

# SYDNEY WESTERN CITY PLANNING PANEL

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SSW022
<b>DA Number</b>	DA-559/2018
<b>LGA</b>	Liverpool City Council
<b>Proposed Development</b>	<p>Construction of a 9-storey shop-top housing development comprising of 3 ground floor commercial suites ('neighbourhood shop' with a total of 100sqm), 45 residential units (including 23 affordable housing units), two levels of basement parking and associated landscaping works.</p> <p>The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.</p>
<b>Street Address</b>	41-43 Forbes Street, Liverpool
<b>Legal Description</b>	LOTS 4 & 5 DP 37806
<b>Applicant</b>	Fox Johnston
<b>Owner</b>	Clempton Holdings Pty Ltd
<b>Date of DA Lodgement</b>	20 July 2018
<b>Number of Submissions</b>	1
<b>Regional Development Criteria (Schedule 7)</b>	The development is for affordable housing and has a CIV of \$14,850,000
<b>List of all relevant s4.15(1)(a) matters</b>	<p>1. <i>List all of the relevant environmental planning instruments: Section 4.15 (1)(a)(i):</i></p> <ul style="list-style-type: none"> <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 (Affordable Rental Housing) 2009</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</li> <li>• Liverpool Local Environmental Plan 2008.</li> </ul> <p>2. <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: Section 4.15(1)(a)(ii):</i></p> <p>No proposed instrument relates to the site or proposal.</p> <p>3. <i>List any relevant development control plan: Section 4.15(1)(a)(iii):</i></p> <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 4 – Development in Liverpool City Centre.</li> </ul> </li> </ul> <p>4. <i>List any relevant planning agreement that has been entered into under section 7.14, or any draft planning agreement that a developer has offered to enter into under section 7.14: Section 4.15(1)(a)(iv):</i></p>

	<ul style="list-style-type: none"> <li>• No planning agreement relates to the site or proposed development.</li> </ul> <p>5. <i>List any relevant regulations: Section 4.15(1)(a)(iv):</i></p> <ul style="list-style-type: none"> <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. Recommended conditions of consent</li> <li>2. Architectural plans</li> <li>3. Elevations</li> <li>4. Context and neighbouring site plans</li> <li>5. Landscape plans</li> <li>6. Stormwater plans</li> <li>7. 3D Visual</li> <li>8. Survey Plan</li> <li>9. Statement of Environmental Effects</li> <li>10. Traffic Assessment Report</li> <li>11. Waste Management Plan</li> <li>12. Stage 1 &amp; 2 Environmental Assessments</li> <li>13. SEPP 65 Design Verification Statement</li> <li>14. Design Excellence Panel Comments</li> <li>15. Applicant's response to Planning Panel Briefing Comments</li> </ol>
<b>Recommendation</b>	Approval, subject to conditions
<b>Report prepared by</b>	Adam Flynn – Senior Development Assessment Planner
<b>Report date</b>	8 July 2019

<b>Summary of Section 4.15 matters</b> Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> 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?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.11EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>Yes</b>

## 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, and the development includes affordable housing, pursuant to Clause 5 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

## **1.2 The proposal**

The application proposes the Construction of a 9-storey shop-top housing development comprising of 3 ground floor commercial suites ('neighbourhood shop' with a total of 100sqm), 45 residential units (including 23 affordable housing units), two levels of basement parking and associated landscaping works.

The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.

## **1.3 The site**

The development site is comprised of 2 lots being Lots 4 & 5 DP 37806 and is identified as 41-43 Forbes Street, Liverpool.

## **1.4 The issues**

The main issues identified in the assessment relate to the following:

- Inconsistencies with the Apartment Design Guide (ADG) relating to building separation and overshadowing. Through a series of amendments to the design of the building made by the applicant since lodgement of the DA the proposal is considered to have adequately addressed these inconsistencies and therefore is considered acceptable with regards to the ADG.

Notwithstanding the issues listed above, the proposal is considered an acceptable form of development in the circumstances and is worthy of support, subject to conditions.

## **1.5 Exhibition of the proposal**

In accordance with the LDCP 2008, the application was notified for a 14 day period, from 27 August 2018 to 11 September 2018. One submission was received in relation to the proposed development during the public consultation process. The issues raised within the submission are discussed within the report.

## **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 amendments made to the original proposal by the applicant, it is recommended that the DA be approved, subject to the recommended conditions of consent.

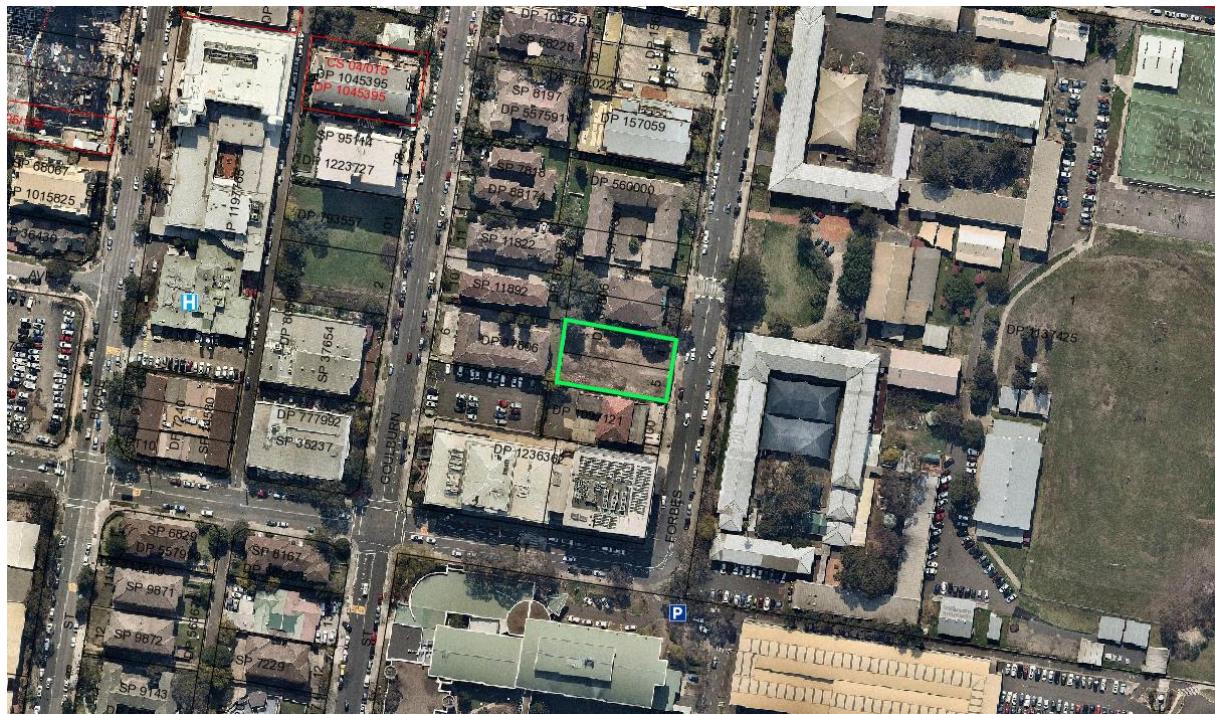
# **2. SITE DESCRIPTION AND LOCALITY**

## **2.1 The site**

The development site is comprised of 2 lots being Lots 4 & 5 DP 37806, and is identified as 41-43 Forbes Street, Liverpool. The site is a regular shaped allotment with a frontage to Forbes Street of 25.6m, and an area of 1,188m<sup>2</sup>.

The site is currently vacant. The site generally falls in a north-west to south-east direction. The highest point across the site is located in Lot 4 at the rear of the site, the lowest point across the site is located in Lot 5 at the front of the site.

An aerial photograph of the subject site is provided below.

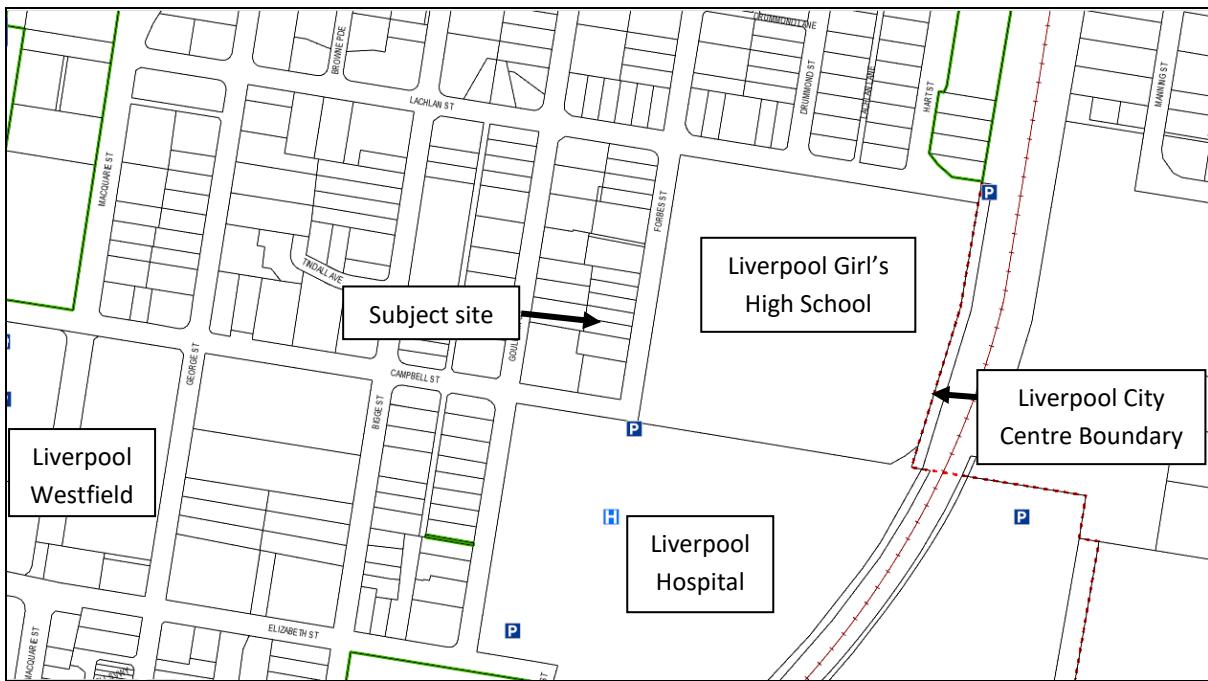


**Figure 1:** Aerial Photograph

## 2.1 The locality

The subject site is located on the western side of Forbes Street, within the Liverpool City Centre area, and is located approximately 750m north of Liverpool train station. The site sits to the north of Liverpool Hospital and to the north-east of Westfield and Macquarie Street, and is opposite Liverpool Girls High School, as indicated in figure 2. A former ambulance station (single-storey), and the Ingham Institute (five storeys) sit directly south of the site, with four-storey 'walk-up' residential blocks to the north and west.

The locality within the immediate vicinity of the subject site is predominately of a medium to high density scale, with a number of medical/healthcare uses in the area, with residential properties being more prominent north of the site.



**Figure 2: Context**

## 2.2 Site affectations

The subject site has number of constraints, which are listed below:

### Heritage

The development site is not listed as a heritage item under Schedule 5 of the LLEP 2008, however, it is located within the vicinity of a heritage item being item Number 89 known as the Plan of Town of Liverpool (Hoddle Grid 1827). This is shown in Figure 3 below.

Council's Heritage Officer has reviewed the proposed development with regards to its impact upon the adjoining heritage item and has raised no objection to its potential impacts. Accordingly, the development is considered acceptable with regards to heritage matters.

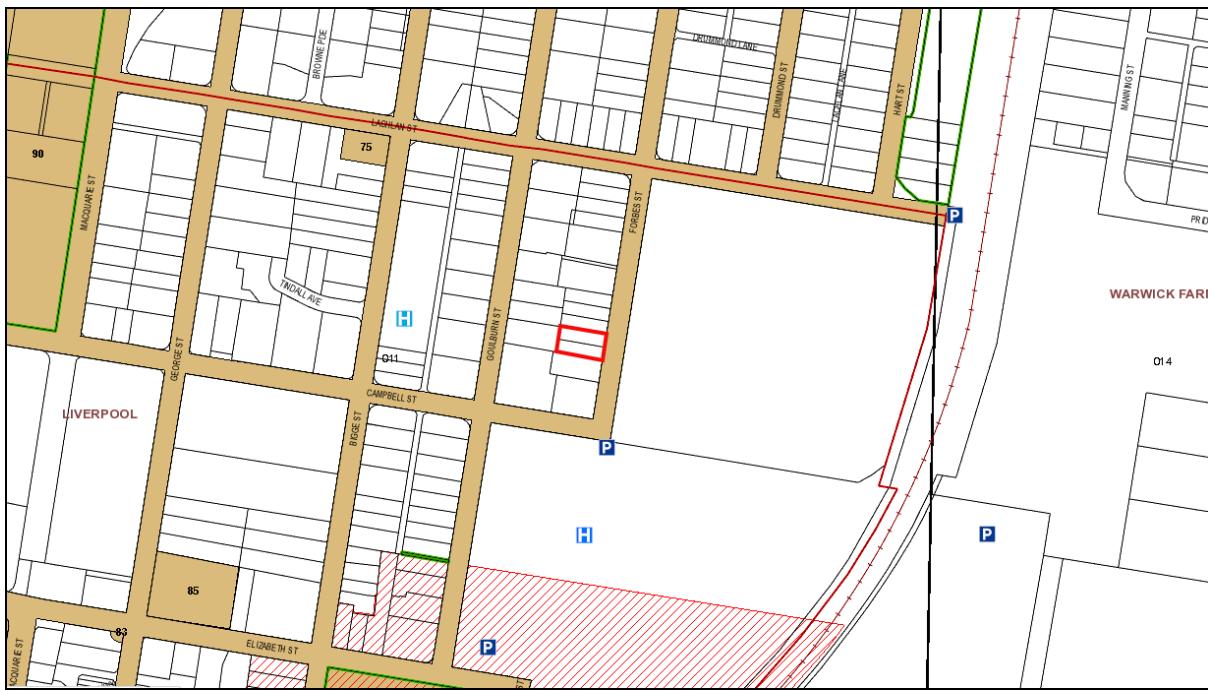


Figure 3: Heritage Affectation (site outlined in red)

### Acid Sulfate Soils

Part of the site is identified as being affected by Class 5 acid sulfate soils. The proposal does include excavation for the two basement levels of parking, however the proposed works are not be within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and will not lower the water table below 1m AHD on adjacent Class 1, 2, 3 or 4 land. As such, an Acid Sulfate Soils Management Plan is not required.

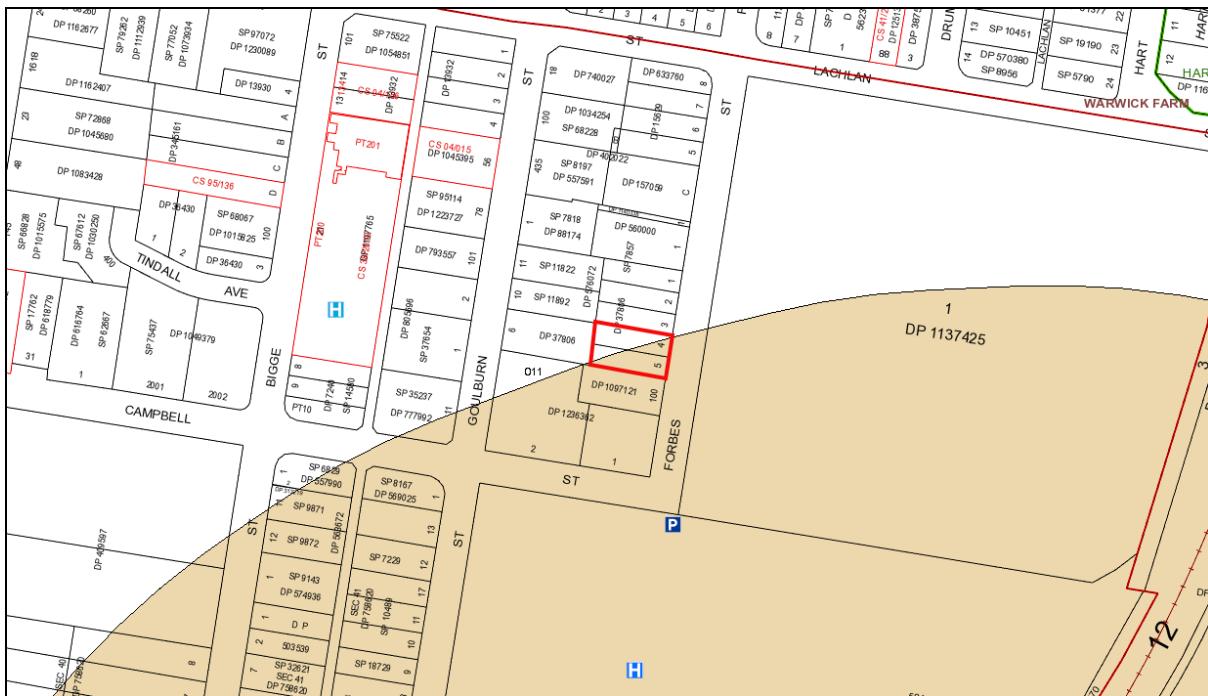


Figure 4: Acid Sulfate Soils Affectation

### 3. BACKGROUND

#### 3.1 Planning Panel Briefing

The proposal was briefed to the Sydney Western City Planning Panel on 4 February 2019. The key issues outlined at the briefing to be addressed by Council are as follows:

- *The Panel debated the conflict between the existing height context established by the Ingham Centre and the adjoining 4 storey residential buildings on the one hand, and the 35 metre height limit set by the LEP map. That conflict will need to be addressed in the assessment report.*

**Comment:** The applicant has provided a model (included in Attachment 3) that provides indicative building envelopes for the property adjoining the subject site to the north, which is also zoned R4 High Density Residential. This demonstrates that the northern adjoining site can be developed in accordance with the LEP Building Height limit of 35m. The model also demonstrates that the subject site and adjoining sites can be developed up to a height of 35m whilst complying with the relevant ADG separation distances, thereby ensuring that any adverse amenity impacts will be minimised.

- *There seemed to be a contradiction between arguing that the building next door will not be developed such that upper storey setbacks were not needed, while building a 9 storey building next door which does not respond to the 4 storey building next door being preserved.*

**Comment:** As mentioned above, the provided model provides an indicative building envelope for the property adjoining the subject site to the north. This demonstrates that the northern adjoining site can be developed in accordance with the LEP Building Height limit of 35m. Based on this model, which proposes that habitable room windows do not face the subject site, a 12m separation for the buildings up to the 8<sup>th</sup> floor would be achieved, which complies with the requirement for habitable to non-habitable room separation. It would therefore only be the upper floor of the proposal that would not comply with the setback requirements, however this could be resolved by the use of privacy screens or similar.

- *The Panel was of the view that as the building next door was approximately 40 – 45 years old, and around 5 storeys short of the permissible height limit, it is at least conceivable that in coming decades there will be an impetus for that adjoining building to be rebuilt. The Panel observed that the design orientation of the balconies over the adjoining site, coupled with the less than compliant setbacks would significantly constrain future development options on that land. The developer should consider whether this issue should be addressed in the design relationship of the building with the adjoining building.*

**Comment:** The model submitted provides an indicative building envelope for the property adjoining the subject site to the north. The model demonstrates that the subject site and adjoining site to the north can be developed up to a height of 35m whilst maintaining a sufficient level of amenity. It is acknowledged that the built form above 4-storeys will not comply with the 9m (18m total) separation distance requirement in the ADG for habitable to habitable rooms, however, given both sites could orientate their main living areas to the north, the 6m (12m total) separation distance for habitable to non-habitable rooms can be achieved to the 8<sup>th</sup> floor.

The proposal has been amended to provide additional privacy treatment to the balconies that overlook the adjoining site to the south to ensure that the future development of the adjoining site to the south is not constrained.

The model includes shadow diagrams which demonstrate that if the neighbouring property to the north were developed up to a height of 35m that sunlight to 70% of the proposed units on the subject site will be maintained between 9am and 3pm.

If the neighbouring property to the south were developed, it could be designed to ensure that solar access is maximised to that property, having regard to the east-west orientation of the site, and the potential uses of the SP2 zoned land.

- *The Panel questioned whether a rationalization of the parking design might free up some additional area for open space and planting at ground level.*

**Comment:** The proposal has been amended to remove the tandem parking spaces and large balconies at the rear of Level 1. This will allow for an additional 95m<sup>2</sup> of open space at ground level.

- *Overlooking and privacy issues towards the rear will need to be considered.*

**Comment:** The proposal has been amended to provide additional privacy treatment to the rear façade including fixed louvres and removal of large balconies on Level 1 to alleviate overlooking and privacy impacts to the adjoining properties to the rear. The removal of balconies to the rear bedrooms and reduction in size of the balconies off the living rooms of the rear units allows the proposal to achieve a 6m separation distance at the rear.

Following the panel briefing, the applicant has provided amended plans to remove some of the parking at ground floor level, and a model that demonstrates the site to the north can be developed in a similar manner to this proposal and comply with the ADG requirements. The plans were also amended to reduce the commercial space to be within the size limit for neighbourhood shops (less than 100m<sup>2</sup>).

Based on the amended plans provided, it is considered that the proposal provides a development that adequately addresses the concerns raised by the panel and is worthy of support in this case.

### 3.2 Design Excellence Panel

The proposal was presented to Council's Design Excellence Panel (DEP) on 15 November 2018 following the lodgement of the DA. The DEP provided the following comments in relation to this proposal:

- *The panel notes that the proposal is within the permissible building height limit and although the site is a consolidation of 2 lots, it is relatively narrow and has an east-west orientation. This presents design challenges for the scheme.*

**Comment:** Noted, and addressed further below.

- *The panel notes that the building provides for a reduced setback to the southern boundary. In the context of the zoning of the southern adjoining site being SP2 Infrastructure and taking into consideration of the types of land uses permitted within this zone, the reduced is considered acceptable.*

**Comment:** Given the SP2 zoning of the adjoin site to the south, Council agrees with this comment.

- *In respect to the northern and western boundaries, the proposal does not comply with ADG building separation requirements above level 4 in that the building is only provided with 6m setback from these boundaries, whereas the ADG requires a minimum of 9m setback for Levels 5 - 8. Applicant advised that the northern adjoining RFB is only 4-storey and the non-compliance will be over the roof of the building and thus, should not create significant amenity issues. The Panel supports the reduced setbacks.*

**Comment:** Notwithstanding the panel's comments, Council considers that the applicant should take into account the potential redevelopment of the northern site to accommodate a scheme that is ADG compliant and in keeping with the R4 zoning. The applicant has provided an example of an ADG compliant scheme on the adjacent site which would be of a similar form to this development, and would comply with all set back requirements apart from the 9<sup>th</sup> floor.

- *The Panel recommends that the applicant considers extending the open to air corridor width adjacent to the lifts and garbage chute room so as perhaps to allow for the provision of seating, gardens or space for the storage of bicycles.*

**Comment:** The constraints of the site do not allow for the corridor to be widened to allow for this revision.

- *The Panel is pleased with the simple elegant floor planning of the scheme, and believes the design achieves Design Excellence.*

**Comment:** Noted.

- *The Panel requires the applicant to provide 3-D images on how materials are being handled. This should include perspective views showing different entries to the building.*

**Comment:** 3D visuals provided.

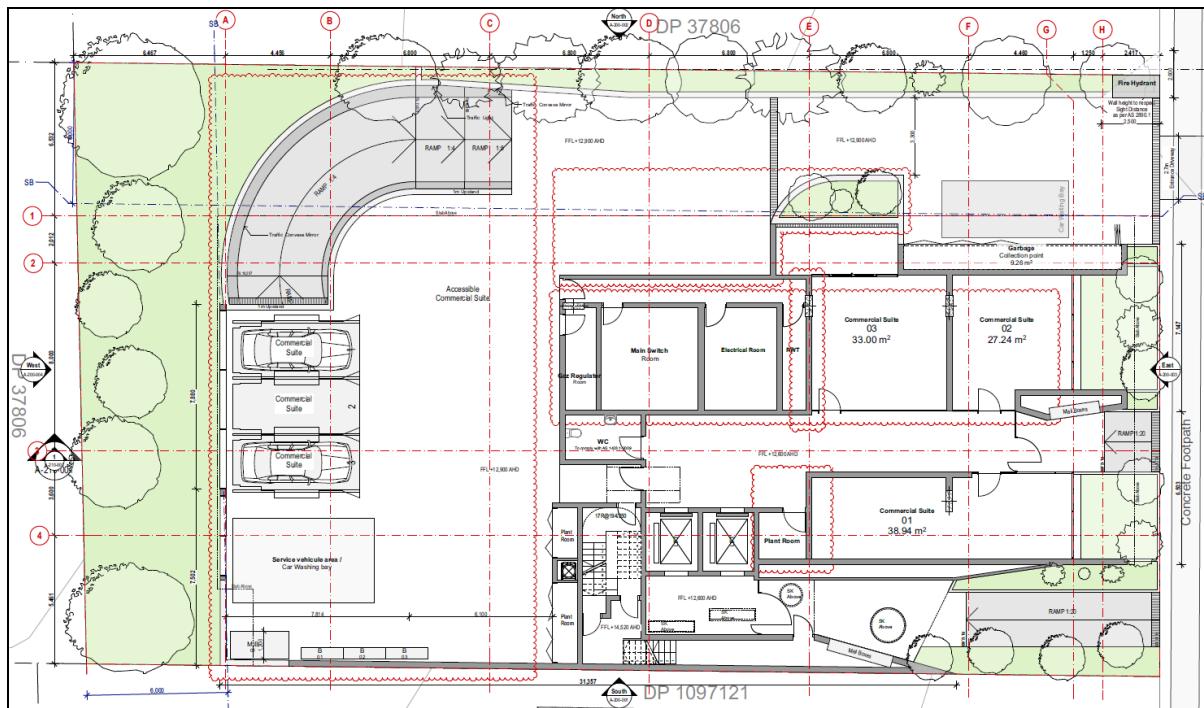
It is considered that the applicant has adequately addressed the matters raised by the DEP in its meeting dated 15 November 2018. In that regard, the proposed development is considered to provide design excellence.

#### 4. DETAILS OF THE PROPOSAL

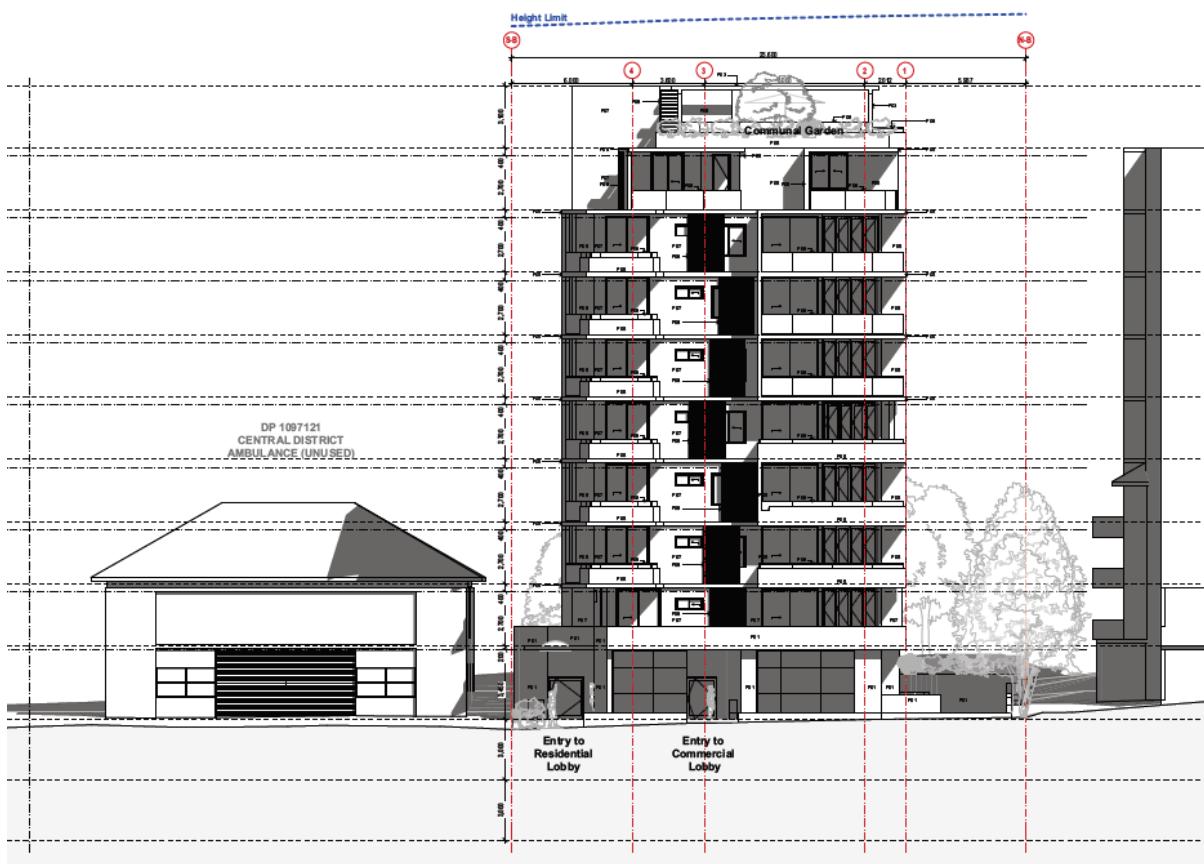
Development consent is sought for a 9-storey shop-top housing development, consisting of the following:

- 3 commercial (neighbourhood shop) units at ground floor level
- 45 residential units (29 x 1-bed and 16 x 2-bed) on levels 1-8
- 23 affordable units (all units on Levels 1-3, all 1-bed units and the rear 2-bed unit on Level 4) provided under the ARH SEPP 2009 (51%)
- 5 adaptable units (11%)
- 2 basement levels providing 42 car parking spaces (including 5 accessible spaces), 2 motorbike spaces, and 8 bicycle spaces
- Ground floor commercial parking providing 3 car parking spaces (including 1 accessible space), 1 motorbike space, and 3 bicycle spaces
- Basement storage and garbage areas
- New driveway and associated hard surfacing

- Landscaping, including roof garden and landscaped areas at ground level, levels 1 and 7, landscaping within setbacks, and deep soil areas



**Figure 5:** Site Layout



**Figure 6:** East Elevation

## 5. STATUTORY CONSIDERATIONS

### 5.1 Relevant matters for consideration

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

#### Environmental Planning Instruments (EPI's)

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

#### Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

#### Development Control Plans

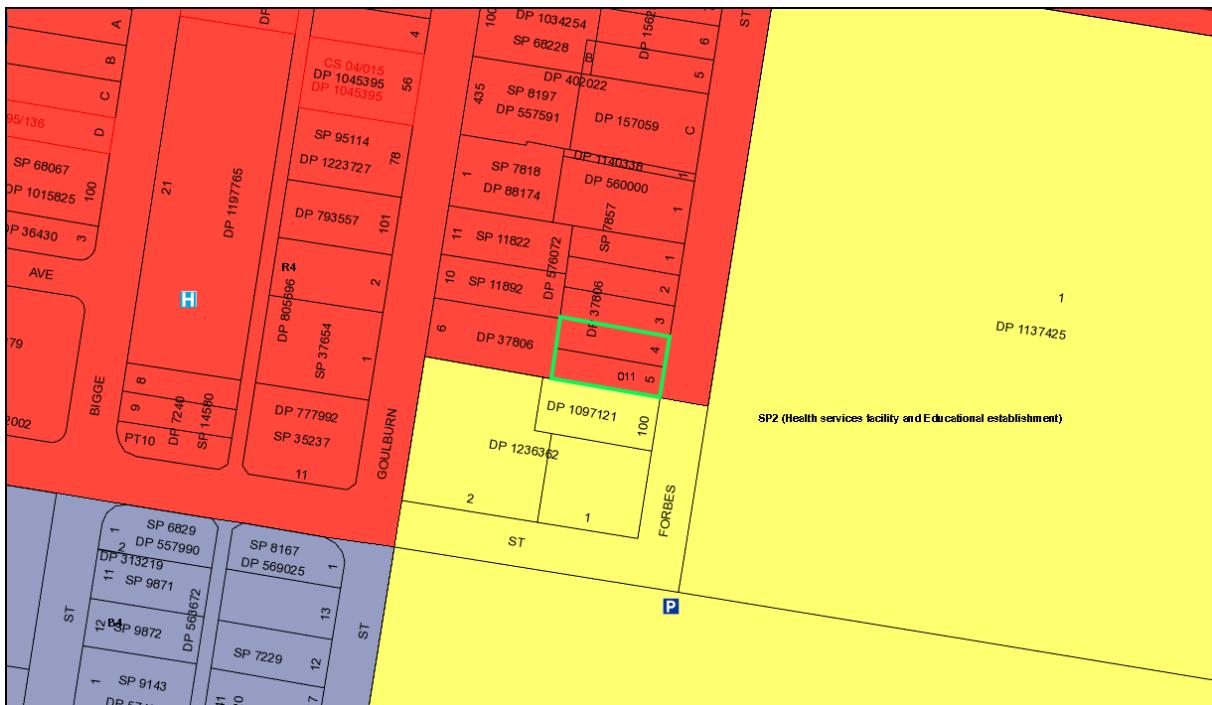
- Liverpool Development Control Plan 2008
  - Part 1 – Controls applying to all development
  - Part 4 – Development in Liverpool City Centre

#### Contributions Plans

- Liverpool Contributions Plan 2007 applies to all development within the Liverpool City Centre, and requires the payment of contributions equal to 2% of the cost of the development pursuant to Section 7.12 of the EPA & Act.

### 5.2 Zoning

The site is zoned R4 High Density Residential pursuant to LLEP 2008 as depicted in the figure below.



**Figure 7: Zoning Map**

### 5.3 Permissibility

The proposed development would be defined as “*Shop-top Housing*”, and the commercial element would be defined as “*Neighbourhood Shops*”, which are permissible uses with consent within the R4 High Density Residential Zone.

## 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* and the *Environmental Planning and Assessment Regulation 2000* as follows:

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

#### (a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guidelines

State Environmental Planning Policy No. 65 applies to the proposal, as the application involves the erection of a building greater than 3 storeys with at least 4 dwellings. Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles contained in Part 2 of SEPP 65.

The following table provides an assessment of the proposal in accordance with the 9 key design quality principles of SEPP 65, as follows:

Design Quality Principle	Comment
<p><b>Principle One – Context and Neighbourhood Character</b></p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The proposal is for a residential flat development. Located near the fringe of the city centre precinct, the proposed development is considered likely to bring increased streetscape amenity to the local community. The development incorporates an active street frontage design that is considered to contribute to the community by generating a point of visual interest that interacts and compliments the mix of uses in the area.</i></p> <p><i>The development site is located in a highly serviced area with access to medical services, a variety of public transport services, educational services, employment opportunities, commercial/retail services, recreation facilities and community uses. Accordingly, the proposed intensification of the site, from two dwellings (now demolished) to 45 residential apartments, will facilitate the increased accessibility of services to future occupants of Liverpool City Centre.</i></p> <p><i>As building forms for adjacent sites have been modelled, it is considered to appropriately respond to the neighbourhood and streetscape character; both existing and desired.</i></p>
<p><b>Design Principle 2 – Built form and scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The bulk of the proposed development is consistent with the controls set out in the LEP 2008 and LDCP 2008. The building is situated within the site boundaries and is set back from Forbes Street. This provides the opportunity to reduce building scale at street edges.</i></p> <p><i>The height of the building is less than that identified in the LLEP 2008, being 9 storeys overall.</i></p> <p><i>Building mass is also articulated and stepped to reduce the perceived bulk of the development.</i></p>

Design Quality Principle	Comment
<p><b>Design Principle 3 – Density</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>This application proposes an FSR of 2.63:1 for this site which complies with the maximum densities set out in the LLEP 2008 and ARH SEPP (2009).</i></p> <p><i>The proposed density will benefit the public by enabling the proposed building to respond to the future character of the town centre and the yield will facilitate a high-quality design outcome at the site. In this location, a well-designed residential flat development is likely to attract greater investment to the locality.</i></p> <p><i>High densities are also considered to be sustainable within this area as they are supported by the site's proximity to employment, CBD, transport and public open space.</i></p>
<p><b>Design Principle 4 – Sustainability</b></p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</p>	<p><i>The development is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide.</i></p> <p><i>Apartment layouts are optimally designed for a passive response to solar design principles and cross ventilation as outlined in the Apartment Design Guide.</i></p> <ul style="list-style-type: none"> <li>- All corner and cross through apartments are naturally ventilated;</li> <li>- Minimum 60% of apartments are cross-ventilated;</li> <li>- Minimum 70% of apartments have the required solar access in winter;</li> <li>- The development includes adequate amounts of deep soil zones.</li> </ul>
<p><b>Design Principle 5 – Landscape</b></p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating</p>	<p><i>No street planting exists to the front of the site, but two new street trees are proposed as part of the application. This will be further complimented through additional planting within the site boundaries along Forbes Street.</i></p> <p><i>Some apartments have been provided with private open space in excess of SEPP 65 requirements. Communal open space will incorporate barbecue facilities, open style pergola structures and seating. The landscaped communal open space also</i></p>

Design Quality Principle	Comment
<p>water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>incorporates a mix of active and passive landscape spaces.</p> <p><i>The proposed landscape plans have been reviewed by Council's Landscape officer who has supported the planting selections and use of species.</i></p>
<b>Design Principle 6 – Amenity</b>	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p>	<p><i>The development provides the following mix of units:</i></p> <ul style="list-style-type: none"> <li>- 64% one bedroom apartments</li> <li>- 36% two bedroom apartments</li> </ul>
<p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>11% of units in total are designed to the Universal Design standards, including the 10% requirement for adaptable housing.</i></p>
	<p><i>Apartments comply with storage requirements and additional storage areas are located in the basement carparking levels. These levels also have the capacity to accommodate parking for bicycles.</i></p>
	<p><i>Communal open spaces will provide passive and active recreational opportunities including: raised garden beds and benches for seating, grassed, paved and planted surfaces, shaded, sunny and feature-lit areas.</i></p>
	<p><i>Balcony sizes generally exceed those required by the Apartment Design Guide to ensure quality private open space for residents.</i></p>
	<p><i>Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.</i></p>
<b>Design Principle 7 – Safety</b>	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p>	<p><i>The building design openly addresses the street and has been carefully designed to ensure safe access to and egress from the buildings by ensuring direct sight lines to the residential lobby from the street.</i></p>

Design Quality Principle	Comment
<p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The thresholds between public, communal and private areas are clearly defined to ensure a sense of ownership between the public and private domains.</i></p> <p><i>Upper floor apartments will provide passive surveillance of the street and opportunity for night-time activation. Apartments overlook communal open spaces providing passive surveillance to improve safety and the development has been designed to avoid blind corners and hidden spaces.</i></p> <p><i>Secure parking for residents is located within the basement with clear and direct lift access to the apartments. The entrance to the parking area is minimised to maximise street activation and surveillance.</i></p>
Design Principle 8 – Housing Diversity and Social Interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The proposed development provides housing choice through varied apartment sizes. The communal open spaces and public street interface will encourage social interaction amongst residents and the community.</i></p> <p><i>The ground floor commercial units and the interface between the streetscape have been carefully designed to enhance street activation.</i></p> <p><i>The provision of one bedroom apartments in the development will provide for a more affordable entry point into the housing market.</i></p> <p><i>10% of units are designed to be adaptable to the needs of people with disabilities and to facilitate intergenerational changes and changing lifestyles.</i></p> <p><i>Variety in sizing, aspect and outlook within apartment types will result in some price differentiation.</i></p> <p><i>Dedicated residential communal open spaces are provided on various levels to support the communal life of the building. These spaces have direct access from the circulation core.</i></p>

Design Quality Principle	Comment
<p><b>Design Principle 9 – Aesthetics</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The street façade has been designed to give a consistent and pleasing appearance to Forbes Street. The interplay of building materials, including a composition of white and grey paint or similar render, perforated copper, glass balustrade, and patterned pre-cast concrete panel assists in creating a visually varied façade without cluttering the overall building appearance.</i></p> <p><i>The design response ensures an appropriate provision for the future desired character of the area as a high density residential area.</i></p>

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 proposal against the relevant provisions of the ADG:

Provisions	Comment
<b>2E Building depth</b>	<p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation</p>
<b>2F Building separation</b>	<p><b>Note:</b> Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes separation equally between sites.</p> <p><u>Up to four storeys (approximately 12m):</u></p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>
	<p><b>Non-compliance:</b> 9m separation to northern neighbour between habitable rooms/ balconies from level 1 to level 3 (however, 6m to boundary on site).</p> <p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 2m separation to the southern boundary from habitable rooms/ balconies from level 1 to level 3.</p> <p><b>Compliance:</b> 12m separation to western neighbour between habitable rooms/ balconies from level 1 to level 3.</p>

Provisions	Comment
	Notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to building separation. This is discussed in further detail below.
<u>Five to eight storeys (approximately 25m):</u> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	<p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 6m separation to the northern boundary from habitable rooms/balconies from level 4 to level 7.</p> <p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 2m separation to the southern boundary from habitable rooms/balconies from level 4 to level 6 and a 2.3m separation to the southern boundary from habitable rooms/ balconies at level 7.</p> <p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 6m separation to the western boundary from habitable rooms/balconies from level 4 to level 7.</p> <p>Notwithstanding above listed non-compliances, with regard to future compliance or non-compliance, this is discussed in further detail below.</p>
<u>Nine storeys and above (over 25m):</u> <ul style="list-style-type: none"> <li>• 24m between habitable rooms/balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul>	<p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 6m separation to the northern boundary from habitable rooms/balconies at level 8.</p> <p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 2.7m separation to the southern boundary from the flank wall at level 8.</p> <p><b>Non-Compliance:</b> Future non-compliance may arise as there is only a 9.7m separation to the western boundary from habitable rooms/balconies at level 8.</p> <p>Notwithstanding above listed non-compliances, with regard to future compliance or non-compliance, this is discussed in further detail below.</p>

Provisions	Comment
<b><u>Variation to 2F – Building Separation</u></b>	
<p>As indicated in the above table the development proposes a partial non-compliance, and potential future non-compliances with Section 2F – Building Separation for portions of the proposed building. The portions of the building where the non-compliances occur, or may occur as are as follows:</p>	
<b><u>Up to four storeys:</u></b>	
<i>North – 9m to existing adjoining property, however 6m provided to the boundary</i>	
<p>The minimum required separation at these levels is 12m between habitable rooms. In accordance with the ADG, the applicant has provided a 6m setback to the side boundary, which is the required shared distance between sites. The non-compliance results from the existing neighbouring building only being 3m from the boundary. In this instance, such a separation is considered acceptable.</p>	
<i>South – 2m separation to the southern boundary at levels 1-3</i>	
<p>The property to the south is zoned SP2 (Health services facility and educational establishment), and taking into account the types of land uses that are permitted within that zone, and the likely development that would occur on such a site (residential use in not permitted), the separation is considered to be acceptable in this instance.</p>	
<b><u>Five to eight storeys:</u></b>	
<i>North – 6m provided to northern boundary</i>	
<p>The applicant has provided a model detailing an indicative building envelope for the property adjoining the subject site to the north, which is also zoned R4 High Density Residential. This demonstrates that the northern adjoining site can be developed in accordance with the LEP Building Height limit of 35m. The model demonstrates that a building of a similar form and layout to that proposed on the subject site would be feasible, and would result in balconies directly overlooking and separated from non-habitable or blank walls by 12m, which would comply with the ADG. Such a layout is a likely outcome given the constraints of the neighbouring site and that north-facing habitable rooms are a likely outcome of such a site. However, at present this is not a concern given the existing building is only 4-storeys.</p>	
<i>West – 6m provided to western boundary</i>	
<p>Based on the model submitted for the site to the north, a similar conclusion can be considered for the site to the west, in that a 12m separation distance could be provided from this site to the neighbouring site to the west, providing an acceptable separation from balconies to non-habitable rooms. An additional option could be to add privacy screens to reduce any potential overlooking impacts. However, at present this is not a concern given the existing building is only 4-storeys.</p>	
<i>South – 2-2.3m provided to the southern boundary</i>	
<p>The property to the south is zoned SP2 (Health services facility and educational establishment), and taking into account the types of land uses that are permitted within that zone, and the likely development that would occur on such a site (residential use in not permitted), the separation is considered to be acceptable in this instance.</p>	
<b><u>Nine storeys and above:</u></b>	
<i>North – 6m provided to northern boundary</i>	
<p>As discussed above, the applicant has provided a model detailing an indicative building envelope for the property adjoining the subject site to the north, which is also zoned R4 High Density Residential. This demonstrates that the northern adjoining site can be developed in accordance with the LEP Building Height limit of 35m. The model demonstrates that a building of a similar form and layout to that proposed on the subject site would be feasible,</p>	

Provisions	Comment
	but at level 8 (the 9 <sup>th</sup> storey) would result in balconies directly overlooking and separated from non-habitable or blank walls by 12m, which would not comply. However, privacy screens could be added to this level to reduce any potential overlooking impacts. However, at present this is not a concern given the existing building is only 4-storeys.
<i>West – 9.7m provided to western boundary</i>	As discussed above, given the potential for the western site to be redeveloped, an 18m separation distance could be provided from this site to the neighbouring site to the west, providing an acceptable separation from balconies to non-habitable rooms. An additional option could be to add privacy screens to reduce any potential overlooking impacts. However, at present this is not a concern given the existing building is only 4-storeys.
<i>South – 2.7m to the southern boundary</i>	The property to the south is zoned SP2 (Health services facility and educational establishment), and taking into account the types of land uses that are permitted within that zone, and the likely development that would occur on such a site (residential use is not permitted), the separation is considered to be acceptable in this instance.
<b>Summary:</b> It is apparent from the assessment of building separation above that the non-compliances in the main would <i>potentially</i> occur if the neighbouring sites were developed, apart from the lower level non-compliance to the north which stems from the development on that site occurred before the implementation of the ADG.	
Considering this, reference is made to the aims of section 2F – Building Separation of the ADG, which are reproduced as follows:	
<ul style="list-style-type: none"> <li>• Ensure new development is scaled to support the desired future character with appropriate massing and spaces between buildings.</li> <li>• Assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.</li> <li>• Provide suitable areas for communal open space deep soil zones and landscaping.</li> </ul>	
From the assessment of the amended development proposal, it is considered to be consistent with the aims for building separation listed above.	
The applicant has provided a model for potential development to the north which demonstrates that the site could be developed in a manner that allows the required separation distance to be achieved, which the exception of the upper floor, and a similar outcome could be achieved to the west. Additional visual privacy measures to mitigate any potential impacts to future occupant amenity could be implemented on the future development if required. The model also demonstrates that adequate sunlight and daylight would still be received by the subject development should such a redevelopment of the neighbouring site occur.	
It should be noted that the proposal complies with FSR and building height requirements, would not cause any undue overshadowing to any neighbouring residential sites, and is not considered to be an over development of the site with regards to the LLEP 2008.	
Accordingly, the proposed variations to building separation are considered acceptable in this instance, as well as the overshadowing that is likely to occur on the adjoining southern building as a result of the proposed development.	

Provisions	Comment
<p>In addition, the proposal was presented to the DEP, who supported the reduced separation on this site, given the constraints of the site and the non-residential zoning of the site to the south.</p> <p>For the reasons detailed above the development is considered acceptable with regards to SEPP 65 and the ADG.</p>	
<p><b>3A Site analysis</b></p> <p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</p>	<p><b>Complies</b></p> <p>A detailed site analysis plan has been provided.</p>
<p><b>3B Orientation</b></p> <p>Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p><b>Complies on merit</b></p> <p>The building type is appropriate for the streetscape.</p> <p>It is noted that there would be significant overshadowing to the property to the south as a result of this development. However, the property to the south is zoned SP2 (Health services facility and educational establishment), and taking into account the types of land uses that are permitted within that zone, the impact on that site is considered to be acceptable in this instance.</p>
<p><b>3D Communal and public open space</b></p> <p>Communal open space has a minimum area equal to 25% of the site</p> <p>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)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	<p><b>Complies</b></p> <p>Approximately 233m<sup>2</sup> of communal open space is provided at roof level and 150m<sup>2</sup> at ground floor. This is equivalent to 383m<sup>2</sup> of COS at the site, which is 32% of the site area.</p> <p>The communal open space is considered to achieve sufficient solar access between 9am and 3pm mid-winter to the various COS onsite.</p> <p>The communal open space allows for a range of activities with BBQ facilities, rest areas and recreational spaces.</p>
<p><b>3E Deep soil zones</b></p> <p>Deep soil zones are to meet the following minimum requirements:</p>	<p><b>Complies</b></p> <p>Proposal provides 150m<sup>2</sup> of deep soil zone, which is 12% of the site area.</p>

Provisions			Comment		
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)			
Less than 650m <sup>2</sup>	-	7%	The deep soil zones at the rear of the site have minimum dimensions of 6m.		
650m <sup>2</sup> to 1500m <sup>2</sup>	3m				
Greater than 1500m <sup>2</sup>	6m				
Greater than 1500m <sup>2</sup> with significant cover	6m				
<b>3F Visual Privacy</b>					
Minimum separation distances from buildings to the side and rear boundaries are as follows:					
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms			
Up to 12m (4 storeys)	6m	3m			
12m to 25m (5-8 storeys)	9m	4.5m	<p><b>Compliance:</b> 6m separation to northern boundary from habitable rooms/ balconies from level 1 to level 3.</p> <p><b>Non-compliance:</b> 2m separation to the southern boundary from habitable rooms/ balconies from level 1 to level 3.</p> <p><b>Compliance:</b> 6m separation to western boundary from habitable rooms/ balconies from level 1 to level 3.</p>		
Over 25m (9 storeys and over)	12m	6m	<p><b>Non-compliance:</b> 6m separation to northern boundary from habitable rooms/ balconies from level 4 to level 7.</p> <p><b>Non-compliance:</b> 2m separation to the southern boundary from habitable rooms/ balconies from level 4 to level 6, and 2.3m at level 7.</p> <p><b>Non-compliance:</b> 6m separation to western boundary from habitable rooms/ balconies from level 4 to level 7.</p>		
			<p><b>Non-compliance:</b> 6m separation to northern boundary from habitable rooms/ balconies at level 8.</p> <p><b>Non-compliance:</b> 5m separation to the southern boundary from non-habitable rooms at level 8.</p> <p><b>Non-compliance:</b> 10m separation to western boundary from habitable rooms/ balconies at level 8.</p>		

Provisions	Comment
<b><u>Variation to 3F – Visual Privacy</u></b>	
<p>The aims of section 2F – Visual Privacy of the ADG are as follows:</p> <ul style="list-style-type: none"> <li>• Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</li> <li>• Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</li> </ul>	
	<p>As discussed under the assessment of 2F above, it is apparent that the non-compliances in the main would <i>potentially</i> occur if the neighbouring sites were redeveloped, apart from the lower level non-compliance to the north which stems from the development of that site before the implementation of the ADG.</p>
	<p>To address this the applicant has provided a model for potential development to the north which demonstrates that site could be developed in a manner that allows the required separation distance to be achieved, which the exception of the upper floor), and a similar outcome could be achieved to the west. Additional visual privacy measures to mitigate any potential impacts to future occupant amenity could be required, or implemented on the future development if required. The model also demonstrates that adequate sunlight and daylight would still be received by the subject development should such a redevelopment of the neighbouring occur.</p>
<p>From the assessment of the development proposal, it is considered to be consistent with the aims for visual privacy listed above. Privacy can be dealt with should any future development occur on neighbouring sites. It should be noted that the building is under the maximum allowable building height and FSR development standards and is therefore of a scale that is considered to be consistent with the desired future character of the locality.</p>	
	<p>Therefore, notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to visual privacy.</p>
<b>3G Pedestrian Access and Entries</b>	
Building entries and pedestrian access connects to and addresses the public domain	<b>Complies</b> Pedestrian access and entries complies with the objectives of the ADG.
Access, entries and pathways are accessible and easy to identify	
Large sites provide pedestrian links for access to streets and connection to destinations	
<b>3H Vehicle Access</b>	
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<b>Complies</b> Vehicle access points are located to achieve safety and minimize conflict.

Provisions	Comment
<b>3J Bicycle and Car Parking</b>	
<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p>	<p><b>Complies</b></p> <p>Bicycle and car parking is provided in accordance with the requirements of the SEPP (Affordable Rental Housing) 2009, Liverpool LEP 2008 and Liverpool DCP 2008.</p>
Parking and facilities are provided for other modes of transport	
Car park design and access is safe and secure	
Visual and environmental impacts of underground car parking are minimised	
Visual and environmental impacts of on-grade car parking are minimised	
Visual and environmental impacts of above ground enclosed car parking are minimised	
<b>4A Solar and Daylight Access</b>	
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	<p><b>Complies.</b></p> <p>45 Units proposed. All units receive 2 hours sunlight.</p> <p>All units will receive direct sunlight.</p>
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter	
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	
<b>4B Natural Ventilation</b>	
All habitable rooms are naturally ventilated	<p><b>Complies</b></p>

Provisions	Comment												
The layout and design of single aspect apartments maximises natural ventilation	All units are cross-ventilated. Those that are single aspect have windows to the open air corridor servicing the units, which allows for cross ventilation through the units.												
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	The maximum depth of a unit is 14m.												
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line													
<b>4C Ceiling Heights</b>													
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	<b>Complies</b>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" data-bbox="179 752 759 797">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td data-bbox="179 797 393 864">Habitable rooms</td><td data-bbox="393 797 759 864">2.7m</td></tr> <tr> <td data-bbox="179 864 393 932">Non-habitable</td><td data-bbox="393 864 759 932">2.4m</td></tr> <tr> <td data-bbox="179 932 393 1134" style="vertical-align: top;">For 2 storey apartments</td><td data-bbox="393 932 759 1134">           2.7m for main living area floor            2.4m for second floor, where its area does not exceed 50% of the apartment area         </td></tr> <tr> <td data-bbox="179 1134 393 1246">Attic spaces</td><td data-bbox="393 1134 759 1246">1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr> <tr> <td data-bbox="179 1246 393 1358">If located in mixed use areas</td><td data-bbox="393 1246 759 1358">3.3m from ground and first floor to promote future flexibility of use</td></tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use	3100mm floor to floor heights provided with 400mm slabs. This is consistent with the recommendations of the DEP and 2700mm floor ceiling heights are achieved.
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable	2.4m												
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area												
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope												
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use												
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms													
Ceiling heights contribute to the flexibility of building use over the life of the building													
<b>4D Apartment Size and Layout</b>													
Apartments are required to have the following minimum internal areas:	<b>Complies</b>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th data-bbox="179 1740 393 1808">Apartment Type</th><th data-bbox="393 1740 759 1808">Minimum Internal Area</th></tr> </thead> <tbody> <tr> <td data-bbox="179 1808 393 1852">Studio</td><td data-bbox="393 1808 759 1852">35m<sup>2</sup></td></tr> <tr> <td data-bbox="179 1852 393 1897">1 bedroom</td><td data-bbox="393 1852 759 1897">50m<sup>2</sup></td></tr> <tr> <td data-bbox="179 1897 393 1942">2 bedroom</td><td data-bbox="393 1897 759 1942">70m<sup>2</sup></td></tr> <tr> <td data-bbox="179 1942 393 1987">3 bedroom</td><td data-bbox="393 1942 759 1987">90m<sup>2</sup></td></tr> </tbody> </table>	Apartment Type	Minimum Internal Area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<ul style="list-style-type: none"> <li>• All 1 bedroom units are <math>\geq 50m^2</math>.</li> <li>• All 2 bedroom units are <math>\geq 70m^2</math> and <math>\geq 75m^2</math> with 2 bathrooms</li> </ul>		
Apartment Type	Minimum Internal Area												
Studio	35m <sup>2</sup>												
1 bedroom	50m <sup>2</sup>												
2 bedroom	70m <sup>2</sup>												
3 bedroom	90m <sup>2</sup>												

Provisions	Comment															
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																
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>Complies</b> Habitable rooms are provided with windows of sufficient glass areas.															
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	<b>Complies</b> Habitable room depths are all less than 2.5 x the ceiling height.															
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	<b>Complies</b> Kitchens are generally 7m from a window.															
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	<b>Complies</b> Bedrooms are of sufficient size.															
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	<b>Complies</b> Bedrooms have a minimum dimension of 3m.															
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>	<b>Complies on merit</b> Sufficient widths are provided to living rooms/dining rooms.															
<b>4E Private Open Space and Balconies</b> All apartments are required to have primary balconies as follows:																
<table border="1" data-bbox="176 1462 763 1776"> <thead> <tr> <th data-bbox="176 1462 335 1529">Dwelling Type</th><th data-bbox="335 1462 557 1529">Minimum Area</th><th data-bbox="557 1462 763 1529">Minimum Depth</th></tr> </thead> <tbody> <tr> <td data-bbox="176 1529 335 1574">Studio</td><td data-bbox="335 1529 557 1574">4m<sup>2</sup></td><td data-bbox="557 1529 763 1574">-</td></tr> <tr> <td data-bbox="176 1574 335 1641">1 bedroom</td><td data-bbox="335 1574 557 1641">8m<sup>2</sup></td><td data-bbox="557 1574 763 1641">2m</td></tr> <tr> <td data-bbox="176 1641 335 1709">2 bedroom</td><td data-bbox="335 1641 557 1709">10m<sup>2</sup></td><td data-bbox="557 1641 763 1709">2m</td></tr> <tr> <td data-bbox="176 1709 335 1776">3 bedroom</td><td data-bbox="335 1709 557 1776">12m<sup>2</sup></td><td data-bbox="557 1709 763 1776">2.4</td></tr> </tbody> </table>		Dwelling Type	Minimum Area	Minimum Depth	Studio	4m <sup>2</sup>	-	1 bedroom	8m <sup>2</sup>	2m	2 bedroom	10m <sup>2</sup>	2m	3 bedroom	12m <sup>2</sup>	2.4
Dwelling Type	Minimum Area	Minimum Depth														
Studio	4m <sup>2</sup>	-														
1 bedroom	8m <sup>2</sup>	2m														
2 bedroom	10m <sup>2</sup>	2m														
3 bedroom	12m <sup>2</sup>	2.4														
The minimum balcony depth to be counted as contributing to the balcony area is 1m																

<b>Provisions</b>	<b>Comment</b>										
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m	<b>Complies</b> The two units that address the podium at level 1 have amenity space in excess of 15m <sup>2</sup> .										
<b>4F Common Circulation and Spaces</b> The maximum number of apartments off a circulation core on a single level is eight.	<b>Complies</b> Maximum 6 apartments per floor (single core).										
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	<b>Not applicable</b> The building is 9-storeys in height										
<b>4G Storage</b> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <div data-bbox="187 792 759 1006" style="border: 1px solid black; padding: 5px; width: 460px; height: 95px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 2px;">Dwelling Type</th> <th style="text-align: left; padding: 2px;">Storage Size Volume</th> </tr> </thead> <tbody> <tr> <td style="text-align: left; padding: 2px;">Studio</td> <td style="text-align: left; padding: 2px;">4m<sup>3</sup></td> </tr> <tr> <td style="text-align: left; padding: 2px;">1 bedroom</td> <td style="text-align: left; padding: 2px;">6m<sup>3</sup></td> </tr> <tr> <td style="text-align: left; padding: 2px;">2 bedroom</td> <td style="text-align: left; padding: 2px;">8m<sup>3</sup></td> </tr> <tr> <td style="text-align: left; padding: 2px;">3 bedroom</td> <td style="text-align: left; padding: 2px;">10m<sup>3</sup></td> </tr> </tbody> </table> </div> <p style="text-align: center; margin-top: 5px;">At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage Size Volume	Studio	4m <sup>3</sup>	1 bedroom	6m <sup>3</sup>	2 bedroom	8m <sup>3</sup>	3 bedroom	10m <sup>3</sup>	<b>Complies</b> In excess of half of the required storage space is provided within units. The applicant has also provided storage in basement, but this is not allocated to individual units at this stage.
Dwelling Type	Storage Size Volume										
Studio	4m <sup>3</sup>										
1 bedroom	6m <sup>3</sup>										
2 bedroom	8m <sup>3</sup>										
3 bedroom	10m <sup>3</sup>										
<b>4H Acoustic Privacy</b> Noise transfer is minimised through the siting of buildings and building layout	<b>Complies</b> Bathrooms and kitchens have been clustered together where possible and also located near corridors where possible, which assist in mitigating noise levels to quieter rooms such as bedrooms. Acoustic building requirements shall be included at the construction stage in order to mitigate acoustic disturbances between apartments.										
Noise impacts are mitigated within apartments through layout and acoustic treatments											
<b>4K Apartment Mix</b> A range of apartment types and sizes is provided to cater for different household types now and into the future	<b>Complies</b> The proposal provides for 64% one bedroom units, and 36% two bedroom units.										
The apartment mix is distributed to suitable locations within the building											

Provisions	Comment
<b>4L Ground Floor Apartments</b>	
Street frontage activity is maximised where ground floor apartments are located	<b>Complies</b> There are no ground floor units, and the proposal provides commercial units at the ground floor fronting the street, which will help activate the street frontage.
Design of ground floor apartments delivers amenity and safety for residents	
<b>4M Facades</b>	
Building facades provide visual interest along the street while respecting the character of the local area	<b>Complies</b> The overall design including building façade has been supported by the DEP as per the amendment discussed in Section 3.2 of this report.
Building functions are expressed by the facade	
<b>4N Roof Design</b>	
Roof treatments are integrated into the building design and positively respond to the street	<b>Complies</b> The roof is not the dominant feature, a parapet wall style is used which minimises expressions of roof forms.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	The development proposes a roof garden and is in accordance with these objectives.
<b>4O Landscape Design</b>	
Landscape design is viable and sustainable	<b>Complies</b> An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Landscape Officer who has raised no objections to the landscape design.
Landscape design contributes to the streetscape and amenity	
<b>4P Planting on Structures</b>	
Appropriate soil profiles are provided	<b>Complies</b> The DA has been reviewed by Council's Tree Officer who has raised no objections to the landscape design.
Plant growth is optimised with appropriate selection and maintenance	
Planting on structures contributes to the quality and amenity of communal and public open spaces	Large planting is proposed within the communal open space area to the rear, which can be easily maintained.
<b>4Q Universal Design</b>	
Universal design features are included in apartment design to promote flexible housing for all community members	<b>Complies</b> All above ground apartments are accessed by a lift and include wide corridors which is suitable for wheel chair access. A ramp is provided at the entry of the building, also allowing wheel chair
A variety of apartments with adaptable designs are provided	

Provisions	Comment
Apartment layouts are flexible and accommodate a range of lifestyle needs	access from the street. 10% of units are adaptable.
<b>4R Adaptive Reuse</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 DA is for the development of a new building and not the adaptive reuse of an existing building.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
<b>4S Mixed Use</b>	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	<b>Complies</b> The proposal provides commercial units at the ground floor fronting the street, which will help activate the street frontage.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	The upper residential floors are well integrated into the overall design of the building.
<b>4T Awnings and Signage</b>	
Awnings are well located and complement and integrate with the building design	<b>Complies</b> Covered entrances are provided to the commercial and residential entries that are integrated into the design of the building.
Signage responds to the context and desired streetscape character	<b>Complies</b> Building address signage would be integrated into the building design.
<b>4U Energy Efficiency</b>	
Development incorporates passive environmental design.	<b>Complies</b> The development has been submitted with a BASIX certificate. This will also form a condition of consent.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
<b>4V Water Management and Conservation</b>	
Potable water use is minimised	<b>Complies</b> Potable water use is minimized and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.

Provisions	Comment
Urban stormwater is treated on site before being discharged to receiving waters	<b>Complies</b> This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.
Flood management systems are integrated into site design	<b>Not applicable</b> The site is not on flood prone land.
<b>4W Waste Management</b>	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	<b>Complies</b> Waste storage facilities are provided and will be maintained by the caretaker.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
<b>4X Building Maintenance</b>	
Building design detail provides protection from weathering	<b>Complies</b> The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

Clause 7 of SEPP 55 states:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
  - it has considered whether the land is contaminated, and*
  - 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*
  - if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The applicant submitted a Stage 2 Contamination Assessment prepared by eiaustralia (date 4 July 2019). The report concludes that the site can be made suitable for the proposed development, subject to implementing the recommendations specified:

- *Asbestos Containing Material (ACM) was found across the surface of the site and in shallow fill at BH106. In light of this finding and the thin nature of fill soils identified (max. thickness 0.3m), site wide fill should be classified in accordance with the NSW EPA (2014) Waste Classification Guidelines, excavated and disposed of to an appropriately licensed landfill. Prior to removal preparation of an Asbestos Removal Management Plan must be prepared by the environmental consultant and followed by the excavation contractor to ensure all asbestos impacted fill soils are safely removed from the site and appropriately management;*
- *Following offsite disposal of site wide fill, a site walkover inspection and subsequent surface validation is required to validate the site is free of fill material and natural clay exposed;*
- *Preparation of an asbestos clearance report by a suitably qualified environmental consultant, certifying that all asbestos impacted fill soils have been removed from the site.*
- *Any soil materials being removed from site (including virgin excavated natural materials or VENM) be classified for off-site disposal in accordance the EPA (2014) Waste Classification Guidelines;*
- *Any material being imported to the site should be assessed for potential contamination, in accordance with NSW EPA guidelines, as being suitable for the intended use or be classified as virgin excavated natural material (VENM);*
- *Should unexpected finds (contamination) be encountered during redevelopment works a qualified environmental consultant be engaged to inspect the finds and offer the appropriate guidance.*

Based on the above assessment, and subject to conditions ensuring the above recommendations are carried out, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55, therefore, it is considered that the subject site is suitable for the proposed development.

### **(c) State Environmental Planning Policy (Affordable Rental Housing) 2009**

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

Provision	Comment
<b>Part 2 New Affordable Rental Housing – Division 1 In-Fill Affordable Housing</b>	
<b>Clause 10 Development to which Division Applies</b>	
(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if: (a) the development concerned is permitted with consent under another environmental planning instrument, and	<b>Complies</b> The development is permitted with consent under the LLEP 2008 and the site does not contain a heritage item.

<p>(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.</p>	
<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> The site is 400m from a number of bus stops with services that operate within the parameters specified in the SEPP.</p>
<b>Clause 13 Floor Space ratio</b>	
<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><b>Complies</b> It is proposed that 51% of the gross floor area of the development will be utilised for the purpose of in-fill affordable housing.</p>
<p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(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:</p> <p><b>Y = AH ÷ 100 - AH</b> is the percentage of the gross floor area of the development that is used for affordable housing</p>	<p><b>Complies – See discussion below</b></p> <p>The site has a maximum FSR under the LLEP of 2.13:1. A bonus of 0.5 is afforded under Division 1 of the SEPP (Affordable Rental Housing) 2009 as 51% of the gross floor area of the development is to be used for affordable housing. Accordingly, the permissible FSR on the site is 2.63:1</p> <p>The development proposes an FSR of 2.63:1.</p>
<b>Clause 14 Standards that cannot be used to refuse consent</b>	
<p><i>(1) Site and solar access requirements</i> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	
<p><b>(b) Site Area</b> if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p><b>Complies</b> The development site has an area of 1,188m<sup>2</sup>.</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> The development provides for approximately 611m<sup>2</sup> of landscaped area which equates to 51%.</p>
<p>(d) Deep Soil Zones</p> <p>In relation to that part of the site area that is not built on, paved or otherwise sealed:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(ii) each area forming part of the deep soil zone has a minimum dimension of 3m, and</li> <li>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</li> </ul>	<p><b>Non-Compliance</b> Approximately 12% (150m<sup>2</sup>) of the site area is a deep soil zone. However, this complies with the ADG requirement of 7%, which is considered to be a more appropriate requirement for a development of this typology.</p> <p>In excess of two thirds of the deep soil zone is located within the rear portion of the site.</p>
<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>	<p><b>Complies</b> All units within the development receive 3 hours of solar access or more.</p>
<p><b>(2) General</b> <i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
<p>(a) parking</p> <ul style="list-style-type: none"> <li>(ii) in any other case – at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.</li> </ul>	<p><b>Complies</b> 0.5 x 29 1-bed units = 15 1 x 16 2-bed units = 16 = 31</p> <p>A total of 31 spaces are required. A total of 42 spaces are proposed.</p>
<p>(b) dwelling size</p> <p>if each dwelling has a gross floor area of at least:</p> <ul style="list-style-type: none"> <li>(i) 35m<sup>2</sup> in the case of a bedsitter or studio, or</li> <li>(ii) 50m<sup>2</sup> in the case of a dwelling having 1 bedroom, or</li> <li>(iii) 70m<sup>2</sup> in the case of a dwelling having 2 bedrooms, or</li> <li>(iv) 95m<sup>2</sup> in the case of a dwelling having 3 or more bedrooms.</li> </ul>	<p><b>Complies</b> The apartments comply with the minimum size requirements.</p>
<p><b>Clause 16 Continued Application of SEPP 65</b></p> <p>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</p>	
<p><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.</p>	

<b>Clause 16A Character of Local Area</b>	
A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	<p><b>Complies</b></p> <p>The subject site comprises 2 vacant lots, and is surrounded by a mixture of uses, mostly lower in height than the proposal.</p> <p>Whilst the surrounding development is generally of a lower height than the 9-storeys proposed, the site is zoned R4, which allows for residential flat buildings, and in this location up to a height of 35m. Numerous similar (and taller) developments are built or being built to the west of this site in the city centre, which is an indication of the desired future character of the area.</p> <p>As such, the proposed development generally complies with these requirements and therefore is considered to be in accordance with the desired future character of the area.</p>
<b>Clause 17 Must Be Used for Affordable Housing for 10 Years</b>	
<p>(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:</p>	
<p>(a) for 10 years from the date of the issue of the occupation certificate:</p> <ul style="list-style-type: none"> <li>(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</li> <li>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</li> </ul> <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><b>Complies</b></p> <p>To ensure that the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing; conditions of consent have been imposed.</p>

#### **(d) 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.

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

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application planning principles are to be applied (Clause 7(b)). Accordingly, a table summarising the matters for consideration in determining a development application (Clause 8 and Clause 9), and compliance with such is provided below.

<b>Clause 8 General Principles</b>	<b>Comment</b>
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. A 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 <i>Georges River Catchment Regional Planning Strategy</i> (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 is considered appropriate for the site.

<b>Clause 9 Specific Principles</b>	<b>Comment</b>
(1) Acid sulfate soils	The site is affected by Class 5 acid sulphate soils, but is located sufficient distance from Class 4 land to not require a management plan.

(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site does not contain flood affected land.
(4) Industrial discharges	Not applicable. The site has been used for residential purposes.
(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, and 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 site remediation and appropriate sedimentation and erosion controls during construction. Accordingly, the development will have minimal impact on the Georges River Catchment.

**(f) Liverpool Local Environmental Plan 2008**

**(i) Permissibility**

The proposed development is for a *shop top housing*, which is defined as follows:

*One or more dwellings located above ground floor retail premises or business premises.*

The proposed development satisfies the definition of shop top housing as it is a building which contains dwellings over a retail premises.

The retail element is considered as a *neighbourhood shop*, which is defined as:

*A premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include neighbourhood supermarkets or restricted premises.*

The proposal meets the definition of neighbourhood shops as the floor area is less than 100m<sup>2</sup>, as required in clause 5.4 of the LLEP.

As such, the proposal for shop top housing over neighbourhood shops is considered a permitted development, with consent in the R4 zone.

**(ii) Objectives of the zone**

The objectives of the R4 – High Density Residential 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 proposed development would meet and satisfy the above stated objectives. Specifically, the building will provide a total of 45 dwellings (a mix of 1 and 2 bedroom units and a number of adaptable units) in a development commensurate with the desired character within a high density residential environment. Also, the development provides for a high concentration of housing in an area identified for urban renewal and transformation, in close proximity to Liverpool Railway Station, retail and commercial facilities. The development also provides retail tenancies on the ground floor for use as neighbourhood shops which will provide a service to meet the day to day needs of residents.

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

The LLEP 2008 contains a number of principal development standards which are relevant to the proposal. Assessment of the application against the relative standards is provided below.

<b>Clause</b>	<b>Provision</b>	<b>Comment</b>
<b>Clause 2.7 Demolition Requires Development Consent</b>	The demolition of a building or work may be carried out only with development consent.	<b>Complies</b> No demolition is required as part of this application.
<b>Clause 4.3 Height of Buildings</b>	Maximum height of 35m	<b>Complies</b> Natural ground = 12.6 AHD Top of building = 44.15 AHD A maximum height of 31.55m is proposed.
<b>Clause 4.4 Floor Space Ratio</b>	Maximum FSR of 2.13:1 (plus bonus FSR of 0.5: under ARH SEPP for 2.63: total)	<b>Considered acceptable</b> FSR of 2.63:1 is proposed pursuant to the SEPP (Affordable Rental Housing) 2009
<b>Clause 5.4 Controls relating to miscellaneous permissible uses</b>	(7) Neighbourhood shops - If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.	<b>Complies</b> The commercial units proposed at ground floor level have an area of 99.18m <sup>2</sup> .
<b>Clause 7.4 Building Separation in Liverpool City Centre</b>	Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation	<b>Complies</b> The properties to the north and the west are four storeys in height, with the upper floors being less than 12m in height.

	<p>distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:</p> <ul style="list-style-type: none"> <li>- 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished)</li> <li>- 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished)</li> </ul>	<p>The property to the south of the site is only single storey, and is less than 12m in height.</p> <p>As such, the separation distance is complied with over 12m in height.</p>
<b>Clause 7.7 Acid Sulfate Soils</b>	<p>Development consent is required for the carrying out of works described in the Table:</p> <p>Class 5 - Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p><b>Complies</b> The site is partially affected by Class 5 soils, but is not within 500m of Class 1-4 soils.</p>
<b>Clause 7.14 Minimum Building Street Frontage</b>	<p>Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:</p> <ul style="list-style-type: none"> <li>- Any residential flat building.</li> </ul>	<p><b>Complies</b> Street frontage exceeds 25m.</p>
<b>Clause 7.17 Airspace operations</b>	<p>Consent must not be granted to controlled activities (in relation to the prescribed airspace) under the Airports Act</p>	<p><b>Complies</b> The site sits within the 90m contour for Bankstown Airport. The proposal, at less than 35m in height is significantly below the obstacle limitation contour.</p>

#### (iv) Other Relevant LLEP 2008 Clauses

In addition to the above development standards, the application has also been considered in regards to other relevant standards of the LLEP 2008. The key clauses applicable to the application are discussed in further detail below. The proposal demonstrates full compliance with the LLEP 2008 standards and is satisfactory.

- **Clause 5.10 Heritage Conservation**

The development site is not listed as a heritage item under Schedule 5 of the LLEP 2008, however, it is located within the vicinity of a heritage item being item Number 89 known as the Plan of Town of Liverpool (Hoddle Grid 1827).

Council's Heritage Officer has reviewed the proposal and has raised no objection to the development with regards to the surrounding heritage items or its effect on heritage conservation.

- **Clause 7.1 Objectives for Development in Liverpool City Centre**

Clause 7.1 of the LLEP 2008, stipulates the objectives that must be satisfied by any redevelopment in the city centre. The proposed development is generally consistent with the relevant objectives as follows:

*(a) to preserve the existing street layout and reinforce the street character through consistent building alignments,*

**Comment:** The development provides a residential flat building which aligns with the street.

*(b) to allow sunlight to reach buildings and areas of high pedestrian activity,*

**Comment:** The proposed development has been designed to maximise the ability for sunlight to reach buildings and the pedestrian areas.

*(c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,*

**Comment:** The development is highly unlikely to create pedestrian or traffic conflicts on the Hume Highway.

*(d) to improve the quality of public spaces in the city centre,*

**Comment:** The development provides a high quality presentation to the public domain.

*(e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,*

**Comment:** Not relevant.

*(f) to enhance the natural river foreshore and places of heritage significance,*

**Comment:** Not relevant.

*(g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.*

**Comment:** Not relevant.

- **Clause 7.5 Design Excellence in Liverpool City Centre**

Clause 7.5 of the LLEP 2008 prescribes that development consent must not be granted to development within the Liverpool City Centre, unless the consent authority considers that the development exhibits design excellence. The objective of this clause is to deliver the highest standard of architectural and urban design within the city centre. The clause sets out the matters that must be considered by Council.

The matters set out in Clause 7.5 have been carefully considered in consultation with the DEP. Consequently, the application has been through amendments to improve the design quality in line with provisions of the LLEP 2008 and the comments provided by the DEP.

In conclusion, the overall development satisfies the LLEP 2008 design excellence provisions and demonstrates satisfactory design quality.

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

No draft Environmental Planning Instruments applies 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 4 *Development in Liverpool City Centre*.

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

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

<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>
<b>Section 2 - Tree Preservation</b>	Controls relating to the preservation of trees	<b>Complies</b> There are several non-significant trees located on site that will be removed as part of the proposal. The application was reviewed by Council's Landscape Officer who raised no concern with the proposal.
<b>Section 3 - Landscaping and Incorporation of Existing Trees</b>	Controls relating to landscaping and the incorporation of existing trees.	<b>Complies</b> The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues with the design.  The Landscape Plan proposes a variety of planting along the street frontages, communal open space and podiums.
<b>Section 4 - Bushland and Fauna Habitat Preservation</b>	Controls relating to bushland and fauna habitat preservation	<b>Not applicable</b> The development site is not identified as containing any native flora and fauna.

Development Control	Provision	Comment
<b>Section 5 - Bush Fire Risk</b>	Controls relating to development on bushfire prone land.	<b>Not applicable</b> The development site is not identified as being 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.	<b>Complies</b> 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.	<b>Not applicable</b> The development 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.	<b>Complies</b> 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.	<b>Not applicable</b> The development site is not affected by flooding.
<b>Section 10 - Contaminated Land Risk</b>	Provisions relating to development on contaminated land.	<b>Complies</b> As discussed earlier within this report, the site is considered suitable for the development.
<b>Section 11 - Salinity Risk</b>	Provisions relating to development on saline land.	<b>Not applicable</b> The development site is identified as containing a low salinity potential. Therefore, a salinity management response plan is not required.
<b>Section 12 - Acid Sulphate Soils</b>	Provisions relating to development on acid sulphate soils	<b>Complies</b> The site is partially affected by Class 5 soils, but is not within 500m of Class 1-4 soils.
<b>Section 13 - Weeds</b>	Provisions relating to sites containing noxious weeds.	<b>Not applicable</b> The site is not identified as containing noxious weeds.
<b>Section 14 - Demolition of Existing Development</b>	Provisions relating to demolition works	<b>Not applicable</b> No demolition required

Development Control	Provision	Comment
<b>Section 15 - On Site Sewage Disposal</b>	Provisions relating to OSMS.	<b>Not applicable</b> OSMS is not proposed.
<b>Section 16 - Aboriginal Archaeology</b>	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	<b>Not applicable</b> Based on the location and the last uses of the site it is unlikely that there is a likelihood of archaeological finds or relics.
<b>Section 17 - Heritage and Archaeological Sites</b>	Provisions relating to heritage sites.	<b>Complies</b> Conditions will be imposed to ensure that the proposal does not detract from surrounding heritage items.
<b>Section 18 - Notification of Applications</b>	Provisions relating to the notification of applications.	<b>Complies</b> The application was notified for 14 days in accordance with this policy.
<b>Section 19 - Used Clothing Bins</b>	Provisions relating to used clothing bins.	<b>Not Applicable</b> 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 or two bedroom apartments</li> <li>- 1 space per 10 units or part thereof, for visitors</li> <li>- 1 space per 40 units for service vehicle (including removalist vans (and car washing bays, up to a maximum of 4 spaces per building).</li> </ul>	<b>Complies</b> The following parking is required: <ul style="list-style-type: none"> <li>- 29 x 1 bedroom units requires 29 spaces</li> <li>- 16 x 2 bedroom units requires 16 spaces</li> </ul> A total of 45 spaces required for the residential units <ul style="list-style-type: none"> <li>- 45 residential units requires 5 visitor spaces</li> <li>- 2 carwash/service bays are required.</li> </ul> The following parking is provided: <ul style="list-style-type: none"> <li>- 42 spaces for residential units and visitors</li> <li>- 1 carwash/service bays</li> </ul> The proposal falls short of the DCP parking requirements by 8 spaces and 1 service bay. However, the parking is in accordance with the requirements of the ARH SEPP, which takes precedence in this instance.
	All other development: 1 space per 100m <sup>2</sup> of floor area.	<b>Complies</b> 100m <sup>2</sup> of commercial floorspace proposed, 1 space required. 3 proposed.

Development Control	Provision	Comment
	Provision is to be made for motorcycle parking at the rate of 1 motorcycle space per 20 car spaces	<p><b>Complies</b> A total of 45 parking spaces (excluding the car carwash/service bays) are provided which equates to 3 motorcycle spaces.</p> <p>A total of 3 motorcycle spaces have been provided.</p>
	Provide 2% of the total demand generated by a development, for parking spaces accessible, designed and appropriately signposted for use by persons with disabilities.	<p><b>Complies</b> A total of 1 space of the 45 parking spaces shall be accessible.</p> <p>A total of 4 accessible spaces have been provided.</p>
	1 bicycle space per 200m <sup>2</sup> of gross floor area.  15% of this requirement is to be accessible to visitors	<p><b>Complies (with condition)</b> A total of 16 bicycle spaces are required.</p> <p>A total of 11 bicycle spaces are provided including 3 which are accessible to visitors. Conditions will be added ensuring the DCP bicycle parking requirements are met.</p>
<b>Section 21 - Subdivision of Land and Buildings</b>	Provisions relating to the subdivision of land.	<p><b>Not applicable</b> The DA does not propose the subdivision of land.</p>
<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).	<p><b>Complies</b> Conditions of consent will be imposed to ensure compliance with the BASIX commitments.</p>
<b>Section 24 - Landfill</b>	Minimisation of cutting and filling, not in conjunction with a DA.	<p><b>Not applicable</b> Cut and fill included with DA.</p>
<b>Section 25 - Waste Disposal and Re-use Facilities</b>	Provisions relating to waste management during construction and on-going waste.	<p><b>Complies</b> 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.</p> <p>On-going Waste Management: The development includes a waste storage area on Basement Level 1 for waste collection and storage. The building has been designed to include waste chutes from the services cores on each level to the</p>

Development Control	Provision	Comment
		waste storage room on Basement Level12.  Bins will be wheeled to the front for collection and will be collected from Forbes Street.
<b>Section 26 - Outdoor Advertising and Signage</b>	Provisions relating to signage.	<b>Not Applicable</b> The DA does not propose any signage.
<b>Section 27 - Social Impact Assessment</b>	A comprehensive social impact comment shall be submitted for residential flat buildings greater than 20 units.	A social impact comment was submitted as part of the proposal, and no issues are raised with regards to social matters.

#### LDCP 2008 Part 4: Liverpool City Centre

Development Control	Provision	Comment
<b>Section 2 Controls for Building Form</b>		
<b>Building Form</b>	<p>Street building alignment and street setbacks applicable to the site is a 4-4.5m landscaped setback to Forbes Street in this part of the city centre.</p> <p>Balconies may project up to 1.2m in high density residential zones.</p> <p>Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible</p>	<p><b>Non-compliance (Considered acceptable)</b></p> <p>The proposal provides a 3.6m setback to Forbes Street. The proposed front setback is however considered to be appropriate to the building function and character. The development will achieve a strong definition of the public domain. The external facades of building will align with the street frontage.</p> <p>The proposed front setback will create an appropriate transition between public and private space, and ground floor commercial units will be provided on the ground floor fronting the street, which will provide an active use close to the pedestrian activity area of the street.</p> <p>Balconies and entry ways do encroach into this set back, but area considered to be in keeping with the overall design of the frontage of the building.</p>
	The external facades of buildings are to be aligned with the streets that they front.	<p><b>Complies</b></p> <p>The external facade aligns with the streets.</p>

Development Control	Provision	Comment
<b>Street Frontage Height</b>	A street frontage height (SFH) of 15m-25m is required for Forbes Street in this part of the city centre.	<b>Complies</b> A minimum SFH of 25m is provided to Forbes Street.
<b>Building Depth and Bulk</b>	Maximum floor plate size of 500m <sup>2</sup> (GFA) and building depth of 18m (excluding balconies) is required above street frontage height (i.e Level 8)	<b>Complies</b> The separate floor plates on the upper levels do not exceed 500m <sup>2</sup> and building depth of both floor plates do not exceed 18m in depth.
<b>Side Setback</b>	Residential uses up to 12m (i.e Ground floor, Level 1, Level 2 and Level 3) require a minimum side setback of: <ul style="list-style-type: none"> <li>- 3m to non-habitable rooms.</li> <li>- 6m to habitable rooms.</li> </ul>	<b>Complies</b> 6m separation to northern boundary from habitable rooms/ balconies from level 1 to level 3.  <b>Non-compliance</b> 0m setback to southern neighbour at non-residential ground floor level. 2m separation to the southern boundary from habitable rooms/ balconies from level 1 to level 3.
	Residential uses between 12-25m (i.e. Level 4, Level 5, Level 6 and Level 7) require: <ul style="list-style-type: none"> <li>4.5m to non-habitable rooms.</li> <li>- 9m to habitable rooms</li> </ul>	<b>Non-compliance</b> 6m separation to northern boundary from habitable rooms/ balconies from level 4 to level 7.  <b>Non-compliance</b> 2m separation to the southern boundary from habitable rooms/ balconies from level 4 to level 6, and 2.3m at level 7.
	Residential uses between 25-35m (i.e. Level 8 and Level 9) require: <ul style="list-style-type: none"> <li>- 6m to non-habitable rooms.</li> <li>- 12m to habitable rooms</li> </ul>	<b>Non-compliance</b> 6m separation to northern boundary from habitable rooms/ balconies at level 8.  <b>Non-compliance</b> 5m separation to the southern boundary from non-habitable rooms at level 8.
<b>Rear setback</b>	Residential uses up to 12m (i.e Ground floor, Level 1, Level 2 and Level 3) require a minimum rear setback of: <ul style="list-style-type: none"> <li>- 6m</li> </ul>	<b>Compliance</b> 6m separation to western boundary from habitable rooms/ balconies from level 1 to level 3.
	Residential uses between 12-25m (i.e. Level 4, Level 5, Level 6 and Level 7) require: <ul style="list-style-type: none"> <li>- 6m to non-habitable rooms.</li> <li>- 9m to habitable rooms</li> </ul>	<b>Non-compliance</b> 6m separation to western boundary from habitable rooms/ balconies from level 4 to level 7.

Development Control	Provision	Comment
	<p>Residential uses between 25-35m (i.e. Level 8) require:</p> <ul style="list-style-type: none"> <li>- 6m to non-habitable rooms.</li> <li>- 12m to habitable rooms</li> </ul>	<p><b>Non-compliance</b> 10m separation to western boundary from habitable rooms/ balconies at level 8.</p>
<b><u>Variation to setbacks</u></b>		
As discussed in the ADG compliance section of this report, notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to building separation and visual privacy, given the applicant has demonstrated that a compliant building could be constructed on the site to the north and west of the development site.		
<b>Mixed-use buildings</b>	<p>The ground floor component of a mixed-use building is to be used for a permitted non-residential use.</p>	<p><b>Complies</b> Neighbourhood shops (less than 100m<sup>2</sup>) are permitted in this zone.</p>
	<p>Ground floor of all mixed-use buildings are to have a minimum floor to ceiling height of 3.6m in order to provide for flexibility of future use. Above ground level, minimum floor to ceiling heights are 3.3m for commercial office, 3.6m for active public uses, such as retail and restaurants, and 2.7m for residential.</p>	<p><b>Complies on merit</b> The ground floor has a floor to ceiling height of 3.1m, which is less than the 3.6m required. However, given the small floor plate of the commercial units, 3.1m is considered acceptable in this instance.</p> <p>The residential floors on the upper levels have a floor to ceiling height of 2.7m.</p>
	<p>Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook.</p>	<p><b>Complies</b> The entrance to the commercial units is separate to the residential entrance, and the servicing of the commercial elements is to the rear of the site.</p>
	<p>Locate clearly demarcated residential entries directly from the public street.</p>	<p><b>Complies</b> The residential entrance is clearly defined in the building frontage.</p>
	<p>Clearly separate and distinguish commercial and residential entries and vertical circulation.</p>	<p><b>Complies</b> The entrance to the commercial units is separate to the residential entrance.</p>
	<p>Provide security access controls to all entrances into private areas, including car parks and internal courtyards.</p>	<p><b>Complies</b> This will be controlled on the site.</p>

Development Control	Provision	Comment
	Provide safe pedestrian routes through the site, where required.	<b>Not applicable</b>
	Front buildings onto the public domain with active uses.	<b>Complies</b> The commercial units will front the ground floor providing active frontage.
	Avoid the use of blank building walls at the ground level.	<b>Complies</b> There are no blank walls at ground floor level.
<b>Site Cover and Deep Soil Zones</b>	Maximum site coverage of 60%	<b>Complies</b> Proposed site coverage is 52%.
	The deep soil zone shall comprise no less than 15% of the total site area. It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.	<b>Complies on merit</b>  Proposal provided 150m <sup>2</sup> of deep soil zone, which is 12% of the site area.  While the proposal does not comply with the DCP it does comply with the ADG, which is considered to take precedence in this case. It is 6m wide. Accordingly, the provision of 12% of the site as deep soil zone is considered acceptable.
	Deep soil zones are to accommodate existing mature trees as well as allowing for the planting of trees/shrubs that will grow to be mature plants.	<b>Complies</b> The deep soil zones will include trees that will reach a mature height of ≥ 6m.
<b>Landscape Design</b>	Landscaped areas are to be irrigated with recycled water.	<b>Complies</b> Can be conditioned.
	Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.	<b>Complies</b> Suitable landscape species have been chosen. The landscape plan has been reviewed by Council's Landscape Officer who has raised no issues.
	Remnant vegetation must be maintained throughout the site wherever practicable.	<b>Complies</b> There are no existing trees worthy of retention.
	A long-term landscape concept plan must be provided for all landscaped areas, in particular the deep soil landscape zone. The	<b>Complies</b> Conditions can be imposed to ensure the long term maintenance of the landscaped areas.

Development Control	Provision	Comment
	<p>plan must outline how landscaped areas are to be maintained for the life of the development.</p>	
	<p>Any new public spaces are to be designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21st June (Winter Solstice).</p>	<p><b>Not Applicable</b> Public spaces are not proposed.</p>
<b>Planting on Structures</b>	<p>Areas with planting on structures are to be irrigated with recycled water.</p>	<p><b>Complies</b> The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues in regards to this aspect, subject to conditions.</p>
	<p>Design for optimum conditions for plant growth by:</p> <ul style="list-style-type: none"> <li>- providing soil depth, soil volume and soil area appropriate to the size of the plants to be established,</li> <li>- providing appropriate soil conditions and irrigation methods, and</li> <li>- providing appropriate drainage.</li> <li>- Design planters to support the appropriate soil depth and plant selection by ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and providing square or rectangular planting areas rather than narrow linear areas.</li> </ul>	
	<p>Increase minimum soil depths in accordance with:</p> <ul style="list-style-type: none"> <li>- the mix of plants in a planter for example where trees are planted in association</li> </ul>	

Development Control	Provision	Comment
	<p>with shrubs, groundcovers and grass,</p> <ul style="list-style-type: none"> <li>- the level of landscape management, particularly the frequency of irrigation,</li> <li>- anchorage requirements of large and medium trees, and soil type and quality.</li> </ul>	
<b>Amenity</b>		
<b>Front Fences</b>	Controls relating to front fences	<p><b>Not Applicable</b> Front fences are not proposed.</p>
<b>Safety and Security</b>	<p>Address 'Safer-by-Design' principles to the design of public and private domain, and in all developments (including the NSW Police 'Safer by Design' crime prevention through environmental design (CPTED) principles).</p>	<p><b>Complies</b> The proposed development is considered to be satisfactory in relation to the safer by design principles.</p>
	Ensure that the building design allows for passive surveillance of public and	<p><b>Complies</b> The design of the development allows for passive surveillance of access ways and</p>

Development Control	Provision	Comment
	communal spaces, access ways, entries and driveways.	driveways.
	Avoid creating blind corners and dark alcoves that provide concealment opportunities in pathways, stairwells, hallways and car parks.	<b>Complies</b> The development does not create any blind corners or dark alcoves.
	Maximise the number of residential 'front door' entries at ground level.	<b>Complies</b> Front entrances are provided to the street frontage.
	Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.	<b>Complies</b> The front entrance is orientated to the street and are easily identifiable.
<b>Awnings</b>	Wet weather protection to be provided to all entrances	<b>Complies</b> Wet weather protection is provided to the entrances.
<b>Vehicle Footpath Crossings</b>	No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified within the LDCP2008.	<b>Complies</b> Only one vehicle entry point is proposed from Forbes Street.
	In all other areas, one vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be generally permitted.	<b>Complies</b> The proposed development will involve one vehicle entry point, for all vehicles and service vehicles.
	Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts or streets with high pedestrian priority routes identified in Figure 18 (marked yellow).	<b>Not applicable</b> The site does not adjoin a laneway or a minor street.
	Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings	<b>Not applicable</b> The adjoining sites are already developed.

Development Control	Provision	Comment
	should provide vehicle access points so that they are capable of shared access at a later date.	
	Vehicle access ramps parallel to the street frontage will not be permitted.	<b>Not applicable</b> The development does not provide for a parallel access ramp.
	Ensure vehicle entry points are integrated into building design.	<b>Complies</b> The driveway entry is integrated into the building design.
	Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street.	<b>Complies</b> The vehicle entry will use the same materials as per the rest of the building.
<b>Building Exteriors</b>	Balconies and terraces should be provided, particularly where buildings overlook public spaces. Gardens on the top of setback areas of buildings are encouraged.	<b>Complies</b> The development provides for balconies and terraces to all floors.
	Articulate façades so that they address the street and add visual interest. Buildings are to be articulated to differentiate between the base (street frontage height), middle and top in design.	<b>Complies</b> The building facades are articulated through the provision of a wide variety of design elements such as windows with varying proportions, balconies, glazed and masonry balustrades and screens.
	Limit sections of opaque or blank walls greater than 4m in length along the ground floor to a maximum of 30% of the building frontage.	<b>Complies</b> The building frontage does not contain any blank walls.
	Highly reflective finishes and curtain wall glazing are not permitted above ground floor level.	<b>Complies</b> Highly reflective materials will not be used.
	A materials sample board and schedule is required to be submitted with applications for development over \$1million or for that part of any development built to	<b>Complies</b> A colour schedule as well as 3D modelling has been provided which gives a clear indication of the colour and types of materials that will be used.

Development Control	Provision	Comment
	the street edge.	
	Roof top structures, such as air conditioning, lift motor rooms, and the like are to be incorporated into the architectural design of the building.	<p><b>Complies</b></p> <p>Roof top structures are incorporated within the internal design of the development and will not be visible from public view.</p>
<b>Traffic And Access</b>		
<b>Pedestrian Access and Mobility</b>	<p>Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity.</p>	<p><b>Complies</b></p> <p>The main entry point is orientated to the street and will be visible. The main entry is located after a large courtyard and communal area addressing the streetscape.</p>
	<p>The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standards.</p>	<p><b>Complies</b></p> <p>The design of the car parking facilities is in accordance with Australian Standards. The application has been reviewed by Councils Traffic and Transport Section who have responded in support, subject to conditions.</p>
	<p>The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.</p>	<p><b>Complies</b></p> <p>Barrier free access is provided to the ground floor.</p>
	<p>The development must provide accessible internal access, linking to public streets and building entry points.</p>	<p><b>Complies</b></p> <p>Sufficient accessible internal access is provided to the street and building entry points. The accessible unit is located on the ground floor.</p>
	<p>Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours.</p>	<p><b>Complies</b></p> <p>Durable materials will be used which include but limited to concrete footpath, paving and tiles.</p>

Development Control	Provision	Comment
<b>Vehicular Driveways and Manoeuvring Areas</b>	<p>Driveways should be:</p> <ul style="list-style-type: none"> <li>- provided from lanes and secondary streets rather than the primary street, wherever practical,</li> <li>- located taking into account any services within the road reserve, such as power poles, drainage inlet pits and existing street trees,</li> <li>- located a minimum of 10m from the perpendicular of any intersection of any two roads, and</li> <li>- Located to minimise noise and amenity impacts on adjacent residential development.</li> </ul>	<p><b>Complies</b> A driveway is provided on Forbes Street. The location of the driveway will not be in conflict with any services located within the road reserve. The location of the driveway is unlikely to create a noise and amenity impact on adjacent residential development.</p> <p>Furthermore, it is recommended that advisory notes are imposed advising the application to conduct a 'dial before you dig'.</p>
	<p>Vehicle access is to be integrated into the building design so as to be visually recessive.</p>	<p><b>Complies</b> The vehicle access is visually recessive as it leads down to basement car parking.</p>
	<p>All vehicles must be able to enter and leave the site in a forward direction without the need to make more than a three point turn.</p>	<p><b>Complies</b> Minimum aisle widths are provided within the basement car parking area to sufficiently enable a three point turn. All vehicles will therefore be able to enter and exit the site in a forward direction.</p>
	<p>Design of driveway crossings must be in accordance with Council's standard Vehicle Entrance Designs, with any works within the footpath and road reserve subject to a Section 138 Roads Act approval.</p>	<p><b>Complies</b> Conditions will be imposed regarding the approval of Section 138 Roads Act certificate and a driveway crossing application.</p>
	<p>Driveway widths must comply with the relevant Australian Standards.</p>	<p><b>Complies</b> A suitable driveway width is provided which is in accordance with AS, as per the comments from Council Traffic Engineers.</p>
	<p>Car space dimensions must comply with Australian Standard 2890.1.</p>	<p><b>Complies</b> Car space dimensions are in accordance with AS, as per the comments from Council Traffic Engineers.</p>

Development Control	Provision	Comment
	Driveway grades, vehicular ramp width/ grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1).	<b>Complies</b> The driveway grades, vehicular ramp width/grades are in accordance with relevant AS, as per the comments from Council Traffic Engineers.
	Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	<b>Complies</b> Development is considered to be designed to minimise noise impacts from vehicle access and basement car parking.
On Site Parking	Car Parking Requirements <ul style="list-style-type: none"> <li>- 1 space per one bedroom or two bedroom apartments;</li> <li>- 1.5 spaces per three or more bedroom units</li> <li>- 1 space per 10 units for visitors</li> <li>- 1 space per 40 units for service vehicle</li> </ul>	As discussed above appropriate parking facilities are provided.
	Motorcycle Car Parking Spaces <ul style="list-style-type: none"> <li>- 1 motorcycle space per 20 car spaces</li> </ul>	
	Accessible Car Parking Spaces <ul style="list-style-type: none"> <li>- 2% of the total demand generated by a development.</li> </ul>	
	Bicycle Parking <ul style="list-style-type: none"> <li>- 1 bicycle space per 200m<sup>2</sup> of LFA.</li> </ul>	
	Car parking and associated internal manoeuvring areas provided over and beyond that required by the LDCP 2008 is to be calculated towards gross floor area.	<b>Not applicable</b>
	Car parking above ground level is to have a minimum floor to ceiling height of 2.8 so it can be adapted to another use in the future.	<b>Complies</b> Car parking above ground level is not provided.
	Onsite parking must meet the relevant Australian Standards	<b>Complies</b> Subject to conditions.

Development Control	Provision	Comment
<b>Environmental Management</b>		
<b>Energy Efficiency and Conservation</b>	New dwellings are to demonstrate compliance with SEPP (BASIX), 2004	<p><b>Complies</b></p> <p>The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP (BASIX), 2004. It is recommended that conditions are imposed to ensure compliance with the BASIX commitments.</p>
<b>Water Conservation</b>	New dwellings are to demonstrate compliance with SEPP (BASIX), 2004	<p><b>Complies</b></p> <p>The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP (BASIX), 2004. It is recommended that conditions are imposed to ensure compliance with the BASIX commitments.</p>
<b>Reflectivity</b>	New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers.	<p><b>Complies</b></p> <p>The types of building materials used in the facade include painted rendered finish, face brick, glazing, aluminium framed windows and metal roofing. It is unlikely that these materials will result in an unacceptable level of glare on pedestrians and/or drivers.</p>
	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	<p><b>Complies</b></p> <p>It is recommended that a condition is imposed to ensure compliance with this provision.</p>
	Subject to the extent and nature of glazing and reflective materials used, a Reflectivity Report that analyses potential solar glare from the proposed development on pedestrians or motorists may be required	<p><b>Not applicable</b></p> <p>A reflectivity report is not required given the materials used will not result in an unacceptable level of solar glare.</p>
<b>Wind Mitigation</b>	To ensure public safety and comfort, the following maximum wind criteria are to be met by new buildings: <ul style="list-style-type: none"> <li>- 10m/second in retail streets,</li> <li>- 13m/second along major pedestrian streets, parks and public places, and</li> <li>- 16m/second in all other streets.</li> </ul>	<p><b>Complies</b></p> <p>It is unlikely the proposed development will impact upon the public safety in terms of wind.</p>

Development Control	Provision	Comment
	<p>Site design for tall buildings (towers) should:</p> <ul style="list-style-type: none"> <li>- set tower buildings back from lower structures built at the street frontage to protect pedestrians from strong wind downdrafts at the base of the tower,</li> <li>- ensure that tower buildings are well spaced from each other to allow breezes to penetrate city centre,</li> <li>- consider the shape, location and height of buildings to satisfy wind criteria for public safety and comfort at ground level, and</li> <li>- ensure useability of open terraces and balconies.</li> </ul>	<p><b>Complies</b>  The proposed development is narrow in form, and the building will be one of the largest structures on the block at this stage.</p> <p>In this regard the development is considered to comply with site design for tall building.</p>
<b>Noise</b>	An acoustic report is required for all noise affected locations, as identified in figure 25.	<p><b>Not applicable</b>  The development site is not identified as a site requiring an acoustic report.</p>
	Sites adjacent to noise sources identified in figure 25 are to be designed in a manner that any residential development is shielded from the noise source by virtue of the location and orientation of built form on the site.	
	An 8m setback is to be provided to any habitable building located adjacent to the Hume Highway	
<b>Waste</b>	<p>Provisions must be provided for the following waste generation:</p> <ul style="list-style-type: none"> <li>- General waste: 120L/week/dwelling.</li> <li>- Recycling: 120L/week/dwelling</li> </ul>	<p><b>Complies</b>  On-going Waste Management:  Waste chutes are supplied at each core of the building adjacent to the lift shafts. Garbage chutes discharge into Basement Level 1.</p>

Development Control	Provision	Comment
	<ul style="list-style-type: none"> <li>- Green waste: a communal waste bin of sufficient capacity to accept waste from landscape areas.</li> </ul>	Bins will be wheeled to the front for collection and will be collected weekly from Forbes Street and by a private contractor.
	<p>In a development of more than six dwellings or where the topography, or distance to the street makes access difficult for individual occupants, a collection and storage area is required. The storage area must be located in a position which is:</p> <ul style="list-style-type: none"> <li>- Not visible from the street</li> <li>- Easily accessible to dwelling occupants</li> <li>- Accessible by collection vehicles (or adequately managed by the body corporate to permit relocation of bins to an approved collection point),</li> <li>- Has water and drainage facilities for cleaning and maintenance; and</li> <li>- Does not immediately adjoin private open space, windows or clothes drying areas</li> </ul>	<p><b>Complies</b></p> <p>The following comments are made:</p> <ul style="list-style-type: none"> <li>- The waste storage area will not be visible from the street.</li> <li>- It is also easily accessible for dwelling occupants.</li> <li>- The storage area will be managed by the body corporate</li> <li>- Water facilities can be conditioned.</li> <li>- The waste storage area does not immediately adjoin private open space, windows or clothes drying areas.</li> </ul>
	<p>The size and number of the waste bins shall be determined having regard to the need for either on-site access by collection vehicles or the requirement for bins to be wheeled to the street for collection by a contractor. If transferred to the street for collection, the body corporate or a caretaker must be responsible for the movement of bins to their collection point.</p>	<p><b>Complies</b></p> <p>The waste bins will be wheeled to the designated collection point for collection by a private contractor.</p>
<b>Controls for Residential Development</b>		
<b>Housing Choice &amp; Mix</b>	To achieve a mix of living styles, sizes and layouts within each residential	<p><b>Complies on merit</b></p> <p>The proposal provides for 64% one bedroom units and 36% two bedroom units.</p>

Development Control	Provision	Comment
	<p>development, comply with the following mix and size:</p> <ul style="list-style-type: none"> <li>- studio and one bedroom units must not be less than 10% of the total mix of units within each development;</li> <li>- three or more bedroom units must not be less than 10% of the total mix of units within each development, and</li> </ul>	<p>It is noted that the proposal does not provide any 3-bedroom apartments. However, the proposed unit mix is considered appropriate for the location close to the city centre. The proposed development provides a variety of 1-bedroom and 2-bedroom apartments with different layouts which will assist in promoting housing choice, flexibility and affordability.</p>
	<p>For smaller developments (less than six dwellings) achieve a mix appropriate to the locality.</p>	<p><b>Not applicable</b></p>
	<p>For development built by (or on behalf of) the Department of Housing, an alternative mix of unit types may be approved, subject to housing needs being demonstrated by the Department.</p>	<p><b>Not applicable</b> The development will not be built by the Department of Housing.</p>
	<p>For residential flat buildings and multi-unit housing, 10% of all dwellings (or at least one dwelling – whichever is greater) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), which includes “pre-adaptation” design details to ensure useability is achieved.</p>	<p><b>Complies</b> 5 adaptable units are proposed, equating to 11% of units.</p>
	<p>Where possible, adaptable dwellings shall be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide</p>	<p><b>Complies</b> Adaptable units are provided throughout various levels of the buildings. However, this is considered acceptable given that lift access is provided from the basement to the adaptable units on each level.</p>

Development Control	Provision	Comment
	<p>access from the basement to allow access for people with disabilities.</p> <p>The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).</p>	<p><b>Complies with conditions</b></p> <p>It is recommended by way of condition, that an Access Report is submitted to the satisfaction of the PCA prior to issue of a CC, to confirm that the adaptable dwellings are capable of being modified to comply with AS 4299-1995.</p>

#### **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***

It is considered that the proposed development will have minimal impact on the built environment given that it is located within the City Centre which is zoned for high density residential development. Therefore, it is considered to be consistent with the current and future character of the locality, especially as the building has been redesigned to comply, in the most part, with the ADG.

The proposed scheme is considered to be an appropriate design, which is responsive to the location and the orientation of the site. The development satisfactorily addresses Forbes Street with built form that would interact with this space. The proposal has been designed with adequate regard to the western, northern and southern adjoining sites and has been redesigned since lodgement to reduce impacts to these properties where reasonable.

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

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause any adverse impact to the natural environment.

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

The development is likely to result in a positive social impact within the locality. The provision of communal open space in varied locations throughout the site will promote social interaction among building occupants. The development provides bicycle parking which will encourage users to engage in outdoor activities and increased movement.

The development will result in a positive economic impact, through the provision of employment generated during the construction of the development and the on-going building maintenance. The development will result in increased housing availability within walking distance of an existing regional economic centre.

## **6.7 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 LLEP 2008 and LDCP 2008 as outlined in this report. The identified variations have been considered and are supported as they do not result in any adverse impacts to the locality. Overall the development is considered to satisfy the relevant controls for site selection.

## **6.8 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:

Department	Comments
<b>Building</b>	No objections, subject to conditions.
<b>Engineering</b>	Engineering have reviewed the concept stormwater drainage plan, and have no objection to the application, subject to conditions.
<b>Heritage Advisor</b>	The proposal will not impact on the overall layout and configuration of the Hoddle grid and as such will have no impact on the heritage item. No objections subject to conditions.
<b>Landscaping</b>	No objections, to conditions.
<b>Traffic and Transport</b>	No objections, to conditions.
<b>Waste Management</b>	Further details required, but can be addressed via conditions.

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

The application was referred to Endeavour energy, who have no objection to the application, and provide their requirements for developments.

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

In accordance with the LDCP 2008, the application was notified for a 14 day period, from 27 August 2018 to 11 September 2018. One submission was received in relation to the proposed development during the public consultation process. The issues raised in the submission, and a response to each, are summarised as follows:

#### ***Increased traffic congestion and lack of visitor car parking***

As discussed in the above report, the proposed development meets the parking requirements set out in the ARH SEPP, and has been assessed by Council's Traffic section, who have raised no issues with the application.

### ***Poor urban planning***

As discussed above, it is noted that whilst the surrounding development is generally of a lower height than the 9-storeys proposed, the site is zoned R4, which allows for residential flat buildings, and in this location up to a height of 35m. Numerous similar (and taller) developments are built or being built to the west of this site in the city centre, which is an indication of the desired future character of the area.

As such, the proposed development generally complies with these requirements and therefore is considered to be in accordance with the desired future character of the area.

### ***Large shadowing***

As discussed above, it is noted that there would be significant overshadowing to the property to the south as a result of this development. However, the property to the south is zoned SP2 (Health services facility and educational establishment), and taking into account the types of land uses that are permitted within that zone, the impact on that site is considered to be acceptable in this instance.

### ***The composition of one and two-bedroom apartments***

It is noted that the proposal does not provide any 3-bedroom apartments. However, the proposed unit mix is considered appropriate for the location close to the city centre. The proposed development provides a variety of 1-bedroom and 2-bedroom apartments with different layouts which will assist in promoting housing choice, flexibility and affordability.

### **6.9 Section 4.15(1)(e) – The Public Interest**

The proposed development is consistent with the zoning of the land and would represent a high quality development for Liverpool. 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. SECTION 7.12 CONTRIBUTIONS**

Section 7.12 of the Act is applicable to development in the Liverpool City Centre. The applicable contribution amount for the subject proposal is **\$297,000**.

## **8. 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 is consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.

- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

It is for these reasons that the proposed development is considered to be satisfactory and DA-559/2018 is recommended for approval, subject to conditions.

## **9. ATTACHMENTS**

1. Recommended conditions of consent
2. Architectural plans
3. Elevations
4. Context and neighbouring site plans
5. Landscape plans
6. Stormwater plans
7. 3D Visual
8. Survey Plan
9. Statement of Environmental Effects
10. Traffic Assessment Report
11. Waste Management Plan
12. Stage 1 & 2 Environmental Assessments
13. SEPP 65 Design Verification Statement
14. Design Excellence Panel Comments
15. Applicant's response to Planning Panel Briefing Comments