

SYDNEY WESTERN CITY PLANNING PANEL (Sydney West)

Panel Reference	2018SSW008
DA Number	DA-109/2018
LGA	Liverpool City Council
Proposed Development	Demolition of existing buildings, consolidation of lots and construction of a 6-storey residential flat building comprising 9 x 1 bedroom units and 33 x 2 bedroom units with at-grade car parking. The development is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009 and is to be managed by a social housing provider.
Street Address	87, 89 and 91 Nuwarra Road, Moorebank
Applicant	GAT and associates
Owner	St George Community Housing Limited
Date of DA lodgement	13 February 2018
Number of Submissions	Six (6) objections have been received
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 Sydney Western City 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> <ol style="list-style-type: none"> 1. State Environmental Planning Policy (Affordable Rental Housing) 2009 2. State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development. 3. State Environmental Planning Policy No.55 – Remediation of Land. 4. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. 5. Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. 6. 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> <p style="text-align: center;">N/A</p> <p>3) <i>List any relevant development control plan: s4.15(1)(a)(iii)</i></p> <p>Liverpool Development Control Plan 2008.</p> <ul style="list-style-type: none"> - 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> <p>No planning agreement relates to the site or proposed development.</p> <p>5) <i>List any coastal zone management plan: s4.15(1)(a)(v)</i></p> <p>The subject site is not within any coastal zone management plan.</p> <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	<ol style="list-style-type: none"> 1. Architectural Plans 2. Access Report 3. Acoustic Report 4. Arborist Report 5. BASIX Certificate 6. BCA Report 7. Contamination Report 8. Drainage Plans 9. Geotechnical Report 10. Quantity Surveyors Report 11. Statement of Environmental Effects 12. Addendum to State of Environmental Effects 13. Landscape Plan 14. Survey Plan 15. Traffic Report 16. Waste Management Plan 17. Consolidated DEP Minutes
Report prepared by	Boris Santana
Report date	5 November 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? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes

Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment? <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>	Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney Western City Planning Panel is the determining authority as the Capital Investment Value of the development is over \$5 million, pursuant to Clause 5(b) of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

1.2 The proposal

Demolition of existing buildings, consolidation of lots and construction of a 6-storey residential flat building comprising 9 x 1 bedroom units and 33 x 2 bedroom units with at-grade car parking. The development is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009 and is to be managed by a social housing provider. 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 87, 89 and 91 Nuwarra Road, Moorebank. 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 Apartment Design Guide (ADG) – building separation and visual privacy.

1.5 Exhibition of the proposal

The DA was notified in accordance with LDGP 2008 for a period of 14 days from 20 February 2018 to 6 March 2018. Six (6) objections were received during the notification period.

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 110 in DP 235787, which is also known as 87 Nuwarra Road, Moorebank;
- Lot 6 in DP 236405, which is also known as 89 Nuwarra Road, Moorebank; and
- Lot 5 in DP 236405, which is also known as 91 Nuwarra Road, Moorebank.

The site benefits from a street frontage of 65.70m to Nuwarra Road, Moorebank at the east and has a gradual fall of approximately 1,730mm from the south-east (front) to the north-west of the site (rear). The overall site area is 2,013m².

Currently located over 87, 89 & 91 Nuwarra 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 two storey brick units to the north of the site. Directly opposite the site to the east on Nuwarra Road are several single storey houses. The rear of the site is adjoined by several developments, which are accessed via Lucas Avenue, to the west, and comprise of an older style single storey dwelling house and a six storey residential flat building that is currently under construction. To the south, a five storey residential flat building is currently under construction.

The site is land that is affected by a 1.83 metre wide drainage easement that runs at the rear of each lot. The subject site does not have any other affectations.

An aerial photograph of the site is provided below.



Figure 1 - Aerial photograph of the site

2.2 The locality

The site is located in Moorebank approximately 200 metres north of the intersection of Maddecks Avenue and Nuwarra Road and 370 metres south of the intersection of Nuwarra Road and Newbridge Road. The site is located on a block that contains a mix of one and two storey detached dwelling houses with some residential flat buildings currently under construction immediately adjoining the site and commercial shops to the south of the site.

Newbridge Road is located 370 metres north of the subject site. The subject site is located approximately 160m north- east of Nuwarra Public School and 340m north-east of Moorebank Shopping Centre. The site is located approximately 2.5 km south-east of the Liverpool Train Station.

An aerial photograph of the locality is provided below:



Figure 2 – Aerial Photograph of the Locality

3. BACKGROUND

3.1 Design Excellence Panel

The subject application was considered by the Design Excellence Panel (DEP) on 24 April 2018 and 12 July 2018.

The main issues raised by the panel from the meeting of 12 July 2018 are summarised below:

“The Panel thanks the proponent for bringing the scheme back to the Panel for re-consideration and the explanation provided by the applicant on how the scheme has responded to the Panel’s previous minutes. The Panel also appreciates that the registered architect for the project has attended to address the Panel regarding the project.

The panel noted that the previous matters raised have been addressed as set out below:

- *A site analysis has been provided which includes the impact of the adjoining building on this site.*

- *Shadow diagrams show the effect of additional height on existing and proposed development compared to a fully compliant scheme.*
- *Changes have been made to layouts in units that did not achieve the required 2 hours of solar access.*
- *Plans showing the building separation between the proposed development and for possible future development have been provided to show that the development potential of the adjoining site is not unreasonably impacted.*
- *Improvements have been made to the Landscaping Plan.*
- *The entry lobby has been amended to provide a landscaping bed separating the pedestrian path and driveway*

On balance, the Panel was satisfied that the overall design has improved although it was considered that there is potential for further improvement as identified below:

- *The 4th floor balconies on the northern side (facing the existing townhouses at 85 Nuwarra Rd) impact excessively on that site and should be reduced in area or screened.*
- *Make sure all units satisfy the ADG requirements. For Levels 1 to 4 check the depth and width ratio of the units.*
- *Review the design of the entry lobby. The Panel considered that the previous orientation of the lift lobby, with the lifts located on the northern side of the lobby was a preferred solution as the lobby would be visible from both the street and car park and would receive more natural light. It appears that there is scope for making this change without resulting in FSR non-compliance.*
- *Explore ways to provide more variety in the use of bricks in the walls, e.g. 'hit and miss' brickwork (in a way that does not compromise safety and does not provide a climbing opportunity).*
- *The changes made to the plans to address the Panel's comments from 24 April need to be incorporated into an addendum to the Statement of Environmental Effects so that they are appropriately explained and documented.*

The Panel is satisfied that subject to the issues identified in these minutes are appropriately addressed, the proposal does not need to return to the DEP."

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.

4. DETAILS OF THE PROPOSAL

Demolition of existing buildings, consolidation of lots and construction of a 6-storey residential flat building comprising 9 x 1 bedroom units and 33 x 2 bedroom units with at-grade car parking. The development is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009 and is to be managed by a social housing provider.

Additional details are as follows:

- All 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 brick, glass balustrade, perforated metal balustrade and feature pattern brick infill.

- The ground level comprises car parking spaces, bin rooms, apartment storage, lift and stair access for apartments and bicycle parking.

Vehicular and Pedestrian Access

- The proposal involves the construction of a driveway to Nuwarra Road. The driveway will provide two-way vehicular access to at-grade parking located behind the building line. The main pedestrian access to the development is provided via a separate walkway from Nuwarra Road. Additionally, the ground floor units are also provided with separate access from Nuwarra Road.

Parking Provisions

- The proposed new development will provide at-grade 22 parking spaces, including 4 accessible spaces.

Site Servicing Facilities

- A garbage storage room is proposed at ground level of the proposed RFB. Collection of bins will be undertaken at kerbside.

Communal Open Space and Landscaping

- The proposed development provides a large communal open space courtyard, both of hardstand and soil landscaped, located to the west and north of the proposed building. The features of the open space design include table and chairs. Planting incorporates a mix of canopy trees, shrubs and hedges and plants of native and exotic variety. Access to the communal open space is achieved via the front setback and the car park.
- A communal open area is also provided towards the front 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 within the communal open space.
- Stormwater will be connected to the existing drainage easement to the rear of the site.

Lot Consolidation

- 87, 89 and 91 Nuwarra Road will be consolidated into one lot.

Demolition

- Demolition of existing buildings on site at 87, 89 and 91 Nuwarra Road, consisting of three detached dwellings and associated structures.

Images of the proposed development are provided below:

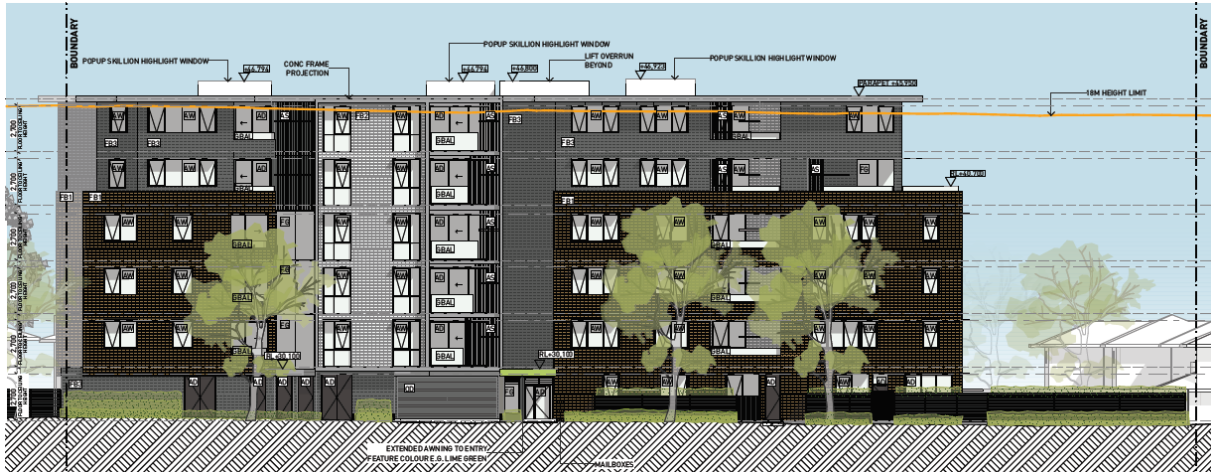


Figure 3 – East elevations (view from the street)

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy (Affordable Rental Housing) 2009.
- State Environmental Planning Policy No.65 – Design Quality of Residential 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

on the State Heritage Register under the Heritage Act 1977.	
<p>(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.</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 393m from the bus stop located on Newbridge Road.</p> <p>The bus stop is serviced by the M90 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>(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.</p>	<p>Complies</p> <p>It is proposed that 100% of the gross floor area of the development will be utilised for affordable housing.</p>
<p>(2) 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:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(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</p>	<p>Complies</p> <p>It is proposed that 100% of the gross floor area of the development will be utilised for affordable housing. Therefore a bonus of 0.5 is afforded. The FSR permissible is therefore 1.7:1</p> <p>The development proposes an FSR of 1.68:1</p> <p>It is recommended that conditions are imposed in order to ensure that 100% 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) Site and solar access requirements</p> <p>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	
<p>(b) Site Area</p> <p>if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p>Complies</p> <p>The development site has an area of 2013m².</p>
<p>(c) landscaped area: if:</p> <p>(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</p> <p>(ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,</p>	<p>Considered acceptable</p> <p>The development proposes 42 apartments. As the development application has been made by a social housing provider, a total landscaped area on 1,470sqm is required. This would be equal to 73% of the site.</p> <p>The development provides for approximately 715m² of landscaped area which equates to 35% of the site. The amount provided is consistent with the required amount of floor space that is expected of residential flat buildings in the R4 zone.</p> <p>Given the above, it is considered that the amount of landscaping provided is satisfactory and should not be used as a reason to refuse the application.</p>

<p>(d) <i>Deep Soil Zones</i> <i>In relation to that part of the site area that is not built on, paved or otherwise sealed:</i></p> <ul style="list-style-type: none"> (i) <i>there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and</i> (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>Complies Approximately 18% (377m²) of the site area is a deep soil zone.</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>Considered acceptable Solar access is considered acceptable with regards to Apartment Design Guide and the advice from the Design Excellence Panel.</p>
<p>(2) <i>General</i> <i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
<p>(a) <i>parking</i> (i) <i>in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms</i></p>	<p>Complies A total of 21 spaces are required. A total of 22 spaces are proposed.</p>
<p>(b) <i>dwelling size</i> <i>if each dwelling has a gross floor area of at least:</i></p> <ul style="list-style-type: none"> (i) <i>35m² in the case of a bedsitter or studio, or</i> (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>Considered acceptable Minimum dwelling sizes are as follows:</p> <ul style="list-style-type: none"> - 35m² per studio; - 50m² per 1 bedroom unit; and - 70m² per 2 bedroom unit.
<p>Clause 16 Continued Application of SEPP 65</p>	
<p><i>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</i></p>	<p>Complies An assessment of SEPP 65 has been carried out and is found to be satisfactory. Further discussion is provided within this report.</p>
<p>Clause 16A Character of Local Area</p>	
<p><i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i></p>	<p>Complies</p> <p>The current character of the area is generally comprised of single and double storey detached dwellings with some four and six storey residential flat buildings currently under construction immediately adjoining the site.</p> <p>Lots fronting Nuwarra Road, were rezoned to R4 – High Density Residential development pursuant to the Liverpool Local 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 42 dwellings in six storeys with at-grade parking behind the building line. 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>

	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.
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> <p><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></p> <p><i>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</i></p> <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>

(b) 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>	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 density housing to high density housing. The building type proposed is generally consistent with Council's building envelope controls for RFBs.</p> <p>The building is highly articulated and is broken down into two horizontal portions and this design is compatible with the built form character of the area; as is 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, side and rear setbacks; these plantings will enhance the character of the development. Generous private</p>

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.		<p>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 subject development is consistent with the desired future character of the area.</p>
<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 design proposals scale in terms of bulk and height has been carefully considered to respond to the areas transition into a future growth area.</p> <p>The mass of the building is divided into two portions, with lower base of the building as a heavy podium element contrasting a lighter two storey top that is darker and set back from the levels below. The setback at upper levels provides improved building separation and reduced visual bulk.</p> <p>The fronting and western facades are articulated with a deep recess in the centre of the building, providing a break in the bulk of the building width and separating textures of brick and concrete. This break provides some relief to an otherwise dominant street wall.</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 390m heading north walking distance from bus stops on Newbridge Road. The proposal will contribute to a high quality streetscape for the area. The unit sizes are according to the SEPP ARH 2009 standards and each unit is provided with 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</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>

and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.		
<p>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</p>	Yes.	<p>The proposed development has a maximum of 9 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.</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>

access for all age groups and degrees of mobility.		
<p>PRINCIPLE 8: SAFETY</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</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>	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 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>	Yes.	<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 100% 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 on site. Passenger lifts provide easy access to all levels of the building. 11% 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.
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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 16m – 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; with the exception of the private open space of 1.07, 1.08 2.07, 2.08, 3.07 and 3.08.</p>	Further discussion on the non-compliances are provided below.
<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 and 5.</p> <p>All building elements comply with the exception of private open space and habitable rooms of 4.03, 4.04, 4.07, 5.03 and 5.04.</p>	Further discussion on the non-compliances are provided below.

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 Nuwarra 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 is unlikely to detrimentally impact on existing solar amenity to the residential flat building currently under construction to the south of the 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%.	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)	The communal open space is orientated to the west and north of the site and achieves adequate solar access.	
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 consolidated into a well-defined area within the development site, providing equal access and common circulation.	
Communal open space is designed to maximise safety		
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood		
3E Deep soil zones		
7% of the site area is to be for Deep Soil zone.	17% of site area provided as deep soil zone.	Complies

Development Standard			Proposed	Comment
3F Visual Privacy				
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Noted.	Refer to 2F Building Separation.
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 Nuwarra 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			Car parking has been provided in accordance with the requirements of the SEPP (Affordable Rental Housing) 2009.	Complies

Development Standard	Proposed	Comment
Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street		
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 69% solar compliance.	Considered acceptable
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 14% 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 62% 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		

Development Standard	Proposed	Comment										
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line												
4C Ceiling Heights												
Measured from finished floor level to finished ceiling level, minimum ceiling heights are 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 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms.	Complies										
4D Apartment Size and Layout												
<div>Apartments are required to have the following minimum internal areas:</div> <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> <div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</div>	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											
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										
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: <div><div>- 3.6m for studio and 1 bedroom apartments</div><div>- 4m for 2 and 3 bedroom apartments</div></div>	Sufficient widths are provided to living rooms/dining rooms.	Complies										

Development Standard			Proposed	Comment
4E Private Open Space and Balconies				
All apartments are required to have primary balconies as follows:			All balconies have sufficient area and minimum depths.	Complies
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 with a minimum dimension of 3 metres 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			Nine apartments proposed off one circulation core.	Considered acceptable
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40			Noted	Not Applicable
Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level			There is no more than 12 units off a single service core.	Complies
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			

Development Standard	Proposed	Comment
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 different household types now and into the future	The development provides the following apartment breakdown: <ul style="list-style-type: none">• 21% 1 bedrooms• 79% 2 bedrooms	Complies
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		

Development Standard	Proposed	Comment
4Q Universal Design		
Universal design features are included in apartment design to promote flexible housing for all community members	11% of units (1, 2, 3, 4 & 5) 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 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.	Complies
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

Also, the building separation distances of Levels 4 and 5 of the proposed RFB do not achieve compliance with the requirements of the ADG, which stipulates:

- *Five to eight storeys (12m to 25m):*
 - *18m between habitable rooms/balconies;*
 - *12m between habitable and non-habitable rooms; and*
 - *9m between non-habitable rooms.*

The proposed RFB contains balconies and windows to habitable rooms of dwellings on the western elevation of Level 4 and 5. In this regard, a 9m building separation distance from the side property boundary is applicable (i.e. between habitable rooms/balconies). The application proposes a separation distance of 7.3m to some of the windows and balconies of these dwellings. Furthermore, a balcony on the northern elevation on Level 4 of the development is only 7.5 metres from the boundary. These areas of non-compliance can be seen in **Figure 6** below.

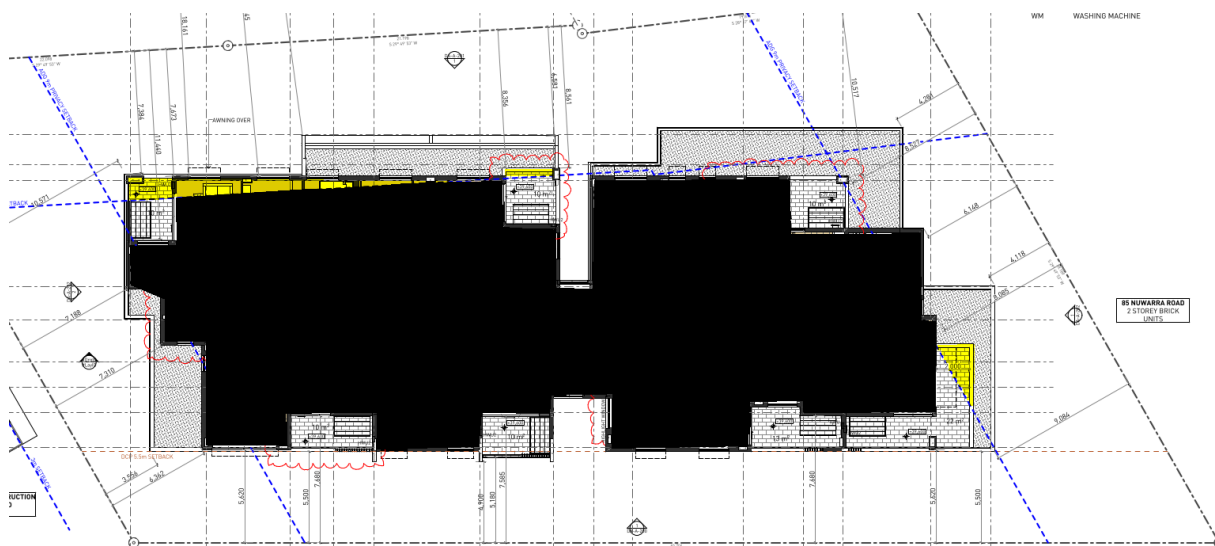


Figure 6 – Extract of the floor plan that shows the extent of non-compliance with Building Separation on Level 4

The applicant claims that, the proposed variation comes as a consequence of the SEPP ARH incentives. Considering this, reference is made to the aims in setting building separation controls so as to ensure that the overall development achieves design excellence in terms of appropriate massing and space between buildings, high residential amenity of future occupants and surrounds as well as suitable areas of open space and landscaping. The proposed development is considered to be worthy of support for the following reasons:

- Privacy screens are proposed to the side of all north facing balconies on Levels 1, 2 and 3 so as to prevent overlooking of the adjoining neighbour to the north. The balcony on Level 4 also currently encroaches into the minimum 9 metre setback by 1.5 metres. It is considered appropriate in this instance to impose a condition that requires the installation of some privacy screens on this balcony at a height of 1.5 metres to reduce the potential for overlooking of the neighbour to the north.
- With regard to the non-compliance in building separation on the western elevation of Level 4 and 5 of the development, it should be noted that the adjoining property to the west (80-82 Lucas Avenue) is in the process of being redeveloped to a six-storey residential flat building. Thus, it is prudent to consider the non-compliance in the context of the flat building currently under construction on this property.

Reference to the approved DA plans for the adjoining site indicates that separation distances, in excess of the ADG requirements, has been provided to the building. Accordingly, despite the non-compliances proposed with the proposal, once both sites have been redeveloped, the total building separation between these two developments will be in accordance with the minimum ADG requirements.

- Having regard to massing of the building, the development proposes varying setbacks to both side boundaries in excess of the ADG separation distances so as to ensure that the actual and perceived bulk of the building is minimised when viewed from adjoining properties.
- The upper levels of the building has also been designed to be recessive with increased setbacks and further reduces the overall bulk of the development.
- Also, 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.
- The design of the proposal is unlikely prejudice the redevelopment of the adjoining sites to the north of west for high density residential in accordance with the objectives of the LLEP 2008 and SEPP 65.
- Council's DEP have also reviewed the application and considered the application to be worthy of support.

Given the above, the variation to the building separation guideline is considered to be acceptable as the overall development achieves design excellence.

(c) 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.

A Stage 1 & 2 Environmental Site Assessment was prepared by Geo-Environmental Engineering to assess the site for potential sources of contamination. The consultant reported that the site in its current condition is suitable for the proposed residential land use.

However, a single fragment of asbestos was found on the site. Although the concentration of asbestos was below the relevant site assessment criteria, the consultant recommended for a licensed asbestos assessor and/or occupational hygienist to inspect the site post demolition and provide a clearance certificate.

The Environmental Site Assessment was referred to Council's Environmental Health Branch for review. Council's Environmental Health Branch has reviewed the assessment and concurs

with the findings. Accordingly, no objection is raised by Council's Environmental Health Branch to the proposed development, subject to conditions of consent.

Pursuant to Clause 7 of SEPP 55, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application (Clause 7).

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	A Stage 1 & 2 Environmental Site Assessment was prepared by Geo-Environmental Engineering dated 18 th December 2017 to assess the site for potential sources of contamination.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The consultant reported that the site in its current condition is suitable for the proposed residential land use. However, a single fragment of asbestos was found on the site. Although the concentration of asbestos was below the relevant site assessment criteria, the consultant recommended for a licensed asbestos assessor and/or occupational hygienist to inspect the site post demolition and provide a clearance certificate
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The Phase 1 and 2 contamination assessment report has been submitted as part of this application and reviewed by Council's Environmental Health Staff. The land is considered suitable for its proposed residential use, subject to recommendations of the site assessment, and subject to conditions of consent recommended by Council's Environmental Health Officer.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55. Therefore, it is considered that the subject site is suitable for the proposed development subject to the imposition of conditions.

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

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

(e) 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 appropriate sedimentation and erosion controls being implemented during construction, the

development will have minimal impact on the Georges River Catchment.

(f) 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 Bus Routes on Newbridge Road; 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 18 metres and is marked "P" on the building heights map	19.8m at its highest point	No (Refer to clause 4.6 variation below)

4.4 Floor Space Ratio	The permitted FSR for the site is 1.2:1	FSR proposed is 1.68:1	Not Applicable The SEPP (Affordable Rental Housing) 2009 prescribes a maximum FSR of 1.7:1
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 65.7m frontage to Nuwarra Road.	Complies
7.17 Airspace Operations	The objectives of this clause is to protect airspace around airport.	The proposed height of the building is less than 51m AHD which is the Bankstown Airport Obstacle Limitation.	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 18m for the site.

The development proposes a maximum height of 19.8m to roof slab which represents a numerical variation of 1800mm or 10% and a maximum height of 20.3m to lift overrun which represents a numerical variation of 2300mm or 13%. As demonstrated below, the non-compliant height relates to a portion of level 5 of the development and lift overruns.

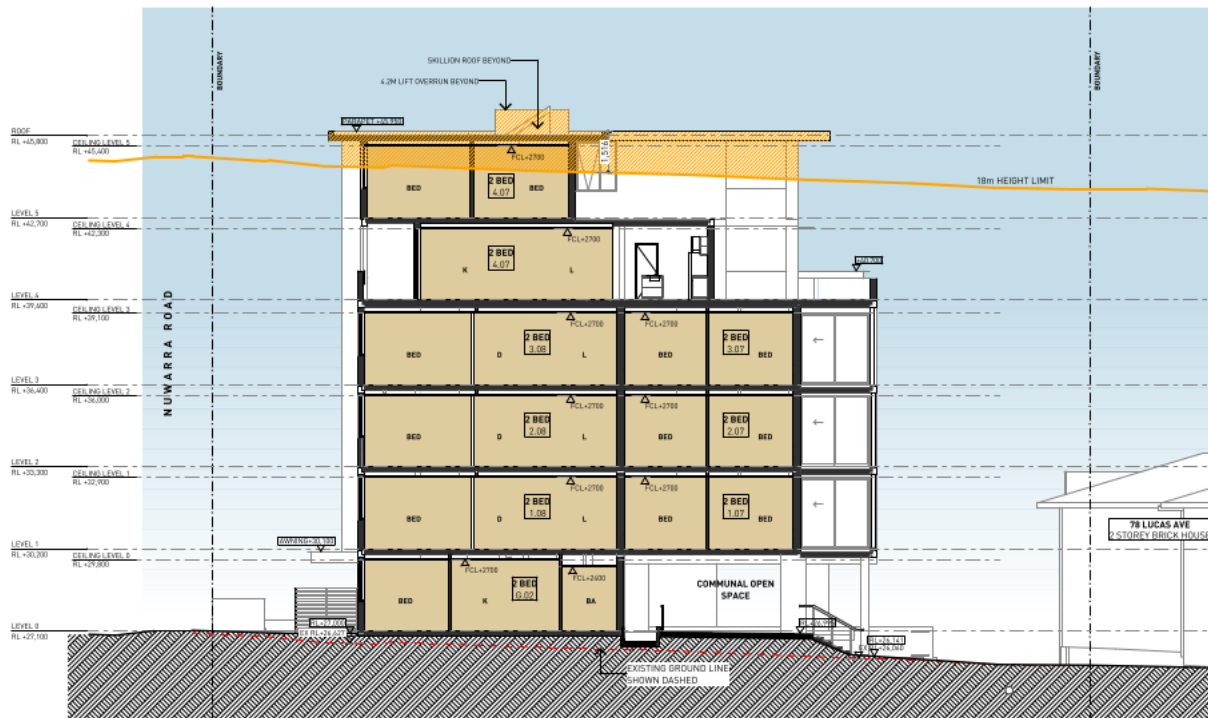


Figure 7 – Extract of the section plan showing the building elements which exceed the height limit.

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:

- *The tallest component of the building contributing to the breach in height is limited to a relatively small portion of the built form comprising the lift overrun. The lift overrun has been centred over the site to reduce its visual prominence. Where the greatest variation is sought in relation to habitable floor area at level 5, we note that the largest breach is contained to the side of the building where the fall of the land is at its greatest.*
- *The floor levels which have been proposed as per this application have largely been determined by the stormwater civil design on the subject site for the proposal. The current floor level of RL 27.10 has been set to allow for an adequate freeboard and for an emergency flow path around the building. Consequently, this has resulted in the building being raised by an additional 100mm, to accommodate the appropriate floor level of RL 27.10 which has been set. Raising the building to this extent has allowed for such an emergency flow path to be provided, allowing water to drain from the front of the site towards its rear, should drainage infrastructure become completely blocked, as the site falls away from the road.*
- *The proposed development has been carefully designed to project a highly articulated appearance to each of the facades. The depth of units has been limited allowing for breaks in each elevation and steps in the overall design. The use of balconies to the front and rear of the building provides for visual relief from solid external walls and aids to break up the building mass.*
- *The proposed development has also been designed to maximise solar access with 69% of the proposed units across the entire development achieving a minimum of 2 hours solar access. It was noted by the Design Excellence Panel that the proposed reduction of 1% is considered acceptable given the development will be used solely as affordable housing. A total of 64.3% of units across the development will be naturally cross ventilated.*
- *The proposed development has been well articulated to the street frontage and proposes varying setbacks to both side boundaries to ensure that the actual and perceived bulk of the building is minimised not only from the street but also as viewed from adjoining properties.*
- *The proposal addresses the site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will not result in any unreasonable amenity or environmental impacts. As demonstrated within the accompanying Statement of Environmental Effects the development has demonstrated compliance in terms of shadowing, privacy and visual amenity. The development positively responds to the desired future character of the area.*
- *We respectfully submit that the proposal will result in a better planning outcome as unlike SEPP (Affordable Rental Housing) 2009, which requires that up to 50% of the dwellings be offered as affordable housing for a period of 10 years, all of the proposed 42 units will be nominated as affordable housing to be managed by our client, St George Community Housing.*
- *The departure from the height of building controls within the LLEP 2008 allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.*

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 100mm to 800mm as per the topography of the site which slopes in a north-westerly direction. The height of the ground floor level, which has been set 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 front of the site and discharged via gravity to the existing drainage easement at the rear of the site. 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 significantly excavate the natural ground floor level at the front of the site. It is considered that such a design is not ideal as excavation of the natural ground level would result in a development whereby the ground floor level is lower than the street level, which is considered to detract from the streetscape. In the circumstances, it is considered that the height of the ground floor level is suitable for the purpose of achieving adequate stormwater drainage of the proposed development and so the ground floor adequately addresses the streetscape.
- The proposed development was referred to the Design Excellence Panel for comments. The panel recommended a minimum 3050 to 3100mm floor-to-floor height so as to comfortably achieve the minimum 2700mm floor-to-ceiling height as required by the ADG. The applicant has designed the floor to floor height of each storey from 3000mm to a minimum of 3100mm, thereby elevating the overall height of the proposed development by an additional 600mm.
- The plans show that the largest height exceedance is towards the north of the site where the topography descends by at least a metre. Although the southern end of the building also varies the 18 metre height limit, it is notably less than that proposed to north of the site. Therefore, as the development responds to the sites topography, the height of the building minimises the additional length of shadow cast to adjoining neighbours to the south. Shadow diagrams have been submitted that shows the impacts of the proposed development to the southern neighbour is negligible compared to a complaint scheme.
- The development proposes a maximum height of 20.3m to lift overrun which represents a numerical variation of 2300mm or 13%. 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 subject site accommodates a six storey building which is characteristic of development that is to be anticipated in a zone that permits a height of buildings of 18m. The breach in height limit mainly 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 fifth 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 design 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 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 six storey building which is characteristic of development that is to be anticipated in a zone that permit a height of buildings of 18m. The proposed development is considered modern in its design with a strong presentation to the street frontages. The upper level of the building has been designed to be recessive with contrasting face brick 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 well 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.

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 42 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 100% 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 proposed development is consistent with other high density residential development in the LGA.

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	More than 30% of the site is provided as landscaped area and 17% 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	The site is not in a flood prone area.	N/A

10. CONTAMINATION LAND RISK	See SEPP 55 discussion	Complies
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. Six (6) objections have been received and are addressed in the body of the report.	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 ground floor is provided with a bin storage room which is capable of storing the necessary number of bins for 42 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	Yes

	amenity provided by the COS proposed within the development and access to community and transport services.	
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Part 3.7 – Residential Flat Buildings in the R4 Zone		
Frontage and Site Area		
	Minimum frontage of 24m	Complies A frontage of 67m 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.
	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 pedestrian access is provided. Council's Traffic Branch has considered vehicular access to the site is satisfactory, subject to conditions.
	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 5.5m 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 awnings outside the front lobby.
Side Setback	Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e.	Complies A 3m side setback is provided to the building for a height of 10m

	ground floor, first floor and second floor)	
	Boundary to land in R4 zone: 8m building setback required for a building height up greater 10m (i.e. third and fourth floor)	Considered acceptable 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. With respect to the variations to setbacks, the variations are considered to be acceptable as the development is unlikely to negatively impact neighbouring properties.
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all building heights	Considered acceptable 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. With respect to the variations to setbacks, the variations are considered to be acceptable as the development is unlikely to negatively impact neighbouring properties.
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 35% of the site area is landscaped area.
	A minimum of 50% of the front setback area shall be landscaped area	Complies More than 50% 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.	Complies The communal open space is well located.

	<ul style="list-style-type: none"> - 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. 	
	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: <ul style="list-style-type: none"> - 10m² for a dwelling size less than 65m² - 12m² for a dwelling size over 65m² 	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	Objectives of the controls are as follows: a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which define and enhance the public domain and desired street character. d) To ensure that building elements are integrated into the overall building form and facade design.	Complies The composition of building elements, materials, textures and colours will complement the existing and likely future character of the area in terms of height, bulk, scale, built form and roof design. The proposed building is highly articulated and designed to suit the site and address the streetscape.
Roof Design	Objectives of the controls are: a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings; b) To integrate the design of the roof into the overall facade, building composition and desired contextual response; c) To increase the longevity of the building through weather protection.	Complies The proposed roof design contributes positively to the design of the building.
Building Entry	Objectives of the controls are: a) To create entrances which provide a desirable residential identity for the development. b) To orient the visitor.	Complies Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors.

	c) To contribute positively to the streetscape and building facade design.	
Balconies	Objectives of the controls are: a) To ensure that balconies contribute positively to the façade of a building. b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents. c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings. d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address.	Complies Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.
Daylight Access	Objectives of the controls area: 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 artificial lighting during daylight hours. c) To provide residents with the ability to adjust the quantity of daylight to suit their needs.	Complies The majority of the units and the communal open space will receive adequate solar access.
Internal Design	Objectives of the controls are: a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties.	Complies The building is designed with adequate amenity for future occupants, providing pleasant living spaces, solar access, and natural ventilation.
Ground Floor Dwellings	Objectives of the controls are: a) To contribute to the desired streetscape of an area and to create active safe streets. b) To increase the housing and lifestyle choices available in dwelling buildings.	Complies The ground floor units will complement the streetscape and provide safe access.
Security	Objectives of the controls are: a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings. b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders. c) To ensure buildings are safe and secure for residents and visitors. d) To contribute to the safety of the public domain.	Complies Entrances to buildings are clearly defined, causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.
Natural Ventilation	Objectives of the controls are: a) To ensure that dwellings are designed to provide all habitable	Complies 62% of units will be naturally ventilated as required by the ADG.

	rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants. b) To provide natural ventilation in non-habitable rooms, where possible. c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning.	
Building Layout	Objectives of the controls are: a) To provide variety in appearance. b) To provide increasing privacy between dwellings within the building. c) To assist with flow through ventilation. d) To improve solar access.	Complies Proposed building layout is adequate for natural light and ventilation, whilst presenting an articulated presentation.
Storage Areas	A secure storage space is to be provided for each dwelling with a minimum volume of 8m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement or garage.	Complies Storage spaces are provided within each apartment.
	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Some storage area on the ground floor is within the at-grade car park in cages.
Landscaping and Fencing		
Landscaping	Objectives of the controls are: a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape. b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape. c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development. a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality. b) To provide privacy, summer shade and allow winter sun. c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality. d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.	Complies The use of landscaping elements is appropriate to the scale of the development and provides a variety of native species in varying heights to complement the development.

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 1-2.5m 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 horizontal steel slats which has spacing.
	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 fence is to be conditioned so that timber slats are used instead or steel slats.
	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 Removalist vehicles can be accommodated on the site and surrounding road network.
	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 At-grade parking is provided behind the building line
	Give preference to underground parking	Considered acceptable At-grade parking is provided behind the building line
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	Complies Pedestrian entries are clearly defined and accessible.

	bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts.	
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.	Considered acceptable Shadow diagrams have been submitted that shows the impacts of the proposed development compared to a complaint scheme is negligible. It appears that the residential flat building currently under construction on the southern property will continue to receive sufficient solar access that is consistent with the ADG requirements i.e. 70% of dwellings will receive two hours of sunlight to areas of POS and windows to living areas.
Privacy	Objectives of the controls are: a) To locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents. b) To avoid any external impacts of a development, such as overlooking of adjoining sites. c) To provide reasonable levels of visual privacy externally and internally, during the day and at night. d) To maximise outlook and views from principal rooms and private open space.	Complies The building has been designed to generally comply with the setback provisions of the ADG. It is noted that some variations are proposed to the building setbacks, however these variations are offset through 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.

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 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 bulky waste room with a minimum area of 6 square metres to accommodate larger waste items;
- A 46m² bin holding room is provided on the ground floor level of the building capable of accommodating 16 x 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 cut and fill of the site. The application was accompanied by a Geotechnical Investigation Report, which concluded that geotechnical feasibility of the proposed development in respect to the existing site conditions is satisfactory. Additionally, the 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 100% 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 \$119,129, 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
Building Branch	No objection, subject to conditions
Natural Environment & Landscaping	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Waste Branch	No objection, subject to conditions
Environmental Health	No objection, subject to conditions
Traffic Engineering	No objection, subject to conditions

(b) Community Consultation

The DA was notified in accordance with LDCP 2008 for a period of 14 days from 20 February 2018 to 6 March 2018. Six (6) objections were received during the notification period. A summary and assessment of the issues raised in the submissions, is detailed in the following table below.

Issues	Comment
Amenity Impacts	
<ul style="list-style-type: none">This proposed high-rise development is directly behind our home. With our pool and outside entertainment area in constant use, we are very concerned about our privacy. Since there are doors, windows and balconies all facing	<ul style="list-style-type: none">The balconies of the northern units on the level 1, level 2 and level 3 comply with the required ADG separation distance from the western property boundary but do encroach into the required separation distance from the northern property boundary. Privacy screens are proposed on the northern elevation of the

<p>into our living area, we would ask that screens be put in place on the northern units which are closest to our home. We do not want to be forced out of our home as we are very happy here and have put years of work into our gardens etc.</p> <ul style="list-style-type: none"> 42 units requires 42 rubbish bins and probably, include environmental bins and recycling bins. There does not appear to be sufficient storage for these bins to be kept out of sight. 	<p>proposed balconies in order to alleviate the issue of overlooking. No privacy screening is required for the western face of the balcony.</p> <ul style="list-style-type: none"> Although the properties to the west and north of the site are currently comprised of dwelling houses, they are zoned R4 high density and the distances proposed are considered adequate in the circumstances. No additional building separation is required. In accordance with <i>Waste Management Services for RFBs and MUD Housing Fact Sheet</i>, a total of 14 x 660 litre bins, 7 waste and 7 recycling are required to be collected weekly by Council's waste contractor. The storage room on the ground floor is of sufficient size to store the above bins. Bins will be taken to kerbside for collection then moved back into the storage room once collection has been completed. Council's Waste Management Section has reviewed the development and is satisfied with the number of bins provided and bin storage area.
<p>Traffic and on-street parking congestion</p>	
<ul style="list-style-type: none"> Over the years there has been a greater increase in traffic along Nuwarra Road, which include heavy vehicles especially during peak hour traffic. This and other proposals for the area, such as, more high rise along Nuwarra Road, the intermodal and the recycling plant will only further impact on the road as the infrastructure has not changed and is not available. Nuwarra Road, in the vicinity of the proposal, is divided by double line marking. There is no room for on street parking. A sketch page 5, of the proposal, Traffic Report for Proposed Community Development suggests a right hand turn across Nuwarra Road for vehicles exiting the proposed building who want to go south. To my understanding, this is illegal. Therefore, vehicles exiting the proposal can only go south. Parking for the proposed units will surely be inadequate not only for the residents of the proposal but 	<ul style="list-style-type: none"> The application was referred to Council's Traffic Engineering Branch for review. Council's Traffic Engineering branch considers that the surrounding road network, including Nuwarra Road, has capacity to accommodate the traffic generation from the development. The submitted Traffic Report proposes that vehicles cross the painted median on Nuwarra Road, close to a pedestrian refuge, to accommodate right turning movements to enter and exit the development. To undertake these movements, the line marking on Nuwarra Road fronting the development needs to be re-line marked to introduce a break in the line marking. <p>Noticeable traffic impacts will be right turn movements in and out of the development onto/out of Nuwarra Road. In this regard, a condition will be imposed on any consent granted that requires the applicant to obtain consent from Council and the Local Traffic Committee for these works. A decision on the adequacy of such movements will be made and if required, right movements will be prohibited.</p> <ul style="list-style-type: none"> The site is in an 'accessible area' as defined by the SEPP as it is within 400m walking distance of a bus stop used by a regular bus service on Newbridge Road. The provision of 22 car

<p>for visitors coming into the area. This will over flow not only onto Kalimna Street but the streets in the estate. Kalimna Street already has spillage from visitor parking from both sides of Nuwarra Road and the Anglican Church.</p> <ul style="list-style-type: none"> Holsworthy train station which supports Moorebank was recently renovated to provide additional car parking for the existing community. The facility is again bursting at the seams with insufficient parking available to support the existing community let alone a significant increase in infrastructure. This development will grossly impact on Kalimna Street for on street parking and be used as a turning bay, to go south, for vehicles exiting the proposed building site. 	<p>parking spaces is compliant with the controls and therefore the proposal cannot be refused on this basis.</p> <ul style="list-style-type: none"> The SEPP does not require the provision of visitor car parking spaces for the development. The land and the locality is zoned R4 – Medium Density Residential. The SEPP (Affordable Rental Housing) makes infill affordable housing permissible in the R4 zone provided it is in an accessible area. <p>The development is located within an ‘accessible area’ as defined in Clause 4 of the SEPP, as it is located 400m walking distance from a bus stop that is used by a regular bus service. This bus stop is located on Newbridge Road and is serviced by bus route M90, which is a regular bus service. It is expected that residents of the site will use this bus service when travelling by public transport.</p>
Landscaping and Fencing	
<ul style="list-style-type: none"> There does not appear to be sufficient distance from ground floor dwellings to the existing side boundary fence of the adjoining neighbour. Also, balconies on the north elevation face the adjoining neighbour’s property. Will the designated garden beds be an enclosed raised garden bed with concrete walls both sides and will the plants being used within these garden beds have root systems that are non- invasive? 	<ul style="list-style-type: none"> The privacy of adjoining residential properties has been addressed. The ground floor of the development is approximately 500mm above the natural ground level and is setback at least 4 metres from the northern property boundary. Such a distance is considered to be appropriate to preserve privacy of the adjoining units to the north. Balconies above on the northern elevation of the site will also have privacy screening in order to limit any overlooking to private open space and windows. The proposed communal open space is proposed to the north of the site. A buffer in the form of a raised landscape mound is proposed along the northern property boundary. No information has been submitted as to whether concrete walls will be constructed on both sides of the mound. The landscape plan indicates that the landscape mound will contain numerous trees, shrubs and hedges that are both native and non-invasive, with the exception of one tree species. Robinia pseudoacacia is a tree species that can be considered invasive. A condition will be imposed on any consent to replace this tree species.
Stormwater Drainage	
<ul style="list-style-type: none"> The easement to which drainage is planned to remove the water 	<ul style="list-style-type: none"> The objection was referred to Council’s Development Engineering Branch for

<p>through, I have had multiple issues with root blockages in the easement from property. I am currently having issues with drainage at the moment and I believe I am the only property using this easement. The piping is only an old clay 100 mm pipe. I have previously found it very difficult to get acknowledgement from Liverpool Council of this easement existing. As this is the only drainage point for my complex failure of the easement will result in the flooding of my house and complex. I believe the easement needs to have a camera fed down the pipe to assess the state of the pipe through 83 Nuwarra Road and cleared and sleeved through or either dug up and replaced to maintain its integrity.</p>	<p>comments. It was advised that Council's Maintenance Planning & Reporting department has programmed the maintenance of the existing pipe located in this easement. However, in a situation where the developer intends to connect into the existing easement and the repairs have not been completed, Council's Development Engineering Branch has advised that the developer will be required to rectify the issues prior to connecting. A condition has been imposed on the consent that requires an approval to be obtained, prior to Construction Certificate, from Council under S68 of the Local Government Act for the pipe connection to existing drainage easement. The application will only be approved once evidence is provided to Liverpool City Council that the pipe within the existing drainage easement is functioning as originally intended. Any issues with this pipe shall be rectified prior to connection and with this approval.</p>
<p>Inconsistency with the existing character of the area</p>	
<ul style="list-style-type: none"> Importantly, any affordable housing should be commensurate of the demographics with consideration to its constituents - in this instance retirees or professional working families. Finally Moorebank is a suburb non typical of sky rise development or multi story development. The proposal is significantly out of character. Importantly the drain on infrastructure and in particular water is significant with residents now experiencing insufficient water pressure. Another development of this size should not be considered without prior and significant upgrade in supporting infrastructure. This is a grossly overdeveloped plan for the area with not enough thought, impact and consequences taken into consideration of the site. 	<ul style="list-style-type: none"> The land and the locality is zoned R4 – High Density Residential. Residential Flat Buildings are types of development that are encouraged within the R4 Zone. It is noted that the immediate area is currently under transition from low density development to high density development as evidenced by the current construction of flat buildings in the area. Also, it should be noted that the dimensions and area of the subject premises meets the site requirements for residential flat buildings. In considering the proposed development, it is noted that the desired future character of the locality is for greater density residential developments. In this case, essential services such as water and sewage are considered at the strategic planning level to ensure that redevelopment of the locality is viable. If the application was 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) to confirm that there is adequate capacity to accommodate the development.

The issues raised in the submissions are considered to contain varying degrees of relevance and have been considered in the assessment of the application.

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 Development Application DA-109/2018 be approved subject to conditions of consent.

9. ATTACHMENTS

- 1) Architectural Plans
- 2) Access Report
- 3) Acoustic Report
- 4) Arborist Report
- 5) BASIX Certificate
- 6) BCA Report
- 7) Contamination Report
- 8) Drainage Plans
- 9) Geotechnical Report
- 10) Quantity Surveyors Report
- 11) Statement of Environmental Effects
- 12) Addendum to State of Environmental Effects
- 13) Landscape Plan
- 14) Survey Plan
- 15) Traffic Report
- 16) Waste Management Plan
- 17) Consolidated DEP minutes