Section 4.55 (2) Modification Report

For Modification to Development Application No. DA/627/2018

Residential Flat Building

23-29 Harvey Avenue, Moorebank NSW 2170

Project 21-038
08 June 2023
Revision C

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Rev	Description	DATE	AUTHOR	CHECKED
A	For S4.55	28/02/22	SZ	KM
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1 Introduction

This Section 4.55 Modification Report ("Report") has been prepared by Dickson Rothschild (D.R. Design (NSW) Pty Limited) on behalf UFN Group, of owner the site in support of a Section 4.55(2) application to Liverpool Council (Council) to modify the approved development (DA 627/2018) at 23-29 Harvey Avenue, Moorebank.

The Sydney Western City Planning Panel on the 11 May 2020 (DA- 627/2018 and 2018SSW026) approved a six-storey residential flat building on site, described as:

> *"Demolition of existing structures and construction of a 6-storey residential flat building comprising 58 units. The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009."*

The ownership of the site was transferred to UFN Group in 2021. Dickson Rothschild was engaged by the proponent to work on the proposed modification.

This application seeks to modify the approval as follows:

- Provide a substation at the northeast corner of the site;
- Revise basement with more efficient car parking and waste management arrangement, and revise fire egress in accordance with BCA requirement;
- Increase floor-to-floor height from 3050mm to 3100mm, arising from post-consent services design development for practical buildability and to follow the recommendation in Figure 4C.5 of the ADG Part 4C;
- Provide additional bathroom to certain 2 bedroom or 3 bedroom units that are consented with one bathroom to improve amenity;
- Relocate affordable housing units;
- Amend street frontage fence with landscape plan to improve streetscape; and
- Amend façade materials and finishes.

Overall, the modified building maintains the consented use, the number of units, a very similar building footprint and number of storeys and basement levels as that approved while improving the amenity of the development.

The modified building is still under the floor space ratio (FSR) control of 1.7:1.

The adjustment of floor-to-floor height will enhance the buildability of the building while the consequential minor increase in height will not impact the amenity of adjacent properties with respect to overshadowing, views or privacy.

The building envelope remains generally the same as the consented as the unit expansions mostly utilise space from oversized private open spaces, while the amended terraces and balconies are still greater in area than set out at Part 4E of the Apartment Design Guide.

The modifications improve the unit layout and amenities to the future occupants, and better suit the market demand.

This report demonstrates that in accordance with Section 4.55(2), the proposed development remains substantially the same when compared to the original approval for the following reasons:

- The approved land uses remain unchanged;
- The approved total number of units and unit mix remains unchanged;
- The proposed modified development retains its initially proposed modern contemporary design with a strong presentation to Harvey Avenue which includes generous landscaping and open space to the overall site;
- The minor increase in height and building envelope retains the shape and form of the approved building.

The proposed amendments to the development are considered to respond appropriately to the site, the current context and deliver an improved outcome on the site that is consistent with the desired future character of the site.

The modifications have been assessed against the provisions of Sections 4.55(2) and 4.15 of the Environmental Planning and Assessment Act 1979 (the Act). The modifications are considered to be substantially the same development and of minor environmental impact, refer assessment under Section 4 and 5 of this report.

An increase in the number of affordable housing units on the site in comparison to the approved development represents a public benefit and is in the public interest.

The proposed modifications have planning merit and warrant approval by Liverpool Council.

1.1 Report Structure

The proposed modification is made pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the development is substantially the same as the development for which consent was originally granted and considers the proposed modifications against section 4.15 of the EP&A Act.

This statement of environmental effects (SEE) includes the following information:

Section 1: Introduction

Section 2: The site

Section 3: Proposed modification, including rationale, intended outcomes and proposed amendments to the current development consent conditions

Section 4: Assessment of the proposed modifications in accordance with section 4.55(2) of the EP&A Act

Section 5: Assessment of the application in accordance with the matters for consideration listed in section 4.15 of the EP&A Act

Section 6: Potential environmental impacts

Section 7: Summary and conclusion, including key findings and recommendations

1.2 Supporting Plans and Documents

This report should be read in conjunction with the architectural plans and technical reports listed below:

- Architectural plans prepared by Dickson Rothschild;
- This Section 4.55 (2) Statement of Modification (this Planning Report);
- Access report prepared by Accessible Building Solutions;
- BASIX certificate prepared by Loka Consulting Engineers;
- Stormwater Management Plans by Loka Consulting Engineers;
- Waste Management Plans by Loka Consulting Engineers;
- Traffic and Parking Statement prepared by Loka Consulting Engineers;
- Landscape Plan prepared by Conzept Landscape Architects; and
- Quantity Surveyor's Cost Report prepared by Altus Group

2 The Site

The site is commonly known as Nos. 23 – 29 Harvey Avenue, Moorebank and legally described as Lots 25, 26, 27 & 28 in Deposited Plan 236405.

The subject site is located on the southern side of Harvey Avenue and is bounded by Lucas Avenue to the east. The site provides for a frontage of approximately 75.06 metres and an overall site area of approximately 2,745.2m^2.

Development to the north, east and west is typically low density residential in nature. In view of the R4 High Density Residential zone afforded to the site, the area will inevitably undergo a transition to higher density building forms with the proposed development representative of this desired future character. A number of 6-storey residential apartment buildings have been developed in the site locality. Refer to Figure 1-3 below and overleaf.

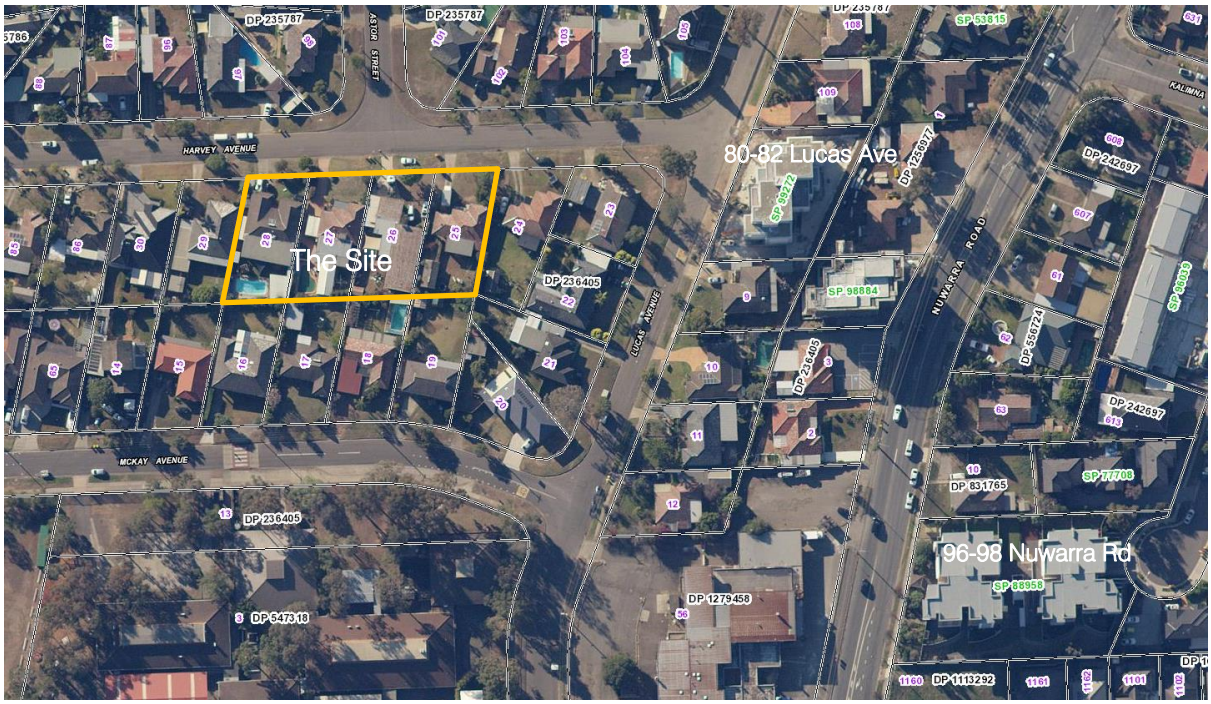

Figure 1: The site and its locality

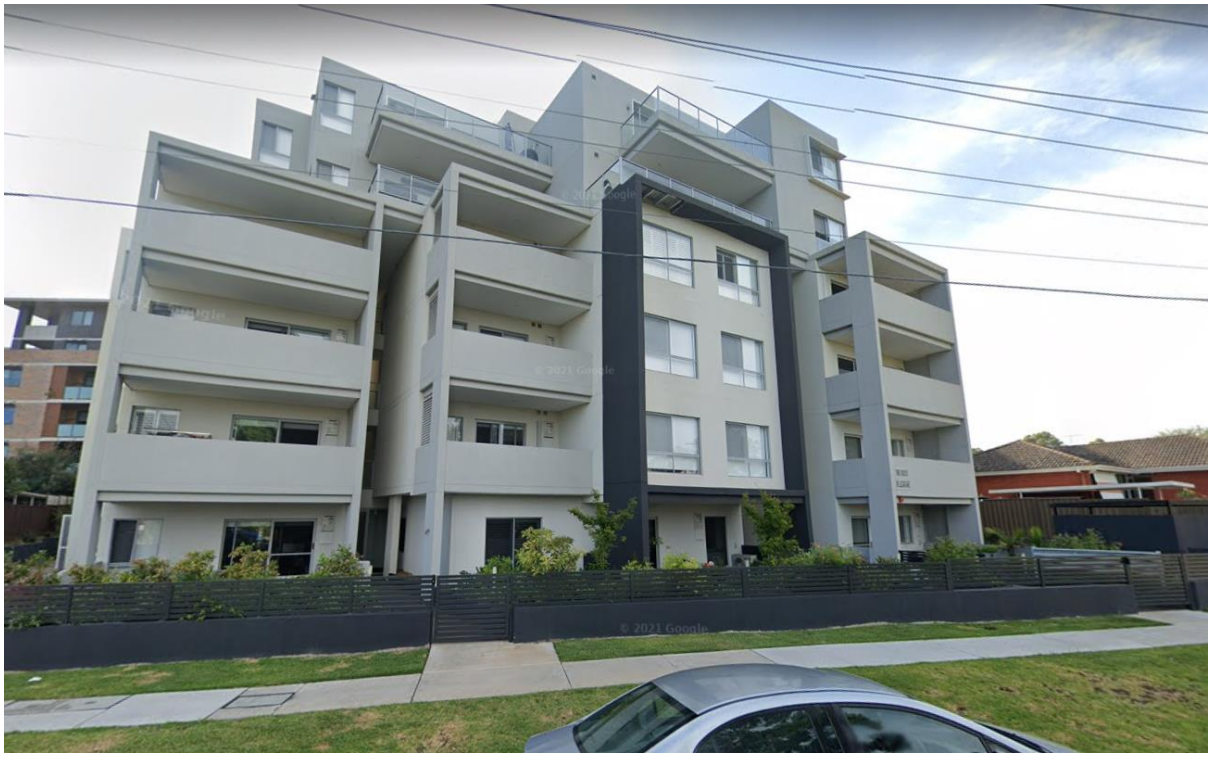

Figure 2：80-82 Lucas Avenue, Moorebank, Resource: Google Map

Figure 3: 96-98 Nuwarra Road, Moorebank. Resource: Google Map

Many residential flat buildings have also been approved in the precinct in the past several years, indicating a further transformation of the area towards a higher density for those sites between Harvey Avenue and Moorebank Shopping Village.

3 Proposed Modifications

The proposed modifications are in respect to DA-627/ 2018 (Determination dated 11 May 2020).

Overall, the amendments result in a building that is substantially the same as the consented. The proposed modifications are summarised as increasing floor-to-to height by 50mm on each level, amending basement layout, amending apartment layout to provide additional bathroom in certain units within the consented building envelope, and amending façade materials.

The list of proposed amendments are summarised below:

3.1 Schedule of Amendments

Below is a list of the amendments compared with the consented development.

1. Providing a substation at the northeast corner of the site;
2. Increasing provision of affordable housing from 27 apartments to 31 apartments and affordable housing allocation revised.
3. Adjustment to the internal basement layout, removing the garbage chutes and combining two garbage rooms into one room.
4. Removal of the stair pressurisation from fire stairs as per BCA advice due to the effective height of building being less than 25m (effective height of 23.6m).
5. Relocation of car park exhaust duct and waste exhaust duct next to the lift to the east in each tower.
6. Specification of services room and relocating them from basement level 2 to basement level 1.
7. Revision of parking layout to improve efficiency and accommodate more parking spaces. Total number of car parking increased from 60 to 68 spaces.
8. Basement core design adjusted to suit new parking layout.
9. Fire egress revised in accordance with BCA requirement. Provide roof cover to the fire egress.
10. Basement ramp gradients revised with change of basement levels. Stormwater arrangement and OSD tank level and dimensions adjusted accordingly.
11. Other elements have been adjusted such as motorcycle and bicycle parking locations. Increase in bicycle spaces from 15 to 16. Provision of 1 motorcycle space.
12. Booster assembly provided to the northwest corner of the site on ground level near front boundary to satisfy standards.

13. Provision of security gate to the pedestrian entry of each tower. Relocation of letterboxes to the under covered corridor of each tower and to keep the letterboxes away from street entries for security.

14. Garbage chutes are removed from each residential level in both towers. Garbage room size reduced.

15. Unit G01, G04, G05, G09 and G10 additional bathroom provided, and unit layout revised. Unit G02 bedroom 1 and ensuite, and bedroom 2 room layout adjusted to meet with adaptable unit accessibility requirement. Unit G03, G06, G07, and G08 room layout adjusted minorly.

16. Unit 1.05, 1.06, 1.07, 1.11 and 1.12 additional bathroom provided, and unit layout revised. Unit 1.02 (southwest unit) bedroom 1 and ensuite, and bedroom 2 room layout adjusted to meet with adaptable unit accessibility requirements. Unit 1.03, 1.04, 1.08, 1.09, and 1.10 room layout adjusted slightly.

17. The proposed setbacks remain as consented on Level 1. The proposed building envelope remains generally the same with the consented. The minor extension occurs at the north elevation of Unit 1.05. However, the extended building external wall aligns with the balcony to improve constructability.

18. Level 2 repeats the same revisions as Level 1.

19. Unit 3.01, 3.02, 3.03, 3.04, 3.06 and 3.08 additional bathroom provided, and unit layout revised. Unit 3.06 bedroom 1 and ensuite, and bedroom 2 room layout adjusted to meet with adaptable unit accessibility requirement. Unit 3.05, and 3.07 room layout adjusted minorly.

20. The proposed setbacks remain as consented on level 3. The proposed building envelope remains generally the same with the consented. The minor extension occurs at the north elevation of Unit 3.01 and 3.02. The extended building external wall aligns with the balcony. On the south elevation, the external wall of Unit 3.06 is extended to be aligned with the building line at the west tower.

21. Level 4 and 5 repeat the same revisions as Level 3. It is noted that building envelope is reduced at the west elevation, north elevation of living room of Unit 3.06, 4.06, 5.06 and some of the balconies.

22. Floor-to-floor levels increased from 3050mm and 3100mm. Overall height of building increased from RL 45.4m to RL 46 at the top of lift at the east tower.

23. Facade materials revised including proposing brick veneer in lieu of external face brick wall with warm colour palette as per the Consented Development DA-627/2018. Finishes of balcony screens and frames around windows and vertical louvres are proposed to be replaced with Powdercoated aluminium.

24. Landscape design update slightly on ground level in accordance with the layout revision. Amend the street frontage fence with low masonry base and palisade fencing on top. Provision of landscape area in front of low fence wall to improve streetscape

25. Amend the roof of balcony in Unit 5.04 and Unit 5.06 to be pergola roof.

26. Amend Units 1.06, 1.07, 2.06 and 2.07 layout to provide solar access opportunity to the private open space and living room

27. Provide sky light to Unit 5.04 and amend the balcony roof of Units 5.04 and 5.06 to be pergola roof to provide solar access to the private open space and living room

28. Reduce the balcony of units 1.02, 1.05, 1.08, 2.02, 2.05, 2.08, 3.02, 3.03, 3.05, 4.02, 4.03, 4.05, 5.02, 5.03, and 5.05 to provide solar access opportunity to the private open space and living room.

29. Amend the street frontage fence with low masonry base palisade fencing on top. Provision of landscape area in front of low fence wall to improve streetscape.

30. Provide additional seating opportunity on roof top Communal Open Space of the Wester Tower.

3.2 Conditions to be Modified

The modifications would take the form of the below changes to the development description, condition 1 and condition 102 (2) of the consent that is citing new plans and arrangement of affordable housing.

3.2.1 Modify the Conditions of the Consent Development

The approved conditions of consent state the development is a 6-storey residential flat building comprising 58 units. The development description remains the same in the proposed modification.

3.2.2 Condition 1

Modify condition 1 to recognise the new approval documents as follows (changes ***bold/italics***);

"1 General Matters

Development the subject of this determination notice must be carried out strictly in accordance with the following plans and reports listed below, except where modified by the undermentioned conditions.

Plan Name	Plan Number	Rev	Date	Prepared By
Cover Sheet	DA-0-001	G	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Project Summary	DA-0-002	D	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Site Plan	DA-0-111	B	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Basement 2	DA-0-209	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Basement 1	DA-0-210	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Ground Floor Plan	DA-0-211	G	29.08.2022	D.R. Design (NSW) Pty. Ltd.

Level 1 Floor Plan	DA-0-212	G	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Level 2 Floor Plan	DA-0-213	G	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Level 3 Floor Plan	DA-0-214	G	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Level 4 Floor Plan	DA-0-215	G	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Level 5 Floor Plan	DA-0-216	G	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Communal Open Space Plan	DA-0-217	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Roof Floor Plan	DA-0-218	D	29.08.2022	D.R. Design (NSW) Pty. Ltd.
North Elevation	DA-0-301	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
South Elevation	DA-0-302	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
West Elevation	DA-0-303	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
East Elevation	DA-0-304	F	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Section A-A	DA-0-401	B	08.02.2022	D.R. Design (NSW) Pty. Ltd.
Driveway Section	DA-0-411	B	08.02.2022	D.R. Design (NSW) Pty. Ltd.
Adaptable Unit- Sheet 1	DA-0-701	F	08.02.2022	D.R. Design (NSW) Pty. Ltd.
Adaptable Unit- Sheet 2	DA-0-702	F	08.02.2022	D.R. Design (NSW) Pty. Ltd.
Liveable Units	DA-0-711	B	08.02.2022	D.R. Design (NSW) Pty. Ltd.
GFA Diagrams	DA-0-901	F	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Affordable Unit and Car Space Schedule	DA-0-902	A	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Solar & CV	DA-0-911	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
18m Height Plane Diagram	DA-0-921	F	08.06.2023	D.R. Design (NSW) Pty. Ltd.
Deep Soil Diagram	DA-0-931	E	29.08.2022	D.R. Design (NSW) Pty. Ltd.
External Finishes and Materials	DA-0-941	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Shadow Analysis	DA-0-951	D	29.08.2022	D.R. Design (NSW) Pty. Ltd.
View From Sun- Sheet 1	DA-0-961	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
View From Sun- Sheet 2	DA-0-962	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
View From Sun- Sheet 3	DA-0-963	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
View From Sun- Sheet 4	DA-0-964	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
View From Sun- Sheet 5	DA-0-965	C	29.08.2022	D.R. Design (NSW) Pty. Ltd.
Hardscape/Site Plan	LPS4.55	B	15.02.2022	Conzept Landscape

	19-10 1			Architects
Landscape Plan Ground Floor	LPS4.55 19-10 2	B	15.02.2022	Conzept Landscape Architects
Landscape Plan L6 COS	LPS4.55 19-10 3	B	15.02.2022	Conzept Landscape Architects
Sections	LPS4.55 19-10 4	B	15.02.2022	Conzept Landscape Architects
Specification & Details	LPS4.55 19-10 5	B	15.02.2022	Conzept Landscape Architects
Details	LPS4.55 19-10 6	B	15.02.2022	Conzept Landscape Architects
Details	LPS4.55 19-10 7	B	15.02.2022	Conzept Landscape Architects
Cover Sheet, Legend and Drawing Schedule	D00	B	04.02.22	Loka Consulting Engineers
Basement 2 Stormwater Drainage Plan	D01	B	04.02.22	Loka Consulting Engineers
Basement 1 Stormwater Drainage Plan	D02	B	04.02.22	Loka Consulting Engineers
Basement Stormwater Drainage Details	D03	B	04.02.22	Loka Consulting Engineers
Ground Floor/ Site Stormwater Drainage Plan	D04	D	04.02.22	Loka Consulting Engineers
Site Stormwater Drainage Details	D05	C	04.02.22	Loka Consulting Engineers
Soil & Water Management Plan and Details	D06	B	04.02.22	Loka Consulting Engineers
MUSIC Result and Details	D07	C	04.02.22	Loka Consulting Engineers
MUSIC Link Report	D08	C	04.02.22	Loka Consulting Engineers

Report Name	Date	Reference	Prepared By
Traffic Management Report	09.02.2022	18NL157-T7	Loka Consulting Engineers
Waste Management Plan	09.02.2022	18NL157-WMP7	Loka Consulting Engineers
BASIX Certificate	17.02.2022	944928M_02	Loka Consulting Engineers
NATHERS Individual Certificate	17.02.2022	0KNX59SBY2	Loka Consulting Engineers
NATHERS Group Certificate	17.02.2022	S3XNDIBG3T	Loka Consulting Engineers
Statement of Compliance Access for People with a Disability	16.02.2022	-	Accessible Building Solutions
BCA Assessment Report	28.01.22	114218-BCA-r1	BCA Logic Pty. Ltd.

3.2.3 Condition 102 (a) – Affordable Rental Housing

Modify Condition 102 (a) to update the provision and arrangement affordable rental housing apartments. The revised condition will be:

(a) A minimum of 31 apartments (units G01, G03, G06, G07, G08, G09, G10,1.07, 1.08, 1,09, 1,10, 1.11, 1.12, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, 3.05, 3.06, 3.07, 3.08, 4.05, 4.06, 4.07, 4.08, 5.05,

5.06, 5.07, 5.08) will be used for the purposes of affordable housing as defined in the State Environmental Planning Policy (Housing) 2021.

4 Section 4.55(2) Assessment

The proposed modification to D/2021/35 is sought in accordance with the provisions of Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following section assesses the modification against the relevant threshold tests of Section 4.55 (2), which demonstrates that the development is substantially the same as approved.

4.1 Substantially the Same Development

Clause 4.55(2)(a) of the EP&A Act requires the applicant to demonstrate that the proposed amendments will result in a development that is substantially the same as the development for which consent was originally granted.

The 'substantially the same' test requires a qualitative and quantitative analysis to be undertaken before and after the modification. Moto Projects (No. 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 states:

> *"'55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the approved development.*
>
> *56. The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."*

Consideration of the substantially the same development test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme should be "essentially or materially" the same as that originally approved. The proposal has been assessed using both a quantitative and qualitative assessment to determine whether the modified development would be substantially the same as the approved development.

4.1.1 Quantitative Assessment

Table 1 provides a summary of the key features of the approved development and the proposed modifications and forms the basis of the quantitative assessment of the proposed design modifications.

Table 1: Metrics Comparison

Element	Consented Development	Amended Development	Proposed Change
Site Area	2745.2m^2	2745.2m^2	No Change

Height	6 storeys + roof garden Maximum height to top of lift overrun at east tower: 22.4m (RL 45.4m) 24.4% exceedance Maximum height to top of lift overrun at east tower: 22.4m (RL 44.4m) 24.4% exceedance Height exceedance at the roof parapet: West tower (Tower A, approx. RL 40.5m): northeast corner: 0.46m, northwest corner: 1.05m Height exceedance at the roof parapet approx. RL 41.5m: East tower (Tower B): northeast corner: 0.25m, northwest corner: 1.25m	6 storeys + roof garden Maximum height to top of lift overrun at east tower: 22.77m (RL 46m) 26.5% exceedance Maximum height to top of lift overrun at west tower: 22.8m (RL 45.3m) 26.7% exceedance Height exceedance at the roof parapet: West tower (Tower A, RL 41.1m): northeast corner: 0.9m, northwest corner: 1.9m Height exceedance at the roof parapet: East tower (Tower B, RL 42m): northeast corner: 1.05m, northwest corner: 1.55m	+0.4m
Storeys	6 + roof	6 + roof	No Change
Floor Space Ratio (FSR)	1.65:1	1.70:1	+0.05
Gross Floor Area	4,526.84 m^2	4,666 m^2	+139.16m^2 3.1% change
Dwellings	58 units Including 27 affordable housing units	58 units Including 31 affordable housing units	No Change
Unit Mix	2 studio units (3.45%) 14 one-bedroom units (24.14%) 35 two-bedroom units (60.34%) 7 three-bedroom units (12.07%)	2 studio units (3.45%) 14 one-bedroom units (24.14%) 35 two-bedroom units (60.34%) 7 three-bedroom units (12.07%)	No Change
Affordable Rental Housing	27 units	31 units	+4 units
Car Parking	60 spaces	68 spaces	+8 spaces

Motorcycle Spaces	Nil	1 space	+1 space
Bicycle Spaces	15 spaces	16 spaces	+1 space
Communal Open space	1,275.4m^2	Ground Level – 697m^2 Roof top– 499 m^2 Total- 1,196m^2 (43.5% of site area) (Compliant with ADG requirement of 25%)	-79.4m^2
Deep Soil – 6 m minimum dimension	595.6m^2 (21.69%)	595.6m^2 (21.69%)	No Change
Deep Soil – Overall	828m^2 (30% of site area)	841m^2 (30.6% of site area)	+ 13m^2

4.1.2 Qualitative Assessment

A qualitative assessment of the proposal also needs to be undertaken based on the context in which the original DA was approved.

The proposed modifications do not substantially change the development for which consent was originally granted for the reasons outlined below:

- Use of the development: The nature of the development is unchanged in that the proposal continues to deliver a residential development. The character of the approved development is retained with the land uses of high density residential use consistent with the objectives of the R4 zone.
- Built Form and Design:
    - The proposed modifications do not prejudice the original design, rather they improve the overall building services for a practicable buildability.
    - The siting and design remain consistent with the approved scheme. The building footprint and setbacks mostly remains the same as originally approved. The proposed minor increase in height to the tower will have a negligible impact on the streetscape appearance compared to that currently approved.
    - The proposed alterations to the building form do not adversely impact on the streetscape, pedestrian amenity or solar access in the vicinity of the building.
    - The additionally provided bathroom in the units meets the desired market demand and provides improved amenity to the future occupants. It does not change the development intensity, likely occupancy or unit mix of the development.
    - The proposed design amendments do not result in unreasonable impacts on the amenity of adjoining developments.

- The massing, building form, and separation between two towers and to neighbouring buildings remain substantially the same as the approved development. The bulk and scale of the development as perceived from the streetscape or from neighbouring properties remains similar.
- The amended façade materials are consistent with the colour scheme while being durable and cost effective in maintenance in long term. The proposed modification retains the initially proposed modern contemporary design with a strong presentation to Harvey Avenue.

- Carparking and access: the number of car, motorcycle and bicycle spaces increased by one each which is a very minor change (but once that improves overall amenity) and the vehicular access point remains unchanged.
- Shadow: There are minimal additional shadow impacts introduced under the modification, with only incremental additional afternoon shadow at the winter solstice to neighbouring properties to the southeast.
- Landscaping: The amended landscape design is thematically consistent with the approved development and the overall design concept.

The accompanying architectural plans and the assessment within this Section 4.55(2) modification application demonstrate that the physical characteristics and internal and external impacts of the modified scheme are limited in nature being very similar to the consented development.

Based on the above quantitative and qualitative assessments, the modified proposal is considered to be substantially the same, and it is therefore considered appropriate for the proposed modifications to be assessed under Section 4.55 of the EP&A Act.

4.2 Public Notification and Submissions

It is understood that the application will be publicly notified. Any submissions received by Council will need to be considered in the assessment of the proposed modifications. The applicant will respond to any issues raised during the exhibition process.

5 Section 4.15 Assessment

The section 4.55(2) application has been assessed in accordance with the matters for consideration listed in section 4.15 of the Act and as outlined below.

5.1 Environmental Planning Assessment

The modification application has been assessed in accordance with the matters for consideration listed in section 4.15 of the EP&A Act and as outlined below. The planning instruments applicable to the site and the modified development are:

- Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment
- State Environmental Planning Policy BASIX 2004
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

5.1.1 Greater Metropolitan Regional Environmental Plan No.2- Georges River Catchment

The proposed modification generally maintains the consented building and basement footprint and will not impact the Georges River catchment.

The proposed modification accords with the outcomes and objectives of the Greater Metropolitan Regional Environmental Plan No.2. Appropriate sediment and control devices will be placed on the site during site works to ensure that pollutants and runoff from the site will not impact upon the Georges River. Reference is to be made to the Soil & Water Management Plan prepared by LOKA Consulting Engineers, under cover of the amended Stormwater Concept Plan.

5.1.2 State Environmental Planning Policy- Building Sustainability Index (BASIX)

The proposal has been assessed against the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The modified proposal satisfies the targets set by the Policy in relation to water, thermal and energy.

A BASIX Certificate has been prepared by LOKA Consulting Engineering for the proposed residential flat building and is attached under separate cover. The certificate demonstrates compliance with the required Water, Thermal and Energy provisions under BASIX.

5.1.3 State Environmental Planning (Housing) 2021

This proposed modification has been designed to meet the provisions of the State Environmental Planning Policy (Housing) 2021. Accordingly, Appendix A provides for an assessment of the proposal against the controls contained under Division 1 In-fill Affordable Housing.

Reference is to be made to Appendix B within this Modification Report.

- Floor Space Ratio

The Liverpool LEP allowed FSR is 1.2:1. The site area is 2,745.2m^2. As such, the maximum GFA under Liverpool LEP provision is 3294.24sqm.

The proposed GFA of total affordable housing units is 2,349m^2. Given that LEP allowed GFA is 3294.24m^2, over 50% of the gross floor area of the development will be used for affordable housing.

Under Clause 17(a)(i) of the SEPP (Housing) 2021, the proposal is entitled to a bonus floor space ratio of 0.5:1. Therefore, the proposal is entitled to a maximum floor space ratio of 1.7:1.

As detailed within this SEE, the proposed gross floor area of the development will be 4,666m^2 or an FSR of 1.70:1. Therefore, the proposal is fully compliant with the FSR, pursuant to the provisions under SEPP (Housing) 2021.

5.1.4 State Environmental Planning Policy 55 (Remediation of Land)

The subject site has historically been used for residential purposes and there is no reason to suspect that the site is contaminated.

5.1.5 State Environmental Planning Policy No 65

SEPP No.65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of Development Applications for residential flat developments of three or more storeys in height and containing at least four dwellings. Amendment 3 to SEPP 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code.

SEPP 65 applies to the proposed modification.

Schedule 1 of the Policy sets out the 9 'Design Quality Principles' and Clause 28(2) requires that the consent authority takes into consideration the following when determining an application:

a. The advice (if any) of a relevant design review panel;

b. The design quality of the residential flat development when evaluated in accordance with the design quality principles; and

c. The Apartment Design Guide.

In relation to cl. 28(2)(b), and in order to satisfy cl. 50 of the Environmental Planning and Assessment Regulation 2000, a Design Verification Statement detailing compliance with the design quality principles has been prepared by Dickson Rothschild and is attached at Appendix C.

In relation to cl. 28(c) an ADG compliance table has been prepared and is attached at Appendix C.

Clause 30(1) of the SEPP states that a development application cannot be refused for reasons relating to ceiling heights, parking and internal apartment sizes, if it complies with the prescribed criteria for these

matters as specified in the ADG. The proposal satisfies these controls, as outlined in the compliance table.

The compliance table identifies that the proposal is generally consistent with the relevant design criteria. Where other minor non-compliances are proposed they are considered acceptable on merit for the reasons detailed in the compliance table or below in relation to deep soil and visual privacy (building separation).

5.1.5.1 Part 3B – Orientation: Overshadowing

Objective 3B-2 requires overshadowing of neighbouring properties is minimised during mid winter.

The proposed modification has increased height of building by 0.4m that will give rise to minor increase in overshadowing of the surrounding developments to the southeast in the afternoon.

It is worthy to note that due to the north-south orientation of the allotments and the densities that are encouraged by the development controls to this area, some overshadowing is inevitable. The initial proposal provides a generous building separation between two towers and additional setback on upper levels to allow more solar access to the properties to the rear of the development. The proposed modification remains these design features in accordance with the design prince set up in the initial design. The building bulk and scale remains the same as per the consented building form.

The shadow study below shows the difference between the shadow as per the consented development and modified development. The study demonstrates that shadow impacts arising from parts of the building due to the minor increase of height are almost imperceptible.

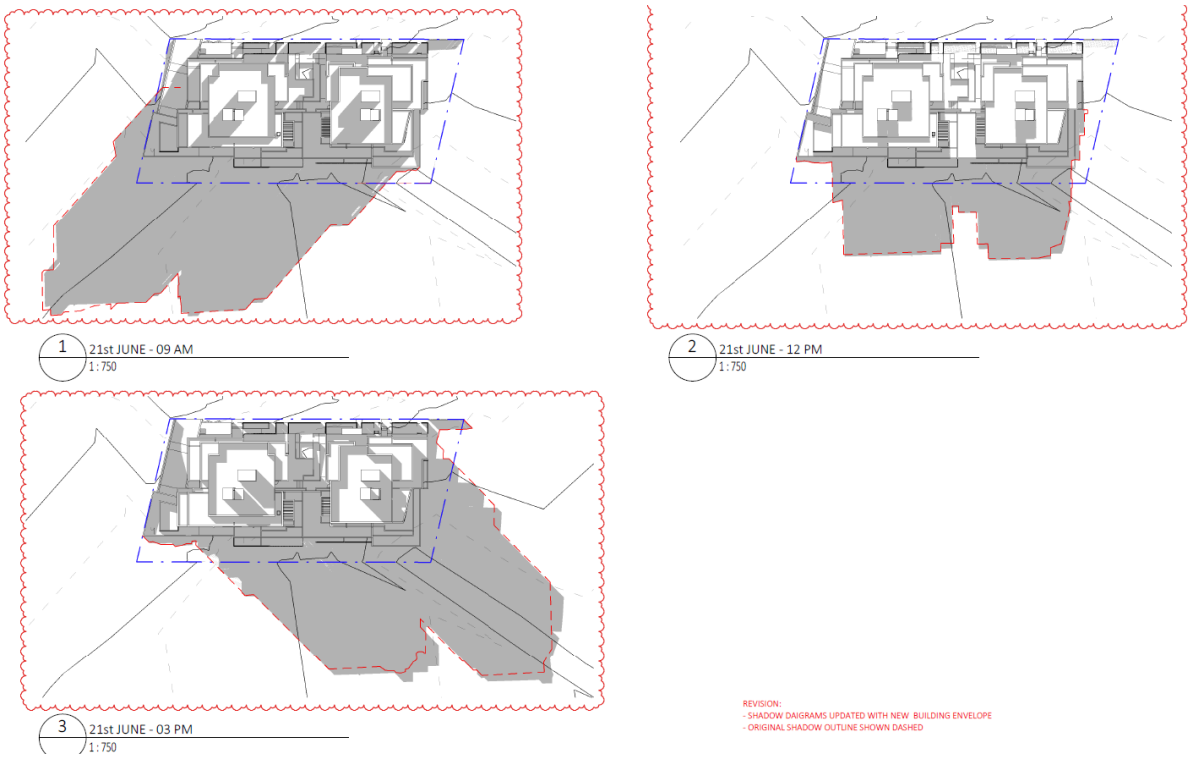

Figure 4: Shadow diagram

5.1.5.2 Part 4M – Facade

Objective 4M-1 and 4M-2 requires building façades to provide visual interest along the street while respecting the character of the local and building functions to be expressed by the façade.

The consented development was provided with brick veneer on the lower levels and render and paint on the higher levels as the principal façade materials to the elevations on the lower levels and the balconies on the higher levels at the northeast corner. Timber look screens were largely used on elevations for visual interest and privacy. Horizontal windows and vertical windows were provided to the north elevation for articulation.

The proposed modification maintains the façade concept, screens and window settings in the modification. Bowral brown face brick on the north facade is replaced with hebel wall and brick veneer in the similar colour. The amended façade materials achieve a stronger coherence for all elevations and are consistent with the look of the Consented Development DA-627/2018. Refer to the Artist Impression images of the proposed modification and the consented development overleaf.

In general, the façade is sustainably the same as the consented development as the articulation including well composed horizontal and vertical elements, colour and roof expression are retained in the proposed modification.

REVISION:
- FLOOR TO FLOOR LEVELS INCREASED FROM 3050 TO AT LEAST 3100
- MATERIALS AND FENCE REVISED
- GATE ADDED TO POS

Figure 5: Modified north elevation

Figure 6: Modified Façade prepared by Dickson Rothschild, view from Harvey Avenue

Figure 7: Approved Façade as per DA-627/2018, view from Harvey Avenue

5.2 Liverpool Local Environmental Plan 2008

The Liverpool Local Environmental Plan 2008 is the principal instrument relevant to the site.

The applicable LEP 2008 provisions are as follows:

- Zoning: R4 High Density Residential
- Height: 18m
- FSR: 1.2:1
- Minimum Lot Size: 1,000m^2
- Heritage: N/A
- Acid sulfates: N/A

A review of the relevant LEP provisions is provided below.

Liverpool LEP 2009 Compliance Check			
Control	**Standard**	**Proposed**	**Compliance**
cl. 2.2 Zoning	R4 High Density Residential	Residential flat building is permissible. – see discussion below	Yes
cl. 4.3 Height of buildings	18m	The maximum height of the proposed development is 22.8m (RL 45.3m) at the lift overrun, resulting in a maximum non-compliance of 4.8m. The proposed lift overrun sits in the well design roof communal open space setting supported by pergola structures. Height at the roof parapet is 19.1m (RL 41.1m) at the west tower and 19m (RL 42m) at the east tower. See discussion below.	Seek variation
cl. 4.4 Floor Space Site area 2,745.2m^2 by survey	1.2:1 plus ARH FSR bonus 0.5:1 The maximum allowed GFA is 4666.8m^2	The proposed total gross floor area of the dwelling is 4,666m^2, and proposed FSR is 1.7:1	Yes
cl. 4.6 Variation to Development	Request when a DA seeks variation to a development standard.	Clause 4.6 does not apply to S4.55 applications and a	N/A

Liverpool LEP 2009 Compliance Check			
Control	Standard	Proposed	Compliance
Standards		variation request is not required.	

5.2.1 Zoning and Permissibility

The locality's zoning pattern is illustrated below.

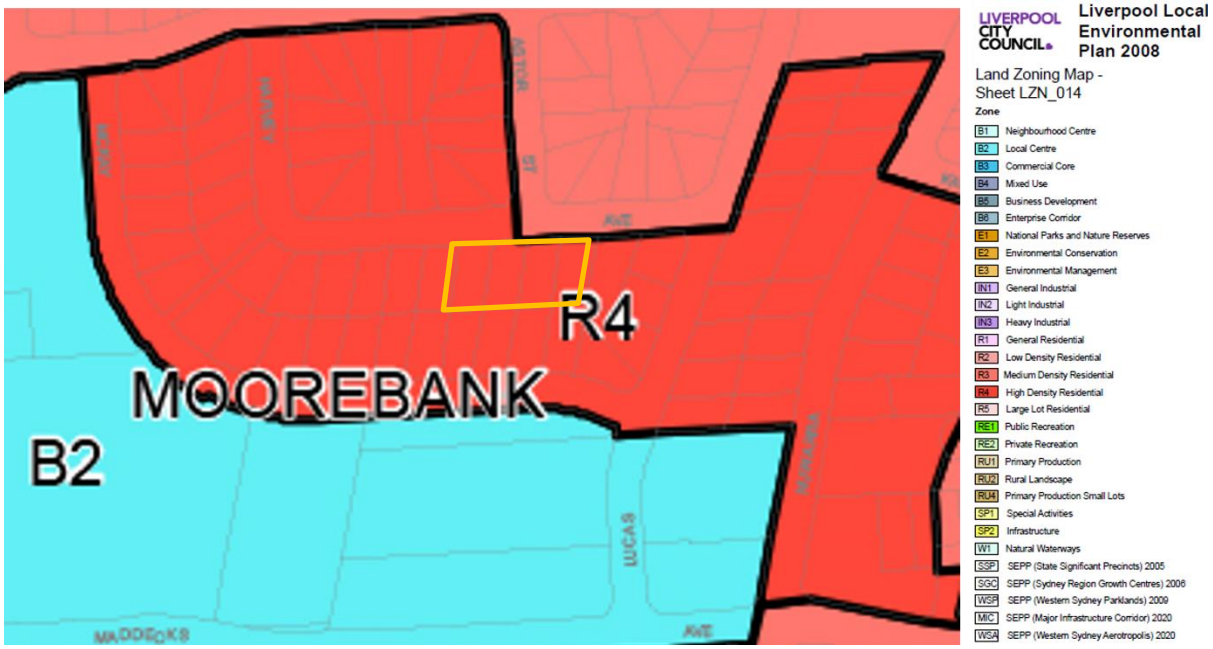

Figure 8: LEP 2008 Land Zoning Map_ R4 High Density Residential

The site is zoned R4 High Density Residential. The Liverpool LEP 2008 provides the following objectives for the R4 High Density Residential zone:

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

A new residential flat building is a permissible use in this zone. A residential flat building is defined in the LEP as:

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

Comments:

The building is 6-storeys and comprises 58 units including 31 affording rental housing units on a well-located site. The proposal is an excellent reflection of the R4 land use zone objective. The proposal takes a site that is currently underdeveloped in terms of its land use. A single storey dwelling house on R4 Zoned land is an inefficient under development of prime urban land. The proposal provides high density housing and a variety of dwellings (studio, 1 2, 3 bedroom units) reflecting its zoned purpose. The R4-zoned precinct in Moorebank is co-located with business zoned land and is next to schools, library, public transport and good access to the metropolitan road network.

5.2.2 Maximum Building Height

Pursuant to Clause 4.3 (Height of buildings) of LEP, the maximum building height control for the site is 18m.

The building height control pattern in the locality is illustrated overleaf.

The maximum height of the modified development is 22.8 m (RL 45.3) at the lift overrun at the east tower, resulting in a maximum non-compliance of 4.8 m. This is a variation of 26.7%.

The maximum height of the modified development at the west tower is 22.77m (RL 46m) at the lift overrun, resulting in a maximum con-compliance of 4.77m. This is a variation of 26.5%.

The consented maximum height of building was 22.4m at the lift overrun of both towers. This is a variation of 24.4%.

The increased additional height of building is 0.4m and 0.37m respectively on the west tower and east tower comparing with the consented height of building as per DA 627/2018. The increase is minor.

A portion of the top level of front of the development also exceeds the height limit due to the irregular site topography. The maximum height of the building in this area at the roof and communal open space is 18.85m at the west tower and 18.75m at the east tower, which is an exceedance of 0.85m and 0.75m, respectively. This is a variation of 4.7% and 4.2%, respectively.

It is noted that the consented development had exceeded the height limit at the roof and communal open space. The additional height increase in the modification is 0.35m.

The building's height is contextually appropriate. The proposed height non-compliances are minor and do not give rise to adverse impacts. The proposed development as modified satisfies the objectives of the zone and the Clause 4.3 objectives. The proposal shall have the lift overrun hidden behind the pergola and communal open space landscape setting and will not be visible within the streetscape or create adverse impacts on distant views. The height exceedances do not give rise to adverse impacts such as unacceptable adverse shadowing impacts or visual impacts.

It is noted that S4.55 applications are not subject to Clause 4.6. However, the proposal includes an amended Clause 4.6 Variation for HOB (Clause 4.3 of the LEP) and addresses and justifies the non-compliance.

Figure 9: LEP 2008 Height of Building Map_ P:18m

5.3 Liverpool Development Control Plan 2008

The relevant matters to be considered under the Liverpool Development Control Plan 2008 (LDCP 2008).

A summary of the proposal's compliance with the relevant DCP controls in is provided in Appendix D attached with this report.

6 Potential Environmental Impacts

6.1 Bulk and Scale

The proposed modification does not give rise to unreasonable adverse bulk and scale impacts. In considering the consented built form on the site, the proposed modifications do not result in a greater bulk and scale.

The increase of apartment footprint mostly takes the floor space from the oversized private open space. The overall building envelope remains as consented.

Figure 10-12 below demonstrates that the proposed modification is generally consistent with the approved envelope with minor expansions occurring on level 3-5 to the northwest portion of west tower, and southwest portion of the east tower. The expansion is more aligned with the overall elevation and provide a visual coherent at the northern interface and south interface.

Figure 10: Modified ground floor plan with the consented building envelope outline in red

Figure 11: Modified Level 1 -2 floor plan with the consented building envelope outline in red

Figure 12: Modified Level 3-5 floor plan with the consented building envelope outline in red

The proposed modification to the minor height increases in comparison to the consented design gives rise to no increase bulk and scale. Refer to the comparison below.

Figure 13: South Elevation as consented in DA DA/627/2018

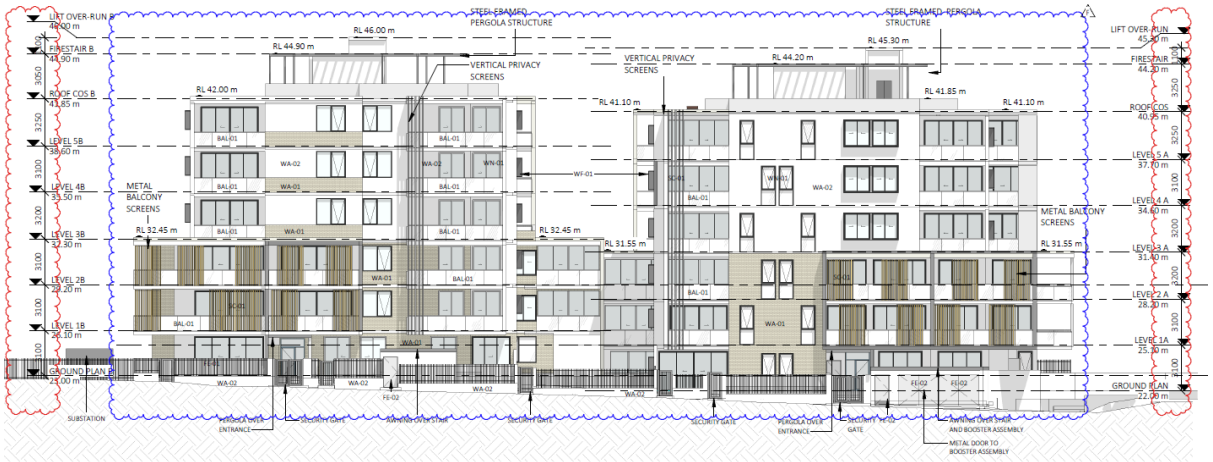

Figure 14: Proposed South Elevation

6.2 Traffic and Parking

In order to access the impacts of the proposed development on traffic and parking, a Traffic & Parking Assessment report has been prepared LOKA Consulting Engineers.

The proposed number of car parking spaces is between the rates set out in SEPP(Housing) 2021 and the minimum number of parking required by the DCP.

The proposal provides 31 units for affordable housing and 28 units for normal residential apartments.

As per the Liverpool DCP, the proposed development requires a total of 98 car parking. As per the SEPP (Housing) 2021, the proposal requires at least 54 parking spaces.

The additionally provided 8 parking spaces above the affordable housing minimum responds to the proportion of affordable units to market units proposed. It also responds to the extent of car parking provided in other nearby developments, the public transport condition of Harvey Avenue and demand for car parking within the market. Therefore, the proposed number of car parking spaces responds appropriately to the particular context of the site.

The proposal additional parking requires expansion of basement footprint 10.2m by 6.8m, while the extended basement footprint is still within the building footprint and will not result in deep soil area reduction. The better alignment of the basement with the building above improves buildability.

The traffic generation of the proposed parking spaces shall not give rise to unreasonable impacts on the road network. The car parking areas are designed to meet the applicable Australian Standards.

Motorbike and bicycle parking is provided within the basements as well.

6.3 Waste Management

A centralised waste storage room is proposed in basement 1 to facilitate 56 X240L bins, a bulk waste room and dedicated bin tug storage location. The main waste room is located in the basement accessed via lifts.

Two waste service rooms are provided as intermediate storage with 2 X 240L bins on each residential level on both towers for convenience.

The building manager will be responsible for transporting these bins to the basement garbage room. The building manager will also take responsibility for transporting the bins for Council collection from garbage room to the kerbside on Harvey Avenue on the Council waste collection days.

A waste management plan has been prepared by LOKA Consulting Engineers.

6.4 Social Impact

The proposed development shall have a net positive social impact as follows:

- The site is ideal for high density residential development based on its high level of public transport accessibility and its proximity to other important infrastructure such as schools, parks, hospitals, etc.

- The proposed development provides a mix of dwelling sizes and adds to housing diversity in the area.

- On top of the consented 27 affordable rental housing units, the additional 4 units will increase the social benefit to the community providing for new, affordable accommodation in an area well serviced by public transport services and local infrastructure.

- The proposed modifications improve the amenity of units which used to consists of 1 bathroom in the 2-bedroom apartments or 3-bedroom apartments.

- The proposed modification retains a significant amount of common open space and landscaped area. It will contribute to the urban tree canopy.

- The proposed development provides adaptable housing and liveable housing to a silver service level.

6.5 Economic Impact

The proposed development shall not have an adverse economic impact. The proposed development is a high-quality design with good quality materials and finishes which will have a positive impact on the streetscape.

The proposed development in providing housing in proximity to public transport represents a more economically sustainable urban form by placing people with better accessibility to employment centres. Also, creating housing where people do not need to solely rely on private motor vehicles to meet their day-to-day needs, reducing housing costs.

The proposed changes improve the feasibility of the development in an area where there has been difficulty converting approved housing to built housing.

6.6 Section 4.15(1)(c) – Suitability

"(c) the suitability of the site for the development,"

The site is suitable for the modified building, noting that the building is approved, the modifications are generally within the approved envelope and seek to develop the approve design to provide better amenity.

The approved building has already established site suitability.

6.7 Section 4.15(1)(d) Submissions

"(d) any submissions made in accordance with this Act or the regulations."

Any relevant submissions in relation to this Section 4.55(2) application will need to be considered by Council in due course.

6.8 Section 4.15(1)(e) The Public Interest

"(e) the public interest."

The public interest is best served by development that is reasonable and appropriate, that is consistent with the zone objectives and contextually appropriate in its locality. In this regard, the requested modifications are in the public interest as they provide for:

- A development that is substantially the same to that already approved but with improved amenity; and
- An increase in the number of affordable housing units.

The modified building is in the public interest.

7 Summary and Conclusion

The Section 4.55 (2) modification seeks to amend development consent DA 627/2018 to modify the approved development including:

- Provide a substation at the northeast corner of the site;
- Revise basement with more efficient car parking and waste management arrangement, and revise fire egress in accordance with BCA requirement;
- Increase floor-to-floor height from 3050mm to 3100mm, arising from post-consent services design development for practical buildability;
- Provide additional bathroom to certain 2 bedroom or 3 bedroom units that used to consist of one bathroom;
- Relocate affordable housing units; and
- Amend façade materials and finishes.

The proposed modifications have been assessed in accordance with section 4.55(2) and section 4.15 of the EP&A Act and are considered appropriate as summarised below:

- The proposal is substantially the same development: the proposal remains the land use proposed, the total number of unit and unit mix. The proposal essentially retains the architectural appearance and character of the approved development.
- The proposal remains suitable for the site: the proposal is permitted within the R4 High Density Residential zone, is consistent with the zone objectives and compatible with the surrounding high density residential development in the site locality as well as the proximity to schools, public transport, shopping, jobs and services.
- The proposal satisfies the applicable planning controls and policies: the proposal satisfies the objectives of relevant planning controls and continues to be predominantly compliant with SEPP (Housing) 2021, Liverpool LEP 2008 and Liverpool DCP.
- The proposal is of minimal environmental impact: the modified built form enhances the amenity of the building. The minor increase in building height does not result in shadow or other adverse amenity impacts to adjoining properties.
- The proposal continues to achieve a high level of design excellence that will add to the visual interest of the streetscape and provide social benefit with additionally provide affordable housing that address a rising social issue in Sydney's housing market.
- The social and economic impacts are acceptable: the proposal will provide more than 50% affordable housing within the overall development.

- The proposal is in the public interest: the proposal is in the public interest as it will contribute to local housing market and provide employment opportunities within the west of Sydney.

Having considered all relevant matters, we conclude that the proposed modification is appropriate for the site and approval is recommended, subject to appropriate conditions of consent.

Appendix A Clause 4.6 Variation to Clause 4.3 (Height of Buildings) of Liverpool Local Environmental Plan 2008

1. Introduction

This submission seeks a variation to Clause 4.3 of the Liverpool Local Environmental Plan 2008 (LLEP 2008), which relates to building height.

This submission has been prepared with regards to a consented development (DA-627/ 2018) at 23- 29 Harvey Avenue for the demolition of all existing structures and the development of a 6-storey residential flat building comprising 58 units over two levels of basement parking under the provisions of State Environmental Planning Policy (Housing) 2021.

The proposed modifications are in respect to DA-627/ 2018 in respect to the current Determination dated 11 May 2020.

Overall, the amendments result in a building that is substantially the same as the consented. The proposed modifications are summarised as increasing floor-to-to height by 50mm on each level, amending basement layout, amending apartment layout to provide additional bathroom in certain units within the consented building envelope, and amending façade materials. The total number of apartments remains the same. The increase in the proposed FSR complies with LEP FSR standard.

As detailed in this written request for a variation to building height being a development standard under LLEP 2008, the proposed development meets the requirements prescribed under Clause 4.6 of LLEP2008.

This submission is made under clause 4.6 of the LLEP2008 – Exceptions to development standards. Clause 4.6 states the following:

"4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

a) *the consent authority is satisfied that:*

I. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

II. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

b) *the concurrence of the Director-General has been obtained.*

(5) In deciding whether to grant concurrence, the Director-General must consider:

a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

b) *the public benefit of maintaining the development standard, and*

c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. When this Plan was made it did not include any of these Zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

a) a development standard for complying development,

b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

c) clause 5.4

d) clause 6.4, 6.5, 6.6, 7.22, 7.24, 7.25, 7.26, 7.26A, 7.27, 7.28, 7.29 or 7.30."

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

a) the consent authority is satisfied that:

I. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

II. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

The Environmental Planning Instrument to which these variations relate to is the LLEP 08.

The development standard to which this variation relates to is Clause 4.3 – Height of Buildings, which reads as follows:

"(1) The objectives of this clause are as follows:

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

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

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

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

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Note. *Clauses 5.6, 7.2 and 7.5 provide for circumstances under which a building in the Liverpool city centre may exceed the maximum height shown for the land on the Height of Buildings Map".*

As demonstrated in Figure 1 below, the subject site is limited to a maximum building height of 18m.

Figure 15: LEP 2008 Height of Building Map_ P:18m

The modified residential flat building will exceed the standard with a proposed building height of 22.8m as measured from ground level to the top of the lift overrun. The variation is equivalent to 4.8m to the highest point or 26.7%. It worthy to note that the consented building height as measured from ground level to the top of the lift overrun was 22.4m. The variation was equivalent to 4.4m to the highest point or 24.44%. The height increase between the consented building and modified building is 0.4m.

A written justification is therefore required for the proposed variation to the maximum building height development standard, in accordance with Clause 4.6 of the LLEP 2008.

2. Extent of Non-Compliance

As noted above Clause 4.3 of the LLEP 2008 states that the maximum building height for the site is 18m.

The current proposed modification seeks a maximum building height of 22.8m. The proposal therefore exceeds the standard by 4.8m or 26.77%.

Figure 16: 18m Height Plane Diagram

It is our submission that the additional height increase to the consented height of building, will not impact on the amenity of the development or adjoining properties, nor will the variation compromise the architecture of the building or the bulk and scale of the development.

A degree of flexibility is considered reasonable in this instance.

3. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

In Wehbe V Pittwater Council (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

> *"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."*

The Judgment goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the Judgment then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

- The objectives of the standard are achieved notwithstanding non-compliance with the standard;
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
- The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to Wehbe and states:

"…Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Compliance with the maximum building height development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this statement. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 5 below.

4. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?

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

The proposal addresses the site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will not result in any unreasonable amenity or environmental impacts.

The proposal is lodged pursuant to the State Environmental Planning Policy (Housing) 2021. The proposal therefore provides a social benefit to the community providing for new, affordable accommodation in an area well serviced by public transport services and local infrastructure.

Regular bus services are available along Maddecks Avenue and Newbridge Road. The site is also located in close proximity to the retail/commercial premises sited along Maddecks Avenue and Newbridge Road, with the Moorebank Shopping Centre and commercial premises along Newbridge Road providing for local amenities and services.

The development is also notably compliant with the maximum 1.7:1 FSR prescribed by SEPP (Housing) 2021.

In this case, strict compliance with the development standard for height of buildings development standard of the LLEP 2008 is unnecessary and unreasonable.

5. IS THE VARIATION IN THE PUBLIC INTEREST?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is to be carried out.

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

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

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

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

Zone R4 High Density Residential

Objectives of zone

• To provide for the housing needs of the community within a high density residential environment.

• To provide a variety of housing types within a high density residential environment.

• To enable other land uses that provide facilities or services to meet the day to day needs of residents.

• To provide for a high concentration of housing with good access to transport, services and facilities.

• To minimise the fragmentation of land that would prevent the achievement of high density residential development.

In response to the above the following is provided:

- The proposed residential flat building will replace the existing four dwellings on the site with 58 proposed units to provide for the housing needs of the community within a high density environment.
- The proposed modification remains a well-proportioned mix of studios, 1, 2 and 3 bedroom units, including adaptable designs ensuring a variety of housing types are available as per the initial proposal. The provision of affordable housing units are increased in the modification.
- No other land uses are proposed.
- The site is readily accessible by public transport with a bus stops located just 350m from the development. The site is also located in proximity to Moorebank Shopping Centre to the south-east of the site
- The proposal will not result in the fragmentation of land.

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

6. PUBLIC BENEFIT OF MAINTAINING THE STANDARD

It is considered that there is no benefit to the public or the community in maintaining the development standard. The proposed development will allow for the creation of a high quality residential development which as stated above meets the desired objectives of the standard.

The proposed modification works will also result in a well-designed development that provides for a feature landscaped frontage to Harvey Avenue through its central forecourt and generous amounts of tree cover to the front and rear setbacks.

Housing affordability in Sydney is becoming increasingly difficult. The proposed modification will seek to provide for 50.49% of the total residential floor area as affordable housing, 5% (4 units) greater than the consented development. The additional height sought on the site will enable additional units to be

provided to the benefit of the local government area. The area can support an increase in density and this is encouraged by Council as seen with the relevant planning standards.

The further increase in height above that already approved directly goes to improving amenity and constructability by increasing floor-to-floor heights slightly to incorporate waterproofing, insulation, fire protections and services without relying on bulkheads.

The increase in height in relation to the consented development will be imperceptible.

It is not considered that the variation sought raises any matter of significance for State or regional environmental planning.

The departure from the height of buildings control within the LLEP 2008 allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

7. IS THE VARIATION WELL FOUNDED?

It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the LLEP 2008 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (height of buildings) and objectives of the R4 High Density Residential zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State of Regional Significance; and
- The development submitted aligns with the revitalisation of the formerly low density precinct, creating a critical mass of pedestrians next to a local centre and creating a more sustainable urban structure in Western Sydney.

Based on the above, the variation is considered to be well founded.

8. CONCLUSION

The proposal does not strictly comply with the maximum building height control as prescribed by Clause 4.3 of the LLEP 2008. Having evaluated the likely affects arising from this non-compliance, the objectives of Clause 4.6 of the LLEP 2008 are satisfied as the breach to the controls due to additional height increase in modification is consistent with the consented development and does not create any adverse environmental impacts.

As reiterated throughout this report, the proposal seeks to provide for a well-designed development that will add to the visual interest of the streetscape and with more than 50% of the development being allocated to affordable housing. The development will address a rising social issue in Sydney's housing market whereby rising prices are making affordable accommodation increasingly difficult to come by.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and that the use of Clause 4.6 of the LLEP 2008 to vary this development controls appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with the maximum building height control is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Appendix B State Environmental Planning Policy (Housing) 2021

Chapter 2 Affordable Housing

Clause	Development Standard/ Control	Proposal	Compliance
Part 2 Development for affordable housing Division 1 In-fill affordable housing			
16 Development to which Division applies	(1) This Division applies to residential development if— (a) the development is permitted with consent under another environmental planning instrument, and (b) at least 20% of the gross floor area of the building resulting from the development will be used for the purposes of affordable housing, and (c) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and (d) for development on other land—all or part of the development is within 400m walking distance of land within 1 or more of the following zones or an equivalent land use zone— (i) Zone B1 Neighbourhood Centre,	50.34% (2,349m^2 out of 4,666m^2) of the development will be allocated as affordable housing.	YES

	(ii) Zone B2 Local Centre, (iii) Zone B4 Mixed Use. (2) In this Division, residential development carried out by, or on land owned by, the Land and Housing Corporation is taken to be used for the purposes of affordable housing. (3) In this section— Newcastle region means land within the following local government areas— (a) Cessnock, (b) Lake Macquarie, (c) Maitland, (d) Newcastle, (e) Port Stephens. residential development means development for the following purposes— (a) attached dwellings, (b) dual occupancies, (c) dwelling houses, (d) manor houses,		

	(e) multi dwelling housing, (f) multi dwelling housing (terraces), (g) residential flat buildings, (h) semi-detached dwellings. Wollongong region means land within the following local government areas— (a) Kiama, (b) Shellharbour, (c) Wollongong.		
17 Floor space ratio	(1) The maximum floor space ratio for development to which this Division applies is the maximum permissible floor space ratio for residential accommodation on the land plus an additional floor space ratio of— (a) if the maximum permissible floor space ratio is 2.5:1 or less— (i) if at least 50% of the gross floor area of the building resulting from the development will be used for affordable housing—0.5:1, or (ii) if less than 50% of the gross floor area of the building will be used for affordable housing—Y:1, where—	50.34% of the development will be allocated as affordable housing. FSR of 1.2:1 under Liverpool LEP 2008. A bonus of 0.5:1 applies under SEPP (Housing) 2021. Therefore, maximum FSR 1.7:1. Site area: 2,745.2m^2 Max GFA permissible: 4,666.84m^2	YES

	AH is the percentage of the gross floor area of the building that is used for affordable housing. Y= AH ÷ 100 or (b) if the maximum permissible floor space ratio is more than 2.5:1— (i) if at least 50% of the gross floor area of the building will be used for affordable housing—20% of the maximum permissible floor space ratio, or (ii) if less than 50% of the gross floor area of the building will be used for affordable housing—Z% of the maximum permissible floor space ratio, where— AH is the percentage of the gross floor area of the building that is used for affordable housing. Z= AH ÷ 2.5 (2) The additional floor space ratio must be used for the purposes of affordable housing.	Proposed GFA: 4,666m^2 or 1.70:1.	
18 Non-discretionary development standards—the Act, s 4.15	(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of in-fill affordable housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. (2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—	Noted	

	(a) a minimum site area of 450m2, (b) for a development application made by a social housing provider—at least 35m2 of landscaped area per dwelling, (c) if paragraph (b) does not apply—at least 30% of the site area is landscaped area, (d) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site, (e) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, (f) for a development application made by a social housing provider for development on land in an accessible area— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or	Site area: 2,745.2m^2 823m^2 is required, 841m^2 is proposed. 841m^2 (or 31% of the site area) is proposed as deep soil zone. The proposal provides a continuous deep soil landscaping area at the rear and the east of site. The continued deep soil zone is 697m^2 and equals 84% of the total deep soil zone. 41 of 58 (71%) apartments are able to receive 3+ hours solar access between 9am and 3pm at mid-winter. Refer to Architectural Plan View from Sun diagrams and summary of solar duration on DA-0-965.	YES YES YES YES YES

	(iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space, (g) if paragraph (f) does not apply— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, or (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, or (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces, (h) for development for the purposes of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment, (i) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide, (j) if paragraphs (h) and (i) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m2, or (ii) for each dwelling containing 2 bedrooms—90m2, or (iii) for each dwelling containing at least 3 bedrooms—115m2 plus 12m2 for each bedroom in addition to 3 bedrooms.	Refer to Traffic Management Plan prepared by Loka Consulting Engineering. The proposed development requires 54 car spaces. The proposed modification provides 68 car spaces.	YES

19 Design requirements	(1) Development consent must not be granted to development to which this Division applies unless the consent authority has considered the following, to the extent to which they are not inconsistent with this Policy— (a) the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, (b) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the Low Rise Housing Diversity Design Guide. (2) Subsection (1) does not apply to development to which State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies. (3) Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	NA Noted The proposed modification keeps the consented use, the number of units, the unit mix and general configuration of the building and its site unchanged.	
20 Continued application of SEPP 65	Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development to residential development to which this Division applies.	Noted	

21 Must be used for affordable housing for at least 15 years	(1) Development consent must not be granted under this Division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued— (a) the affordable housing component of the residential development will be used for affordable housing, and (b) the affordable housing component will be managed by a registered community housing provider. (2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority. (3) In this section— affordable housing component, in relation to development to which this Division applies, means the dwellings used for the purposes of affordable housing in accordance with section 16(1)(b).		
22 Subdivision permitted with consent	Land on which development has been carried out under this Division may be subdivided with development consent.	Noted	

Appendix C State Environmental Planning Policy No.65 – Apartment Design Guide

SEPP 65 requires consideration of the ADG in relation to development of residential flat building, shop top housing or mixed-use development that are more than two storeys and includes at least 4 dwellings.

The core considerations of the ADG are outlined below.

Clause/ Control and Design Criteria	Proposal	Compliance
3A Site Analysis 3A-1 - Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	The site analysis remains as it has been demonstrated in the consented development.	Yes
3B Orientation 3B-1 - Building types and layouts respond to the streetscape and site while optimising solar access within the development. 3B-2 - Overshadowing of neighbouring properties is minimised during mid-winter.	The proposed modification retains the consented building orientation. There are minimal additional shadow impacts introduced under the modification, with only incremental additional afternoon shadow at the winter solstice to neighbouring properties to the southeast.	Yes Yes
3C Public Domain Interface 3C-1 – Transition between private and public domain is achieved without compromising safety and security. 3C-2 – Amenity of the public domain is retained and enhanced.	The proposal complies.	Yes
3D Communal and Public Open Space 3D-1- An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	A combined area of 1,196m^2 (43.5% of the site) is provided as C.O.S, including two C.O.S located on the roof with a total area of 499m^2, and one C.O.S located on the ground level at the rear of the	Yes

Clause/ Control and Design Criteria	Proposal	Compliance
Design Criteria: 1. Communal open space has a minimum area equal to **25%** of the site. 2. Developments achieve a minimum of **50%** direct sunlight to the principal usable part of the communal open space for a minimum of **2 hours between 9 am and 3 pm on 21 June** (mid winter). 3D-2 – Communal open space is design to allow for a range of activities, respond to site conditions and be attractive and inviting. 3D-3 – Communal open space is designed to maximise safety. 3D-4 – Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	site with an area of 697m^2. Both areas of C.O.S have a northerly aspect and will received more than required amount of direct solar access between 9am and 3pm at mid-winter. The proposal complies. Both area of C.O.S exceed the dimension of 3m and are generous in area to encourage a range of activities. Remain unchanged in the modification. Remain unchanged in the modification.	Yes Yes Yes Yes Yes
<u>3E Deep Soil zone</u> 3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality. Design Criteria: Deep soil zones are to meet the following minimum requirements:	595.6m^2 (21.69%) of the site is provided as deep soil zone with a minimum width of 6m, located at the rear and east of the site. Refer to Hardscape/site plan (LPS4.5519-10) prepared by Conzept Landscape Architect	Yes

<table>
<tr><th>Clause/ Control and Design Criteria</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>
<table>
<tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr>
<tr><td>less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr>
<tr><td>650m² - 1,500m²</td><td>3m</td></tr>
<tr><td>greater than 1,500m²</td><td>6m</td></tr>
<tr><td>greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr>
</table>
</td><td></td><td></td></tr>
<tr><td><u>3F Visual privacy</u>
3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy

Design Criteria:
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:
<table>
<tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr>
<tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr>
<tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr>
<tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr>
</table>
Note:
Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2).
Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</td><td>The proposed modification remains the consented building separation to the property boundaries and building separation between two towers.

Visual privacy screens are retained at the elevations facing courtyard. This is not considered to give rise to visual privacy concerns given the inclusion of visual privacy screens mitigate this.</td><td>Yes</td></tr>
</table>

Clause/ Control and Design Criteria	Proposal	Compliance
3F-2 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	The proposal maintains good level of solar access and cross ventilation.	Yes
3G Pedestrian access and entries 3G-1 Building entries and pedestrian access connects to and addresses the public domain. 3G-2 Access, entries and pathways are accessible and easy to identify	 The modification keeps the vehicle access and pedestrian accesses unchanged. Remain unchanged in the modification.	 Yes Yes
3H Vehicle access 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	The modification keeps the vehicle access and setting unchanged.	Yes
3J Bicycle and car parking For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.	 Refer to comments under SEPP (Housing) 2021. The proposal satisfies the car parking requirements as it provides 68 car spaces. As per SEPP (Housing) 2021 a total of 54 car spaces are required. As per Liverpool DCP, a minimum of 98 car spaces including 15 visitor spaces required. The modification improved parking provision. Reference should also be made to the submitted traffic report prepared by LOKA Consulting Engineers	Yes
4A Solar and daylight access		

Clause/ Control and Design Criteria	Proposal	Compliance
4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space		
1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	52 out of 58 (90%) apartments received the minimum of 2 hours of direct solar access between 9am and 3pm during mid-winter.	Yes
2. 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.		
3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	6 out of 58 (10.3%) of apartments receive no direct sun in mid-winter.	Yes
4A-2 Daylight access is maximised where sunlight is limited	52 of the proposed units will receive 2 hours of solar access while only 6 units will receive no direct sunlight. All units have been provided with large expanses of glazing to the principal living areas to ensure that all units achieve daylight access.	Yes
4A-3 Design incorporates shading and glare control, particularly for warmer months	Shading devices remain unchanged in the modification.	Yes
<u>4B Natural ventilation</u>		
4B-1 All habitable rooms are naturally ventilated	Remain unchanged in the modification.	Yes
4B-2 The layout and design of single aspect apartments maximises natural ventilation	Remain unchanged in the modification.	Yes
4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents		
Design criteria		

<table>
<tr><th>Clause/ Control and Design Criteria</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.

2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</td><td>42 out of 58 (72%) of apartments are naturally cross ventilated.</td><td>Yes</td></tr>
<tr><td><u>4C Ceiling heights</u>
4C-1 Ceiling height achieves sufficient natural ventilation and daylight access
Design criteria:
Minimum ceiling height for apartment and mixed use buildings:
<table><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non- habitable</td><td>2.4m</td></tr><tr><td>For 2-storey apartment</td><td>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>Attic spaces</td><td>1.8m at edge of room with a 30-degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table></td><td>Floor to ceiling heights are at least 2.7m in height.</td><td>Yes</td></tr>
<tr><td>4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms</td><td>Remain unchanged in the modification.</td><td>Yes</td></tr>
<tr><td>4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building</td><td>Remain unchanged in the modification.</td><td>Yes</td></tr>
</table>

<table>
<tr><th>Clause/ Control and Design Criteria</th><th>Proposal</th><th>Compliance</th></tr>
<tr>
<td>
<u>4D Apartment size and layout</u>
4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity
Design criteria:
1.
<table>
<tr><th>Apartment Type</th><th>Minimum internal area (one bathroom)</th><th>Minimum internal area (Additional bathroom)</th></tr>
<tr><td>Studio</td><td>35m^2</td><td>-</td></tr>
<tr><td>1 bedroom</td><td>50m^2</td><td>55m^2</td></tr>
<tr><td>2 bedroom</td><td>70m^2</td><td>75m^2</td></tr>
<tr><td>3 bedroom</td><td>90m^2</td><td>95m^2</td></tr>
</table>
2.Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.

4D-2 Environmental performance of the apartment is maximised
Design criteria:
1. Habitable room depths are limited to a maximum of 2.5× the ceiling height
2. In the open plan layouts, the maximum habitable room depth is 8m from a window.
4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs
Design criteria:
</td>
<td>
Each apartment complies with the relevant minimum floor areas and will comply with all relevant room sizes and dimensions outlined within Part 4D.

All habitable rooms contain a window that is adequately sized.

All habitable rooms comply with this requirement.

No open plan layouts have depth greater than 8m.

All master bedrooms are at least 10sqm and other bedrooms are
</td>
<td>
Yes

Yes

Yes

Yes
</td>
</tr>
</table>

<table>
<tr><th>Clause/ Control and Design Criteria</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>1. Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)

2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)

3. Living rooms or combined living/dining rooms have a minimum width of:

• 3.6m for studio and 1 bedroom apartments

• 4m for 2 and 3 bedroom apartments

4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</td><td>9sqm.

All bedrooms have a minimum dimension of 3m.

All living rooms comply.

No cross-over or cross-through apartments are proposed.</td><td>Yes

Yes

Yes

NA</td></tr>
<tr><td><u>4E Private open space and balconies</u>
4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity
Design criteria:

1. All apartments are required to have primary balconies as follows:

<table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m^2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m^2</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m^2</td><td>2m</td></tr><tr><td>3 bedroom apartments</td><td>12m^2</td><td>2.4m</td></tr><tr><td>Apartment on ground level/podium</td><td>15m^2</td><td>3m</td></tr></table></td><td>All apartments have access to a private balcony or terrace that meets the minimum area and depth.</td><td>Yes</td></tr>
</table>

Clause/ Control and Design Criteria	Proposal	Compliance
The minimum balcony depth to be counted as contributing to the balcony area is 1m.		
2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m	All ground level apartments facing the COS have a terrace in excess of 15sqm in area and 3m in depth.	Yes
4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents	Remain unchanged in the modification.	Yes
4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	Remain unchanged in the modification.	Yes
4E-4 Private open space and balcony design maximises safety	Remain unchanged in the modification.	Yes
<u>4F Common circulation and spaces</u> 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments Design criteria:		
1. The maximum number of apartments off a circulation core on a single level is 8.	The maximum number of apartments off a circulation core on a single level is 6.	Yes
2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	29 apartments per lift.	Yes
4F-2 Common circulation spaces promote safety and provide for social interaction between residents	Remain unchanged in the modification.	Yes
<u>4G Storage</u> 4G-1 Adequate, well designed storage is provided in each apartment Design criteria:	Each apartment has compliant areas of storage, located within the	

<table>
<tr><th>Clause/ Control and Design Criteria</th><th>Proposal</th><th>Compliance</th></tr>
<tr><td>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:
<table><tr><td>Dwelling type</td><td>Minimum area</td></tr><tr><td>Studio apartments</td><td>4m^2</td></tr><tr><td>1 bedroom apartments</td><td>6m^2</td></tr><tr><td>2 bedroom apartments</td><td>8m^2</td></tr><tr><td>3+ bedroom apartments</td><td>10m^2</td></tr></table>
At least 50% of the required storage is to be located within the apartment.

4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments</td><td>apartment and basement.

Remain unchanged in the modification.</td><td>Yes

Yes</td></tr>
<tr><td><u>4H Acoustic privacy</u>

4H-1 Noise transfer is minimised through the siting of buildings and building layout

4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments.</td><td>

Remain unchanged in the modification.

Remain unchanged in the modification.</td><td>

Yes

Yes</td></tr>
<tr><td><u>4J Noise and pollution</u>

4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.

4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</td><td>

Remain unchanged in the modification.

Remain unchanged in the modification.</td><td>

Yes

Yes</td></tr>
<tr><td><u>4K Apartment mix</u>

4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.

4K-2 The apartment mix is distributed to suitable locations within the building.</td><td>

The consented unit mix ratio remains unchanged in the modification.

Remain unchanged in the modification.</td><td>

Yes

Yes</td></tr>
</table>

Clause/ Control and Design Criteria	Proposal	Compliance
4L Ground floor apartments 4L-1 Street frontage activity is maximised where ground floor apartments are located 4L-2 Design of ground floor apartments deliver amenity and safety for residents	Remain unchanged in the modification. Remain unchanged in the modification.	Yes Yes
4M Façade 4M-1 Building facades provide visual interest along the street while respecting the character of the local area. 4M-2 Building functions are expressed by the façade.	The proposed modification remains the façade concept, screens and window settings are retained in the modification. Bowral brown face brick on north facade is replaced with render and paint in the similar colour. The amended façade demonstrates a coherence in all elevation the materials and finishes.	Yes
4N Roof design 4N-1 Roof treatments are integrated into the building design and positively respond to the street. 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised 4N-3 Roof design incorporates sustainability features.	Remain unchanged in the modification. Remain unchanged in the modification. Remain unchanged in the modification.	Yes Yes Yes
4O Landscape design 4O-1 Landscape design is viable and sustainable 4O-2 Landscape design contributes to the streetscape and amenity.	Remain unchanged in the modification. The landscape design concept and design area remain unchanged in the modification.	Yes Yes
4P Planting on structures 4P-1 Appropriate soil profiles are provided. 4P-2 Plant growth is optimised with appropriate selection and maintenance. 4P-3 Planting on structures contributes to the quality and amenity of communal	Refer to Landscape Plans prepared by Conzept Landscape Architects.	Yes

Clause/ Control and Design Criteria	Proposal	Compliance
and public open spaces	The landscape design concept remains unchanged in the modification.	Yes
4Q Universal design 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members. 4Q-2 A variety of apartments with adaptable designs are provided. 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs.	Remain unchanged in the modification. A total of 6 adaptable units remained in the modification Remain unchanged in the modification.	Yes Yes Yes
4R Adaptive reuse 4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse.	NA NA	NA NA
4S Mixed use 4S-1 - Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. 4S-2 - Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	NA NA	NA NA
4T Awnings and signage 4T-1 Awnings are well located and complement and integrate with the building design. 4T-2 Signage responds to the context and desired streetscape character.	NA NA	NA NA
4U Energy efficiency 4U-1 Development incorporates passive environmental design. 4U-2 Development incorporates passive solar design to optimise heat storage in	Remain unchanged in the modification.	Yes

Clause/ Control and Design Criteria	Proposal	Compliance
winter and reduce heat transfer in summer.	Remain unchanged in the modification.	Yes
4V Water management and conservation		
4V-1 Potable water use is minimised.	Water efficient fixtures are specified by the submitted BASIX certificate.	Yes
4V-2 Urban stormwater is treated on site before being discharged to receiving waters.	Refer to submitted Stormwater Plans.	Yes
4V-3 Flood management systems are integrated into site design.	Refer to submitted Stormwater Plans.	Yes
4W Waste management		
4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Refer to submitted Waste Management Plans.	Yes
4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling.	Refer to submitted Waste Management Plans.	Yes
4X Building maintenance		
4X-1 – Building design detail provides protection from weathering.	Remain unchanged in the modification.	Yes
4X-2 – Systems and access enable ease of maintenance.	Remain unchanged in the modification.	Yes
4X-3 – Material selection reduces ongoing maintenance costs.	Remain unchanged in the modification.	Yes

Appendix D Liverpool Development Control Plan 2008

Table 1: Liverpool DCP Compliance		
Chapter	**Development Control**	**Compliance**
Part 3.7 Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre)		
2. Frontage and Site Area	The minimum lot width 24m.	Yes - The combined site has a width of 75.06m.
3. Site Planning	1. The building should relate to the site's topography with minimal earthworks, except for basement car parking. 2. Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design. 3. Site layout should provide safe pedestrian, cycle and vehicle access to and from the street. 4. Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity. 5. Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate. Refer to Water cycle management in Part 1. 6. The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	Yes- the proposed modification retains two levels of basement car parking with footprint expansion to the southeast. The expanded basement forms a more regular shape while not reduce loss of deep soil zone as the basement footprint is within building footprint. The proposed modification retains the building orientation, building entry setting, build bulk and scale. The amended façade materials are consistent with the approved façade presentation. Stormwater arrangement refers to submitted Stormwater Plans and DRAINS Report prepared by LOKA Consulting Engineers.

<table>
<tr>
<td>4. Setbacks</td>
<td>
Front and Secondary Setbacks
1. Buildings shall be setback in accordance with the following table.
Table 1
<table>
<tr><th>Road</th><th>Front Setback</th><th>Secondary Setback</th></tr>
<tr><td>Classified Roads</td><td>7.0m</td><td>7.0m</td></tr>
<tr><td>Other Streets</td><td>5.5m</td><td>5.5m</td></tr>
</table>
2. Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.
3. The secondary setback is along the longest length boundary.

Side and Rear Setbacks
1. Buildings shall be setback from the side and rear boundaries in accordance with the following table.
Table 2
<table>
<tr><th>Item</th><th>Side Setback</th><th>Rear Setback</th></tr>
<tr><td>Boundary to land in R2 & R3 zones</td><td>10m</td><td>10m</td></tr>
<tr><td>Boundary to land in R2 & R3 zones (no windows to habitable rooms)</td><td>10m</td><td>10m</td></tr>
<tr><td>Boundary to land in R4 zone (First 10m in height, excluding roof/attic)</td><td>3m</td><td>8m</td></tr>
<tr><td>Boundary to land in R4 zone (Greater than 10m in height)</td><td>8m</td><td>8m</td></tr>
<tr><td>Boundary to public open space</td><td>6m</td><td>6m</td></tr>
</table>
2. Consideration will need to be given to existing and approved setbacks of residential flat buildings on adjoining buildings.
</td>
<td>
YES- Front setback of 6m retained in the modification.

YES- The proposed modification remains the consented building separation between two towers and setback to the side and rear boundaries.

Visual privacy screens are retained at the elevations facing courtyard. This is not considered to give rise to visual privacy concerns given the inclusion of visual privacy screens mitigate this.
</td>
</tr>
<tr>
<td>5. Landscaped Area and Private Open Space</td>
<td>
Landscaped Area (deep soil area)
1. A minimum of 25% of the site area shall be landscaped area.
2. A minimum of 50% of the front setback area shall be landscaped area.
</td>
<td>
YES- 841m^2 (or 31% of the site area) is proposed as deep soil landscape area.
</td>
</tr>
</table>

	3. Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties. 4. Promote landscape health by supporting for a rich variety of vegetation type and size. 5. Increase the permeability of paved areas by limiting the area of paving and/or using pervious paving materials.	Landscape design concept is retained in the modification.
	Open Space 1. Provide communal open space, which is appropriate and relevant to the context and the building's setting. 2. Where communal open space is provided, facilitate its use for the desired range of activities by: - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking. 3. Locate open space to increase the potential for residential amenity.	YES- The modification keeps the initial design with different areas of communal open spaces and landscaped open spaces which contribute to the amenity of the development and suit a variety of activities.
	Private Open Space 1. Private open space shall be provided for each dwelling in accordance with the following table.	YES- The private open space area is reduced in some units to make space for unit expansion; however, the modified balconies are compliant with ADG requirement. Most of the modified balconies are greater than DCP required size and minimum width.

	<table><tr><th>Dwelling Size</th><th>Private Open Space Area</th><th>Minimum Width</th></tr><tr><td>Small < 65 sqm</td><td>10sqm</td><td>2m</td></tr><tr><td>Medium 65 – 100</td><td>12sqm</td><td>2m</td></tr><tr><td>Large > 100 sqm</td><td>12sqm</td><td>2m</td></tr></table> 2. Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor. 3. Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like. 4. Private open space should be clearly defined for private use. Drying areas Clothes drying facilities must be provided at a rate of 5 lineal m of line per unit. Clothes drying areas should not be visible from a public place and should have solar access.	
6. Building Design, Streetscape and Layout	Building Height Refer to the Liverpool LEP 2008 written statement and maps for the maximum Building Height in the R4 zone. Note that this varies depending on the location. Building Appearance and Streetscape 1.Residential Flat Buildings shall comply with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, and should consider the Residential Flat Design Code. 2. Building facades shall be articulated and roof form is to be varied to provide visual variety. 3. The pedestrian entrance to the building shall be emphasised. 4. A sidewall must be articulated if the wall has a continuous length of over 14 m. 5. Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building	Variation is sought. Refer to Section 5.2.2 and Appendix A of this report. YES- The proposed modification retains the building appearance except use render and paint in replacement of face brick at the building base levels and some of the balconies. The proposed paint is in the similar colour to the face brick. It is considered that the proposed modification retains the initially proposed composition of building elements, textures, materials and finishes which all contribute to an overall high quality and aesthetically appealing development.

	may be considered if the entrance is not readily visible from the street. 6. Driveway walls adjacent to the entrance of a basement car park are to be treated so that their appearance is consistent with the basement or podium walls. 7. Sensitive design of basement car parking areas can assist in ensuring that podiums and vehicle entry areas do not dominate the overall design of the building or the streetscape and optimise areas for deep soil planting. 8. The integration of podium design should be an integral part of the design of the development, and as far as possible should not visibly encroach beyond the building footprint. 9. A master antenna shall be provided for any development of more than three dwellings and be located so that it is not visible from the street or any public open space. 10. Consider the relationship between the whole building form and the facade and / or building elements. The number and distribution of elements across a façade determine simplicity or complexity. Columns, beams, floor slabs, balconies, window openings and fenestrations, doors, balustrades, roof forms and parapets are elements, which can be revealed or concealed and organised into simple or complex patterns. 11. Compose facades with an appropriate scale, rhythm and proportion, which respond to the building's use and the desired contextual character. This may include but are not limited to: - Defining a base, middle and top related to the overall proportion of the building. - Expressing key datum lines in the context using cornices, a change in materials or building set back. - Expressing the internal layout of the building, for example, vertical bays or its structure, such as party wall-divisions. - Expressing the variation in floor-to-floor height, particularly at the lower levels. - Articulating building entries with awnings, porticos, recesses, blade walls and projecting bays. - Selecting balcony types which respond to the street context, building orientation and residential amenity. - Cantilevered, partially recessed, wholly recessed, or Juliet balconies will all create different facade profiles.	The location of the site, and bulk and scale of surrounding existing and potential future developments have been considered in the design of the development. The internal functions and structure have been clearly expressed through the articulation and massing of the facades. 2 clearly defined entry paths are retained with metal frame entry structures are provided. The modified building appearance and streetscape is substantially the same as the consented development.

	- Detailing balustrades to reflect the type and location of the balcony and its relationship to the façade detail and materials. 12. Design facades to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls, depending on the facade orientation. 13. Express important corners by giving visual prominence to parts of the facade, for example, a change in building articulation, material or colour, roof expression or increased height. 14. Co-ordinate and integrate building services, such as drainage pipes, with overall facade and balcony design. 15. Co-ordinate security grills/screens, ventilation louvres and car park entry doors with the overall facade design Roof Design 1. Relate roof design to the desired built form. This may include: - Articulating the roof, or breaking down its massing on large buildings, to minimise the apparent bulk or to relate to a context of smaller building forms. - Using a similar roof pitch or material to adjacent buildings, particularly in existing special character areas or heritage conservation areas. - Minimising the expression of roof forms gives prominence to a strong horizontal datum in the adjacent context, such as an existing parapet line. - Using special roof features, which relate to the desired character of an area, to express important corners. 2. Design the roof to relate to the size and scale of the building, the building elevations and three-dimensional building form. This includes the design of any parapet or terminating elements and the selection of roof materials. 3. Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to sun access. 4. Minimise the visual intrusiveness of service elements by integrating them into the design of the roof. These elements include lift over-runs, service plants, chimneys, vent stacks, telecommunication infrastructures, gutters, downpipes and signage.	YES- The roof design remains unchanged.

	5. Where habitable space is provided within the roof optimise residential amenity in the form of attics or penthouse dwellings. Building Entry 1. Improve the presentation of the development to the street by: - Locating entries so that they relate to the existing street and subdivision pattern, street tree planting and pedestrian access network. - Designing the entry as a clearly identifiable element of the building in the street. - Utilising multiple entries-main entry plus private ground floor dwelling entries-where it is desirable to activate the street edge or reinforce a rhythm of entries along a street. 2. Provide as direct a physical and visual connection as possible between the street and the entry. 3. Achieve clear lines of transition between the public street, the shared private, circulation spaces and the dwelling unit. 4. Ensure equal access for all 5. Provide safe and secure access by: - Avoiding ambiguous and publicly accessible small spaces in entry areas. - Providing a clear line of sight between one circulation space and the next. - Providing sheltered well-lit and highly visible spaces to enter the building, meet and collect mail. 6. Generally provide separate entries from the street for: - Pedestrians and cars. - Different uses, for example, for residential and commercial users in a mixed use development. - Ground floor dwellings, where applicable. 7. Design entries and associated circulation space of an adequate size to allow movement of furniture between public and private spaces. 8. Provide and design letterboxes to be convenient for residents and not to clutter the	YES- The proposed building entries remain unchanged.

	appearance of the development from the street by: - Locating them adjacent to the major entrance and integrated into a wall, where possible. - Setting them at 90 degrees to the street, rather than along the front boundary. **Balconies** 1. Balconies may project up to 1m from the façade of a building. 2. Balustrades must be compatible with the façade of the building. 3. Ensure balconies are not so deep that they prevent sunlight entering the dwelling below. 4. Design balustrades to allow views and casual surveillance of the street. 5. Balustrades on balconies at lower levels shall be of solid construction. 6. Balconies should where possible should be located above ground level to maximise privacy for occupants, particularly from the street. 7. Solid or semi solid louvres are permitted. 8. Noise attenuation measures on balconies facing a Classified Road should be considered. 9. Balconies should be located on the street frontage, boundaries with views and onto a substantial communal open space. 10. Primary balconies should be: - Located adjacent to the main living areas, such as living room, dining room or kitchen to extend the dwelling living space; - Sufficiently large and well proportioned to be functional and promote indoor/outdoor living. A dining table and two chairs (smaller dwelling) and four chairs (larger dwelling) should fit on the majority of balconies in any development. 11. Consider secondary balconies, including Juliet balconies or operable walls with balustrades, for additional amenity and choice in larger dwellings, adjacent to bedrooms or for clothes drying, site balconies off laundries or bathrooms. 12. Design and detail balconies in response to the local climate and context thereby increasing the usefulness of balconies. This may be achieved by: - Locating balconies facing predominantly north, east or west to provide solar access.	YES- The balconies remain unchanged in principle. Some balconies reduced the floor area to make space for apartment expansion and provide solar access opportunities to the living room and POS of apartments while the reduced balconies are provided with ADG & DCP required size and minimum width.

	- Utilising sunscreens, pergolas, shutters and operable walls to control sunlight and wind. - Providing balconies with operable screens, Juliet balconies or operable walls/sliding doors with a balustrade in special locations where noise or high winds prohibit other solutions - along rail corridors, on busy roads or in tower buildings - choose cantilevered balconies, partially cantilevered balconies and/or recessed balconies in response to daylight, wind, acoustic privacy and visual privacy. 13. Provide primary balconies for all dwellings with a minimum depth of 2m. 14. Ensuring balconies are not so deep that they prevent sunlight entering the dwelling below. 15. Design balustrades to allow views and casual surveillance of the street while providing for safety and visual privacy. Design considerations may include: - Detailing balustrades using a proportion of solid to transparent materials to address site lines from the street, public domain or adjacent development. Full glass balustrades do not provide privacy for the balcony or the dwelling's interior, especially at night. - Detailing balustrades and providing screening from the public, for example, for a person seated looking at a view, clothes drying areas, bicycle storage or air conditioning units. 16. Operable screens increase the usefulness of balconies by providing weather protection, daylight control and privacy screening. Daylight Access 1. Plan the site so that new residential flat development is oriented to optimise northern aspect. 2. Ensure direct daylight access to communal open space between March and September and provide appropriate shading in summer. 3. Optimise the number of dwellings receiving daylight access to habitable rooms and principal windows: 4. Ensure daylight access to habitable rooms and private open space, particularly in winter - use skylights, clerestory windows and fanlights to supplement daylight access. 5. Promote two-storey and mezzanine, ground floor dwellings or locations where daylight is limited to facilitate daylight access to living rooms and private open spaces.	YES- The proposed modification will not result in any daylight access reduction.

	6. Ensure single aspect, single-storey dwellings have a northerly or easterly aspect - locate living areas to the north and service areas to the south and west of the development. 7. Avoid south facing dwellings. 8. Design for shading and glare control, particularly in summer: - Using shading devices, such as eaves, awnings, colonnades, balconies, pergolas, external louvres and planting. - Optimising the number of north-facing living spaces. - Providing external horizontal shading to north-facing windows. - Providing vertical shading to east or west windows. 9. Consider higher ceilings and higher window heads to allow deeper sunlight penetration. 10. On west facing windows, vertical louvre panels or sliding screens protect from glare and low afternoon sun. 11. On north facing windows, projecting horizontal louvres admit winter sun while shading summer sun. - Using high performance glass but minimising external glare off windows. - Avoid reflective films. - Use a glass reflectance below 20%. - Consider reduced tint glass. - Limit the use of lightwells as a source of daylight by prohibiting their use as the primary source of daylight in habitable rooms. Where they are used: - Relate lightwell dimensions to building separation, for example, if nonhabitable rooms face into a light well less than 12m high, the lightwell should measure 6 x 6 m. - Conceal building services and provide appropriate detail and materials to visible walls. - Ensure light wells are fully open to the sky. - A combination of louvres provides shading for different times of the day. Internal design 1. All staircases should be internal.	YES- The proposed modification retains the design principle and general arrangement as per

	2. Minimise the length of common walls between dwellings. 3. Basement car parking shall be located beneath the building footprint. 4. Where possible natural ventilation shall be provided to basement car parking. 5. Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings 6. Minimise the location of noise sensitive rooms such as bedrooms adjoining noisier rooms such as bathrooms or kitchens or common corridors and stairwells. 7. Where a site has frontage to a Classified Road, locate bedrooms away from the front of the site. 8. Where common walls are provided they must be carried to the underside of the roof and be constructed in accordance with Part F5 of the Building Code of Australia. 9. Locate active use rooms or habitable rooms with windows overlooking communal/public areas (e.g. playgrounds, gardens). Ground Floor Dwellings 1. Design front gardens or terraces, which contribute to the spatial and visual structure of the street while maintaining adequate privacy for dwelling occupants. This can be achieved by animating the street edge, for example, by promoting individual entries for ground floor dwellings. 2. Create more pedestrian activity along the street and articulate the street edge by: - Balancing privacy requirements and pedestrian accessibility. - Providing appropriate fencing, lighting and/ or landscaping to meet privacy and safety requirements of occupants while contributing to a pleasant streetscape. - Utilising a change in level from the street to the private garden or terrace to minimise site lines from the streets into the dwelling for some dwellings. - Increasing street surveillance with doors and windows facing onto the street. 3. Planting along the terrace edge contributes to a quality streetscape. 4. Ground floor dwellings are special because they offer the potential for direct access from the street and on-grade private landscape areas. They also provide opportunities for the	the consented development. The introduction of additional bathroom in certain units will not result in visual or acoustic privacy loss. A BCA report is prepared to accompany this modification. YES- The landscape setting generally remains unchanged in the modification including keeping the front setback landscaped, fencing, lighting and landscaping retained to address the privacy and safety requirements.

	dwelling building and its landscape to respond to the streetscape and the public domain at the pedestrian scale. Ground floor dwellings also support housing choice by providing accessibility to the elderly and/or disabled and support families with small children. 5. Optimise the number of ground floor dwellings with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site. 6. Provide ground floor dwellings with access to private open space, preferably as a courtyard. Security 1. Entrances to buildings should be orientated towards the front of the site and facing the street. 2. The main entrance to dwellings or other premises should not be from rear lanes and should be designed with clear directions and signage. 3. Blank walls in general that address street frontages or public open space are discouraged. Where they are unavoidable building elements or landscaping must be used to break up large expanses of walls. In some cases an anti-graffiti coating will need to applied to the wall to a height of 2 metres. 4. Minimise the number of entry points to buildings. 5. Reinforce the development boundary to strengthen the distinction between public and private space by: - Employing a level change at the site and/or building threshold (subject to accessibility requirements). - Signage. - Entry awnings. - Fences, walls and gates. - Change of material in paving between the street and the development. 6. Optimise the visibility, functionality and safety of building entrances by: - Orienting entrances towards the public street.	YES- The security arrangement remains unchanged in the modification.

	- Providing clear lines of sight between entrances, foyers and the street. - Providing direct entry to ground level dwellings from the street rather than through a common foyer. - Direct and well-lit access between car parks and dwellings, between car parks and lift lobbies and to all unit entrances. 7. Improve the opportunities for casual surveillance by: - Orienting living areas with views over public or communal open spaces, where possible. - Using bay windows and balconies, which protrude beyond the main façade and enable a wider angle of vision to the street. - Using corner windows, which provide oblique views of the street. - Providing casual views of common internal areas, such as lobbies and foyers, hallways, recreation areas and car parks. 8. Minimise opportunities for concealment by: - Avoiding blind or dark alcoves near lifts and stairwells, at the entrance and within indoor car parks, along corridors and walkways. - Providing well-lit routes throughout the development. - Providing appropriate levels of illumination for all common areas. - Providing graded illumination to car parks and illuminating entrances higher than the minimum acceptable standard. 9. Control access to the development by: - Making dwellings inaccessible from the balconies, roofs and windows of neighbouring buildings. - Separating the residential component of a development's car parking from any other building use and controlling car park access from public and common areas. - Providing direct access from car parks to dwelling lobbies for residents. Natural Ventilation 1. Utilise the building layout and section to increase the potential for natural ventilation. Design	YES- The proposed modification will not result in natural ventilation reduction.

	solutions may include: - Facilitating cross ventilation by designing narrow building depths and providing dual aspect dwellings, for example, cross through dwellings and corner dwellings. - Facilitating convective currents by designing units, which draw cool air in at lower levels and allow warm air to escape at higher levels, for example, maisonette dwellings and two-storey dwellings. 2. Select doors and windows (that open) to maximise natural ventilation opportunities established by the dwelling layout. 3. Provide narrow building depths to support cross ventilation. 4. Avoid single-aspect dwellings with a southerly aspect. 5. Design the internal dwelling layout to promote natural ventilation by: - Minimising interruptions in air flow through a dwelling. - Grouping rooms with similar usage together, for example, keeping living spaces together and sleeping spaces together. This allows the dwelling to be compartmentalised for efficient summer cooling or winter heating. - Select doors and operable windows to maximise natural ventilation opportunities established by the dwelling layout.	
	Building Layout The layout of dwellings within a residential flat building should minimise the extent of common walls. Figure 9 shows layouts that are not preferred and options that are considered acceptable.	YES- Building layout remains unchanged in the modification.
	Storage Areas 1. A secure storage space is to be provided for each dwelling with a minimum volume 8 m3 (minimum dimension 1m2). This must be set aside exclusively for storage as part of the basement or garage. 2. Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	YES- all apartments are provided storage areas. Secure storage areas are also provided for each unit in the basement as supplement.

7. Landscaping and Fencing	1. The setback areas are to be utilised for canopy tree planting. The landscape design for all development must include canopy trees that will achieve a minimum 8 m height at maturity within front and rear setback areas. 2. Landscape planting should be principally comprised of native species to maintain the character of Liverpool and provide an integrated streetscape appearance. Species selected in environmentally sensitive areas should be indigenous to the locality. However, Council will consider the use of deciduous trees. 3. The landscaping shall contain an appropriate mix of canopy trees, shrubs and groundcovers. Avoid medium height shrubs (600 – 1800mm) especially along paths and close to windows and doors. 4. Landscaping in the vicinity of a driveway entrance should not obstruct visibility for the safe ingress and egress of vehicles and pedestrians. 5. Tree and shrub planting alongside and rear boundaries should assist in providing effective screening to adjoining properties. 6. Landscaping on any podium level or planter box shall be appropriately designed and irrigated. Landscaping on podium levels and planter boxes should be accessible from habitable areas of dwellings or elsewhere as appropriate for gardener access in other forms of development. 7. The development must be designed around significant vegetation on the site. 8. It is important to retain significant vegetation to maintain an existing streetscape and enhance the visual appearance of new dwellings. 9. Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry. 10. Where landscaping is used to control overlooking, species selected are to be a kind able to achieve privacy within 3 years. 11. All species of trees and shrubs should be drought resistant. 12. Advanced tree species are to be used for key elements with the landscape design concept. 13. Any tree with a mature height over 8m should be planted a minimum distance of 3m from	YES- Landscape design remain unchanged in the modification.

	the building or utility services. 14. Contribute to streetscape character and the amenity of the public domain by: - Relating landscape design to the desired proportions and character of the streetscape. - Using planting and landscape elements appropriate to the scale of the development. - Mediating between and visually softening the bulk of large development for the person on the street. 15. Improve the energy efficiency and solar efficiency of dwellings and the microclimate of private open spaces. 16. Planting design solutions include: - Trees for shading low-angle sun on the eastern and western sides of a dwelling. - Trees that do not cast a shadow over solar collectors at any time of the year. - Deciduous trees for shading of windows and open space areas in summer. 17. Design landscape which contributes to the site's particular and positive characteristics, for example by: - Enhancing habitat and ecology. - Retaining and incorporating trees, shrubs and ground covers endemic to the area, where appropriate. - Retaining and incorporating changes of level, visual markers, views and any significant site elements.	
8.Car Parking and Access	Car Parking 1. Visitor car parking shall be clearly identified and may not be stacked car parking. 2. Visitor car parking shall be located between any roller shutter door and the front boundary. 3. Pedestrian and driveways shall be separated. 4. Driveways shall be designed to accommodate removalist vehicles. 5. Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street. 6. Give preference to underground parking, whenever possible by:	YES – refer to Traffic Report prepared by LOKA Consulting Engineers

	- Retaining and optimising the consolidated areas of deep soil zones. - Facilitating natural ventilation to basement and sub-basement car parking areas, where possible. - Integrating ventilation grills or screening devices of car park openings into the facade design and landscape design. - Providing safe and secure access for building users, including direct access to residential dwellings, where possible. - Providing a logical and efficient structural grid. There may be a larger floor area for basement car parking than for upper floors above ground. Upper floors, particularly in slender residential buildings, do not have to replicate basement car parking widths. 7. Where above ground enclosed parking cannot be avoided, ensure the design of the development mitigates any negative impact on streetscape and street amenity by: - Avoid exposed parking on the street frontage. - Hiding car parking behind the building facade. Where wall openings (windows, fenestrations) occur, ensure they are integrated into the overall facade scale, proportions and detail. Pedestrian access 1. Utilise the site and it's planning to optimise accessibility to the development. 2. Provide high quality accessible routes to public and semi-public areas of the building and the site, including major entries, lobbies, communal open space, site facilities, parking areas, public streets and internal roads. 3. Promote equity by: - Ensuring the main building entrance is accessible for all from the street and from car parking areas. - Integrating ramps into the overall building and landscape design. - Design ground floor dwellings to be accessible from the street, where applicable, and to their associated private open space. 4. Maximise the number of accessible and adaptable dwellings in a building by: - Providing more than one accessible entrance where a development contains clusters of	YES – refer to Access Report prepared by Accessible Building Solutions

	buildings. - Separating and clearly distinguish between pedestrian accessways and vehicle accessways. - Locating vehicle entries away from main pedestrian entries and on secondary frontages	
9.Amenity and Environmental Impact	Overshadowing 1. Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space. Privacy 1. Building siting, window location, balconies and fencing should take account of the importance of the privacy of onsite and adjoining buildings and outdoor spaces. 2. Windows to habitable rooms should be located so they do not overlook such windows in adjoining properties, other dwellings within the development or areas of private open space. 3. Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties. 4. Where possible the ground floor dwellings should be located above ground level to ensure privacy for occupants of the dwellings. 5. Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings by: - Balconies to screen other balconies and any ground level private open space. - Separating communal open space, common areas and access routes through the development from the windows of rooms, particularly habitable rooms. - Changing the level between ground floor dwellings with their associated private open space, and the public domain or communal open space. 6. Use detailed site and building design elements to increase privacy without compromising access to light and air by: - Offsetting windows of dwellings in new development and adjacent development windows. - Recessed balconies and/or vertical fins between adjacent balconies. - Solid or semi-solid balustrades to balconies - louvres or screen panels to windows and/or	Refer to Section 5.1.5.1 above in this report. YES- The proposed modification remains the consented building separation to the property boundaries and building separation between two towers. Visual privacy screens are retained at the elevations facing courtyard. This is not considered to give rise to visual privacy concerns given the inclusion of visual privacy screens mitigate this.

	balconies. - Fencing. - Vegetation as a screen between spaces. - Incorporating planter boxes into walls or balustrades to increase the visual separation between areas. - Utilising pergolas or shading devises to limit overlooking of lower dwellings or private open space. Acoustic privacy 1. Noise attenuation measures should be incorporated into building design to ensure acoustic privacy between on-site and adjoining buildings. 2. Buildings having frontage to a Classified Road or a railway and impacted upon by rail or traffic related noises must incorporate the appropriate noise and vibration mitigation measures into the design in terms of the site layout, building materials and design, orientation of the buildings and location of sleeping and recreation areas. 3. The proposed buildings must comply with the Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance. 4. Arrange dwellings within a development to minimise noise transition between dwellings by: - Locating busy, noisy areas next to each other and quieter areas next to other quiet areas, for example, living rooms with living rooms, bedrooms with bedrooms - Using storage or circulation zones within an dwelling to buffer noise from adjacent dwellings, mechanical services or corridors and lobby areas - Minimising the amount of common walls with other dwellings. - Design the internal dwelling layout to separate noisier spaces from quieter spaces by: - Grouping uses within a dwelling - bedrooms with bedrooms and service areas like kitchen, bathroom, and laundry together.	YES- remain unchanged in the modification.
10. Site Services	Letterboxes 1. Letterboxes shall to be provided for each dwelling on site, easily accessible from the street, able to be securely locked and provided in accordance with Australia Post's requirements. 2. Freestanding letterbox structures should be designed and constructed of materials that	YES- centralised letterboxes are separated to service two buildings now in the modification which provides more convenience to the

	relate to the main building. 3. Residential numbering should be attached to the letterbox so that it is clearly visible from the street frontage. Numbers should be 75mm in height, reflective and in contrast to the backing material. Waste management 1. Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site. 2. Any structure involving waste disposal facilities shall be located as follows: 3. Setback 1 m from the front boundary to the street. 4. Landscaped between the structure and the front boundary and adjoining areas to minimise the impact on the streetscape. 5. Not be located adjacent to an adjoining residential property. 6. Details of the design of waste disposal facilities are shown in Part 1 of the DCP. Frontage works and damage to Council infrastructure 1. Where a footpath, road shoulder or new or enlarged access driveway is required to be provided this shall be provided at no cost to Council. 2. Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure. 3. Where there are no existing street trees in front of the site and contributions have not been collected for street tree planting it may be a condition of consent that street trees be provided in the footpath area immediately in front of the site. Electricity Sub Station In some cases, it may be necessary to provide an electricity substation at the front of the development adjacent to the street frontage. This will involve dedication of the area as a public road to allow access by the electricity provider. The front boundary treatment used elsewhere on the street frontage.	residents. YES- one centralised bin room is proposed in the modification with the capacity to accommodate the required bins, bin tug and bulky waste. Refer to the Waste Management Plan prepared by LOKA Consulting Engineers. A substation is proposed at the northeast corner of the site. The proposed substation will not be predominant element of the streetscape. The landscape setting in the front and east set setback areas is consistent with the approved development.