

COUNCIL ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-334 – DA-50/2021/A
PROPOSAL	<p>Modification to Development Consent DA-50/2021 under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, for:</p> <ul style="list-style-type: none"> • Reconfiguration of internal apartment layouts including balcony design. • Revised basement ramp gradients with changes of basement levels, stormwater arrangement and OSD tank level and dimension adjusted. • Reconfiguration of car park layout to accommodate structural columns. • Site works including amendments to access ramp, retaining walls to accommodate revised ground level, revised front fence to accommodate services including hydrant booster assembly. • Amendment to Garbage storage and deletion of waste chutes. • Inclusion of lift overrun. • Amended façade materials and finishes. • Landscape design including the provision of an external bicycle parking area. • Amendment of Condition 21, 25,60, 62,151 and 179 • Deletion of Condition 155.
ADDRESS	23-25 Charles Street, Liverpool Lot 1 and Lot 2 DP500066.
APPLICANT	Hume Community Housing Association
OWNER	Hume Community Housing Association Company

DA LODGEMENT DATE	21 November 2022
APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)	4.55(2) Modification Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Affordable Housing
CIV	\$9,046,077 (excluding GST)
CLAUSE 4.6 REQUESTS	Height variation request proposed
List of all Relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> ○ SEPP (Housing) 2021 (Repealed SEPP Affordable Rental Housing 2009) ○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. ○ Liverpool Local Environmental Plan 2008. <p><i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: Section 4.15(1)(a)(ii)</i></p> <ul style="list-style-type: none"> ○ Nil <p><i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i></p> <ul style="list-style-type: none"> ○ Liverpool Development Control Plan 2008. ○ Part 1 – General Controls for all Development. ○ Part 4 – Development in the Liverpool City Centre. <p><i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a) (iia)</i></p> <ul style="list-style-type: none"> ○ No planning agreement relates to the site or proposed development. <p><i>List any relevant regulations: 4.15(1)(a)(iv)</i></p> <p><i>Consideration of the provisions of the National Construction Code of Australia.</i></p>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	One

DOCUMENTS SUBMITTED FOR CONSIDERATION	<ol style="list-style-type: none"> 1. Architectural Plan 2. Landscape Plans 3. Structural Letter 4. Architectural Design Statement 5. S4.55 Schedule of Changes 6. CIV- Cost Estimate
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	N/A
SCHEDULED MEETING DATE	28 August 2023
PLAN VERSION	As per submission
PREPARED BY	Emily Lawson
DATE OF REPORT	8 August 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 State Environmental Planning Policy (Planning Systems) 2021. 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, building, community planning and urban design regarding the application.

The application has been recommended to be refused due to insufficient information, as outlined within this report.

1.2 The proposal

The council has received a Development Application (DA No. 50/2021/A) seeking consent for the modification of DA-50/2021 determined by the Sydney Western City Planning Panel on 5 October 2022 at 23 Charles Street, Liverpool.

The application proposes the modification to an eight-story residential flat building comprising 23 affordable housing units, parking and associated landscaping works.

The application as modified proposes a number of design changes, including a revised internal apartment layout, waste management arrangement, and revised fire egress in accordance with BCA requirement, inclusion of a lift overrun and the provision of external bicycle parking.

1.3 The site

The subject site is identified as No 23 & 25 Charles Street, Liverpool with a legal description of Lots 1 & 2 DP 500066. It has a 19.58m frontage on Mill Street to the north, a 32.615m frontage Charles Street to the east, and a 4.255m splay connecting both front boundaries. The

property boundary to the south is 22.66m and to the west is 35.66. It has a total land area of 802 m².

1.4 The issues/ modifications

The key issues associated with the proposal relate to the following:

- Amended documentation was submitted onto the NSW Planning Portal on the 18th of July 2023 and has been re-referred to respective internal officers, including Urban Design. The additional information recently provided by the application are as follows:
 - o Architectural Plans
 - o s4.55 Schedule of Changes
 - o Landscape Plans
 - o Structural Letter
 - o Architectural Design Statement

At this stage the additional information is not considered satisfactory as it does not encapsulate the full extent of the modifications proposed.

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

- Increase in GFA which results in an increase in FSR across the site,
- Reduction of communal open space,
- Inclusion of OSD within basement,
- Alteration to setbacks,
- Alteration to the building envelope,
- Reduction in internal storage,
- Reduction in cross ventilation of units across the development,
- Reduction of solar access and deficient sun-access diagrams,
- Alteration of Unit 10 from an approved 1-bedroom Unit to a studio bedroom due to the decrease in GFA, and
- Alteration to the approved balconies GFA and widths.
- The applicant has not addressed the relevant provisions of the State Environmental Planning Policy (Housing) 2021.
- Inconsistent and insufficient information has been submitted to allow Council to carry out a full assessment of the application. In this regard, an inadequate response has been received to Council's requests for additional information pursuant to Section 4.15(1)(a)(iv), 4.15(1)(b) and 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
- It is considered in the circumstances of this development, approval of the development would set an undesirable precedent for similar non-compliant development in the locality and therefore the subject site is not considered suitable for the proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

1.5 Exhibition of the proposal

The modification application was notified for a period of 21 days from 1 June 2023 to 23 June 2023 in accordance with Council's Community Participation Plan 2022. Notwithstanding, only one submission was received during the public consultation period objecting to the proposal.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A). Based on the assessment of the application, it is recommended the application be refused.

2 SITE DESCRIPTION AND LOCALITY

2.1 The locality

The locality within the immediate vicinity is characterised by a number of tall, high density residential and mixed-use developments. Older existing dwelling houses, similar to those already on the site, will be developed in the future. Located within the R4 zone, the locality is at the southern edge of the Liverpool CBD area.

The site benefits from being within proximity of major transport links and corridors. Within 400m is a bus stop (ID 2170526) located on the north side of Hoxton Park Road and south of Woodard Park, approximately 398m walking distance from the site. This bus stop is serviced by route 869 – Ingleburn to Liverpool via Edmondson Park & Preston's and provides an hourly service. The Liverpool railway station is approximately 1km walking distance to the north-east of the site, adjacent to the Liverpool CBD.

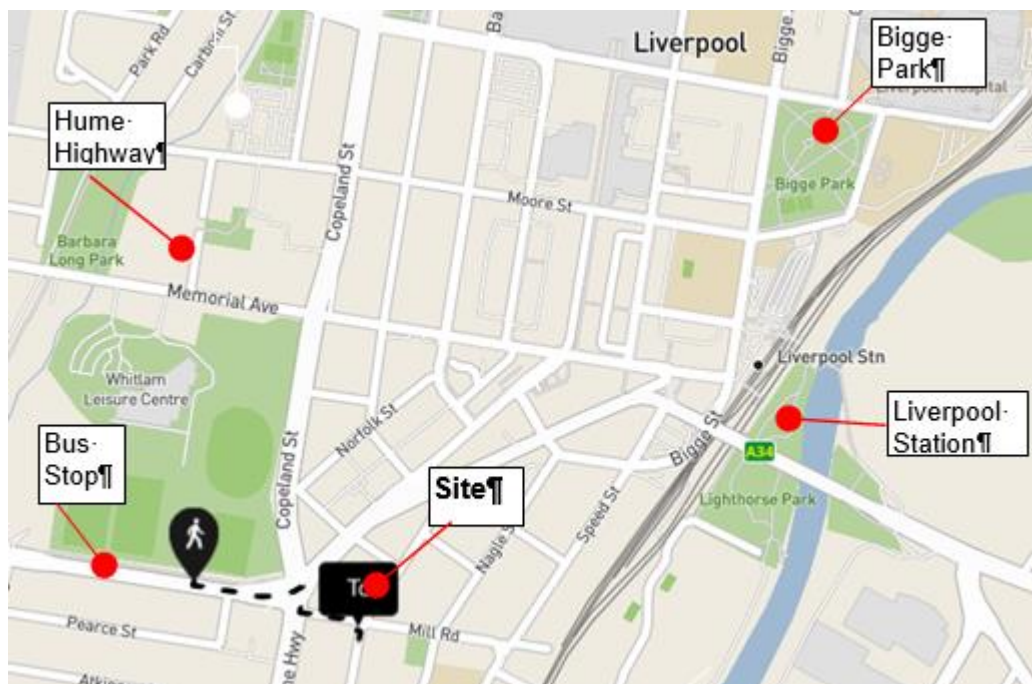


Figure 1: Context

2.2 The site

The subject site is identified as Lots 1 & 2 DP 500066 and known as 23-25 Charles Street, Liverpool. The combined site has a total land area of 80sqm. It is a corner lot with the frontage of 19.58m to the Mill Road and 32.615m to the Charles Avenue. A splay corner of 4.255m.

The site is relatively flat with a crossfall of 6.7% from its highest point at the northwest corner (22.94m AHD) adjoining Mill Road to the southeast corner (21.33m AHD) adjoining Charles Street.



Figure 2: Aerial Photograph of subject allotments (Source GeoCortex)

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 10th of September 2020 and the 10th of June 2021.
- The parent proposal was approved by the Sydney Western City Planning Panel on 5 October 2022.
- Modification Application was lodged on the 21st of November 2022:
 - The application was received by Development Assessment on the 20th of January 2023
 - Internal referrals were issued to Council Waste, Community Planning, Building, Flooding, Traffic, Urban Design and Public Domain and Engineering from the 24th of February.
 - A request for further information was issued on the 3rd of May requesting the application be resubmitted as a Modification (2) pursuant to the EP&A Act.
 - The application was identified as being Regionally Significant on 3rd May 2023.
 - The application was advertised from the 31st of May to the 22nd of June.
 - A kick-off briefing was held with the Sydney Western City Planning on the 19th of June.
 - A meeting was held with the Applicant on the 20th of June.
 - A request for further information was requested to the applicant on the 21st of June 2023 stipulating all the information required to be amended including architectural plans, structural letter and a list of all the proposed amendments to the modification. The applicant was afforded with 14 days to provide the information to meet SWCPP determination date scheduled for 19th July 2023.
 - Additional information was submitted on the Planning Portal on the 18th of July.
 - Council requested an extension of time from the SWCPP determination date on 27th July 2023 to enable Council to assess the additional information.

4 DETAILS OF THE PROPOSAL

Development consent is sought for modification to the seven levels of residential accommodation and communal area, approved under DA-50/2021. The parent application approved the following:

- 23 affordable units provided under the Housing SEPP 2021
- Ground Floor at-grade parking consisting of 10 vehicles and bicycle parking.
- Community room
- New driveway and access ramp.
- Landscaping, including roof gardens, landscaping within setbacks, and deep soil areas.

The applicant has provided the following schedule proposed under the modification, which seeks to amend the following:

1. Service Basement
 - i. Services basement redesigned to address revised structural design and provide compliant spatial requirements for nominated services.
 - ii. Fire tank added.
 - iii. Access stairs redesigned to suit revised structural design and include airlock as required by National Construction Code.
2. Allowance for Service
 - i. Allowance for services including hydrant booster and water meters located within the front fence design.
 - ii. Gas meters located to the north-west and accessed via the pedestrian pathway.
 - iii. OSD tank design redesigned to accommodate new design.
 - iv. Allowance for services in the lobby
3. Ground Level and Floor Levels
 - i. Floor to floor heights adjusted to accommodate allowance for required building structure (including transfer beams)
 - ii. Reduction to ground floor level (21.600 RL to 21.315RL) to accommodate additional floor to floor height required for building structure and maintain overall building height.
 - iii. The revised floor levels (FFL) are:
 - Ground Floor Level FFL's (approved FFL:21.600, revised FFL:21.315)
 - Level 01 (approved FFL: 24.600, revised FFL: 24.350) (250mm)
 - Level 02 (approved FFL: 27.700, revised FFL: 27.450) (- 250mm)
 - Level 03 (approved FFL: 30.800, revised FFL: 30.550) (250mm)
 - Level 04 (approved FFL: 33.900, revised FFL: 33.900) (no change)
 - Level 05 (approved FFL: 37.000, revised FFL: 37.000) (no change)
 - Level 06 (approved FFL: 40.100, revised FFL: 40.100) (no change)
 - Level 07 (approved FFL: 43.200, revised FFL: 43.200) (no change)
 - Roof Terrace (approved FFL: 46.200, revised FFL: 46.300) (+100mm)
4. Car parking
 - i. Car parking layout redesigned to accommodate structural columns supporting the building.
 - ii. Car parking respaced and (1) parking space relocated to the end of the parking aisle.
 - iii. The accessible parking space redesigned

- iv. The 'hit & miss' brick features removed from parking undercroft and replaced with powder coated open style batten system.
5. Ground Floor community room
 - i. The ground level community room and WC redesigned to accommodate new structural design.
 - ii. Revised glazing treatment to the façade of the ground floor community room to accommodate structural columns. Amended design includes large, double-glazed doors and sidelights with a powder coated batten treatment to the walls.
6. Site works, access ramp and retaining walls.
 - i. The following design changes to accommodate lower ground floor level:
 - New accessible 1:20 ramp within the front setback
 - New building signage wall to disguise access doors from fire stairs and mains switch room.
 - New retaining walls to accommodate additional cut to the site.
 - Revised front fence design to accommodate services including hydrant booster assembly.
7. Garbage Storage and waste chute
 - i. Garbage storage split between two locations within parking undercroft in response to revised structural design.
 - ii. Bins located adjacent to driveway and secured with roller doors to be managed by building manager.
 - iii. Garbage chute removed and replaced with dedicated waste storage areas on each level to be managed by building manager.
 - iv. Separate bulk waste storage area provided.
8. Internal apartment layouts
 - i. Adjustments to internal apartment layouts including as follows:
 - adjustments to internal apartment layouts to accommodate structural column grid and new columns.
 - apartments redesigned to improve internal layouts and provide better amenity to living spaces.
 - some apartments have been redesigned where possible to comply with ADG minimum room sizes and provide increased storage.
 - adaptable units redesigned to comply with AS4299, including spatial requirements for bathrooms and door templates.
 - apartments redesigned to comply with Liveable Housing Design Requirements – Silver Standards
 - apartment layouts redesigned to accommodate required services cupboards and risers.
9. Balcony design
 - i. Additional structural columns incorporated into balcony designs.
 - ii. Columns facing Mill Road have also been rotated 45 degrees to provide better solar access into the dwellings.
 - iii. Revised balcony treatment of solid render elements to accommodate required structural elements.
10. Roof terrace and landscape podium
 - i. Internal balustrade increased to from 700mm to 1,100mm to comply with National Construction Code
 - ii. Common area WC redesigned to comply with AS1428.
 - iii. Landscape podium extended north to provide cover to Unit 23 balcony.

- iv. Pergola redesigned to be adjacent to the BBQ area and provide under cover area for outdoor dining, whilst opening up the northern part of the roof terrace area as a multi-use space for residents
 - v. The lift lobby enclosed with a glazed door and window for weather protection.
- 11. Lift overruns.
 - i. Revised roof plan to accommodate lift overrun.
 - ii. • Additional height of 1.72m (approved RL 48.800, revised RL 50.520) is required to accommodate lowest commercially available lift overrun (the area of the lift over run is limited to 2.95% of the total roof area).
- 12. Façade materials
 - Facade design on Levels 05-07 replaced rendered brickwork and batten elements with a pre-finished fibre cement product (cemintel barestone) for improved design and maintenance.
- 13. Window locations
 - Revised window locations to accommodate revised apartment layouts.
- 14. Stormwater easement
 - Revised stormwater easement along southern boundary. Stormwater pit provided on Charles Street.

The modification also seeks consent to Modify the following Conditions:

- 1. Amendment to Condition 21 to remove requirement for 150mm concrete kerb along the western boundary.
- 2. Amendment to Condition 25 and Condition 62 to include revised Stormwater Concept Plans
- 3. Amendment to Condition 60 to remove requirement for multifunction poles.
- 4. Amendment of Condition 151 and Condition 179 to remove reference to garbage chutes.

The Modification seeks the deletion of the following condition:

- 1. Deletion of Condition 155.

The modification also seeks to amend the description of the development. The description should now read as follows:

- *Demolition of existing dwellings and the construction of an eight-storey building, comprising of ground level parking, seven levels of residential accommodation and roof top communal area.*

On review of the amended documentation provided to Council, Councils assessment has found further amendments which have not been included by the applicant, which are clarified below. Furthermore, the submitted architectural plans and Statement of Environmental Effects contain incorrect and inconsistent details across the documentation:

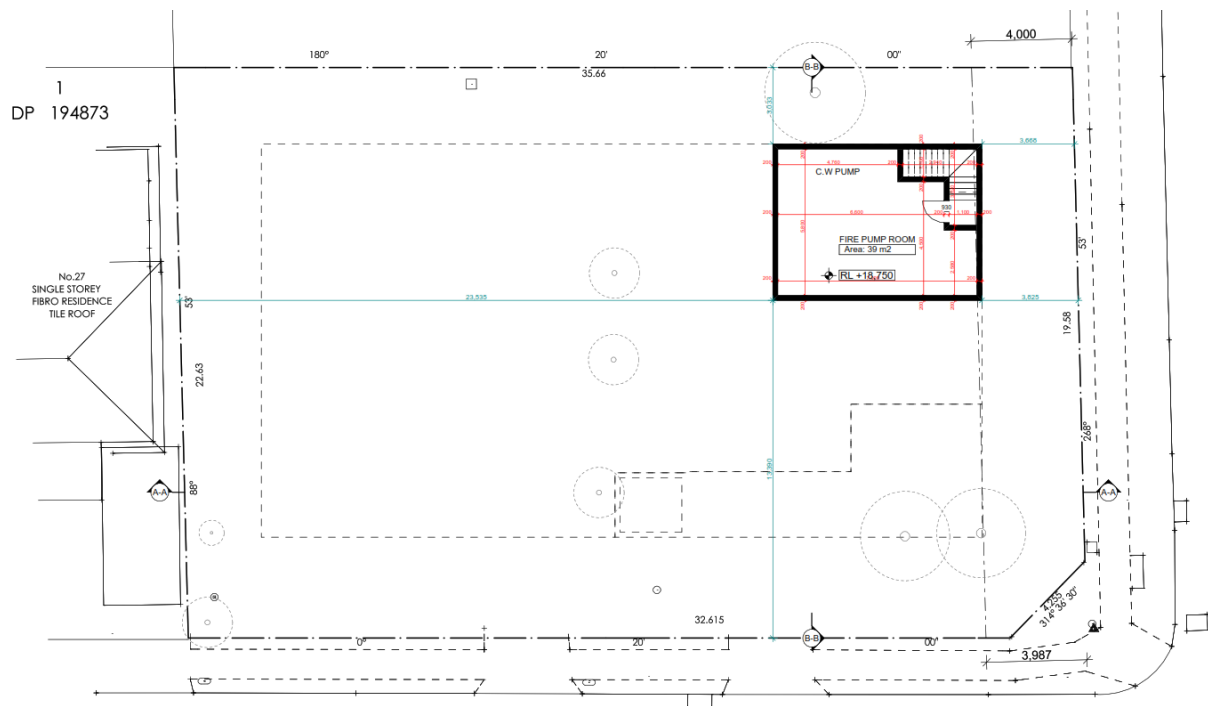


Figure 3: Approved Basement

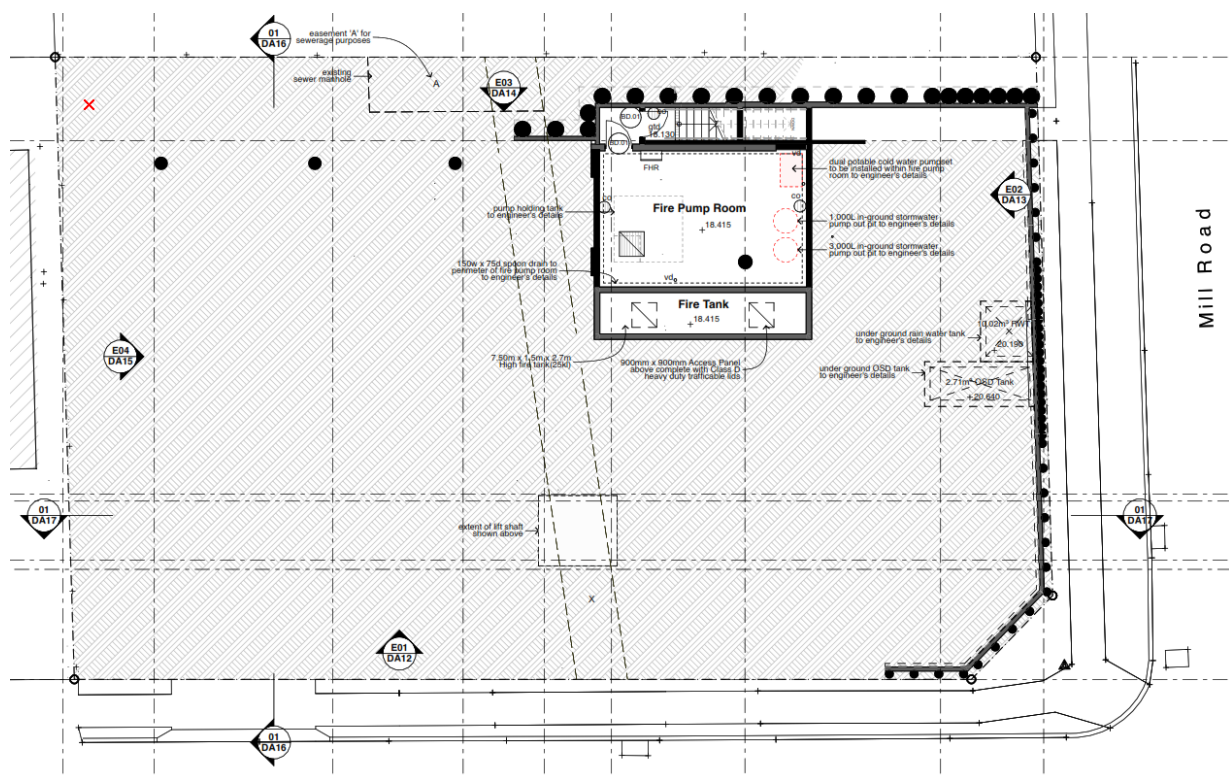
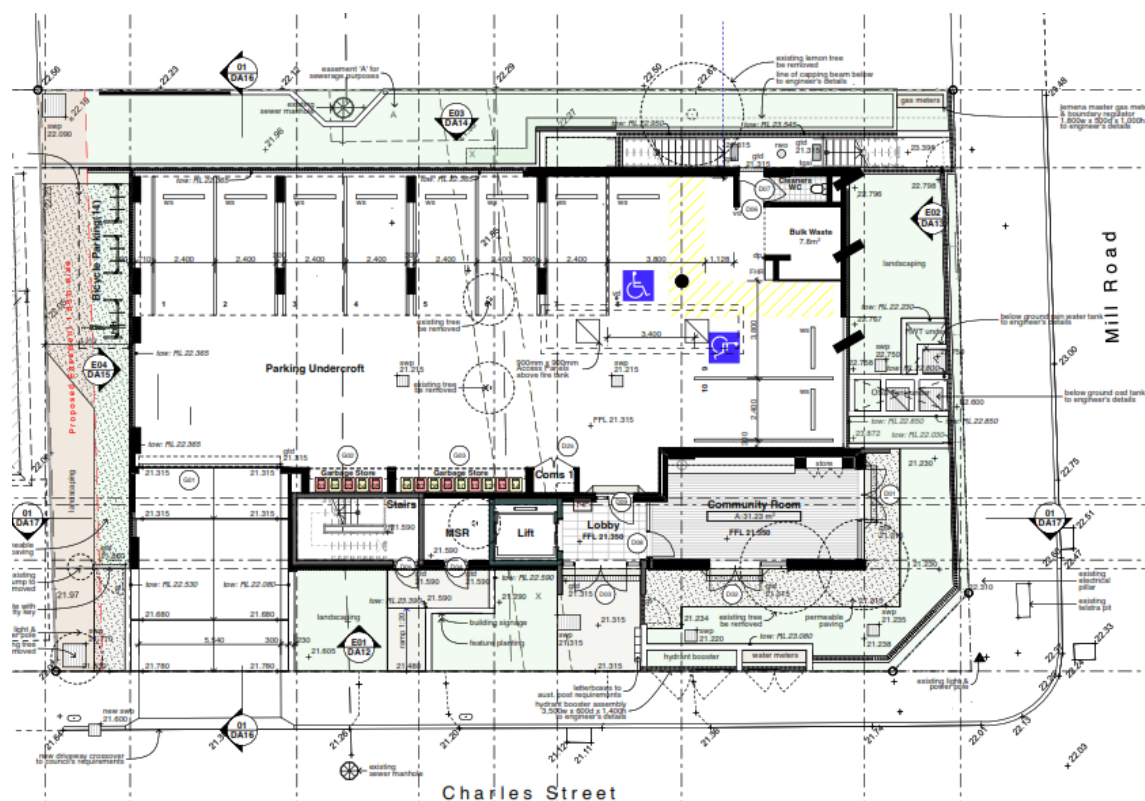
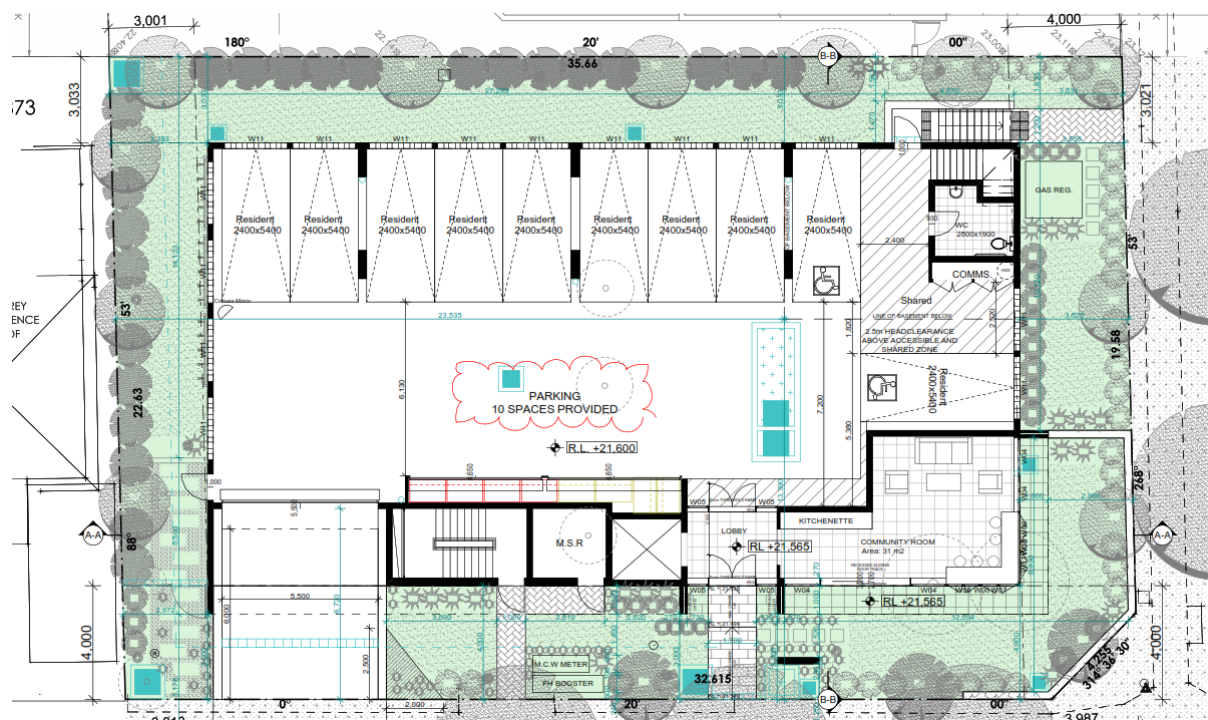


Figure 4: S4.55 – Proposed Basement

Council Comment:

- The proposed modification amends the approved location of the fire pump room and includes the provision of a fire tank.
- This modification also includes the provision of an underground OSD tank.
- It expands the basement building envelope to the full extend of the side instead of the envelope of the build form above as previously approved under the parent application.

This has not been addressed by the applicant in the information provided to Council.



Council Comment:

- The proposed modification amends the approved building envelope increasing the envelope from 444sqm to 461sqm which has not been included or justified by the applicant.
- Relocation and reconfiguration of fire exit stairs, which reduces the approved landscape and deep soil on site.

- Turning circles have not been provided to determine whether suitable circulation for parking spot 8, given the distance between the community room wall has been reduce from 7.2m to 5.2m.
- Increase in GFA of the community room.
 - This is an increase slightly in GFA which impedes the FSR across the site.
 - Deletion of the kitchenette.
- Communal open spaces have decreased from the approved 63sqm to 48sqm on the ground floor.
- Alteration to approved setbacks which includes the following:
 - Approved setback of 2.9m to the community room from Mill St.
 - Modification now proposes 3.9m to community room from Mill St.
 - Approved side setback of 3.825m to building envelope (carpark) from Mill St.
 - Modification now proposes a side setback of 4.37m to the building envelope (carpark) from Mill St.

This has not been addressed by the applicant in the information provided to Council.

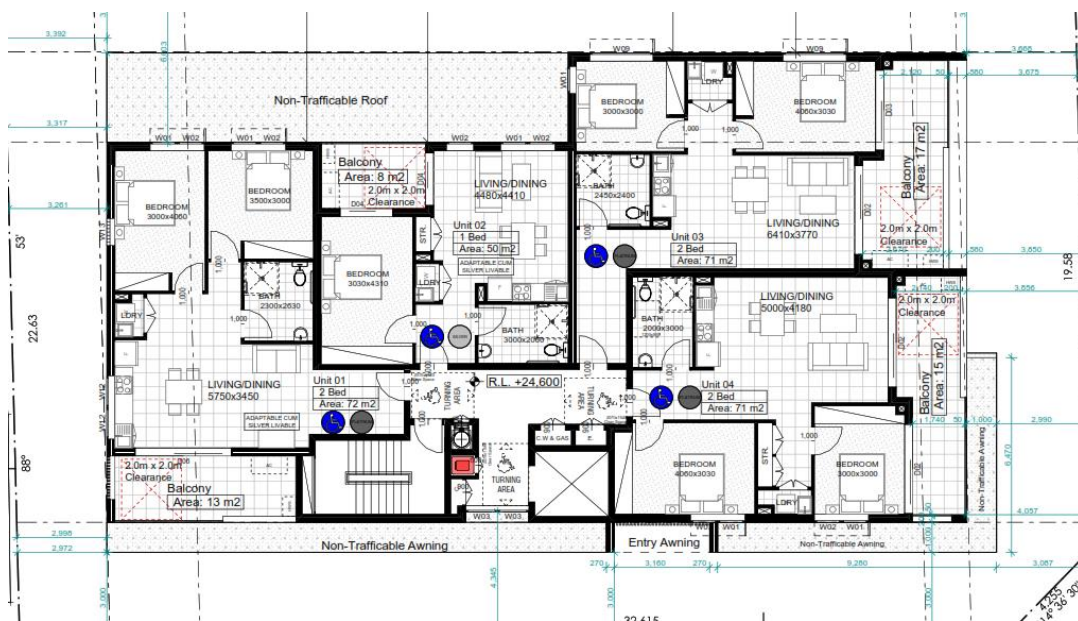


Figure 7: Floor Plan L1

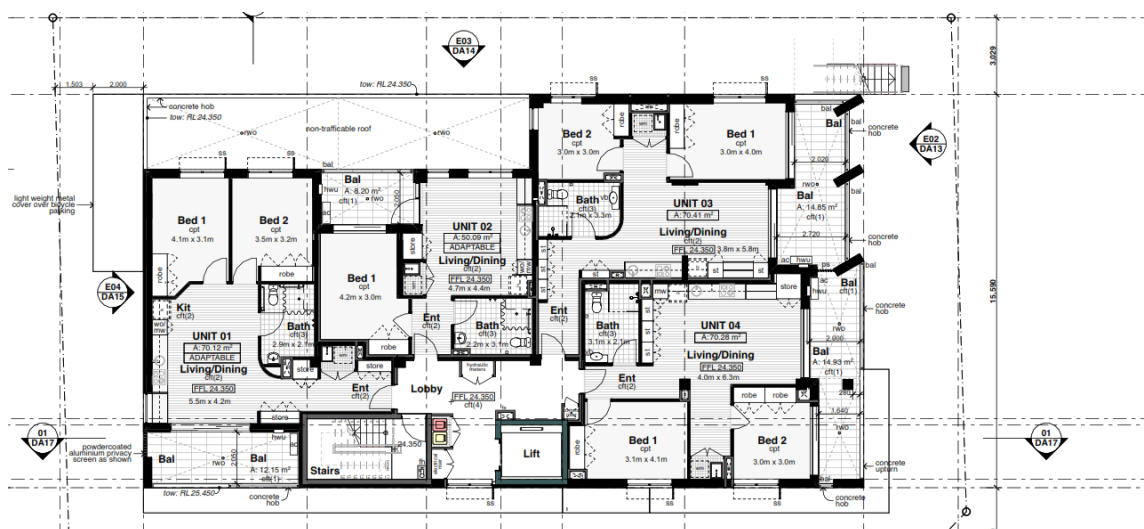


Figure 8: Proposed S4.55 - Floor Plan L1 - Revision 3

Council Comment:

- The proposed modification amends the approved Unit GFA:

- Unit 1 has an approved GFA of 72sqm and is now proposed as 71sqm.
- Unit 3 has an approved GFA of 71 sqm and now is proposed as 70sqm.
- Unit 4 has an approved GFA of 71sqm and now is proposed as 70sqm.
- The modification also includes the amending of the balconies GFA:
 - Unit 1 has an approved Balcony area of 13sqm and is now proposed as 12sqm.
 - Unit 3 has an approved Balcony area of 17sqm and is now proposed as 14.85sqm
 - Unit 4 has an approved Balcony area of 15sqm and is now proposed as 14.93sqm
- Balcony widths have also altered.
- Units 3 and 4 are no longer listed as Adaptable units.
- The applicant states there is an increase in storage, when there is a reduction in storage for the following unit:
 - Units 2 – approved with 9m³ of storage now exhibits 4.4m³.

This has not been addressed by the applicant in the information provided to Council.

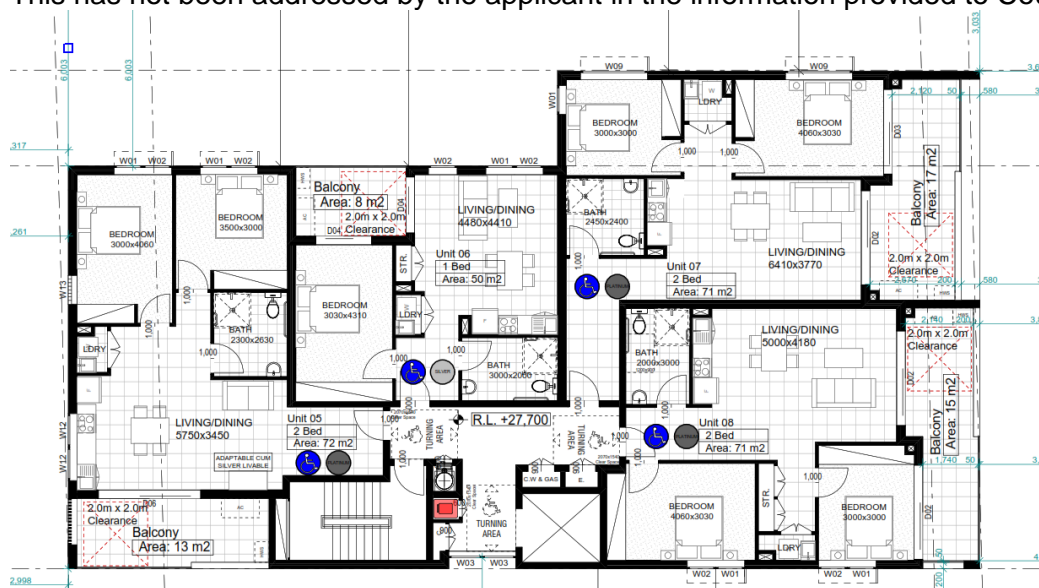


Figure 9: Approved Floor Plan L2 - Revision 3

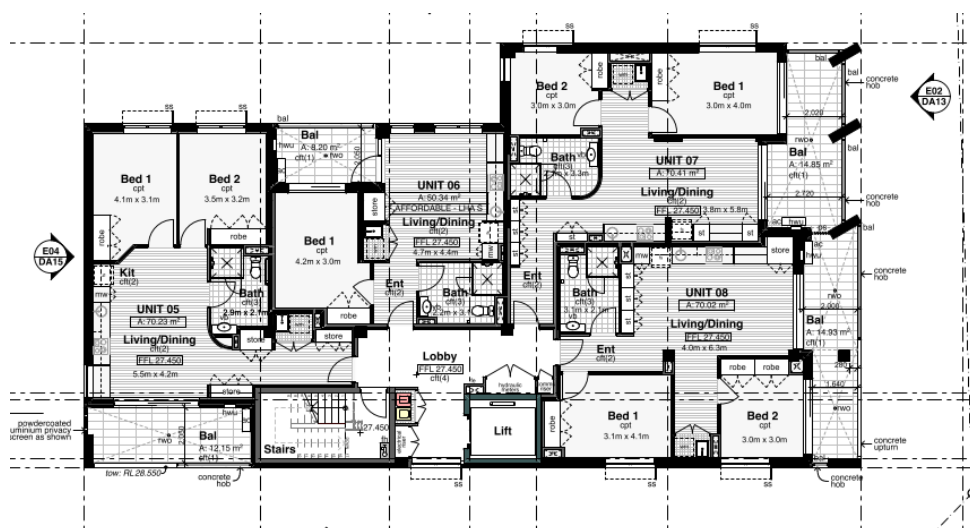


Figure 10: Proposed S4.55 Floor Plan L2 - Revision 3

Council Comment:

- The proposed modification amends the approved Unit GFA:
 - Unit 5 has an approved GFA of 72sqm and is now proposed as 71sqm.

- Unit 7 has an approved GFA of 71 sqm and now is proposed as 70sqm.
- Unit 8 has an approved GFA of 71sqm and now is proposed as 70sqm.
- The modification also includes the amending of the balconies GFA:
 - Unit 5 has an approved Balcony area of 13sqm and is now proposed as 12sqm.
 - Unit 7 has an approved Balcony area of 17sqm and is now proposed as 14.85sqm
 - Unit 8 has an approved Balcony area of 15sqm and is now proposed as 14.93sqm
- Balcony widths have also altered.
- Units 7 and 8 are no longer listed as Adaptable units.
- The applicant states there is an increase in storage, when there is a reduction in storage for the following unit:
 - Units 6 – approved with 9m³ of storage now exhibits 4.4m³ of storage. This is noncompliant with the ADG.

This has not been addressed by the applicant in the information provided to Council.

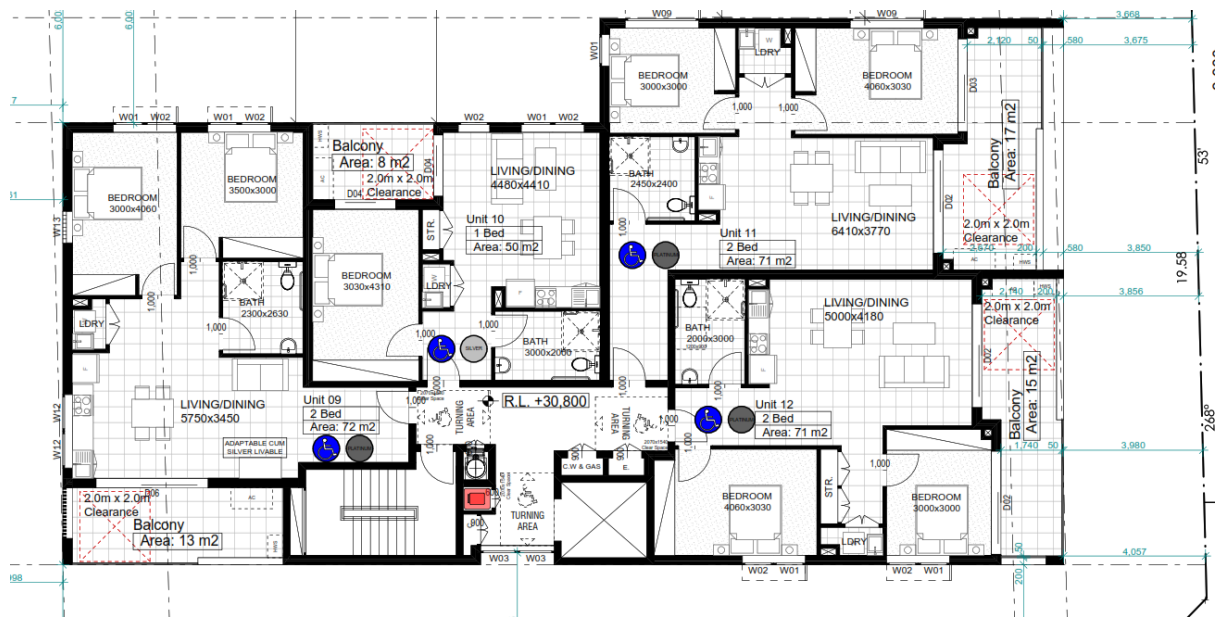


Figure 11: Approved Floor Plan L3

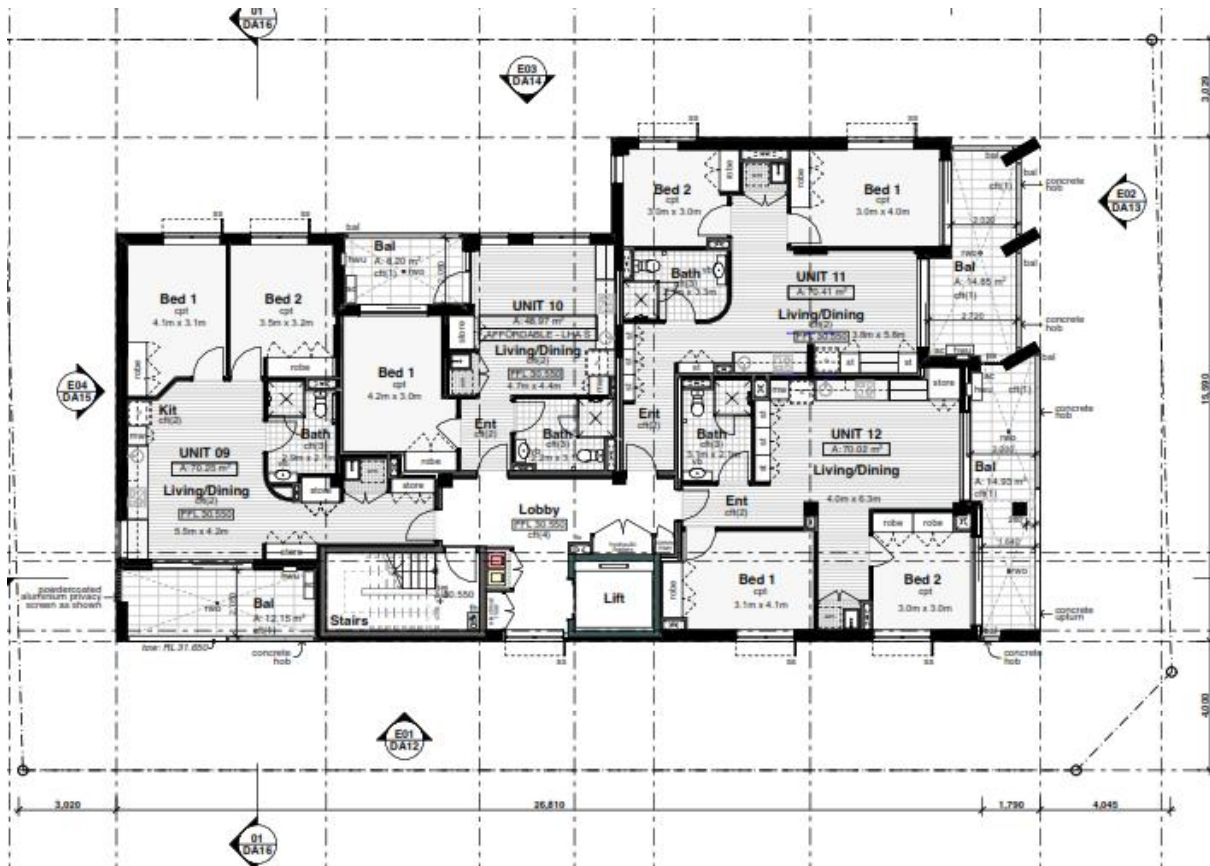


Figure 12: Proposed S4.55 Floor Plan L3 – Revision 3

Council Comment:

- The proposed modification amends the approved Unit GFA:
 - Unit 9 has an approved GFA of 72sqm and is now proposed as 71sqm.
 - Unit 10 has an approved GFA of 50sqm and now is proposed at 48.97sqm, this is now non-compliant with the ADG to be classified as a 1 Bedroom apartment, it should be considered as a studio.
 - Unit 11 has an approved GFA of 71 sqm and now is proposed as 70sqm.
 - Unit 12 has an approved GFA of 71sqm and now is proposed as 70sqm.
- The modification also includes the amending of the balconies GFA:
 - Unit 9 has an approved Balcony area of 13sqm and is now proposed as 12sqm.
 - Unit 11 has an approved Balcony area of 17sqm and is now proposed as 14.85sqm
 - Unit 12 has an approved Balcony area of 15sqm and is now proposed as 14.93sqm
- Balcony widths have also altered.
- Units 11 and 12 are no longer listed as Adaptable units.
- The applicant states there is an increase in storage, when there is a reduction in storage for the following unit:
 - Units 10 – approved with 9m³ of storage now exhibits 4.4m³ of storage. This is noncompliant with the ADG.

This has not been addressed by the applicant in the information provided to Council.

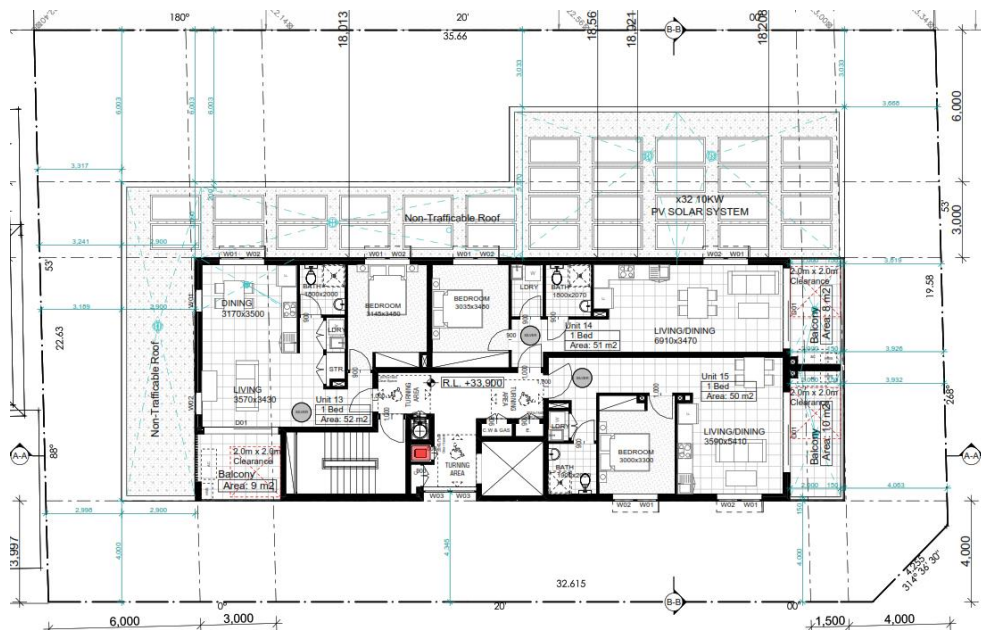


Figure 13: Approved Floor Plan L4

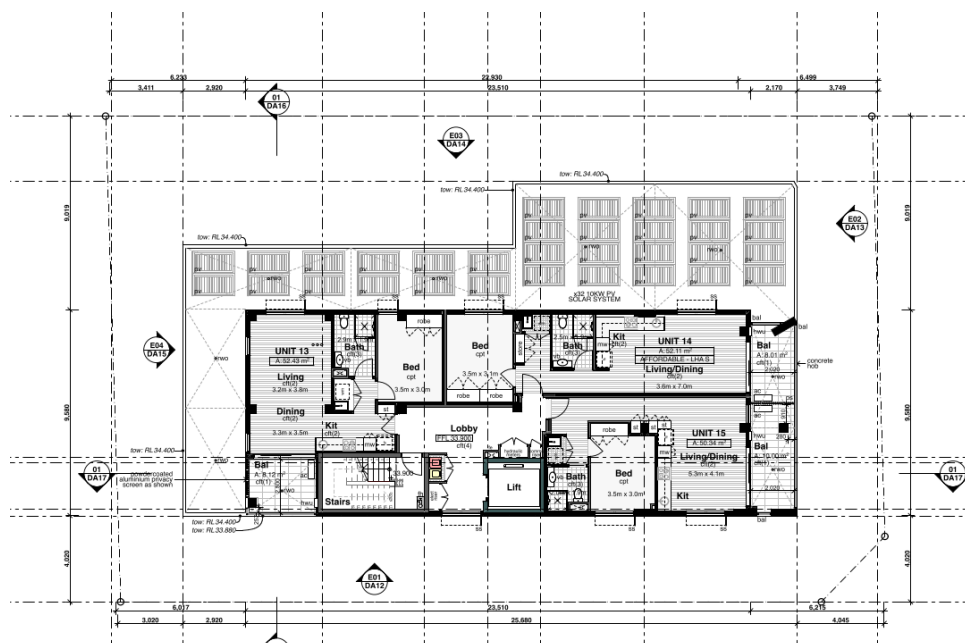


Figure 14: Proposed S4.55 Floor Plan L4 – Revision 3

Council Comment:

- The proposed modification amends the approved Units GFA:
 - Unit 13 approved GFA of 52sqm and is now 52.43sqm,
 - Unit 14 approved GFA of 51sqm and is now 52.11sqm,
 - Unit 15 approved GFA of 50sqm and is now 50.34sqm,
 - This is an increase slightly in GFA which impedes the FSR across the site.
- The modification also includes the amending of the balconies GFA:
 - Unit 13 has an approved Balcony area of 9sqm and is now proposed as 8sqm.
- Balcony widths have also altered.
- The applicant states there is an increase in storage, when there is a reduction in storage for the following unit:
 - Unit 13—now exhibits 2.9m³ of storage. This is noncompliant with the ADG.
 - Unit 15 now exhibits 4.7m³ of storage. This is noncompliant with the ADG.

The floor plan illustrates the layout of the 1st floor, featuring three residential units and a central common area. The overall dimensions are 23.510m in width and 9.905m in depth. The plan includes the following details:

- Unit 16:** Located on the left, it includes a Living area (3.20m x 3.80m), Dining area (3.30m x 3.50m), Kitchen (3.00m x 3.00m), and a Bed room (3.50m x 3.50m). It also features a Bath, a Balcony (3.00m x 3.00m), and a Staircase.
- Unit 17:** Located in the top right, it includes a Living area (3.80m x 7.00m), Dining area (3.80m x 7.00m), Kitchen (3.00m x 3.00m), and a Bed room (3.50m x 3.50m). It also features a Bath, a Balcony (3.00m x 3.00m), and a Staircase.
- Unit 18:** Located in the bottom right, it includes a Living area (3.30m x 4.10m), Dining area (3.30m x 4.10m), Kitchen (3.00m x 3.00m), and a Bed room (3.50m x 3.50m). It also features a Bath, a Balcony (3.00m x 3.00m), and a Staircase.
- Common Areas:** A central Lobby (37.000 sqm) contains a Lift and a Staircase. There are also shared Bathrooms and Balconies.
- Structural Elements:** The plan shows walls, doors, windows, and stairs. A note indicates that the structural columns are shown as dashed lines.
- Data Points:** Various data points are marked with arrows: E01 (DAT1), E02 (DAT1), E03 (DAT1), E04 (DAT1), and E05 (DAT1).

Council Comment:

- 17

- Balcony widths have also altered.
- The applicant states there is an increase in storage, when there is a reduction in storage for the following unit:
 - Unit 16 now exhibits 2.9m³ of storage. This is noncompliant with the ADG.
 - Unit 18 now exhibits 4.7m³ of storage. This is noncompliant with the ADG.

This has not been addressed by the applicant in the information provided to Council.



Figure 17: Approved Floor Plan L6

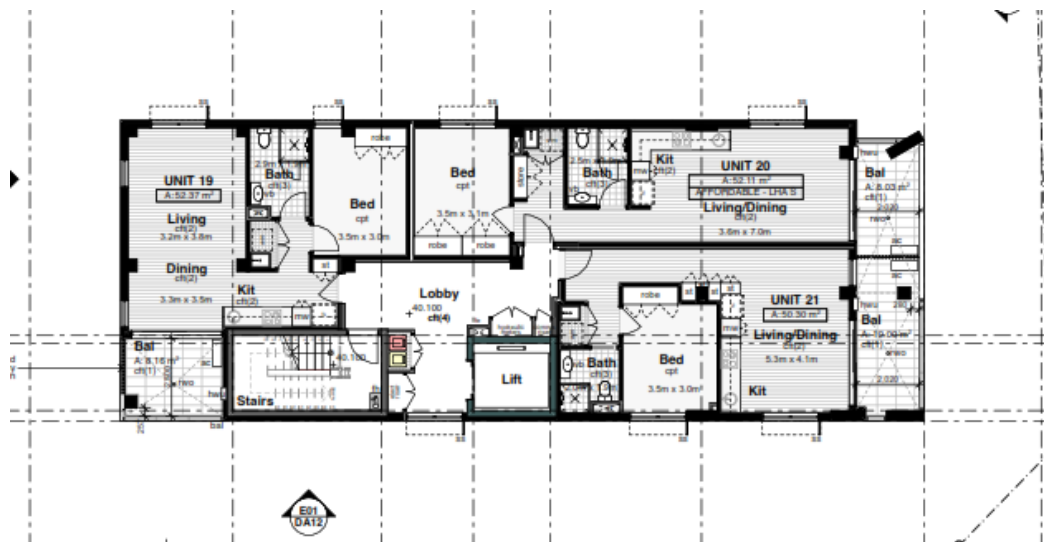
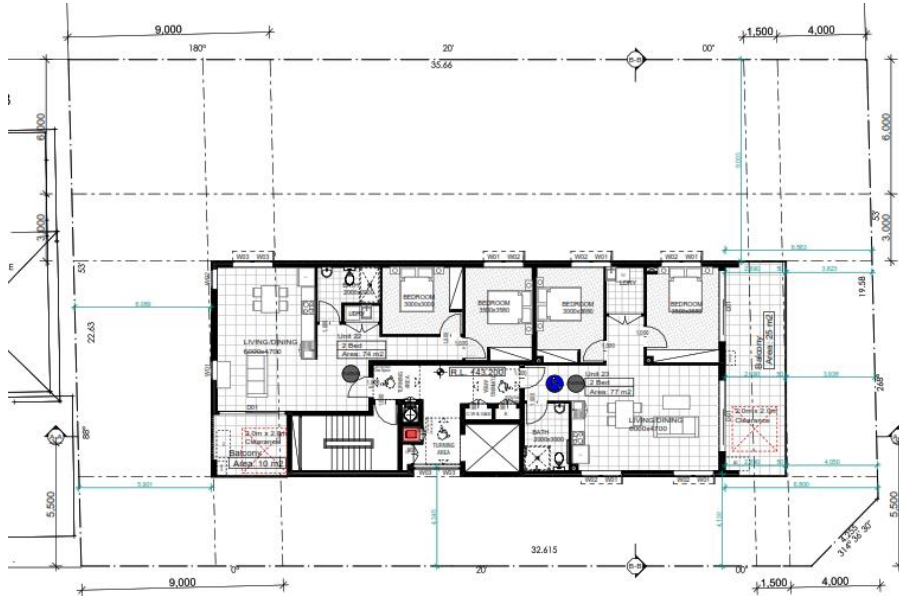


Figure 18: Proposed S4.55- Floor Plan L6 – Revision 3

Council Comment:

- The proposed modification amends the approved Units GFA:
 - Unit 19 approved GFA of 52sqm and is now 52.42sqm,
 - Unit 20 approved GFA of 51sqm and is now 52.11sqm,
 - Unit 21 approved GFA of 50sqm and is now 50.31sqm,
 - This is an increase slightly in GFA which impedes the FSR across the site.
- The modification also includes the amending of the balconies GFA:
 - Unit 19 has an approved Balcony area of 9sqm and is now proposed as 8sqm.

- This has not been addressed by the applicant in the information provided to Council.



- The proposed modification amends the approved Units GFA:
 - Unit 22 approved GFA of 74sqm and is now 75.30sqm,
 - Unit 23 approved GFA of 77sqm and is now 82.38sqm,
 - This is an increase slightly in GFA which impedes the FSR across the site.
- The modification also includes the amending of the balconies GFA:

- Unit 22 has an approved Balcony area of 10sqm and is now proposed as 9.10sqm. This is noncompliant with the ADG.
- Unit 23 has an approved Balcony area of 25sqm and is now proposed as 17.11sqm.
- Balcony widths have also altered.

This has not been addressed by the applicant in the information provided to Council.

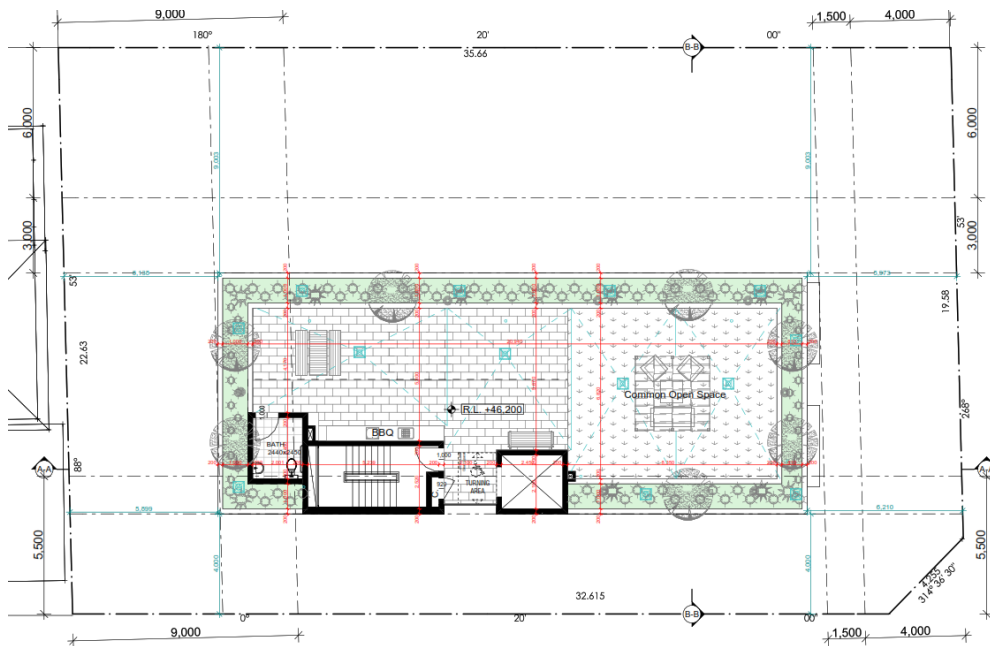


Figure 21: Approved - Communal Open Space Plan- Rooftop Terrace

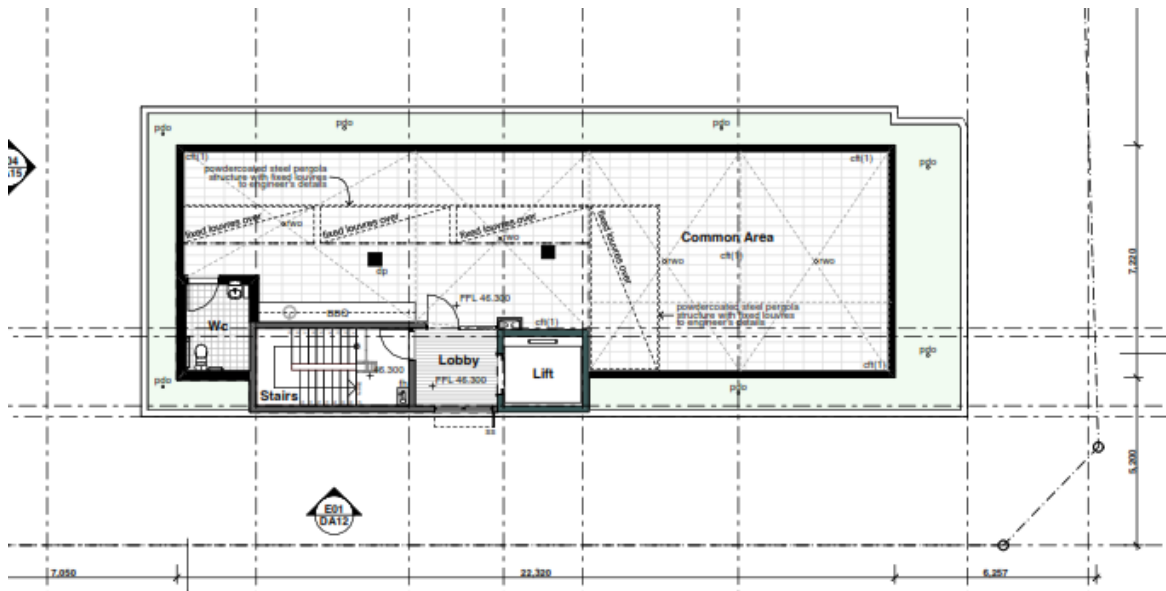


Figure 22: Proposed S4.55 -Communal Open Space Plan- Rooftop Terrace

Council Comment:

- The Communal Open space was approved at 202sqm and now exhibits an area of 194sqm on the roof top level. This is due to the inclusion of structural beams and the increase of the Lobby area.

This has not been addressed by the applicant in the information provided to Council.

In light of the above, it is evident the proposal is deficient as it does not address or encapsulate the full extent of the modifications proposed.

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 – Housing 2021 (previously Affordable Rental Housing 2009).
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- Liverpool Local Environmental Plan (LLEP) 2008; and
- Liverpool Development Control Plan (LDCP) 2008.

Development Control Plans

- Liverpool Development Control Plan 2008

Contributions Plans

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

6 Environmental Planning and Assessment Act 1979 (EP&A Act)

The application has been assessed in accordance with the requirements under the EP&A Act and the associated Regulations, in this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provision of the EP&A Act and associated Regulations.
- A site inspection was conducted, and consideration been given to the impacts of the development upon all sites whether adjoining or in the vicinity.
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made a submission and any advice given by relevant Council/Government/Authority Officers on the proposal.

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 nature of the development as approved by the regional panel. Nonetheless, the application is deficient as the applicant has not fully addressed all the proposed modifications sought under this application.

(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.

*(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 21 days from 1 June 2023 to 23 June 2023 in accordance with Council's Community Participation Plan 2022. Notwithstanding, one submission was received during the public consultation period objecting to 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 21 days from 11 June 2023 to 23 June 2023 in accordance with Council's Community Participation Plan 2022. Notwithstanding, one submission was received during the public consultation period objecting to 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.

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.

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						
3C Public Domain interface								
<p><i>Key components to consider include entries, private terraces or balconies, fences and walls, changes in level, services locations and planting.</i></p> <p><i>Design can influence safety and security, opportunities for social interaction and the identity of the development when viewed from the public domain</i></p>		<p>Insufficient Information</p> <p>Given the submitted architectural plans do not encapsulate the full extent of the proposed modification the Council is unable to assess the full extent of the proposal.</p> <p>Notwithstanding, the proposal relocates the services in the front setback from the parent approval. The services, such as the hydrant booster and water meters, have not been designed to minimize their appearance within the streetscape or to integrate sympathetically into the over built form. This has not been suitably addressed by the applicant.</p>						
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>		<p>Insufficient Information</p> <p>The parent approval provided 33% (or 262m²) of site area for communal open space.</p> <p>The proposed modification exhibits a total of 30% (242sqm)</p> <p>Whilst the proposal still complies with the minimum requirement of COS, the applicant has failed to address this variation within the submitted documentation. It is noted the COS would be retained as originally proposed, however, given the alteration to the building envelope, setbacks and ground floor reconfiguration, this has decreased the COS provided on the ground floor without sufficient justification to this modification.</p>						
3E Deep soil zones								
<p><i>Deep soil zones are to meet the following minimum requirements:</i></p> <table border="1"> <tr> <td>Site area</td><td>Minimum dimension</td><td>Deep soil Zone</td></tr> <tr> <td></td><td></td><td></td></tr> </table>		Site area	Minimum dimension	Deep soil Zone				<p>Insufficient Information</p> <p>The parent approval designated deep soil zones are along the 3m building setbacks on the periphery of the site. A total 307m² or 38%.</p>
Site area	Minimum dimension	Deep soil Zone						

Provisions			Comment
Greater than 1,500m ²	6m	7%	<p>The modification now exhibits a total of 153sqm which is 19%.</p> <p>The Statement of Environmental Effects submitted with the Modification states the Deep Soil provided is 18%, however the amended architectural plans have provided a deep soil of 22% (175.02sqm)</p> <p>The inconsistency between documentation makes it deficient for Council to assess the proposal as a whole and compare it to the parent approval.</p>
7% of the site area is to be for Deep Soil zone.			
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>			<p>Insufficient Information</p> <p>The parent approval indicated a total of 70% (17 units) would achieve a minimum of 2 hours of sunlight at mid-winter. Furthermore, it states 100% (23) units' private open space would achieve a minimum of 2 hours direct sunlight at mid-winter.</p> <p>The modification does not provide solar access diagrams for the balconies, given that numerous balconies have reduced the size from the parent approval, no justification has been provided to demonstrate if the POS will still achieve the suitable solar access. Furthermore, given the implementation of structural elements on the balconies this reduces solar access onto these units given they are situated on an angle, and in this regard the application fails to provide sufficient documentation to allow full and people assessment.</p>
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 balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>			<p>Insufficient Information</p> <p>The parent approval plans (Cross Ventilation Diagrams – dwg 4006) indicate that 100% of apartments achieve the cross-ventilation requirement.</p> <p>The modification provides a plan which indicates that the design now exhibits only 86% (20 units) achieve suitable cross ventilation.</p> <p>Units 15,18 and 12 appear to not sufficient demonstrate cross ventilation, which decrease the number of units cross ventilated from 86% to 73% (17 units). Whilst the units still comply with the reduction in cross ventilation, the applicant</p>

Provisions	Comment										
	fails to address this as part of the modification application.										
4D Apartment Size and Layout											
<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment Type</th><th>Minimum Internal Area</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>35m²</td></tr> <tr> <td>1 bedroom</td><td>50m²</td></tr> <tr> <td>2 bedrooms</td><td>70m²</td></tr> <tr> <td>3 bedrooms</td><td>90m²</td></tr> </tbody> </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 bedrooms	70m ²	3 bedrooms	90m ²	<p>Insufficient Information</p> <p>The parent application granted approval for 23 units; the modification now includes the provision of studio as Unit 10 has decreased its GFA from 50sqm to 48.97sqm which falls under the required minimum area of 1-bedroom apartments.</p> <p>The applicant has not provided justification for this change. This change is not supported given the shortfall of affordable 1-bedroom units within the Liverpool LGA.</p> <p>Furthermore, all apartments have their GFA altered, be it by reduction or increase. This has not been addressed or requested by the applicant as this differs from the original approval. i.e Unit 10 has been decreased from a 1 bedroom unit to a studio, this has not been discussed by the applicant or addressed within any documentation submitted to Council.</p> <p>Notwithstanding, this demonstrates the application is deficient and has a lack of information.</p>
Apartment Type	Minimum Internal Area										
Studio	35m ²										
1 bedroom	50m ²										
2 bedrooms	70m ²										
3 bedrooms	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>Windows are visible and within 8m from the furthest point within habitable rooms</p>										
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	<p>Complies</p> <p>Living areas and bedrooms are all located on the external face of the building. The maximum habitable room depth from windows is 8m.</p>										
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window											
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	<p>Complies</p> <p>Minimum areas and widths for habitable rooms are provided or exceeded. All bedrooms allow a minimum length of 1.5m for robes.</p>										
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)											
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1-bedroom apartments - 4m for 2- and 3-bedroom apartments 	<p>Not supported.</p> <p>Given the internal reconfiguration of units, Units 1, 2, 5, 6, 9 & 10 do not have a functional layout to delineate between living/kitchen or dining. The reconfiguration of these units limits the functionality and liveability of these units as does not allow space for the provision of a dining table, couch or tv unit.</p>										
4E Private Open Space and Balconies											

Provisions			Comment
All apartments are required to have primary balconies as follows:			Does not comply. Unit 22 does not comply with the minimum requirements of 10sqm as it exhibits a balcony size of 9.10sqm. No justification has been provided for this noncompliance, furthermore, the parent approval granted a balcony size of 10sqm. A review of the amended plans found predominately all balconies alter their area size, be it by reduction or increase. Changes to the balconies were not indicated or addressed as part of the modification application. Notwithstanding, this demonstrates the application is deficient and has a lack of information.
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.			
4G Storage			
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:			Does not comply. Whilst some apartments have increased in storage, others have decreased. The applicant has failed to address this to support the decreased storage area across numerous apartments. The modification application indicates an increase to storage is proposed; however, it is noted that the number of storage proposed within units is decreasing from the initial approval. This includes the following units: <ul style="list-style-type: none">- Unit 2- Unit 6- Unit 10- Unit 13- Unit 15- Unit 16- Unit 18 This has not been addressed within the submitted documentation. This demonstrates the application is deficient and has a lack of information to allow Council to undertake a sufficient assessment.
Dwelling Type	Storage Size Volume		
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.			
4N Roof Design			
Roof treatments are integrated into the building design and positively respond to the street.			Complies The proposal includes a modification for the provision of a lift overrun. This is considered suitable in terms of the context of the development and the overall existing
Opportunities to use roof space for residential accommodation and open space are maximised			
Roof design incorporates sustainability features.			

Provisions	Comment
	design and integration of the building design and materials.
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Insufficient Information The parent approval stated 100% of the total apartments incorporate the Livable Housing design. A breakdown of adaptable design levels are as follows: Platinum: 11 Silver: 12 The modification now exhibits only Unit 1 and Unit 2 as adaptable, a reduction of 21 units. No justification was provided in reducing the adaptable units yield from 100% to 8.6%.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	

(b) 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, however there are inconsistencies with the plans provided and a lack of information provided accompanies the application. Therefore, the proposed modifications do not meet the requirements under the new SEPP and does not demonstrate full compliance with the relevant provisions, as detailed below.

Furthermore, the applicant has not provided an assessment against the Housing SEPP to allow the Council to assess it against its parent approval.

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	Division applies to residential development if: - 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	The development is permitted with consent under LLEP 2008, and the site does not contain a heritage item. All units are nominated for affordable housing. The subject site is within an accessible area.	Complies

<p>17 Floor space Ratio</p>	<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>AH is the percentage of the gross floor area of the building that is used for affordable housing.</p> $Y = AH \div 100$ <p>(2) The additional floor space ratio must be used for the purposes of affordable housing.</p>	<p>The Liverpool LEP allows a FSR of 1.5:1.</p> <p>The site area is 802sqm.</p> <p>The proposed amended GFA of total affordable housing units is 1674sqm.</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.</p> $= 1674/802$ $= \text{Modified FSR of } 2.1:1$ <p>This is an increase from the approved FSR of 1.99:1. No justification was provided in relation to the increase of FSR from the alteration of the building envelope, internal layout reconfiguration and alike.</p> <p>Therefore, the proposal is entitled to a maximum floor space ratio of 2:1. The proposal exhibits an FSR of 2.1:1. Which exceeds the maximum FSR prescribed to the site.</p> <p>Furthermore, documentation, (Architectural Plans) provided by the applicant indicates a proposed FSR of 2.376:1 or 3,051.01sqm, which is inconsistent with the plans provided and the applicants documents and calculations.</p>	<p>Insufficient Information</p>
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<p>18 non-discretionary</p>	<p>The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies –</p>
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development standards			
	2(a) Site area Site area – 450sqm	Site area – 806sqm	Complies
	2(c) Landscaped area Landscaped - 30% site	<p>The parent approval provided an area of 352sqm (44%).</p> <p>The amended architectural plans state the proposed landscape is 325.05sqm (40%). However, the council's review illustrates the total landscape area is 250qmq (31%) as the applicant has included areas in which no landscaping is provided on the amended landscape plans.</p>	Insufficient Information
	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	<p>The parent approval designated deep soil zones are along the 3m building setbacks on the periphery of the site. A total 307m² or 38%.</p> <p>The modification now exhibits a total of 153sqm which is 19%.</p> <p>The Statement of Environmental Effects submitted with the Modification states the Deep Soil provided is 18%, however the amended architectural plans have provided a deep soil of 22% (175.02sqm)</p> <p>The inconsistency between documentation makes it deficient for Council to assess the proposal as a whole and compare to the parent approval.</p>	Insufficient Information
	2(e) Solar access Living rooms and POS for 70% dwellings receive 3 hours sunlight between 9am and 3pm mid-winter.	The parent approval indicated a total of 70% (17 units) would achieve a minimum of 2 hours of sunlight at mid-winter. Furthermore, it states 100% (23) units' private open space would achieve a minimum of 2 hours direct sunlight at mid-winter.	Insufficient Information

		<p>The modification does not provide solar access diagrams for the balconies, given that numerous balconies have reduced the size from the parent approval no justification has been provided to demonstrate the POS still achieves the required solar access. Furthermore, given the implementation of structural elements on the balconies this reduces solar access onto these units given they are situated on an angle.</p>	
	<p>2(f) Parking (social housing provider) 0.4 parking spaces- 1 bedroom dwelling 0.5 parking spaces- 2- bedroom dwelling 1. parking space- 3 or more bedrooms dwelling</p>	<p>The parent approval provided 10 parking spaces were provided for residential units. No visitor parking was provided,</p> <p>The modification does not alter this, however, now provides 14 bicycle spaces as per Councils DCP requirements.</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. The proposed modification includes changes to the internal layout which impact on the minimum area and amenity requirements as specified in the ADG. As specified, many of these impacts have not been indicated in the modification application or addressed by the applicant.</p>	Insufficient Information
	<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 (ii) for each dwelling containing 2 bedrooms—90m², or</p>	<p>The proposed modification identifies Unit 10 no longer complies with requirements of the ADG as per 2(h).</p>	Insufficient Information

	(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 not consistent as assessed against Apartment Design Guideline requirements which detail higher quality design criteria.	Insufficient Information
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.	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

	<p>(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.</p> <p>(3) In this section— affordable housing component, in relation to development to which this Division applies, means the dwellings used for the purposes of affordable housing in accordance with section 16(1)(b).</p>		
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(c) 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.

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

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

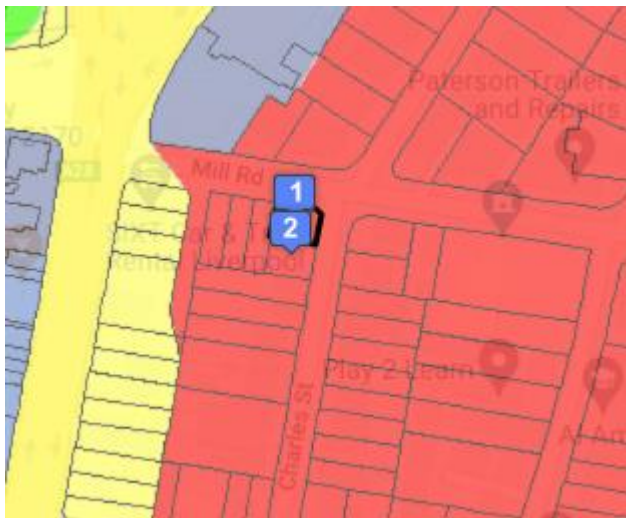


Figure 23: Zoning Map (Source – Liverpool eplanning)

(ii) 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.

(iii) 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.*

Due to the inconsistencies and lack of information submitted with the application and during the request for information, the proposal will not meet the above objectives. Specifically, the proposal as amended reduces the

The proposed development would continue to meet and satisfy the above-stated objectives. Specifically, the building will provide a total of 23 dwellings with a mix of units, affordable housing, however the reference to adaptable units has been reduced significance in the modification application and has not been adequately discussed or raised as part of the modification application. In this regard, the lack of information is contributing to an incomplete and deficient application.

(iv) 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 4.3 of Height of Buildings	Maximum height of 24m	<p>Considered acceptable –</p> <p>The proposal approved maximum building height of 27.796m (to the top of the roof top solar panels (49.078m AHD). The greatest variation is therefore equivalent to 3.796m or 15.8%.</p> <p>The modification seeks to increase this due to the inclusion of a lift overrun. This increased the height to 29.516m (50.520). This is deemed acceptable given the increase is minor and will not contribute to additonla negative impacts on the locality.</p>
Clause 4.4 Floor Space Ratio	Maximum FSR of 1.5:1 (plus bonus FSR of 0.50:1 under ARH SEPP for total of 2.0:1)	<p>Does not Comply.</p> <p>The parent application approved an FSR of 1.9:1. On review of the proposed modification, increases the FSR over the parent approval and the bonus FSR applicable to the site.</p> <p>FSR = 1674/802 = Complying FSR of 2.1:1</p> <p>The applicant has not provided justification for this increase of FSR. Furthermore, the architectural plans reference an incorrect FSR and GFA contributing to a deficient and incomplete modification application.</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 27.79m equating to a 15.8% variation. The application again proposes an additional height increase to the development to 29.5m equating to a 22.9% variation to building height to accommodate the lift overrun and servicing.	
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Complies Conditions of consent on the parent application to ensure this is met.
7.7 Acid sulfate soils	Class 1 2, 3 4 or 5	N/A
Clause 7.14 Minimum Building Street Frontage	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:	Complies Street frontage exceeds 25m.

	- any residential flat building.	
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(v) Clause 4.6 - Exceptions to development standards

(Variation to Clause 4.3 - Height of Buildings)

Clause 4.3 of the Liverpool Local Environmental Plan (LLEP) 2008 states.

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

The subject proposal seeks a variation to the maximum height of buildings contained in LLEP 2008.

The maximum height of buildings is to be 24m. The subject development is applying for an exceedance of building height. The maximum height proposed as part of this modified application is 29.5m to the top of the lift overrun. This equates to a variation of 5.5m which is expressed in a percentage as 22.9% to the development standard.

An approval for variation was granted as part of the parent application. The majority of the proposed development as modified complies with the exception of the lift overrun, rooftop open space and a small portion of the top of the residential component. The detail of the non-compliance is shown in the below figure.

Consequently, the applicant has not 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

Council Comment

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 5.5m, 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 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 rooftop and would not been seen as an excessive structure on the building from the streetscape.
- Notwithstanding the height exceedance the proposed development is not considered to create any detrimental overshadowing or privacy impacts on the adjoining developments.

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 appropriate for the area and provide for the housing needs for the community.

Based on 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. 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

Council Comment

It is also considered 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 servicing can be provided to the future occupants of the buildings. 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 contribute to the breach in floor space ratio as identified under this modification and is consistent with this objective. The breach in building height is unlikely to impact on the urban form.

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.

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.*

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.

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

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

6.3 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 4: Development in the Liverpool City Center

Development Controls	Required	Provided	Complies
4.2 Controls for Building Form			
4.2.7 Street Alignments and Street Setbacks			
<div>1. Buildings are to comply with the front setbacks as set out in Figures 4-12.</div> <div>2. Upper level frontages to a lane/serviceway must be <u>setback</u> 6 metres from the centre line of the lane/serviceway.</div> <div>3. Construct perimeter block buildings and podiums, which comply with the <u>building</u> envelope requirement, to the street and side boundaries (<u>0m setback</u>).</div> <div>4. Buildings with a boundary to the Hume Highway have a minimum <u>setback</u> of <u>8m</u>.</div> <div>5. Buildings on the southern side of streets identified in Figure 4-10 have minimum front setbacks as follows, in order to maximise solar access:</div> <div>1. Elizabeth Street between Bathurst Street and Bigge Street - <u>6m</u>.</div> <div>2. Railway Street, Scott Street and Memorial Avenue - <u>3m</u>.</div> <div>3. Parts of George, Bathurst, Terminus and Bigge Streets – <u>2.5m</u>.</div>	<div><div>○ Approved front setback from Charles St 4m.</div><div>○ Modification</div></div> <div>The proposal is required to have a 4.5m landscape setback as per Figure 4.10 of the LDCP. The proposed relocation of the hydrant booster and water meters impedes this landscape setback and further reduces the landscaping requirements within the front setback and to the public domain.</div> <div>This has not been addressed by the applicant in the modification application.</div>	Insufficient Information	
4.2.8 – Side and rear boundary setbacks			
<div>1. All residential and commercial buildings must comply with the separation distances in <u>SEPP</u> 65 and the ADG unless otherwise agreed with <u>Council</u> in an approved concept development application.</div> <div>2. For existing buildings that do not comply with the <u>setback</u> requirements identified in control 1 above, appropriate screening must be installed should the <u>building</u> be refurbished or converted.</div> <div>3. Buildings with a rear or <u>side boundary</u> to the rail corridor are to provide a minimum <u>setback</u> of <u>12m</u>. The <u>setback</u> is to be appropriately landscaped.</div> <div>4. Buildings on land zoned B6 – Enterprise Corridor and B1 – Neighbourhood Centre</div>	<div><div>○ Approved setback of 2.9m to the community room from Mills St.</div><div>○ Modification now proposes 3.9m side setback to community room from Mills St.</div><div>○ Approved side setback of 3.825 to building envelope (carpark)from Mill St</div><div>○ Modification now proposes a side setback of 4.37m to building envelope from Mill St.</div></div>	Insufficient Information	

<p>located in the <u>Liverpool city centre</u>, to have setbacks consistent with Table 4-1 below.</p> <p>5. Construct buildings across the site facing the street and the rear boundaries rather than facing side boundaries.</p>	<ul style="list-style-type: none"> ○ Approved rear setback of 3m from the rear (Abutting 26 Mill Road) ○ Modification proposes a rear setback of 2.86m to the rear of the carpark (abutting 26 Mill Road) ○ Approved rear setback from fire stairs 1.8m. ○ Modification proposes rear setback from fire stairs of 1.64m. <p>Due to the change in the building envelope, setbacks alterations have occurred across the site. This has not been addressed by the applicant in the modification application.</p>	
4.2.9 – Minimum Floor to ceiling Heights		
<p>The minimum floor to ceiling heights are:</p> <ol style="list-style-type: none"> 1. Ground floor: 3.6<u>m</u>. 1. Above ground level: 2. Commercial office 3.3<u>m</u>. 3. Capable of adaptation to commercial uses 3.3<u>m</u>. 4. Residential 2.7<u>m</u>. 2. Active public uses, such as retail and restaurants 3.6<u>m</u>. 3. Car Parks: Sufficient to cater to the needs of all vehicles that will access the <u>car park</u> and, if aboveground, adaptable to another use, as above. 	<p>The proposal modifies the floor to ceiling height, however, complies with the require 2.7m height requirement.</p>	<p>Complies</p>
4.2.10 Housing Choice and Mix		
<ol style="list-style-type: none"> 1. In addition to the provisions for <u>dwelling</u> mix in the ADG, residential apartment buildings and <u>shop</u>-top housing must comply with the following apartment mix and size: <ul style="list-style-type: none"> • Studio and one bedroom units must not be less than 10% of the total mix of units within each development; • Three or more bedroom units must not be less than 10% of the total mix of units within each development; • Dual-key apartments must not exceed 10% of the total number of apartments; and • A minimum of 10% of all dwellings (or at least one <u>dwelling</u> – whichever is 	<p>The proposed development provides a housing mix of one- and two-bedroom units to accommodate a variety of residents. 12 one-bedroom units (52%) and 11 two-bedroom units (48%) are provided within the development.</p> <p>Only two adaptable units are now proposed across the whole development. No justification has been provided</p>	<p>Insufficient Information</p>

<p>greater) to be capable of adaptation for disabled or elderly residents.</p> <p>2. Adaptable dwellings must be designed in accordance with the Australian <u>Adaptable Housing</u> Standard (AS 4299-1995).</p> <p>3. Provide certification from an Accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian <u>Adaptable Housing</u> Standard (AS 4299-1995).</p> <p>4. Ensure car parking and garages allocated to adaptable dwellings comply with the requirements of the relevant Australian Standard for disabled parking spaces.</p>		<p>regarding the reduction from 23 units to two units.</p> <p>Furthermore, unit 10 no longer complies with minimum requirements under the ADG for 1 unit dwelling, it is now considered a studio given its GFA is less than the required 50sqm. No justification has been provided surrounding this.</p>	
4.2.11 Site Cover and Deep Soil Zones			
Maximum cover	<p>1. The maximum site cover for development is specified in the following table: All other zones = 50%</p> <p>2. Developments with a residential component in all zones, except the Commercial Core, must include a deep soil zone.</p> <p>3. The deep soil zone shall comprise no less than 15% of the total site area (or proportionate to the percentage of residential uses in a mixed-use development). It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.</p> <p>4. Where non-residential development results in full site coverage and there is no capacity for water infiltration, the deep soil component must be provided on structure, in accordance with the provisions of Section 2.5. In such cases, compensatory stormwater management measures must be</p>	<p>The parent approval designated deep soil zones are along the 3m building setbacks on the periphery of the site. A total 307m² or 38%.</p> <p>The modification now exhibits a total of 153sqm which is 19%.</p> <p>The Statement of Environmental Effects submitted with the Modification states the Deep Soil provided is 18%, however the amended architectural plans have provided a deep soil of 22% (175.02sqm)</p> <p>The inconsistency between documentation makes it deficient for Council to assess the proposal as a whole and compare to the parent approval.</p>	Insufficient Information

	<p>integrated within the development to minimise stormwater runoff.</p> <p>5. Where deep soil zones are provided, they must accommodate existing mature trees as well as allowing for the planting of trees/ shrubs that will grow to be mature plants.</p> <p>6. No structures, works or excavations that may restrict vegetation growth are permitted in this zone (including but not limited to car parking, hard paving, patios, decks and drying areas).</p>		
4.2.12 Public Open Space and Communal Open Space			
<p><i>Existing Public Open Space</i></p> <p>1. Ensure that at least 70% of Bigge Park, Apex Park, Pioneer Park and any other public open space in the city centre has a minimum of 3 hours of sunlight between 10am and 3pm on 21 June (Winter Solstice).</p> <p><i>New Public Open Space</i></p> <p>1. Dedicate open space to <u>Council</u>, where required, as part of an approved concept development application if the space meets the requirements of <u>Council</u> in terms of:</p> <p>A. location;</p> <p>B. aspect;</p> <p>C. accessibility;</p> <p>D. safety; and</p> <p>E. solar access. The open space must be located and designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21 June (Winter Solstice).</p> <p>2. Developments with a residential component in all zones must comply with the sections 3D Communal Public Open Space and 4F Common Circulation and Spaces, of the ADG. Consistent with the requirements of the ADG, communal open space is to be collocated with areas of deep soil, where possible.</p>		<p>The parent approval provided 33% (or 262m²) of site area for communal open space.</p> <p>The proposed modification exhibits a total of 30% (242sqm)</p> <p>Whilst the proposal still complies with the minimum requirement of COS, the applicant has failed to address this variation within the submitted documentation. It is noted the COS would be retained as originally proposed, however, given the alteration to the building envelope, setbacks and ground floor reconfiguration, this has decreased the COS provided on the ground floor without sufficient justification to this modification.</p>	Insufficient Information

3. The roof space of residential flat buildings (RFBs) and mixed-use development (including <u>shop-top</u> housing) is to be developed for the purposes of communal open space that incorporate shade structures and amenity facilities (barbecue and rooftop garden) that complement the development.		
4.2.13 Landscape Design		
<p>1. Landscaped areas are to be irrigated with recycled water.</p> <p>2. Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.</p> <p>3. Commercial and retail developments are to incorporate planting into accessible outdoor spaces.</p> <p>4. Remnant vegetation must be maintained throughout the site wherever practicable.</p> <p>5. A long-term landscape concept plan must be provided for all landscaped areas, in particular the deep soil landscape zone. The plan must outline how landscaped areas are to be maintained for the life of the development.</p> <p>6. Any new public spaces are to be designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21st June (Winter Solstice).</p>	<p>Whilst there is an amended landscape plan provided to Council, inconsistency across the amended documentation is present.</p> <p>The parent approval provided an area of 352sqm (44%).</p> <p>The amended architectural plans state the proposed landscape is 325.05sqm (40%). However, council's review illustrates the total landscape area is 250qm (31%) as the applicant has included areas in which no landscaping is provided on the amended landscape plans.</p>	Insufficient Information
4.3 Amenity		
4.3.3 Active Street Frontages & Address		
<p>Street Address</p> <p>1. Street address is defined as:</p> <ul style="list-style-type: none"> - a building that is not raised more than a weighted average of 700mm above street level, up to a maximum of 1.1m (refer to Section 3.3 Front Fences), and - contains entries, lobbies, and habitable rooms with clear glazing overlooking the street, and - excludes car parking areas. <p>2. Street address is required on ground level of all areas identified in Figure 14.</p> <p>3. Residential developments are to provide a clear street address and direct pedestrian access off the primary street front, and allow for residents to overlook all surrounding streets.</p>	<p>The proposed development has oriented its main building entry and lobby towards the Charles Street frontage.</p> <p>Horizontal and vertical design elements as well as various landscaping species have been implemented to further activate the existing street frontage.</p> <p>Pedestrian access to the site from Charles Street is clearly delineated through paving. The windows of ground floor and upper-level dwellings have</p>	Yes

4. Provide multiple entrances for large developments including an entrance on each street frontage. 5. Provide direct 'front door' access to ground floor residential units. 6. Residential buildings are to provide not less than 65% of the lot width as street address	been situated to enhance passive surveillance of the public domain on Charles Street.	
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Overall, the proposal is considered to be inconsistent with the key controls outlined in the LDCP 2008.

6.4 Section 4.15(1)(a) (iiia) - Planning Agreements

There are no Planning Agreements which apply to the development.

6.5 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.

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

Built Environment

It is considered that the proposed development will have moderate impact on the built environment given that it is located within the R4 Zone which is zoned for high density residential development. Whilst it may be considered to be consistent with the current and future character of the locality, the redesign does not comply with multiple areas of the ADG, LLEP and LDCP given the deficiency in the information provided to Council to undertake a succinct assessment.

Social Impacts and Economic Impacts

Whilst the parent approval is likely to result in a positive social impact within the locality. The reduction in communal open space locations throughout the site reduces the promotion of social interaction among building occupants. Furthermore, the reduction of adaptable units from 100% to 8.6% has not been justified, nor has the ill fitted internal layout reconfiguration which limits the ability for over units 1, 2, 5, 6, 9 & 10 to function appropriately in terms of being able to install a dining table, tv and seating area.

Whilst it can be argued, the proposal would result in an increase in affordable housing, the proposed modification has not been suitably supported on environmental grounds and the impact the modification would have on future building occupants.

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

The site is considered to be suitable for the development. However, the proposal is not compliant with the provisions of LLEP 2008 and LDCP 2008 as outlined in this report. The identified modifications have been considered and are not supported or subject to insufficient information being submitted to allow a full and proper assessment. In this regard, the modifications to the development as proposed in this application is not considered to

adequately satisfy the relevant controls for site.

6.8 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 period of 21 days from 1 June 2023 to 23 June 2023. One submission was received objecting to the proposal.

The submission raised concerns in relation to the provision of social housing. As the development was previously approved.

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

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

Nonetheless, the modifications are not suitable supportable, given the deficiency in documentation for Council to undertake a succinct and thorough assessment. Therefore, the proposed Modification is not in the public interest.

7 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 unsatisfactory.
- 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.
- Insufficient information has been submitted with the proposed development that demonstrates consistency with the provisions of State Environmental Planning Policy(Housing) 2021 pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
- Insufficient information has been submitted with the proposed development that demonstrates consistency with the provisions of State Environmental Planning Policy No - 65 Design Quality of Residential Apartment Development pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979. The proposed development does not achieve satisfactory compliance with SEPP 65 and the ADG pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
- Inconsistent and insufficient information has been submitted to allow Council to carry out a full assessment of the application. In this regard, an inadequate response has been received to Council's requests for additional information pursuant to Section 4.15(1)(a)(iv), 4.15(1)(b) and 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
- It is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar non-compliant development in the locality and therefore the subject site is not considered suitable for the proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979

Based on the assessment of the application, it is recommended that application DA-50/2021/A be refused.

8 RECOMMENDATION

It is recommended DA-50/2021/A seeking Council consent for the modification of DA-50/2021/A, be refused.

ATTACHMENTS

- a) Architectural Plan
- b) Landscape Plans
- c) Structural Letter
- d) Architectural Design Statement
- e) S4.55 Schedule of Changes
- f) CIV - Cost Estimate
- g) DA- 50/2021 Planning Report