

## COUNCIL ASSESSMENT REPORT

### SYDNEY WESTERN CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSWC-364 (DA-489/2023)
<b>PROPOSAL</b>	<p><i>The development was submitted:</i></p> <p>Demolition of all existing structures, tree removal and construction of a new twelve (12) storey residential flat building consisting of forty-three (43) residential units and two (2) levels of basement car parking. The application is for affordable housing under the State Environmental Planning Policy (Housing) 2021.</p> <p><i>Following RFI, the proposal was amended to 40 residential flat buildings.</i></p>
<b>ADDRESS</b>	LOT A DP 399280, LOT 1 DP 225465 62 & 62A Copeland Street Liverpool
<b>APPLICANT</b>	Chanine Design Pty Ltd
<b>OWNER</b>	VFC Projects Pty Ltd
<b>DA LODGEMENT DATE</b>	12 September 2023
<b>APPLICATION TYPE</b>	Regionally Significant Development
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 5, Schedule 6 of the State <i>Environmental Planning Policy (Planning Systems) 2021</i> : Affordable Housing
<b>CIV</b>	<p>\$12,026,484.55 (excluding GST)</p> <p>\$6,710,065.45 (excluding GST) for the Affordable Housing Component</p>
<b>CLAUSE 4.6 REQUESTS</b>	<p>Clause 4.3 – Height of Buildings of the Liverpool Local Environmental Plan 2008</p> <p>6.9% Variation – 37.415m building height where the maximum is 35m.</p>
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>State <i>Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i></li> <li>State <i>Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>State <i>Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> </ul>

	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Housing) 2021</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems)</i></li> <li>• <i>State Environmental Planning Policy (Sustainable Buildings) 2022 (reviewed under the BASIX SEPP)</i></li> <li>• <i>Liverpool Local Environmental Plan 2008</i></li> <li>• <i>Liverpool Development Control Plan 2008</i></li> </ul>
<b>TOTAL &amp; SUBMISSIONS ISSUES SUBMISSIONS</b>	<ul style="list-style-type: none"> <li>• Clause 4.6 Variation for Height of Buildings</li> <li>• Plans &amp; SEE suggests Affordable Housing GFA is under 50%, not eligible for 0.5:1 bonus FSR. However, the proposal is in the 20% bracket allowing a provision for 0.45:1 additional GFA. Refer to the body for the report.</li> </ul>
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<p>Architectural Plans  Landscape Plan  ADG Assessment Report  Clause 4.6 Report  Design Verification Statement  Material &amp; Finishes Schedule  SEPP 65 Assessment Report  Survey Plan  Access Assessment Report  Acoustic Assessment Report  Arborist Assessment Report  Contamination Assessment Report  Traffic and Parking Assessment Report  Waste Management Plan  Stormwater Concept Plans  NCC Report</p>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Yes
<b>RECOMMENDATION</b>	Approval with Conditions of Consent
<b>DRAFT CONDITIONS TO APPLICANT</b>	NO
<b>SCHEDULED MEETING DATE</b>	19 November 2024

<b>PLAN VERSION</b>	Revision P2
<b>PREPARED BY</b>	Nabil Alaeddine
<b>DATE OF REPORT</b>	12 November 2024

## 1 EXECUTIVE SUMMARY

The development application (DA-498/2023) seeks consent for the Demolition of all existing structures, tree removal and construction of a new twelve (12) storey residential flat building consisting of forty-three (43) residential units and two (2) levels of basement car parking ('the proposal'). The application is for affordable housing under the State Environmental Planning Policy (Housing) 2021.

The subject site consists of two allotments which are legally described as Lot A DP 399280 & Lot 1 DP225465 ('the site') and comprises a corner lot with two (2) road frontages including Copeland Street (Hume Highway) to the west and Moore Street to the north. Both Streets are state-classified roads. The site consists of two allotments and is an irregularly shaped lot with a total area of 1,287.20m<sup>2</sup> known as 62 and 62A Copeland Street. There are multiple vehicle access points to the site, including from Copeland Street and Moore Street.

The existing development on the site consists of a two-storey residential flat building which is located at number 62A Copeland Street. 62 Copeland Street is a vacant lot.

The site is located on the northern periphery of the Liverpool Town Centre and is zoned R4 High Density Residential. The proposed residential flat building development is permitted on the site pursuant to the Liverpool Local Environmental Plan 2008. The area of transition from low density to high density. To the south of the site is a 4 storey walk-up residential flat buildings and the immediate area consists of low to high density residential flat buildings with single-storey fibro dwellings scattered along Copeland Street.

The application was placed on public exhibition from 11 October 2023 to 25 October 2024. Four (4) submissions were received objecting to the development on the grounds of traffic issues, overshadowing, privacy issues, excavations concerns, obstruction of views, property value concerns, promoting undesirable residents, public safety, building height concerns, wind tunnel effect, and ventilation concerns. These issues are considered further in this report.

The application is referred to the Sydney Western City Planning Panel as the development is classified as '*regionally significant development*', pursuant to Section 2.19(1) and Clause 5 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is for affordable housing with a CIV over \$5 million.

The development requires the concurrence of Transport for NSW pursuant to Section 138 of the Roads Act 1993 as the proposal involves works and structures within a State Classified Road (Hume Highway). In consultation with TfNSW, the amended application was considered satisfactory, and the road authority subsequently provided their concurrence on 23 July 2024.

Jurisdictional prerequisites to the granting of consent imposed by the following controls have been satisfied including:

- Section 4.6 of SEPP (Resilience and Hazards) 2021 for consideration of whether the land is contaminated;
- Clause 28(2)(a) of SEPP 65 in relation to advice of any design review panel; and

- Section 2.119(2) of SEPP Transport and Infrastructure in relation to the safety, efficiency and ongoing operation of the classified road (Hume Highway).

The Design Excellence Panel has considered the proposal on one occasion and provided recommendations to improve the design which have been imposed as conditions of consent.

The principal planning instruments relevant to the proposal include *SEPP (Housing) 2021*, *SEPP No. 65 – Design Quality of Residential Apartment Development* ('SEPP 65'), the Apartment Design Guide ('ADG'), the *Liverpool Local Environmental Plan 2008* ('LEP') and the *Liverpool Development Control Plan 2008* ('DCP').

The key issues associated with the proposal include:

1. **Height of buildings** – Contributes to overshadowing, however, a 4.6 variation has been provided that is considered satisfactory. The proposed height is 37.415m and the height of the building limit is 35m. The main extrusion is contributed to the lifts overrun and minor portions of the parapet wall for the roof-top communal areas.
2. **Floor Space Ratio (FSR)** – The affordable housing portion of the FSR was incorrectly calculated under the initial scheme. The application requests the bonus 0.5:1 FSR, however only includes 48.73% of the gross floor area (GFA). This was revised in the amended scheme to include 45.5% of the GFA which resulted in 0.45:1 bonus FSR applying.
3. **Design Excellence and Urban Design** – The application was heard by the DEP on one occasion. The applicant made significant changes to the proposal to align it with DEP and Urban Design comments. These are related to the ADG matters around building operations, overshadowing, privacy and amenity, setbacks dwelling mix, and noise. It is now believed these are resolved by the amendment or by conditions of consent.
4. **Building Separation** – The proposed development does not comply with the building separation requirements as prescribed within the ADG, primarily for the upper levels. However, it does comply with the LEP separation distances
5. **Overshadowing** – The cumulative impact of the proposed development, when combined with existing buildings on adjoining lots, results in overshadowing of ground level landscaped area and communal open space on southern-adjoining properties.
6. **Privacy and amenity** – The proposal has been amended to include privacy screens on balconies and reduced the scale a depth of windows on the southern façade. It is important to note that existing setbacks of the neighbouring developments contribute to these issues.
7. **Front Setbacks** – The proposal does not comply with the required setbacks to the Hume Highway. The required setback to the Hume Highway is an 8m landscaped setback, however, the proposal provides a setback ranging from 6.8m to 8m.
8. **Dwelling mix** – Initially the proposal was lodged without 3-bedroom units. It has been amended in revised plans to include 3-bedroom units and a wider variety of dwellings mix.
9. **Noise and Vibration** – Concerns relate to noise from construction during basement excavation and the close proximity of the existing developments to the south and

east. To be addressed by conditions requesting no pole-driving or similar basement excavation to be used.

Having regard to the matters for consideration under Section 4.15(1) of the EP&A Act, in particular, 4.15(1)(a), (b), (c), (d) & (e), the proposal is able to be supported. Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA-489/2023 is recommended for approval subject to the draft conditions contained at **Attachment 2** of this report.

## **2 THE SITE AND LOCALITY**

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### **2.1 The Site**

The site is comprised of No 62-62A Copeland Street which are legally known as Lot A in DP 399280 and Lot 1 in DP 225465.

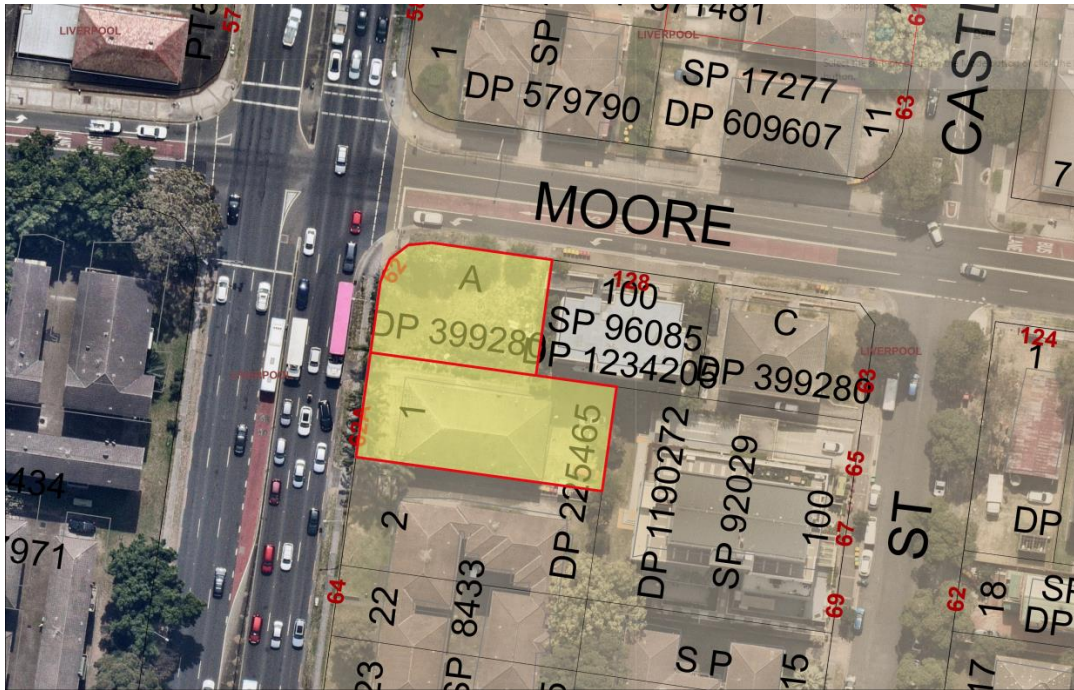
The site is located on the western boundary of the Liverpool CBD. The site is irregular in shape with an approximate total area of 1,287.20m<sup>2</sup>. The site is located at the intersection of Copeland Street (Hume Highway) to the west and Moore Street to the north.

62 Copeland Street is a vacant lot with three small trees located adjacent to the north western corner of the site. 62A Copeland Street is a two-storey brick residential flat building with a tiled roof. The existing building is to be demolished as part of this application. The deposited plan does not identify any easements or restrictions on the site.

Vehicular access to the property is currently provided from both Moore Street via a vehicle crossover located adjacent to the northeastern corner of the site and from Copeland Street via an existing vehicle crossover.

Infrastructure located adjacent to the frontage of the site includes a concrete pedestrian pathway, traffic lights associated with the adjacent intersection with Copeland Street, street poles, wires and lighting, drainage, infrastructure pits, and a bus lane on Moore Street.

An aerial photograph of the development site and photographs of the existing development are provided below.



**Figure 1:** Aerial view of the subject site. (Source: GeoCortex Data, Liverpool Council, November 2024)

The subject site has the following site area and dimensions:

#### 62 Copeland Street

Area – 550.50 square metres

Frontage (Copeland Street – West Boundary) – 17.07 metres & 4.31 metres (angled)

Rear (East Boundary) – 20.125 metres

North (Moore Street) – 24.545 metres

South – 27.585 metres

#### 62A Copeland Street

Area – 736.70 square metres

Frontage (Copeland Street – West Boundary) – 17.93 metres

Rear (East Boundary) – 17.68 metres

North – 41.375 metres

South – 41.375 metres

## **2.2 The Locality**

The subject site is located within an established residential area characterised by low, medium, and high-density residential development.

Immediately to the south is a 4-storey walk-up Residential Flat Buildings (RFB) and further south fronting Copeland Street there is a series of single-storey fibro dwellings which are the remnant of the previous density within the area. In recent time there have been more modern and high-density development appearing along the Copeland Street corridor which has benefited from zoning changes resulting in the uplifting of density in the area.

Beyond the surrounding residential zone to the east, developments consist of the commercial and mixed-use precinct of Liverpool which is adjacent to Liverpool Train Station. To the west of the site are several sports fields and Whitlam Leisure Centre. The subject development will benefit from a wide range of services with direct access to the Liverpool CBD and is well



connected with access to public transport links including buses and heavy rail services providing good connections with wider Sydney.

An aerial photograph of the locality and photographs of the immediate development is provided below:



**Figure 2: Site Location and Surrounding Area.** (Source: GeoCortex Data, Liverpool Council, November 2024)

### 3 THE PROPOSAL AND BACKGROUND

#### 3.1 The Proposal

The proposal seeks consent for the demolition of all existing structures, tree removal and construction of a new twelve (12) storey residential flat building consisting of forty-three (43) residential units and two (2) levels of basement car parking. The application is for affordable housing under the State Environmental Planning Policy (Housing) 2021.

Specifically, the proposal involves:

- Demolition of existing two (2) storey residential flat building located at 62A Copeland Street,
- Removal of 16 trees,
- Erection of a 37.415m high twelve (12) storey residential flat building consisting of forty-three (43) residential units, where the unit mix will be comprised of twenty-nine (29) two (2) bedroom units and fourteen (14) one (1) bedroom unit,
- 25 units will be used for the purposes of affordable housing pursuant to the State Environmental Planning Policy (Housing) 2021,
- 2 Levels of basement car parking,
- Basement Level 1 will provide for 23 car parking, 3 motorcycle parking spaces, storage, hydrant, sprinkler room, lift and stairs & plant room,

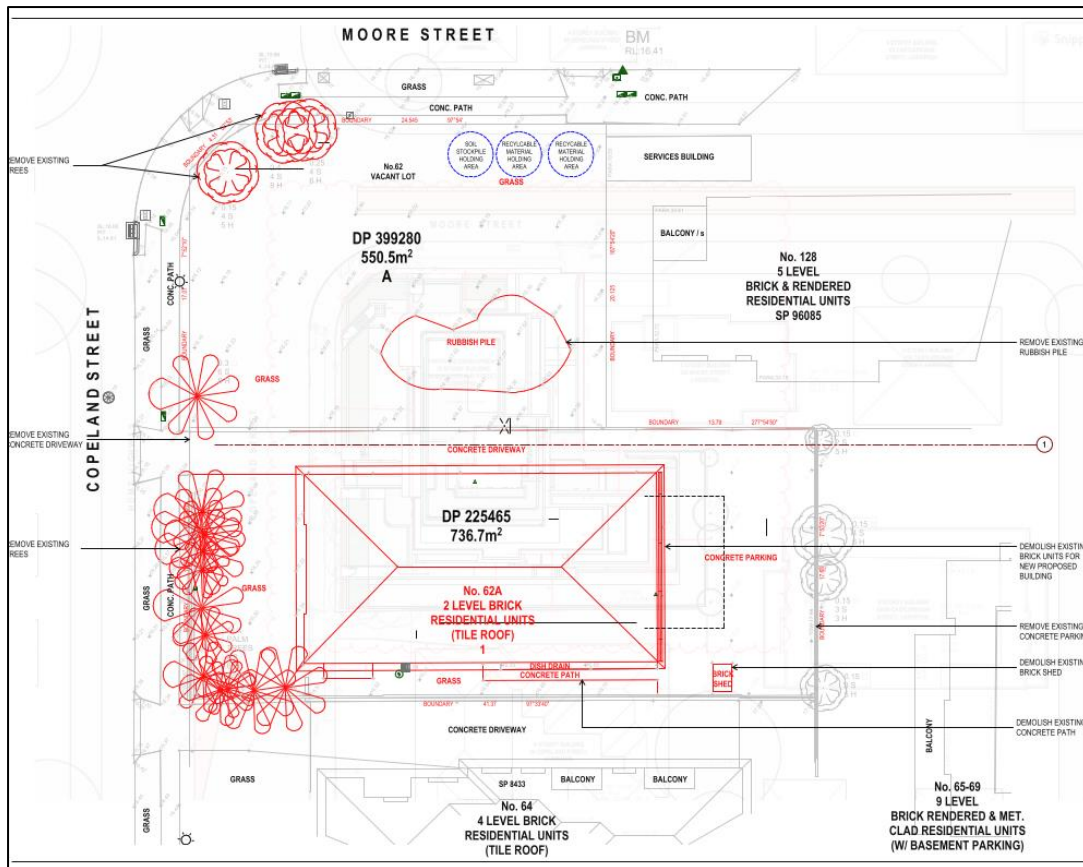
- Basement Level 2 will provide 25 car spaces, 1 car wash bay, 27 bicycle spaces, plant room x 2 storage, lifts and stairs,
- Vehicular Access is via Moore Street, and
- Rooftop Communal Area.

The following Table 1 provides a summary of the development data:

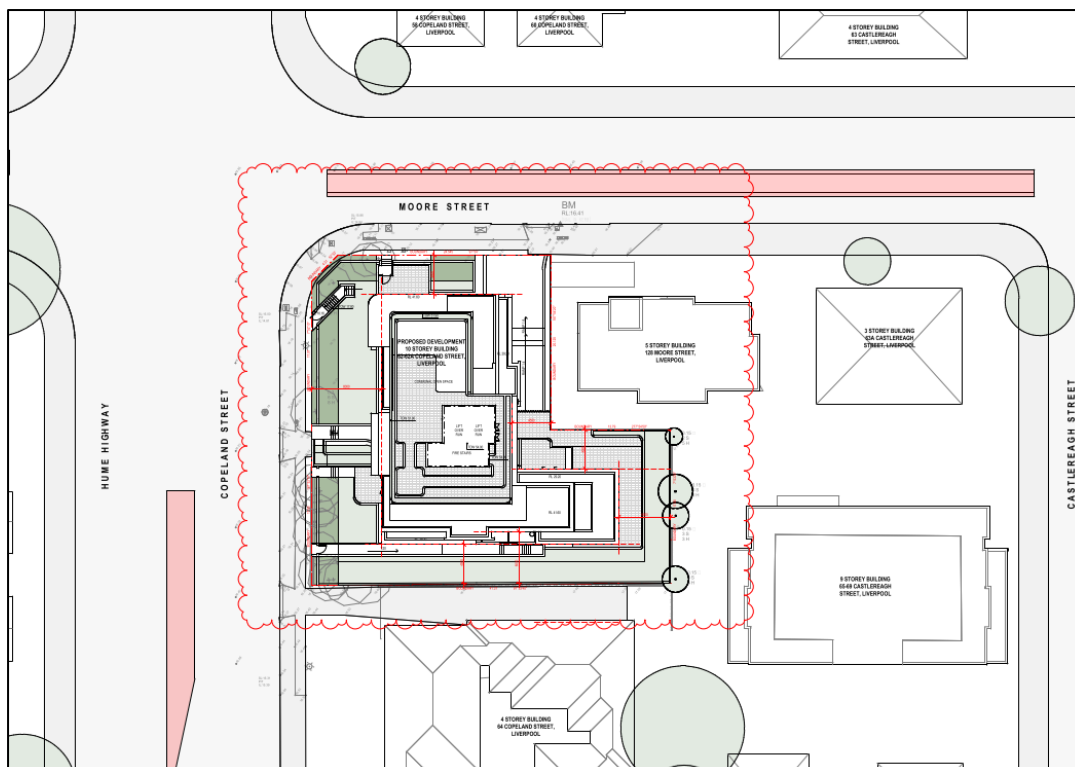
**Table 1: Development Data**

Control	Proposal
Site area	1287.2m <sup>2</sup>
GFA	3,375.76m <sup>2</sup>
Affordable Housing GFA	1,545.74m <sup>2</sup> or 45.5%
FSR (retail/residential)	2.64:1
Clause 4.6 Requests	Clause 4.3 – Height of Buildings of the Liverpool LEP 2008.
No of apartments	40
Max Height	37.415m
Landscaped area	388.33m <sup>2</sup> or 30.17%
Deep Soil Areas	124.83m <sup>2</sup> or 9.70%
Car Parking spaces	50 car park & 24 bicycle parking
Communal Open Space	411m <sup>2</sup> or 31.9%
Setbacks (External Walls)	<p>Front</p> <ul style="list-style-type: none"> <li>• Moore Street – 4.5m</li> <li>• Copeland Street – 8m</li> <li>• Hydrant Booster is within front setback</li> </ul> <p>Eastern</p> <ul style="list-style-type: none"> <li>• Between 4.5 to 6m for ground level</li> <li>• Between 3.5m to 12.515m to upper levels</li> </ul> <p>Southern</p> <ul style="list-style-type: none"> <li>• 4.5m on ground, level 1 – 3</li> <li>• 5.09m to 9.15m on upper levels</li> </ul>

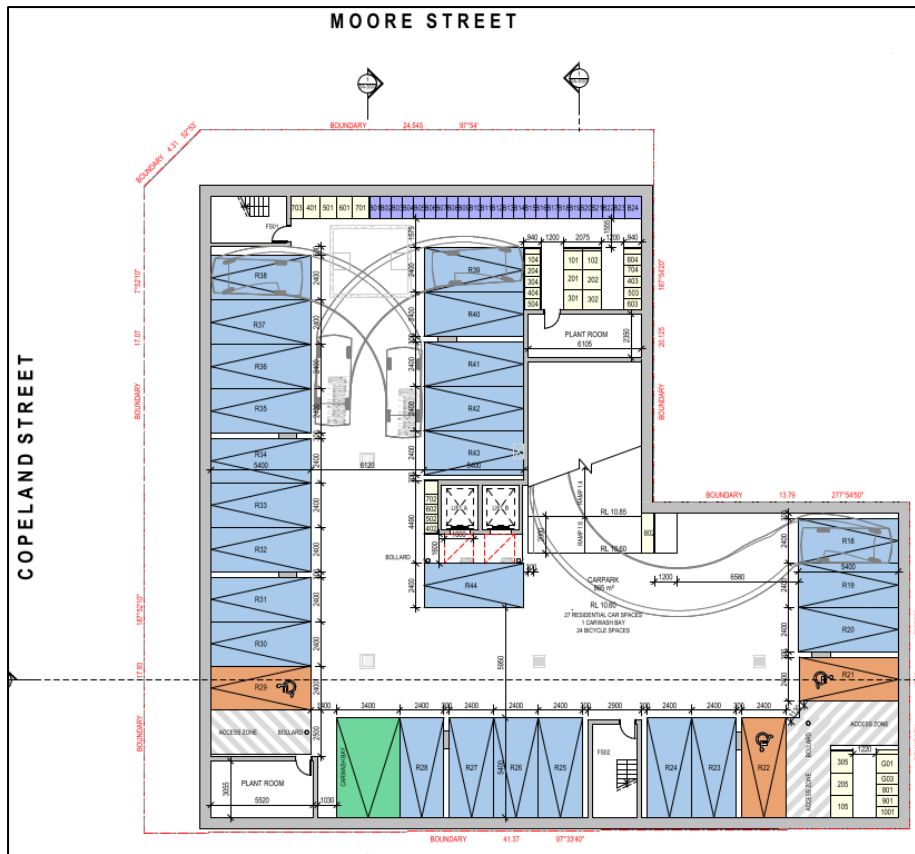




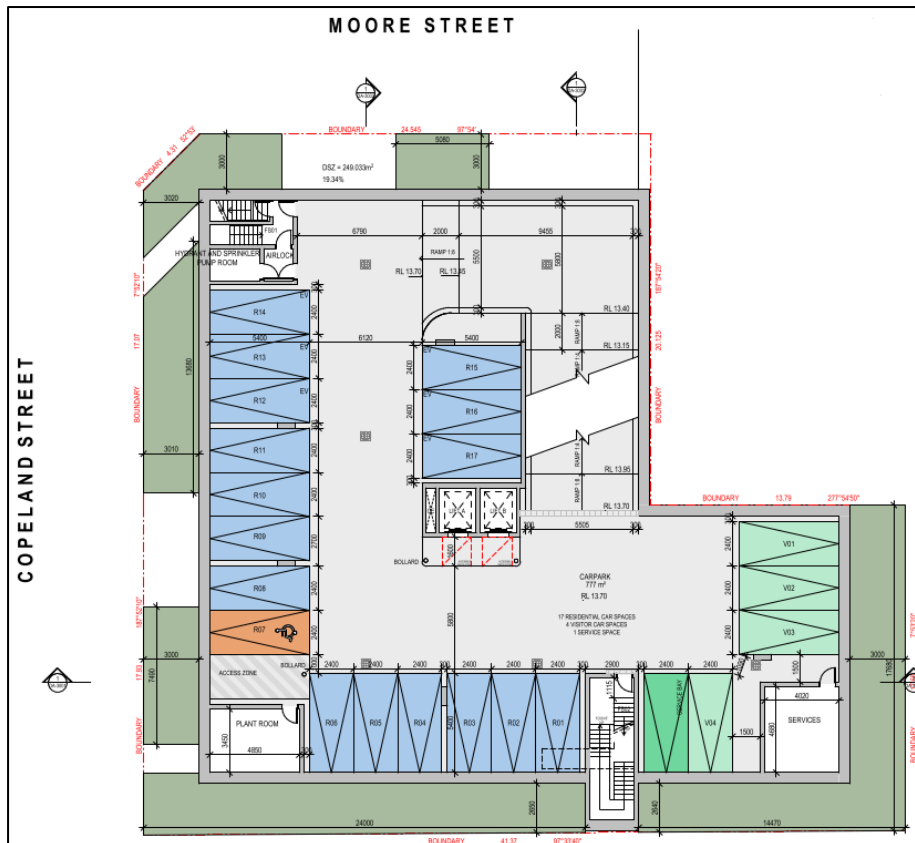
**Figure 3: Demolition Plan Extract** (Source: CDA Architects)



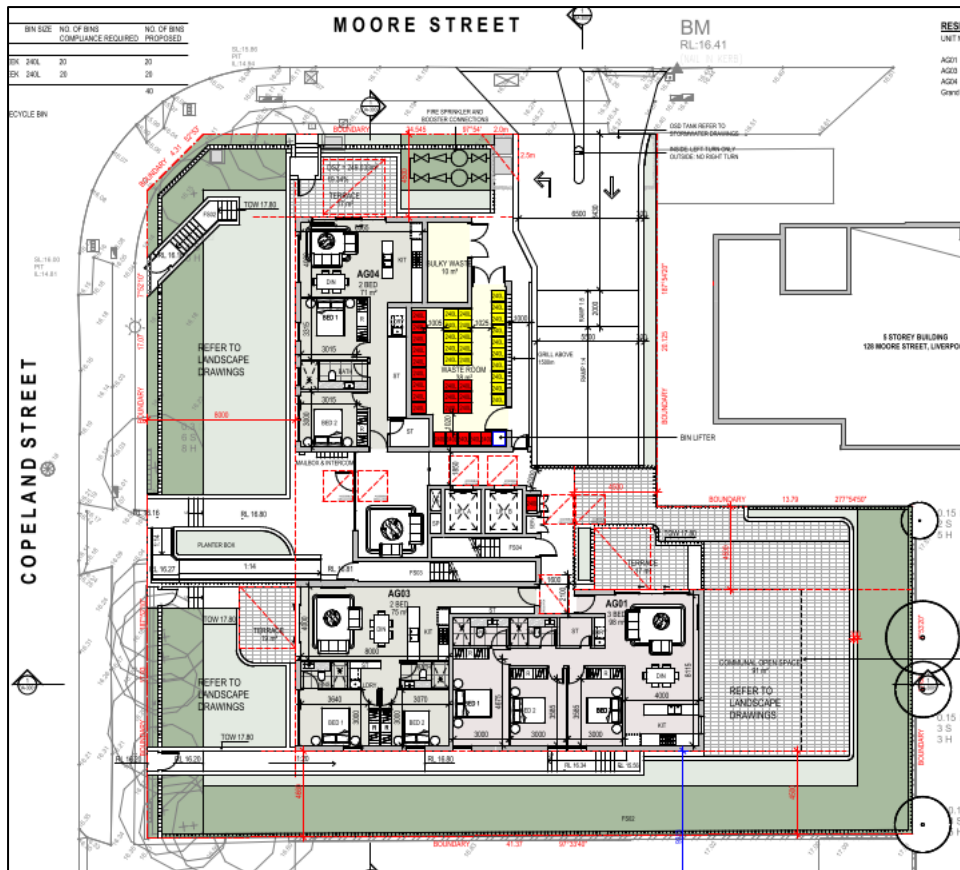
**Figure 4: Site Plan Extract** (Source: CDA Architects)



**Figure 5: Basement Level 2 Plan Extract** (Source: CDA Architects)



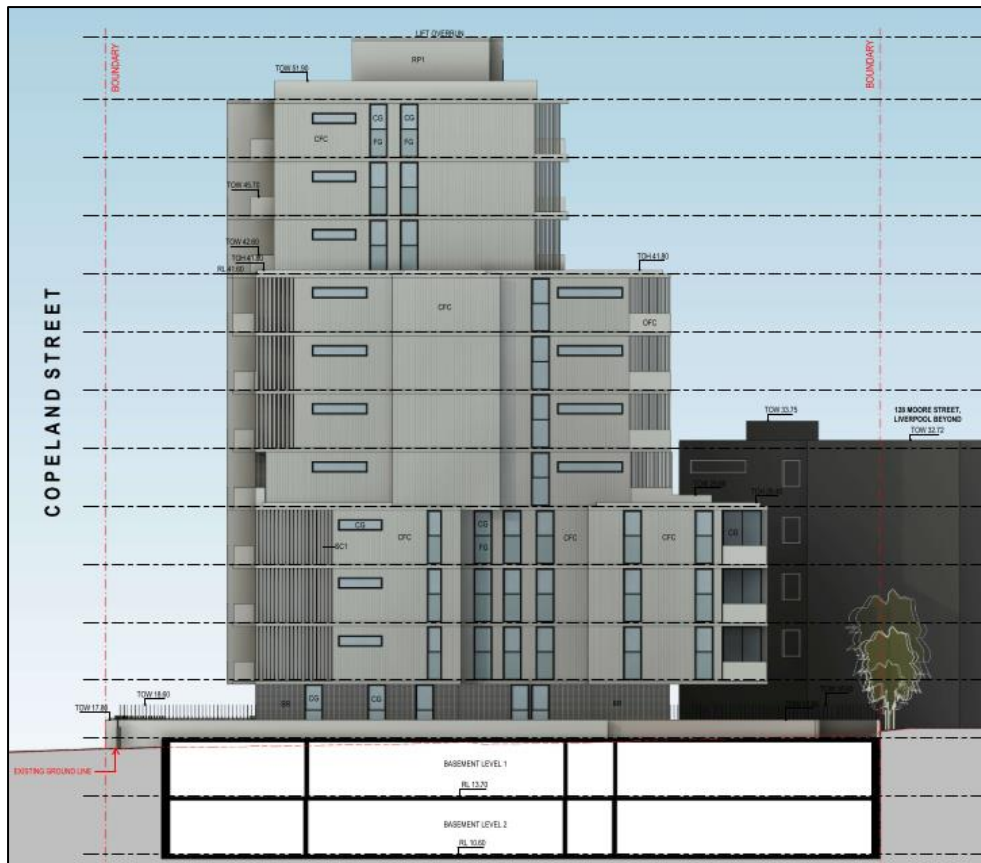
**Figure 6:** Basement Level 1 Plan Extract (Source: CDA Architects)



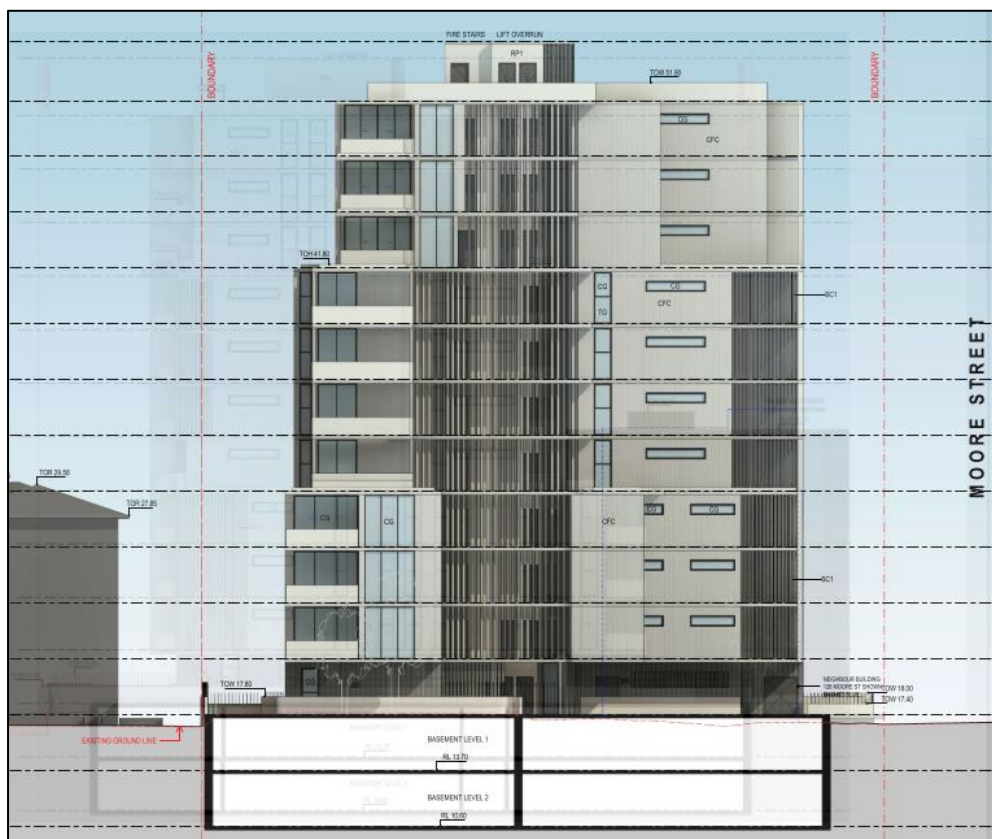
**Figure 7:** Proposed Ground Floor Plan Extract (Source: CDA Architects)



**Figure 8:** North Elevation (Source: CDA Architects)

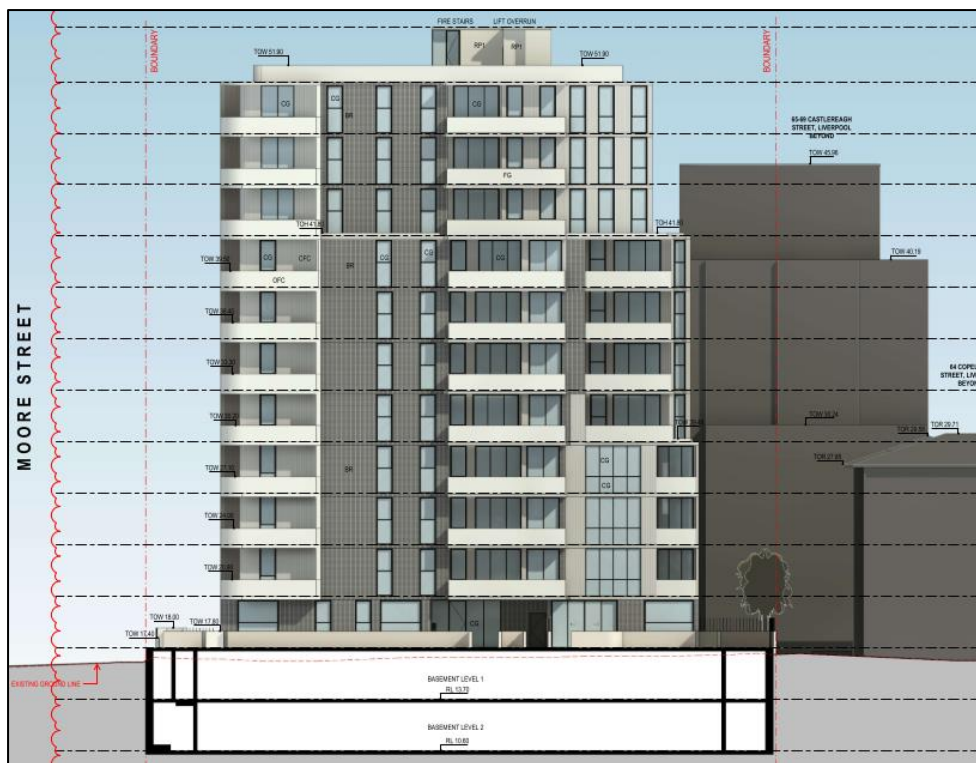


**Figure 9: South Elevation** (Source: CDA Architects)



**Figure 10: East Elevation** (Source: CDA Architects)





**Figure 11:** West Elevation (Source: CDA Architects)



**Figure 12:** Copeland Street 3D View (Source: CDA Architects)





**Figure 13:** Moore Street 3D View (*Source: CDA Architects*)



**Figure 14:** Intersection – Copeland and Moore Street 3D View (Source: CDA Architects)

### 3.2 Background

The development application was lodged on **12 September 2023**. A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 2: Chronology of the DA**

Date	Event
<b>12 September 2023</b>	Application lodged.
<b>11 October 2023</b>	Exhibition of the application commenced.

<b>12 October 2023</b>	DA referred to external agencies
<b>16 October 2023</b>	Panel Preliminary briefing
<b>9 November 2023</b>	Design Excellence Panel meeting
<b>6 February 2024</b>	Request for Information from Council to Applicant
<b>18 March 2024</b>	The applicant requested an extension of time to submit additional information till 8 April 2024. The additional information was not received until 18 June 2024.
<b>18 June 2024</b>	Amended plans lodged. Minimal changes to the plans were made the changes resulted in increased Communal area and deep soil on the ground level.
<b>23 September 2024</b>	A further request for information was made regarding Swept path analysis and DSI and RAP to be provided.
<b>25 October 2024</b>	Additional Information was provided with Swept path analysis for the basement, with a DSI and RAP.

### 3.3 Site History

<b>Previous Application</b>	<b>Comments</b>
DA-556/2019	Development Application - Construction of an 11-storey boarding house development comprising 36 boarding rooms and a manager's room above 2 levels of basement car parking pursuant to SEPP (Affordable Rental Housing) 2009. Liverpool City Council is the consent authority and the Sydney Western City Planning Panel has the function of determining the application  Withdrawn 21/10/2020
DA-82/2022	Construction of a 8 storey residential flat building comprising of 11 x 1 bedroom and 4 x 2 bedroom apartments, 2 levels of basement carparking to accommodate 16 car parking spaces with associated stormwater and landscape works  Withdrawn 21/01/2022
DA-489/2023	Subject to this application

## 4 STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any 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, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be Integrated development, however the site fronts two Classified Roads requiring concurrence from Transport for NSW – Roads and Maritime which has been provided with conditions and discussed in this report.

#### **4.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements, and the matters for consideration under the Regulation are considered below.

##### **4.1.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Planning Systems) 2021*

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Liverpool Local Environmental Plan 2008 (LEP)*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2: Vegetation in non-rural areas</p> <ul style="list-style-type: none"> <li>• The site is partially vacant with tree removal being proposed for a number of trees on site. Additional trees are proposed to be planted to replace the removed trees.</li> </ul> <p>Chapter 6: Water Catchments</p> <ul style="list-style-type: none"> <li>• The proposed development is not in conflict with the objectives of Chapter 6 of the SEPP which seeks to promote the protection of the Georges River Catchment.</li> </ul>	Yes
State Environmental Planning Policy- Sustainable Buildings - BASIX SEPP	<p>Chapter 2 – BASIX</p> <p>A BASIX certificate has been produced stating that the building will comply with Water, Energy, and Thermal requirements. Notwithstanding, conditions of consent have been imposed to ensure that the BAXIS requirements are adhered to when developed.</p>	Yes
State Environmental Planning Policy (Housing) 2021	<p>Chapter 2: Affordable Housing</p> <ul style="list-style-type: none"> <li>• The development as amended proposes Infill affordable housing of 45.50%. Refer to the discussion section below for further details. The proposal is consistent with the provisions and standards within the SEPP, except to the extent where they are inconsistent with the ADG.</li> </ul>	Yes
SEPP 65	<p>Clause 30(2) - Design Quality Principles –</p> <ul style="list-style-type: none"> <li>• The proposal does propose some inconsistencies with the controls of the ADG, it does attempt to reduce the impacts considering the constraints of the site, its orientation and its proximity, and the type of nearby developments that exist.</li> <li>• The proposal is considered to be consistent with the design quality principles.</li> <li>• The proposal is considered to generally satisfy the objectives specified within the ADG, notwithstanding</li> </ul>	Acceptable



	non-compliance with the numerical requirements for building separation and setbacks.	
State Environmental Planning Policy (Planning Systems) 2021	Schedule 6, Regionally Significant Development (RSDA) <ul style="list-style-type: none"> <li>The proposal is for affordable housing with a CIV over \$5 million.</li> </ul>	Yes
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>Section 4.6 - Contamination and remediation have been considered in the Contamination Report with a Preliminary Site Investigation, a Detail Site Investigation (DSI), and Remediation Action Plan (RAP) provided. The proposal is satisfactory subject to conditions.</li> </ul>	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>The proposal was referred to TfNSW under Section 2.119 for the SEPP and also under Section 138 of the Roads Act 1993.</li> <li>Concurrence was provided by TfNSW under Section 138 of the Roads Act 1993 on 23 July 2024 with conditions which have been included in the conditions of consent.</li> <li>Section 2.48(2) (Determination of development applications—other development) – electricity transmission. The proposal is satisfactory subject to conditions.</li> <li>Section 2.118(2) – Development with frontage to a Classified Road. Concurrence received from TfNSW.</li> <li>Section 2.119(2) – Impact of road noise or vibration on non-road development. Acoustic report submitted and considered satisfactory.</li> </ul>	Yes
LEP	<ul style="list-style-type: none"> <li>Clause 2.3 – The proposed RFB development is permitted within the R4 zone and meets the zone objectives.</li> <li>Clause 7.5 – Design Excellence in Liverpool City Centre. The proposal was considered by the DEP, with the latest plans note referred to DEP. Conditions can be imposed to address some of the matters raised by the DEP.</li> </ul>	By Conditions
DCP	<ul style="list-style-type: none"> <li>Section 4.2.7 Street Alignments and Street Setbacks.</li> <li>The DCP requires a setback to Hume Highway of 8 metres. The proposed setback of 8m on ground but is reduced from the first floor to the top level to 6.8m where balconies are proposed. It is consistent with adjoining development and is considered satisfactory. In addition, the Hume Highway frontage of the site was acquired by TfNSW that enabled the construction of a left-turn lane into</li> </ul>	Acceptable

	Bigge Street, which attributed to the reduction of the setback to the Hume Highway.	
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Consideration of the relevant SEPPs is outlined in greater detail below

**(a) State Environmental Planning Policy (Biodiversity and Conservation) 2021**

i. Chapter 2 – Vegetation in non-rural Areas

Not applicable, as the site is vacant and devoid of any vegetation.

ii. Chapter 6: Water Catchments

It is considered that the proposed development is not in conflict with the objectives of Chapter 6 of the SEPP which seeks to promote the protection of the Georges River Catchment. It is considered that appropriate conditions can be imposed relating to erosion and sediment control and storm water runoff mitigation.

**(b) State Environmental Planning Policy (Sustainable Buildings) 2022 – Chapter 2 - Building Sustainability Index (BASIX)**

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') was replaced by the State Environmental Planning Policy (Sustainable Buildings) 2022 and the BASIX falls under Chapter 2 of the SEPP which applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No.1003438M\_07 prepared by EPS (0) dated 18 June 2024 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP and is subject to the recommended conditions of consent.

**(c) State Environmental Planning Policy (Housing) 2021 – Chapter 2 Affordable Housing (In-fill Affordable Housing)**

The principles of this Policy are as follows—

- (a) enabling the development of diverse housing types, including purpose-built rental housing,
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- (c) ensuring new housing development provides residents with a reasonable level of amenity,
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,

- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- (h) mitigating the loss of existing affordable rental housing.

The development seeks to rely on the provisions of Chapter 2, Part 2, Division 1 In-fill Affordable Housing which aims to delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

#### Division 1 -In-fill Affordable Housing

The development as amended provides for 1,545.54m<sup>2</sup> of the GFA or 45.5% affordable housing and thus the development falls under Chapter 2 of the Housing SEPP, entitled 'Affordable housing'. The proposal is consistent with the provisions and standards within the SEPP, except to the extent where they are inconsistent with the ADG, as follows:

- Clause 18 (2)(d) requires that a deep soil zone of 15% of the site area be provided. However, as per Cl. 20, the provisions of the Apartment Design Guide prevails. The ADG requires a deep soil zone of 7%, and the development provides 9.70% (127.83m<sup>2</sup>).
- Clause 18 (2)(e) requires that living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter. However, the ADG requires a minimum 2 hours of direct sunlight to living areas and private courtyards for 70% of dwellings. The proposal achieves at least 2 hours to 83% of the dwellings.

A full assessment of the relevant provisions within SEPP Housing is provided as an attachment to this report.

#### **(d) *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development***

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles, and against the guidelines of the associated Apartment Design Guidelines (ADG).

The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65. The proposal is considered to be consistent with the design quality principles as outlined within the SEPP 65 and is considered to satisfy the objectives specified within the ADG, notwithstanding non-compliance with the numerical requirements for building separation.

A full assessment of the relevant provisions within SEPP 65 and the ADG is provided at **Attachment 1**.

#### **(e) *State Environmental Planning Policy (Planning Systems) 2021***

#### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6 of the Planning Systems SEPP as the proposal is development for the purposes of Affordable Housing with a capital investment value of over \$5m. Accordingly, the Sydney Western City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

**(f) State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The PSI consisted of a search of historical records and a site walkover. This research found that the site contained asbestos which observed in the topsoil/fill profile.

The report also notes that aerial photographs show the land immediately surrounding the site has remained predominantly residential.

The potential sources of contamination were considered to be weathering of hazardous building materials such as asbestos in fill materials of unknown origin on the site. As a result Council requests a Detailed Site Investigation (DSI) and Remediation Action Plan (RAP) to be provided Council for review. Subsequently, the required documentation was provided and reviewed by Council's Environmental Health Officer who was satisfied with the documents and provided conditions of consent.

The reports concluded that the site can be made suitable for the proposed community facility/place of worship and residential/crisis accommodation subject to conditions of consent. This conclusion was based on the proposed demolition of the buildings and the excavation of the site for the basement removing fill materials (if present) as well as shallow residual soils and perched water that may have been impacted by the contamination sources identified. This will effectively mitigate the potential health and ecological risks associated with these materials for future use of the site. The proposal is considered to be consistent with the SEPP, subject to imposition of relevant conditions of consent in relation to remediation works during construction on any consent granted.

**(g) State Environmental Planning Policy (Transport and Infrastructure) 2021**

*Clause 2.119 – Development with frontage to a classified road*

The application is subject to Clause 2.119 of the SEPP as the development has frontage to a classified road. Clause 2.119 relevantly provides:

**2.119 Development with frontage to classified road**

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

## **Comment**

In addition to the above considerations, Section 138 of the Road Acts 1993 states that *consent may not be given with respect to a classified road except with the concurrence of TfNSW*. Accordingly, the application was referred to TfNSW for their concurrence.

Having regard to the consideration provided above in Clause 2.119, it is firstly noted, that vehicular access to the site via a road other than the Classified Road is not practicable. In consultation with TfNSW, the applicant was able to demonstrate that the entrance to the development would not have an adverse impact on the operation of the Classified Road. The roads authority subsequently granted their concurrence on 23 July 2024.

Point (c) regarding traffic noise is discussed below.

### *Clause 2.120 – Impact of road noise or vibration on non-road development*

The application is subject to Clause 2.120 of the SEPP as the Hume Highway has an average daily traffic volume of more than 20,000 vehicles per day and the proposed residential development is identified as a sensitive land use. In this regard, the consent authority is required to ensure that the design of the development can meet the relevant noise criteria as stated. In order to achieve the required noise criteria, an acoustic report was prepared by a qualified acoustic consultant demonstrating that the design can meet the stated environmental noise criteria as provided within the SEPP.

## **(h) Liverpool Local Environmental Plan 2008 (LEP)**

The relevant local environmental plan applying to the site is the *Liverpool Local Environmental Plan 2008* ('LEP'). The aims of the LEP include the following:

- (a) *to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,*
- (b) *to promote a high standard of urban design that responds appropriately to the desired future character of areas,*

The proposed development is consistent with these aims as the proposal provides for a range of apartments including affordable housing units within a high-density residential zone for existing and future residents. The proposal has also undergone assessment by the Design Excellence Panel and is considered to be appropriate for the site and locality.





**Table 4: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	1000m <sup>2</sup>	1,287.20m <sup>2</sup>	Yes
Height of buildings (CI 4.3(2))	35 metres	37.415 metres	No – 4.6 Variation Provided - Supported
FSR (CI 4.4(2))	Max. 2.0:1 (T) + Bonus 0.5:1 ARH	2.64:1	Yes
Land acquisition (CI 5.1/5.1A)	Land required to be dedicated as a public road	Already dedicated	Yes
Heritage (CI 5.10)	The land is not identified as a heritage item or land within a heritage conservation area.	N/A	N/A
Flood planning (CI 5.21)	Provisions relating to development on flood prone land.	The site is not identified within LEP maps as being affected by flood	N/A
Building separation in Liverpool City Centre (CI 7.4)	(a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished)	9 metre separation is provided where required minor intrusions in certain areas.	Acceptable
	(b) 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished)	12 metre separation is provided where required with minor intrusions in certain areas.	Acceptable
Design Excellence (CI 7.5)	Development in Liverpool City Centre to be exhibit design excellence	The Design Excellence Panel is supportive of the amended design subject to the implementation of design recommendations.	Yes
Acid sulphate soils (CI 7.7)	Provisions relating to development on land	The subject site is not affected by acid sulfate soils.	N/A

	affected by acid sulfate soils		
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The proposal is considered to be generally consistent with the LEP.

*Write me a justification using legal case law to be incorporated into a Planning report discussing a 4.6 height variation to a residential flat building at 62 Copeland Street, Liverpool NSW*

#### **Clause 4.6 Request**

*The Development Standard to be varied and the extent of the variation*

The development standard for which a variation is sought is Clause 4.3 – Height of Buildings under LLEP 2008.

The proposal exceeds the maximum building height development standard of 35m by 2.41m, equating to a variation of approximately 6.9%.

#### ***Preconditions to be satisfied.***

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides the power to grant development consent for a development that contravenes the development standard subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

#### **Applicant justification in relation to whether the proposal is unreasonable and unnecessary**

The proposal:

- Satisfies the objectives of the zone and the development standards;
- Achieves the density envisaged under the relevant planning controls. The proposed FSR of 2.64:1 complies with the maximum allowable FSR of 2:64:1.

- Maintains the heritage significance of the Heritage Item (Heritage Item No. 89 – Plan of Town of Liverpool (early town centre street layout-Hoddle 1827) – Within Moore Street;
- The proposed development is compatible with the scale, design, and character of the envisaged development on the site;
- The part of the building that exceeds the development standard is limited to less than one (1) storey, which is setback adequately from neighbouring developments to the south and east. This part of the building does not contribute to significant adverse impact on adjoining properties in terms of overshadowing, visual privacy, or view impacts; and
- The proposed development is generally compliant with the controls, or the intent of the controls, contained in LDCP 2008.

**Applicant justification whether there are sufficient environmental planning grounds to justify contravening the development standard**

- The environmental planning grounds provided by the applicant are the same as those provided above.

**Applicant justification whether the proposal is in the public interest**

The proposal remains consistent with the objectives of the Height of Buildings standard.

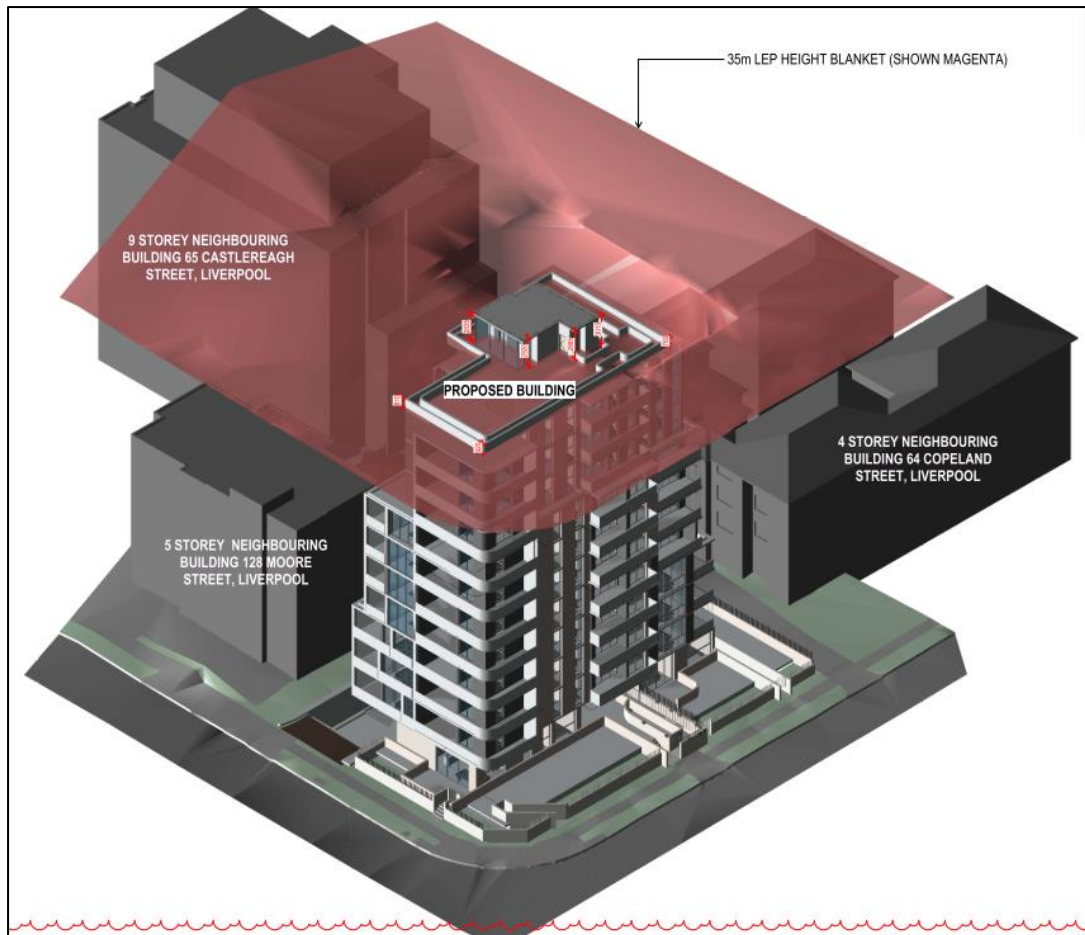
The Panel can assume the Secretary's concurrence under Planning Circular PS 18-003 issued on 21 February 2018.

Planning Circular PS 18-003 states the following in terms of assuming concurrence from the Secretary for applications determined by a Planning Panel:

*The restriction on delegates determining applications involving numerical or non-numerical standards does not apply to all regionally significant development. This is because all regionally significant development is determined by a panel and is not delegated to council staff.*

**Conclusion**

In light of the above considerations, it is submitted that the variation to the height standard is justified under Clause 4.6 of the *Liverpool LEP 2008*. The minor increase in height will not cause adverse impacts and is in the public interest, consistent with the principles established in relevant case law, including *Kerr v. Waverley Council* and *Wehling v. Woollahra Municipal Council*. Therefore, the variation should be supported as it meets the relevant criteria under Clause 4.6, ensuring that the development is appropriate for the site and its context.



**Figure 16:** Building Height Blanket & Height Penetration (Source: CDA Architects)

## 5 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal.

## 6 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Liverpool Development Control Plan 2008* ('the DCP')

The proposed development complies with the controls outlined within the DCP, with the exception of the setbacks to the Hume Highway. The required setback to the Hume Highway is an 8m landscaped setback, however, the proposal provides a setback ranging from 6.8m to 8m.

- *Liverpool Contributions Plan 2018 – Liverpool City Centre*

This Contributions Plan has been considered and included within the recommended draft consent conditions.

## 7 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

## **8 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

### **8.1 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

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

This section of the Liverpool City Centre is zoned R4 High Density Residential, and the immediate and surrounding locality comprises of higher density, multi-storey residential apartment buildings. It is therefore considered that the proposal is consistent with the existing and future character of the locality.

The proposal is considered satisfactory in terms of potential impacts to adjoining and surrounding properties and does not result in any significant adverse impacts.

Whilst located on a Classified State Road, the proposed vehicular access has been designed so that the safety, efficiency and ongoing operation of the classified road will not be affected.

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

It is considered unlikely that the development will result in any adverse impacts to the natural environment, subject to the implementation of water quality control devices within the stormwater management system and erosion and sediment control measures during construction.

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

#### ***Social Impacts***

The proposal includes 19 of 28 units as affordable housing, which will assist in alleviating housing stress for lower income earners. Having regard to the findings of the accompanying social impact assessment, it is considered unlikely that the proposal will result in any adverse social impacts to the area.

#### ***Economic Impacts***

It is considered that the proposed residential development will have a positive impact upon



the Liverpool City Centre through the increase in residential density and consequent increase in economic activity within the centre.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

## **8.2 Section 4.15(1)(c) - Suitability of the site**

The site is considered suitable for the proposed development. The proposal is permitted within the R4 zone, meets the objectives of the zone, and has demonstrated general compliance with the relevant development controls contained within Council's DCP.

The site is provided with all essential services including electricity, telecommunications, NBN, reticulated water & sewer. Whilst the site fronts a Classified State Road, vehicular access to the site is satisfactory.

The site represents one of the remaining undeveloped parcels of land within a higher density residential zoned area which comprises other higher density, multi-level apartment buildings. The site is also ideally located in close proximity to the Liverpool Town Centre and has good access to public transport.

## **8.3 Section 4.15(1)(d) - Public Submissions**

During the public exhibition period, four (4) submissions were received objecting to the development on the grounds of traffic issues, overshadowing, privacy issues, excavations concerns, obstruction of views, property value concerns, promoting undesirable residents, public safety, building height concerns, wind tunnel effect, and ventilation concerns.

The objections received are considered in detail in Section 9.3 of this report.

## **8.4 Section 4.15(1)(e) - Public interest**

The proposed development is permitted within the R4 zone and meets the objectives of the zone. The development provides additional housing opportunities within close proximity to employment and public transport and is considered to result in positive social and economic benefits to the community.

Notwithstanding the submissions received, it is considered that the proposal is considered to be in the public interest.

# **9 REFERRALS AND SUBMISSIONS**

## **9.1 Agency Referrals and Concurrence**

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

**Table 5: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements</b> (s4.13 of EP&A Act)			
Transport for NSW	Section 138 of the Roads Act 1993 – Works and structures within a classified road.	In consultation with TfNSW, the applicant was able to demonstrate that the access to the development would not have an adverse impact on the operation of the Classified Road. The road authority subsequently granted their concurrence on 23 July 2024.	Y
Rail authority for the rail corridor	Section 2.98(3) – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	N/A	N/A
<b>Referral/Consultation Agencies</b>			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Endeavour Energy raise no objection subject to conditions, including details surrounding the location of any future substation if required – to be conditioned prior to CC.	Y
Bankstown Airport	Development within the approach slopes to Bankstown Airport (Airports Act 1996 and Protection of Airspace Regulations 1996)	Bankstown Airport Pty Limited advised that it has no objection to the proposal up to 54.200m AHD.	Y
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	N/A	N/A
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed in the SEPP 65 assessment and the Key Issues section of this report.	Y
Sydney Water	<b>Sydney Water Act 1994, Section 78</b>	No issues raised, subject to conditions	Y

Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	N/A	N/A
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	N/A	N/A

## 9.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

**Table 6: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Y
Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised concerns and considered that there were no objections subject to conditions.	Y
Building	Council's Building Officer reviewed the amended proposal and considered that there were no objections subject to conditions.	Y
Environmental Health	Council's Environmental Health Officer reviewed the amended proposal including contamination matters and considered that the amended information addressed the contamination matters raised in the RFI and there were no objections subject to conditions.	Y
Waste	Council's Waste Officer reviewed the amended proposal and considered that there were no objections subject to conditions.	Y
Urban Design & Public Domain	Council's Urban Design & Public Domain team reviewed the amended proposal and noted that the amended proposal was improved following the DEP meeting, however, it was acknowledged there were improvements and concerns regarding rear setbacks, overshadowing, improvements to ground-level communal areas and landscaping, EV	Y

	<p>infrastructure in the basement, building shading devices, material changes, and lack of diversity of apartment mix.</p> <p>The design team were not satisfied with the proposal and level of information because the matters raised by the DEP were not addressed in full in the amended information. Refer to the discussion below for further details.</p>	
Heritage	<p>Council's Heritage officer reviewed the proposal and noted that the Aboriginal archaeological assessment found that there were no identified Aboriginal sites on the subject lots and concluded that as a result of ground disturbance, there is a very low likelihood of intact archaeological deposits. No further archaeological investigation was required. Standard conditions have been imposed in the unlikely event that items may be found during construction.</p>	Y (conditions)

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

### 9.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 11 October 2023 until 25 October 2023. The notification included the following:

- Notification letters sent to adjoining and adjacent properties within 75m radius of the site;
- Notification on the Council's website.

The Council received a total of 4 submissions objecting to the proposal. The issues raised in the submission are considered in **Table 7**.

**Table 7: Community Submissions**

Issue	No of submissions	Council Comments
Traffic Issues	4	<p>The proposal provides two levels of basement parking which includes compliant parking. A Traffic Impact Assessment was provided and concluded that the proposal is expected to generate additional traffic movement within the scope of TfNSW requirements for traffic movement. Furthermore, the proposal includes compliant parking for future residents and is well connected with a number of nearby by transport options.</p> <p>The application was referred to TfNSW who supported the proposal with conditions of consent.</p>

Privacy Issues	4	The review of privacy matters is identified in the key issues discussion in the body of the report. It concluded with the acknowledgment that there will be apartments closer together as a natural progression of a new development appearing on a vacant site and to a larger scale.
Excavations for Basement	1	The proposed two-level basement will be required to comply with the BCA and development techniques for basement excavation have been conditioned to ensure that no pole driving or similar technique is used to reduce variation to the neighbours.
Obstruction of View	1	Noted.  The site is currently partially vacant with a two-storey building on 62A Copeland Street. The current properties to the south enjoy views over the subject site. However, there is no significant view that will be impacted. In this regard, the density and height controls allow for the scale of development proposed, and any structures in this location will impact the view from developments to the south.  There are no controls in this area that specify that another property should have views, in particular, when there are no significant views.
property value concerns	1	The proposal is aimed at addressing property values by providing affordable housing. There is no evidence that affordable housing negatively impacts the values of nearby properties.
promoting undesirable residents and public safety	2	A Social Impact Assessment was submitted with the proposal that indicates the need for affordable housing in the market.  The proposal also complies with CPTED principles which are the main factors when it comes to safety within a Planning assessment.
Building height concerns	2	A variation and assessment separately in the report. Refer to 4.6 variation discussion.  The variation is primarily for the lift overrun which does not contribute to additional bulk or overshadowing and, therefore is supported in this instance.
wind tunnel effect	1	The building is not large enough in scale to impact or create a wind tunnel effect. The length and width of the building do not trigger the need for a wide assessment and the design.
ventilation concerns	1	The proposal complies with the ventilation requirements for each apartment specified in the ADG.

		Whilst the proposal is larger than nearby older developments, it will only impact ventilation from north. There is a building separation to the south proposed which allow for ventilation to properties to the south.
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## 10 KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 10.1 Height of Buildings (Clause 4.3 for the LEP)

The applicant prepared a Clause 4.6 variation request seeking to contravene Clause 4.3 Height of Buildings under the Liverpool Local Environmental Plan 2008 (LLEP 2008). The subject site is located within an area where the maximum HOB is 35m.

The proposed residential flat building (RFB) will result in a building height of 37.41m – thus exceeding the 35m HOB limit by 2.41m (6.9%). The reasons for this are stated to be due to “lift overrun and a minor portion of the rooftop perimeter planter boxes.” (p4)

Planning is of the opinion that the variation request document accompanying the DA has gone into sufficient detail regarding the HOB non-compliance, specifically that the proposed development will “make a positive contribution to the character of the locality, particularly when viewed from the public domain” and is “compatible with the scale and character of the existing and desired future character of the Liverpool City Centre.” (p7)

### 10.2 Floor Space Ratio

The LLEP 2008 maps the site as containing 2:1 FSR. Clause 4.4 allows for additional FSR within the City Centre, with land in R4 High Density Residential, with mapped height of 35m and site area between 1,000-2,500sqm, being  $(2 + X):1$ , with  $X = \text{site area} - 1000 / 1500$ . This means the subject site has an FSR of 2.19:1 under the LLEP 2008.

Section 17 of SEPP (Housing) 2021 allows for additional FSR where gross floor area is provided for In-fill Affordable Housing. In the amended scheme, it is stated 45.5% of the GFA is to be provided for affordable housing. The SEE has incorrectly applied the s17(1)(a)(i) provision where a bonus of 0.5:1 is applied where 50% of the GFA is for affordable housing. As the GFA is less than 50%, s17(1)(a)(ii) is to be applied,  $45.5 / 100:1$ , i.e. bonus of 0.45:1.

This enables a FSR of 2.64:1. Initially the SEE stated the FSR provided is 2.67:1, however, this was amended in the applicant's response to the request for information and the proposal is amended to 2.64:1. The proposal now complies.

### 10.3 Urban Design & Design Excellence Panel



The application was referred to the Design Excellence Panel for comment on one occasion. The 9 design principles of the ADG were considered and the Panel identified a number of amendments to improve the overall scheme of the development.

Comments and Issues raised by the Panel at their meeting of 9 November 2023 are detailed in the table below with comments provided on how the concerns have been addressed by the Applicant.

DEP Comments	Response
<p><b>Context &amp; Neighbourhood Character</b></p> <p>4.1.2  <i>The current design of the proposal presents a poor relationship with its adjacent sites, primarily due to noncompliance with ADG and LEP building separation controls. Furthermore, improvements in the public domain are needed, and it is recommended that the applicant align its design with the Liverpool City Centre Public Domain Master Plan.</i></p> <p>4.1.3  <i>While the garbage room arrangement has been improved, the garbage room has not been relocated to the basement and has direct access to the lobby. This arrangement is not satisfactory. It is still a preference that the garbage room be relocated to the basement and with that a revised basement plan. The access from the tower fire stair is also problematic, running through the lift foyer. There are probably too many ground floor apartments, and they are probably too big. The apartments should be reduced in number and bedroom number, to provide the necessary space for the resolution of these and other issues.</i></p> <p>4.1.4  <i>The basement arrangement remains problematic with the lack of deep soil to the periphery of the site to the side and rear. The panel notes the importance of deep soil locations adjacent to the basement. The</i></p>	<p>4.1.2  The Applicant has not addressed the masterplan directly but has proposed a building which aims to establish a gateway form to the corner by including vertical and horizontal elements.</p> <p>The FSR complies with the affordable housing provisions added and the minor height extrusion consider acceptable.</p> <p>The Landscape and Communal areas have been increased on site and to the public domain. A revised Landscape and Public Domain Plan has been conditioned to ensure it further develops the landscaping and communal areas and provides elements of the Masterplan.</p> <p>4.1.3  Ground floor design was adjusted to enhance the entry experience, with the garbage room relocated to provide direct access to the street while avoiding the lobby</p> <p>4.1.4  Added 3m deep soil zones along the eastern and southern boundaries to allow for vegetation growth.</p>

<p><i>panel believes the basement car parking should be redesigned to provide deep soil planting on the eastern and southern boundaries to assist in the development of a satisfactory interface between the proposed apartment building and the existing and or future apartment buildings to the east and south. A third basement should be provided with sufficient space for adequate turning and deep soil planting on the boundaries.</i></p>	
<p><b>Built Form + Scale</b></p>	
<p><b>4.2.1</b>  <i>The extensive discussion about building separations and compliance with relevant ADG and LEP requirements underscores the crucial need for a mostly compliant scheme. The emphasis is on ensuring the desired amenity for both the site and its immediate surroundings. A major concern arises regarding the side setback to the south and northwest boundary, which fails to comply with either ADG or LLEP 2008 Clause 7.4. While the applicant has incorporated highlight windows facing the common boundaries, it is noted that these windows may not fully address visual privacy concerns. Additionally, rooms with highlight windows are still considered habitable spaces when applying ADG separation/visual privacy controls. The most critical issue lies in the fact that the proposed non-compliant side setback to south will have a significant impact on the neighbouring site, affecting both existing and future developments. The Panel does not support this non-compliance, emphasising its adverse implications for the neighbouring properties. A revisit of the site planning is required by the Panel.</i></p> <p><b>4.2.4</b>  <i>The Panel highlights the equal importance of both rooftop COS and ground-level COS, emphasising the need for these spaces to accommodate a variety of uses. To provide a better ground level COS, an opportunity is identified, increasing the building setback to the east boundary. This adjustment can help maximize compliance with relevant mandatory requirements while simultaneously improving visual interest and privacy for both the site and its</i></p>	<p><b>4.2.1</b></p> <ul style="list-style-type: none"> <li>• Side setbacks revised to comply with ADG and LLEP requirements to mitigate impacts on neighboring sites.</li> <li>• Highlight windows adjusted to ensure privacy and better amenity for residents.</li> </ul> <p><b>4.2.4</b>  The proposed COS on ground level has been revised and improved to be more defined.</p> <p>The proposed COS intends to offer shelter against the summer sun, while partial solar exposure is still received during winter times.</p>

<p><i>neighbouring property. The panel notes the existing apartment building to the East of 62A, has a landscape open space adjoining and has numerous rooms opening on to that space over several levels. This space and the rooms utilising the space will benefit from a more generous setback and landscaped treatment on the 62 Copeland eastern boundary.</i></p> <p><b>4.2.5</b> <i>Furthermore, the Panel emphasises the COS ideally should be situated in areas designated for deep soil zones and suggests exploring the possibility of optimizing the basement layout to make it more compact, thereby reducing the basement footprint and creating more space for deep soil</i></p> <p><b>4.2.6</b> <i>The Panel questions the necessity of the four-storey street wall at the northwest corner. Further refinements are recommended to simplify the built form.</i></p> <p><b>4.2.7</b> <i>The proposed 3.1m ground floor height is not supported, especially with the Levels 1-6 encroaching on the required 4.5m street setback along Moore Street. This configuration would significantly diminish the human-scale of the pedestrian amenity. It is suggested that the applicant increases the ground floor height to at least 3.7m for greater flexibility and a better interface with the street. The privacy of the apartments would benefit if the ground floor were to be raised higher than the street level. The ADG recommends up to 1m. with planter walls and planting assisting the screening of the ground floor rooms. Detailed sections along the Copeland and Moore Street frontages are required to demonstrate the satisfactory treatment of the public realm and apartment interface.</i></p>	<p><b>4.2.5</b> The basement 1 layout has been revised and optimized to provide for a 3m deep soil zones offset from the boundary to allow for vegetation growth.</p> <p><b>4.2.6</b> The building design has been revised and improved as a defined gateway character along Moore Street and Copeland Street, which is aligned with the Liverpool masterplan strategy.</p> <p><b>4.2.7</b> Ground floor height increased to 3.7m to enhance flexibility and pedestrian experience.</p>
<p><b>Density</b></p>	
<p><b>4.3.1</b> <i>It is noted that the proposed FSR, including the AHB, has led to a capped built form, compromising site setbacks in multiple locations. As a result, residential amenity for</i></p>	<p><b>4.3.1</b> The FSR has been adjusted to comply with the provisions of affordable housing. Refer to key issues discussion for details. The proposal now complies.</p>

<p><i>both the site and adjacent sites are significantly compromised. The Panel recommends that the applicant develops a design solution appropriate to the location and context within the applicable FSR and height constraints.</i></p>	
<p><b>Sustainability</b></p>	
<p><b>4.4.1</b>  <i>The Panel does not believe this Item has been sufficiently explored and clarified. Please see below.</i></p> <p><b>4.4.2</b>  <i>The Panel notes that there are opportunities for sustainability measures to be incorporated into the proposal. The panel believes that the deep soil planting along Copeland and Moore Street is helpful, however more is required on the Eastern and Southern boundaries to assist in mitigating against the heat island effect, and privacy concerns. The environmental strategy relating to the western and northern elevations is not sufficiently explained in the presentation, and the panel can observe large areas of relatively exposed glazing on the north and particularly the western elevations. Suitable Western sun shading systems are required, and demonstration of summer sun solar control is required.</i></p> <p><b>4.4.3</b>  <i>The Panel inquiries about the NCC star rating, considering the extensive glazing proposed.</i></p> <p><b>4.4.4</b>  <i>The overshadowing impact on the neighbouring property to the south is a major concern. The Panel seeks clarification from the applicant regarding the use of the north-facing units, particularly if they are living rooms. The applicant acknowledges the uncertainty of the use of these units. The Panel recommends the applicant confirm the existing uses and</i></p>	<p><b>4.4.1</b>  The proposed development provides EV car charging as well as electrical appliances instead of gas appliances to improve sustainability principles. PV solar panels has also been incorporated in the design to also improve in sustainability.</p> <p>PV solar panels have also been provided on the roof to improve sustainability principles.</p> <p><b>4.4.2</b>  Additional deep soil planting has been incorporated on the eastern and southern boundaries to assist in mitigating the heat island effect as well as improving privacy concerns.</p> <p><b>4.4.3</b>  The proposal utilises the previous NCC star rating of 6.</p> <p><b>4.4.4</b>  Overshadowing impact on the existing property 64 Copeland Street has been further studied in the sun-eye diagrams to assess the impact of the proposal on the neighbouring property</p>

<p><i>conduct a detailed solar testing to assess the extent of overshadowing.</i></p> <p><b>4.4.5</b>  <i>There appears to be errors in the shadow diagram for 9am and 12 pm on 21<sup>st</sup> December. It is required the applicant provide updated shadow diagrams accordingly. In addition, because of the zoning of the neighbouring land, the panel believes the applicant must consider the likely future use of this site, anticipate the nature of the planning of a future development and its reliance on the northerly aspect.</i></p>	<p><b>4.4.5</b>  Updated shadow diagrams have been provided</p>
<p><b>Landscape</b></p>	
<p><b>4.5.1</b>  <i>The panel notes the engagement of a registered landscape architect and there are significant trees located to the Moore and Copeland Street frontages. Whilst a landscape plan has been prepared and species nominated. It is unclear how the proposal fits into a broader Gateway context. The panel requires this item to be thoroughly examined and communicated.</i></p> <p><b>4.5.2</b>  <i>As above, the landscape proposal may satisfy the gateway site character required along Moore and Copeland Streets. The panel requires this item to be thoroughly examined and communicated including planting types in nearby sites, street tree species proposed adjoining and nearby.</i></p> <p><b>4.5.3</b>  <i>As discussed in 4.2.4, the Panel seeks clarification from the applicant regarding the proposed COS strategy. The primary COS is located on the rooftop, while a linear COS is provided at the rear of the site. The applicant explains that the intention is to offer alternatives for residents, and it also responds to the Western Sydney climate by providing a cooler space at ground level in summertime. The panel acknowledges the move of the Communal Open Space to the roof top; however it believes that a ground floor Communal Open Space should be provided with complementary functionality and a different amenity to the roof top COS. The current ground floor COS has inadequate amenity and solar access. Its</i></p>	<p><b>4.5.1</b>  Refer to landscape architectural drawings for further clarification.</p> <p><b>4.5.2</b>  Refer to landscape architectural drawings for further clarification.</p> <p><b>4.5.3</b>  The proposed COS on ground level has been revised and improved to be more defined.   The proposed COS intends to offer shelter against the summer sun, while partial solar exposure is still received during winter times.</p>

<p><i>landscaping capability is compromised by minimum basement setbacks and close proximity of the southern wing of the development. While it is understood the ground COS may have limited solar access, the Panel suggests "squaring up" and enlarging this space, allowing for a more generous COS. The applicant expresses willingness to accommodate a larger COS at this location.</i></p> <p><b>4.5.4</b> <i>The Panel acknowledges the proposed street setbacks to Copeland Street and Moore Street, incorporating the deep soil zone and tree planting. It is recommended the applicant take the same approach to the south and east boundary, recessing the basement building footprint to accommodate more deep soil zones.</i></p> <p><b>4.5.5</b> <i>The long fire egress pathways to the south and east require some refinements. The Panel suggests the applicant explore opportunities to provide soft landscaping treatment instead</i></p>	<p><b>4.5.4</b> Side setback has been provided and improved on Basement 1 with a 3m deep soil zone offset from the eastern and southern boundary to allow for vegetation growth.</p> <p><b>4.5.5</b> Landscaping on southern and eastern boundaries has been revised and improved to provide softening landscape treatment.</p>
<p><b>Amenity</b></p>	
<p><b>4.6.1</b> <i>Specific treatments to reduce solar gain and acoustic insulation must be provided. The panel notes that Moore Street may have a light rail line and that Copeland Street has significant noise levels. The panel notes that this site is part of a significant high temperature above ambient zone (refer to the Masterplan). The next submission is to address how these influences will be managed. Whilst 3d sun eye diagrams/views have been provided, specific apartment floor by floor determination for natural ventilation and solar access have not. These are to be part of the next submission.</i></p> <p><b>4.6.2</b> <i>As discussed in 4.2.1 and 4.4.4, the Panel expresses concern about the overshadowing impact of the proposed development on the existing property and future development at 64 Copeland Street. Solar access to units facing the proposed development is expected to be significantly impacted. Sun eye diagrams are to be</i></p>	<p><b>4.6.1</b> Deep soil zones for vegetation on Moore Street have been provided to act as acoustic mitigation filter towards traffic noises.</p> <p>Solar access plan diagrams and natural ventilation diagrams have also been provided. See DA7011 and DA7021</p> <p><b>4.6.2</b> Overshadowing impact on the existing property 64 Copeland Street has been further studied in the sun-eye diagrams to access the impact of the proposal on the neighbouring property.</p>



<p><i>supplied and detailed floor plans provided of 64 Copeland Street to assess the impact of the proposal on this property.</i></p> <p><b>4.6.3</b>  <i>The Panel raises concern about the significant number of highlight windows, deeming it a compromise to the amenity provided for the residents, such as units A801 and A901. Setbacks are to be increased to comply with ADG distance to boundaries and to habitable rooms and privacy measures are to be incorporated. It is not acceptable to rely completely on high level windows for light and ventilation, and</i></p> <p><b>4.6.4</b>  <i>The Panel notes internal layout issues that require further resolution, such as double opening doors from the foyer to the bin room, creating a compromised amenity and arrival experience. Concerns are raised about the layout of some units such as Unit 602 and 601. with waste space through long corridors, such as unit A602. The Panel encourages the provision of more three bedroom units to address these concerns</i></p>	<p><b>4.6.3</b>  The proposed usage of highlight windows inhabitable rooms does not orientate towards the neighboring buildings. Objective ensures individual apartments achieve visual and acoustic privacy, outlook and ventilation for the unit</p> <p><b>4.6.4</b>  The proposed ground floor plan has been revised to improve bin access circulation withan additional air lock as well.</p> <p>The unit mix has been revised to incorporate 3 Bed Units in the building, as follows: 17.5% (7/40).</p>
<p><b>Safety</b></p>	
<p><b>4.7.1</b>  <i>The Panel acknowledges the provision of street access to ground level units. It is recommended to relocate the direct access for AG04 to Moore Street, avoiding circulation conflicts with the fire egress while enhancing passive surveillance on Moore Street. Alternatively, or in addition, the panel encourages a more discrete fire exit from the basement which is less disruptive to the streetscape.</i></p> <p><b>4.7.2</b>  <i>The Panel expresses concerns about the proposed use of FC panels on the façade, noting that it is not certified for use over 35m. The applicant is to obtain certification for high rise use from the manufacturer.</i></p>	<p><b>4.7.1</b>  Access to unit AG04 has been relocated to Moore Street to improve circulation and to enhance passive surveillance on Moore Street.</p> <p><b>4.7.2</b>  The proposed finishes have been amended so that from 35m onwards, the proposed building shall use rendered painted concrete instead of FC.</p>
<p><b>Hosing Diversity &amp; Social Interaction</b></p>	
<p><b>4.8.1</b>  <i>The absence of three-bedroom units in the dwelling mix is a significant concern. The Panel recommends that the applicant revisits the dwelling mix to comply with the requirements outlined in the DCP.</i></p>	<p><b>4.8.1</b>  The unit mix has been revised to incorporate 3 Bed Units in the building at 17.5% (7/40).</p> <p>The proposed development provides 25% (11/40) for 1Bed, 55% (22/40) for 2 Bed and</p>

	17.5% (7/40) for 3Bed.
<b>Aesthetics</b>	
<b>4.9.1</b> <i>As mentioned in 4.7.2, the use of FC panel wall cladding is not certified for heights over 35m. This raises concerns about the potential impact on the façade design and necessitates a re-evaluation.</i>	<b>4.9.1</b> The proposed finishes have been amended so that from 35m onwards, the proposed building shall use rendered painted concrete instead of FC.

The proposed building form presents a relatively sympathetic response considering the variations to the setbacks. The development has attempted to design the building by reducing the impacts on neighbouring developments.

The development complies with the FSR controls and GFA objectives as well as providing general compliance with DCP controls.

#### **10.4 Overshadowing and Building Separation**

The development is proposal the following setbacks

##### **Front Setback:**

- Moore Street – 4.5m to the external walls of the development.
- Copeland Street – 8m to the external walls of the development.
- A hydrant booster is proposed to be located within the front setback of the development.

##### **Eastern Setback:**

- 4.5 to 6m to the ground floor level of the development.
- 3.5m to 12.515m to the upper level walls of the development.

##### **Southern Setback:**

- 4.5m setback to the ground floor and levels 1 to 3 of the development.
- 5.09m to 9.135m to the upper level's walls of the development.

The primary concern is the rear setback to the south. In its assessment council factored in the objective of building separation guidelines from the ADG, Council's LEP, and the objective in the ADG.

The assessment found that a scheme with compliant rear seatbacks and building separation, and meeting the desired building height, would still result in significant overshadowing to the buildings to the south. Furthermore, there have been a number of proposals on the site in recent years and all faced the same issues by trying to achieve the desired built form to allow for solar access and reduce any overshadowing or amenity issues to the south. This has been factored into the assessment.

It is important to acknowledge that the building separation complies with Council's LEP and the extent of variation is primarily proposed under the ADG. The ADG prescribes minimum setbacks primarily to preserve amenities, maintain visual and acoustic privacy, and enhance streetscape character. Key relevant objectives include:

- Solar Access and Amenity: Ensuring sufficient daylight and sunlight access to primary living areas.
- Privacy and Visual Separation: Minimising overlooking impacts between buildings and adjacent properties.
- Building Articulation and Massing: Avoiding excessive bulk and scale that disrupt the local character.

Several site-specific characteristics support the proposed setback variation as follows:

- Contextual Constraints and Topography: The site's dimensions and orientation limit its potential for uniform setbacks without compromising design quality and practical use of space.
- Stepped Form and Upper-Level Setback Variation: By setting back the upper levels from 5.09 to 9.135 meters, the development reduces perceived bulk and massing, mitigating visual impact on adjoining properties and achieving a balanced transition between different heights within the development.
- Amenity Impact on Neighbours: The varying upper-level setbacks ensure that shadowing and privacy impacts on neighbouring properties are minimised, particularly for properties to the south.
- Building footprints and non-compliance with surrounding developments: The location of building footprints of the immediate neighboring developments to the south and east are afforded reduced rear and site setbacks which contribute to the overshadowing and perceived privacy concerns.

In its ruling under [Tenacity Consulting v Warringah Council (2004) NSWLEC 140], the LEC established principles for assessing view sharing, privacy, and overshadowing. By providing varied setbacks, the proposal aligns with these principles, enhancing privacy and minimising overshadowing impacts on neighbouring properties.

This is evident in the southern elevation of the proposal where limited balconies are proposed to overlook the neighbouring developments and highlight windows are proposed to the south. Furthermore, the location of the neighbouring building being within the ADG and LEP setbacks contributes to the overshadowing and potential privacy issues.

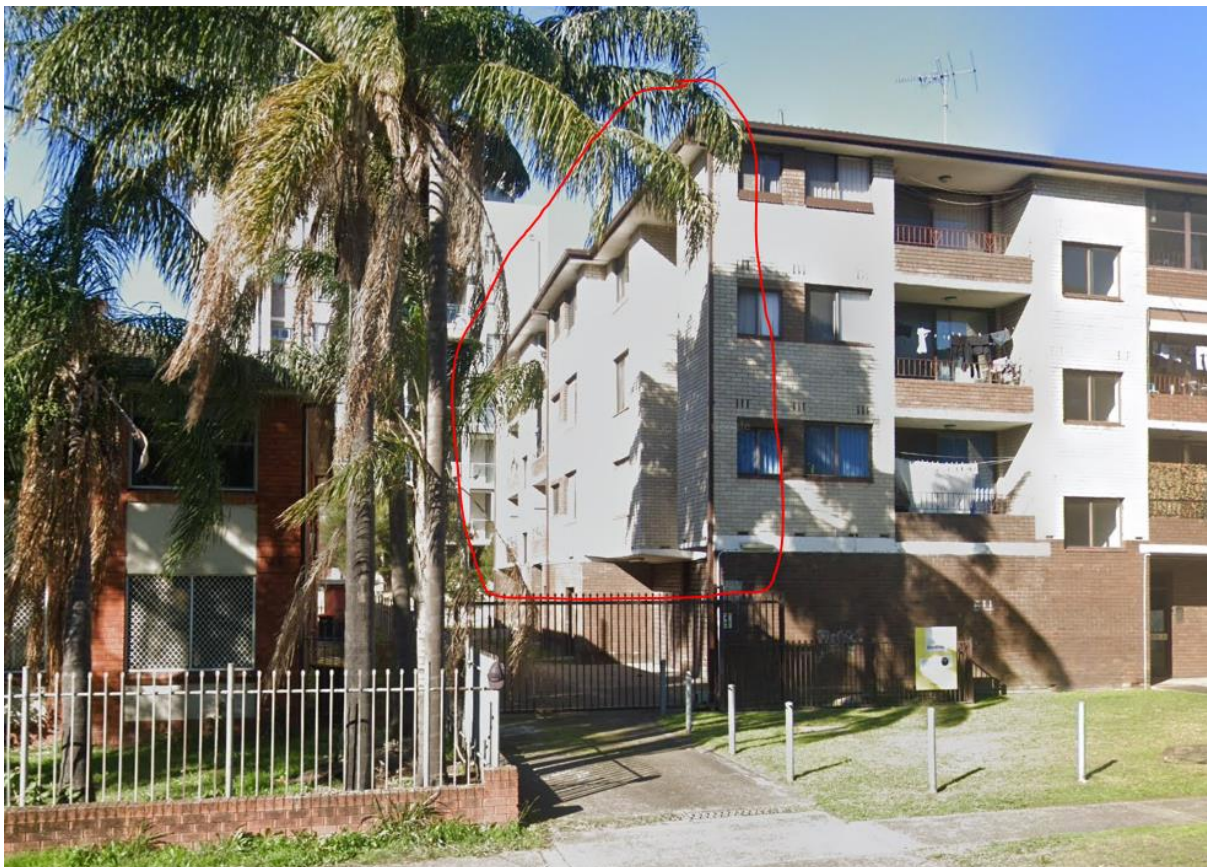
The aim of the proposal is to provide as many privacy mitigation measures and to reduce any potential overlooking by designing the southern façade with these matters in mind. Figure 17 below shows the proposed message on the south façade which includes highlight windows, and privacy screens on balconies







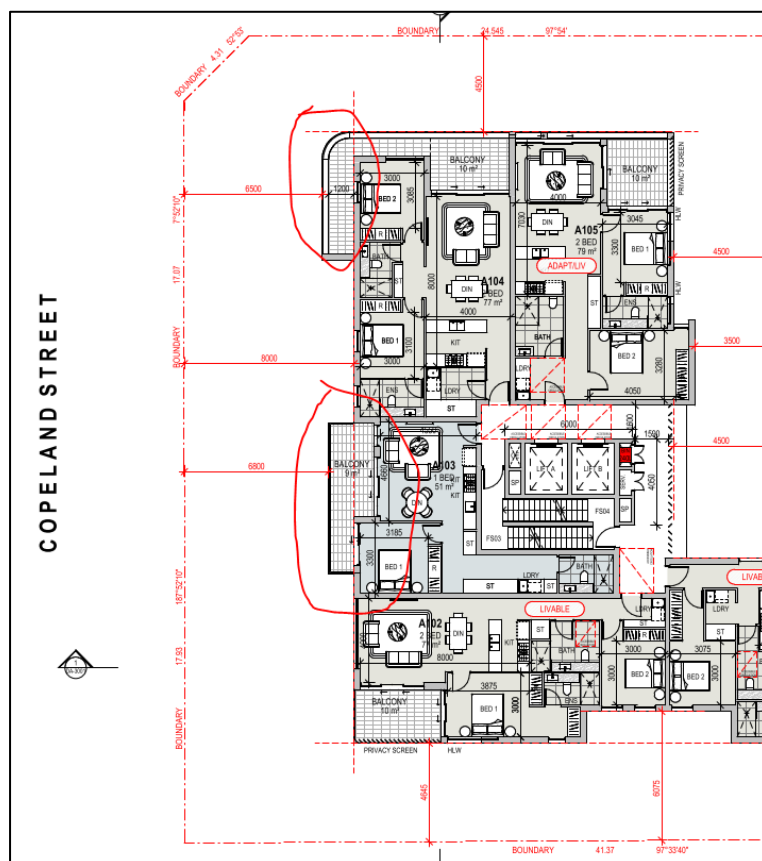
**Figure 18:** Rear view of 128 Moore Street (circled)



**Figure 19:** Northern Elevation of No. 64-68 Copeland Street (Located South of the Subject Site)

## 10.6 Front Setback to Copeland Street

Section 4.2.7 of the Liverpool DCP 2008 requires an 8-metre landscaped setback to buildings with a boundary to the Hume Highway (Copeland Street). The proposal provides a front setback ranging from 8m only on the ground floor level with balconies protruding into the articulation zone reducing the setback to Copeland Street to 6.8 meters. However, this is not for the entire length of the building and is only concentrated along the length of two balconies from levels 1 to 10 (Figure 20 below).



**Figure 20:** Typical Floor level showing location of balcony extrusion into the front setback.

The proposed setbacks are considered satisfactory having regard to the following:

- This portion of land has already been dedicated as a public road and now forms part of a left-hand turn lane into Copeland Street.
- All Residential Flat Buildings along this section employ similar setbacks to the Hume Highway as the proposal. In this regard, the proposal is consistent with the prevailing street setbacks.
- The Proposal was referred to TfNSW who did not raise any concerns with the setback.

The development site is not perpendicular to the Hume Highway but is angled. Accordingly, the proposed development adopts a mostly compliant setback of 8 metres with only proportionate area protruding into this area for balconies on upper floors. The buildings on adjoining lots have adopted a similar approach. The proposed front setback is considered to be appropriate for the site and the immediate locality and provides for an appropriate landscaped transition to the public



## 10.7 Dwelling Mix

Initially the SEE stated that, “The development incorporates fourteen (14) x 1-bedroom units & twenty-nine (29) x 2 bedroom units.” There are no 3 or more-bedroom units included in the proposed development.

In this context, the dwelling mix was amended in the request for information to include 7 x 3-bedroom apartments and overall reduced the apartment mix to 40. The revised proposal is for 11 x 1-bedroom units, 22 x 2 bedroom units, and 7 x 3 bedroom units.

Section 4.2.10 of Part 4 DCP currently requires 3 or more-bedroom apartments to make up a minimum of 10% of the total mix apartments. The proposal now complies with this.

## 10.8 Noise and vibration Assessment

The potential for noise and vibration to impact on adjoining properties is an important consideration given the extent of demolition proposed and the demolition methods likely to be utilised. The application was accompanied by a Demolition Noise and Vibration Assessment prepared by Acoustic Logic, dated 11 July 2023 (‘Noise and Vibration Report’) which considered this issue.

The Noise and Vibration Report considered the noise and vibration impacts arising from the proposed demolition of the buildings on the site. The report concluded that construction noise levels at nearby receivers are likely to exceed the noise management levels and, in some instances, could exceed the construction noise level of 75dB(A). Similarly, the use of a hydraulic hammer was identified as having the potential to cause exceedance of vibration criteria. Alternative work methods and vibration monitoring were recommended to manage the impacts from vibration intensive plant.

The report concluded that the works could proceed if a Construction Noise and Vibration Management Plan to reduce the likelihood of noise impacts due to construction activity are prepared. Council has considered this report and following a detailed assessment, concluded the report was satisfactory notwithstanding the likely noise exceedance which could be addressed in recommended conditions of consent, which is supported.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment 2**.

## 11 CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions, and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in Section 10 of the report have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment 2**.

## 12 RECOMMENDATION

That Development Application DA-489/2023 for Demolition of all existing structures, tree removal, and construction of a new twelve (12) storey residential flat building consisting of forty-three (40) residential units and two (2) levels of basement car parking at 62 & 62A Copeland Street, Liverpool be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment 2.

The following attachments are provided:

- Attachment 1: Assessment tables - 383637.2024
- Attachment 2: Draft Conditions of Consent (To follow)
- Attachment 3: Architectural Plan - 198029.2024
- Attachment 4: Landscape Plans - 198030.2024
- Attachment 5: Stormwater Plans - 307180.2023
- Attachment 6: Survey Plan - 307182.2023
- Attachment 7: 4.6 Height Variation - 307152.2023
- Attachment 8: DEP Minutes - 410152.2023
- Attachment 9: Record of Preliminary Briefing with SWCPP - 368760.2023
- Attachment 10: SEPP 65 Assessment - 307161.2023
- Attachment 11: Design Verification Statement - 307169.2023
- Attachment 12: Acoustic report - 307165.2023
- Attachment 13: Arborist Report - 307166.2023
- Attachment 14: Traffic Report - 307162.2023
- Attachment 15: SEE - 307179.2023