

SYDNEY WESTERN CITY PLANNING PANEL (Sydney West)

Panel Reference	2017SSW043
DA Number	DA-491/2017
LGA	Liverpool City Council
Proposed Development	Demolition of existing buildings, consolidation of lots and construction of a 5-storey residential flat building comprising 4 x 3 bedroom units, 18 x 2 bedroom units and 4 x 1 bedroom units, above basement carpark. The development is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.
Street Address	207, 209 & 211 Hoxton Park Road, Cartwright
Applicant/Owner	Applicant – Mr G Adouni Owner – M Raad Holdings Pty Ltd & Adouni Holdings Pty Ltd
Date of DA lodgement	27 June 2017
Number of Submissions	Nil
Recommendation	Approval, subject to conditions of consent
Regional Development Criteria (Schedule 4A of the EP&A Act)	The proposal is for an affordable housing development that has a capital investment value of over \$5 million, the Joint Regional Planning Panel is therefore the determining authority.
List of all relevant s4.15(1)(a) matters	<p>1) <i>List all of the relevant environmental planning instruments: s4.15(1)(a)(i)</i></p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008. <p>2) <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)</i></p> <ul style="list-style-type: none"> • N/A <p>3) <i>List any relevant development control plan: s4.15(1)(a)(iii)</i></p> <ul style="list-style-type: none"> • Liverpool Development Control Plan 2008. - Part 1 – General Controls for all Development.

	<p>- Part 3.7 – Residential Flat Buildings in the R4 Zone</p> <p>4) <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s4.15(1)(a)(iv)</i></p> <ul style="list-style-type: none"> No planning agreement relates to the site or proposed development. <p>5) <i>List any coastal zone management plan: s4.15(1)(a)(v)</i></p> <ul style="list-style-type: none"> The subject site is not within any coastal zone management plan. <p>6) <i>List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</i></p> <p>Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC)</p>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Architectural Plans Landscape Plans Stormwater Drainage plans Survey plan Draft Conditions of consent Clause 4.6 Variation Design excellence panel comments Statement of Environmental Effects SEPP 65 Design Verification Statement Acoustic Report Waste Management Plan BASIX Certificate Traffic Report Social Impact Comment
Report prepared by	Boris Santana
Report date	15 June 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	

Conditions

Have draft conditions been provided to the applicant for comment?	Yes
<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

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

1.2 The proposal

Demolition of existing buildings, consolidation of lots and construction of a 5-storey residential flat building comprising 4 x 3 bedroom units, 18 x 2 bedroom units and 4 x 1 bedroom units, above basement carpark. The development is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal is permissible in the R4 zone pursuant to the Liverpool Local Environmental Plan (LLEP) 2008.

1.3 The site

The site is identified as 207, 209 and 211 Hoxton Park Road, Liverpool. The subject site is zoned R4 High Density Residential under LLEP 2008.

1.4 The issues

The main issues are identified as follows:

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

1.5 Exhibition of the proposal

The DA was notified in accordance with LDCP 2008 for a period of 14 days from 11 August 2017 to 28 August 2017. No submissions were received.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application and the consideration of the written request to vary the height of buildings development standard pursuant to Clause 4.6 of the LLEP 2008, it is recommended that the application be approved, subject to conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The site incorporates the following allotments:

- Lot 374 in DP 227167, which is also known as 207 Hoxton Park Road, Cartwright;
- Lot 375 in DP 227167, which is also known as 209 Hoxton Park Road, Cartwright; and
- Lot 1 in DP 796901, which is also known as 211 Hoxton Park Road, Cartwright.

The site benefits from a street frontage of 59.72m to Hoxton Park Road at the south and provides a reasonably level parcel of land, with a fall of approximately 370mm from the north to the south of the site. The overall site area is 2,015.7m².

Currently located over 207, 209 & 211 Hoxton Park Road are three detached dwellings and associated structures such as garages, carports and outbuildings. No significant trees are located on the site.

The site is currently adjoined by a single storey brick residence at its western boundary. The rear of the site is adjoined by several developments, which are accessed via Willan Drive, to the north, and mainly comprise of older style single storey dwelling houses. To the west, is a single storey fibro dwelling. The site is located to the north of an access road that runs parallel to Hoxton Park Road. Access to the site is also achieved via this access road.

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



Figure 1 - Aerial photograph of the site

2.2 The locality

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

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

An aerial photograph of the locality is provided below:

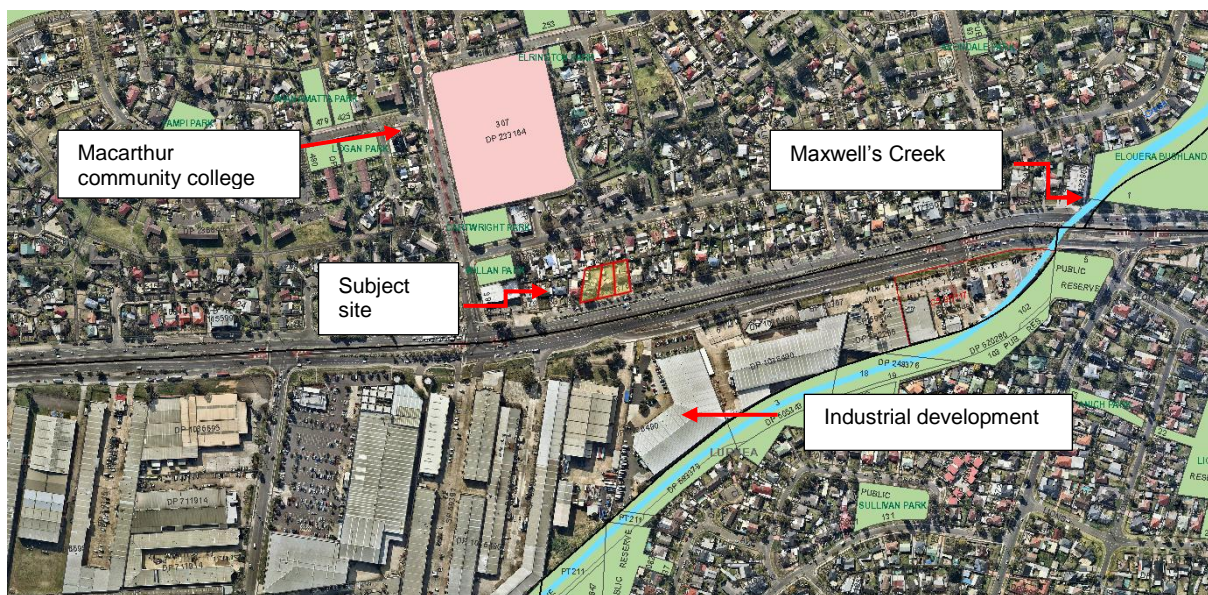


Figure 2 – Aerial Photograph of the Locality

2.3 Site affectations

The subject site is affected by the following:

Classified Road Impact

The site is land that is adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles. The proposed development is likely to be adversely affected by road noise or vibration without suitable acoustic attenuation. Noise impacts of Hoxton Park Road on the proposal is addressed further in the report.

Flooding

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

The subject site does not have any other affectations.

3. BACKGROUND

3.1 Design Excellence Panel

The subject application was considered by the Design Excellence Panel (DEP) on 16 November 2017.

The main issues raised by the panel are summarised below:

“The Panel is generally satisfied with the proposed development and notes that the proposal provides the required building separation distances articulated in the ADG.

- *The Panel supports the proposal and the slight exceedance of the height limit is considered acceptable noting that the proposal remains within allowable FSR.*
- *The caretaker Water Closet within the communal open space area should be relocated to be within the building envelope.*
- *Deep soil zones need to be consolidated within the scheme. Car parking that is additional to the requirements of the ARH SEPP should not be included at the expense of deep soil zones or communal open space. The front setback area should allow for the planting of significant canopy trees.*
- *The proposed 1.2m - 2.1m wide landscape strip along the front boundary is inadequate to allow for the planting of deep rooted trees. In addition, indentation of the basement car park shall be considered so as to provide additional deep soil zones on the site.*
- *The Panel understands that additional parking may be counted as FSR. Panel recommends reduction of parking number so as to increase landscaping and the planting of mature trees on the site. No additional FSR is accepted by the Panel.*
- *Basement parking be brought back to align with the front terraces.*
- *Consideration be given to the planting of mature trees along eastern boundary. The paving along the eastern side setback to be reduced.*
- *The Panel recommends landscaped area along the Hoxton Park Rd frontage of the site be extended.*
- *Consideration be given to lower the finished floor level of the building to minimise the need for an awkwardly positioned disabled ramp adjacent to the entrance to the building. Applicant has agreed to review the stormwater provisions and to reduce the influence those provisions have on the finished floor level of the entire ground floor.*

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

Comment: The submitted proposal is considered to be consistent with the concept examined by the panel and is considered to have successfully incorporated their comments into the proposal. As stated by the DEP the application did not require any further referral to the DEP as part of the DA assessment process.

3.2 Planning Panel Briefing

A SWCPP briefing meeting was held on 27 November 2017 and 2 July 2018. The following issues were raised by the panel members:

Non-compliance with apartment design guide (ADG) – communal and public open space

Comment: 3D of the ADG recommends that communal open space has a minimum area equal to 25% of the site. The scheme presented at the briefing proposed a communal open space area of 20%. Furthermore, part of the COS is provided in the front setback away from the rear COS. The scheme has been redesigned in a manner so that all communal open space is located at the rear of the development. Also, the revised scheme provides an area equivalent to 15% of the site for communal open space. To accommodate additional communal open space the applicant has reduced the size of courtyards of apartments on the ground floor thereby increasing the common area.

Non-compliance with the Liverpool LEP 2008 – Clause 4.3 heights of buildings

Comment: The maximum building height permitted on the subject land is 15 metres and is marked “O” on the building heights map. The development proposes a maximum height of 15.98m to roof slab which represents a numerical variation of 980mm or 6.5% and a maximum height of 16.78m to lift overrun which represents a numerical variation of 1.78m or 11.8%. In this case, it is considered both unreasonable and unnecessary to comply with the height limit and there is adequate environmental grounds to support the variation. There is a subsequent section in the report that elaborates on the height non-compliance with respect to Clause 4.6 of LLEP 2008.

DCP setback

Comment: The development proposes slight variations to rear and side setbacks prescribed in the LDCP 2008. With respect to the variations to setbacks, the variations are considered to be acceptable as the design of the building has carefully addressed the potential impacts of lesser setbacks and has been able to achieve the objectives of the controls, despite the numerical variation. It should be noted that the development has been designed in a manner so that it complies with the minimum building separation distances in the ADG. There is a subsequent section in the report that elaborates on the DCP non-compliances with respect to setbacks.

Unit mix

Comment: The development proposes 4 x 1 bedroom unit (15% of units); 18 x 2 bedroom unit (70% of units); and 4 x 3 bedroom unit (15% of units). Although there are no relevant controls for housing choice and mix for residential flat buildings in the R4 zone, reference was made to the provisions pertaining to residential flat development in the Liverpool City Centre. These provisions encourage that both one bedroom and three bedroom units are not less than 10% of the total mix of units within each development. The dwelling mix is consistent with these provisions and has also been well distributed within the building.

Number of units nominated for affordable housing

Comment: A total of six (6) units are nominated for affordable housing as per the ARH SEPP. The affordable housing units have been distributed equitably within the development. The ground floor and third floor both contain one (1) affordable housing unit each while the first

and second floor level contains two (2) affordable housing units each. These units form a total of 23% of the gross floor area of the development. Therefore a bonus of 0.23 is afforded.

Vehicular and pedestrian access

Comment: The proposal involves the construction of a driveway, with access via an access road that runs parallel to Hoxton Park Road, located toward the western boundary of the site. The driveway will provide two-way vehicular access to one (1) level of basement car parking. The main pedestrian and some ground floor units will have separate access from the vehicular driveway so as to minimise pedestrian and vehicular conflicts within the development.

Parking provisions

Comment: A total of 26 spaces are required pursuant to Clause 14 of the ARH SEPP. A total of 36 spaces are proposed with the revised scheme. The original scheme proposed 43 car parking spaces. The parking proposed with the original scheme was reduced so as to accommodate additional deep soil planting within the front setback. The original scheme has also been amended so that parking is provided for other modes of transport such as bicycles and motorbikes.

Communal open space and landscaping

Comment: The original development proposed 1.2m - 2.1m wide landscape strip along the front boundary which does not provide for deep soil planting. The applicant has amended the original scheme such that deep soil planting can now be accommodated in a 3.6m – 4.3m wide landscape strip. The proposed landscaped areas will aid in reducing the scale of the building and integrate the development with the surrounding environment.

Site service facilities

Comment: If the application is approved, and prior to development of the site, a standard condition can be imposed on any consent granted that requires the applicant to obtain a certificate from service providers (i.e. Sydney Water and Endeavour Energy) to confirm that there is adequate capacity to accommodate the development. The applicant has also incorporated a substation in the design of the development should it be requested by the service provider.

Stormwater drainage management plan

Comment: The proposal was referred to Council's Land Development Engineers for comments. No objection was raised to the proposed development, subject to conditions of consent. Council's Land Development Engineers have advised that a stormwater management plan is not required for the proposed development.

Lot consolidation

Comment: The site is made up of three (3) Torrens title lots. The applicant proposes to consolidate the development site into one (1) lot. A condition has been imposed on the consent that requires the site to be consolidated into one lot (1) before the issue of any Occupation Certificate for the proposal.

Flood evacuation plan

Comment: The site is located within the Cabramatta Creek catchment. The site is not affected by flooding under the 1% annual exceedance probability event (AEP). However, it is affected by the probably maximum flood event. The application was reviewed by Council's Flooding Section for comments. The Flooding Section advised that a flood evacuation plan is not required for the development and is only required when the site is affected by flooding under the 1% AEP.

4. DETAILS OF THE PROPOSAL

Demolition of existing buildings and the construction of a five storey residential flat building containing twenty six residential units with basement car parking and ancillary site works. The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.

Additional details are as follows:

- Construction of a 5-storey residential flat building containing 26 residential units comprising of:
 - 4 x 1 bedroom unit;
 - 18 x 2 bedroom unit;
 - 4 x 3 bedroom unit.
- A total of six (6) units are nominated for affordable housing as per the ARH SEPP.
- Building forms are articulated extensively, and facades incorporate a variety of materials and finishes: Building materials primarily include face brickwork, painted concrete, aluminium framed glazing, metal cladding, cladding and metal screens.
- There is one basement level that comprises car parking spaces, bin rooms, apartment storage, lift and stair access for apartments and motorcycle parking.

Vehicular and Pedestrian Access

- The proposal involves the construction of a driveway, with access via an access road that runs parallel to Hoxton Park Road, located toward the western boundary of the site. The driveway will provide two-way vehicular access to one (1) level of basement car parking. The main pedestrian access to the development is provided from the access road. Additionally, the ground floor units are also provided with access from the access road.

Parking Provisions

- The proposed new development will provide 41 parking spaces at basement level, including 1 accessible space.

Site Servicing Facilities

- A garbage storage room is proposed in the basement level of the proposed RFB. Collection of bins will be undertaken at the street frontage.

Communal Open Space and Landscaping

- The proposed development provides a large communal open space courtyard, located to the rear of the site. The features of the open space design include a communal BBQ area

& dining with roof structures, a caretaker wash closet, raised vegetable planters and turf areas. Planting incorporates a mix of canopy trees, shrubs and hedges and accent plants of native and exotic variety. Access to the communal open space is achieved via the main pedestrian entrance.

- A communal open area is also provided within the front setback of the site and is screened from public view using a combination of fencing and landscaping.

Stormwater Drainage

- Stormwater runoff from the proposed development will connect to the proposed on-site detention basin located adjacent to the building entrance.
- Stormwater will be connected to the kerb inlet pit proposed along Hoxton Park Road.

Lot Consolidation

- 207, 209 and 211 Hoxton Park Road will be consolidated into one lot.

Demolition

- Demolition of existing buildings on site at 207, 209 and 211 Hoxton Park Road, consisting of three detached dwellings and associated structures.

Images of the proposed development are provided below:



Figure 3 – Perspective view from looking west

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy (Affordable Rental Housing) 2009.
- State Environmental Planning Policy (Infrastructure) 2007

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

Draft Environmental Planning Instruments

- No applicable draft planning instruments apply to the site

Development Control Plans

- *Liverpool Development Control Plan 2008*
 - Part 1 – General Controls to all development
 - Part 3.7 – Residential Flat Buildings in the R4 zone

Contributions Plans

- Liverpool Contributions Plan 2009

5.2 Zoning

The subject site is zoned R4 High Density Residential pursuant to LLEP 2008 as depicted in figure 5 below:



Figure 4 – Extract of LLEP 2008 zoning map

5.3 Permissibility

The proposed development would be defined as a ‘Residential Flat Building’, which is permissible within the R4 Zone with consent.

6. ASSESSMENT

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

The DA has been lodged pursuant to the SEPP (Affordable Rental Housing) 2009. The proposal demonstrates full compliance with the relevant provisions, as detailed below.

Provision	Comment
Part 2 New Affordable Rental Housing	
Division 1 In Fill Affordable Housing	
Clause 10 Development to which Division Applies	
<p><i>(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</i></p> <p><i>(a) the development concerned is permitted with consent under another environmental planning instrument, and</i></p> <p><i>(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.</i></p>	<p>Complies</p> <p>The development is permitted with consent under the LLEP 2008 and the site does not contain a heritage item.</p>
<p><i>(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</i></p> <p><i>‘accessible area’ means land that is within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday</i></p>	<p>Complies</p> <p>The site is 220m from the bus stop located on Hoxton Park Road</p> <p>The bus stop is serviced by the 802, 803, 853 and 854 bus service.</p> <p>The above bus service operates within the parameters specified in the SEPP (Affordable Rental Housing) 2009.</p>
Clause 13 Floor Space ratio	
<p><i>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</i></p>	<p>Complies</p> <p>It is proposed that 23% of the gross floor area of the development will be utilised for affordable housing.</p>
<p><i>(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:</i></p> <p><i>(a) if the existing maximum floor space ratio is 2.5:1 or less:</i></p> <p><i>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</i></p>	<p>Complies</p> <p>It is proposed that 23% of the gross floor area of the development will be utilised for affordable housing. Therefore a bonus of 0.23 is afforded. The FSR permissible is therefore 1.23:1</p> <p>The development proposes an FSR of 1.2:1</p> <p>It is recommended that conditions are imposed in order to ensure that 23% of the gross floor area of the development will be utilised for affordable housing.</p>

Clause 14 Standards that cannot be used to refuse consent	
<p>(1) <i>Site and solar access requirements</i> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	
<p>(b) <i>Site Area</i> if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p>Complies The development site has an area of 2015m².</p>
<p>(c) <i>landscaped area: if:</i> (i) <i>in the case of a development application made by a social housing provider—a minimum 35m² of landscaped area per dwelling is provided, or</i> (ii) <i>in any other case—a minimum of 30% of the area of the site is to be landscaped,</i></p>	<p>Complies The development provides for approximately 747m² of landscaped area which equates to 37%.</p>
<p>(d) <i>Deep Soil Zones</i> In relation to that part of the site area that is not built on, paved or otherwise sealed: (i) <i>there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and</i> (ii) <i>each area forming part of the deep soil zone has a minimum dimension of 3m, and</i> (iii) <i>if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</i></p>	<p>Complies Approximately 15% (300m²) of the site area is a deep soil zone. Approximately, two thirds of the deep soil zone is located within the rear portion of the site.</p>
<p>(e) <i>solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i></p>	<p>Complies 70% of the development (i.e. 19 units) receive 3 hours of solar access or more.</p>
<p>(2) <i>General</i> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	
<p>(a) <i>parking</i> (ii) <i>in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.</i></p>	<p>Complies A total of 26 spaces are required. A total of 36 spaces are proposed.</p>
<p>(b) <i>dwelling size</i> if each dwelling has a gross floor area of at least: (i) <i>35m² in the case of a bedsitter or studio, or</i> (ii) <i>50m² in the case of a dwelling having 1 bedroom, or</i> (iii) <i>70m² in the case of a dwelling having 2 bedrooms, or</i> (iv) <i>95m² in the case of a dwelling having 3 or more bedrooms.</i></p>	<p>Considered acceptable Minimum dwelling sizes are as follows: - 35m² per studio; - 50m² per 1 bedroom unit; - 70m² per 2 bedroom unit; and - 90m² per 3 bedroom unit.</p>
Clause 16 Continued Application of SEPP 65	
<p>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</p>	<p>Complies An assessment of SEPP 65 has been carried out and is found to be satisfactory. Further discussion is provided within this report.</p>
Clause 16A Character of Local Area	
<p>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.</p>	<p>Complies The current character of the area is generally comprised of single and double storey detached dwellings with some older style walk up residential flat buildings. Lots fronting Hoxton Park Road, were rezoned to R4 – High Density Residential development pursuant to the Liverpool Local</p>

	<p>Environmental Plan (LLEP) 2008. The area is currently in transition from low density residential to high density residential.</p> <p>The proposed development comprises a residential flat building that accommodates a total of 26 dwellings in five storeys, above one basement level for car parking. Although the proposed development does not strictly conform to the current character of the area, given the prevalence of low density residential, it will nevertheless conform to the future desired character of the area.</p> <p>It is expected that adjoining sites would be developed in accordance with the current LLEP 2008 and LDCP 2008. As such, the proposed development generally complies with these requirements and therefore contributes to the desired future character of the area.</p>
Clause 17 Must Be Used for Affordable Housing for 10 Years	
<i>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</i>	
<p><i>(a) for 10 years from the date of the issue of the occupation certificate:</i></p> <ul style="list-style-type: none"> <i>(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</i> <i>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</i> <p><i>(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</i></p>	<p>Complies</p> <p>To ensure that the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing; conditions of consent have been imposed.</p>

State Environmental Planning Policy (Infrastructure) 2007

Pursuant to Clause 101 - Development with frontage to classified road of SEPP (Infrastructure) 2007, the following shall be addressed:

- (1) The objectives of this clause are:*
 - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The application is for the construction of a residential flat building. The site benefits from an access road that runs parallel to Hoxton Park Road. Access is considered to be acceptable in the circumstances as access to the main carriageway is achieved indirectly from the access road. The application was also referred to the NSW Roads and Maritime Services (RMS) for comments.

Hoxton Park experiences significant traffic volumes. It is considered that a residential flat building is development of a type that is sensitive to traffic volumes arising from Hoxton Park Road. Clause 102 of the Infrastructure SEPP requires the consent authority to consider the impacts of traffic volume on residential flat buildings. This matter is addressed in the subsequent section of the report.

The RMS did not raise any objection to the application and all vehicle movements associated with the demolition, construction and ongoing operation of the proposed development.

Pursuant to Clause 102 – Impact of road noise or vibration on non-road development of SEPP (Infrastructure) 2007, the following shall be addressed:

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*
 - (a) residential accommodation,*
 - (b) a place of public worship,*
 - (c) a hospital,*
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.*

The site is located on Hoxton Park Road which is a classified road. The traffic volume maps for Infrastructure SEPP indicates that Hoxton Park road has a traffic volume of more than 40,000 vehicles. As the proposal is for a residential flat building the consent authority is required to consider the impacts of traffic volume on the development.

The application was accompanied by an Acoustic Report, in which existing background noise level to the site was measured at the front of the site which represent the levels of external road traffic noise intrusion into the development site.

The report concluded that external noise intrusion into the proposed development can be controlled with appropriate mitigation measures which include upgraded glazing to all sleeping and other habitable areas with external glazed windows. Additionally, the report recommends various construction materials at certain thickness for the walls and roof of the development.

The report also recommends that a qualified acoustic consultant be engaged during the construction phase of the project when details of mechanical plant and equipment and noise emission levels are available, to review the potential environmental noise impact from the development.

Conditions of consent have also been imposed to ensure compliance with the nominated noise criteria.

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

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

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

DESIGN QUALITY PRINCIPLE REQUIRED	DOES THE PROPOSAL ADDRESS THE PRINCIPLE?	HOW DOES THE PROPOSAL ADDRESS THE PRINCIPLE?
<p>PRINCIPLE 1: CONTEXT AND NEIGHBOURHOOD CHARACTER</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	Yes.	<p>The proposed development complies with the objectives of the Liverpool LEP 2008 zone controls for R4 High Density residential development and will therefore complement the desired future character of the area.</p> <p>It is noted that the area is in transition from low and medium density housing to high density housing. The building type proposed conforms to Council's building envelope controls for RFBs.</p> <p>The building is highly articulated and is broken down into three volumes facing Hoxton Park Road, this is compatible with the built form character of the area; as is with the building materiality.</p> <p>The proposal incorporates an attractive landscape area that surrounds the built form on ground level. This includes provisions for large tree planting in deep soil zones within front and rear setbacks; these plantings will enhance the character of the development. Generous private open spaces are provided to ground floor units, allowing for an activated and dynamic street character.</p> <p>It is considered that the proposal is appropriate for the context considering it is located within the high density residential zone. It is considered the</p>

		subject development is consistent with the desired future character of the area.
<p>PRINCIPLE 2: BUILT FORM AND SCALE</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	Yes.	<p>The bulk and scale of the proposal has been carefully considered to respond to the areas transition into a future growth area. The proposed scheme breaks up the massing on site as a result of material selection, massing techniques and landscaping.</p> <p>The building form aims to reduce the perceived mass of a development of this scale by breaking up the masses in to vertical elements and fine grain detail to the bulk of the building.</p> <p>The scale and height of the proposed development is appropriate to its R4 zoning.</p>
<p>PRINCIPLE 3: DENSITY</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	Yes.	<p>The proposed development is located approximately 220m heading east walking distance from bus stops on Hoxton Park Road. The proposal will contribute to a high quality streetscape for the area. The unit sizes are according to the SEPP 65 standards and each unit is provided with a private open space. The density is appropriate for the site given its accessibility to public transport, access to common and communal open space, the built form context, and the high amenity achieved for every unit in the development.</p>
<p>PRINCIPLE 4: SUSTAINABILITY</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones</p>	Yes.	<p>The proposed development is consistent with the BASIX requirements applicable and with the BASIX certificates provided. The proposed development has maximised solar access and natural ventilation, based on the design.</p>

for groundwater recharge and vegetation.		
<p>PRINCIPLE 5: LANDSCAPE</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	Yes	<p>Landscaping of private and communal open spaces wrap around the building at ground level. The landscaping of the site is predominantly to the same domestic scale as surrounding individual residential properties, however the proposed planting schedule has considered a much more generous amount of trees and shrubs given that neighbouring properties have little or minimal garden provided.</p> <p>The building is considered consistent with the streetscape, and additional planting is proposed to further enhance its contextual design response. The proposed landscaped areas will aid in reducing the scale of the building and integrate the development with the surrounding environment.</p>
<p>PRINCIPLE 6: AMENITY</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	Yes.	<p>The proposed development has a maximum of 6 units off a single core, which helps to ensure good amenity for residents. Proposed lobbies and corridors have a generous width, not only allowing access by persons with a disability but avoiding a dark or tight space. Further to this the applicant provides generous amount of glazing for the central lobby to enable solar access of communal spaces.</p> <p>The proposed apartment layout allows adequate circulation and privacy for each room. The solar access for the development is sound with minimal single aspect apartments facing south. The development also achieves a high degree of cross-ventilation. Sufficient private open spaces ensure good solar penetration and ventilation to each unit.</p> <p>The proposed development is considered satisfactory in terms of amenity.</p>
<p>PRINCIPLE 8: SAFETY</p> <p>Good design optimises safety and security within the</p>	Yes.	<p>The proposal has been designed to take into account the safety and security both externally and internally of the development. The design is</p>

<p>development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>		<p>considered to appropriately incorporate the CPTED principles namely surveillance, access/egress control, territorial reinforcement and space management.</p>
<p>PRINCIPLE 8: HOUSING DIVERSITY AND SOCIAL INTERACTION</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>Yes.</p>	<p>The proposal includes a variety of different housing typologies that will be offered in different sizes and layouts. The mix in housing typologies will help diversify the residents in the development.</p> <p>The applicant also provides at least 20% of apartments for the purpose of affordable housing for a minimum period of 10 years.</p> <p>The proposed development is designed to maximise accessibility for access impaired. Sufficient disabled car parking facilities have been provided in the basement level. Passenger lifts provide easy access to all levels of the building. 10% of the proposed units are also adaptable.</p> <p>The proximity of the site to transport alternative to the private car, along with the proximity of local services will assist in reducing the emission of greenhouse gases and cost of living. Bicycle parking is provided to further promote alternative means of transport.</p>

<p>PRINCIPLE 9: AESTHETICS</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	Yes.	The proposed development is considered to be aesthetically pleasing. The proposed development has incorporated an appropriate diversity of building elements, textures, materials and colours to enable a suitable design outcome. The proposed development has effectively responded to its surrounding context in terms of streetscape appearance and the desired future character of the area.
---	------	---

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled the Apartment Design Guide (ADG). The following table outlines compliance with the ADG, where numerical requirements ('controls') are specified.

Development Standard	Proposed	Comment
2E Building Depth		
Max 10m – 18m	All levels provide 18m – 20m building depths.	Complies
2F Building Separation		
<p>Minimum separation distances for buildings are:</p> <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p>Note: <i>It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance.</i></p>	<p>These separation distances apply to the ground floor, Level 1, Level 2 and Level 3.</p> <p>All building elements comply.</p>	Complies
<p>Five to eight storeys (12m to 25m)</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p>These separation distances apply to Level 4.</p> <p>All building elements comply.</p>	Complies

Development Standard	Proposed	Comment
Note: <i>It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance.</i>		
3A Site analysis		
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	A detailed site analysis plan has been provided	Complies
3B Orientation		
Building types and layouts respond to the streetscape and site while optimising solar access within the development	The proposed RFB has been designed to address Hoxton Park Road. All ground floor units are provided with private access.	Complies
Overshadowing of neighbouring properties is minimised during mid-winter	The proposal will exceed the maximum building height control. However, it is noted that the additional shadow cast will fall onto Hoxton Park Road rather than onto adjoining residential development.	
3D Communal and public open space		
Communal open space has a minimum area equal to 25% of the site	The proposal provides a communal open space area of 25%. The communal open space is orientated to the north of the site and achieves adequate solar access.	Complies
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)		
Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		
Communal open space is designed to maximise safety		
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	Communal open space is consolidated into a well-defined square within the development site, providing equal access and common circulation.	
3E Deep soil zones		
7% of the site area is to be for Deep Soil zone.	15% of site area provided as deep soil zone.	Complies
3F Visual Privacy		
Minimum separation distances from buildings to the side and rear boundaries are as follows:	Noted.	Refer to 2F Building Separation.

Development Standard			Proposed	Comment
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms		
Up to 12m (4 storeys)	6m	3m		
12m to 25m (5-8 storeys)	9m	4.5m		
Over 25m (9+ storeys)	12m	6m		
3G Pedestrian Access and Entries				
Building entries and pedestrian access connects to and addresses the public domain		Primary access to the building will be via Hoxton Park Road. The pedestrian and vehicle access points have been clearly separated to minimise conflicts.		Complies
Access, entries and pathways are accessible and easy to identify				
Large sites provide pedestrian links for access to streets and connection to destinations				
3H Vehicle Access				
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes		Vehicle access points are located to achieve safety and minimize conflict.		Complies
3J Bicycle and Car Parking				
For development in the following locations: <ul style="list-style-type: none">- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a		Car parking has been provided in accordance with the requirements of the SEPP (Affordable Rental Housing) 2009.		Complies

Development Standard	Proposed	Comment
development must be provided off street		
Parking and facilities are provided for other modes of transport		
Car park design and access is safe and secure		
Visual and environmental impacts of underground car parking are minimised		
Visual and environmental impacts of on-grade car parking are minimised		
Visual and environmental impacts of above ground enclosed car parking are minimise		
4A Solar and Daylight Access		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	The proposed development provides 70% solar compliance.	Complies
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter		
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Only 12% of units receive no direct sunlight between 9am – 3pm on the winter solstice.	Complies
4B Natural Ventilation		
All habitable rooms are naturally ventilated	The proposed development provides 88% of units with natural cross ventilation.	Complies
The layout and design of single aspect apartments maximises natural ventilation		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed		
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		
4C Ceiling Heights		

Development Standard		Proposed	Comment										
Measured from finished floor level to finished ceiling level, minimum ceiling heights are 2.7m for habitable rooms and 2.4m for non-habitable rooms.		The development only proposes single storey apartment units, each with a minimum ceiling height of 2.75 metres for habitable rooms and 2.4 metres for non-habitable rooms.	Complies										
4D Apartment Size and Layout													
Apartments are required to have the following minimum internal areas: <table><tr><td>Apartment Type</td><td>Minimum Internal Area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>		Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	The apartments comply with the minimum size areas.	Complies
Apartment Type	Minimum Internal Area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each													
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		Habitable rooms are provided with windows of sufficient glass areas.	Complies										
Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Habitable rooms are generally limited to 2.5m x the ceiling height.	Complies										
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Kitchens are generally 8m from a window.	Complies										
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)		Bedrooms are of sufficient size.	Complies										
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Bedrooms have a minimum dimension of 3m.	Complies										
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">- 3.6m for studio and 1 bedroom apartments- 4m for 2 and 3 bedroom apartments		Sufficient widths are provided to living rooms/dining rooms.	Complies										
4E Private Open Space and Balconies													
All apartments are required to have primary balconies as follows:		The development provides for sufficient balcony size and depths.	Complies										

Development Standard			Proposed	Comment
Dwelling Type	Minimum Area	Minimum Depth		
Studio	4m ²	-		
1 bedroom	8m ²	2m		
2 bedroom	10m ²	2m		
3 bedroom	12m ²	2.4		
The minimum balcony depth to be counted as contributing to the balcony area is 1m				
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			More than 15m ² of private open space is provided to ground floor units.	Complies
4F Common Circulation and Spaces				
The maximum number of apartments off a circulation core on a single level is eight			There is no more than 6 units off a single service core.	Complies
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40			Noted	Not Applicable
4G Storage				
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:			Sufficient storage space is provided within each unit.	Complies
Dwelling Type	Storage Volume	Size		
Studio	4m ³			
1 bedroom	6m ³			
2 bedroom	8m ³			
3 bedroom	10m ³			
At least 50% of the required storage is to be located within the apartment.				
4H Acoustic Privacy				
Noise transfer is minimised through the siting of buildings and building layout			Appropriate noise mitigation measures will be implemented in accordance with the recommendations provided within the Acoustic Report.	Complies
Noise impacts are mitigated within apartments through layout and acoustic treatments				
4K Apartment Mix				
A range of apartment types and sizes is provided to cater for				Complies

Development Standard	Proposed	Comment
different household types now and into the future	The development provides the following apartment breakdown: <ul style="list-style-type: none">• 15% 1 bedrooms• 70% 2 bedrooms• 15% 3 bedrooms	
The apartment mix is distributed to suitable locations within the building		
4L Ground Floor Apartments		
Street frontage activity is maximised where ground floor apartments are located	The proposal includes landscaping at ground level to provide for visual interest. The proposed fences and pathways clearly delineate areas of public and private open space. Private entries are also proposed to all ground floor units.	Complies
Design of ground floor apartments delivers amenity and safety for residents		
4M Facades		
Building facades provide visual interest along the street while respecting the character of the local area	The overall design including building façade has been endorsed by the Design Excellence Panel.	Complies
Building functions are expressed by the facade		
4N Roof Design		
Roof treatments are integrated into the building design and positively respond to the street	The development is in accordance with these objectives.	Complies
Opportunities to use roof space for residential accommodation and open space are maximised		
Roof design incorporates sustainability features		
4O Landscape Design		
Landscape design is viable and sustainable	The development is in accordance with these objectives.	Complies
Landscape design contributes to the streetscape and amenity		
4P Planting on Structures		
Appropriate soil profiles are provided	The development is in accordance with these objectives.	Complies
Plant growth is optimised with appropriate selection and maintenance		
Planting on structures contributes to the quality and amenity of communal and public open spaces		
4Q Universal Design		
Universal design features are included in apartment design to promote flexible housing for all community members	11% of units comply with universal design requirements. These are a combination of adaptable apartments and Silver Level LGA (Liveable Housing Australia) compliant apartments.	Complies
A variety of apartments with adaptable designs are provided		
Apartment layouts are flexible and accommodate a range of lifestyle needs		
4R Adaptive Reuse		
New additions to existing buildings are contemporary and		Complies

Development Standard	Proposed	Comment
complementary and enhance an area's identity and sense of place	The DA is for the development of a new building and not the adaptive reuse of an existing building.	
Adapted buildings provide residential amenity while not precluding future adaptive reuse		
4S Mixed Use		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The DA does not propose a mixed use development.	Not Applicable
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents		
4T Awnings and Signage		
Awnings are well located and complement and integrate with the building design	Noted	Not Applicable
Signage responds to the context and desired streetscape character		
4U Energy Efficiency		
Development incorporates passive environmental design	The development is in accordance with these objectives.	Complies
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer		
Adequate natural ventilation minimises the need for mechanical ventilation		
4V Water Management and Conservation		
Potable water use is minimised	Potable water use is minimised and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.	Complies
Urban stormwater is treated on site before being discharged to receiving waters	This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.	Complies
Flood management systems are integrated into site design	Noted	Not Applicable
4W Waste Management		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Waste storage facilities are provided and will be maintained by the caretaker.	Complies
Domestic waste is minimized by providing safe and convenient source separation and recycling		
4X Building Maintenance		
Building design detail provides protection from weathering	The development is in accordance with these objectives	Complies
Systems and access enable ease of maintenance		

Development Standard	Proposed	Comment
Material selection reduces ongoing maintenance costs		

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

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to clause 7 the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Aerial images from 2002 found on Council's Geocortex GIS system illustrates the presence of the existing dwelling, which suggests the site has principally been used for residential purposes for at least the past 15 years.

Council's internal record and customer request system (pathway) includes no records of any dumping or contamination complaints or activities associated with the subject site.

With consideration to the above mentioned points there is no sufficient evidence to suggest that the land is contaminated and therefore a land contamination assessment is not considered to be necessary.

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

A BASIX certificate and report has been submitted with the development application.

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

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries. When a consent authority determines a development application planning principles are to be applied (Clause 7(2)).

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to site remediation and appropriate sedimentation and erosion controls being implemented during construction, the development will have minimal impact on the Georges River Catchment.

Liverpool Local Environmental Plan 2008

As stated previously the subject site is zoned R4 – High Density Residential under Liverpool LLEP 2008. The proposed development is defined as a *Residential Flat Building* and is a permitted form of development in the zone, subject to Council consent.

Zone Objectives

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

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

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

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

Principal Development Standards

The following principal development standards are applicable to the proposal:

Development Provision	Requirement	Proposed	Comment
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	Demolition proposed with the development.	Complies
4.3 Height of Building	The maximum building height permitted on the subject land is 15 metres and is marked "O" on the building heights map	16.78m at its highest point	No (Refer to clause 4.6 variation below)
4.4 Floor Space Ratio	The permitted FSR for the site is 1:1	FSR proposed is 1.2:1	Not Applicable The SEPP (Affordable Rental Housing) 2009 prescribes a maximum FSR of 1.2:1

7.8 Flood Planning	Provisions relating to development on flood prone land.	This aspect has been reviewed by Council's Flooding Section, who have raised no issues, subject to conditions.	Complies
7.14 Minimum building street frontage	Development consent must not be granted to development, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres.	Site provides 59.74m frontage to Memorial Avenue.	Complies

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

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

Variation to Clause 4.3 Height of Buildings

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

The development proposes a maximum height of 15.98m to roof slab which represents a numerical variation of 980mm or 6.5% and a maximum height of 16.78m to lift overrun which represents a numerical variation of 1.78m or 11.8%. As demonstrated below, the non-compliant height relates to a portion of level 4 of the development and lift overruns.

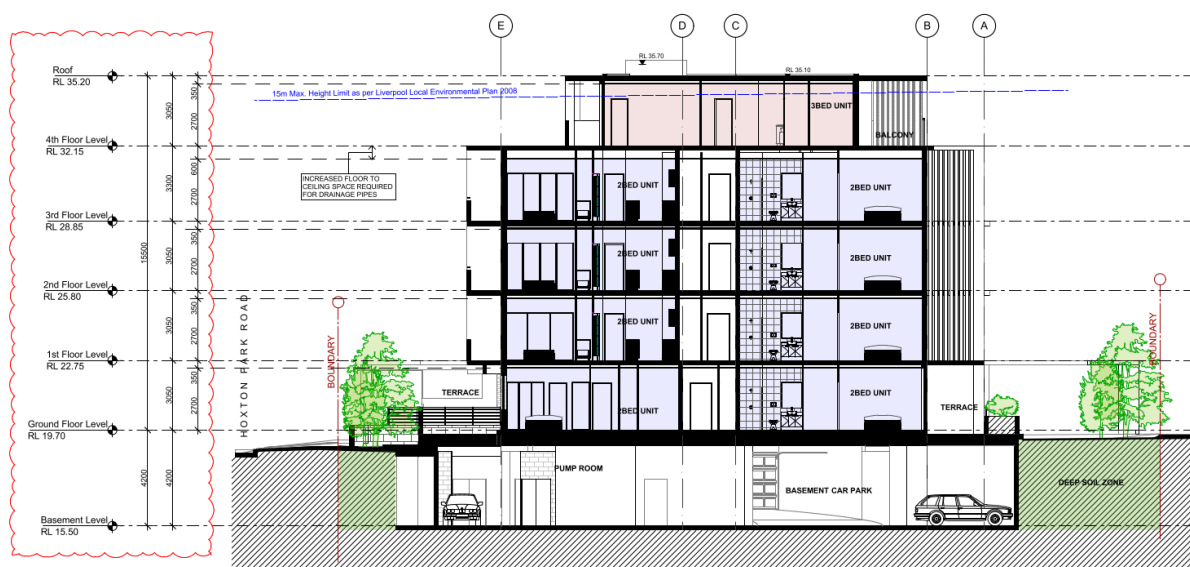


Figure 5 – Extract of the section plan showing the building elements which exceed the height limit.

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

The submitted written request to vary Clause 4.3 - height of buildings has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R4 zone, are discussed below:

The objectives and standards of Clause 4.6 of the Liverpool Local Environmental Plan (LEP) 2008 are as follows:

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

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised:

- *Stormwater infrastructure in the vicinity of the site is comparatively old and trunk drainage pipes have been built relatively close to the surface level of Hoxton Park Road to which the subject site drains. In order to achieve gravity fall to reticulated stormwater infrastructure, it has been necessary to modestly raise the ground level of the proposed development. It is this proposed response to site constraints which represents the primary cause the building height exceedance insofar as it relates to the main building (excluding lift overrun). Given finished ground level of the development is fixed by stormwater infrastructure within Council's system, the only opportunity to amend the design to achieve strict compliance would be to remove a full storey from the proposed development or introduce a pump out or charged line system. Reliance on a pump out or charged line stormwater system introduces the risk of system failure and in circumstances where gravity drainage can be achieved whilst still satisfying the objectives of the height of buildings development standard, minor variation to building height is considered to be the superior design response.*
- *The proposed development provides 3.05m floor to floor heights which responds to a recommendation made by the Design Excellence Panel. In the case of the third floor, 3.3m floor to ceiling height is required to accommodate drainage pipes. A 3m floor to floor height can readily achieve 2.7m floor to ceiling height, however the additional*

50mm (which translates to 200mm over the height of the building) affords additional opportunity for ceiling conduit and particular lighting fixtures such as flush downlights. In respect of the third floor level, external drainage pipes sensitively blended into the elevation detailing could be provided. This, together with 3m floor to floor heights would allow for a total reduction in building height of 500mm. However, even with a sensitive design treatment, external pipework should be viewed as a vastly inferior design solution. Minor increase in building height in order to avoid that outcome is preferred.

- The subject site enjoys frontage to Hoxton Park Road and is situated on its northern side. Accordingly, primary overshadowing impacts are to Hoxton Park and not to adjoining private dwellings or the private open space areas and is a north south orientated site. The effect of these two site characteristics is twofold. First, additional shadow caused by the height exceedance is cast to Hoxton Park Road.
- The above listed characteristics of the top elements of the design coordinate to deliver a visually recessive top storey. This in turn, mitigates bulk, scale and other visual impact impacts which might otherwise arise from a less sophisticated and sensitive design response. It is further noted that the top storey of the proposed development constitutes a redistribution of floor space in order to increase side setbacks and building separation to side adjoining future development.
- Drainage design requirements aside, the minor exceedance in building height creates an opportunity for two additional apartments to be provided on the fourth level. The two units comprise 3 bedrooms with generously proportioned living spaces and outdoor balconies. The provision of three bedroom units maximizes the development's market potential by being accessible to larger household groups or families. Such an outcome is directly consistent with the second zone objective in that it provides a variety of housing types within a high density residential environment.
- The provision of lift access to each floor level is an integral feature of the building and is consistent with the first zone objective. In this regard, the lift, including its overrun is essential for residential development to provide for the variety of housing needs of the community. The overrun structure itself measures 3m x 2.8m and is centrally located within the building's roof top. It is set back 7m from the Hoxton Park Road building edge. This placement, together with the overall height of the building results in the lift overrun having negligible visibility from ground level at Hoxton Park Road. In essence, the lift overrun delivers negligible contribution to the overall bulk and the building.

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

- The height of the ground floor level of the development above the natural ground level ranges from 300mm to 530mm as per the topography of the site which slopes from north to south. The height of the ground floor level, which has been elevated as a result of the drainage design of the development, contributes to the proposed breach in the height limit. The submitted stormwater concept plan indicates that stormwater runoff from the proposed development will be captured at the rear of the site and discharged via gravity to the kerb inlet pit on Hoxton Park Road. Considering this, a reduction to the ground floor level of the building so as to negate any breach in the maximum height limit, will require the applicant to adopt a charged line system. Council's Engineering Branch has advised that a charged drainage system is not ideal as blockage of the system can result in water travelling away from the discharge point, and the system has higher maintenance requirements. In the circumstances, it is considered that the height of the ground floor level is suitable for the purpose of achieving adequate stormwater drainage for the proposed development.
- The original scheme proposed a maximum height of 15.78m to roof slab which represents a numerical variation of 780mm or 5.2% and a maximum height of 16.58m to lift overrun which represents a numerical variation of 1.58m or 10.5%. The submitted written statement to vary Clause 4.3 – Height of Buildings was submitted on the basis

of these heights. Subsequent to the DEP meeting on 16 November 2017, the applicant was requested to increase the floor to floor height of each storey from 3000mm to a minimum of 3050mm, thereby elevating the overall height of the proposed development by an additional 200mm.

- The subject site accommodates a five storey building which is characteristic of development that is to be anticipated in a zone that permits a height of buildings of 15m. The breach in height limit stems from the proposed drainage system as well as additional floor to ceiling heights. In order to achieve a compliant building height, it is necessary to delete the fourth floor level of the building thereby reducing the dwelling yield of the development and possibly the amount of affordable housing onsite; or retaining the development yield but not without substantial changes to the building envelope which may result in an inferior design outcome. In this case, it is considered that there is adequate environmental grounds to support a variation to Clause 4.3 of the LLEP 2008. The development responds to the site constraints without resulting in any additional impacts compared to a compliant scheme.
- The development proposes a maximum height of 16.78m to lift overrun which represents a numerical variation of 1.78m or 10.6%. However, it is noted that the lift overrun is located within the centre of the development and does not result in any adverse impacts to surrounds in terms of streetscape character and overshadowing. Considering this, the lift overrun is a breach of the height limit that is considered to be reasonable and compliance is not necessary in this instance.
- The proposed non-compliant building height was reviewed by the DEP. The panel found that the proposed development exhibits design excellence when assessed against the design principles of SEPP 65 such as context, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.
- Given the large site area, it is considered that the proposed development is of an appropriate bulk and scale.

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

The objectives of Clause 4.3 and assessment are as follows:

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

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

The subject site accommodates a five storey building which is characteristic of development that is to be anticipated in a zone that permit a height of buildings of 15m. The proposed development is considered modern in its design with a strong four storey presentation to the street frontages. The upper level of the building has been designed to be recessive with increased setbacks and contrasting metal clad walls in a darker finish.

The proposal allows for a development that encourages high quality urban form with the inclusion of extensive communal open space and landscaped areas at ground level. In addition, the proposed development has been well articulated at the street frontage and

proposes varying setbacks to both side boundaries to ensure that the actual and perceived bulk of the building is minimised when viewed from the adjoining properties.

The shadows cast by the development do not significantly alter from a compliant scheme with the majority of the additional shadow cast over Hoxton Park Road itself rather than to neighbouring properties.

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

3) Consistency with objectives of the zone – R4 High Density Residential

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

The proposal will provide for 26 new residential units which is reflective of the high density zone. It is acknowledged that there is a demand for more affordable housing within the Liverpool local government area and the applicant responds to this need by offering at least 20% of the dwellings as affordable housing for a period of at least 10 years, as per the requirement under the SEPP (Affordable Rental Housing) 2009.

The development provides for a mix of units, in terms of size, layout, orientation and number of bedrooms. The proposed development is consistent with other high density residential development in the LGA. Also, regular bus services are available from Hoxton Park Road and nearby Liverpool Transit Way.

4) Consistency with Clause 4.6 objectives

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

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

5) Recommendation

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

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

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

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

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

The following compliance table outlines compliance with these controls.

Controls	Comment	Complies
PART 1 - GENERAL CONTROLS FOR ALL DEVELOPMENT		
2. TREE PRESERVATION	Removal of trees to be replaced as per landscape plan.	Yes
3. LANDSCAPING	30% of the site is provided as landscaped area and 15% of the site is provided as deep soil planting area.	Yes
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	N/A	N/A
5. BUSH FIRE RISK	N/A	N/A
6. WATER CYCLE MANAGEMENT	The proposal was referred to Council's Land Development Engineers for comments. No objection raised to the proposed development, subject to conditions.	Yes
7. DEVELOPMENT NEAR A WATERCOURSE	Subject site is not near a watercourse or river.	N/A
8. EROSION AND SEDIMENT CONTROL	Will be addressed through conditions of consent.	Yes
9. FLOODING RISK	Subject site is in a low flood risk precinct. The proposal was referred to Council's flooding engineers for comments. No objection is raised to the proposed development.	Yes
10. CONTAMINATION LAND RISK	Site not recognised as being contaminated.	N/A
11. SALINITY RISK	The proposal was referred to Council's Land Development Engineers for comments. No objection raised to the proposed development, subject to conditions.	Yes
12. ACID SULFATE SOILS	Site is not affected by Acid Sulfate Soils.	N/A
13. WEEDS	No identifiable noxious weeds on site.	N/A
14. DEMOLITION OF EXISTING DEVELOPMENT	Existing detached dwelling houses to be demolished at the site.	Yes
15. ON-SITE SEWERAGE DISPOSAL	Existing connection. Condition of consent will be placed ensuring sewerage is upgraded to handle proposal.	Yes
16. ABORIGINAL ARCHAEOLOGICAL SITES	No items identified	N/A

17. HERITAGE AND ARCHAEOLOGICAL SITES	No heritage sites	N/A
18. NOTIFICATION OF APPLICATIONS	Application was notified in accordance with DCP. No submissions were received.	Yes
19. USED CLOTHING BINS	N/A	N/A
20. CARPARKING AND ACCESS	The parking rates prescribed in the SEPP (ARH) 2009 overrides those provided in the DCP.	N/A
21. SUBDIVISION OF LAND AND BUILDINGS	No subdivision proposed	N/A
22. WATER CONSRVATION	Proposed development provided BASIX certificate. Certificate was reviewed and considered satisfactory.	Yes
23. ENERGY CONSERVATION	Proposed development provided BASIX certificate. Certificate was reviewed and considered satisfactory.	Yes
25. WASTE DISPOSAL & RE-USE FACILITIES	The basement is provided with a bin storage room which is capable of storing the necessary number of bins for 26 units. Consent will have necessary conditions imposed regarding waste disposal	Yes
26. OUTDOOR ADVERTISING AND SIGNAGE	N/A	N/A
27. SOCIAL IMPACT	It is considered that the proposed development is generally consistent with the objectives of Chapter 27 of Part 1 LDCP 2008, in that the development will result in positive social impacts by encouraging communities where people want to live and enjoy due to the good amenity provided by the COS proposed within the development, proximity to public recreational space in proximity to the site and access to community and transport services.	Yes

Part 3.7 – Residential Flat Buildings in the R4 Zone		
Frontage and Site Area		
	Minimum frontage of 24m	Complies A frontage of 59.75m is provided.
Site Planning		
	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies Minimal earthworks are proposed except for the basement level.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	Complies Application is accompanied by a BASIX certificate.

	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Complies Safe access is provided.
	Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	Complies The development is in accordance with the objectives of the zone.
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate	Complies This aspect has been reviewed by Council's Development Engineering officers, who have recommended approval subject to conditions.
	The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	Complies As demonstrated within this report, the development mostly demonstrates compliance with SEPP 65.
Setbacks		
Front Setback	Front building setback of 5.5m is required from the street.	Considered acceptable A front setback of 7.4m is provided to the building.
	Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.	Complies Encroachments into the front setback are provided which include the terraces of the ground floor units and balconies of the upper floor units.
Side Setback	Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, first floor and second floor)	Complies A 3m side setback is provided to the building for a height of 10m
	Boundary to land in R4 zone: 8m building setback required for a building height up greater 10m (i.e. third and fourth floor)	Does not comply. See discussion All building elements comply except for the following: Third Floor – Only 6.7 to 7m setback
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all building heights	Does not comply. See discussion All building elements comply with the exception of balcony setbacks for apartments at the rear of the site on the first, second and third floor level. These apartments achieve a setback of 7.6m from the rear boundary.
Landscaped Area and Private Open Space		
Landscaped Area (Deep Soil Zone)	A minimum of 25% of the site area shall be landscaped area.	Complies Approximately 25% of the site area is landscaped area.
	A minimum of 50% of the front setback area shall be landscaped area	Complies Majority of front setback area is landscaped area.

	Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.	Complies Landscaped areas are generally consolidated within the front, rear and side setbacks.
	Promote landscape health by supporting for a rich variety of vegetation type and size	Complies A variety of native plant species are provided.
Open Space	Provide communal open space, which is appropriate and relevant to the context and the building's setting.	Complies Communal open space is provided.
	Where communal open space is provided, facilitate its use for the desired range of activities by: - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking.	Complies The communal open space is well located.
	Locate open space to increase the potential for residential amenity.	Complies The communal open space increases the potential for residential amenity.
Private Open Space	Private open space shall be provided as follows: - 10m ² for a dwelling size less than 65m ² - 12m ² for a dwelling size over 65m ²	Complies Private open space requirements are provided in accordance with the requirements of the ADG.
	Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor.	Complies Private courtyards are provided for units on the ground floor.
	Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like.	Complies The POS acts as an extension of the internal living rooms.
	Private open space should be clearly defined for private use.	Complies The POS is clearly defined.
Building Design, Style and Streetscape		

Building Appearance and Streetscape	<p>Objectives of the controls are as follows:</p> <ul style="list-style-type: none"> a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which define and enhance the public domain and desired street character. d) To ensure that building elements are integrated into the overall building form and facade design. 	<p>Complies</p> <p>The composition of building elements, materials, textures and colours will complement the existing and likely future character of the area in terms of height, bulk, scale, built form and roof design. The proposed building is highly articulated and designed to suit the site and address the streetscape.</p>
Roof Design	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings; b) To integrate the design of the roof into the overall facade, building composition and desired contextual response; c) To increase the longevity of the building through weather protection. 	<p>Complies</p> <p>The proposed roof design contributes positively to the design of the building.</p>
Building Entry	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> a) To create entrances which provide a desirable residential identity for the development. b) To orient the visitor. c) To contribute positively to the streetscape and building facade design. 	<p>Complies</p> <p>Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors.</p>
Balconies	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> a) To ensure that balconies contribute positively to the façade of a building. b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents. c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings. d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address. 	<p>Complies</p> <p>Proposed balconies are integrated into the architectural form of the development and will compliment the façade and also provide for casual surveillance.</p>
Daylight Access	<p>Objectives of the controls area:</p> <ul style="list-style-type: none"> a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development. b) To provide adequate ambient lighting and minimise the need for 	<p>Complies</p> <p>The majority of the units and the communal open space will receive adequate solar access.</p>

	<p>artificial lighting during daylight hours.</p> <p>c) To provide residents with the ability to adjust the quantity of daylight to suit their needs.</p>	
Internal Design	<p>Objectives of the controls are:</p> <p>a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties.</p>	<p>Complies</p> <p>The building is designed with optimal amenity for future occupants, providing pleasant living spaces, solar access, and natural ventilation.</p>
Ground Floor Dwellings	<p>Objectives of the controls are:</p> <p>a) To contribute to the desired streetscape of an area and to create active safe streets.</p> <p>b) To increase the housing and lifestyle choices available in dwelling buildings.</p>	<p>Complies</p> <p>The ground floor units will complement the streetscape and provide safe access.</p>
Security	<p>Objectives of the controls are:</p> <p>a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings.</p> <p>b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders.</p> <p>c) To ensure buildings are safe and secure for residents and visitors.</p> <p>d) To contribute to the safety of the public domain.</p>	<p>Complies</p> <p>Entrances to buildings are clearly defined, causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.</p>
Natural Ventilation	<p>Objectives of the controls are:</p> <p>a) To ensure that dwellings are designed to provide all habitable rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants.</p> <p>b) To provide natural ventilation in non-habitable rooms, where possible.</p> <p>c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning.</p>	<p>Complies</p> <p>All units have direct access to natural ventilation.</p>
Building Layout	<p>Objectives of the controls are:</p> <p>a) To provide variety in appearance.</p> <p>b) To provide increasing privacy between dwellings within the building.</p> <p>c) To assist with flow through ventilation.</p> <p>d) To improve solar access.</p>	<p>Complies</p> <p>Proposed building layout is optimised for natural light and ventilation, whilst presenting an articulated presentation.</p>
Storage Areas	<p>A secure storage space is to be provided for each dwelling with a minimum volume of 8m³ (minimum dimension 1m²). This must be set aside exclusively for storage as part of the basement or garage.</p>	<p>Complies</p> <p>Storage spaces are provided within each apartment. A bulk storage area is also proposed in the basement car park.</p>

	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Storage areas within the basement will be adequately lit.
Landscaping and Fencing		
Landscaping	<p>Objectives of the controls are:</p> <p>a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape.</p> <p>b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape.</p> <p>c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development.</p> <p>a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality.</p> <p>b) To provide privacy, summer shade and allow winter sun.</p> <p>c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality.</p> <p>d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.</p>	Complies The use of landscaping elements is appropriate to the scale of the development and provides a variety of native species in varying heights to complement the development.
Fencing	Maximum height of front fence is 1.2m. The front fence may be built to a maximum height of 1.5m if the fence is setback 1m from the front boundary with suitable landscaping in front of the proposed fence.	Considered acceptable The developments provides for a front fence with a height of 1.5m. The fence is setback 2.2m from the front boundary and is screened with landscaping.
	Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.	Complies Given that a significant portion of the fence is transparent, it is unlikely to prevent casual surveillance.
	The front fence must be 30% transparent.	Complies The fence is masonry with horizontal timber slats.
	Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.	Complies The front fence consists of masonry.
	The maximum height of side boundary fencing within the setback to the street is 1.2m.	Complies No side boundary fence has been indicated in the front setback
	Boundary fences shall be lapped and capped timber or metal sheeting.	It is recommended conditions are imposed to ensure compliance.
Car Parking and Access		

Car Parking	Visitor car parking shall be clearly identified and may not be stacked car parking.	Not Applicable Parking spaces have been provided in accordance with the SEPP (Affordable Rental Housing) 2009. As such, visitor spaces are not required.
	Visitor car parking shall be located between any roller shutter door and the front boundary.	Not Applicable Parking spaces have been provided in accordance with the SEPP (Affordable Rental Housing) 2009. As such, visitor spaces are not required
	Pedestrian and driveways shall be separated.	Complies Pedestrian and driveways are separated.
	Driveways shall be designed to accommodate removalist vehicles.	Not Applicable On-street parking is available for removalist vehicles.
	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.	Not Applicable Side vehicular entrance is not appropriate in this instance.
	Give preference to underground parking	Complies Underground parking is provided.
Pedestrian Access	Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts.	Complies Pedestrian entries are clearly defined and accessible.
Amenity and Environmental Impact		
Overshadowing	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space.	Complies Shadow diagrams of the proposed development have been prepared for 21 June (winter solstice). The shadow diagrams demonstrate that the proposal is likely to generate an overshadowing impact on the: - adjoining property to the west at 9am; - existing child care centre to the east at 3pm Sufficient solar access is provided as all properties will receive solar access for 3 hours or more.
Privacy	Objectives of the controls are: a) To locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents.	Complies The building has been designed to generally comply with the setback provisions of the LDCP 2008. It is noted that some variations are proposed to the building setbacks, however these variations are offset through

	b) To avoid any external impacts of a development, such as overlooking of adjoining sites. c) To provide reasonable levels of visual privacy externally and internally, during the day and at night. d) To maximise outlook and views from principal rooms and private open space.	the provision of privacy measures in order to minimise the potential impact of overlooking.
Acoustic Impact	Objectives of the controls are: a) To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings.	Complies As discussed previously within this report, the development is able to achieve a high level of amenity, subject to the implementation of noise attenuation measures outlined in the submitted acoustic report.
Site Services		
	Objectives of the controls are: a) To ensure that the required services are provided. b) To ensure that the services provided are easily protected or maintained.	Complies All required site services will be provided to the site and maintained.

Notwithstanding the variations, the development is considered to be acceptable and is supported, as discussed below.

Variation to the side and rear setback provisions

The proposal involves the following variations to the LDCP 2008 setback controls:

- The minimum side setback. The LDCP 2008 requires a side setback of 10m to all building elements above 10m. The development proposes a minimum side setback of 6.7m to 7m to the habitable rooms on the first, second and third floor.
- The minimum rear setback requirement. The LDCP 2008 requires a rear setback of 8m to all building elements. The development complies, with the exception of balcony setbacks for apartments at the rear of the site on the first, second and third floor level. These apartments achieve a setback of 7.6m from the rear boundary.

With respect to the variations to setbacks, the variations are considered to be acceptable as the development is unlikely to negatively impact neighbouring properties. This is because the design of the building has carefully addressed the potential impacts of lesser setbacks and has been able to achieve the objectives of the controls, despite the numerical variation. It should be noted that the development has been designed in a manner so that it complies with the minimum building separation distances in the ADG.

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

No planning agreement relates to the site or proposed development.

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

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

6.6 Section 4.15(1)(a (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

There are no or there are Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

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

Waste Management

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

- A compactor bin storage is provided in the basement capable of accommodating 16, 240L bins;
- A 20m² bin holding room is provided in the basement capable of accommodating 13 660L bins; and
- The bins will need to be presented to the kerb for collection on a weekly basis.

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

Natural Environment

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

Impact of Earthworks

The development involves substantial cut, given the excavation works associated with the construction of the basement car park. A maximum depth of excavation of approximately 3.9m is expected with excavation extending to within close proximity to the eastern and western boundaries. In this case, it is suitable for a Geotechnical Report to be prepared prior to CC so as to ensure that earthworks are considered to be acceptable and unlikely to adversely impact upon the environment. Additionally, no objections to the earthworks have been raised by Council's Technical officers.

(b) Social Impacts and Economic Impacts

The development is considered beneficial from a social aspect as it will be providing 20% of the dwellings within the development as affordable housing. Further to this, the applicant is

attempting to increase housing variety in the locality by providing a diverse unit mix. The development will also result in a positive economic impact through the employment opportunities generated during the construction phase and on-going maintenance of the development.

Liverpool Contributions Plan 2009

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

Accordingly, the payable Section 94 Contribution fee for the development proposed is \$75,468, subject to the CPI applicable at the time of payment.

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

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

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

(a) Internal Referrals

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

Internal Department	Status and Comments
Natural Environment & Landscaping	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Flooding Engineering	No objection to the proposed development.
Traffic Engineering	No objection, subject to conditions

(b) External Referrals

The following comments have been received from External agencies:

External Department	Status and Comments
Roads and Maritime Services	Satisfactory. No conditions imposed.

(c) Community Consultation

The development application was notified from 11 August 2017 to 28 August 2017 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). No submissions were received during notification period.

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

The proposed development is consistent with the zoning of the land and would represent a quality development for the suburb. The development provides additional housing

opportunities within close proximity to employment opportunities and public transport.

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

7. CONCLUSION

In conclusion, the following is noted:

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

8. RECOMMENDATION

The information contained in the report on Development Application DA-491/2017 for demolition of existing buildings and the construction of a five storey residential flat building containing twenty six residential units with basement car parking and ancillary site works.

9. ATTACHMENTS

- 1) Architectural Plans
- 2) Landscape Plan
- 3) Stormwater Drainage plans
- 4) Survey plan
- 5) Draft Conditions of consent
- 6) Clause 4.6 Variation
- 7) Design excellence panel comments
- 8) Statement of Environmental Effects
- 9) SEPP 65 Design Verification Statement
- 10) Acoustic Report
- 11) Waste Management Plan
- 12) BASIX Certificate
- 13) Social Impact Comment
- 14) Traffic Report