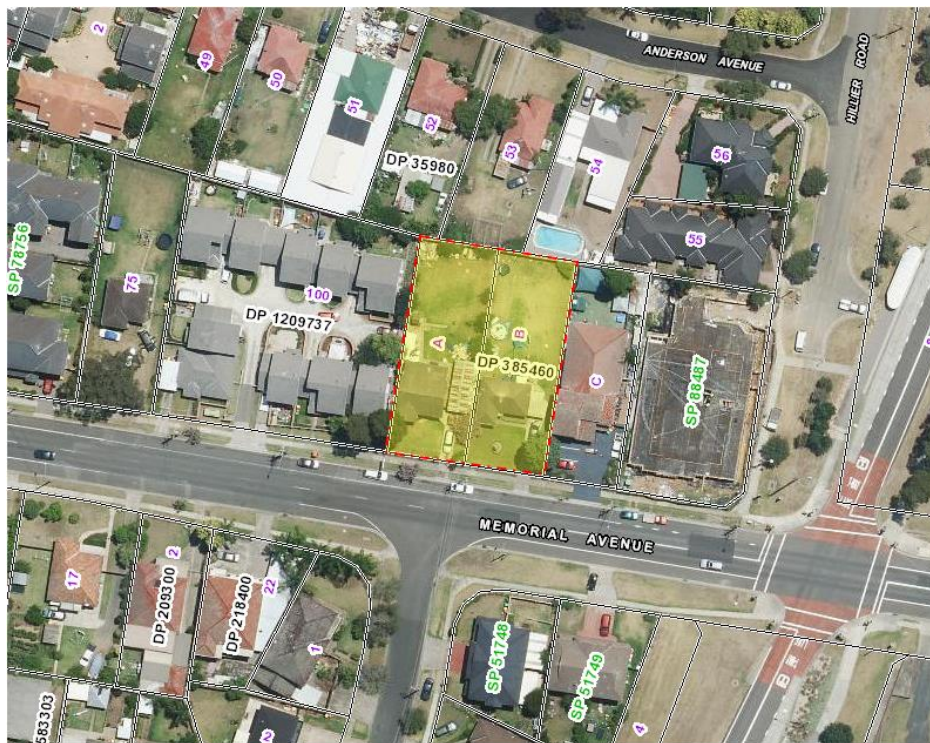


Figure 1. Aerial Map of 129-131 Memorial Avenue, Liverpool (SIX Maps)

Land Reservation Acquisition

The front of the subject land has been reserved as land acquisition for Roads and Maritime Services (RMS), which comprises approximately 140m² which is equivalent to approximately 9% of the development site (see Figure 2).



Figure 2. Land Reservation Acquisition for Memorial Avenue (Liverpool Council E-Planning)

The site is currently occupied by two detached dwelling houses and some ancillary developments. Concrete driveways run along eastern boundary of each properties for vehicular access via Memorial Avenue. The site surface is predominantly turfed area, with exceptions of few tree planting and paved area.



Figure 3. Street view of the existing dwellings at 129-131 Memorial Avenue, Liverpool (Google Maps Street View)

The subject site is located within the land zoned R4 – High Density Residential, where residential flat building is permitted with consent.

2.2 The Locality

The subject site is located in the close proximity to Liverpool City Centre. The Liverpool – Parramatta Transit Way is located within 200m to the east and providing highly frequent bus services between Liverpool and Parramatta CBDs. Liverpool Westfield, one of the major shopping centre is located 1.5km to the north east. Liverpool train station is located 1.4km to the east along Georges River.



Figure 4. Locality Map of the Subject Site 129-131 Memorial Avenue, Liverpool (SIX Maps)

- The Subject Site
- Liverpool City Centre
- Liverpool – Parramatta Transit way
- Liverpool Train Station

Diverse built forms and various scales and density can be found in developments in the locality, including detached dwelling houses, dual occupancies, town house developments and residential flat building. A number of sites in the vicinity are currently undergoing construction. The mixed architectural styles and building presentation demonstrate the transition of character in the precinct.

3. The Proposal

The Development Application proposes the demolition of all existing structures on site, to enable the construction of a five (4) storey residential flat building comprising thirty-two (32) dwellings. The proposed Gross Floor Area is 2299.38m². Seventeen (17) of the dwellings are to be dedicated as affordable housing, which forms 1152.99m² of the GFA, in accordance with State Environmental Planning Policy Affordable Rental Housing 2009.

The proposal includes one basement car park, which has a capacity for the provision of thirty-three (33) parking spaces, including four (4) accessible parking spaces.

The development comprises five (5) studio apartments, twenty-one (21) two bedroom apartments, and six (6) three bedroom apartments. Four (4) dwellings have been designed as adaptable units. A unit mix breakdown summary is presented in Table 2 below.

Communal open space is provided to the northern rear and the sides of the sites. It has an area measuring at 406.19m², which is equivalent to 26% of the site area. It would receive abundant sunlight for future use due to its north-facing nature.

The basement has been thoughtfully designed with a 6m setback to the rear boundary to enable sufficient space for deep soil planting. The deep soil zone has an area of 255.33m², which is equivalent to 17% of the site.

Table 2. Proposed Unit Mix by Level

	Studio	2 Bedroom	3 Bedroom	Total
Ground floor	1	5	-	6
Level 01	2	6	-	8
Level 02	2	6	-	8
Level 03	-	2	3	5
Level 04	-	2	3	5
Total	5	21	6	32



4. Environmental Planning Assessment

This section provides an environmental planning assessment of the proposed development against all relevant statutory and non-statutory requirements, in other words, a planning assessment over the State Environmental Planning Policies, Local Environmental Plan, and Development Control Plan that are applicable to the proposal. The relevant matters for consideration under Section 79C of the Environmental Planning Assessment Act 1979 are identified as below.

SEPP	State Environmental Planning Policy (Affordable Rental Housing) 2009
SEPP	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
SEPP	State Environmental Planning Policy 55 Remediation of Land
SEPP	State Environmental Planning Policy 65 Design Quality of Residential Apartment Development
LEP	Liverpool Local Environmental Plan 2008 (LLEP 2008)
DCP	Liverpool Development Control Plan 2008 (LDCP 2008)

4.1 SEPP (Affordable Rental Housing) 2009

Clause 3 Aims of Policy

The aims of the SEPP ARH in Clause 3 are:

- (a) to provide a consistent planning regime for the provision of affordable rental housing,
- (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,
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

The proposed residential flat building is designed to deliver additional affordable housing stock for the residents by utilising the incentive in floor space ratio bonuses and other non-discretionary development standards.

Clause 4 Interpretation – general

Clause 4 defines “accessible area” as follows:

accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 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.

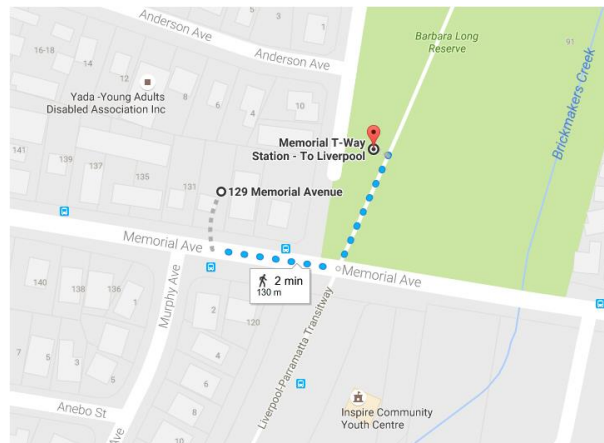


Figure 5. Walking distance to Memorial T-way Station – To Liverpool

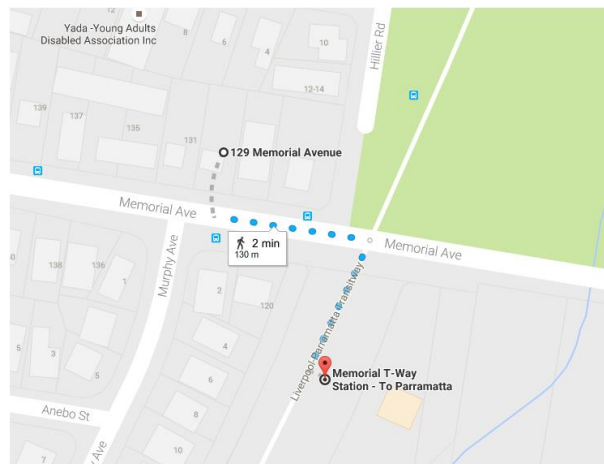


Figure 6. Walking distance to Memorial T-way Station – To Parramatta

As shown in Figures above, the subject site is located within 400m walking distance to Memorial T-Way stations in both directions. Bus Route T80 provides regular services with a frequency higher than the SEPP requirement. Therefore, the site is located in an “accessible area” under the SEPP ARH.

Part 2, Division 1 of SEPP ARH specifies clauses in relation to in-fill affordable housing.

Clause 10 Developments to which Division applies

Clause 10 requires the proposed development to be permitted with consent under the LLEP 2008. Residential flat buildings are permissible within R4 zone where the subject site is located within.

Clause 13 Floor space ratio

Clause 13 specifies that 0.5 floor space ratio bonus is applicable to the proposed development because the existing applicable floor space ratio is less than 2.5:1, and 1152.99m² out of 2299.38m² gross floor area have been designed to dedicate as affordable rental dwellings.

Clause 14 Standards that cannot be used to refuse consent

Clause 14 contains several standards that if achieved, cannot be used as the ground by a consent authority to refuse consent. These standards are not development standards. That is to say, compliance warrants ground for approval but non-compliance does not guarantee refusal. Where the standards are not achieved, the proposal is assessed on its merits.

The table below is a summary of the standards that cannot be used to refuse consent in Clause 14.

Table 3. SEPP ARH Clause 14 Summary

Standards that cannot be used to refuse consent	Proposed	Compliance								
(1) site and solar access requirements										
(a) repealed	\	\								
(b) site area ≥ 450m ²	Site area 1532.98m ² (1393m ² if excluding land reservation acquisition area)	Yes								
(c) landscaped area 30% of the site area	32% (491.17m ²) of the site area is landscaped	Yes								
(d) deep soil area (i) 15% of the site area (ii) 3m dimension (iii) 2/3 of deep soil area locate at the rear	17% (255.33m ²) of the site area is deep soil planting zone located at the rear of the site with 6m dimension	Yes								
(e) 70% of the dwellings receive 3 hours solar access to living rooms and private open space between 9am and 3pm at mid-winter	75% of the dwellings receive 3 hours sunlight access to living rooms and private open spaces between 9am and 3pm at mid-winter	Yes								
(2) General										
(a) parking – development application not made by social housing provider <table><tr><td>1 Bedroom</td><td>0.5 parking spaces</td></tr><tr><td>2 Bedroom</td><td>1 parking spaces</td></tr><tr><td>3 Bedroom</td><td>1.5 parking spaces</td></tr></table> Required 32.5 in total	1 Bedroom	0.5 parking spaces	2 Bedroom	1 parking spaces	3 Bedroom	1.5 parking spaces	33 car parking spaces have been provided	Yes		
1 Bedroom	0.5 parking spaces									
2 Bedroom	1 parking spaces									
3 Bedroom	1.5 parking spaces									
(b) dwelling size <table><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 Bedroom</td><td>50m²</td></tr><tr><td>2 Bedroom</td><td>70m²</td></tr><tr><td>3 Bedroom</td><td>95m²</td></tr></table>	Studio	35m ²	1 Bedroom	50m ²	2 Bedroom	70m ²	3 Bedroom	95m ²	All units have been designed in accordance with ADG	No however complies with ADG
Studio	35m ²									
1 Bedroom	50m ²									
2 Bedroom	70m ²									
3 Bedroom	95m ²									

Clause 16 Continued application of SEPP 65

This application is assessed against SEPP 65. The nine design quality principles have been taken into consideration during the design process. See SEPP 65 Design verification statement accompanied this application and ADG compliance assessment in Appendix 2 of this report.

Clause 16A Character of local area

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 or the local area.

The planning principle of compatibility in urban environment has been established by the case law of Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191. The Commissioner Roseth has concluded that being compatible is different from being the same. Court has accepted that developments can exist together in harmony without having the same density, scale or appearance.

A site visit and desktop study have been undertaken to understand the existing and evolving future character of the local area. The physical character along Memorial Avenue varies in terms of built form, architectural style and materials. The site is located within the outskirts of Liverpool City Centre where a mix of low, medium and high density development co-exist. A number of newly redeveloped residential flat buildings and few ongoing construction sites demonstrate the transition towards higher density developments in the area. R4 zoning along both northern and southern side of Memorial Avenue indicate council's anticipation of delivery of high density developments as a strategic vision for the locality.

Building Height

The proposed building has a maximum height of 15.396m for roof slab and 16.126m for the lift overrun, which exceeds the 15m height limit. The lift overrun is located in the central core of the building and is hardly visible from the street. The variation in height of lift overrun will not overshadow neighbouring properties and not create adverse environmental impacts. The 396mm height variation in roof slab represents the height non-compliance for the totality of the building. It should be acknowledged that the building has been lifted up by 300mm as per stormwater requirement which contributes the majority of the height breach in the roof slab. The rest of 96mm height variation is a reasonable outcome with the natural topography of the site. Thus, the street presentation of the proposed RFB will continue to be a five-storey building as what would have been anticipated under the 15m height limit.

Setbacks

Existing street frontage setbacks along Memorial Avenue are in the range of approximately 4m – 9m. The proposed development will have a front setback of 6.7m to the existing site boundary, and a varying setback of 2.4m – 5.4m to the land reservation acquisition area, which is in line with the residential flat building development at 125 Memorial Avenue, Liverpool. This arrangement allows Memorial Avenue street frontage to present in a consistent urban form.

Landscaping & Deep Soil

The front setback also accommodates landscaping and deep soil area, which allows the proposal to present a well landscaped aspect to the public domain. The proposal includes generous deep soil planting area at the rear of the site, which ensure good amenity for future residents.

Bulk & Scale

The bulk and scale of the proposed building is well sit within the vicinity. The proposed residential flat building has a gross floor area of 2299.47m², and is equivalent to a floor space ratio of 1.5:1, which is a result of utilising the SEPP ARH floor space ratio bonus incentive. The in-fill affordable housing development would anticipate the additional floor space, while sympathetic to the surroundings simultaneously.

Architectural Style & Materials

The architectural style of the proposal represents a contemporary and practical form. A range of materials are presented to the street including ALUCOBOND panels, deluxe rendering, and brickworks. Fenestrations and glass balustrades are adding to the visual interest and soften the perception of the scale.

Clause 17 Must be used for affordable housing for 10 years

This proposed residential flat building is designed to be used for the purposes of affordable housing for 10 years and will be managed by a registered community housing provider in accordance with Clause 17 of SEPP ARH.

Clause 18 Subdivision

No land subdivision has been proposed in this application.

4.2 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 aims to ensure consistency in the implementation of the BASIX scheme, established by the Regulations under the EPA Act 1979 to encourage sustainable residential development to comply with water, thermal comfort and energy commitments. A BASIX Certificate issued by STS Sustainable Thermal Solution is accompanying this application. Commitments made under the BASIX Certificate are detailed on the architectural plans prepared by Ghazi Al Ali Architect Pty Ltd.

4.3 SEPP 55 Remediation of Land

SEPP 55 Remediation of Land requires the consent authority to consider whether the land is contaminated in determining development applications.

7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is:
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:

4 Environmental Planning Assessment

- (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

The site is not within an investigation area, nor contained the activities in the Table 1 to the contaminated land planning guidelines. The site has a history of residential use and the site history does not indicate potentially contaminating activities. Pursuant to Clause 7 of SEPP 55, the proposed residential use of the site is appropriate in the circumstance.

4.4 SEPP 65 Design Quality of Residential Apartment Development

SEPP 65 Apartment Design Guide (ADG) Compliance Table is provided in the Appendix 2.

Justification for building separation

A building separation of 3.2m have been provided for the kitchen area of Unit 301/302/401/402 facing the side boundaries with blank walls. The non-complying component is limited to 5.5m in length, which considered minor and has no adverse impact on the adjoining properties in terms of solar access and privacy. Therefore the variation is considered acceptable in this case.

Similarly, side building separation of 3.7m has been provided for the bedroom of Unit 303/305/403/405 with highlight windows facing eastern and western boundaries. As for the rear setback, the proposed setback of 8.5m has been provided for the bedroom of Unit 403/405 with timber frame screen facing north boundary.

The non-complying component is 4.3m in length and is considered minor portion comparing to the depth of the building. This numerical non-compliance has no negative impacts on the directly adjoining properties in terms of solar access and privacy. Thus the variation is considered reasonable in this circumstances.

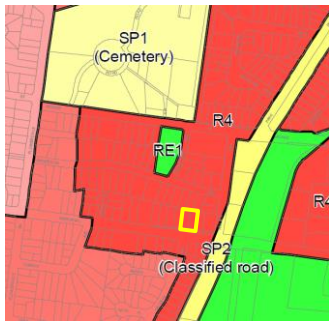
4.5 Liverpool Local Environmental Plan 2008

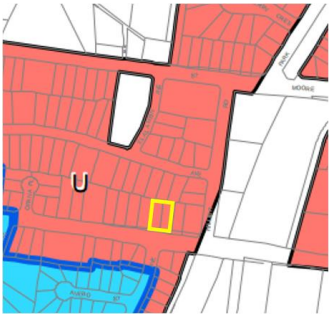

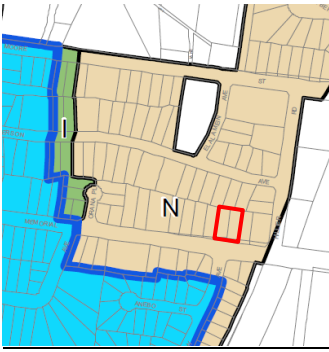
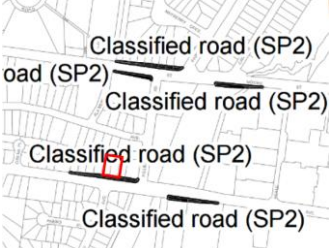
Liverpool LEP 2008 identifies the subject site in the R4 – High Density Residential zone, where residential flat building is permissible with consents. The proposed boarding house is defined as:

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

Provided at the table below is a consideration of relevant LEP provisions that applies to the site and the proposed development. As indicated, the proposal complies with relevant provisions in Liverpool LEP 2008.

Table 4. Liverpool Local Environmental Plan 2008

	Control	Proposed	Compliance
2.1 Zoning	R4 – High Density Residential 	Residential flat building	Proposed development is permitted and consistent with the objectives of the zone.

4.1 Minimum Subdivision Lot Size	<p>1000 m²</p> 	No land subdivision has been proposed	Yes
4.3 Height of Buildings	<p>15m</p> 	<p>15.4m – Roof slab 16.1m – Lift overrun</p>	No, see attached Clause 4.6 justification
4.4 Floor Space Ratio	<p>1:1</p> 	<p>FSR 1.5:1 Total GFA 2299.38m²</p>	<p>Include affordable 0.5 FSR bonus Permissible GFA is 2299.47 m² Comply with SEPP ARH</p>
5.1 Land Reservation Acquisition	<p>Approximately 10% of the front of the subject site have been marked as Zone SP2 Infrastructure and marked “Classified road”</p> <p>Roads and Maritime Services (RMS) is the relevant acquisition authority</p> 	No permanent structure has been proposed on the land marked as reservation for future RMS road widening	Yes

5.10 Heritage Conservation		Liverpool General Cemetery is the nearest local heritage item in the vicinity of the development site. No impact is considered to be brought to the cemetery.	Yes
7.8 Flood Planning		Low flood risk	The proposed RFB has been raised for 300mm. See hydraulic report for details.

Commissioner O'Neill has concluded that "the area of the corridor, open at both ends, does not form part of the GFA." This finding is in the judgment of GGD Danks Street P/L and CR Danks Street P/L v Council of the City of Sydney [2015] NSWLEC 1521 at paragraph 31.

However, for the sake of completeness in dealing with the issues raised, it is my view that the area of the corridor, open at both ends, does not form part of the GFA. The definition of GFA in LEP 2012 requires the floor area of each level to be measured from the internal face of external walls, measured at a height of 1.4m above ground. The corridor is contained on either side by the external face of walls that form the external walls of the units on either side of the corridor (except for the courtyard of units 7, 20 and 32 on each floor, as the corridor is contained next to these units by the outer fence or wall that forms the edge of the private courtyard). The external face of the wall cannot be characterised as an internal face, because an external wall must provide the weatherproofing that maintains the internal wall or face as a dry wall, in other words, an external wall has a specific function that distinguishes it from an internal wall. In full brick construction, where the wall forms the façade of a building, the outer skin of brickwork is wet during inclement weather and the purpose of the cavity between the brickwork skins is to maintain the inner or internal wall as dry. The internal face of an external wall in the definition of GFA must refer to the interior surface of the wall that forms the façade or exterior of a dwelling, being the wall that weatherproofs the interior space, and cannot refer to the exterior surface of the outer wall. Therefore, the sum of the floor area of each floor of a building measured from the internal face of external walls requires the floor area that is included in the GFA calculation to be internal floor space. The corridor will be wet during inclement weather by rain blown along the gap, the walls containing the corridor function as external walls and so the corridor cannot be characterised as internal floor space.

Therefore as established in the Danks Street case law, the corridor that forms as breezeway is considered to be excluded from the GFA calculation. Details of breezeway have been provided in the architectural plans.

4.6 Liverpool Development Control Plan 2008

See attached DCP compliance table in Appendix 3.

4.7 Matters for Consideration S79C (1) EPA Act 1979

The following matters for consideration have been taken into account in the proposal in accordance with Section 79C (1) under the *Environmental Planning and Assessment Act 1979*.

4.7.1 S79C (1) (a) – Statutory Policy and Compliance

The controls and objectives in the relevant SEPPs, Liverpool LEP 2008 and Liverpool DCP 2008 have been taken into consideration for the proposed development. Detailed assessments are presented in the previous sections.

4.7.2 S79C (1) (b) – Natural Environmental Impacts

The proposal will not cause adverse natural environmental impacts to the subject site and the vicinity. It has been investigated and considered that the proposal is geo-technically feasible (see preliminary geotechnical investigation provided by GEE Geo Environmental Engineering). As per stormwater concept plans and the architectural plans indicate, the building has been lifted by 300mm to achieve sufficient invert level for OSD tank and sufficient fall for council stormwater pipe to ensure the OSD tank to function practically (see Stormwater drawing provided by ACE Australian Consulting Engineering).

The existing canopy tree located at the south-western corner of the site will be removed and replaced by new landscaping. A total of 27 trees are proposed to be planted on site, please see the accompanied landscape architectural plan for details. Abundant deep soil planting area and soft landscaping area are proposed to compensate the vegetation loss and improve the on-site amenity for future residents. The proposed canopy trees and shrubs within the front setback will present the building in a landscape setting, and contribute to the Memorial Avenue streetscape.

4.7.3 S79C (1) (b) – Built Environmental Impacts

The proposal provides quality internal and external amenity for future occupants. The north-facing nature of the proposed communal open space will ensure sufficient solar access for good amenity. Landscaping and deep soil provision also enhance the usability of the open space. 75% of the dwellings will receive at least 3 hours direct sunlight between 9am and 3pm at mid-winter. 78% of the dwellings will receive natural cross ventilation. The proposal includes some openings as highlight windows and fixed louvers for balconies where visual privacy may be of concern. Overlooking has been minimised by abovementioned methods as well as using landscaping features as visual buffer.

The proposed residential flat building will not result in overshadowing impact to the neighbouring properties, so that the direct adjoining residents will receive abundant sunlight to the living area, communal open space and private open space.

Acoustic consultant has taken into consideration of the acoustic impact to the future residents during the assessment. If the construction methods and building material selection carried out as recommended in the Acoustic Report provided by Acoustic Noise & Vibration Solution P/L, the proposed residential flat building will limit the internal noise levels and limit the level of sleep disturbance due to environmental noise.

Four (4) dwelling have been designed in the layouts that is flexible for future residents' changing needs, which meet the accessibility and mobility needs for any occupants. The design of these four dwellings comply with BCA requirements, AS 4299 "Adaptable Housing" and AS 1428.1 "Design for access and mobility – General requirements for access – new building work", as endorsed by accessibility consultant in the report accompanied this application.

A communal bin storage area is provided at ground level to accommodate the waste generation for future occupants. Details of waste management can be referred in Waste Management Plan accompanied this application.

The proposed building if of the visual interest to the streetscape and locality. Thoughtful selection of materials can facilitate the compatibility of the building into the local desirable character.

4.7.4 S79C (1) (b) – Social and Economic Impacts

The proposed development will induce an increase in the housing supply in the locality to meet the increasing population, as well as providing alternative housing choices in the vicinity, both in terms of affordable housing for wider socio-economic group and adaptable dwellings to cope with the ageing demographic trend. The proposed development will result in a more efficient land use, improve the utilisation of existing and future planned infrastructure and services. During the demolition and construction phase, there will be an increase in local jobs and related business opportunities because of the proposed development. Accordingly, the proposal is of positive social and economic contribution to the locality.

4.7.5 S79C (1) (c) – Suitability of the Site for the Development

As illustrated in the aforementioned sections, the proposal respects the existing and future character of the locality, and it will enable the development to be consistent with the R4 zone objectives and compatible with existing and proposed land use in the locality. Additionally the proposed development is permissible and will not have a negative impact on the traffic network nor will it have any unacceptable parking implications, Moreover the proposal is consistent with state standards as well as Liverpool DCP, and in those cases of non –compliance, the relevant objectives are satisfactory, therefore the site is suitable for the proposed development.

4.7.6 S79C (1) (d) – The Public Interest

The proposed development has been carefully designed to sympathise the local character and relate to the surroundings. The bulk and scale, material use and architectural design of the proposal represent an appropriate development that fits in the local context. Notwithstanding the proposal will result in an increase of density on the subject site, the development has been designed to achieve the desired built form in a contemporary architectural style, while at the same time resonates with various architectural characters currently existed or envisaged for the future. The proposal has been taken consideration to mitigate any potential adverse impact on the amenity to the future occupants and neighbouring properties. The proposal is considered to be in the public interest.

5. Conclusion

This development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979. The proposal is able to achieve the aims and objectives of the applicable SEPPs and Liverpool LEP 2008. The subject site is located within R4 High Density Residential zone. The proposed residential flat building is permissible with consent in the zone and comply with most of the development standards specified in LEP 2008. The height variation is justified in the attached Clause 4.6 in Appendix 4. The proposal also complies with the relevant controls in Liverpool DCP 2008.

The proposed development represents a contemporary architectural design, which is considered appropriate and compatible with desired character of the locality. This quality-designed development will positively contribute to the Memorial Avenue streetscape and the local built environment.

Certain treatments such as installation of fixed louvers and privacy screens have been provided to the dwellings prone to potential privacy impacts. The proposal is not likely to result in any significant loss of privacy to any adjoining properties and future occupants.

The proposed development has been designed to provide high amenity for future residents. Due to the orientation of the site, the proposed development and adjoining properties will have abundant solar access to the living areas and private open space. Good natural cross ventilation is also achieved. The proposal also includes adequate private open space for each dwelling, deep soil planting area and landscaped area, which will enhance the amenity of the development and its surrounding properties.

Adequate parking spaces at affordable rental housing parking rate have been provided. It is considered that the traffic generation will not negatively affect on the efficiency and effectiveness of the surrounding road network. The future residents can also contribute to the patronage to utilise the public transport services on the T-way.

The proposed development will have positive social and economic impacts on the local area due to the jobs that would be generated during demolition and construction phases. It has been designed to accommodate the additional parking generated by the development. The site is located within the proximity to Parramatta-Liverpool T-way. The proposed development will further improve the utilisation of regional and local infrastructure and services.

For the above reasons, the proposal has environmental planning merits and is worthy of Council's support.

Appendix 1 Site Photos



Figure 7. Existing residential flat building 125 Memorial Avenue, Liverpool (photo taken by author)



Figure 8. Direct eastern adjoining property 127 Memorial Avenue, Liverpool (photo taken by author)



Figure 9. The subject site 129-131 Memorial Avenue, Liverpool (photo taken by author)



Figure 10. The direct western adjoining property 133-137 Memorial Avenue, Liverpool (photo taken by author)



Figure 11. Liverpool-Parramatta Transit way (photo taken by author)



Figure 12. Existing front setback of 133-137 Memorial Avenue, Liverpool (photo taken by author)



Appendix 2 ADG Compliance Table

03 Sitting										
Objectives		Design criteria			Proposed		Compliance			
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		Communal open space has a minimum area equal to 25% of the site			Northern strip 249.21m ² Western strip 98.94m ² Eastern strip 58.04m ² Total 406.19m ² (26%)		Yes			
		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)			North-facing COS		Yes			
3E Deep soil zones										
3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality		Deep soil 7% of the site area			255.33m ² deep soil zone (17 % of the site area) The rear setback (north setback) 6m dimension		Yes			
		Site area			Min dimension					
		<650 m ²								
		650m ² - 1500 m ²			3m					
		>1500 m ²			6m					
3F Visual Privacy										
3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy		Min. requirement						Satisfactory See justification in section 4.4 of the SEE		
		Building height			Habitable rooms and balconies		Non-habitable rooms			
		Up to 12m (4 storeys)			6m		3m			
		Up to 25m (5-8 storeys)			9m		4.5m			
		Over 25m (9+ storeys)			12m		6m			
					Building height		Habitable rooms and balconies		Non-habitable rooms	
					Up to 12m (4 storeys)		6m		3m	
					Up to 25m (5-8 storeys)		8.5 m		3.2m - 4.5m	

3J Bicycle and car parking

3J-1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	Within 800m to rail station or light rail stop in Sydney Metropolitan area, car parking needs in the Guide to Traffic Generating Developments apply	Proposed 32 parking spaces	Comply with SEPP ARH parking rate The proposal provides car spaces for studios
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04 Designing the building

Objectives	Design criteria	Proposed	Compliance
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4A Solar and daylight access

4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	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	23 out of 32 apartments (72%) receive at least 3 hours	Yes Comply with SEPP ARH
	SEPP ARH requirement 3 hrs		
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	5 out of 32 apartments receive no direct sunlight (15.6%)	Satisfactory

4B Natural ventilation

4B-1 All habitable rooms are naturally ventilated	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	25 out of 32 apartments (78%)	Yes
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 to create a comfortable indoor environment for residents	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	All cross through apartments do not exceed 18 m	

4C Ceiling heights

4C-1 Ceiling height achieves sufficient natural ventilation and daylight access			2.8m	Yes
	Specific	Min ceiling height		
	Habitable rooms	2.7m		
	Non-habitable	2.4m		
	2 storey apartment	2.7m for main living area floor		

	<table><tr><td></td><td>2.4m for 2nd floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree min ceiling slope</td></tr><tr><td>Located in mixed use areas</td><td>3.3m for ground floor and first floor to promote future flexibility of use</td></tr></table>		2.4m for 2 nd floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree min ceiling slope	Located in mixed use areas	3.3m for ground floor and first floor to promote future flexibility of use							
	2.4m for 2 nd floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree min ceiling slope													
Located in mixed use areas	3.3m for ground floor and first floor to promote future flexibility of use													
4D Apartment size and layout														
4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity			All comply	Yes										
	<table><tr><th>Dwelling type</th><th>Min size</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1br</td><td>50m²</td></tr><tr><td>2br</td><td>70m²</td></tr><tr><td>3br</td><td>90m²</td></tr></table>				Dwelling type	Min size	Studio	35m ²	1br	50m ²	2br	70m ²	3br	90m ²
	Dwelling type	Min size												
	Studio	35m ²												
	1br	50m ²												
2br	70m ²													
3br	90m ²													
Additional bathroom 5m ²														
4 th bedroom and further bathroom – extra 12m ²														
	Every habitable room must have a window in an external wall	All comply	Yes											
	A total minimum glass area of not less than 10% of the floor area of the room	All comply	Yes											
	Daylight and air may not be borrowed from other rooms	All comply	Yes											
4D-2 Environmental performance of the apartment is maximised	Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2.5*2.8=7m	All comply	Yes											
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	All comply	Yes											
4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs	Bedrooms have minimum area of		All comply	Yes										
	<table><tr><th>Bedroom type</th><th>Min area</th><th>Min dimension</th></tr><tr><td>Master bedroom</td><td>10m²</td><td>3m</td></tr><tr><td>Other bedroom</td><td>9m²</td><td>3m</td></tr></table>				Bedroom type	Min area	Min dimension	Master bedroom	10m ²	3m	Other bedroom	9m ²	3m	
	Bedroom type	Min area			Min dimension									
	Master bedroom	10m ²			3m									
	Other bedroom	9m ²			3m									
*both measurement excluding wardrobe space														
Living rooms or combined living/dining rooms have a minimum width of:		All comply	Yes											

	Dwelling type	Min width			
	Studio	3.6m			
	1br	3.6m			
	2br	4m			
	3br	4m			
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts			All comply	Yes
4E Private open space and balconies					
4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity			All comply	Yes	
	Dwelling type	Min pos area			Min pos depth
	Studio	4m ²			-
	1br	8m ²			2m
	2br	10m ²			2m
	3br	12m ²	2.4m		
The min balcony depth to be counted as contributing to balcony is 1m			All comply	Yes	
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m					
4F Common circulation and spaces					
4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments	The maximum number of apartments off a circulation core on a single level is 8 For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40		All comply	Yes	
4G Storage					
4G-1 Adequate, well designed storage is provided in each apartment	Minimum volume requirement for storage		All comply	Yes	
	Dwelling type	Storage size volume			
	Studio	4m ³			
	1br	6m ³			
	2br	8m ³			
	3br	10m ³			
At least 50% of storage within the apartment		All comply	Yes		



Appendix 3 DCP Compliance Table

Part 1.1 General Controls for all Development		
Requirement	Proposed	Compliance/Comment
Section 2 – Tree Preservation		
Consider impact of development on existing vegetation	NA	NA
Section 3 – Landscaping and Incorporation of Existing Trees		
Incorporation of existing trees into development where appropriate	The existing trees would be removed to accommodate the building footprint	A number of trees would be planted as a part of the landscape plan Refer to landscape plan
Section 4 – Bushland and Habitat Preservation		
Consider impact of development on bushland and habitats	The development is not within any sensitive habitat	NA
Section 5 – Bushfire Risk		
Land on or adjacent to bushfire prone land to comply with RFS requirements	Site not identified as a bushfire prone land	NA
Section 6 – Water Cycle Management		
Consideration of stormwater and drainage	Stormwater plans are provided as part of development application	Complies
Section 7 – Development Near a Watercourse		
Consideration of impact to riparian corridors	The development is not near any watercourse	NA
Section 8 – Erosion and Sediment Control		
Sediment Control Plan or Soil and Water Management Plan required	Sediment control details are incorporated on the plans as part of development application	Complies Please refer to Hydraulic report
Section 9 – Flooding Risk		
Flood affection of property to considered	The development is within a flood prone land, but there is low flooding risk	Complies
Section 10 – Contaminated Land Risk		



Appendix 3 DCP Compliance Table

Previous use to be considered in assessing risk	Residential use	Complies
Section 11 – Salinity Risk		
Salinity Management response required for affected properties	NA	NA
Section 12 – Acid Sulphate Soils Risk		
Affected properties to consider impact of development on soils	NA	NA
Section 13 - Weeds		
Noxious weeds to be removed as part of development where applicable	The site does not contain weeds	NA
Section 14 – Demolition of Existing Development		
Appropriate measures proposed	Demolition details are illustrated in the plans as well as waste management plan	Complies
Section 15 – Onsite Sewage Disposal		
S68 Application required where connection to sewer not available	NA	NA
Section 16 – Aboriginal Archaeology		
AHIA required where items of aboriginal archaeology exist	NA	NA
Section 18 – Notification of Applications		
Applications to be notified in accordance with Table 10.	Notification plans are provided	Complies
Section 20 – Car Parking and Access		
<p>Car Parking Controls</p> <p>1 space per small dwelling (< 65sqm) or 1 bedroom</p> <p>1.5 spaces per medium dwelling (65 - 110sqm) or 2 bedrooms</p> <p>2 spaces per large dwelling (> 110sqm) or 3 or more bedrooms</p>	<p>According to SEPP ARH parking rate</p> <p>33 car spaces in total are proposed</p>	Complies



Appendix 3 DCP Compliance Table

1 visitor car space for every 4 dwellings or part thereof		
Section 22 – Water Conservation		
New dwellings, including a residential component within a mixed-use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	A BASIX Certificate has been provided which outlines water and energy conservation commitments.	Complies
Section 23 – Energy Efficiency		
Dwellings, including multi-unit development within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX). A complying BASIX report is to be submitted with all development applications containing residential activities.	A BASIX Certificate has been provided which outlines water and energy conservation commitments.	Complies
Section 25 – Waste Management		
Waste Management Plan shall be submitted for demolition, construction and on-going waste management. In the case of multi dwelling housing of 9 or more dwellings and residential flat buildings one or more garbage and recycling enclosures (bin bays) are to be provided within the site.	The provided waste management plan demonstrates all management aspects of for demolition, construction and waste.	Complies
Part 3.7 Residential Flat Building in R4 Zone (Outside Liverpool City)		
Requirement	Proposed	Compliance/Comment
Frontage and Site Area		
Min lot width is 24m	Area 1532.98 m ² Lot width 33.53 m	Complies
Site Planning		
Building should relate to the site topography with min earthworks	Minimal cut and fill is proposed	Complies
Siting to provide usable and efficient spaces, (energy efficiency & BD).	Each unit has usable and sufficient POS with direct access from living/dining areas	Complies



Appendix 3 DCP Compliance Table

Site layout should provide safe pedestrian, cycle & vehicle access to and from the street	A clearly identified entries are provided	Complies
Siting to be sympathetic to surrounding development	The development has min adverse impact to the adjoining properties The proposed design is compatible with existing and future character	Complies
Stormwater drained satisfactorily	The design accommodates the required control	Complies Please refer to the hydraulics report
Satisfy SEPP 65-DQ of RFB	All dwellings have been designed in accordance to SEPP 65 And ADG	Complies
Setbacks		
Front and secondary setback to a classified road 7m	NA	NA According to RMS future plan the road exists in the south of the site is planned to be a classified road, but it is not currently a classified road
Other streets: Front Setback 5.5m Secondary Setback 5.5m	Front setback 6.7m to the existing boundary varying setback of 2.4m – 5.4m	The front setback non-compliance occur due to a future planned road expansion (southern side of the development)
Garages and carports set back 1m behind main face of dwelling.	NA	NA
Verandas, balconies, eaves and other sun control devices may encroach on the minimum front and secondary setback by up to 1m.	Sun control devices do not extend to more than 1 m	Complies
Side Setbacks Boundary to land in R4 Building Height up to 10m : 3m setback required Building Height greater than 10m : 8m setback required	Proposed development setback complies with ADG	Complies with ADG
Rear Setback 8m setback required for all building heights	Proposed development setback complies with ADG	Complies with ADG
Landscaping (Deep Soil Zone)		
Min 25% of site area to be landscape area	255.33m ² deep soil zone (17% of site area) The rear setback (north setback) 6m dimension	Complies with ADG
Min of 50% of front setback to be landscape area	Front setback area 85.24 m ² , landscaped area is 64.74 m ² (75.95% of front setback)	Complies
Optimize the provision of consolidated landscape area within the site by:	A detailed landscape plan is provided	Complies

Appendix 3 DCP Compliance Table

<ul style="list-style-type: none"> - Design of basement & car parking not to fully cover the site - Optimise the extent of landscape area beyond the site boundaries by locating them contiguous with landscape area of adjacent properties 		
Landscape health: supporting a rich variety of vegetation type and size	A detailed landscape plan is provided	complies
Increase permeability: Limit paving and/or use previous paving material	A detailed landscape plan is provided	Complies
Open Space		
Communal open space (COS) appropriate to the building siting	COS is mostly located along the northern boundary, which will achieve adequate amenity.	Complies
COS use is facilitated for the a range of activities By: <ul style="list-style-type: none"> - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on site into recognisable areas (space, facilities, landscape) - Its size & dimension shall allow a range of uses - Min overshadowing - Carefully locating ventilation duct outlets from basement car parking 	As demonstrated on the proposal's plans, COS use is facilitated for a range of activities, as well as providing adequate solar access to all dwellings. The development also have minimal overshadowing impact on adjoining properties	Complies
Private Open Space (POS)		
POS: <ul style="list-style-type: none"> - Dwelling size less than 65m2: min 10m2 required - Dwelling size over 65m2: min 12m2 required 	Proposed development setback complies with ADG	Complies with ADG
POS as a courtyard for G floor or balconies for dwellings above	POS acts as a courtyard for G floor and as balconies for levels above	Complies
POS should be an extension for living areas & functional in size	POS is an extension for living rooms in all apartments, and has functional size	Complies
POS clearly defined for private use	POS is clearly defined for private use in all levels	Complies
Building height		



Appendix 3 DCP Compliance Table

Required 15 m	Proposed building height is 16.1 m for the lift overrun, and 15.4m for the roof slab	Does not comply Please refer to clause 4.6
Building appearance and streetscape		
Objectives of control are: - Streetscape consistent with RFB environment - high Architectural quality in RFB - development should enhance public domain and street character - all building elements are integrated into the overall building form and facade design	The building elevations are well articulated through various vertical and horizontal elements to break down the bulk. Therefore an interesting and vivid façade is presented.	Complies
Roof design		
Objectives of control: - Provide quality roof design - Roof design integrated into overall building façade and composition - Increase the longevity of the building through weather protection	The proposed design accommodates the required control	Complies
Building Entry		
Objectives of control: - Create entrances to provide desirable identity of the development - to orient the visitor - to contribute positively to streetscape and facade	As demonstrated on plans, the building entry is clearly identified	Complies
Balconies		
Objectives of control: - balconies to contribute positively to building facade - balconies are functional and responsive to the environment - balconies are integrated into the overall building form and facade design - balconies to contribute to the safety and liveliness of the street (casual overlooking)	All balconies have a minimum depth of 2 m Balconies contribute positively to building façade, as well as their contribution to safety and liveliness of the street.	Complies
Daylight Access		
Objectives of control: - ensure daylight access to all habitable rooms - provide adequate ambient lighting, min artificial lighting	The proposed development has been oriented to max the northerly aspect 23 out of 32 apartments (72%) receive at least 3 hours	Complies SEPP ARH



Appendix 3 DCP Compliance Table

- provide ability to adjust the quantity of light by residents	Most of the habitable rooms receive sunlight	
Internal design		
Objectives of control: - design provide a pleasant environment to occupants and residents of adjoining properties	Quality apartments are designed with good amenity	Complies
Ground dwellings		
Objectives of control: - contribute to desired streetscape of an area to create active safe streets - Increase housing and lifestyle choices available in dwelling buildings.	Private open space of at least 15m ² have been provided for ground dwellings according to ADG. All courtyards are located off the primary living areas.	Complies
Security		
Objectives of control: - building oriented to allow surveillance from street & adjoining buildings - entrances are clearly visible - building safe and secure - contribute to safety of the public domain	POS facing street provides passive surveillance to the public domain and neighbouring POS	Complies
Natural Ventilation		
Objectives of control: - design to provide direct access to fresh air in all habitable rooms - design to provide natural ventilation in all non-habitable rooms - Reduce energy consumption by min energy mechanical ventilation (air conditioning)	At least 78 % of apartments are naturally cross ventilated The design took into consideration direct access of natural ventilation to all habitable rooms which would reduce energy consumption	Complies
Building layout		
Objectives of control: - Provide variety of appearance - Increase privacy between dwellings - Assist with flow through ventilation - Improve solar access	The proposed development provides a variety of appearance, and the building design provides sufficient privacy between dwellings, as well as assist with flow through ventilation and enhance the amount of received sunlight in all dwellings.	Complies



Appendix 3 DCP Compliance Table

Storage Areas		
Min 8 m ³ for each dwelling and 1 m ² dimension	The proposed dwelling storage complies with ADG	Comply with ADG
Adequately lit and secure (attention to garage and basement)	The proposed development is adequately lit and secure	Comply
Landscaping		
<p>Objectives of control:</p> <ul style="list-style-type: none"> - Development uses soft landscaping treatments - Landscape design appropriate to proportions and characters of streetscape - use of planting and landscape elements are appropriate to the scale of development - Retain existing mature trees in site to ensure their health and viability - Provide privacy summer shade and allow winter sun - Add value to residents' quality of life in forms of privacy and, outlook and views. 	<p>The proposed development utilizes soft landscaping treatments, and the is considerably appropriate to the character of the streetscape</p> <p>Please refer to the landscape plan</p>	Complies
Planting on structures		
<p>Objectives of control:</p> <ul style="list-style-type: none"> - Contribute to quality and amenity of COS on podiums and courtyards - Encourage establishment and healthy and growth of trees in urban areas 	Please refer to the landscape plan	Complies
Car Parking		
Visitor parking clearly identified	No parking spaces have been dedicated for visitors	Complies with SEPP ARH (No visitor parking is required under SEPP ARH)
Visitor parking shall be located between any roller shutter door and front boundary	No parking spaces have been dedicated for visitors	Complies with SEPP ARH (No visitor parking is required under SEPP ARH)
Pedestrian and driveways shall be separated	The proposed design accommodates the required control	Complies
Driveways shall be designed to accommodate removalist vehicles	The proposed design accommodates the required control	Complies

Appendix 3 DCP Compliance Table

Vehicular entrances to the basement and garage shall be from the side of the building	The proposed design accommodates the required control	Complies
Give preferences to underground parking	The proposed design accommodates the required control	Complies
Pedestrian access		
Objectives of control: <ul style="list-style-type: none"> - Promote RFB that is well connected to the street. - Ensure that residents, bikers, wheelchair & stroller users are able to reach their dwelling and use communal areas via min grade ramps, paths and access ways. 	The proposed development is well connected to the street, all users would be able to reach their dwelling and easily use COS.	Complies
Overshadowing		
Adjoining properties receive 3 hours sunlight btw 9am to 5pm on 21 June to at least: <ul style="list-style-type: none"> - One living, rumpus room. - to 50% of POS 	<p>The shadow diagrams indicate that the adjoining property to the south will receive sunlight all day (from 9am to 5pm). to 50% of the POS and living rooms</p> <p>The shadow diagrams indicate that the adjoining properties to the east will receive sunlight to 50% of the POS and living rooms between 9.00am and midday.</p> <p>The building bulk has been centrally located within the Site, to avoid unreasonable overshadowing of adjoining residential properties. Adequate building separation to adjacent residential buildings has been provided. Refer to accompanying solar access diagrams</p>	Complies
Privacy		
Objectives of control: <ul style="list-style-type: none"> - locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents - Avoid any external impacts of a development, such as overlooking of adjoining sites. - Provide reasonable levels of visual privacy externally and internally, during the day and at night. 	<p>The building bulk has been centrally located within the Site, to protect the visual and acoustic privacy adjoining residential properties.</p> <p>The building design accommodated adequate outlook views from principle rooms and POS, and privacy treatment have been provided when needed</p>	Complies



Appendix 3 DCP Compliance Table

<ul style="list-style-type: none">- Maximise outlook and views from principal rooms and private open space.		
Acoustic impact		
<p>Objectives of control:</p> <ul style="list-style-type: none">- Ensure a high level of amenity by protecting the privacy of- Residents within residential flat buildings.	<p>The development provides adequate acoustic privacy is achieved by offsetting windows in habitable areas, privacy screens to balconies, as well as stepping and increased setbacks to upper levels</p> <p>The apartment layout is typical across most floors, meaning quieter spaces and busy spaces are located consistently across the development, reducing chance of acoustic impact between apartments.</p>	<p>Complies</p> <p>Please refer to Acoustic report</p>
Site Services		
<p>Objectives of control:</p> <ul style="list-style-type: none">- Ensure that the required services are provided. <p>Ensure that the services provided are easily protected or maintained.</p>	<p>The proposed development ensures no damage to councils infrastructure, as well as adequate litter and waste management</p>	<p>Complies</p> <p>Please refer to Architecture plans and waste management report</p>

Appendix 4 Clause 4.6

Clause 4.6 Variation to Development Standards**Exception for Height****Introduction**

This report accompanies the subject Development Application (DA) for a proposed in-fill affordable housing, in the form of a residential flat building, in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH). The subject site is located at 129-131 Memorial Avenue, Liverpool, having a site area of 1532.98 m². The Development Application is proposed to demolish the existing structures on site, and to construct a five (5) storey residential flat building development comprising thirty-two (32) dwellings, seventeen (17) of which are to be dedicated as affordable housing, with one basement level of car parking for thirty-three (33) vehicles.

The proposal seeks exception pursuant to Clause 4.6 of the Liverpool Local Environmental Plan 2008 (LLEP 2008) to the development standard contained within which relates to height.

The variation should be considered in the context that the SEPP ARH overrides the LLEP 2008 and therefore an assessment of the Clause 4.6 variations must be considered in the context of the objectives and criteria outlined in the SEPP ARH. This is particularly the case as the SEPP has its own approach to assessing the character and suitability of a development.

Exception Sought

An exception is sought under Clause 4.6 of the LLEP 2008 for the height variation indicated in below table.

Clause	Control	Proposed	Variation
4.3 Height of Building	15 m	16.1m (Lift) 15.4m (Roof Slab)	1.1 m (7.3%) 0.4 m (2.7%)

Exception consideration

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under an LEP. Subclause 4.6(3) (a) and 4.6(3) (b) state that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that the strict compliance with the development standard is unreasonable and unnecessary.

LLEP 2008 Clause 4.6 Exceptions to Development Standards

(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 may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(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:



Appendix 4 Clause 4.6 Exceptions to Development Standard - Height

- (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 Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note. When this Plan was made it did not include all of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 6.4, 6.5, 6.6, 7.22, 7.24, 7.25, 7.26, 7.26A, 7.27, 7.28, 7.29 or 7.30.

Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

Since the State Policy sets in place relevant criteria to assess the suitability of in-fill affordable housing development and consequently there is significantly less emphasis on the criteria applying to the development in the LLEP 2008.

Recent court decisions on Clause 4.6 variations weight on assessing the objectives of the development standard and the zone objectives applicable to the subject site. These need to be modulated against the fact that the SEPP ARH specifically anticipate this form of development in the particular zone.

In this proposal, applying the maximum height standard of the development is unreasonable and unnecessary. The following demonstrates that how the proposed development has coincided with planning standards and controls:

1. Outperformance in development controls

The proposed residential flat building is of good amenity, and comply with the required development controls as described in the aforementioned DCP table, additionally; it outperforms in the rear setback development controls. The rear setback ranges from 6m – 8.5m for balconies with timber frame screens and 11m – 17m for glass lines.

2. Stormwater requirement for practicality

As per the stormwater engineering requirement, it necessitates an uplift of 300mm for the ground floor level to ensure the OSD tank can be practically operated. Therefore the main proportion of the variation in the roof slab (300mm out of 400mm) is due to the necessity of addressing the stormwater level.

3. Contribution to the streetscape

The proposed development is respond to and sensitively relate to the broader transitional context in the locality, and complements the established scale and character of the streetscape of Memorial Avenue. The highest point of the lift overrun is hardly visible from the street, it does not impair the natural qualities of the existing local settings. As viewed from the street, the proposed building is presented as a five-storey residential flat building with reasonable setbacks and articulation. Well-articulated façade and good landscaping design enable the vegetation to soften the visual impact of the proposed residential flat building. There is no adverse urban design impact to the neighbourhood. The proposal is considered contributing to the streetscape of Memorial Avenue, and to establish a well-designed development in the precinct.

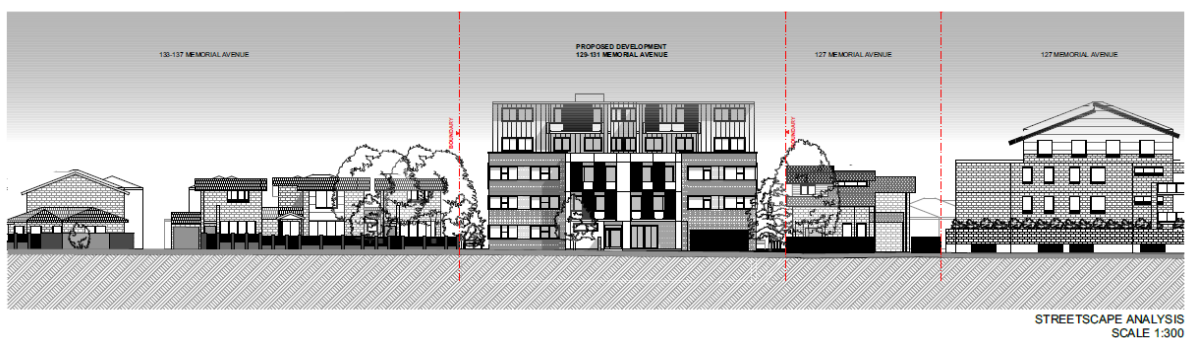


Figure 13. Streetscape of 129-131 Memorial Avenue, Liverpool

4. Topography resultant variation

Appendix 4 Clause 4.6 Exceptions to Development Standard - Height

The LLEP 2008 maximum height control that applies to the Site is 15m. The Proposal will be a five (5) storey development that will achieve a maximum height of 16.1m in the location at the north-eastern side of the site. Moreover, according to the geo-technical report the site surface is relatively flat, but the elevation ranges between 15m and 16 m AHD according to the NSW Land and Property information's SIXMAPS, which also led to an increase in the building height specifically in the north-eastern part of the building as shown in Figure (14).

Nonetheless, the building height non-compliance of the LLEP height standard will be considered insignificant and to have no adverse impact on overshadowing neighbouring properties as well as the amenity of the proposed residential flat building. Additionally, the height will remain consistent with the desired future character of the area.



Figure 14. North Elevation of 129-131 Memorial Avenue, Liverpool



Figure 15. West Elevation of 129-131 Memorial Avenue, Liverpool



Are there sufficient environmental planning grounds to justify contravening the development standard? Is it consistent with the objectives of Clause 4.3 height standard?

The table below demonstrates how the proposed development satisfies the objectives of clause 4.3 of the LLEP 2008, although the numerical non-compliance with height standard exists.

Objective of Clause 4.3	Proposed/Comments	Satisfaction
(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,	The proposal exceeds the maximum height limit in which buildings can be designed and floor space can be achieved. The proposal exceeds the maximum height standard, through the application of the FSR bonus under the SEPP ARH. The SEPP anticipates the FSR bonus will be applied and make the building envelope either go up or go out. In this instance, the additional floor space is within the fifth floor. It is considered that strict compliance with the height standard would not be consistent with the objectives of the SEPP ARH, which includes 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.	Yes
(b) to permit building heights that encourage high quality urban form,	The overall built form, including the height, encourages quality built form through bulk and scale, as well as amenity.	Yes
(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,	The building height non-compliance with height standard will have minimal overshadowing impact on adjoining properties. Additionally, future residents of the proposed development will receive sufficient amount of sunlight, and the proposed development achieves the required amenity levels.	Yes
d) to nominate heights that will provide an appropriate transition in built form and land use intensity	The Site is located within a significant R4 zone area, which has uniform floor space ratio and built height controls. Issues of transition in built form and land use are therefore not directly relevant. The proposed building will exist within an acceptable range of variation of built forms in the R4 zone.	Yes

Is it consistent with the objectives for development within the zone?

The objectives of the R4 – High Density Residential zone are:

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

The proposal meets all of the R4 zone objectives, objective number three is irrelevant to the proposed development. The proposed development will provide housing for the community, including affordable housing for low to middle income earners. The proposed

Appendix 4 Clause 4.6 Exceptions to Development Standard - Height

height of 16.1m results in a building form and scale that remains in keeping with the “high density” environment. The minor variation of height is not considered significant that the building is therefore out of character. The proposal will provide a mixture of 1, 2 and 3 bedroom units, both affordable rental housing and otherwise, in a high density residential environment. The State Policy has been created to ensure diversity in housing stock that meets the needs of a community by providing appropriate development for affordable housing within a high density residential environment. Furthermore, the proposed 32 dwellings within the development are located on Memorial Avenue road which is planned to be a classified road as per RMS future plan, and contains sufficient public transport for the future residents, as well as within close proximity to other services and facilities. The Site is within walking distance of a large employment generating district including hospitals, schools. The Site is also located within approximately 2 km from the edge of the Liverpool City Centre. In addition to the local buses, the site is located approximately 1.4 km from Liverpool Train Station. The Site, therefore, has excellent access to employment, shopping, public transport and other amenities.

Is the proposed development in the public interest?

The proposed development is in line with public interest as follows:

1. The proposed development contributes to additional housing supply in R4 – High Density Residential zone contributing to housing choice and affordability.
2. The thoughtfully-designed and well-articulated built form of the proposed development is of good input into the redevelopment of the locality.
3. The development proposal includes landscape works bringing positive contribution to the setting of the building and improving the presentation of the proposed dwelling house to Memorial Avenue, Liverpool.

Conclusion

The Development Application for a proposed in-fill affordable housing, in the form a Residential Flat Building at 129-131 Memorial Avenue, Liverpool. An exception is sought, pursuant to Clause 4.6 of Liverpool Local Environmental Plan 2008 to the maximum permissible height prescribed by Clause 4.3 of the of Liverpool Local Environmental Plan 2008.

The proposed maximum variation to the development standard is 1.1m (7.3% of 15m height limit) for the lift overrun and 400mm (2.7% of 15m height limit) for the roof slab. It is acknowledged that the lift overrun, located in the centre core of the building, does not generate adverse environmental impacts and is hardly visible from the street. As for the height breach in roof slab, which represents the totality of the building bulk, is predominantly resulted from the stormwater technical requirement to raise the building by 300mm. The purpose is to achieve sufficient interval level for OSD tank and sufficient fall for council stormwater pipe. The rest of the non-compliance, being 100mm, is a reasonable outcome when considering the natural topography of the subject site. The above assessment finds that the variation will not result in unreasonable environmental impacts, and consequently, strict compliance with height standard is unnecessary and unreasonable.

With the variation of height, the proposed development is capable to provide high level of amenity in terms of sufficient setback, good direct sunlight, and contributing to the streetscape as well as consistency with relevant objectives of both the height standard and the R4 High Density Residential zone. Therefore the exception sought is in line with public interest.

For the above reasons, this Clause 4.6 has presented the justification for the building height variation and the height variation is worthy council's support.