

COUNCIL ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-306 – DA-627/2018/A
PROPOSAL	<p>Modification to Development Consent DA-627/2018 under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, for:</p> <ul style="list-style-type: none"> • Reconfiguration of basement by increasing the number of car parking spaces from 60 to 68, reconfiguration of waste management arrangement, and revised fire egress in accordance with BCA requirements. • Revised basement ramp gradients with changes of basement levels, stormwater arrangement and OSD tank level and dimension adjusted. • Increase floor-to-floor height from 3050mm to 3100mm. • Minor extension at the north elevation and revised apartment layouts with the inclusion of an additional bathrooms to a number of apartments • Increase affordable housing apartments from 27 to 31 and affordable allocation revised. • Inclusion of substation at the northeast corner of the site • Amended façade materials and finishes. • Landscape design update on ground level in accordance with the layout revision
ADDRESS	Lots 25, 26, 27, & 28, DP 236405 23-29 Harvey Avenue, Moorebank
APPLICANT	DR DESIGN (NSW) PTY LTD
OWNER	UFN AT HARVEY PTY LTD
DA LODGEMENT DATE	1 March 2022
APPLICATION TYPE (DA, Concept DA,	4.55(2) Modification Application

CROWN DA, INTEGRATED, DESIGNATED)	
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Affordable Housing
CIV	\$21,423,880 (excluding GST)
CLAUSE 4.6 REQUESTS	Height variation request proposed
KEY SEPP/LEP	Housing SEPP, Biodiversity and Conservation SEPP, LEP
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Nil
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural Plans and Clause 4.6 height variation.
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	10 July 2023
PLAN VERSION	As per amendments to Condition 1.
PREPARED BY	Glen Hanchard
DATE OF REPORT	30 June 2023

1 EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney Western City Planning Panel is the determining authority as the development includes affordable housing with a Capital Investment Value over \$5 million, pursuant to Clause 5 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. This is a modification subject to 4.55(2) to an application approved by the SWCPP.

Internal referrals were made to traffic and transport, waste management, engineering and urban design regarding the application. External referrals were made to Sydney Water and Endeavour Energy.

The application has been recommended to be approved subject to the conditions of consent.

1.2 The proposal

Council has received a Development Application (DA No. 627/2018/A) seeking consent for the modification of DA-627/2018 determined by the Sydney Western City Planning Panel on 18 May 2020 at 23-29 Harvey Avenue, Moorebank.

The application proposes the modification to a 6-storey residential flat building comprising 58 residential units (including 27 affordable housing units), two levels of basement parking and associated landscaping works.

The application as modified proposes a number of design changes, including a revised basement with a more efficient car parking and waste management arrangement, and revised fire egress in accordance with BCA requirement.

1.3 The site

The development site is comprised of 4 lots being Lots 25 to 28 DP 236405 and is identified as 23-29 Harvey Avenue, Moorebank.

1.4 The issues/ modifications

The key issues associated with the proposal relate to:

- Reconfiguration of basement by increasing the number of car parking spaces from 60 to 68, reconfiguration of waste management arrangement, and revised fire egress in accordance with BCA requirements.
- Revised basement ramp gradients with changes of basement levels, stormwater arrangement and OSD tank level and dimension adjusted.
- Increase floor-to-floor height from 3050mm to 3100mm.
- Minor extension at the north elevation and revised apartment layouts with the inclusion of an additional bathrooms to a number of apartments
- Increase affordable housing apartments from 27 to 31 and affordable allocation revised.
- Inclusion of substation at the northeast corner of the site
- Amended façade materials and finishes.
- Landscape design update on ground level in accordance with the layout revision.

1.5 Exhibition of the proposal

The modification application was notified for a period of 14 days from 12 May 2022 to 27 May 2022 in accordance with Council's Community Participation Plan 2022. Notwithstanding, no submissions were received during the public consultation period objecting/supporting the proposal.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979. Based on the assessment of the application, it is recommended that the application be approved subject to the imposition of amended conditions of consent.

2 SITE DESCRIPTION AND LOCALITY

2.1 The locality

The area is currently mostly characterised by low density residential development, however, is within an R4 High Density Residential Zoned Area and is considered land in transition.

The adjoining properties to the development site are detailed in the following table.

East (front)	31 Harvey Avenue, 36 McKay Avenue, 61 Lucas Avenue, 63 Lucas Avenue, 65 Lucas Avenue, Moorebank DA-552/2018 – Approved by Joint Regional Planning Panel on 23 November 2020. Demolition of existing structures and construction of two 5-storey Residential Flat Buildings above basement car park containing 76 apartments pursuant to SEPP (Affordable Rental Housing) 2009 to be carried out as a two staged development.
West (rear)	19-21 Harvey Avenue, Moorebank – Low Density Residence – however DA-745/2017- Approved by Joint Regional Planning Panel on 03 December 2018 the Construction of a six-storey residential flat building comprising 28 units, including landscaping works, associated site works and demolition of existing structures. The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009. Liverpool City Council is the consent authority, and the Sydney Western City Planning Panel has the function of determining the application.
South (side)	32-34 McKay Avenue, Moorebank (South of Site) - DA-995/2017 – Approved by Local Planning Panel on 24 February 2020. Construction of residential flat building of twenty-three (23) units over five (5) storeys, basement carpark, strata subdivision and demolition of two (2) existing dwellings.
North (side)	Street Frontage to Harvey Avenue and R2 Low Density Zoned land beyond

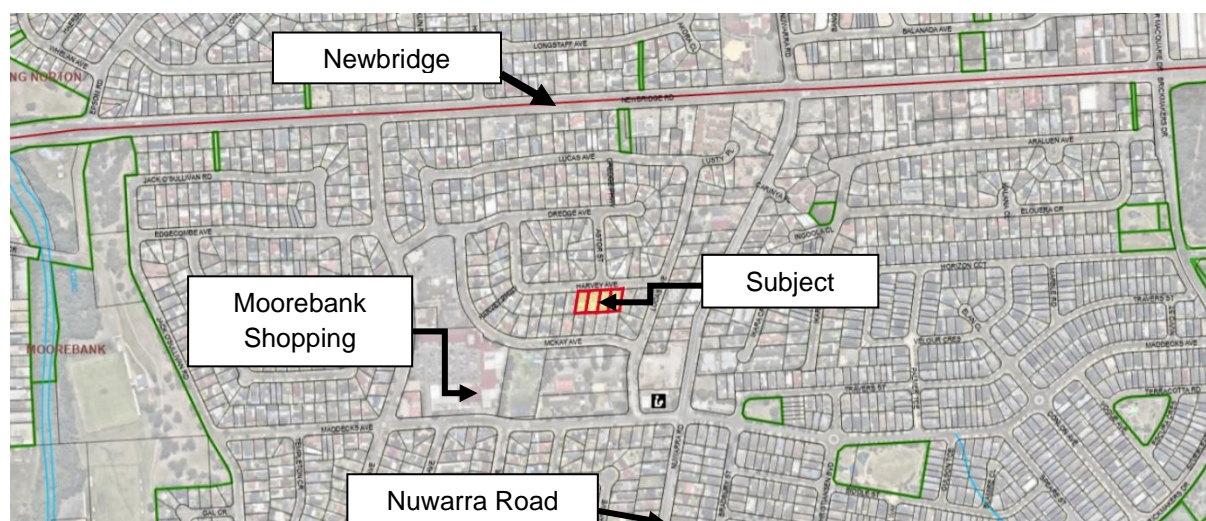


Figure 1: Context

2.2 The site

The subject site is identified as Lots 25 to 28 in DP 236405 and is known as 23-29 Harvey Avenue, Moorebank. It is regular in shape with a frontage of 75.06m metres to Harvey Avenue and a depth of 37.53m, with a total area of 2745.2m².



Figure 2: Aerial Photograph of subject allotments (Source, Neap Maps)

2.3 Site affectations

The subject site has no constraints.

3 BACKGROUND

3.1 Application History

- The parent proposal was presented to the Design Excellence Panel (DEP) on 24 April 2018 at Pre-DA stage and presented a second time to the DEP following development application lodgement on 14 February 2019.
- The parent proposal was approved by the Sydney Western City Planning Panel on 11 February 2019.

4 DETAILS OF THE PROPOSAL

Development consent is sought for modifications to two 6-storey residential flat buildings, approved under DA-627/2018. The parent application approved the following:

- 58 residential units (2 x studio units, 14 x 1-bed units, 35 x 2-bed units, and 7 x 3-bed units).
- 27 affordable units provided under the ARH SEPP 2009, (being units G03, G07, G08, 101-112, and 201-212).
- 2 basement levels providing 60 car parking spaces (including 6 accessible spaces), and 15 bicycle spaces.
- Basement storage and garbage areas.
- New driveway and access ramp.
- Landscaping, including roof gardens, landscaping within setbacks, and deep soil areas.

The modification seeks to amend the following:

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 22.8m).
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. Amendments to unit layout and additional bathrooms for units G01, G04, G05, G09 and G10. Unit G02 bedroom 1 and ensuite, and bedroom 2 room layout adjusted to meet with adaptable unit accessibility requirement. A minor adjustment to the layout of units G03, G06, G07, and G08.
16. Amendments to unit layout and additional bathrooms for units 1.05, 1.06, 1.07, 1.11 and 1.12. Unit 1.02 (southwest unit) bedroom 1 and ensuite, and bedroom 2 room layout adjusted to meet with adaptable unit accessibility requirements. A minor adjustment to the layout of 1.03, 1.04, 1.08, 1.09, and 1.10.

17. The setbacks remain as approved under the parent consent on level 1. The proposed building envelope remains consistent with the approved consent. A minor extension occurs at the north elevation of Unit 1.05. However, the extended building external wall aligns with the balcony to improve construction.
18. Level 2 repeats the same revisions as Level 1.
19. Amendments to unit layout and additional bathrooms for units 3.01, 3.02, 3.03, 3.04, 3.06 and 3.08. Unit 3.06 bedroom 1 and ensuite, and bedroom 2 room layout adjusted to meet adaptable unit accessibility requirements. A minor adjustment to the layout of 3.05, and 3.07 room.
20. The proposed setbacks remain as approved under the parent consent on level 3. The proposed building envelope remains generally the consistent with the approved parent consent. 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 remain consistent with Level 3. It is noted that building envelope is reduced at the west elevation, and on the north elevation of the living room for Unit 3.06, 4.06, 5.06 and 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 parent consent DA-627/2018.
24. Finishes of balcony screens and frames around windows and vertical louvres are proposed to be replaced with Powdercoated aluminium.
25. Minor amendments to the landscape design on ground level in accordance with the layout revision. This includes:
 - a) Amending the street frontage fence with low masonry base and palisade fencing on top, and
 - b) The provision of landscape area in front of low fence wall to improve streetscape.
26. Amend the roof of balcony in Unit 5.04 and Unit 5.06 to be pergola roof.
27. 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.
28. Provide sky light to Unit 5.04 and amend the balcony roof of Units 5.04 and 5.06 to be a pergola style roof to provide solar access to the private open space and living room.
29. 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.
30. Amend the street frontage fence with low masonry base palisade fencing on top and the provision of landscape area in front of low fence wall to improve streetscape.

[illegible]

REVISION:

- ORIGINAL BASEMENT SHOWN DASHED
- FIRE EGRESS REVISED
- RAMP GRADIENTS REVISED WITH CHANGE OF BASEMENT LEVELS
- PARKING LAYOUT REVISED
- CLEANER WC RELOCATED

NOTE: CONSENTED FOOTPRINT SHOWN IN RED DASH LINE

Basement 1 Details:

- 21 CAR SPACES
- 1 MOTORBIKE SPACES
- 18.25 m
- 5800
- 6100
- 6000
- 2000
- 10000
- 2000
- 25000

Room Numbers: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31.

Other Features: PUMP ROOM, FIRE SERVICES TANK, DRIVEWAY RAMP, METAL ROCKER DOOR, GARBAGE ROOM, BULK WASTE, BIN TUCK, STORE, MB, X LIFT, 9927.

REVISION:
 ORIGINAL BUILDING FOOTPRINT SHOWN DASHED
 UNITS/COMMON SPACES
 CONSTRUCTION AND FINISH STAIRS REVISED
 - RL'S REVISED

**AWNING ADDED OVER FIRE STAIR
 POS AMENDED FOR UNIT 601
 UTTERBACK BUS/CARAVAN
 ENTRY WALKWAY UPDATED
 LANDSCAPE UPDATED**

NOTE: CONSENTED FOOTPRINT SHOWN IN RED DASH LINE

NO.	DESCRIPTION	DATE	BY	CHECKED	DATE
1	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
2	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
3	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
4	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
5	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
6	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
7	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
8	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
9	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
10	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
11	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
12	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
13	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
14	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
15	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
16	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
17	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
18	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
19	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
20	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
21	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
22	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
23	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
24	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
25	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
26	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
27	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
28	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
29	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
30	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
31	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
32	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
33	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
34	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
35	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
36	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
37	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
38	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
39	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
40	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
41	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
42	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
43	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
44	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
45	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
46	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
47	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
48	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
49	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
50	ISSUED FOR PERMIT	29/08/2022	DAVID	DAVID	29/08/2022
51	ISSUED FOR PERMIT				

[illegible]

Figure 6– Level 1 Floor Plan - Revision G – S4.55

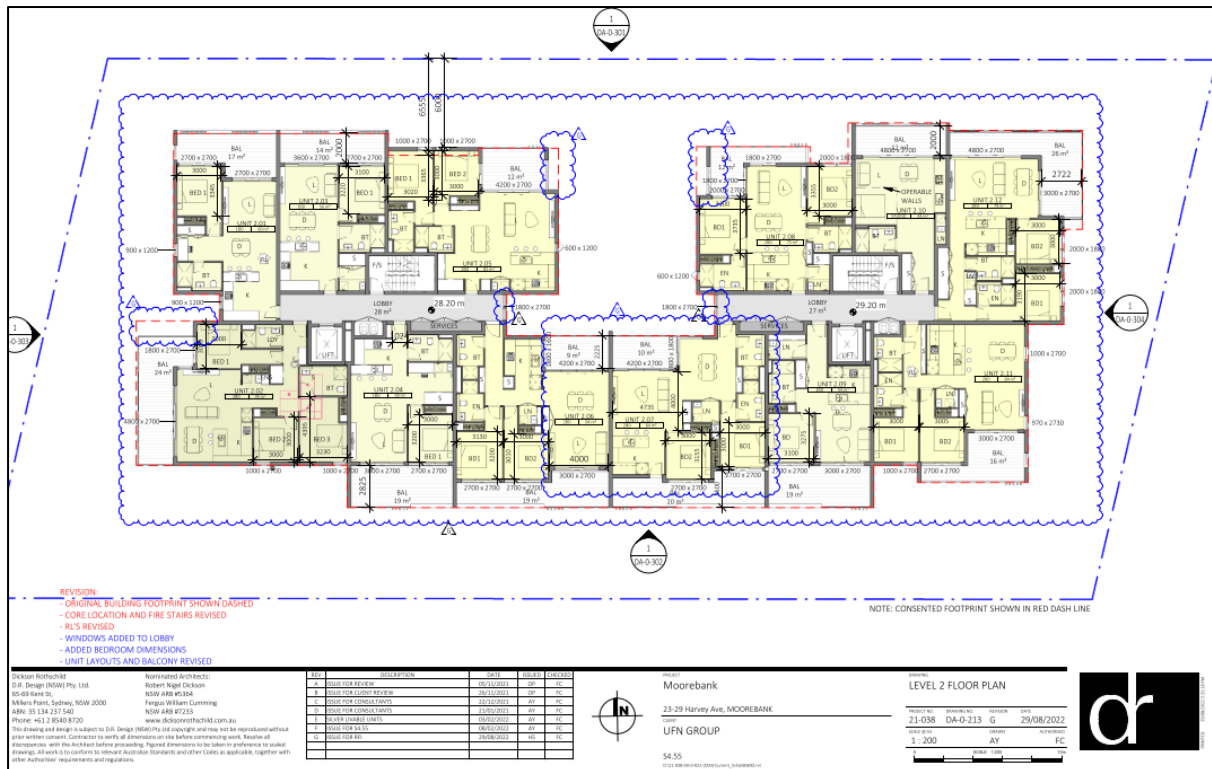


Figure 7 – Level 2 Floor Plan - Revision G – S4.55

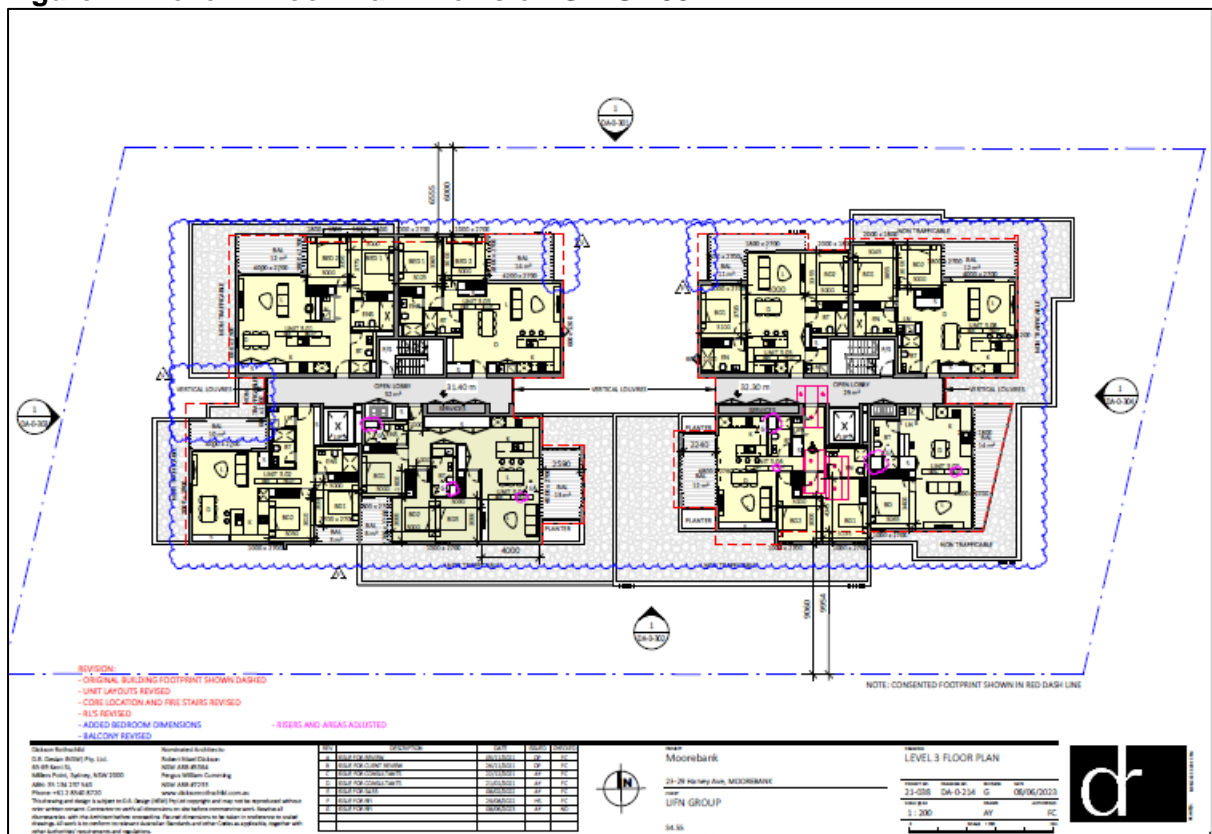


Figure 8 – Level 3 Floor Plan - Revision G – S4.55

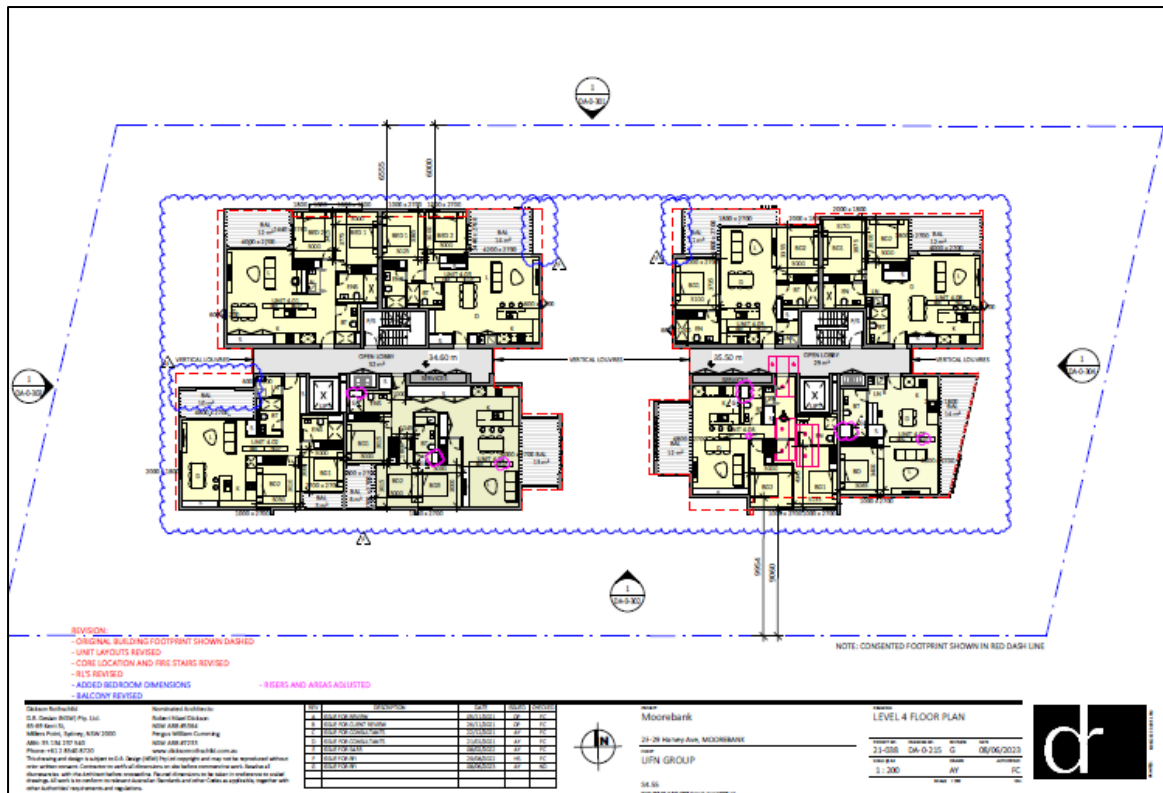


Figure 9 – Level 4 Floor Plan - Revision G – S4.55

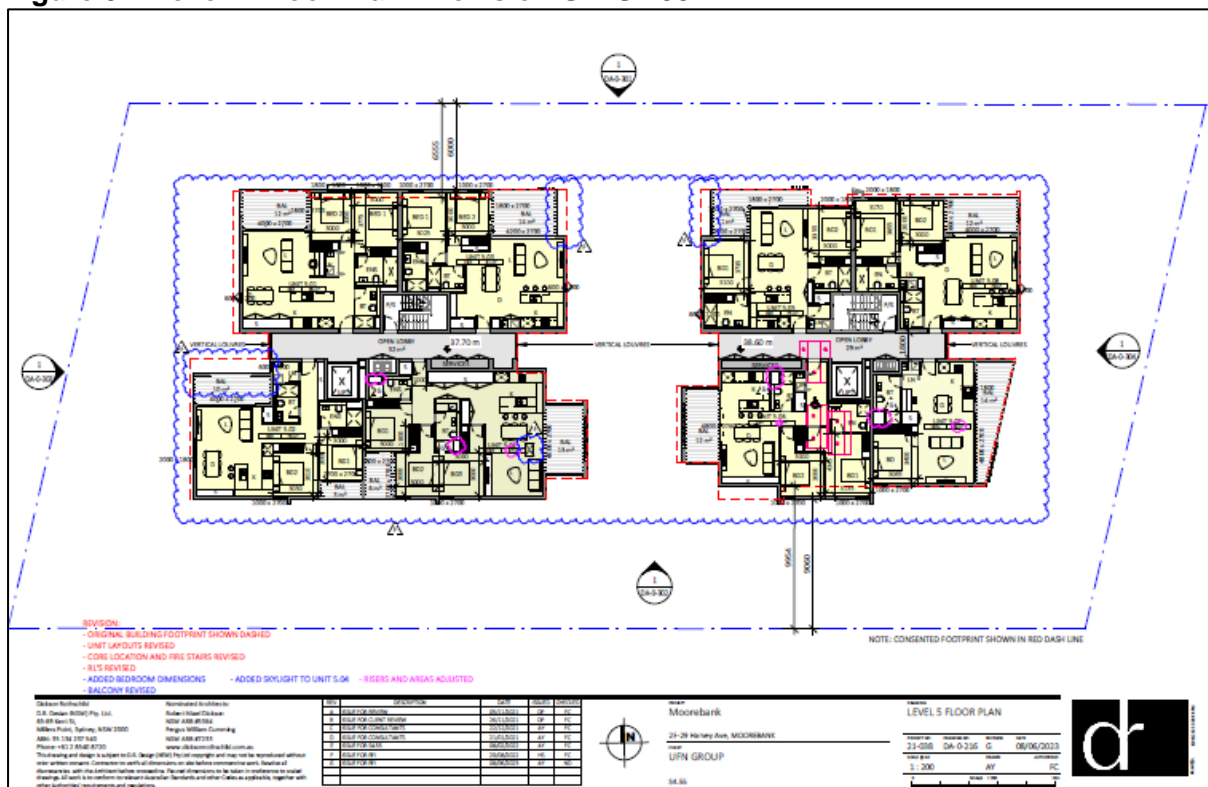


Figure 10 – Level 5 Floor Plan - Revision G – S4.55

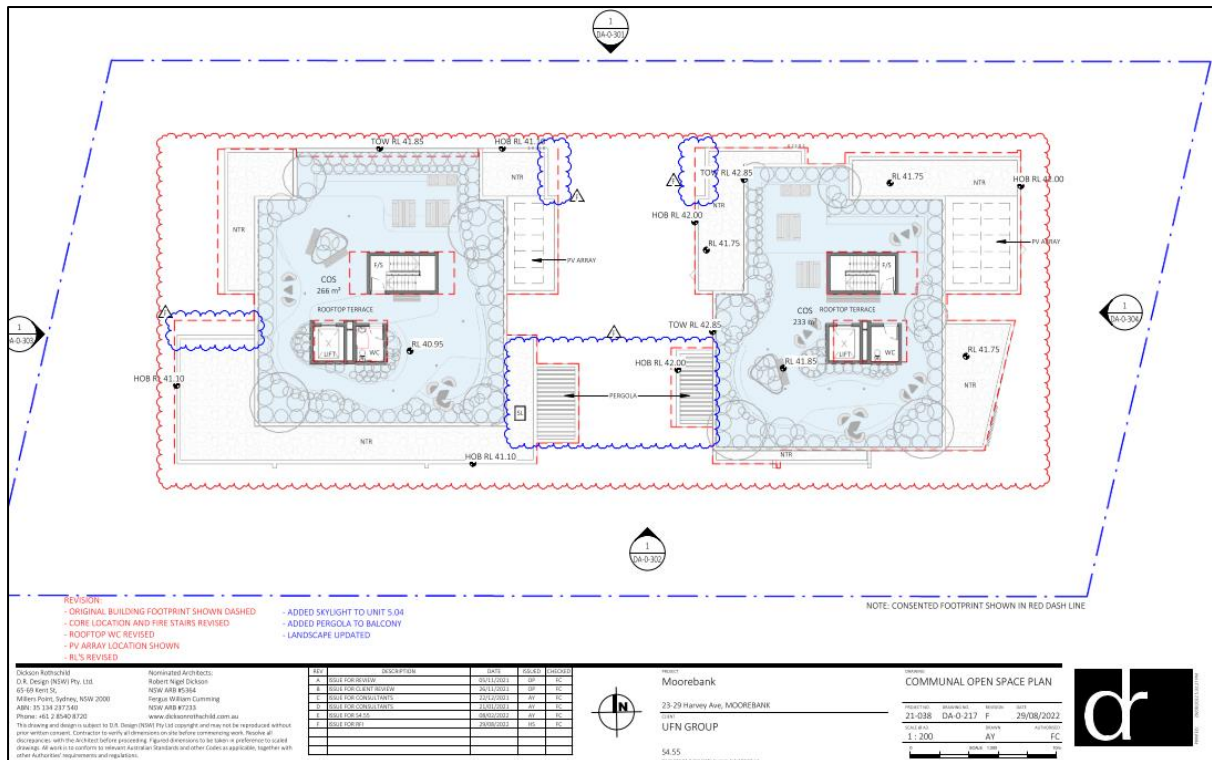


Figure 11 – Communal Open Space Plan - Revision F – S4.55

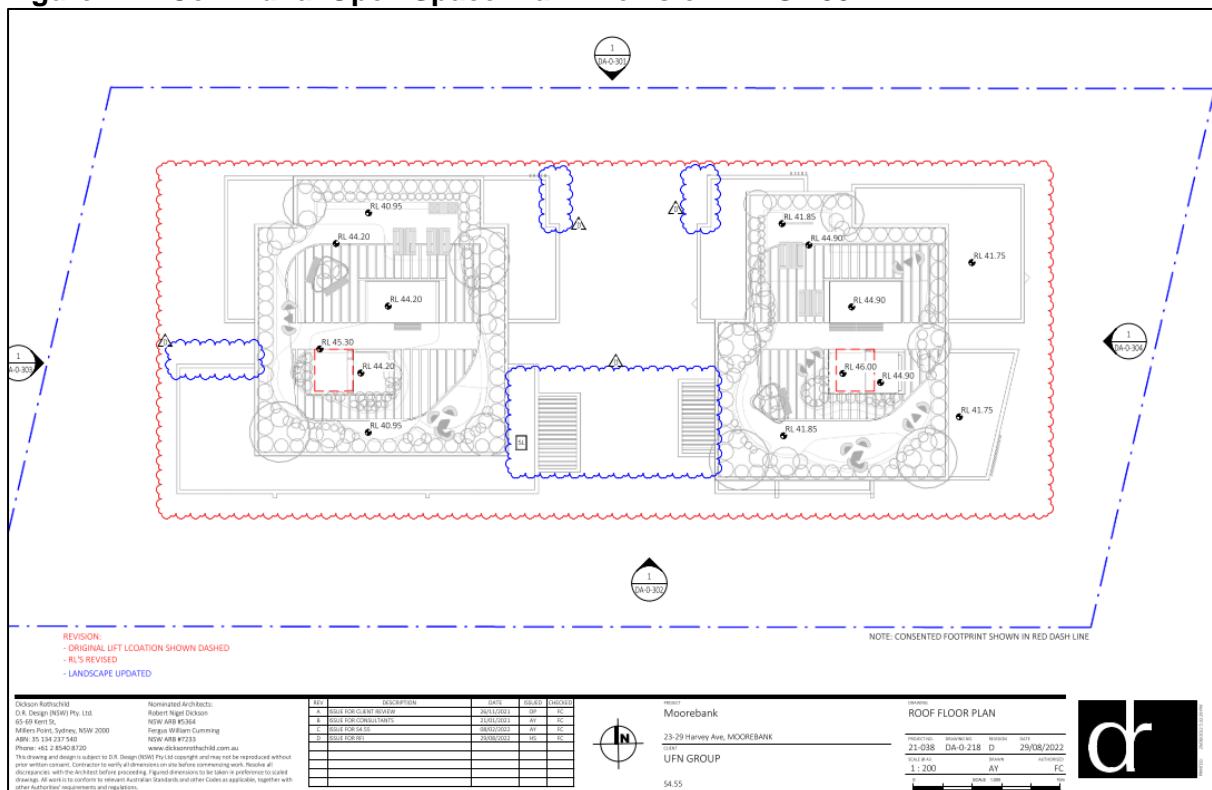


Figure 12 – Roof Floor Plan - Revision D – S4.55

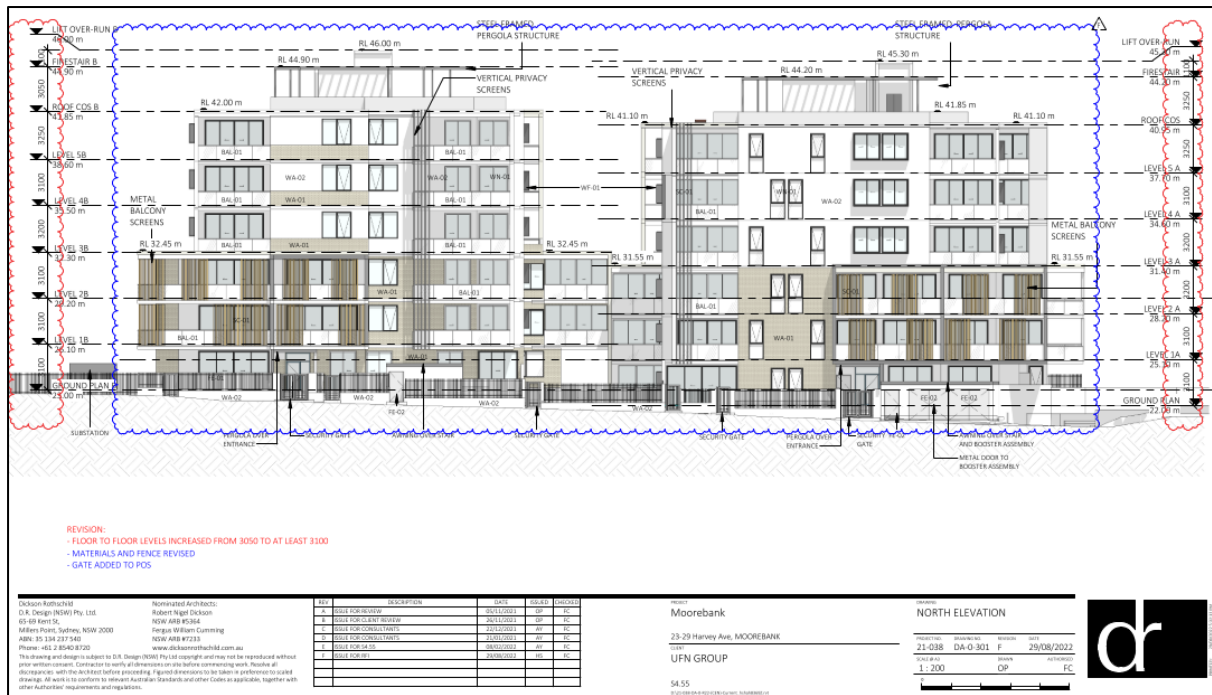


Figure 13 – North Elevation – Revision F – S4.55

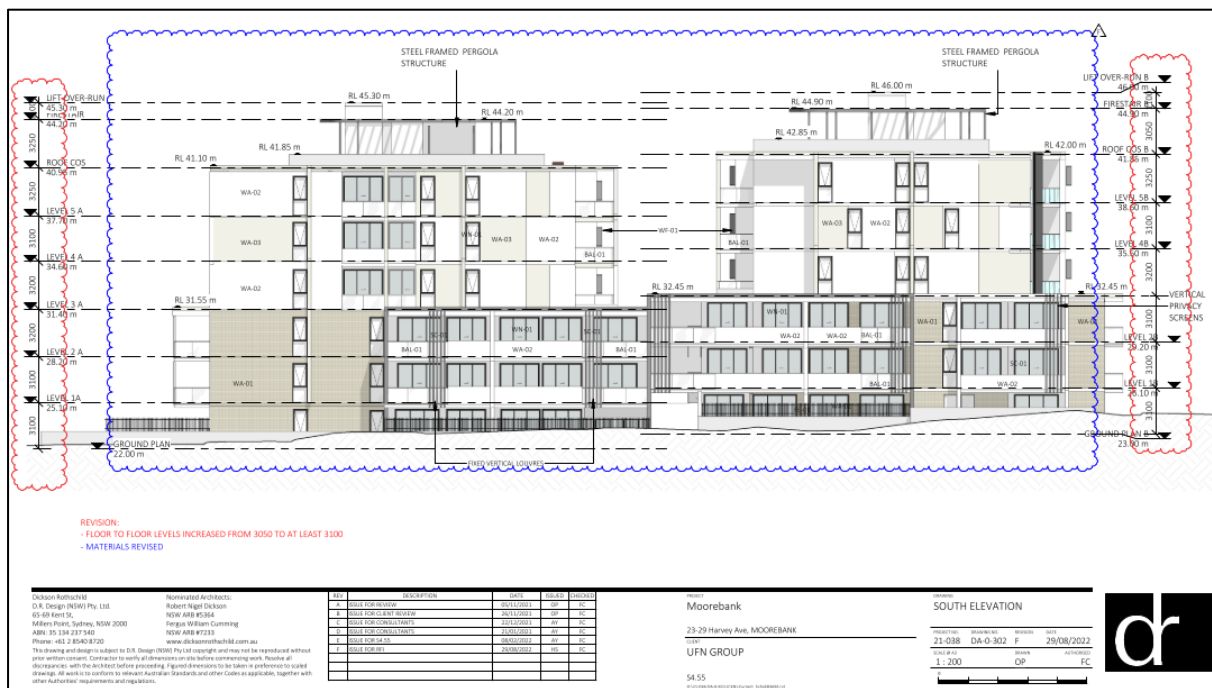


Figure 14 – South Elevation – Revision F – S4.55



Figure 17 – Section A-A – Revision B – S4.55

5 STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The relevant planning instruments/policies applicable to the proposed development are as follows:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy – Housing 2021 (previously Affordable Rental Housing 2009);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- Liverpool Local Environmental Plan (LLEP) 2008; and
- Liverpool Development Control Plan (LDCP) 2008.

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development.
 - Part 3.7 – Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre).

Contributions Plans

- Liverpool Contributions Plan 2018 Established Areas applies to all development pursuant to Section 7.11 of the EPA & Act.

5.2 Zoning

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

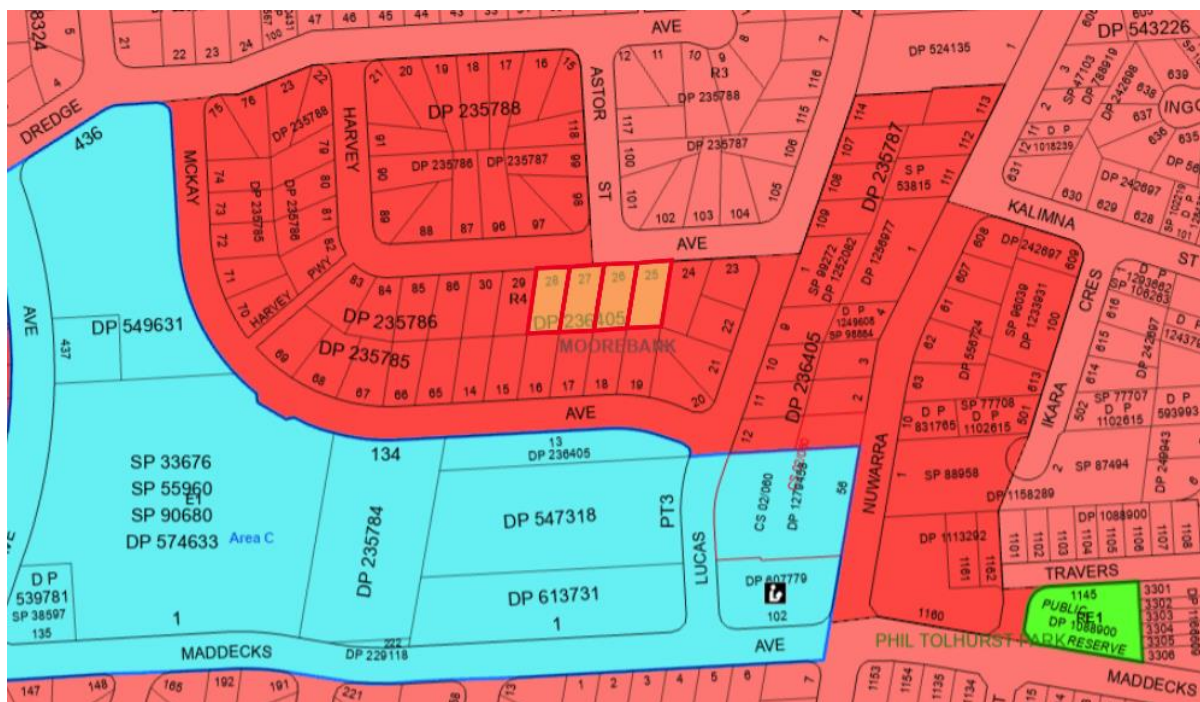


Figure 18: Zoning Map (Source – Liverpool eplanning)

5.3 Permissibility

The proposed development would be defined as a “*residential flat building*”, which is a permissible use with consent within the R4 High Density Residential Zone.

6 ASSESSMENT

The application has been assessed in accordance with Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, which states:

Other modifications 4.55 (2) - A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The amendments proposed under Section 4.55 (2) are considered to be consistent with the existing development. Contextually, the development remains substantially the same development for which consent was originally granted. The proposed modification does not alter the character or nature of the development as approved and is considered to constitute a development the same for which consent was originally granted and modified. The development still comprises of the construction of a new residential flat building on the site, with minor changes to the design. Despite the amendments proposed under section 4.55(2), the development is considered to remain substantially the same development as that to which approval was granted.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment: The parent application was approved by the Sydney Western City Planning Panel (SWCPP). This modification is also required to be taken to the SWCPP for approval and the Council has consulted with the panel.

The proposal was re-referred to Endeavour Energy as they were referred to in the parent application and comments were received.

*(c) it has notified the application in accordance with—
(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The modification application was notified for a period of 14 days from 12 May 2022 to 27 May 2022 in accordance with Council's Community Participation Plan 2022. Notwithstanding, no submissions were received during the public consultation period objecting/supporting the proposal.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: The modification application was notified for a period of 14 days from 12 May 2022 to 27 May 2022 in accordance with Council's Community Participation Plan 2022. Notwithstanding, no submissions were received during the public consultation period objecting/supporting the proposal.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Comment: The provisions of Section 4.15 are addressed in the below section/s of this report.

The development application has been assessed in accordance with the relevant matters of consideration prescribed by *Section 4.15 Evaluation of the Environmental Planning & Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*, as follows:

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

(a) State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The proposal as modified has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential flat development. SEPP 65 requires the consent authority to consider the development against 9 key design quality principles and against the guidelines of the ADG.

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

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The proposal is for a modification to a residential flat development. Located within an 'up-zoned' area of R4 zoning, the proposed development as modified is still considered likely to bring increased streetscape amenity to the local community. The development as modified continues to incorporate an active street frontage design that is considered to contribute to the community by generating a point of visual interest that interacts and compliments the area.</i></p> <p><i>The development site is located in a highly serviced area with access to a variety of public transport services, educational services, employment opportunities, commercial/retail services, recreation facilities and community uses.</i></p> <p><i>As considered during the parent approval, this will facilitate the increased accessibility of services to future occupants of the Liverpool City Centre.</i></p> <p><i>The proposal is considered to appropriately respond to the neighbourhood and streetscape character; both existing and desired. As the rest of the area develops, the</i></p>

Design Quality Principle	Comment
	<i>increased density residential flat building design is emblematic of the emerging neighbourhood character.</i>
Design Principle 2 – Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The bulk of the parent development application was approved consistent with the controls set out in the LEP 2008 and LDCP 2008. The building as modified continues to be consistent with the controls and is situated within the site boundaries and appropriately set back from Harvey Avenue. This provides the opportunity to reduce building scale at street edges.</i></p> <p><i>The height of the majority of the building as modified is less than that identified in the LLEP 2008, which identifies 18m as the requirement. The proposed building is 6 storeys overall, with the modified design providing a non-compliance at the lift overrun and roof features being above the height limit.</i></p> <p><i>Building mass is also articulated and stepped to reduce the perceived bulk of the development.</i></p>
Design Principle 3 – Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>This application was approved with an FSR of 1.65:1 for this site which complied with the maximum densities set out in the LLEP 2008 and ARH SEPP (2009). Since that time this policy has been consolidated and updated under the new policy SEPP – Housing 2021. The modification proposes to increase FSR 1.7:1 which is allowable under clause 17(a)(i) of the SEPP (Housing) 2021.</i></p> <p><i>The development will benefit the public by enabling the proposed building to respond to the future character of the R4 zone and the yield will facilitate a high-quality design outcome at the site. In this location, a well-designed residential flat development is likely to attract greater investment to the locality.</i></p> <p><i>High densities are also considered to be sustainable within this area as they are supported by the site's proximity to employment, transport and public open space.</i></p>
Design Principle 4 – Sustainability	

Design Quality Principle	Comment
<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</p>	<p><i>A revised BASIX certificate was provided for the proposed modifications which is satisfactory.</i></p> <p><i>The development as modified is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide.</i></p> <p><i>Apartment layouts are optimally designed for good sustainable design. This includes a passive response to solar design principles and cross ventilation as outlined in the Apartment Design Guide.</i></p>
Design Principle 5 – Landscape	
<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long-term management.</p>	<p><i>Minimal street planting currently exists to the front of the site, however 4 new street trees are proposed as part of the application and maintained on the modification. This will be further complemented through additional planting within the site boundaries along Harvey Avenue.</i></p> <p><i>Apartments have been provided with private open space as required by SEPP 65 requirements. Communal open space will incorporate barbecue facilities and seating. The communal open space also incorporates a mix of active and passive landscape spaces.</i></p>
Design Principle 6 – Amenity	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>The development approved the following mix of units:</i></p> <ul style="list-style-type: none"> - 4% studio apartments (2) - 24% 1-bedroom apartments (14) - 60% 2-bedroom apartments (35) - 12% 3-bedroom apartments (7) <p><i>This is proposed to not change under this modification.</i></p> <p><i>The units are designed to the Universal Design standards, including the 10% requirement for adaptable housing (6 units).</i></p>

Design Quality Principle	Comment
	<p><i>Apartments comply with storage requirements and additional storage areas are located in the basement carparking levels. These levels also have the capacity to accommodate parking for bicycles.</i></p> <p><i>Communal open spaces continue to provide passive and active recreational opportunities including raised garden beds and benches for seating, grassed, paved and planted surfaces, shaded, sunny and feature-lit areas.</i></p> <p><i>Balcony sizes as modified generally exceed those required by the Apartment Design Guide to ensure quality private open space for residents.</i></p> <p><i>Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.</i></p>
Design Principle 7 – Safety	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The building design, as approved, openly addresses the street and has been carefully designed to ensure safe access to and egress from the buildings by ensuring direct sight lines to the residential lobby from the street. The application as modified continues to provide this requirement.</i></p> <p><i>The thresholds between public, communal and private areas are clearly defined to ensure a sense of ownership between the public and private domains.</i></p> <p><i>Upper floor apartments will provide passive surveillance of the street and opportunity for night-time activation. Apartments overlook communal open spaces providing passive surveillance to improve safety and the development has been designed to avoid blind corners and hidden spaces.</i></p> <p><i>Secure parking for residents is located within the basement with clear and direct lift access to the apartments. The entrance to the parking area is minimised to maximise street activation and surveillance.</i></p>
Design Principle 8 – Housing Diversity and Social Interaction	

Design Quality Principle	Comment
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The proposed development provides housing choice through varied apartment sizes. The communal open spaces and public street interface will encourage social interaction amongst residents and the community.</i></p> <p><i>The provision of studios and one-bedroom apartments in the development will provide for a more affordable entry point into the housing market. The development as modified proposes an increase from 27 to 31 units delineated for Affordable Rental Housing.</i></p> <p><i>10% of units are designed to be adaptable to the needs of people with disabilities and to facilitate intergenerational changes and changing lifestyles.</i></p> <p><i>A variety in sizing, aspect and outlook within apartment types will result in some price differentiation.</i></p> <p><i>Dedicated residential communal open spaces are provided on various levels to support the communal life of the building. These spaces have direct access from the circulation core.</i></p>
Design Principle 9 – Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The street façade has been designed to give a consistent appearance to Harvey Avenue. The interplay of building materials was considered in the parent approval and reviewed by the Design Excellence Panel. The proposal as modified has been reviewed by Council's Urban Design team and provided their support to the application.</i></p> <p><i>The design response ensures an appropriate provision for the future desired character of the area as a high-density residential area.</i></p>

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

Provisions	Comment
2E Building depth	

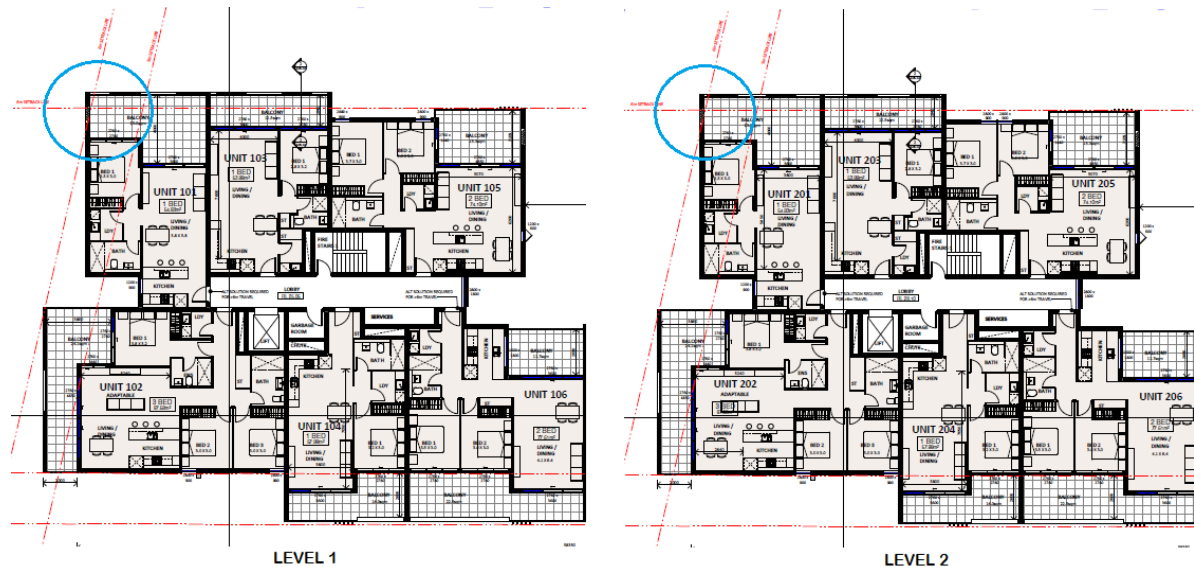
Provisions	Comment
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation.	Complies Building depths are generally in accordance with the approved design. No changes from the parent consent.
2F Building separation	
Note: Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes separation equally between sites.	Noted.
<u>Up to four storeys (approximately 12m):</u> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	<p>Complies on merit.</p> <p>The parent application approved a building separation of 5.5m to western boundary from balconies at levels 1 (Unit 101) and 2 (Unit 201). A small portion (up to 0.5m) of two balconies at level protrude into the separation requirement to the side of the site. The plans as amended provide an extension of the balcony a further 20cm beyond the building footprint of the parent application to the northern boundary. Measurement still achieves the 5.5m to the western boundary itself however as approved.</p> <p>The variation as approved allows for more useable balcony space at this level, and a more uniform building design. Given the minor nature of the variations, and the location towards the very front of the site, this is considered to be acceptable in this instance.</p> <p>Compliance: 6m separation to eastern and southern boundaries between habitable rooms/ balconies from ground level to level 3.</p>
<u>Five to eight storeys (approximately 25m):</u> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p>Complies</p> <p>The original approval has a non-compliance of 8.5m to western boundary between balconies at levels 4 (Units 401 and 402) and 5 (Units 501 and 502). A small portion (up to 0.5m) of four balconies as these levels protrude into the separation requirement. This is proposed to be amended to the required 9 metres on the western boundaries.</p> <p>9m separation to eastern and southern boundaries between habitable rooms/ balconies at levels 4 and 5 is achieved.</p>

Provisions	Comment
------------	---------

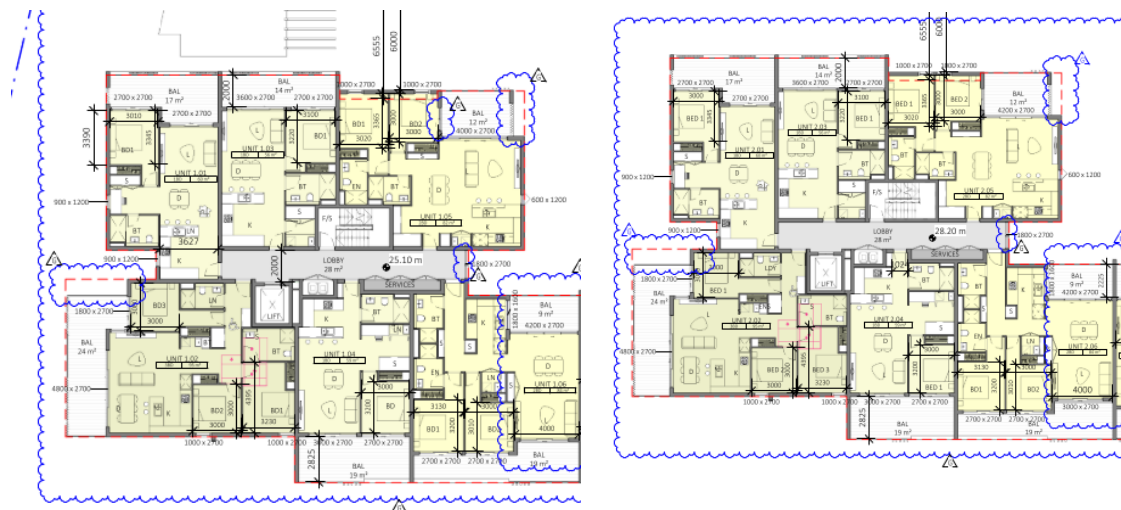
Variation to 2F – Building Separation

As indicated in the above table the development approved potential non-compliances with Section 2F – Building Separation for portions of the proposed building.

This occurred with balconies at 6 points on the western boundary. See development as approved with non-compliances in the figures below and the current modification proposal.

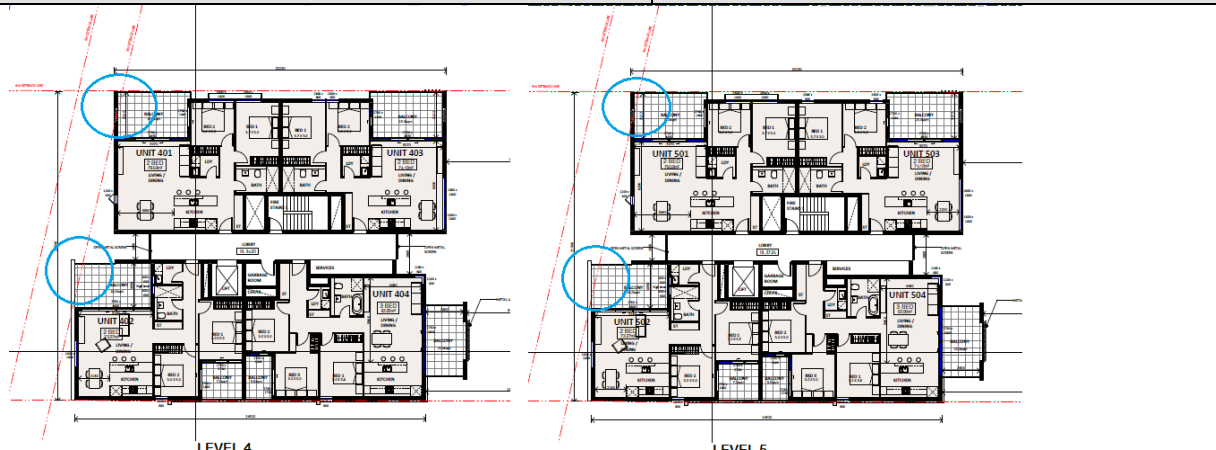


Approved Parent Consent



Proposed Modifications

Figure 19: Excerpts from Level 1(left) and 2 Plans(right) showing comparison between the approved plans to modified (original footprint on modified plans as red dotted line).

Provisions	Comment
 <p>LEVEL 4</p> <p>LEVEL 5</p> <p>Approved Parent Consent</p> <p>Proposed Modifications</p>	
<p>Figure 20: Excerpts from Level 4 and 5 Plans showing approved plans and as modified.</p> <p>It was considered in the approved application that the proposed building separation could potentially result in non-compliance if the neighbouring site to the west were to be redeveloped. To address this, visual privacy measures to mitigate any potential overlooking impacts to future occupants' amenity were proposed to four balconies and required by condition for the other two balconies on the consent. It was so considered that given the layout of the proposal, adequate sunlight and daylight access would still be received by the subject development should such a redevelopment of the neighbouring site occur.</p> <p>The proposal as modified retains a similar footprint to the parent consent and hence also a similar building separation to the property boundaries and between the buildings. The figures provided display the parent consent footprint overlaid to the modified building as proposed and demonstrate the nominal changes and the location of the non-compliance.</p> <p>It should be noted that the proposal complies with FSR development standards, the variation to building height is acceptable, the proposal would not cause any undue overshadowing to any neighbouring residential sites and is not considered to be an over development of the site with regards to the LLEP 2008.</p>	

Provisions	Comment
Accordingly, the proposed variations to building separation are considered acceptable in this instance, and for the reasons detailed above the development is considered acceptable with regards to SEPP 65 and the ADG.	
3A Site analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Complies A detailed site analysis plan has been provided.
3B Orientation	
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	Complies on merit as per Parent DA The building type is appropriate for the streetscape. The parent approval was determined by the SWCPP, and overshadowing impacts were considered. The report presented to the panel noted that there would be significant overshadowing of the private open space of the property to the south as a result of this development. However, the properties to the south are also zoned R4 and were expected to take advantage of the 'up-zoning' of the area and be redeveloped in a similar fashion to this proposal. DAs for similar sized RFB's have now been granted approval for surrounding sites. Given the context of the site and the proposed minor modifications to the development envisaged by the R4 zoning, the impact on that site is considered to be acceptable in this instance.
3D Communal and public open space	
<p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p>	Complies Approximately communal open space of: 295.43m ² is provided at roof level and 421.49m ² at ground floor. This is equivalent to 716.92m ² of COS at the site, which is 26.1% of the site area (2745.2sqm). The areas of communal open space on the site are in the same locations as approved in the parent consent. This application considered the application to achieve sufficient solar access between 9am and 3pm during mid-winter.

Provisions			Comment
			The communal open space allows for a range of activities with BBQ facilities, rest areas and recreational spaces.
3E Deep soil zones			
Deep soil zones are to meet the following minimum requirements:			Complies Proposal provides 697m ² of deep soil zone, which is 25.4% of the site area (2745.2sqm). The deep soil zones at the rear of the site have minimum dimensions of 6m.
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	7%
Less than 650m ²	-		
650m ² to 1500m ²	3m		
Greater than 1500m ²	6m		
Greater than 1500m ² with significant tree cover	6m		
3F Visual Privacy			
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Non-compliance: The parent approval approved a 5.5m separation to the western boundary from balconies at levels 1 (Unit 101) and 2 (Unit 201). The plans as amended provide an extension of the balcony a further 20cm beyond the building footprint of the parent application to the northern boundary. Measurement still achieves the 5.5m to the western boundary itself however as approved. Compliance: 6m separation to eastern and southern boundaries from habitable rooms/ balconies from ground level to level 3.
Building Height	Habitable Rooms and Balconies	Non-Habitable Rooms	
Up to 12m (4 storeys)	6m	3m	
12m to 25m (5-8 storeys)	9m	4.5m	Compliance: 9m separation is achieved to western, eastern and southern boundaries from habitable rooms/ balconies at levels 4 and 5.
Variation to 3F – Visual Privacy			
The aims of section 3F – Visual Privacy of the ADG are as follows:			
<ul style="list-style-type: none">Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.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.			
From the assessment of the development proposal, it is considered to continue to be consistent with the aims for visual privacy listed above and the original approval. Privacy concerns to existing residences to the west and any future development of the adjacent lots can be alleviated via privacy screens, which are both proposed with the development and required to be complied with via condition. It should be noted that the building is predominantly under the maximum allowable building height and is consistent with FSR development standards and is			

Provisions**Comment**

therefore of a scale that is considered to be consistent with the desired future character of the locality.

Therefore, notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to visual privacy.

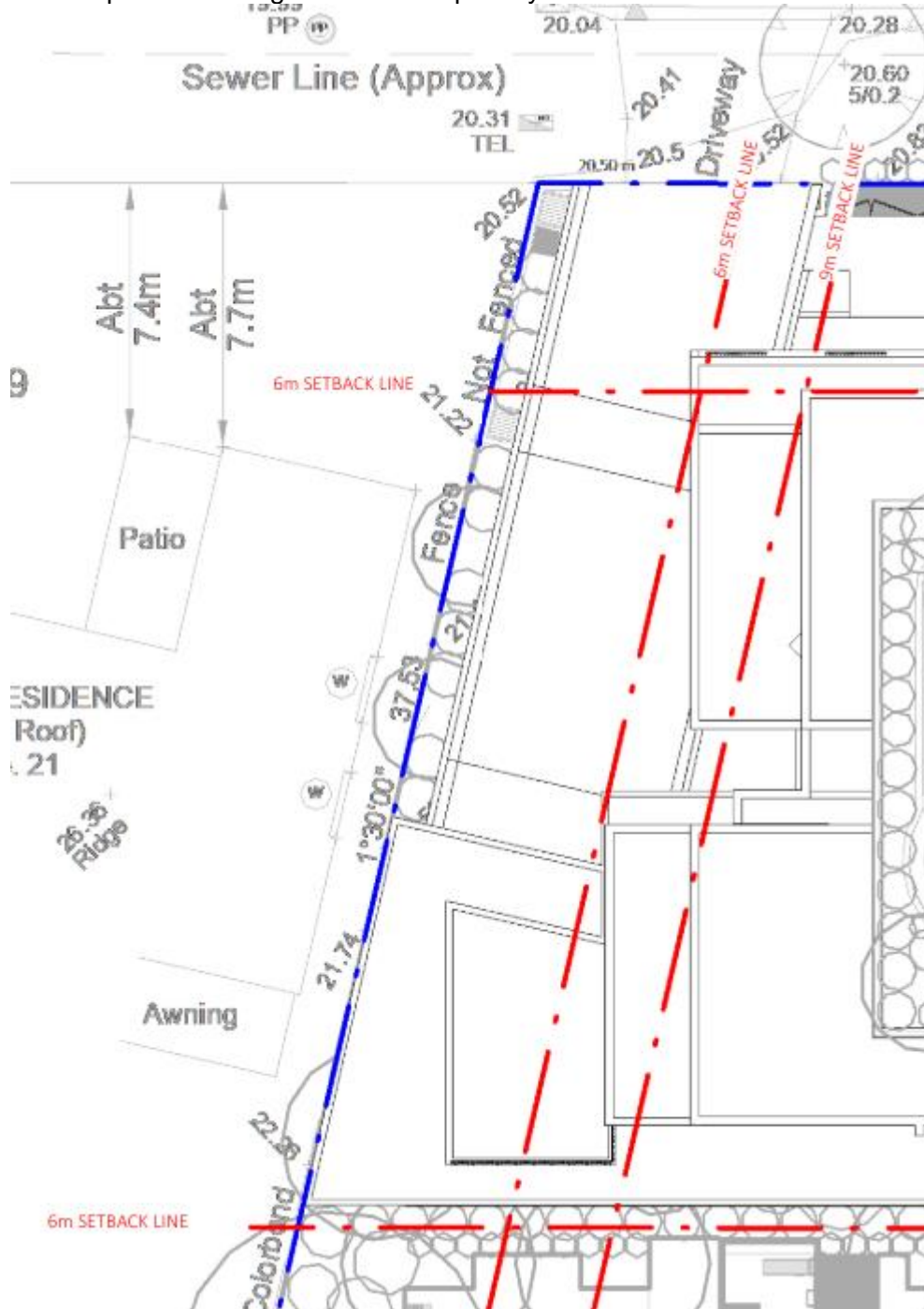


Figure 21 – Setback Line to the West

Provisions	Comment
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Complies Vehicle access points are located to achieve safety and minimize conflict. The application as modified was referred to Council's Traffic Team who have supported the application subject to conditions of consent.
3J Bicycle and Car Parking	
<p>For development in the following locations:</p> <ul style="list-style-type: none"> - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area: or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport</p> <p>Car park design and access is safe and secure</p> <p>Visual and environmental impacts of underground car parking are minimised</p> <p>Visual and environmental impacts of on-grade car parking are minimised</p> <p>Visual and environmental impacts of above ground enclosed car parking are minimised</p>	Complies Bicycle parking is provided in accordance with the requirements of the LDCP 2008. Car parking was originally provided in accordance with the ARH SEPP 2009. This current application retains two levels of basement car parking. The total number of car parking spaces increases from 60 to 68 under the new design.
4A Solar and Daylight Access	
<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	Complies 58 Units proposed. 71% of units (41) will receive 2 hours sunlight. 6 units (10.3%) are unlikely to receive any direct sunlight.
4B Natural Ventilation	
<p>All habitable rooms are naturally ventilated</p> <p>The layout and design of single aspect apartments maximises natural ventilation</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the</p>	Complies 42 units (72%) are cross-ventilated. Single aspect apartments are naturally ventilated. The maximum depth of a unit is 12m.

Provisions	Comment													
balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.														
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line														
4C Ceiling Heights														
<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="209 495 783 1077"> <tr> <th colspan="2" data-bbox="209 495 400 528">Minimum ceiling height</th></tr> <tr> <td data-bbox="209 528 400 595">Habitable rooms</td><td data-bbox="400 528 783 595">2.7m</td></tr> <tr> <td data-bbox="209 595 400 663">Non-habitable</td><td data-bbox="400 595 783 663">2.4m</td></tr> <tr> <td data-bbox="209 663 400 875" rowspan="2">For 2 storey apartments</td><td data-bbox="400 663 783 730">2.7m for main living area floor</td></tr> <tr> <td data-bbox="400 730 783 875">2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr> <tr> <td data-bbox="209 875 400 976">Attic spaces</td><td data-bbox="400 875 783 976">1.8m at edge of room with a 30-degree minimum ceiling slope</td></tr> <tr> <td data-bbox="209 976 400 1077">If located in mixed use areas</td><td data-bbox="400 976 783 1077">3.3m from ground and first floor to promote future flexibility of use</td></tr> </table> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building</p>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor	2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30-degree minimum ceiling slope	If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use	<p>Complies</p> <p>3050mm floor to floor heights were provided on the original consent. This will be increased to 3100mm under the modification to enable the provision of services in the building and provide better residential amenity.</p>
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor													
	2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30-degree minimum ceiling slope													
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use													
4D Apartment Size and Layout														
<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="209 1384 783 1597"> <tr> <th data-bbox="209 1384 400 1451">Apartment Type</th><th data-bbox="400 1384 783 1451">Minimum Internal Area</th></tr> <tr> <td data-bbox="209 1451 400 1485">Studio</td><td data-bbox="400 1451 783 1485">35m²</td></tr> <tr> <td data-bbox="209 1485 400 1518">1 bedroom</td><td data-bbox="400 1485 783 1518">50m²</td></tr> <tr> <td data-bbox="209 1518 400 1552">2 bedroom</td><td data-bbox="400 1518 783 1552">70m²</td></tr> <tr> <td data-bbox="209 1552 400 1597">3 bedroom</td><td data-bbox="400 1552 783 1597">90m²</td></tr> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Complies</p> <ul style="list-style-type: none"> • All studio units greater than 35m² • All 1-bedroom units are equal to or greater than 50m². • All 2-bedroom units are greater than 70m². • All 3-bedroom units are greater than 90m² and greater than 95m² with 2 bathrooms. 			
Apartment Type	Minimum Internal Area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	<p>Complies</p> <p>Habitable rooms are provided with windows of sufficient glass areas.</p>													

Provisions			Comment
Habitable room depths are limited to a maximum of 2.5 x the ceiling height			Complies Habitable room depths are all less than 2.5 x the ceiling height.
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window			Complies Kitchens are generally less than 8m from a window.
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)			Complies Bedrooms are of sufficient size.
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)			Complies All bedrooms have a minimum dimension of 3m.
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">- 3.6m for studio and 1-bedroom apartments- 4m for 2- and 3-bedroom apartments			Complies Sufficient widths are provided for living rooms/dining rooms.
4E Private Open Space and Balconies			
All apartments are required to have primary balconies as follows:			Complies The development provides for sufficient balcony areas and adequate depths.
Dwelling Type	Minimum Area	Minimum Depth	
Studio	4m ²	-	
1 bedroom	8m ²	2m	
2 bedroom	10m ²	2m	
3 bedroom	12m ²	2.4	
The minimum balcony depth to be counted as contributing to the balcony area is 1m.			Complies on merit as per the Parent DA The units at ground floor level have courtyard amenity space in excess of 15m ² , however, some fail to provide the minimum width of 3m. The non-compliance is only marginal however, and the affected units are smaller, and are still provided with good-sized and usable amenity space. The proposal as amended has a net overall increase in private open space for the RFB.
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.			
4F Common Circulation and Spaces			
The maximum number of apartments off a circulation core on a single level is eight.			Complies Maximum 6 apartments per core.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.			Not applicable The building is 6-storeys in height
4G Storage			
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:			Complies on Merit

Provisions		Comment
Dwelling Type	Storage Size Volume	In excess of half of the required storage space is provided within units which is consistent with the parent consent. The applicant has also provided storage in basement, mostly behind carparking spaces, however this is not allocated to individual units at this stage.
Studio	4m ³	
1 bedroom	6m ³	
2 bedroom	8m ³	
3 bedroom	10m ³	
At least 50% of the required storage is to be located within the apartment.		
4H Acoustic Privacy		
Noise transfer is minimised through the siting of buildings and building layout.		Complies Bathrooms and kitchens have been clustered together where possible and also located near corridors where possible, which assist in mitigating noise transmission to quieter rooms such as bedrooms. Acoustic building requirements shall be included at the construction stage in order to mitigate acoustic disturbances between apartments.
Noise impacts are mitigated within apartments through layout and acoustic treatments.		
4K Apartment Mix		
A range of apartment types and sizes is provided to cater for different household types now and into the future		Complies The proposal provides a suitable mix of units spread across the different floors of the building.
The apartment mix is distributed to suitable locations within the building.		
4L Ground Floor Apartments		
Street frontage activity is maximised where ground floor apartments are located		Complies The ground floor treatment to the building, including landscaping, fencing and level changes will assist in providing an active environment to the street.
Design of ground floor apartments delivers amenity and safety for residents		
4M Facades		
Building facades provide visual interest along the street while respecting the character of the local area		Complies The overall design, including building façade as modified has been supported by Council's Urban Design team.
Building functions are expressed by the facade		
4N Roof Design		
Roof treatments are integrated into the building design and positively respond to the street.		Complies The roof is not the dominant feature, a parapet wall style is used which minimises expressions of roof forms. The development proposes a roof garden, therefore is in accordance with these objectives. The development provides provision for photovoltaic panels on the roof, so is in accordance with these objectives.
Opportunities to use roof space for residential accommodation and open space are maximised		
Roof design incorporates sustainability features.		
4O Landscape Design		
Landscape design is viable and sustainable.		Complies

Provisions	Comment
Landscape design contributes to the streetscape and amenity.	An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access.
4P Planting on Structures	
Appropriate soil profiles are provided	Complies Appropriate planting has been provided with the application. Minor amendments to the landscape plan are provided in the modification application. Primarily, around the introduction of the substation and permeable walkways. Large planting is proposed within the communal open space area to the rear, which can be easily maintained.
Plant growth is optimised with appropriate selection and maintenance.	
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies All above ground apartments are accessed by a lift and include wide corridors which is suitable for wheelchair access. A ramp is provided at the entry of the building, also allowing wheelchair access to Ground Floor apartments. 10% of units are adaptable.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building. Not impacted by the modification application.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable There is no mix of uses.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Complies Covered entrances are provided to the residential entries that are integrated into the design of the building.
Signage responds to the context and desired streetscape character	Complies Building address signage would be integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design.	Complies

Provisions	Comment
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	The development has been submitted with a BASIX certificate. This will also form a condition of consent.
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies Potable water use is minimised, and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.
Urban stormwater is treated on site before being discharged to receiving waters	Complies This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.
Flood management systems are integrated into site design	Not applicable The site is not on flood prone land.
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Complies Waste storage facilities are provided and will be maintained by the caretaker. The amended proposal was reviewed by Council's Waste Management Section who had no objection to the modifications.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Complies The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

(b) State Environmental Planning Policy (Resilience and Hazards) 2021

Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The parent application reviewed this item, and analysed the pictures found on Council's GIS system which illustrated the presence of the existing dwellings which suggests the site has principally been used for residential purposes for at least the past 30 years.

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

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP (Resilience and Hazards) 2021, therefore, it is considered that the subject site is suitable for the proposed development.

(c) State Environmental Planning Policy – Housing 2021.

The parent DA was lodged pursuant to the SEPP (Affordable Rental Housing) 2009. This SEPP has now been consolidated into SEPP – Housing (2021) and has undergone policy changes. The proposal has been amended to meet the requirements under the new SEPP and now demonstrates full compliance with the relevant provisions, as detailed below:

The following assessment table has been provided in regard to the Housing SEPP 2021:

State Environmental Planning Policy (Housing) 2021			
Division 1 In-fill affordable housing			
Provision	Requirement	Proposed	Comment
16 Development to which Division applies	<p>Division applies to residential development if:</p> <ul style="list-style-type: none"> - development permitted with consent under another EPI, and - the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20% - 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 	<p>The development is permitted with consent under LLEP 2008, and the site does not contain a heritage item.</p> <p>31 of 58 units are nominated for affordable housing.</p> <p>The percentage of the GFA of the development is 50.34%.</p> <p>The subject site is within an accessible area.</p>	Complies
17 Floor space Ratio	<p>(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—</p> <p>(a) if the maximum permissible floor space ratio is 2.5:1 or less—</p> <p>(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</p> <p>(ii) if less than 50% of the gross floor area of the building will be used for affordable housing—Y:1, where—</p>	<p>The Liverpool LEP allows a FSR of 1.2:1.</p> <p>The site area is 2745.2sqm.</p> <p>The Maximum GFA under the LEP provision is 3294.24sqm.</p> <p>The proposed GFA of total affordable housing units is 2349sqm.</p> <p>Under Clause 17(a)(i) of the SEPP (Housing) 2021, the proposal is entitled to a bonus floor space ratio of 0.5:1 as greater than 50% of the GFA is proposed as affordable housing (2349/4666=50.34%)</p> <p>= 4666 / 2745.2</p> <p>= Complying FSR of 1.7:1</p>	Complies

	<p>AH is the percentage of the gross floor area of the building that is used for affordable housing. $Y = AH \div 100$</p> <p>(2) The additional floor space ratio must be used for the purposes of affordable housing.</p>	Therefore, the proposal is entitled to a maximum floor space ratio of 1.7:1	
--	---	---	--

18 Non-discretionary development standards	The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies –		
	2(a) Site area Site area – 450sqm	Site area – 2,745.2m ²	Complies
	2(c) Landscaped area Landscaped - 30% site	Landscaped area– 30.6% (841sqm)	Complies
	2(d) Deep soil zones Deep soil – 15% site Minimum dimension of 3m If practicable, at least 65% of the deep soil zone is located at the rear of the site	25.4% deep soil area (697sqm) Minimum 3m dimension for the largest section of deep soil zone at the rear of the site is achieved. The majority of the deep soil landscaping is located in the rear yards with some located to the east of the site.	Complies
	2(e) Solar access Living rooms and POS for 70% dwellings receive 3 hours sunlight between 9am and 3pm mid-winter.	41 units (70.6%) of the units received the required 3 hours of sunlight between the required hours. 52 units (89.6%) receive the 2 hours solar access requirement under the ADG.	Complies

	<p>2(g) Parking (Non social housing provider) 0.5 parking spaces- 1 bedroom dwelling 1 parking spaces- 2 bedroom dwelling 1.5 parking space- 3 or more bedrooms dwelling</p>	<p>60 parking spaces were provided for residential units and visitors in the original approval.</p> <p>The modification proposes to increase the number of car parking spaces to 68. The modified proposal, whilst not achieving the amount of car parking spaces in the DCP, has achieved the requirements of the SEPP Housing 2021 of 54 spaces in which the previous ARH SEPP Policy was consolidated into.</p> <p>In line with Council's DCP a total of 97 spaces were required under Council's DCP.</p> <p>The original proposal fell short of the DCP parking requirements by 37 spaces. However, the parking was approved in accordance with the requirements of the ARH SEPP, which takes precedence.</p> <p>6 accessible car parking spaces were also provided for the 6 adaptable units.</p>	Complies
	<p>2(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</p>	<p>Noted – See ADG compliance tables prior. No changes from parent consent.</p>	Complies
	<p>2(j) dwelling size if paragraphs (h) and (i) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m², or</p>	<p>The application complies with requirements of the ADG as per 2(h).</p>	N/A

	(ii) for each dwelling containing 2 bedrooms—90m ² , or (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.		
19 Design Requirements	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.	Proposed development as modified is consistent with this standard as assessed against Apartment Design Guideline requirements which detail higher quality design criteria.	Complies
20 Continued application of SEPP 65	Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.	Noted.	N/A
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 a relevant authority or to a development application made by, or on behalf of, a public authority. (3) In this section—	To ensure that the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing; conditions of consent have been imposed.	Complies by condition

	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	Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority	Strata subdivision proposed as part of application.	N/A

(d) State Environmental Planning Policy (BASIX) 2004

In accordance with this policy, all new residential dwellings and those seeking alterations and additions as identified under this policy require a BASIX certificate that measures the Building Sustainability Index to ensure dwellings are designed to use less portable water and are responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for houses and units.

A BASIX Certificate has been submitted for the proposed development.

The proposal is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

(e) State Environmental Planning Policy (Biodiversity and Conservation) 2021

The subject land is located within the Georges River Catchments and as such, Chapter 11 – Georges River Catchment of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, formerly the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River, applies to the application.

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application, planning principles are to be applied (Clause 11.5). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 11.6 and Clause 11.7), and compliance with such is provided below.

Clause 11.6 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.

(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. A Stormwater concept plan also outlines proposed sediment and erosion control measures.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would adversely affect the catchment. The Stormwater plan was reviewed by Council's Land Development engineers and supported subject to the imposition of conditions.
(f) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential development and is considered appropriate for the site.
Clause 11.7 Specific Principles	Comment
(1) Acid sulphate soils	Site not affected by acid sulphate soils
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site does not contain flood affected land.
(4) Industrial discharges	Not applicable. The site has been used for residential purposes.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy, and the site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	A drainage plan proposes a stormwater connection to

	existing services.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies the provisions of the SEPP subject to appropriate sedimentation and erosion controls during construction. Accordingly, the development is considered to have minimal impact on the Georges River Catchment.

(f) Liverpool Local Environmental Plan 2008

(i) Permissibility

The proposed development is for a *residential flat building*, which is defined as follows:

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

The proposed development satisfies the definition of a residential flat building as it is a building which contains 3 or more dwellings.

As such, the proposal for a residential flat building is considered a permitted development, with consent in the R4 zone.

(ii) Objectives of the zone

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

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

The proposed development would continue to meet and satisfy the above-stated objectives. Specifically, the building will provide a total of 58 dwellings (a mix of units, affordable housing, and a number of adaptable units) and the site is located in an area identified for urban renewal and transformation, in close proximity to transport, retail and commercial facilities.

(iii) Principal Development Standards

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

Clause	Provision	Comment
Clause 2.7 Demolition Requires Development Consent	The demolition of a building or work may be carried out only with development consent.	Complies Demolition will be carried out as part of this development.

Clause 4.3 of Height Buildings	Maximum height of 18m	<p>Considered acceptable – see Clause 4.6 – Variation assessment below.</p> <p>A Clause 4.6 Variation was sought for the parent application approving a height of 22.25m. This application proposes a small increase due to the requirements of the services of the building, particularly the lift overrun and increased floor to floor heights to better accommodate services. This will only be a minor increase up to 22.8m. The application was reviewed by Council's Urban Design team who have supported the application subject to the modification of conditions.</p>
Clause 4.4 Floor Space Ratio	Maximum FSR of 1.2:1 (plus bonus FSR of 0.45:1 under ARH SEPP for total of 1.65:1)	<p>Complies</p> <p>The parent application approved an FSR of 1.65:1. An FSR of 1.7:1 is prescribed under the current SEPP (Housing). The application proposes to increase the allowable FSR of the proposal to the 1.7:1 permissible under the SEPP.</p> <p>FSR = $4662 / 2745.2$ = Complying FSR of 1.698:1</p>
Clause 4.6 Exceptions to development standards	Clause 4.6 variation sought for exceeding the maximum height under Clause 4.3, which is discussed below. The original proposal was granted a 4.6 variation to height of 22.25m equating to a 23.6% variation. The application again proposes an additional height increase to the development to 22.8m equating to a 26.6% variation to building height to accommodate the lift overrun and servicing.	
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	<p>Complies</p> <p>Conditions of consent on the parent application to ensure this is met.</p>
7.7 Acid sulfate soils	Class 1 2, 3 4 or 5	N/A
Clause 7.14 Minimum Building Street Frontage	<p>Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:</p> <ul style="list-style-type: none"> - any residential flat building. 	<p>Complies</p> <p>Street frontage exceeds 25m.</p>

(iv) **Clause 4.6 - Exceptions to development standards**

(Variation to Clause 4.3 - Height of Buildings)

Figure 24: Diagram showing height non-compliance.

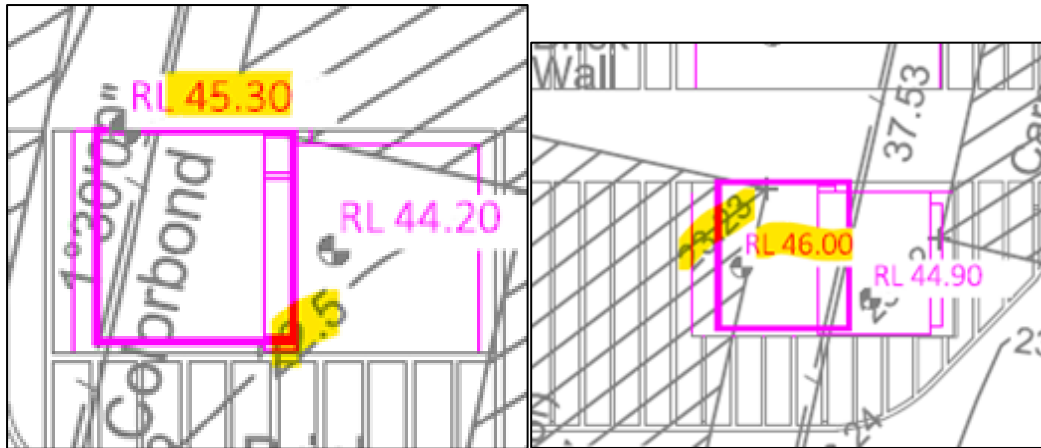


Figure 25: Survey Plan with Building Height overlay

- West Core maximum height = 22.8m (RL 45.3 – RL 22.5) with a height exceedance of 4.8m
- East Core maximum height = 22.7m (RL 46.0 – RL 23.23) with a height exceedance of 4.77m.

Consequently, the applicant has provided an assessment under Clause 4.6 to vary the maximum height allowed in this proposal. Whilst Clause 4.6 does not technically apply due to the operation of modification applications under the EP&A Act – consideration of justification requirements has been considered.

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

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

The applicant submitted a Clause 4.6 Variation Statement to the Height of Buildings Development Standard within their Statement of Environmental Effects dated 08 June 2023, in order to justify the variation described above. This document provides the following justifications based on the merits of the proposal:

Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard.

(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The applicant has provided the following justification for the non-compliance with the development standard:

Applicant Comment

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 judgement 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 offers 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 judgement then expressed the view that there are five 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 purpose 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 or 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 or unnecessary as it applies to the land and compliance with the standard that would be unreasonable. 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] NSW LEC (paragraph 16), Preston CJ, refers 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 Height of Buildings 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.

Council Comment

In response to the comments raised above, Council has provided the following justification as to why the imposition of the applicable height control is unreasonable and unnecessary in this instance:

- Although the building exceeds the height limit by a maximum of 4.8m, the breach spans a relatively short area of the proposed building and relates to an element of the design (lift overrun, open space area and the top of residential component, as such, these elements of the buildings for the most part are not overly visible from the street, or the front of the property.
- The development provides a consistent floor to floor height of 3.1m, which exceeds the minimum in the ADG and now provides sufficient room for services to be installed. The floor-floor height may be reduced to achieve a height compliance, however, will result in a less than ideal design outcome.
- The surrounding properties now also have approved Development Applications for residential flat buildings, providing the desired future character of taller buildings coming to fruition.

- The elements of the primary building form that breach the limit continue to be minimal, and are located to the front of the development, at the corners of the building forms and are mainly caused by the sloping nature of the site. This is not considered to detract from the design and appearance of the building and would not impact on the amenity of neighbouring sites or the wider area.
- Notwithstanding the height exceedance the proposed development is not considered to create any detrimental overshadowing or privacy impacts on the adjoining developments.
- The proposed development is considered to be of an appropriate bulk and scale and is consistent with the design principles and relevant standards and objectives of the ADG.

Compliance with the standard is unreasonable in this case as the development can be sited with adherence to local provisions and any future development on the allotments would still be able to provide a valuable housing product suitable for the area and provide for the housing needs for the community.

Based on the applicant's comments and investigation into the 4.6 variation to the building height, and the review of the potential impact of the height extrusion it is considered that strict compliance is unlikely to reduce any impact and that it is argued that the height variation for the abovementioned purposes provides improved amenity for future residents and does not negatively impact on the local area in terms of additional overshadowing or determinantal impact to the design of the building. Compliance with the standard is unreasonable in this case as a development can be constructed on the site that generally adheres with the planning controls and provisions for a form of development that is consistent with the future anticipated high density residential character. Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 4.3 – Height of Buildings in this instance.

(b) There are sufficient environmental planning grounds to justify contravening the development standard

Applicant Comment

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.

Council Comment

As a result of the assessment above, it is also considered that compliance with the height of buildings development standard is unreasonable or unnecessary due to the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard. The increase in the height proposed ensures that better amenity can be provided to the future occupants of the buildings with communal open space on rooftops and 3.1m floor to floor heights maintained, which allows for the minimum floor to ceiling heights to be achieved as well as space for services between floors. The objectives of the Height of Buildings clause, as per the Liverpool LEP 2008, have also been addressed, as well as the objectives of the zone.

Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 4.3 – Height of Buildings in this instance.

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

The objectives of Clause 4.3 and assessment are as follows:

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

The applicant has stated that the proposal is consistent with the objectives of Clause 4.3 – Height of Buildings.

Council Comment

The breach in building height does not result in a breach in floor space ratio and is consistent with this objective. The building still demonstrates design excellence and the breach in building height is unlikely to impact on the urban form. The height will also assist in providing a higher quality design and also providing better residential amenity for future occupants of the units.

The variation to building height is unlikely to cause unsatisfactory issues on adjoining sites as they will still be able to receive adequate solar access to their living rooms and private open

spaces The breach in building height would provide an appropriate built form in the locality, which has the same zoning and height limits. The variation is unlikely to cause noticeable visual issues when viewed from the streetscape and the building footprint and floor space ratio is consistent with the ADG, provisions of the LEP, SEPP (Housing) 2021 and the desired future character of the locality.

It is considered that the proposed development is consistent with the objectives of Clause 4.3 in that the proposed development encourages high quality urban form. Despite the non-compliance, the proposed development achieves the requirements in the Apartment Design Guidelines and other Environmental Planning Instruments (EPI). The exceedance does not add any additional FSR, density or bulk and scale with the proposed development providing an appropriate density outcome for the site.

Consistency with objectives of the zone – R4 High Density Residential

The objectives of the R4 High Density Residential Zone under the LLEP 2008 are as follows;

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

The applicant has provided the following response to how the development is consistent with the objectives of the R4 High Density Residential Zone.

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

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.

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

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

No other land uses are proposed.

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

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

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

The proposal will not result in the fragmentation of land.

Council Comments

The proposed development would meet and satisfy the above-stated objectives. Specifically, the development provides housing to meet the needs of the community, provides a variety of housing types with a mix of units with access to transport, and amalgamates four titles, minimising land fragmentation. It will support the well-being of the community while maintaining the amenity of the surrounding area.

Consistency with Clause 4.6 objectives

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

It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site having regard to the comments above.

Recommendation

With consideration to the discussion above, the proposed variation to Clause 4.3 – Height of Buildings adequately addresses the provisions of Clause 4.6 including the objectives of the development standard and the zoning. The proposal is also considered to be in the public interest and is therefore supported in this instance.

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

There are no draft Environmental Planning Instruments which apply to the development.

5.3 Section 4.15(1)(a)(iii) - Any Development Control Plan

(a) Liverpool Development Control Plan (LDCP) 2008

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

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

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2 - Tree Preservation	Controls relating to the preservation of trees	Complies Tree removal was approved as part of the parent application. No further changes are proposed under this modification.
Section 3 - Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies The Landscape Plan proposes a variety of planting along the street frontages, and throughout the communal open space.
Section 4 - Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not applicable The development site is not identified as containing any native flora and fauna.
Section 5 - Bush Fire Risk	Controls relating to development on bushfire prone land.	Not applicable The development site is not identified as being bushfire prone land.
Section 6 - Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	Complies This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues subject to conditions.
Section 7 - Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	Not applicable The development site is not within close proximity to a water course.
Section 8 - Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9 - Flooding Risk	Provisions relating to development on flood prone land.	Not applicable The development site is not affected by flooding.
Section 10 - Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies The parent application has considered site contamination and approved the site for its proposed use.
Section 11 - Salinity Risk	Provisions relating to development on saline land.	Not applicable The development site is identified as containing a low salinity potential. Therefore, a salinity management response plan is not required.

Development Control	Provision	Comment
Section 12 - Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not applicable The site is not affected by acid sulphate soil.
Section 13 - Weeds	Provisions relating to sites containing noxious weeds.	Not applicable The site is not identified as containing noxious weeds.
Section 14 - Demolition of Existing Development	Provisions relating to demolition works	Not applicable Demolition approved as part of the parent DA.
Section 15 - On Site Sewage Disposal	Provisions relating to OSMS.	Not applicable OSSMS is not proposed.
Section 16 - Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	Not applicable Based on the location and the last uses of the site it is unlikely that there is a likelihood of archaeological finds or relics.
Section 17 - Heritage and Archaeological Sites	Provisions relating to heritage sites.	Not applicable Based on the location and the last uses of the site it is unlikely that there is a likelihood of archaeological finds or relics.
Section 19 - Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 20 - Car Parking and Access	Residential Development Car Parking Requirements: <ul style="list-style-type: none"> - 1 space per small / 1-bedroom apartment - 1.5 spaces per medium / 2-bedroom dwelling - 2 spaces per large / 3-bedroom dwelling - 1 space per 4 units or part thereof, for visitors 	Considered acceptable. In line with Council's DCP a total of 97 spaces were required under Council's DCP. 60 parking spaces were provided for residential units and visitors in the original approval. The original proposal fell short of the DCP parking requirements by 37 spaces. However, the parking was approved in accordance with the requirements of the ARH SEPP, which takes precedence. 6 accessible car parking spaces were also provided for the 6 adaptable units. The modification proposes to increase the number of car parking spaces to 68. The modified proposal whilst not achieving the amount of car parking spaces in the DCP, has achieved the requirements of the SEPP Housing 2021 of 54 spaces in which the previous ARH SEP Policy was consolidated into.

Development Control	Provision	Comment
	1 bicycle space per 2 units for residents 1 bicycle space for visitors per 10 units	Complies (with condition) A total of 35 bicycle spaces are required. A total of 15 bicycle spaces were provided with the parent consent. The modification proposes to increase this to 16. Conditions will be maintained to ensure the DCP bicycle parking requirements are met.
Section 21 - Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not applicable The DA does not propose the subdivision of land.
Section 22 and Section 23 - Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies Conditions of consent will be imposed to ensure compliance with the BASIX commitments.
Section 24 - Landfill	Minimisation of cutting and filling, not in conjunction with a DA.	Not applicable Cut and fill included with DA.
Section 25 - Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies During Construction: An updated waste management plan has been submitted. On-going Waste Management: The development as modified includes updated waste management requirements. This aspect was reviewed by Council's Waste Management section who has supported the application subject to the imposition of conditions.
Section 26 - Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
Section 27 - Social Impact Assessment	A comprehensive social impact comment shall be submitted for residential flat buildings greater than 20 units.	Complies A social impact comment was submitted as part of the parent proposal which considered the overall use of the site. No issues are raised with regards to social matters.

LDCP 2008 Part 3.7: Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre)

Development Control	Provision	Comment
1. Preliminary	Objectives are to provide controls for residential development to ensure that it achieves a high standard of	Complies As discussed above, the development provides for a quality design and provides a variety of housing choice.

Development Control	Provision	Comment
	urban design, that is compatible with the amenity and character of the area, and to provide for a variety of housing choice within residential areas with Liverpool.	
2. Frontage and Site Area	The minimum lot width is 24m	Complies Site width exceeds 28m.
3. Site Planning	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies The proposal is designed in line with the site's topography.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design.	Complies The building is sited centrally which allows efficient use of space. BASIX and sustainability requirements are met by the proposal.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Complies Safe access is provided to the building and parking
	Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	Complies Whilst the surrounding development is generally of a lower height than the 6-storeys proposed, the site is zoned R4, which allows for residential flat buildings. As such, the proposed development generally complies with these requirements and therefore is considered to be in accordance with the desired future character of the area.
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate.	Complies The proposal has been assessed by Council's Engineers, who raise no objection, subject to the imposition of conditions.
	The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality	Complies The proposal meets the requirements of SEPP 65.

Development Control	Provision	Comment
	of Residential Flat Development.	
4. Setbacks	Front setback: 5.5m	Complies Building setback of 6m is retained in modification.
	Verandahs, eaves, etc, may encroach on the setback by 1m	Complies on merit. Front balconies set back 4.5m, with the exception of the 2 balconies approved under the original approval with the non-compliance, which are set back 4.3m, 0.2m less than required. This is not considered significant in the overall scale of the building and as they are at the lower levels (level 1 and 2) they would not result in any privacy impacts.
	Side and rear setback: R4 Zone - < 10m – Side 3m; Rear 8m > 10m – Side 8m; Rear 8m	Complies The building complies with these requirements
5. Landscaped Area and Private Open Space	A minimum of 25% of the site area shall be landscaped area.	Complies The development provides for approximately 841m ² of landscaped area which equates to 30.6%.
	A minimum of 50% of the front setback area shall be landscaped area.	Complies Landscape design placement is retained in the modification.
	Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.	Complies The basement car parking has been pulled in from the edges of the site to allow for landscaping within the front and side setbacks of the development.
	Promote landscape health by supporting for a rich variety of vegetation type and size.	Complies The proposed landscape plans provide a rich variety of vegetation type and size.
	Increase the permeability of paved areas by limiting the area of paving and/or using pervious paving materials.	Complies Paving across the landscaped areas is minimised.

Development Control	Provision	Comment
	<p>Provide communal open space, which is appropriate and relevant to the context and the building's setting. Where communal open space is provided, facilitate its use for the desired range of activities by:</p> <ul style="list-style-type: none"> - 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. 	<p>Complies Communal open space will incorporate barbecue facilities and seating. The landscaped communal open space also incorporates a mix of active and passive landscape spaces.</p> <p>It is orientated to receive afternoon sun and is of a size to allow for a range of uses.</p>
	<p>Locate open space to increase the potential for residential amenity.</p>	<p>Complies The communal open space is to the rear, to the front between the buildings and on the roof, helping to provide good residential amenity.</p>
	<p>Private open space shall be provided for each dwelling. Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor. Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like. Private open space should be clearly defined for private use</p>	<p>Complies Private open space is provided to each unit in accordance with the ADG, including courtyards at ground floor, and balconies on the upper floors.</p>
	<p>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.</p>	<p>Complies Sufficient space is provided to accommodate this requirement.</p>
<p>6. Building Design,</p>	<p>Building Height: 18m</p>	<p>Considered Acceptable – Subject to Clause 4.6 Variation</p>

Development Control	Provision	Comment
Streetscape and Layout		Section 4.6 Variation sought (as discussed under LLEP section above)
Building Appearance and Streetscape	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.	Complies The proposal continues to meet the requirements of SEPP 65 and the ADG.
	Building facades shall be articulated and roof form is to be varied to provide visual variety.	Complies Articulation and interest are provided to all elevations.
	The pedestrian entrance to the building shall be emphasised.	Complies Entry points to the building are emphasised by the projecting elements above the entrance points.
	A sidewall must be articulated if the wall has a continuous length of over 14m.	Complies Side walls are all articulated.
	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	Complies The vehicle entrance is to the western boundary of the site.
	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.	Complies The entrance to the basement is of the same design and materials as the main building.
	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.	Complies The basement entry is minimal and does not dominate the front elevation.
	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.	Not applicable. No podium proposed.

Development Control	Provision	Comment
	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.	Complies with conditions.
	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.	Complies The building has been designed with attention to detail, and the original parent application design was reviewed by the DEP, who support the design and features of the building. The proposal as modified shares the same overall design as the original approval.
	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: <ul style="list-style-type: none"> - 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. 	

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - Cantilevered, partially recessed, wholly recessed, or Juliet balconies will all create different facade profiles. - Detailing balustrades to reflect the type and location of the balcony and its relationship to the façade detail and materials <p>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.</p> <p>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.</p> <p>Co-ordinate and integrate building services, such as drainage pipes, with overall facade and balcony design.</p> <p>Co-ordinate security grills/screens, ventilation louvres and car park entry doors with the overall facade design.</p>	
Roof Design	<p>Relate roof design to the desired built form. This may include:</p> <ul style="list-style-type: none"> - 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 	<p>Complies</p> <p>The roof is flat in form, providing communal open space, however it includes the provision for the installation of photovoltaic panels.</p>

Development Control	Provision	Comment
	<p>the adjacent context, such as an existing parapet line.</p> <ul style="list-style-type: none"> - Using special roof features, which relate to the desired character of an area, to express important corners. <p>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.</p> <p>Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to sun access.</p> <p>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.</p> <p>Where habitable space is provided within the roof optimise residential amenity in the form of attics or penthouse dwellings.</p>	
Building Entry	<p>Improve the presentation of the development to the street by:</p> <ul style="list-style-type: none"> - 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. 	<p>Complies</p> <p>Entrances are noticeable and the access way is prominent to Harvey Avenue.</p>

Development Control	Provision	Comment
	Provide as direct a physical and visual connection as possible between the street and the entry	
	Achieve clear lines of transition between the public street, the shared private, circulation spaces and the dwelling unit.	
	Ensure equal access for all	Complies A ramp provides access to the buildings, where lifts provide access within the building.
	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.	Complies Safe and secure access is provided to the buildings, with clear entry points to the development for pedestrians and vehicles.
	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.	Complies The proposal provides separate vehicle and pedestrian access points.
	Provide and design letterboxes to be convenient for residents and not to clutter the 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.	Complies Letterboxes will be located internally.
Balconies	Balconies may project up to 1m from the façade of a building.	Complies The balconies project 1m from the front facade of the building.

Development Control	Provision	Comment
	Balustrades must be compatible with the façade of the building.	Complies Compatible balustrades are used.
	Ensure balconies are not so deep that they prevent sunlight entering the dwelling below.	Complies Balconies of a depth to allow solar access.
	Design balustrades to allow views and casual surveillance of the street.	Complies Balconies provide views and surveillance to the street.
	Balustrades on balconies at lower levels shall be of solid construction. Solid or semi solid louvres are permitted.	Complies on merit. Sliding shutters will allow for privacy to balconies where required.
	Noise attenuation measures on balconies facing a Classified Road should be considered.	Not applicable Site does not front a classified road.
	Balconies should be located on the street frontage, boundaries with views and onto a substantial communal open space.	Complies The majority of balconies are all on the external facades of the building, there are some internal balconies, however, these have privacy screens to prevent any privacy concerns.
	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.	Complies Balconies are off main living spaces and are of good sizes and dimensions to be fit for purpose.
	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.	Not applicable.
	Design and detail balconies in response to the local climate and context thereby	Complies Balconies designed in accordance with climate and context requirements.

Development Control	Provision	Comment
	<p>increasing the usefulness of balconies. This may be achieved by:</p> <ul style="list-style-type: none"> - Locating balconies facing predominantly north, east or west to provide solar access. - 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. 	
	Provide primary balconies for all dwellings with a minimum depth of 2m.	<p>Complies All main balconies have minimum width of 2m.</p>
	Ensuring balconies are not so deep that they prevent sunlight entering the dwelling below.	<p>Complies All balconies allow for adequate solar access in line with the requirements of the ADG.</p>
	<p>Design balustrades to allow views and casual surveillance of the street while providing for safety and visual privacy. Design considerations may include:</p> <ul style="list-style-type: none"> - Detailing balustrades using a proportion of solid to transparent materials to address sight 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 	<p>Complies Balconies provide views and surveillance to the street.</p>

Development Control	Provision	Comment
	view, clothes drying areas, bicycle storage or air conditioning units	
	Operable screens increase the usefulness of balconies by providing weather protection, daylight control and privacy screening.	Complies Shutters provided to balconies.
Daylight Access	Plan the site so that new residential flat development is oriented to optimise northern aspect.	Complies The buildings maximise the northern orientation.
	Ensure direct daylight access to communal open space between March and September and provide appropriate shading in summer.	Complies The communal open space receives adequate daylight, with the opportunity for shading.
	Optimise the number of dwellings receiving daylight access to habitable rooms and principal windows. Ensure daylight access to habitable rooms and private open space, particularly in winter - use skylights, clerestory windows and fanlights to supplement daylight access.	Complies Main rooms and windows receive daylight in accordance with the ADG requirements.
	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.	Not applicable.
	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. Avoid south facing dwellings.	Complies The number of units receiving direct daylight and sunlight is accordance with the ADG requirements.
	Design for shading and glare control, particularly in summer: - Using shading devices, such as eaves, awnings, colonnades, balconies, pergolas, external louvres and planting.	Complies Shutters provided to balconies.

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - Optimising the number of north-facing living spaces. - Providing external horizontal shading to north-facing windows. - Providing vertical shading to east or west windows. 	
	Consider higher ceilings and higher window heads to allow deeper sunlight penetration.	Complies Ceilings are in line with the minimum requirements of the ADG. Ceiling heights are proposed to increase under the modification to allow for deeper sunlight penetration.
	On west facing windows, vertical louvre panels or sliding screens protect from glare and low afternoon sun.	Complies Shutters provided to balconies.
	On north facing windows, projecting horizontal louvres admit winter sun while shading summer sun.	Complies Shutters provided to balconies.
Internal Design	All staircases should be internal.	Complies Stairways are internal.
	Minimise the length of common walls between dwellings.	Complies Common walls are minimised through the development.
	Basement car parking shall be located beneath the building footprint.	Complies on merit. Basement car parking is located in the basement below the building.
	Where possible natural ventilation shall be provided to basement car parking.	Complies The basement will have the ability to be ventilated naturally.
	Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings	Complies The building has been designed in accordance with the ADG building separation requirements.
	Minimise the location of noise sensitive rooms such as bedrooms adjoining noisier rooms such as bathrooms or kitchens or common corridors and stairwells.	Complies Noise generating rooms are clustered where possible.
	Where a site has frontage to a Classified Road, locate bedrooms away from the front of the site.	Not applicable.
	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.	Complies with conditions.

Development Control	Provision	Comment
	Locate active use rooms or habitable rooms with windows overlooking communal/public areas.	Complies Habitable rooms overlook open space where possible.
Ground Floor Dwellings	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.	Complies The landscaping to the front of the site will provide an attractive frontage to the street.
	Create more pedestrian activity along the street and articulate the street edge by: <ul style="list-style-type: none"> - 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. 	Complies The ground floor treatment to the building, including landscaping, fencing and level changes that will assist in providing an active environment to the street.

Development Control	Provision	Comment
	<p>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 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.</p> <p>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.</p> <p>Provide ground floor dwellings with access to private open space, preferably as a courtyard.</p>	<p>Complies</p> <p>The ground floor treatment to the building, including landscaping, fencing and level changes will assist in providing an active environment to the street.</p>
Security	<p>Entrances to buildings should be orientated towards the front of the site and facing the street.</p> <p>The main entrance to dwellings or other premises should not be from rear lanes and should be designed with clear directions and signage.</p>	<p>Complies</p> <p>The entrance to the building is orientated to the street, with no rear accesses proposed.</p>
	<p>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 be applied to the wall to a height of 2 metres.</p>	<p>Complies</p> <p>No blank walls are proposed.</p>
	<p>Minimise the number of entry points to buildings.</p>	<p>Complies</p> <p>The number of entry points to buildings are minimised.</p>

Development Control	Provision	Comment
	Reinforce the development boundary to strengthen the distinction between public and private space by: <ul style="list-style-type: none"> - 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 	Complies The building steps up from the street to provide a distinction from the street/footpath.
	Optimise the visibility, functionality and safety of building entrances by: <ul style="list-style-type: none"> - Orienting entrances towards the public street. - 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. 	Complies Entrances are noticeable and the access ways are prominent to Harvey Avenue.
	Improve the opportunities for casual surveillance by: <ul style="list-style-type: none"> - Orienting living areas with views over public or communal open spaces, where possible. - Using bay windows and balconies, which protrude beyond the main facade 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. 	Complies The upper floor balconies will provide for casual surveillance.
	Minimise opportunities for concealment by:	Complies

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - 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. 	<p>The access points are well laid out and are to be well lit, and do not provide opportunities for concealment.</p>
	<p>Control access to the development by:</p> <ul style="list-style-type: none"> - 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. 	<p>Complies</p> <p>The only access point to the residential element is from the main entrance. Car parking is limited to residents and management staff, with access from the car park directly to the dwellings available.</p>
Natural Ventilation	<p>Utilise the building layout and section to increase the potential for natural ventilation. Design solutions may include:</p> <ul style="list-style-type: none"> - 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 and two-storey dwellings. 	<p>Complies</p> <p>Cross ventilation and natural ventilation are in accordance with the ADG requirements.</p>
	<p>Provide narrow building depths to support cross ventilation.</p>	<p>Complies</p> <p>Dwellings depths are in line with the ADG requirements.</p>

Development Control	Provision	Comment
	Avoid single-aspect dwellings with a southerly aspect.	Complies Although some such dwellings are proposed, the number is limited and in accordance with ADG requirements.
Building Layout	The layout of dwellings within a residential flat building should minimise the extent of common walls.	Complies Common walls are minimised through the development.
Storage Areas	A secure storage space is to be provided for each dwelling with a minimum volume 8m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement or garage. Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Storage is provided in accordance with ADG requirements.
7. Landscaping and Fencing	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.	Complies The landscape design still provides canopy trees.
	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	Complies The Landscape plan continues to include tree species to be planted for the application to be suitable in this location.
	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.	Complies A mixture of plant types and sizes is proposed.
	Landscaping in the vicinity of a driveway entrance should not obstruct visibility for the	Complies Minimal landscaping is proposed in the vicinity of the driveway.

Development Control	Provision	Comment
	safe ingress and egress of vehicles and pedestrians.	
	Tree and shrub planting along side and rear boundaries should assist in providing effective screening to adjoining properties.	Complies Planting is proposed along the side and rear boundaries.
	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.	Not applicable.
	The development must be designed around significant vegetation on the site. It is important to retain significant vegetation to maintain an existing streetscape and enhance the visual appearance of new dwellings.	Not applicable There is no existing significant vegetation.
	Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry.	Complies Canopy trees will provide shade
	Where landscaping is used to control overlooking, species selected are to be a kind able to achieve privacy within 3 years.	Not applicable.
	Any tree with a mature height over 8m should be planted a minimum distance of 3m from the building or utility services.	Complies Trees over 3m from building.

Development Control	Provision	Comment
	<p>Contribute to streetscape character and the amenity of the public domain by:</p> <ul style="list-style-type: none"> - 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. <p>Planting design solutions include:</p> <ul style="list-style-type: none"> - 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. <p>methods.</p> <ul style="list-style-type: none"> - Providing appropriate drainage. - Design planters to support the appropriate soil depth and plant selection by: - Ensuring planter proportions accommodate the largest volume of soil possible. Minimum soil depths will vary depending on the size of the plant. However, soil depths greater than 1.5 m are unlikely to have any benefits for tree growth. - Providing square or rectangular planting areas rather than long narrow linear areas. 	<p>Complies</p> <p>An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access.</p>

Development Control	Provision	Comment
	<p>Design landscape which contributes to the site's particular and positive characteristics, for example by:</p> <ul style="list-style-type: none"> - 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 <p>Design for optimum conditions for plant growth by:</p> <ul style="list-style-type: none"> - Providing soil depth, soil volume and soil area appropriate to the size of the plants to be established. - Providing appropriate soil conditions and irrigation 	<p>Complies</p> <p>An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access.</p>
Fencing	<p>The maximum height of a front fence is 1.2m.</p> <p>The maximum height of side boundary fencing within the setback to the street is 1.2m</p>	<p>Not applicable</p> <p>No front fence proposed.</p>
	<p>Fences and walls must be a maximum of 1.8m in height, and constructed of masonry, timber and/or landscaped.</p>	<p>Complies with condition on parent consent</p>
	<p>For side walls or fences along the secondary frontage, a maximum height of 1.2m is required for the first 9m measured from the front boundary, the remaining fence / wall may then be raised to a maximum of 1.8m. The secondary setback is the longest length boundary.</p>	<p>Not applicable</p> <p>No secondary frontage.</p>
	<p>Boundary fences shall be lapped and capped timber or metal sheeting.</p>	<p>Complies with condition on parent consent</p>
8. Car parking and access	<p>Visitor car parking shall be clearly identified and may not be stacked car parking.</p> <p>Visitor car parking shall be located between any roller shutter door and the front boundary.</p>	<p>Complies</p> <p>Visitor car parking was not required by ARH SEPP which was in place at the time.</p>

Development Control	Provision	Comment
	Pedestrian and driveways shall be separated.	Complies Separate access points are provided.
	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.	Complies Vehicle access along the western boundary of the site.
	<p>Give preference to underground parking, whenever possible by:</p> <ul style="list-style-type: none"> - 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. 	Complies Basement parking proposed.
	<p>Where above ground enclosed parking cannot be avoided, ensure the design of the development mitigates any negative impact on streetscape and street amenity by:</p> <ul style="list-style-type: none"> - Avoid exposed parking on the street frontage. - Hiding car parking behind the building facade. Where wall openings (windows, 	Not applicable. No above ground parking proposed.

Development Control	Provision	Comment
	fenestrations) occur, ensure they are integrated into the overall facade scale, proportions and detail.	
	Promote equity by: <ul style="list-style-type: none"> - 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. 	Complies Ramp provided to access building.
	Maximise the number of accessible and adaptable dwellings in a building by: <ul style="list-style-type: none"> - Providing more than one accessible entrance where a development contains clusters of buildings. - Separating and clearly distinguish between pedestrian accessways and vehicle accessways. - Locating vehicle entries away from main pedestrian entries and on secondary frontages. 	Complies Adaptable units proposed.
9. Amenity and Environmental Impact	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: <ul style="list-style-type: none"> - One living, rumpus room or the like; and - 50% of the private open space. 	Complies on merit. The parent application approved by planning panel noted that there would be significant overshadowing of the private open space of to the property to the south as a result of this development. They considered that the property to the south is also zoned R4 and could be expected to take advantage of the 'up-zoning' of the area and be redeveloped in a similar fashion to this proposal, with 32-34 Mackay Street having an approved DA for a similar sized residential flat building. The applicant has submitted an indicative scheme for the other rear site showing that it can be similarly redeveloped while meeting the solar access requirements of the ADG. Given the context of the site and the type of

Development Control	Provision	Comment
		development envisaged by the R4 zoning, the impact on that site is considered to be acceptable in this instance.
	<p>Building siting, window location, balconies and fencing should take account of the importance of the privacy of on-site and adjoining buildings and outdoor spaces.</p> <p>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.</p>	<p>Complies</p> <p>The building complies with the ADG separation requirements.</p>
	<p>Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties.</p>	<p>Complies</p> <p>Hedge/tree planting is proposed along the boundaries.</p>
	<p>Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings by:</p> <ul style="list-style-type: none"> - 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. <p>Use detailed site and building design elements to increase privacy without compromising access to light and air by:</p> <ul style="list-style-type: none"> - Offsetting windows of dwellings in new development and adjacent development windows. - Recessed balconies and/or vertical fins between adjacent balconies. 	<p>Complies</p> <p>The building generally complies with the ADG separation requirements.</p>

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - Solid or semi-solid balustrades to balconies - louvres or screen panels to windows and/or balconies. 	
	<ul style="list-style-type: none"> - 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 devices to limit overlooking of lower dwellings or private open space. 	
	Noise attenuation measures should be incorporated into building design to ensure acoustic privacy between on-site and adjoining buildings.	Complies with conditions
	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.	Not applicable.
	The proposed buildings must comply with the Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance.	Complies with conditions
	Arrange dwellings within a development to minimise noise transition between dwellings by: <ul style="list-style-type: none"> - 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 	Complies with conditions

Development Control	Provision	Comment
	<p>buffer noise from adjacent dwellings, mechanical services or corridors and lobby areas</p> <ul style="list-style-type: none"> - 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. 	
10. Site Services	<p>Letterboxes shall 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.</p>	<p>Complies Letterboxes proposed inside the building.</p>
	<p>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.</p>	<p>Conditioned on parent consent.</p>
	<p>Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site.</p>	<p>Complies An updated waste management plan has been provided as part of the modification.</p>
	<p>Any structure involving waste disposal facilities shall be located as follows: Setback 1 m from the front boundary to the street. Landscaped between the structure and the front boundary and adjoining areas to minimise the impact on the streetscape. Not be located adjacent to an adjoining residential property.</p>	<p>Complies Waste facilities continue to be located in the basement as per parent approval.</p>
	<p>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.</p>	<p>Complies with condition.</p>

Development Control	Provision	Comment
	Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure.	Complies with condition.
	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.	Not applicable.

Overall, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008.

6.2 Section 4.15(1)(a)(iia) - Planning Agreements

There are no Planning Agreements which apply to the development.

6.3 Section 4.15(1)(a)(iv) - The Regulations

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the BCA and the Australian Standards for demolition. Accordingly, appropriate conditions of consent will be imposed.

6.4 Section 4.15(1)(b) - The Likely Impacts of the Development

Built Environment

It is considered that the proposed development will have minimal impact on the built environment given that it is located within the R4 Zone which is zoned for high density residential development. Therefore, it is considered to be consistent with the current and future character of the locality, especially as the building has been redesigned to comply, in the most part, with the ADG.

The proposed scheme is considered to be an appropriate design, which is responsive to the location and the orientation of the site. The development satisfactorily addresses Harvey Avenue with built form that would interact with this space. The proposal has been designed with adequate regard to the western, northern and southern adjoining sites and the modified proposal is considered to be consistent with what was originally approved.

Natural Environment

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

Social Impacts and Economic Impacts

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

The development will result in a positive economic impact, through the provision of employment generated during the construction of the development and the on-going building maintenance. The development will result in increased housing availability within a high-density residential zone.

6.5 Section 4.15(1)(c) - The Suitability of the Site for the Development

The site is considered to be suitable for the proposed development. The proposal is generally compliant with the provisions of LLEP 2008 and LDCP 2008 as outlined in this report. The identified modifications have been considered and are supported as they do not result in any adverse impacts to the locality. Overall, the development is considered to satisfy the relevant controls for site selection.

6.6 Section 4.15(1)(d) - Any submissions made in accordance with the Act or the Regulations

(a) Internal Referrals

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

Department	Comments
Waste Management	Supported, subject to conditions.
Engineering	Supported, subject to conditions.
Traffic and Transport	Supported, subject to conditions.
Urban Design & Public Domain	Supported, subject to conditions.

(b) External Referrals

The following comments have been received from external Agencies:

Department	Comments
Endeavour Energy	Supported, subject to conditions.

(c) Community Consultation

In accordance with the Liverpool Community Participation Plan the application was notified for a 14-day period, from 12 May 2022 to 27 May 2022. Notwithstanding, no submissions were received.

6.7 Section 4.15(1)(e) - The Public Interest

The proposed development is consistent with the zoning of the land and would represent a high-quality development for Liverpool. The development provides additional housing opportunities, including a large proportion of affordable housing, within close proximity to employment opportunities and public transport.

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

7 DEVELOPMENT CONTRIBUTIONS

Liverpool Contributions Plan 2018 Established Areas applies to all development pursuant to Section 7.11 of the EPA & Act. The proposed development does not modify the unit mix and as such the contributions remain as per the original approval.

8 CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, and the Environmental Planning Instruments, including the applicable State Environmental Planning Policies, Liverpool LEP 2008, LDCP 2008, and the relevant codes and policies of Council.

The following is noted:

- The subject Development Application modification has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The subject development Application as modified has been assessed having regard to the matters of consideration pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 and is considered substantially the same development as originally approved.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built form is also consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.
- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

Based on the assessment of the application, it is recommended that application DA-627/2018/A be approved subject to modified conditions of consent.

9 RECOMMENDATION

It is recommended that DA-627/2018/A seeking Council consent for the modification of DA-627/2018, be approved subject to amended conditions of consent.

ATTACHMENTS

- Attachment A: Draft Modified Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Statement of Environment Effects – Annexure A, Clause 4.6 Variation Request