

# SYDNEY WESTERN CITY PLANNING PANEL

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SSW009
<b>DA Number</b>	DA-108/2018
<b>Local Government Area</b>	Liverpool City Council
<b>Proposed Development</b>	<p>Demolition of existing structures, construction of a five storey residential flat building comprising of 14x1 bedroom units and 35x2 bedroom units with basement car parking.</p> <p>The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.</p>
<b>Street Address</b>	88-92 Elizabeth Drive, Liverpool (Lot 1 in DP 26047, Lot B in DP 391258 & Lot 3 in DP 657111)
<b>Applicant</b>	SGCH Sustainability Ltd
<b>Owner</b>	SGCH Sustainability Ltd
<b>Date of DA Lodgement</b>	13 February 2018
<b>Number of Submissions</b>	NIL
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	The development contains affordable housing with a capital investment value of \$15,820,333.
<b>List of All Relevant 4.15(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <i>List all of the relevant environmental planning instruments: Section 4.15(1)(a)(i)</i> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Affordable Rental Housing) 2009.</li> <li>• State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development.</li> <li>• State Environmental Planning Policy No.55 – Remediation of Land.</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</li> <li>• State Environmental Planning Policy (Infrastructure) 2007.</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</li> <li>• Liverpool Local Environmental Plan 2008.</li> </ul> </li> <li>• <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: Section 4.15(1)(a)(ii)</i> <ul style="list-style-type: none"> <li>• No draft Environmental Planning Instruments apply to the site.</li> </ul> </li> <li>• <i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i> <ul style="list-style-type: none"> <li>• Liverpool Development Control Plan 2008. <ul style="list-style-type: none"> <li>- Part 1 – General Controls for all Development.</li> <li>- Part 3.7 – Residential Flat Development in the R4 Zone.</li> </ul> </li> </ul> </li> <li>• <i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning</i></li> </ul>

	<p><i>agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a)(iiia)</i></p> <ul style="list-style-type: none"> <li>• No planning agreement relates to the site or proposed development.</li> <li>• List any relevant regulations: 4.15(1)(a)(iv)</li> <li>• Consideration of the provisions of the Building Code of Australia.</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	<ol style="list-style-type: none"> <li>1. Architectural plans, landscape plans and survey plan</li> <li>2. Civil excavation and stormwater drainage plans</li> <li>3. Recommended conditions of consent</li> <li>4. Statement of environmental effects and clause 4.6 variation written justification to height</li> <li>5. Sepp 65 verification statement</li> <li>6. Acoustic report</li> <li>7. Arborist report</li> <li>8. Preliminary flood report</li> <li>9. Geotechnical report</li> <li>10. Waste management plan</li> <li>11. Phase 1 contamination report</li> <li>12. Basix certificate</li> <li>13. Design excellence panel comments</li> </ol>
<b>Recommendation</b>	Approval, subject to conditions
<b>Report Prepared by</b>	George Nehme
<b>Report date</b>	05 November 2018

#### **Summary of Section 4.15 matters**

Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

#### **Legislative clauses requiring consent authority satisfaction**

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

**Yes**

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

#### **Clause 4.6 Exceptions to development standards**

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

**Yes**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**No**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

#### **Conditions**

Have draft conditions been provided to the applicant for comment?

**Yes**

*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*

## **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**

The application proposes the demolition of existing structures, and the construction of a five storey residential flat building comprising of 14x1 bedroom units and 35x2 bedroom units with basement car parking. The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.

### **1.3 The site**

The subject site is identified as Lot 1 in DP 26047, Lot B in DP 391258 and Lot 3 in DP 657111, 88-92 Elizabeth Drive, Liverpool.

### **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.

### **1.5 Exhibition of the proposal**

The DA was notified in accordance with the Liverpool Development Control Plan (LDCP) 2008 from 22 February 2018 to 9 March 2018. No submissions were received.

### **1.6 Conclusion**

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

## **2. SITE DESCRIPTION AND LOCALITY**

### **2.1 The site**

The subject site is identified as Lot 1 in DP 26047, Lot B in DP 391258 and Lot 3 in DP 657111, 88-92 Elizabeth Drive, Liverpool. An aerial photograph of the subject site is provided below.



**Figure 1:** Aerial photograph of the site.

The site of the proposed development is generally rectilinear with a slightly angled frontage to Elizabeth Drive of 50.97m and with an area of approximately 2422sqm. The site is north facing with a minor cross-slope falling 2.7m from the north-west to the south-east of the site. The subject site comprises of three allotments known as 88-92 Elizabeth Drive, Liverpool, and is legally described as Lot 1 in DP 26047, (Pt Lot B in DP 391258), and Lot 3 in DP 414352. There is one non-native significant tree on site.

The site currently comprises 2 x single storey dwellings and a two storey dwelling as well as outbuildings to the rear of each property. Adjoining the site to either side are single storey dwellings and to the rear are 2 x two single storey dwellings and a two storey dwelling.

## 2.2 The locality

Development within the immediate area is typically low to medium scale residential development of predominately detached single and double storey dwellings, and multi-dwelling development. However, to the southwest of the site at 23-25 Mayberry Crescent is a 5 storey residential flat building approved under DA-1755/2012 on 5 July 2013. In view of the R4 High Density Residential zone afforded to the site, the area will inevitably undergo a transition to higher density building forms with the proposed development representative of this desired future character.

To the immediate south, east and west are detached dwellings, while Elizabeth Drive is located to the north.

An aerial photograph of the locality is provided below:



**Figure 2 – Arterial Photograph of the Locality**

### 3. BACKGROUND

#### 3.1 Design Excellence Panel

The proposed plans were referred to the Design Excellence Panel (DEP) for comment. The 9 design principles of SEPP 65 were considered and the panel identified a number of amendments to improve the overall scheme of the development.

Issues raised by the panel are detailed below with comments provided on how the concerns have been addressed by the applicant.

DEP Comments	Response
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.	Noted.
The Panel stated that it is unacceptable that the registered architect for the project did not attend the DEP meeting. It is advised that the Panel will not hold any future DEP meetings unless the registered architect that designed or directed the design of the proposal attends the DEP presentations.	Noted.
The proposed architectural treatment is pleasing and supported by the Panel.	Noted.
The blank wall to the eastern elevation encroaching onto the setback area is acceptable, as openings are to the front and rear boundaries. There are no visual and acoustic privacy issues to the eastern adjoining site.	Noted.
The material choices are supported. Detail of the material choices are to be included in the final development application documents.	Noted.
The scheme provides for a number of internally facing corner apartments and concerns are raised that the arrangements of these corner apartments create potential privacy problem between diagonally facing apartments. Appropriate privacy screens should be introduced to address this issue.	Perforated screening provided for internally facing bedroom windows of unit types E and H.

Further improvements could be made to planning efficiencies particularly around the 'light slots'.	<p>The skillion highlight windows have been designed to provide solar access to the Southern oriented dwellings so that each of them is provided with at least 2hrs of sunlight each day.</p> <p>The window panes have been strategically placed in a northerly direction and are provided with minimum dimensions of 1600mm x 5500mm. Therefore, it is considered that the skylights will be adequately sized and fit for this purpose.</p>
All SEPP 65 apartment buildings must be designed by an architect and their registration number is to be on all drawings. The architect is to attend the DEP presentations.	The development has been designed by a registered architect and their registration number is located on the drawings.
Consideration must be given by the applicant to the quality of materials and finishes. All apartment buildings are to be made of robust, low maintenance materials and be detailed to avoid staining weathering and failure of applied finishes. Render is discouraged	Face brick work is predominately used.
The panel recommends 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.	Floor to floor heights of 3.1m have been provided in order to achieve a minimum floor to ceiling height of 2.7m.
Sectional drawings at a scale of 1:20 of wall section through with all materials, brickwork, edging details to be submitted.	It is recommended that conditions of consent are imposed to ensure compliance with this requirement.
The proposal is acceptable subject to the incorporation of the above advice given from the Panel and will not need to be seen by the Panel again.	The application has addressed the comments provided by the DEP. As such, the application does not need to be reviewed by the DEP again.

#### 4. DETAILS OF THE PROPOSAL

Development consent is sought for:

- Construction of a five-storey residential flat building comprising of 49 units, including the demolition of existing buildings and associated lot consolidation. All units within the development will be used as affordable housing and managed by St George Community Housing.
- Unit mix is as follows:
  - 14 x 1 bedroom units; and
  - 35 x 2 bedroom units
- Access and Parking:
  - Access provided by a combined egress/ingress driveway on the eastern side of the building;
  - Basement parking consisting of 25 parking spaces including 5 accessible spaces;
  - 4 spaces for bicycles.
- Communal open space areas provided at the rear and on the rooftop of the building.
- Lot consolidation into 1 Torrens title lot.
- Demolition of existing building and structures.

Images of the proposed development are provided below:



**Figure 8:** Northeast Perspective view from Elizabeth Drive.



**Figure 9:** Northwest Perspective view



**Figure 10:** Southeast Perspective view



**Figure 11:** Southwest Perspective view

## 5.1 Relevant matters for consideration

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

### Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy No.55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.

### Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

### Development Control Plans

- Liverpool Development Control Plan 2008
  - Part 1 – Controls applying to all development
  - Part 3.7 – Residential Flat Development in the R4 Zone.

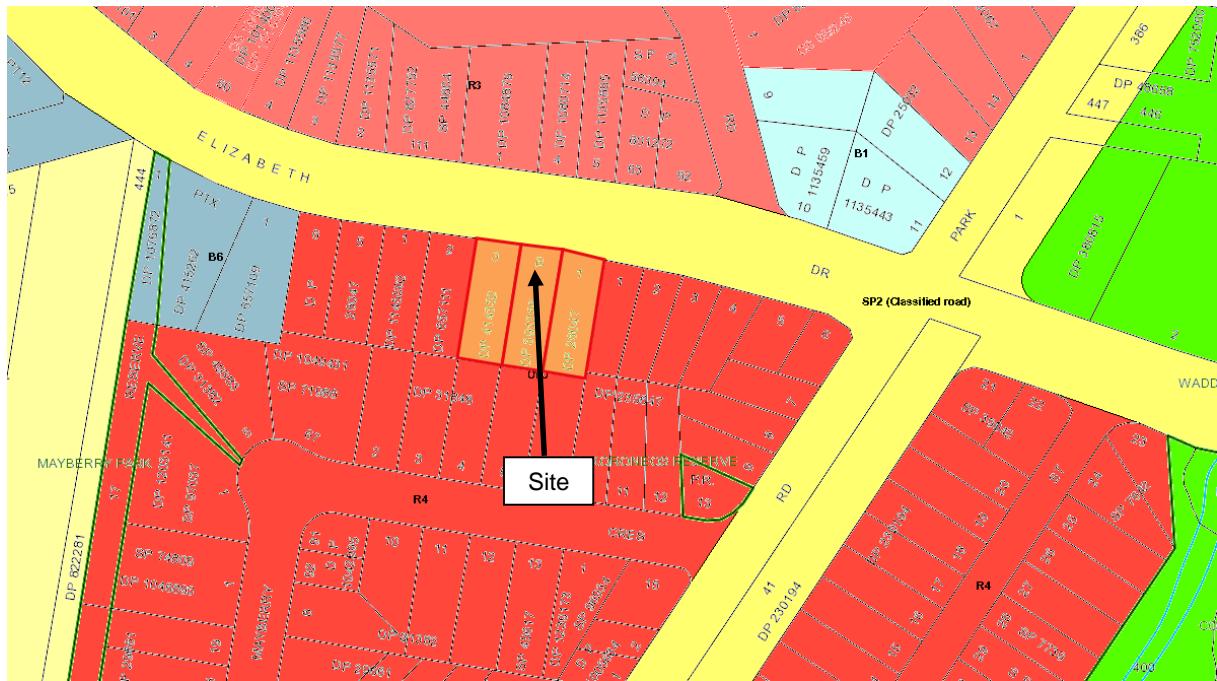
### Contributions Plans

- Liverpool Contributions Plan 2009 applies to the subject development.

## 5.2 Permissibility

The site is zoned R4 High Density Residential, pursuant to the LLEP 2008. The proposal is defined as a *residential flat building* which is a permissible form of development in the R4 zone, subject to council consent.

A detailed assessment of the application against all relevant provisions is provided under Section 6 of this report.



**Figure 12:** Extract of the LLEP 2008, zoning map

## 6. ASSESSMENT

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

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

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

The DA has been lodged pursuant to the SEPP (Affordable Rental Housing) 2009. An assessment against the relevant provisions is provided in the table below.

Provision	Comment
<b>Part 2 New Affordable Rental Housing</b>	
<b>Division 1 In Fill Affordable Housing</b>	
<b>Clause 10 Development to which Division Applies</b> <p>(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</p> <ul style="list-style-type: none"> <li>(a) the development concerned is permitted with consent under another environmental planning instrument, and</li> <li>(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.</li> </ul>	<b>Complies</b> The proposed development is permitted with consent under the LLEP 2008. The site does not contain a heritage item.

<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>'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</p>	<p><b>Complies</b></p> <p>The site is within 400m from a bus stop. Bus services run along Elizabeth Drive which is directly in front of the site, and the T80 Liverpool-Parramatta Transit way bus-stop on Moore Street is 320m from the site.</p> <p>The above bus services operate within the parameters specified in the SEPP.</p>
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<p><b>Clause 13 Floor Space ratio</b></p> <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>(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> <ul style="list-style-type: none"> <li>(a) if the existing maximum floor space ratio is 2.5:1 or less: <ul style="list-style-type: none"> <li>(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</li> <li>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</li> </ul> <p>AH is the percentage of the gross floor area of the development that is used for affordable housing.  <math display="block">Y = AH \div 100</math></p> </li> </ul>	<p><b>Complies</b></p> <p>100% of the gross floor area (GFA) of the development will be utilised for affordable housing.</p> <p><b>Complies</b></p> <p>It is proposed that 100% of the GFA of the development will be utilised for affordable housing. Therefore, a bonus FSR of 0.5 is applicable.</p> <p>The maximum FSR for the site is 1.5:1, which equates to a maximum GFA of 3636m<sup>2</sup>.</p> <p>The development proposes a FSR of 1.49:1</p>
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<p><b>Clause 14 Standards that cannot be used to refuse consent</b></p> <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>(c) landscaped area: if:</p> <ul style="list-style-type: none"> <li>(i) in the case of a development application made by a social housing provider—a minimum 35m<sup>2</sup> of landscaped area per dwelling is provided, or</li> <li>(ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,</li> </ul>	<p><b>Complies</b></p> <p>The site has an area of 2,422m<sup>2</sup>.</p> <p><b>Acceptable on merit</b></p> <p>The proposal has been prepared by SGCH, a social housing provider. The development contains 49 units, which equates to 1715m<sup>2</sup> of landscaped area.</p> <p>The provision of 1715m<sup>2</sup> of landscaped area seems unreasonable given that the site area is 2,422m<sup>2</sup>, particularly in view of the site being zoned R4 High Density Residential.</p> <p>It is considered that the control is designed for multi-dwelling housing developments whereby the 35m<sup>2</sup> could be provided within the courtyard/rear yard to each dwelling. In the case of a residential flat building, particularly in a high density residential zone, the control appears unreasonable.</p> <p>The more relevant landscape requirement should be that contained within the ADG and LDCP which requires a minimum of</p>
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	<p>25% of the site to be dedicated to landscaping.</p> <p>The proposed development provides approximately 735m<sup>2</sup> of landscaping areas which equates to 30% of the site area. This amount of landscape area is considered acceptable.</p> <p>Additionally, subclause 3 (as discussed further below) allows the consent authority to grant consent to the development to which this Division applies whether or not the development complies with this standard.</p>
(d) Deep Soil Zones <i>In relation to that part of the site area that is not built on, paved or otherwise sealed:</i> (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><b>Complies</b></p> <p>Based on a site area of 2,422m<sup>2</sup>, a minimum deep soil zone of 363.3m<sup>2</sup> is required.</p> <p>The proposed development provides 425m<sup>2</sup> or 17.5% of deep soil zones, with minimum dimensions of 3m.</p>
(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	<p><b>Acceptable on merit</b></p> <p>It is noted that both the SEPP (Affordable Rental Housing) 2009 and STAT contain provisions relating to solar access for residential flat buildings. Either SEPP does not specifically state which SEPP prevails.</p> <p>The proposal has been designed to comply with the provisions of the ADG and thus SEPP 65 – Design Quality of Residential Apartment Development to ensure that 70% of units of the development provide a minimum of 2 hours of solar access. It is considered unreasonable to impose a minimum of 3 hours, when the development already satisfies the controls of another SEPP which specifically governs the design of residential flat buildings.</p> <p>Given the above, the variation is considered to be acceptable.</p> <p>Additionally, subclause 3 (as discussed further below) allows the consent authority to grant consent to the development to which this Division applies whether or not the development complies with this standard.</p>
<p><b>(2) General</b></p> <p><i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
(a) parking (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</i>	<p><b>Complies</b></p> <p>The proposed development requires the following parking:</p> <ul style="list-style-type: none"> <li>- 14 x 1 bedroom requires 5.6 spaces; and</li> <li>- 35 x 2 bedroom requires 17.5 spaces.</li> </ul>

<i>parking space is provided for each dwelling containing 3 or more bedrooms</i>	Total of 23.1 spaces required. Total of 25 spaces provided.
<b>(b) dwelling size</b> <i>if each dwelling has a gross floor area of at least:</i> <i>(i) 35m<sup>2</sup> in the case of a bedsitter or studio, or</i> <i>(ii) 50m<sup>2</sup> in the case of a dwelling having 1 bedroom, or</i> <i>(iii) 70m<sup>2</sup> in the case of a dwelling having 2 bedrooms, or</i> <i>(iv) 95m<sup>2</sup> in the case of a dwelling having 3 or more bedrooms.</i>	<b>Complies</b> Apartment sizes comply with these requirements.
<b>(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2)</b>	It is noted that the proposed development does not comply with the standards relating to: <ul style="list-style-type: none"><li>- Clause 14(1)(c) in relation to landscaping; and</li><li>- Clause 14(1)(e) in relation to solar access.</li></ul> Subclause 3 allows for consent to be granted despite the non-compliance with the above standards relating to landscaping and solar access.

#### **Clause 16 Continued Application of SEPP 65**

<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>	<b>Complies</b> An assessment of SEPP 65 has been carried out and is found to be satisfactory. Further discussion is provided within this report.
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#### **Clause 16A Character of Local Area**

<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>	<b>Complies</b> The current character of the area is generally comprised of single and double storey detached dwellings which was influenced primarily by the architecture of mid to late twentieth century brick and tile bungalows with hipped roofs, together with front and rear gardens.  The immediate locality is zoned R4 – High Density Residential development. The area is currently in transition from low density residential to high density residential, and the site is located on a main road corridor.  The proposed development comprises a residential flat building that accommodates a total of 49 dwellings over five storeys, above a basement level for car parking. Although the proposed development does not strictly conform to the current character of the area, given that this is the first of its type within the immediate locality, it nevertheless conforms to the future desired character of the area.  It is expected that adjoining development would be constructed in accordance with the current LLEP 2008 and LDCP 2008, and the applicant has demonstrated that this can be achieved through the amalgamation of adjacent lots. As such, the proposed development generally complies with and therefore contributes to the desired future character of the area. It should be noted that Elizabeth Drive is a main road corridor with excellent access to public transport and the intra-city road network.
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#### **Clause 17 Must Be Used for Affordable Housing for 10 Years**

<b>(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:</b>  <b>(a) for 10 years from the date of the issue of the occupation certificate:</b>	<b>Complies</b> SGCH is a not-for-profit organisation who seek to provide affordable housing.
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<p>(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</p> <p>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</p> <p>(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.</p>	<p>Conditions of consent will be imposed to ensure compliance with this requirement.</p>
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**(b) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and the Apartment Design Guide**

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles and against the guidelines of the associated ADG. The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

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

Design Quality Principle	Comment
<b>Design Principle 1 – Context and Neighbourhood Character</b>	
<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<ul style="list-style-type: none"> <li>The proposed development consists of a 5-storey building, demolition of the 3 existing houses on the sites facing Elizabeth Drive and erection of 49 residential apartments of various sizes and one level of basement car parking.</li> <li>The proposed development includes 100% floor area for affordable housing consistent with the SEPP Affordable Housing, and as such considers the need for affordable rental housing in close proximity to public transport and in the vicinity of the Liverpool City Centre and surrounding schools and services.</li> <li>The proposed development seeks to provide an aesthetical and contextually pleasing design respectful of the surroundings enhancing the visual interest within the surrounding neighbourhood.</li> <li>The future desired character of this precinct is high density residential living and the application responds well to the future desired character.</li> </ul>
<b>Design Principle 2 – Built form and scale</b>	
<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,</p>	<ul style="list-style-type: none"> <li>Although not complying with height, the bulk and design of the building is considered appropriate to its current and future desired context, as demonstrated by the applicant. The proposed development positively contributes to the future streetscape along Elizabeth Drive and sits comfortably within the other relevant controls.</li> <li>The proposed built form of the development is divided into two main separate horizontal elements – base, and top floors, that are adequately articulated by using balconies to break down the building facade and also adding timber slats on the façade</li> </ul>

<b>Design Quality Principle</b>	<b>Comment</b>
<p><i>articulation and the manipulation of building elements.</i></p> <p><i>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.</i></p>	<p>to break down the flatness of the building and provide an aesthetic appeal to the balconies.</p> <ul style="list-style-type: none"> <li>• The proposed building has been articulated to break down the verticality of the tower into a mixture of horizontal and vertical elements that will help break down the height and prepare a suitable proportional building as this is the first development in the street.</li> <li>• In the near future, this will not be the only residential flat building in the surroundings, and consequently, as encouraged by the controls, there is a further potential for a number of other similar buildings to be developed within this area. The proposed development does not restrict adjoining sites and does not cause them to be isolated.</li> <li>• Liverpool City Council's future vision for this area is buildings at a maximum height of 15m. Although providing a variation to the maximum allowed height, the design corresponds well to the topography and the flood affectation site constraint. The design features appropriate scale and use of materials which reinforce the articulation of the building and achieves an appropriate residential height, consistent with the desired future height of the area.</li> <li>• The height, bulk and placement of a proposed development on site achieve a positive response to fundamental principles including the defining of a street front façade setting as required by the relevant controls.</li> <li>• The proposal strongly relates back to the provisions of SEPP Affordable Housing, LDCP 2008 as well as considering the FSR, setbacks and justified height in LLEP 2008.</li> <li>• The landscaping has been designed to deal with the privacy issues at the main frontage facing Elizabeth Drive and the rear and side setbacks of the development by implementing natural, visual screens to maintain amenities of the surrounding buildings.</li> </ul>
<b>Design Principle 3 – Density</b>	
<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>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.</i></p>	<ul style="list-style-type: none"> <li>• The proposal provides a suitable density on the site and with statutory controls contained within the SEPP Affordable Housing and the LLEP 2008 is consistent within the permissible controls.</li> <li>• The maximum floor space ratio for this particular site is within the additional amount allowed through SEPP Affordable housing is 1.5:1. The proposed FSR is 1.49:1 which complies with the maximum permissible controls and therefore is considered satisfactory.</li> <li>• The proposed density is anticipated and therefore appropriate to the site and its unique setting. A high level of amenity for residents is achieved through various design features such as orientation of the majority of living spaces towards north as well as visually minimising the impact towards the neighbouring properties.</li> <li>• Large communal open spaces provided on the rooftop and ground floor to provide a suitable recreation area for occupants. Setbacks to the boundaries have been applied in line with the required setbacks as well as LDCP 2008</li> </ul>

Design Quality Principle	Comment
	provisions, meaning the development suitably achieves the desired density.
<b>Design Principle 4 – Sustainability</b>	
<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</i></p>	<ul style="list-style-type: none"> <li>The proposal aims to provide an environmentally friendly development. Moreover, there is a set of guidelines the residents must abide by with regards to the overall sustainability of the building.</li> <li>In general, conventional building materials have been selected for their low embodied energy and maintenance characteristics. The landscape design features massive planting and trees capable of holding moisture during dry days minimising the need for watering.</li> <li>Appropriate solar access contributes to the overall thermal comfort in the mid-winter, allowing for natural light to warm up the apartments, and thus minimising the need for cooling in summer due to the use of passive controls through ventilation.</li> <li>In addition to the above, the entire development has been thoroughly assessed by an independent thermal energy assessor in order to achieve a satisfactory rating for the entire building as mentioned in the BASIX report submitted with the application.</li> </ul>
<b>Design Principle 5 – Landscape</b>	
<p><i>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.</i></p> <p><i>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.</i></p> <p><i>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<ul style="list-style-type: none"> <li>The landscape design has been prepared in co-ordination between the architect and Stitch Design Studio. The landscape design and ample vegetation was implemented in specific areas around the building to increase the desirability of the area as well as in the private open spaces. The landscape design also deals with the privacy issues by implementing natural visual screens to maintain amenities within the site and of the surroundings especially by providing natural screening along Elizabeth Drive and the side and rear boundaries.</li> <li>Ample landscaping within planter boxes and definition of passive and active recreational areas has been introduced in the courtyard, along the rear boundary of the proposed development as well as at Level 4, to enhance the amenity of the development. The communal open space has been adequately landscaped to provide for better amenity of the future residents and also to soften up the building presence within its setting.</li> </ul>
<b>Design Principle 6 – Amenity</b>	
<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p>	<ul style="list-style-type: none"> <li>The design of the proposed development features a high proportion of north facing units. The proposal provides appropriate solar access (70%) and cross-ventilation (71%) of the units adding to the overall amenity of the development. Thus, natural ventilation and natural day lighting add to the amenity and reduce reliance upon mechanical equipment. The use of vegetation in the setbacks on ground level, the</li> </ul>

Design Quality Principle	Comment
<p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<p>rooftop communal open space and in the private open spaces, are very effective.</p> <ul style="list-style-type: none"> <li>Planning within the units achieves separation of the more active spaces from the passive rooms. Generously designed private open spaces are to offer a variety of passive and recreational opportunities for the tenants. Walls between the apartments and those enclosing communal and service areas shall meet the Building Code of Australia requirements to reduce the noise levels under the minimum requirements.</li> <li>Ground floor units will benefit from large private open spaces. Dwellings on upper levels will profit from large balconies and verandas with ample solar access as well as cross-ventilation given the predominant two-way aspect orientation of these dwellings.</li> </ul>
<b>Design Principle 7 – Safety</b>	
<p><i>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.</i></p> <p><i>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.</i></p>	<ul style="list-style-type: none"> <li>The proposal incorporates suitable definition of the public, communal and private domains. Basement car parking is also secured by a remote-controlled roller door and an intercom system.</li> <li>The proposal will also benefit from ample passive surveillance along with a large number of units facing the street.</li> <li>Entry to the communal space within the site is controlled by the main security doors at the building entrances. Communal spaces are well lit and benefit from passive surveillance.</li> <li>The communal open space on the rooftop creates a pleasant domain for all the family activities and minimises the safety and security issues as it is located within the building and is protected by an intercom security system that allows only residents to access.</li> </ul>
<b>Design Principle 8 – Housing Diversity and Social Interaction</b>	
<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>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.</i></p>	<ul style="list-style-type: none"> <li>The proposed development has been designed with a high level of social contribution in mind, not only to its residents, but to the local community.</li> <li>On ground level, and rooftop terrace a safe and activated area for visitors and residents to meet and interact will be provided. The communal rooftop garden is a common asset shared amongst the development's community. These shared facilities and spaces, will promote a real sense of community.</li> <li>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.</li> <li>The development is being funded through project finance that will be serviced by rental income from this and other SGCH housing projects. There has been no significant injection of funding into this project from Federal, State or Local Government by way of grants, affordable housing levies, inclusionary zoning or other external contributions such as government land grants.</li> <li>ABS population projections showed an unexpected increase in population numbers while the Department of Planning's discussion paper "Sydney over the next 20 years" calls for increases in the number of small units (1 and 2 bedroom) to meet future needs of the metropolitan area. The proposed</li> </ul>

Design Quality Principle	Comment
	<p>development will assist in meeting this demand. The proposed development meets this trend by providing 100% 1 and 2 bedroom units.</p> <ul style="list-style-type: none"> <li>The proposed development is designed to maximise accessibility for access impaired. Sufficient disabled car parking facilities have been provided and are located near the main access lift of the building which extends down into the basement. Passenger lifts provide easy access to all levels of the building. Further to this, each stair core has been provided with a refuge area which in itself is an amenity above and beyond that required in the BCA.</li> <li>The sites' proximity to public transport and local services will assist in reducing greenhouse gases by reducing the use of private cars. Bicycle parking is provided on ground level to further promote alternative means of transport. The bicycle parking is provided within the front setback; where 4 bicycle spaces have been provided for residents of the building.</li> </ul>
<p><b>Design Principle 9 – Aesthetics</b></p> <p><i>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.</i></p> <p><i>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.</i></p>	<ul style="list-style-type: none"> <li>The proposed built form at the front part of the property is considered a suitable response to the site as well as desired future character of the area.</li> <li>The aesthetics of the building is divided into two main areas and has been highlighted: visually the top floors are in contrast with the bottom part of the building visually contrast in brick facade and framing structure for the variation in the depth of the facade.</li> <li>In terms of materials a fluent combination of traditional and modern materials creates a vibrant appearance although respectful and decent to the future residential presence across Elizabeth Drive. The use of modern render for frames in combination with timber patterned louvers and contrasting dark and white bricks create a harmonious and more traditional look distinct between the old and new.</li> <li>Furthermore, strong although decent articulation along all facades is considered to achieve a better definition of the spaces, entries and uses as well as to enhance the overall appeal to the streetscape. The side elevations were broken down into 2 distinct portions to achieve better articulation, for a somewhat rectilinear building.</li> <li>Operable louvres in the design of the building gives privacy, security and an acoustic buffer to the occupants while creating an important visual appearance. The landscaping areas at the main frontage and at the side and rear setbacks provide better amenities to the building which substantially improve the appearance of the area.</li> <li>In terms of its appeal, the development is sympathetic in natural colour and material finishes as it is also more characteristic in materials and thus contributing to the existing and also newly set-up standards in the area.</li> </ul>

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. The following table provides an assessment of the development against the relevant provisions of the ADG.

Provisions	Comment
<b>PART 1 IDENTIFYING THE CONTEXT</b>	
<b>1A Apartment Building Types</b>	
A range of apartment building designs are presented and a variety of concepts are provided with desired building types for specific development outcomes depending on orientation, location and local context.	<p><b>Complies</b></p> <p>The proposed development is a Courtyard Apartment Building. The building type is consistent with the context of the locality as it provides an urban character to the major road with a private courtyard to the south. Although the orientation results in overshadowing of the courtyard, the applicant has provided a sizeable communal open space on the roof-top to off-set the lack of ground level solar access.</p>
<b>1B Local Character and Context</b>	
Context is to be provided in relationship with the existing and desired future character and whether the proposal relates to a strategic or local centre, or is designed within the context of an urban or suburban neighbourhood.	<p><b>Complies</b></p> <p>The proposed building meets the zone requirements and objectives and controls for the subject site, and responds to the urban neighbourhood desired outcome, within close vicinity of a strategic centre including transport and educational facilities.</p>
<b>1C Precincts and individual sites</b>	
Individual sites especially if amalgamated should be considered in terms of desired future character of the neighbourhood and street scales, and should not restrict adjoining sites by way of causing isolation. If the site is subject to a precinct plan it must consider all relevant elements of the strategic outcome expectations.	<p><b>Complies</b></p> <p>The site is not subject to a precinct plan. Even-so the locality is in transition from low to a high density due to the rezoning of land. The applicant has provided detail indicating that adjoining sites can be developed to their full potential with a similar amalgamation as proposed.</p>
<b>PART 2 DEVELOPING THE CONTROLS</b>	
<b>2A Primary Controls</b>	
Sets out the objectives of the provisions and in the developing of the controls in assessing apartment buildings.	<p><b>Variations Proposed – Considered Acceptable</b></p> <p>The proposed development is considered to generally be compliant with the primary controls and provides justification where variations are proposed as discussed further in the report.</p>
<b>2B Building Envelopes</b>	
<p>Sets out the appropriate scale of future development in terms of bulk and height relative to streetscape, public and private open space, and block and lot size.</p> <p>They help to define the three dimensional form of buildings and inform decisions about density, open space and future mass and scale of new development.</p>	<p><b>Variations Proposed – Considered Acceptable</b></p> <p>The proposed building envelope provides for a desired future outcome despite some minor site constraints relating to slope. The density is compliant and design of the building incorporates the variation to the maximum height such that it is not evident in causing visual impact, and thus reducing overall impact in terms of bulk and height relative to the streetscape. This is discussed further in the report.</p>
<b>2C Building Height</b>	
Helps shape the desired future character and defines the relationship between buildings and public and private spaces in terms of physical and visual amenity. It informs the maximum number of storeys especially for residential development.	<p><b>Variation Proposed – Considered Acceptable</b></p> <p>The design of the building meets the expected maximum number of floors, and despite not fully responding to the topography (cross-slope) the design of the building responds to the variation to the maximum height such that it is not evident in causing onerous physical or visual impact. As such, it provides a desired outcome in terms of bulk and height relative to the streetscape. This is discussed further in the report.</p>
<b>2D Floor Space Ratio</b>	
Helps ensure that optimum capacity and	<b>Complies</b>

desired density for the site and local area is achieved. It also provides opportunities for building articulation within a building envelope.	The FSR complies with the requirements for the proposed development and the building envelope includes a courtyard which helps limit overall density across the site.
<b>2E Building Depth</b> Sets out the appropriate building depth and how it relates to the maximum apartment depths, helping to ensure that natural ventilation and access to sunlight.	<b>Complies</b> The proposal responds to the general principals of building depth design in ensuring the minimum requirements for solar access and natural ventilation for the development are met.
<b>2F Building Separation</b> Sets out minimum setbacks between buildings relative to height, communal open space, visual privacy and acoustic privacy controls.	<b>Variation Proposed – Considered Acceptable</b> The proposed development is considered to generally be compliant with the primary controls and provides justification where variations are proposed as discussed further in the report.
<b>2G Street setbacks</b> Sets out the objectives of the front setback in ensuring a coherent threshold between the public and private realms and to promote appropriate entries points and establishing landscaped areas and a passive surveillance and outlook to the street.	<b>Variation Proposed – Considered Acceptable</b> The building has not been setback in accordance with relevant controls, however ample landscaping has been provided within the subject setback to contribute to the desired streetscape character. Further discussion is provided in the report.
<b>2H Side and rear setbacks</b> Sets out setbacks to boundaries relative to the height of buildings in helping to achieve amenity for development and buildings on adjacent sites, and also providing for open space areas and separation between buildings.	<b>Variations Proposed – Considered Acceptable</b> The proposed development is considered to generally be compliant with the primary controls and provides justification where variations are proposed as discussed further in the report.
<b>PART 3 SITING THE DEVELOPMENT</b>	
<b>3A Site Analysis</b> Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	<b>Complies</b> The proposed development is considered appropriate for its context. This is the first significant redevelopment of a site in the immediate locality and will set the tone for future development, while responding to the overland flow path on-site.
<b>3B Orientation</b> 3B-1. Building types and layouts respond to the streetscape and site while optimising solar access within the development  3B-2. Overshadowing of neighbouring properties is minimised during mid-winter	<b>Complies</b> The building layout has been designed to address Elizabeth Drive. The site's orientation allows the building to completely maximise the northern orientation. Strategic window location and design results in desirable amenity for future residents  Overshadowing of neighbouring properties during mid-winter is appropriate as per the proposed design.
<b>3C Public Domain Interface</b> 3C-1 Transition between private and public domain is achieved without compromising safety and security  3C-2 Amenity of the public domain is retained and enhanced	<b>Complies</b> A transition between the private and public domain is achieved through low height fencing while living area balconies are orientated towards the public domain to ensure a safe and secure transition between the private and public domain.
<b>3D Communal and public open space</b> 3D-1. An adequate area of communal open space is provided to enhance residential	<b>Complies</b> The proposal incorporates a substantial area of

amenity and to provide opportunities for landscaping	communal open space, equivalent to 25% of the site area. This is distributed across the different levels of the development, is co-located with landscaping and comprises a mix of passive and active spaces.
1. Communal open space has a minimum area equal to 25% of the site	Communal open space is provided on the ground floor and Level 4. The multiple landscape elements provide various spaces for residents to relax or be active. Communal garden beds, fixed seating, a BBQ area and lounges are provided within the development.
2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	
3D-2. Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	The proposed areas of communal open space are accessible and visible from habitable rooms and private open space areas.
3D-3. Communal open space is designed to maximise safety	
3D-4. Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	Public open space is not included as part of the proposed development.

### 3E Deep soil zones

Site Area >1500m <sup>2</sup> Min. Dimensions 6m Deep soil zone (% of site area) - 7%	<b>Complies</b> The proposal provides 17.5% (425sqm) deep soil landscaping adjacent to the front and rear boundaries.
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### 3F Visual Privacy

Requirement: <table border="1"><thead><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non Habitable Rooms</th></tr></thead><tbody><tr><td>Up to 12m (4 Storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 Storeys)</td><td>9m</td><td>4.5m</td></tr></tbody></table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 Storeys)	6m	3m	Up to 25m (5-8 Storeys)	9m	4.5m	<b>Variations Proposed – See discussion below ADG table</b>  <b>Provided:</b> <table border="1"><thead><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non Habitable Rooms</th></tr></thead><tbody><tr><td>Ground Floor</td><td>3m</td><td>N/A</td></tr><tr><td>Level 1</td><td>2.3m</td><td>N/A</td></tr><tr><td>Level 2</td><td>2.3m</td><td>N/A</td></tr><tr><td>Level 3</td><td>2.3m</td><td>N/A</td></tr><tr><td>Level 4</td><td>8m</td><td>10.3m</td></tr></tbody></table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Ground Floor	3m	N/A	Level 1	2.3m	N/A	Level 2	2.3m	N/A	Level 3	2.3m	N/A	Level 4	8m	10.3m
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms																										
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Level 3	2.3m	N/A																										
Level 4	8m	10.3m																										

### 3G Pedestrian access and entries

3G-1. Building entries and pedestrian access connects to and addresses the public domain	<b>Complies</b> Building access areas, entries and pathways are clearly visible from the public domain. The entrance to the residential foyers is easily identifiable and distinguishable.
3G-2. Access, entries and pathways are accessible and easy to identify	
3G-3. Large sites provide pedestrian links for access to streets and connection to destinations	Entries and pathways from the front of the building and to the communal open areas are accessible.

### 3H Vehicle Access

Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<b>Complies</b> The proposal provides vehicle access via Elizabeth Drive which is considered acceptable.
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### 3J Bicycle and Car Parking

3J-1. Minimum car parking requirement for residents and visitors to comply with Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	<b>Complies</b> Car parking has been provided as per the requirements of SEPP Affordable Housing.  Dedicated bike storage is provided within the front setback.
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<b>3J-2.</b> Parking and facilities are provided for other modes of transport	Access to the car parking within the basement levels will require swipe card access and motion sensor lights will be installed.
<b>3J-3.</b> Car park design and access is safe and secure	
<b>3J-4.</b> Visual and environmental impacts of underground car parking are minimised	The vehicle access point has been integrated into the building design and the underground car park is not readily visible from the public domain.
<b>3J-5.</b> Visual and environmental impacts of on-grade car parking are minimised	
<b>3J-6</b> Visual and environmental impacts of above ground enclosed car parking are minimised	No on-grade car parking is proposed.

## PART 4 DESIGNING THE BUILDING

### 4A Solar and Daylight Access

1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	<b>Complies</b> A total of 71% (35 of 49) apartments achieve a minimum of two hour solar access.
2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	A maximum of 14.3% (7 of 49) apartments receive no solar access on June 21 between 9am and 3pm.
<b>4A-2</b> Daylight access is maximised where sunlight is limited	<b>Complies</b> The site provides appropriate solar access to apartments given the orientation of the site. The BASIX Certificate for the proposed development identifies that it achieves the required thermal comfort levels. Proposed materials and finishes incorporate shading and glare control measures including external louvres and awnings.

### 4B Natural Ventilation

<b>4B-1</b> All habitable rooms are naturally ventilated to create healthy indoor living environments.	<b>Complies</b> The site analysis contained within the architectural plans illustrates that prevailing winds originate from the north east.
1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Natural ventilation is maximised through a design that encourages corner units and cross-through apartments
2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	A total of 71% (35 of 49) apartments achieve natural cross ventilation.
<b>4B-2</b> The layout and design of single aspect apartments maximises natural ventilation	No cross-through apartments exceed a depth of 18m, when measured glass line to glass line.

### 4B-3 The number of apartments with natural cross ventilation is maximised

<b>4C-1</b> Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	<b>Complies</b> All floors achieve a minimum floor-to-ceiling height of 2.7m.
Minimum ceiling height for apartment and mixed use buildings Habitable Rooms 2.7m Non-Habitable 2.4m	

If located in mixed use areas	3.3m for ground and first floor	
<b>4C-2</b> Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.	All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms.	
<b>4C-3</b> Ceiling heights contribute to the flexibility of building use over the life of the building	The floor to ceiling heights at ground floor and above is consistent with the residential use. Given the number of residential apartments on each level.	
<b>4D Apartment Size and Layout</b>		
<b>4D-1</b> The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	<b>Complies</b>  All units meet the required minimum areas.	
1. Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> <li>• Studio 35m<sup>2</sup></li> <li>• 1 bedroom 50m<sup>2</sup></li> <li>• 2 bedroom 70m<sup>2</sup></li> <li>• 3 bedroom 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>		All habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room.
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		
<b>4D-2</b> Environmental performance of the apartment is maximised.	<b>Complies</b>  1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m.  2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m. The scheme complies with this requirement, noting that the proposal incorporates open plan layouts.  2. No open plan layout has a habitable room depth more than 8m from a window.
<b>4D-3</b> Apartment layouts are designed to accommodate a variety of household activities and needs	<b>Complies</b>  All master bedrooms and other bedrooms achieve the required areas.	All bedrooms achieve the minimum dimension All apartments achieve the minimum dimension requirements to living/dining rooms.
1. Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)  2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)  3. Living rooms or combined living/dining rooms have a minimum width of:		

<ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul> <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>Cross through apartments are 4m in width</p>															
<b>4E Private Open Space and Balconies</b>																
<p><b>4E-1</b> Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>1. All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="198 527 738 707"> <thead> <tr> <th>Dwelling type</th> <th>Minimum Area</th> <th>Min. Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m2</td> <td></td> </tr> <tr> <td>1 bedroom</td> <td>8m2</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m2</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m2</td> <td>2.4m</td> </tr> </tbody> </table> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.</p>	Dwelling type	Minimum Area	Min. Depth	Studio	4m2		1 bedroom	8m2	2m	2 bedroom	10m2	2m	3+ bedroom	12m2	2.4m	<p><b>Complies</b></p> <p>The development provides for sufficient balcony size and depths. All ground floor units are provided with sufficient private open space that complies in area and has a minimum width of 3m.</p>
Dwelling type	Minimum Area	Min. Depth														
Studio	4m2															
1 bedroom	8m2	2m														
2 bedroom	10m2	2m														
3+ bedroom	12m2	2.4m														
<p><b>4E-2</b> Primary private open space and balconies are appropriately located to enhance liveability for residents</p>	<p><b>Complies</b></p> <p>Private open space is directly accessible from the living area of each dwelling and can be used in conjunction with these.</p>															
<p><b>4E-3</b> Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>	<p>The balconies are integrated into the overall design development and form part of the detail of the building</p>															
<p><b>4E-4</b> Private open space and balcony design maximises safety</p>																
<b>4F Common circulation and spaces</b>																
<p><b>4F-1</b> Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>1. The maximum number of apartments off a circulation core on a single level is eight.</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p><b>Variation proposed - Considered acceptable</b></p> <p>A two circulation areas are proposed, with each level comprising two lift lobbies. The proposed development provides amenity to the common circulation spaces through the provision of breezeways which offer direct access to natural lift and ventilation.</p> <p>A total of 6 to 12 apartments per floor are proposed, which is consistent with the numeric design criteria, due to the two distinctly separated access zones.</p> <p>A total of 2 lifts are proposed to serve 49 apartments.</p>															
<p><b>4F-2</b> Common circulation spaces promote safety and provide for social interaction between residents</p>	<p>The proposal incorporates a common foyer common which provides opportunities for residents to interact.</p>															
<b>4G Storage</b>																
<p><b>4G-1</b> Adequate, well designed storage is provided in each apartment.</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p>	<p><b>Complies</b></p> <p>The proposal provides for storage within each apartment, or the basement levels. These areas comply with the minimum volume specified in the ADG.</p>															
<p><b>Dwelling Type</b></p> <p>Studio</p>	<p><b>Storage volume</b></p> <p>4m3</p>															

1 bedroom 2 bedroom 3+ bedroom At least 50% of the required storage is to be located within the apartment	6m3 8m3 10m3	
<b>4G-2</b> Additional storage is conveniently located, accessible and nominated for individual apartments		<b>Complies</b> Storage is provided within each apartment. In some instances, storage is provided within the basement.
<b>4H Acoustic Privacy</b>		
<b>4H-1</b> Noise transfer is minimised through the siting of buildings and building layout		<b>Complies</b> Noise transfer has been minimised by setting the living areas and bedrooms back from the balconies.
<b>4H-2</b> Noise impacts are mitigated within apartments through layout and acoustic treatments		The apartments have been configured so that quiet spaces (e.g. bedrooms) are co-located.
<b>4J Noise Pollution</b>		
<b>4J-1</b> In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		<b>Complies</b> An acoustic report has been provided to demonstrate the proposed apartments will not be adversely affected by external or internal noise subject recommendations which Council's Environmental Health Officer supports.
<b>4J-2</b> Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		
<b>4K Apartment Mix</b>		
<b>4K-1</b> A range of apartment types and sizes is provided to cater for different household types now and into the future.		<b>Satisfactory</b> The development proposes the following unit mix: <ul style="list-style-type: none"><li>One bedroom: 28.6% (14).</li><li>Two bedroom: 71.4% (35).</li></ul>
<b>4K-2</b> The apartment mix is distributed to suitable locations within the building		
<b>4L Ground Floor Apartments</b>		
<b>4L-1</b> Street frontage activity is maximised where ground floor apartments are located		<b>Complies</b> The ground floor apartments face Elizabeth Drive and provide opportunities for passive surveillance which achieving privacy to the residents by way of landscaping and low-level fencing.
<b>4L-2</b> Design of ground floor apartments delivers amenity and safety for residents		
<b>4M Facades</b>		
<b>4M-1</b> Building facades provide visual interest along the street while respecting the character of the local area		<b>Complies</b> Building façades are articulated and modulated through the use of balconies, varying windows, awnings and recessed elements.
<b>4M-2</b> Building functions are expressed by the facade		Ground floor building entries and uses are clearly defined and articulated by the façade.
<b>4N Roof Design</b>		
<b>4N-1</b> Roof treatments are integrated into the building design and positively respond to the street		<b>Complies</b> As demonstrated in the elevation drawings and photomontage a flat roof treatment is proposed, which assists in mitigating building bulk and overshadowing
<b>4N-2</b> Opportunities to use roof space for residential accommodation and open space are maximised.		Rooftop communal open space is proposed.
<b>4N-3</b> Roof design incorporates sustainability features		The proposal complies with requirements of BASIX and will include the required thermal insulation techniques.
<b>4O Landscape Design</b>		

<b>4O-1</b> Landscape design is viable and sustainable	<b>Complies</b> The landscape plan incorporates sustainable environmental design and landscaping to the site. The landscape design maximises the use of drought tolerant species.
<b>4P Planting on Structures</b>	
<b>4P-1</b> Appropriate soil profiles are provided	<b>Complies</b> As demonstrated in the Landscape Plan the species selected are appropriate for the soil depths and volumes.
<b>4P-2</b> Plant growth is optimised with appropriate selection and maintenance	
<b>4P-3</b> Planting on structures contributes to the quality and amenity of communal and public open spaces	
<b>4R Adaptive Reuse</b>	
<b>4R-1</b> New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	<b>Not Applicable</b> The development does not propose new additions or adaptations to an existing building.
<b>4R-2</b> Adapted buildings provide residential amenity while not precluding future adaptive reuse	
<b>4S Mixed Use</b>	
<b>4S-1</b> Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	<b>Not Applicable</b>
<b>4S-2</b> Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
<b>4Q Universal Design</b>	
<b>4Q-1</b> Universal design features are included in apartment design to promote flexible housing for all community members	<b>Complies</b> A total of 5 apartments, which equates to 10.2%, are capable of adaptation.
<b>4Q-2</b> A variety of apartments with adaptable designs are provided	
<b>4Q-3</b> Apartment layouts are flexible and accommodate a range of lifestyle needs	
<b>4U Energy Efficiency</b>	
<b>4U-1</b> Development incorporates passive environmental design	<b>Complies</b> The BASIX Certificate provided with the application identifies that the proposed development achieves the required levels of thermal comfort for a development of this scale. The proposed development satisfies the natural ventilation design criteria requirements
<b>4U-2</b> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
<b>4U-3</b> Adequate natural ventilation minimises the need for mechanical ventilation	
<b>4V Water Management and Conservation</b>	
<b>4V-1</b> Potable water use is minimised	<b>Complies</b> Potable water use will be minimised where possible. The BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements. Stormwater will be treated on site, prior to being discharged into Council's stormwater system. The site is flood affected and the proposed hydraulic designs are appropriate as assessed by Council's engineers.
<b>4V-2</b> Urban stormwater is treated on site before being discharged to receiving waters	
<b>4V-3</b> Flood management systems are integrated into site design	
<b>4W Waste Management</b>	
<b>4W-1</b> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	<b>Complies</b> The residential waste facilities are incorporated into the design of development and are not readily visible

<b>4W-2</b> Domestic waste is minimised by providing safe and convenient source separation and recycling	from the public domain.  A separate residential waste room is provided on the ground floor.
<b>4X Building Maintenance</b>	
<b>4X-1</b> Building design detail provides protection from weathering	<p><b>Complies</b>        Building has been designed and will be detailed in a manner to provide protection from weathering.</p> <p>Systems and access enable ease of maintenance        All plant equipment is accessible, being located in the basement.</p> <p>Finishes selected on the basis of reducing maintenance costs.</p>

The above assessment has identified a number of non-compliances, namely:

### Visual Privacy

#### *Rear setback*

The objectives of Visual Privacy principles in the ADG seek to mitigate privacy impact through the separation of buildings. For apartment buildings which address a rear boundary with habitable rooms and balconies, the ADG requires a 9m rear setback (up to a height of 25m) to achieve the desired separation.

The proposed design complies on all levels except the top floor which is Level 4. The required setback is 9m to the balcony, and the proposed design for the rooftop communal open space provides a setback of 8m. The encroachment is relatively minor given the scale of the development, and only occurs as the communal open space utilises the slab of the level below. This arrangement provides for a more orderly and efficient use of this space and is considered appropriate in this instance.

#### *Side setback*

The objectives of Visual Privacy principles in the ADG seek to mitigate privacy impact through the separation of buildings. For apartment buildings which address a side boundary with habitable rooms and balconies, the ADG requires a 6m side setback (up to a height of 12m) to achieve the desired separation. The proposed design generally complies with the side setback requirements, however there are a few inconsistencies as detailed below:

- There is a minor encroachment within the ground floor eastern setback for habitable rooms as part of unit BG.03 is setback at 3m instead of 6m. However, the only windows that encroach within the 6m limit are that of the living room and kitchen which are setback 5.1m from the boundary. The windows and courtyard will be obscured by the proposed side boundary fencing. There are also minor encroachments within the western boundary as the courtyard of unit AG.03 is setback 3.6m instead of 6m. Similarly, being sited on the ground floor, the proposed boundary fence is considered to provide adequate visual privacy.
- At Levels 1-3, a minimum 3m setback is proposed to the east in which living room and kitchen windows which are setback at 5.1m. The plans have been reviewed by the Design Excellence Panel, in which the development maintains a minimum 3m setback for blank walls, with a greater portion of the proposed built form setback beyond this 3m mark (i.e. the subject windows).
- At Level 4, a variation is sought to the eastern and southern boundary in portions of the building. The variation is limited to the roof terrace communal open space. There are no

units which contribute to this breach and therefore no further bulk and scale breaches. This roof terrace utilises the slab of the level below, providing for a more orderly and efficient use of this space. Additionally, planter boxes have been provided around its edge to offset any visual privacy concerns. Furthermore, the breach is considered minor with majority of this space contained within the appropriate setback.

Given the above, it is considered that all variations are acceptable as the Design Excellence Panel has expressed no objections to the encroachments along the side and rear boundaries. Accordingly, it is considered that there will be no discernible impacts upon existing and future developments in the vicinity and that objectives of this control have been achieved.

### **(c) State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 provides direction for matters to be considered in the assessment of development adjacent to particular types of infrastructure development.

As the proposed development is for a residential use that is within proximity to a classified road, being Elizabeth Drive, the consent authority must be satisfied that where the development is for the purpose of residential development certain noise criteria is achieved for the development. Specifically Clause 102 of SEPP (Infrastructure) 2007 prescribes:

(3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

- (a) *in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
- (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application was accompanied by an Acoustic Report, which concluded that the proposed development is capable of complying with the noise criteria, subject to the implementation of noise mitigation measures such as laminated glazing, acoustic seals around doors and windows.

Conditions will be imposed prescribing compliance with the Acoustic Report and the noise criteria within Clause 102 of the SEPP (Infrastructure) 2007, to ensure that the proposed development incorporates noise attenuation to minimise any adverse impact from road noise. This will ensure that an appropriate level of residential amenity is achieved in accordance with the requirements of the SEPP (Infrastructure) 2007.

### **(d) State Environmental Planning Policy No. 55 – Remediation of Land**

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The proposal involves a change in the use of the land, low density residential to high density residential and under the SEPP 55 guidelines is considered a site that could be contaminated.

The application was accompanied by Stage 1 Preliminary Contamination Assessment to ascertain whether the site presents a risk to human health and/or the environment arising from any past/present activities at the site or neighbouring properties. The scope of work included a documentary review of historical records, a site walkover, preliminary laboratory testing and the preparation of this report.

The assessment was undertaken in accordance with NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites*.

Aerial photographs were obtained from 1951 to current time. In summary, the aerial photographs reveal that the site has always been situated within a residential area as evidenced by the aerial photograph taken in 1951. The photographs taken in 1986 indicate that little change has taken place since an earlier photograph taken in 1971. The site has remained largely unchanged from the photograph in 1951 to the date of the site inspection in 2018.

The report states that the site does not present a risk to human health or the environment and is considered suitable for the proposed development.

Council's Environment and Health section have reviewed the report and agree that the site is suitable for the proposed development.

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	The Preliminary Assessment concluded that the site is suitable for the proposed development.
(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 submitted assessment concludes that the site is not contaminated.
(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.	Not applicable.

Given the above, the site is considered to be suitable for the proposed development and meets the requirements of SEPP 55.

**(e) State Environmental Planning Policy (BASIX) 2004**

The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the Plan. It is recommended that appropriate conditions are imposed to ensure compliance with the BASIX commitments.

**(f) 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(b)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.

(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. The Stormwater concept plan also outlines proposed sediment and erosion control measures.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the Georges River Catchment Regional Planning Strategy (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of the catchment.
(f) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential development and the proposal provides an opportunity to address past potentially contaminating land use practices.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is not identified as containing the potential for acid sulphate soils to occur.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site is identified as low-risk flood prone with an overland flow path. Plans and a flood report have been submitted showing that the effects of the overland flow path will be mitigated.
(4) Industrial discharges	Not applicable.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy.  The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

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

## (g) Liverpool Local Environmental Plan 2008

### (i) Permissibility

The proposed development is best described as a *residential flat building*. As per the LLEP 2008, a *residential flat building* is defined as follows:

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

The proposed development satisfies the definition of a *residential flat building*. The subject site is predominately zoned R4 High Density Residential under the LLEP 2008 and a residential flat building is permissible within the zone, subject to Council consent.

## **(ii) Objectives of the zone**

The objectives of the zone are as follows:

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

The proposal satisfies the above 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 housing types within a high density residential environment;
- It will not hinder the opportunity for other land uses that provide facilities or services to meet the day to day needs of residents.
- The site is within close proximity to transport facilities which include the Liverpool Transit Way.
- 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.

## **(iii) Principal Development Standards and Provisions**

The application has also been considered against the relevant provisions and principal development standards of the LLEP 2008, which are listed in the table below.

It is noted that Clause 8 of the SEPP (Affordable Rental Housing) 2009 prescribes that *if there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency*. In this regard, only those provisions of the LLEP 2008 which are not in conflict with the SEPP (Affordable Rental Housing) 2009 have been considered.

<b>Clause</b>	<b>Provision</b>	<b>Comment</b>
Clause Demolition 2.7	The demolition of a building or work may be carried out only with development consent	<b>Complies</b> Development consent is sought for the demolition of the existing buildings on the development site.

Clause 4.1 Minimum Subdivision Lot Size	Minimum lot size of 1000m <sup>2</sup>	<b>Complies</b> The existing lots will be consolidated resulting in an area of 2422m <sup>2</sup>
Clause 4.3 Height of Buildings	Maximum height of 15m	<b>Non-Compliant</b> A building height of 17.417m is proposed which represents a non-compliance of 2.417m or 16.1%.
Clause 4.4 Floor Space Ratio	Maximum FSR of 1.0:1	<b>Not Applicable</b> Pursuant to the LLEP 2008, the FSR for the site is 1:1. However, the SEPP (Affordable Rental Housing) 2009 prescribes a maximum FSR of 1.5:1.  The development provides an FSR of 1.49:1, which complies with the SEPP (Affordable Rental Housing) 2009.
Clause 4.6 Exceptions to development standards	Provisions relating to exceptions to development standards	<b>Variation Sought</b> A request to vary Clause 4.3 Height of Buildings has been submitted. Further discussion is provided below.
Clause 5.10 Heritage Conservation	To protect existing items/locations identified as containing significant heritage value	<b>Not Applicable</b> Not identified as a heritage listed site and not in the vicinity of a heritage listed item
Clause 7.7 Acid Sulfate Soils	Provisions for land affected by acid sulfate soils	<b>Not Applicable</b> The site does not contain acid sulfate soils
Clause 7.8 Flood Planning	Provisions for flood prone land	<b>Complies</b> The site is identified as low-risk flood prone with an overland flow path. Plans and a flood report have been submitted showing that the effects of the overland flow path will be mitigated.
Clause 7.14 Minimum Building Street Frontage	Minimum building street frontage of 24m	<b>Complies</b> The site has a frontage of approximately 51m
Clause 7.31 Earthworks	Provision relating to bulk earthworks	<b>Not Applicable</b> No earthworks proposed other than those ancillary to the development being excavation for the proposed basement

### **Variation to Clause 4.3 Height of Buildings**

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

The development proposes a height of 17.417m which represents a numerical variation of 2.417 m or 16.1%. As demonstrated below, the non-compliant height relates to central stairwell and lift overrun which provides access to the roof top communal open space.

The applicant has provided justification for the departure to the development standard in accordance with Clause 4.6 of the LLEP 2008 summarised as follows (a copy of the Clause 4.6 is attached):

#### *Is Compliance With the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?*

*The objectives supporting the height of buildings control as identified by Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance. The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.*

*“(1) The objectives of this clause 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".

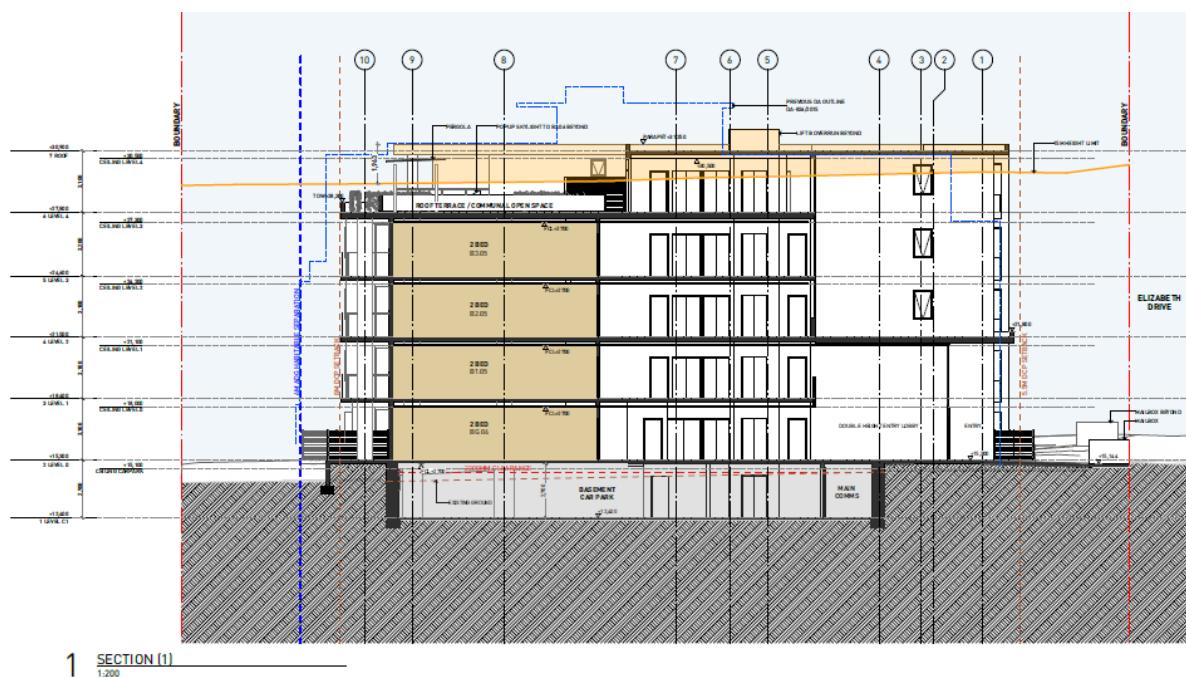
With respect to objective (a), the subject site is afforded a maximum building height limit of 15 metres and floor space ratio control of 1:1 under LLEP 2008. As the current proposal is made under SEPP (Affordable Rental Housing) 2009, a bonus 0.5:1 is afforded, enabling a maximum floor space ratio of 1.5:1 to be achieved on the site.

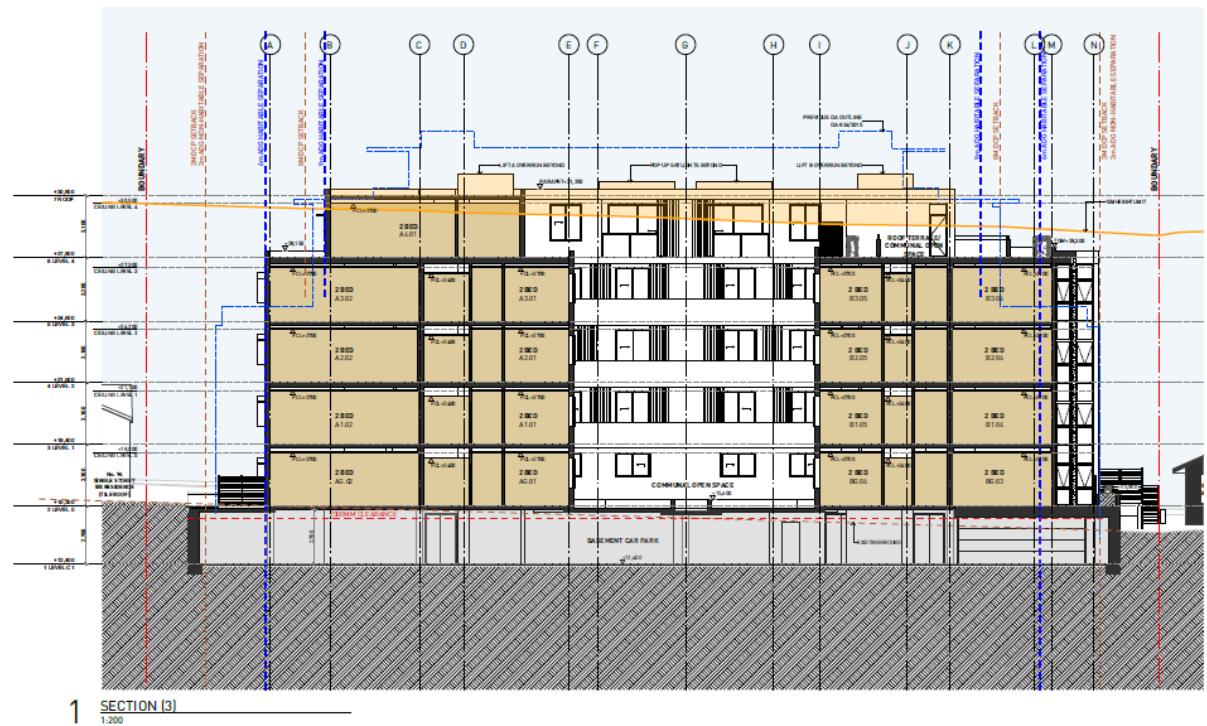
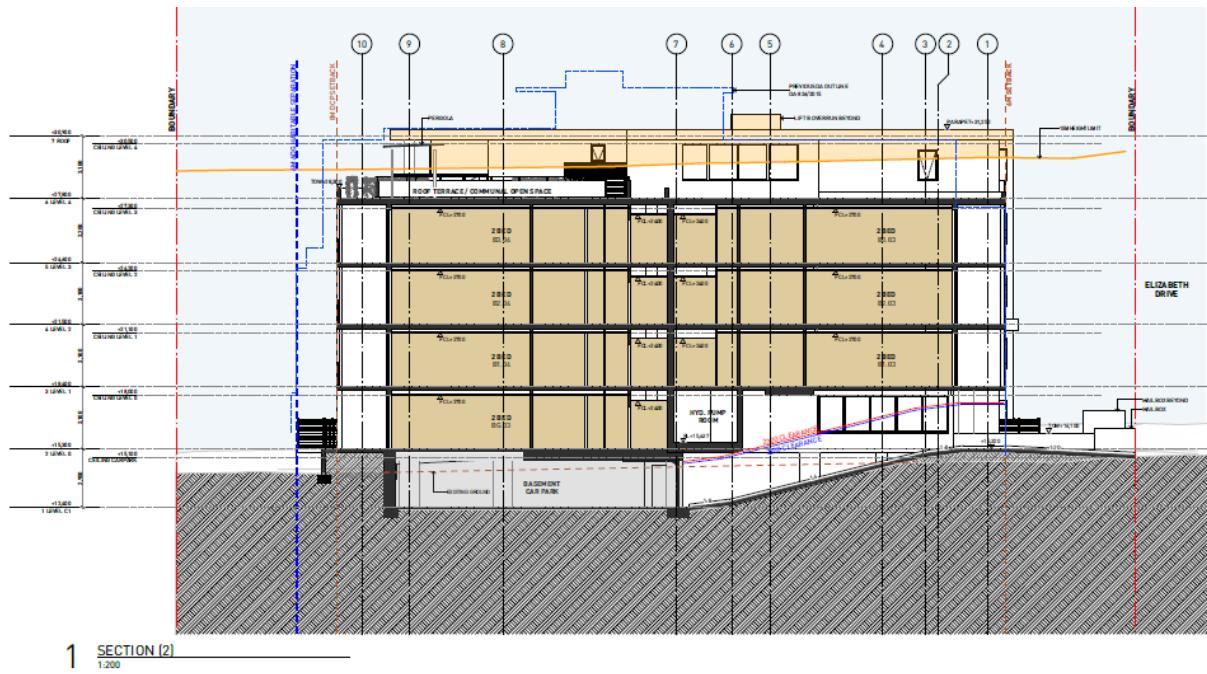
*The proposal is notably compliant with the maximum floor space ratio control, however seeks a variation to the maximum height control. In a decision of the Land Environment Court, Abdul-Rahman v Ashfield Council [2015] NSWLEC 1122, Commissioner O'Neil stated,*

*"I accept the argument put by the applicant that the consequence of the SEPP ARH incentives, which seek to facilitate the effective delivery of new affordable rental housing by way of expanded zoning permissibility, floor space ratio bonuses and nondiscretionary development standards, is to expand the permissible building envelope for a site in some way, although pursuant to cl 16A of SEPP ARH, any increase of the building envelope has to be compatible with the character of the local area. In this matter, the proposal complies with the FSR development standard in LEP 2013 and does not seek the benefit of the FSR incentive of SEPP ARH at cl 13, however the principle of an expanded building envelope in recognition of the contribution of affordable rental housing made by the proposal is still relevant".*

*In keeping with the above, the proposed variation is attributable to the increased density available on the site. In view of the context of the site, it was not considered feasible to encroach upon the setbacks of the adjoining developments and consequently the proposed height has exceeded the maximum standard.*

*It is worthy to note, that the greatest variation to the height control is limited to the lift overrun accessing the communal open space at roof level. Where habitable floor area extends beyond the height plane, this is to a lesser extent. This is demonstrated in the images below.*





The extension of the lift overrun to service the roof/Level 4 has been specifically included to provide access not only to Level 4 units but to an area of communal open space. Although a generous area of communal open space is also proposed at ground level, within the rear setback, in view of the north-south orientation of the site the inclusion of a roof terrace has been provided to provide a greater level of amenity to the future residents acknowledging that greater solar access is available at this level.

The lift overrun has also been carefully sited at the centre of the building to reduce its visual prominence. As detailed in the images above, there is a breach of habitable floor area of 1.718m or 11.8%.

*In addition to the comments made above regarding the appropriateness of the proposed height breach, it is important to note that flood levels across the subject site are also contributing to this height breach, requiring the building to be raised a certain distance. A flood report has been prepared for this application. This report has noted that that ground levels have a general slope from Elizabeth Drive to the south-east corner of the site which may result in some surface flows leaving the road reserved and flowing through the site. These flood levels have also been determined by Council's engineers. To mitigate this, the building is recommended to be raised by an additional 200mm. This advice has been incorporated within the proposed development. Hence, there is an environmental constraint of the subject site which has been determined to play a role in increasing the height of the overall development. Overall, the proposed development sits lower than that of the approved development on site.*

*The proposed development has been carefully designed to project a highly articulated appearance to each of the facades. The depth of the units has been limited allowing for breaks in each elevation and steps in the overall design. The use of balconies, particularly to the front and rear of the building (which are the longer elevations) provides for visual relief from solid external walls and aids to break up the building mass. The use of varied building materials ranging from face brick, concrete panels aluminium, timber, glass and perforated grey framing provide for visual interest and creates vertical lines to the development to minimise the appearance of a long façade. The proposal therefore satisfies objective (b).*

*The proposed development has also been designed to maximise solar access with 70% of the proposed units across the entire development achieving a minimum of 2 hours solar access. A total of 71% of units across the development will be naturally cross ventilated in keeping with objective (c).*

*In terms of objective (d), the proposed development is in keeping with the R4 High Density Residential zoning afforded to the site and will reflect the character of emerging development in the area as the precinct is revitalised.*

*In addition, 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 the adjoining properties.*

#### Are there sufficient Environmental Planning Grounds?

*The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory.*

*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.*

*The proposed variation is also a result of the flood affectation over the subject site. As per the submitted Flood Report, specific floor levels are required resulting in the overall building being raised. In accordance with Clause 4.6(3), this constitutes a sufficient environmental planning ground to justify contravening the development standard.*

*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 49 units will be nominated as affordable housing to be managed by our client, St George Community Housing.*

*The proposal therefore provides a social benefit to the community providing for new, affordable accommodation in an area well serviced by public transport services and local infrastructure.*

The site is well located to local amenities and infrastructure with Collimore and Apex Parks located to the east, and Westfield Liverpool and Liverpool Hospital beyond. The site is also adequately serviced by public transport with regular bus services operating along Elizabeth Drive linking the subject site to Parramatta, Elizabeth Hills, Fairfield and Cabramatta. The development is also notably compliant with the maximum 1.5:1 FSR prescribed by SEPP (Affordable Rental Housing) 2009.

In this case, strict compliance with the development standard for height of buildings development standard of the LLEP 08 is unnecessary and unreasonable.

#### Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.3.

The building contextually has regard to its surrounding properties and provides sufficient open space and landscaping for the amenity of future residents.

Furthermore, it is important to also consider the objectives of the R4 High Density Residential zone in relation to the development, which are as follows:

#### *Zone R4 High Density Residential*

##### *Objectives of zone*

- 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. In response to the above the following is provided:

In response to the above the following is provided:

The proposal will provide for 49 new residential units increasing reflective of the high density zone. It is acknowledged that there is a demand for more affordable housing with the Liverpool local government area and our client is endeavouring to respond to this need by offering 100% of the dwellings as affordable housing far exceeding the requirements of SEPP (Affordable Rental Housing) 2009. Under the requirements of the SEPP, only 50% of the units are required to be nominated as affordable housing. Our client, St. George Community Housing is a not for profit organisation who are genuinely seeking to address a rising demand for quality affordable housing in the area.

The development provides for a mix of units, in terms of size, layout, orientation and number of bedrooms. The proposed development is consistent with other high density residential development in the Liverpool precinct.

There are no other land uses proposed.

Regular bus services are available from Hoxton Park Road and nearby Cartwright Avenue. As stated above, retail/commercial facilities are also located within proximity of the site along Hoxton Park Road with Westfield Liverpool also located to the north-east.

*It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standards, noting the development will be in the public interest*

Planning officer Comment on the Clause 4.6 Exception for Height

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

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

The additional height does not increase the floor space of the development, and does not result in the addition of any storeys other than expected for a site with a 15m height limit. The floor space ratio is within the maximum allowed. This additional height is considered to not unreasonably add to the bulk and scale of the development.

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

The proposal delivers quality urban form despite the numerical variation. The proposed height non-compliance responds to the required raised Ground Floor level due to flood affectation of the site, and provides the opportunity for a 5 level residential flat building as desired within the high density residential zone, particularly as it is located along a major road corridor. A complying scheme would restrict the building to a 4 level building which although fully complying, would not fulfil the intentions of the 15m height limit, and would likely result in an inconsistent urban form along Elizabeth Drive in comparison to future adjoining site development. It should be noted that the proposal has been endorsed by council's DEP.

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

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

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

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

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

- The flood affectation of the site requires the Ground Floor to be raised to a specific habitable floor level. In response the building cannot be sunken to achieve full

compliance with the height limit. Despite this site constraint, the proposal provides a design consistent with the desired 5-level building form for the locality.

- The variation is realised across the 50m width of the site due to the cross-slope (west to east), such that the height of the external wall complies at the front western side of the building. It is considered an appropriate building solution in order to achieve a coherent front façade and built form, for the proposed building to not respond to the slope by way of stepping down.
- The proposed development will not impose any significant adverse impacts on the amenity of adjoining development as a result of the height. The area of non-compliance is not excessive and relates primarily to the rear elevation of the building which is appropriately setback from adjoining property.
- The Rooftop Terrace is required in response to the provision of additional communal open space with appropriate solar access. The requirement for the continuation of lifts to the Rooftop level adds another 2.7m in height to a small area which includes the two lifts overruns and an awning/roof of the BBQ and WC area, to provide shelter for users of the communal open space. The additional structures will not add bulk to the structure, and given that they are setback considerably from adjoining boundaries, they are unlikely to contribute to additional overshadowing to adjoining properties.
- As demonstrated above, the proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

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

## 6.2 Section 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

The application has been assessed against the controls of the LDCP 2008, particularly Part 1 *General Controls for all Development*, and Part 3.7 *Residential Flat Buildings in the R4 Zone*.

The table below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

### LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
<b>Section 2. Tree Preservation</b>	Controls relating to the preservation of trees	Complies The site does not contain any significant vegetation.
<b>Section 3. Landscaping and Incorporation of Existing Trees</b>	Controls relating to landscaping and the incorporation of existing trees.	Complies The development will involve the removal of 24 trees. The application was accompanied by an Arborist Report, which considered that the trees were not of significant value or worthy of retention.  The proposed landscaping and tree removal has been reviewed by Council's Landscape Officer, who has raised no issues, subject to conditions and additional planting as shown in the submitted landscape concept plan.

Development Control	Provision	Comment
<b>Section 4. Bushland and Fauna Habitat Preservation</b>	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.
<b>Section 5. Bush Fire Risk</b>	Controls relating to development on bushfire prone land	Not Applicable The site is not identified as bushfire prone land.
<b>Section 6. Water Cycle Management</b>	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	Complies This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues subject to conditions.
<b>Section 7. Development Near a Watercourse</b>	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	Not Applicable The site is not within close proximity to a water course.
<b>Section 8. Erosion and Sediment Control</b>	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
<b>Section 9. Flooding Risk</b>	Provisions relating to development on flood prone land.	Complies Council's Flood Engineers have advised that the site is not affected by flood planning and therefore flood related developments controls are not applicable.
<b>Section 10. Contaminated Land Risk</b>	Provisions relating to development on contaminated land.	Complies As discussed within this report, the site is suitable for development.
<b>Section 11. Salinity Risk</b>	Provisions relating to development on saline land.	Complies The site is identified as containing a low potential for saline soils. Conditions relating to erosion and sediment control measures will be implanted to prevent further spread of potentially saline soils.
<b>Section 12. Acid Sulphate Soils</b>	Provisions relating to development on acid sulphate soils	Not Applicable The development site is not identified as containing the potential for acid sulphate soils to occur.
<b>Section 13. Weeds</b>	Provisions relating to sites containing noxious weeds.	Not Applicable The site is not identified as containing noxious weeds.
<b>Section 14. Demolition of Existing Development</b>	Provisions relating to demolition works	Complies Conditions of consent will be imposed to ensure demolition works are carried out in accordance with relevant Australian Standards.
<b>Section 15. On Site Sewage Disposal</b>	Provisions relating to OSMS.	Not Applicable OSMS is not proposed.
<b>Section 16. Aboriginal Archaeology</b>	An initial investigation must be carried out to determine if the	Not Applicable The site is highly disturbed. As such, it is unlikely that it would contain Aboriginal Archaeology.

Development Control	Provision	Comment
	proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	
<b>Section 17. Heritage and Archaeological Sites</b>	Provisions relating to heritage sites.	Not Applicable The site is not identified as a heritage item or within the immediate vicinity of a heritage item.
<b>Section 18. Notification of Applications</b>	Provisions relating to the notification of applications.	Complies The application was notified in accordance with the LDCP 2008. No submissions were received.
<b>Section 19. Used Clothing Bins</b>	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
<b>Section 20. Car Parking and Access</b>	Residential Development Car Parking Requirements: <ul style="list-style-type: none"><li>- 1 space per one bedroom;</li><li>- 1.5 spaces per two bedroom units;</li><li>- 2 spaces per three or more bedroom dwelling;</li><li>- 1 space per 4 units or part thereof, for visitors</li><li>- One service bay</li></ul>	Not Applicable Car parking has been provided in accordance with the SEPP (Affordable Rental Housing) 2009.
<b>Section 21. Subdivision of Land and Buildings</b>	Provisions relating to the subdivision of land.	Complies The lots will be amalgamated to meet the minimum lot size requirement and lot width requirements.
<b>Section 22. and Section 23 Water Conservation and Energy Conservation</b>	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies Conditions of consent will be imposed to ensure compliance with the BASIX commitments.
<b>Section 25. Waste Disposal and Re-use Facilities</b>	Provisions relating to waste management during construction and on-going waste.	Complies  During Construction: A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction.  On-going Waste Management: Two bin storage rooms are provided on the ground floor which will accommodate the following: <ul style="list-style-type: none"><li>- 9 x 660L waste bins;</li><li>- 9 x 660L recycling bins and</li></ul>

Development Control	Provision	Comment
		<p>A sufficient number of bins have been provided in accordance with Council's waste management policy.</p> <p>Bins will be wheeled to the front for collection.</p> <p>A garbage room has been provided for the storage of bins.</p> <p>Waste is proposed to be collected once a week.</p>
<b>Section 26 Outdoor Advertising and Signage</b>	Provisions relating to signage.	<p>Not Applicable</p> <p>The DA does not propose any signage.</p>
<b>Section 27. Social Impact Assessment</b>	<p>A social impact comment (SIC) shall be submitted for residential flat buildings greater than 20 units or affordable rental housing.</p>	<p>Complies</p> <p>The application was accompanied by a SIC, which has been reviewed by Council's Community Planning Section, who have raised no issues subject to recommendations.</p> <p>The development will result in a positive social impact, as it will be providing 100% affordable housing.</p>

### Part 3.7 – Residential Flat Buildings in the R4 Zone

Development Control	Provision	Comment
<b>Frontage and Site Area</b>		
	Minimum frontage of 24m	<p>Complies</p> <p>The site provides for a frontage of 50.97m to Elizabeth Drive.</p>
<b>Site Planning</b>		
	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	<p>Complies</p> <p>Minimal earthworks are proposed except for the basement level.</p>
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	<p>Complies</p> <p>Where possible ground level private open space, balconies and windows have been orientated to the north to maximise solar access and improve energy efficiency of the building.</p>
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	<p>Complies</p> <p>Safe access is provided directly from the street via individual pedestrian entries for each of the north facing units on the ground floor. Two additional main entrances have been provided for the lobbies on the ground floor. A driveway with a minimum width of 6.5m has been provided for vehicular access to the basement.</p>
	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.	<p>Complies</p> <p>The development is in accordance with the objectives of the zone and provides for an appropriate built form.</p>
	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	<p>Complies</p> <p>This aspect has been reviewed by Council's technical officers, who have recommended approval subject to conditions.</p>

Development Control	Provision	Comment
	<p>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</p> <p>The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.</p>	
<b>Setbacks</b>		
<b>Front Setback</b>	<p>Front setback of 7m is required from a classified road</p> <p>Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.</p>	<p>Variation proposed A front setback of 6m is provided instead of 7m.</p> <p>The proposed setback is appropriate as it will aid in accommodating the additional floor space that is available to social housing providers in accordance with the ARH SEPP.</p> <p>Additionally, the proposed setback meets the relevant objectives of the LDCP 2008 as the development will still meet the landscaping, open space and solar access requirements, and allow for vehicle access without the need for an excessively long driveway.</p> <p>Accordingly, it is considered that the 6m setback will not result in any adverse outcomes in the locality.</p>
<b>Side Setback</b>	<p>Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, Level 1, Level 2 and Level 3)</p> <p>Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m</p>	<p>Not Applicable The side and rear setbacks of the development have been designed to achieve compliance with the ADG associated with SEPP 65 which takes precedence over the LDCP 2008.</p>
<b>Rear Setback</b>	Boundary to land in R4 zone: 8m building setback required for all building heights	
<b>Landscaped Area and Private Open Space</b>		
<b>Landscaped Area</b>	<p>A minimum of 25% of the site area shall be landscaped area.</p> <p>A minimum of 50% of the front setback area shall be landscaped area</p> <p>Optimise the provision of consolidated landscaped area within a site by:</p> <ul style="list-style-type: none"> <li>- The design of basement and sub-basement car parking, so as not to fully cover the site.</li> <li>- The use of front and side setbacks.</li> </ul>	<p>Complies Based on a site area of 2422m<sup>2</sup>, a minimum landscaped area of 605m<sup>2</sup> is required.</p> <p>The proposed development provides approximately 735m<sup>2</sup> of landscaping areas which equates to 30.3% of the site area</p> <p>Complies Majority of the front setback area to Elizabeth Drive is landscaped area.</p> <p>Complies Landscaped areas are generally consolidated within the front, side setbacks and rear setback areas.</p>

Development Control	Provision	Comment
	<ul style="list-style-type: none"> <li>- Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.</li> </ul>	
	<ul style="list-style-type: none"> <li>Promote landscape health by supporting for a rich variety of vegetation type and size</li> </ul>	Complies A variety of native plant species are provided.
<b>Open Space</b>	<ul style="list-style-type: none"> <li>Provide communal open space, which is appropriate and relevant to the context and the building's setting.</li> </ul>	Complies Communal open space areas are provided to the rear of the building, along the side boundaries and within small pockets along the front boundary.  Communal open space is also provided on the rooftop to supplement the ground level communal open space.
	<ul style="list-style-type: none"> <li>Where communal open space is provided, facilitate its use for the desired range of activities by: <ul style="list-style-type: none"> <li>- Locating it in relation to buildings to optimise solar access to dwellings.</li> <li>- Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape.</li> <li>- Designing its size and dimensions to allow for the range of uses it will contain.</li> <li>- Minimising overshadowing.</li> <li>- Carefully locating ventilation duct outlets from basement car parking.</li> </ul> </li> </ul>	Complies The roof top communal open space will receive sufficient solar access and will allow for a range of activities.
	<ul style="list-style-type: none"> <li>Locate open space to increase the potential for residential amenity.</li> </ul>	Complies The communal open space increases residential amenity.
<b>Private Open Space</b>	<ul style="list-style-type: none"> <li>Private open space shall be provided as follows: <ul style="list-style-type: none"> <li>- 10m<sup>2</sup> for a dwelling size less than 65m<sup>2</sup></li> <li>- 12m<sup>2</sup> for a dwelling size over 65m<sup>2</sup></li> </ul> </li> </ul>	Not Applicable Private open space requirements are provided in accordance with the requirements of the ADG.
	<ul style="list-style-type: none"> <li>Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor.</li> </ul>	Complies Private courtyards are provided for units on the ground floor and balconies are provided for units above the ground floor.
	<ul style="list-style-type: none"> <li>Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like.</li> </ul>	Complies The POS acts as an extension of the internal living rooms.
	<ul style="list-style-type: none"> <li>Private open space should be clearly defined for private use.</li> </ul>	Complies The POS is clearly defined.
<b>Building Design, Style and Streetscape</b>		
<b>Building Appearance and Streetscape</b>	<ul style="list-style-type: none"> <li>Objectives of the controls are as follows: <ol style="list-style-type: none"> <li>To ensure an attractive streetscape that is consistent with the environment of residential flat buildings.</li> </ol> </li> </ul>	Complies The composition of building elements, materials, textures and colours is likely to complement the 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.

Development Control	Provision	Comment
	<p>b) To promote high architectural quality in residential flat buildings.</p> <p>c) To ensure that new developments have facades which define and enhance the public domain and desired street character.</p> <p>d) To ensure that building elements are integrated into the overall building form and facade design.</p>	
<b>Roof Design</b>	<p>Objectives of the controls are:</p> <p>a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings;</p> <p>b) To integrate the design of the roof into the overall facade, building composition and desired contextual response;</p> <p>c) To increase the longevity of the building through weather protection.</p>	<p>Complies</p> <p>The proposed roof design contributes positively to the design of the building.</p>
<b>Building Entry</b>	<p>Objectives of the controls are:</p> <p>a) To create entrances which provide a desirable residential identity for the development.</p> <p>b) To orient the visitor.</p> <p>c) To contribute positively to the streetscape and building facade design.</p>	<p>Complies</p> <p>Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors.</p>
<b>Balconies</b>	<p>Objectives of the controls are:</p> <p>a) To ensure that balconies contribute positively to the façade of a building.</p> <p>b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents.</p> <p>c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings.</p> <p>d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address.</p>	<p>Complies</p> <p>Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.</p>
<b>Daylight Access</b>	<p>Objectives of the controls area:</p> <p>a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development.</p> <p>b) To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours.</p> <p>c) To provide residents with the ability to adjust the quantity of daylight to suit their needs.</p>	<p>Complies</p> <p>The majority of the units and the communal open space will receive adequate solar access.</p>
<b>Internal Design</b>	Objectives of the controls are:	Complies

Development Control	Provision	Comment
	a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties.	The building is designed with optimal amenity for future occupants, providing pleasant living spaces, solar access, and natural ventilation.
<b>Ground Floor Dwellings</b>	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.
<b>Security</b>	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 The entrance to the building is clearly defined, causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.
<b>Natural Ventilation</b>	Objectives of the controls are: a) To ensure that dwellings are designed to provide all habitable rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants. 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.	Complies All units have direct access to natural ventilation.
<b>Building Layout</b>	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 optimised for natural light and ventilation, whilst presenting an articulated presentation.
<b>Storage Areas</b>	A secure storage space is to be provided for each dwelling with a minimum volume of 8m <sup>3</sup> (minimum dimension 1m <sup>2</sup> ). This must be set aside exclusively for storage as part of the basement or garage.	Complies Adequate storage spaces are provided within units and basement.
	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Storage areas within the building are adequately lit.
<b>Landscaping and Fencing</b>		

Development Control	Provision	Comment
<b>Landscaping</b>	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> <li>a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape.</li> <li>b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape.</li> <li>c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development.</li> <li>a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality.</li> <li>b) To provide privacy, summer shade and allow winter sun.</li> <li>c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality.</li> <li>d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.</li> </ul>	<p>Complies</p> <p>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.</p>
<b>Planting on Structures</b>	<ul style="list-style-type: none"> <li>a) To contribute to the quality and amenity of communal open space on podiums and internal courtyards.</li> <li>b) To encourage the establishment and healthy growth of trees in urban areas.</li> </ul>	<p>Complies</p> <p>Landscaping on the rooftop communal open space is provided and detailed within the landscape plan.</p>
<b>Fencing</b>	<p>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.</p>	<p>Not Applicable</p> <p>A front fence is not proposed.</p>
	<p>Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.</p>	
	<p>The front fence must be 30% transparent.</p>	
	<p>Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.</p>	
	<p>The maximum height of side boundary fencing within the setback to the street is 1.2m.</p>	<p>Complies</p> <p>Fencing to be provided as required.</p>
	<p>Boundary fences shall be lapped and capped timber or metal sheeting.</p>	<p>Complies</p> <p>Fencing to be provided as required.</p>
<b>Car Parking and Access</b>		

Development Control	Provision	Comment
<b>Car Parking</b>	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.	
	Pedestrian and driveways shall be separated.	Complies Pedestrian and driveways are separated.
	Driveways shall be designed to accommodate removalist vehicles.	Complies Driveway has been designed to accommodate a range of vehicle types in accordance with the recommendations of the NSW RMS.
	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.	Not Applicable Side vehicular entrance is not appropriate in this instance.
	Give preference to underground parking	Complies Underground parking is provided.
<b>Pedestrian Access</b>	Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts.	Complies Pedestrian entries are clearly defined and accessible.
<b>Amenity and Environmental Impact</b>		
<b>Over-shadowing</b>	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space.	Complies The shadow diagrams demonstrate that the proposal is unlikely to generate an overshadowing impact on the immediate properties to the south.
<b>Privacy</b>	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 largely comply with the building separation distances of the ADG, which will ensure that a reasonable amount of privacy is afforded to future development.

Development Control	Provision	Comment
<b>Acoustic Impact</b>	Objectives of the controls are: a) To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings.	Complies The development is able to achieve an acceptable level of amenity, subject to the implementation of noise attenuation measures as recommended in the Acoustic submitted Report
<b>Site Services</b>	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.

The above assessment has found that the development is generally compliant with the LDCP 2008 and is satisfactory.

#### **6.4 Section 4.15(1)(a)(iiia) - 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)(b) – The Likely Impacts of the Development**

##### **(a) Natural and Built Environment**

###### ***Built Environment***

This section of Liverpool is zoned R4 - high density residential and the proposal is therefore considered consistent with the long term future character of the locality.

###### ***Natural Environment***

The proposed development does not require the removal of any significant vegetation and is unlikely to cause detrimental impact to any endangered and non-endangered species of flora and fauna. The proposed landscape plan shows appropriate planting and establishment of vegetation within the setbacks such that the development is unlikely to result in any detrimental impact upon the natural environment.

##### **(b) Social Impacts and Economic Impacts**

The development is likely to result in a positive social impact within the locality as it will be providing 100% of the dwellings within the development as affordable housing.

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.

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

The site is considered to be suitable for the proposed development.

The proposal is generally compliant with the provisions of SEPP (Affordable Rental Housing)

2009, LLEP 2008 and LDCP 2008 as outlined in the report. The identified variations have been considered and are supported as they do not result in any long term adverse impacts. Overall the development is considered to satisfy the relevant controls for site selection.

## **6.9 Section 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:

<b>Internal Departments</b>	
<b>Department</b>	<b>Comments</b>
<b>Building</b>	Supported, subject to conditions.
<b>Engineering</b>	Supported, subject to conditions.
<b>Health and Environment</b>	Supported, subject to conditions.
<b>Traffic and Transport</b>	Supported, subject to conditions.
<b>Flooding</b>	Supported, subject to conditions.
<b>Waste Management</b>	Supported, subject to conditions.
<b>Landscape Officer</b>	Supported, subject to conditions.
<b>Community Planning</b>	Supported, subject to conditions.

### **(b) External Referrals**

The DA was referred to the following external Public Authorities for comment:

<b>Authority</b>	<b>Comments</b>
<b>NSW Roads and Maritime Services</b>	Provided conditions pursuant to S138 of the Roads Act.

### **(c) Community Consultation**

The DA was notified in accordance with the LDCP 2008 from 22 February 2018 to 9 March 2018. No submissions were received.

## **6.7 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 development will generate a social benefit for the community, given the provision of affordable rental housing, which will be managed by a not-for-profit social housing provider.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

## **8 RECOMMENDATION**

That DA-108/2016 be approved, subject to conditions.

## **9 ATTACHMENTS**

1. Architectural plans, landscape plans and survey plan
2. Civil excavation and stormwater drainage plans
3. Recommended conditions of consent
4. Statement of environmental effects and clause 4.6 variation written justification to height
5. Sepp 65 verification statement
6. Acoustic report
7. Arborist report
8. Preliminary flood report
9. Geotechnical report
10. Waste management plan
11. Phase 1 contamination report
12. Basix certificate
13. Design excellence panel comments