



STATEMENT OF ENVIRONMENTAL EFFECTS

**Amending DA - Lot 101 DP1267563, Somme
Avenue, Edmondson Park**

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Statement of Environmental Effects

Amending DA - Lot 101 DP1267563, Somme Avenue, Edmondson
Park

Prepared for

Croatia 88 Pty Ltd (ALAND)

By



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Date of final issue: 06/03/2024

File Path: C:\Users\Sam Johns\GLN Planning\GLN - Documents\Projects\Active\12137 Aland Developments - Edmonson Park Stage 2 - Modification\Report

Project Manager: Peter Lawrence

Client: Croatia 88 Pty Ltd

Project Number: 12137

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Document History and Status

Version	Issue To	Qty	Date	Prepared by	Reviewed by
V1 Draft	ALAND (C. Tran)	1-e	29/02/2024	S. Johns	M. Hanisch
Final	Liverpool City Council	1-e	06/03/2024	S. Johns	P. Lawrence

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Executive Summary

This Statement of Environmental Effects (**SEE**) accompanies a Development Application (**DA**) seeking an amendment to the existing approved development (DA-1320/2021) for three (3) residential flat buildings to accommodate affordable housing as provided for by recent amendments to *State Environmental Planning Policy (Housing) 2021* (**Housing SEPP**) at Lot 101 DP1267563; Somme Avenue, Edmondson Park (the **Site**).

The capacity to submit a DA to amend an existing consent has been confirmed on several occasions by the Land and Environment Court. In short, there is nothing that prevents the submission of a DA that would amend an existing consent either through a condition requiring the modification or surrender of the original development consent, or in having two development consents that apply to the same land that need to be read together to ascertain the development that is authorised to be carried out.

This DA therefore seeks to retain the approved development with an amendment to accommodate an additional 41 apartments including 27 affordable housing apartments. The amendments to the Housing SEPP provides an incentive based mechanism to deliver affordable housing by allowing increased heights and gross floor area across a development. These increased height and density help fund the construction of a component of affordable housing which is then managed by a Community Housing Provider. To facilitate the provision of additional affordable housing as per the Housing SEPP, this DA seeks to amend DA-1320/2021 to the following extent only:

- Increase in the gross floor area (**GFA**) by 30%
- Amendments to buildings including:
 - Building A – increase from 20 apartments over 3 storeys to 27 apartments (all affordable housing apartments) over 4 storeys,
 - Building B – increase from 46 apartments over 3/6 Storeys to 61 apartments 4/8 storeys, and
 - Building C – increase from 71 apartments over 5/6 storeys to 90 apartments over 6/8 storeys.
- Minor reconfiguration of apartments to accommodate additional lift and access arrangements in Building A, B and C,
- Floor level lowered to Basement 2 and Basement 1 to accommodate increased structural slabs, and
- Minor amendments to open space, service parking, waste and egress.

All other aspects of the approved development on the Site remain as currently approved. The supporting reports and material provide an assessment of the approved development as amended to best accommodate additional affordable housing into the scheme by applying the incentives in the SEPP, as detailed in this SEE.

The Site is zoned R1 General Residential under the *Liverpool Local Environmental Plan 2008* (**LEP**). The proposed development is permissible with consent and the residential flat buildings are

designed to provide a high level of amenity for future residents and are reconfigured and enlarged to accommodate an affordable housing component that will help meet the needs for this type of accommodation across Greater Sydney.

As the proposal represents an amendment to an approved development, to give effect to the objectives of the Housing SEPP, the bonus under Clause 16 needs to be increased to apply on top of the height and floor space ratio (**FSR**) of the approved development rather than to the same controls in the LEP. In this regard, it is noted that the approved development under DA-1320/2021 was supported by a Clause 4.6 variation, which demonstrated that compliance with the relevant standards were unreasonable and unnecessary and justified the design on environmental planning grounds. Appropriately, this application is also supported by a Clause 4.6 request to vary the standards applied under Clause 16 of the Housing SEPP to apply on top of the approved buildings to capture and apply the very incentives fundamental to the delivery of affordable housing.

Clause 16 is a development standard in accordance with the definitions in the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) and is identified as such in the *In-fill affordable housing Practice Note, December 2023* (**Practice Note**). Clause 4.6 of the LEP provides flexibility in the application of a development standard imposed under the LEP or any other environmental planning instrument (such as the Housing SEPP). It is proposed in this DA that Clause 4.6 be used to vary the bonuses to be applied to the existing LEP height and FSR controls in Clause 16 of the Housing SEPP to permit both the approved development and additional affordable housing envisaged by the Housing SEPP.

The original DA was categorised as 'integrated development' pursuant to Section 4.46 of the EP&A Act requiring referral under Section 100B of the *Rural Fires Act 1997* (**RF Act**) and Section 91 of the *Water Management Act 2000* (**WM Act**). No change is proposed to the works approved and granted General Terms of Approval under the Water Management Act. However, the additional apartments proposed adjacent to bushfire prone land will require referral to the Rural Fire Services.

The proposed development is also categorised as 'regionally significant development' pursuant to State *Environmental Planning Policy (Planning Systems) 2021* (**Planning Systems SEPP**), as the capital investment value is greater than \$30 million. The DA will accordingly be determined by the Sydney Western City Planning Panel (the **Panel**). The DA is not categorised as 'designated development', or 'state significant development'.

This SEE has considered the proposed development pursuant to the requirements of Section 4.15 of the EP&A Act and the *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulations**) and is considered to meet the principles and objectives by providing residential accommodation for both market and affordable housing with a high level of amenity and within walking distance of public transport.

This SEE describes the Site, the proposed development, and an assessment having regard to the matters in Section 4.15 of the EP&A Act. A Clause 4.6 submission has been prepared to accompany the SEE for the variation of the development standards as outlined above. All anticipated environmental impacts can be satisfactorily managed and mitigated and it is recommended that development consent be granted subject to appropriate conditions of consent.

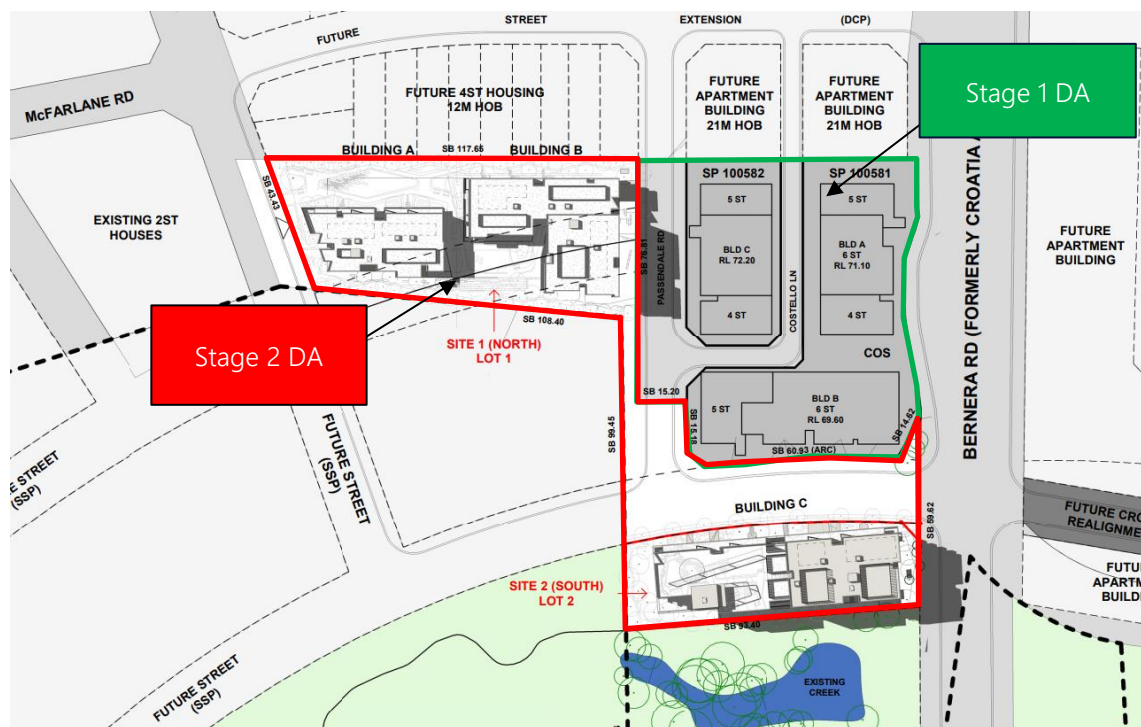
1 Introduction

1.1 Background

This SEE accompanies a Development Application (DA) prepared on behalf of Croatia 88 Pty Ltd (the **Applicant**).

The DA seeks amendments to the three (3) approved residential flat buildings approved under DA-1320/2021 to provide an affordable housing component, over land at Lot 101 in Deposited Plan 1267563; Somme Ave.

This DA seeks to amend the consent to develop an "Z" shaped residential land remaining on the original parcel previously known as Lot 32 DP 1228502, No. 190 Croatia Ave. The consent, DA-1320/2021, was approved on 12 September 2022 and the development is described as a 'Two lot Torrens Title subdivision and construction of three residential flat buildings ranging from three to six storeys comprising 137 flats and basement car parking with associated Strata subdivision, site preparation works, civil works, and landscaping' Refer to **Stage 2 DA in Figure 1** below.



Source: Stanisis Architects, 2021

Figure 1. Site Plan Approved under DA-1320/2021

The Site is located within the Edmondson Park Precinct which forms part of the South West Growth Centre, although the relevant planning controls are now contained in LEP.

The Stage 2 DA was supported by a Clause 4.6 variation, providing justification for varying the Maximum Height of Buildings and FSR standards in the LEP to provide a logical development footprint following the deletion of a proposed road, the centreline of which was the boundary between very different height standards of 12 metres and 21 metres and FSR standards of 0.75:1 and 1.5:1. The variations to these standards were accepted by the Panel recognising that the development provided a more logical development outcome and because the proposed development in adopting a "blended GFA" was able to demonstrate across the entire area of the site was under the maximum GFA set for the.

Since the Stage 2 DA was approved, amendments have been made to the Housing SEPP in December 2023 to incentivise the delivery of affordable housing in certain residential accommodation types, including within residential flat buildings, through allowances for additional height and floor space. This DA is intended to amend the Stage 2 DA as detailed in the architectural plans to accommodate an additional 41 apartments including 27 affordable housing apartments by varying the height and FSR under Clause 16 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) to apply to the heights and FSR of the approved development.

1.2 Type of Development Application

This DA seeks to amend an existing Development Consent; DA-1320/2021 (**Original Consent**). This SEE therefore provides an assessment against the aspects of the proposal that affect the Original Consent only. No assessment against the aspects of the Original Consent that are being retained are required.

The proposal constitutes 'development' in accordance with Part 4 of the EP&A Act. The estimated capital investment value is greater than \$30 million as detailed in the revised Cost Summary Report prepared by RIC-QS that accompanies this application, and therefore the proposal is categorised as 'Regionally Significant Development' per the Planning Systems SEPP.

The DA is not Designated Development or State Significant Development as defined in the EP&A Act. However, the development meets the requirements for integrated development under Part 4.46 of the EP&A Act and referrals are accordingly required under Section 100B of the RF Act and Section 91 of the WM Act.

1.3 Purpose of Report

The SEE has been prepared in accordance with Part 3 of the EP&A Act and EP&A Regulations for the purposes of:

- Demonstrating that the environmental impacts of the development have been considered; and
- Outlining steps to be undertaken to protect the environment or to lessen any expected harm to the environment.

This SEE details the necessary information for the proposal to be assessed by the consent authority, including a description of the Site and surroundings, and an assessment of the proposal (as amended) against the relevant planning controls.

This SEE concludes that the proposed development is acceptable as a means to incorporate the additional affordable housing bonuses under the Housing SEPP and that all anticipated environmental impacts can be satisfactorily managed.

2 The Site and Locality

This section of the SEE describes the site and its location. It defines the project area for the purpose of this SEE and provides a summary of the key features of the environment, and the broader locality which were considered as part of the site analysis of the land.

2.1 Site Location

The Site is located within the Edmondson Park Precinct within the South West Growth Area of the Western Parkland City (see **Figure 2**).



Source: Department of Planning, Housing and Infrastructure, 2022

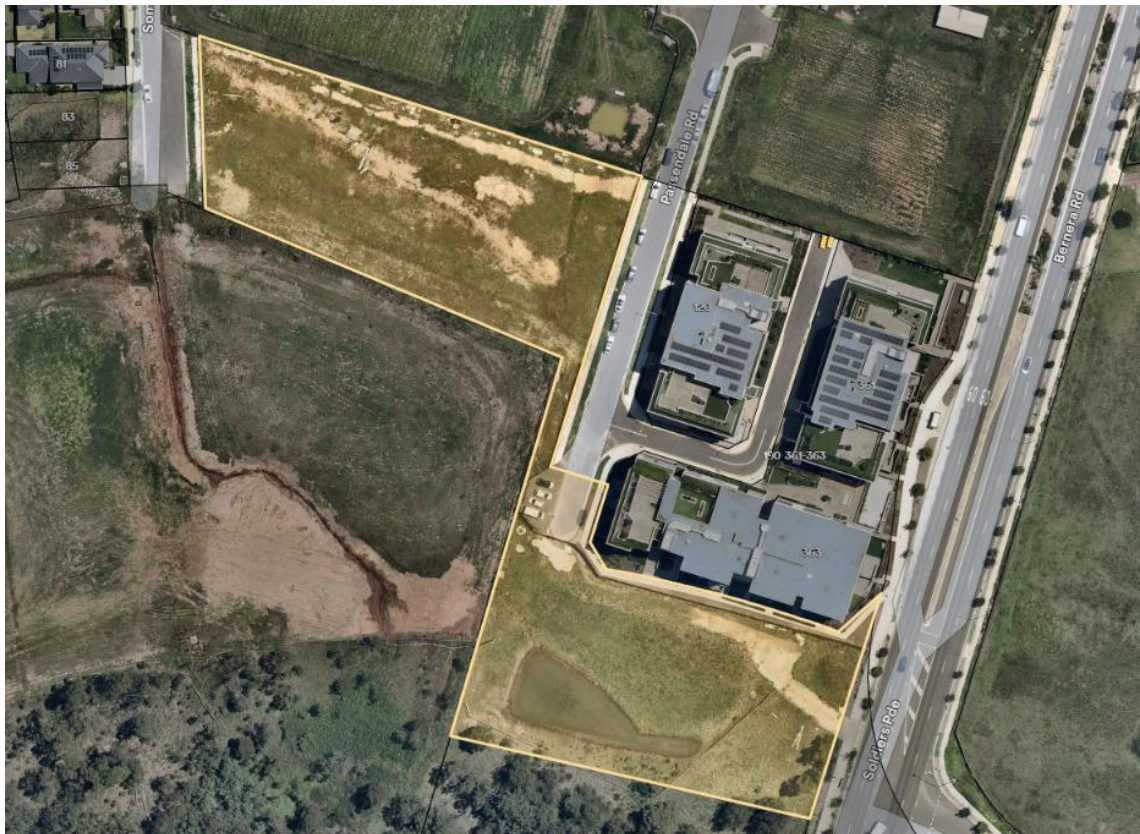
Figure 2. Site Location within South West Growth Area

The Site is located approximately a 500m walk from the Edmondson Park Station on the T2 Inner West and South rail line and is immediately north of the Maxwells Creek corridor. The Site has existing road frontage to Somme Ave, Passendale Road (partially constructed) and Bernera Road (formerly Croatia Ave). Bernera Road includes an indented bus bay in front of the recently constructed residential flat buildings.

The built form anticipated in this precinct dictates the highest densities around the station transitioning down to lower densities beyond walking distance of the station. This is achieved through height and FSR controls. The distribution of heights and FSR have been embedded in the planning controls consistent with a road pattern developed early in the planning of the precinct including transitions tied to various density outcomes.

2.2 Site Description

The legal description of the property is 101 DP1267563; Somme Avenue, Edmonson Park. The property is a 'Z' shaped allotment presenting as two larger rectangular areas in the northwest and southeast on which the residential flat buildings are proposed. The northwest area has frontage to Somme Avenue in the west and Passendale Road in the east while the south east development area has frontage to Bernera Road in the east and a future road which will form its northern boundary. An aerial view of the Site is shown at **Figure 3** below.



Source: Nearmap, 2024

Figure 3. Aerial View of Site

The Site is generally cleared of vegetation. The north of the site has a 4.88m fall from the north west corner on Somme Ave to the Passendale Road frontage adjacent to the corner of lands owned by Landcom, whilst the southern section of the Site has a more gentle slope falling toward the Maxwell Creek. A sewer line traverses through part of the site adjacent to Road 1. The part of the site adjacent to Maxwells Creek contains a temporary detention basin serving the three residential flat buildings already approved and constructed on the land to the north and east.

2.3 Surrounding Locality

As noted above, lands to the north and east of the Site is known as 361-363 Bernera Road and 120 Passendale Road, Edmonson Park, with these lands having been developed under Stage 1 for three residential flat buildings between 4 to 6 storeys in height.

Land immediately to the north of the Site is known as 200 Croatia Avenue, Edmondson Park, which was granted Development Consent under DA-141/2015 on 9 November 2015 for subdivision to "Create 25 Torrens Title Residential Lots and 4 Residual Lots with Demolition and Road Construction." The consent has "commenced" by the construction of road works through the land.

Land to the south and west of the Site is owned by Landcom which is being delivered consistent with the Edmondson Park Concept Approval. An amendment to the Concept Plan lodged by Landcom (MP 10_0118 MOD 5) shows the deletion of a minor access road which also traverses through the Site. The AECOM report titled *Edmondson Park South – Concept Plan Mod 5 – Transport Management and Accessibility Plan (TMAP)* dated 14 August 2018 includes Figures 21, 22 and 23 which show the "local minor road (indicative only)" deleted from the Landcom land and northern part of the site. A laneway between Somme Ave and Passendale Road through the middle of the Landcom land and extending through a small part of the site has also been deleted.

The Landcom Concept Plan for its land immediately south west includes apartments and stacked terraces as shown in the *Edmondson Park Town Centre North Public Domain and Landscape Plan (Public Domain and Landscape Plan)* by Taylor Brammer Landscape Architects dated 16 November 2020. **Figure 4** is an extract from this document for this land.



Source: Landcom

Figure 4. Edmondson Park Town Centre North Public Domain and Landscape Plan

3 Proposed Development

3.1 Approval Pathway – Amending DA

This application seeks to amend the Original Consent. The NSW Land and Environment Court has established that Section 4.55 of the EP&A Act is beneficial and facultative and where the requirements of Section 4.55 are unable to be met, the approval pathway open to the Applicant is an 'Amending DA'. The Practice Note anticipates this scenario where there is a proposal to include affordable housing component in an existing approved development is not considered to represent 'substantially the same development' (in accordance with the test under Section 4.55(1A), (1) & (2) of the EP&A Act) a new DA is required.

In *AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces* [2021] NSWCA 112 (**AQC v Minister for Planning**) Preston CJ explained the entitlement available to an applicant to utilise a DA to amend an existing consent where the opportunity to modify and existing DA or Consent is not available or preferred. At [232] Preston CJ outlined that the grant of a development consent may "have the consequence of effecting a modification of the original development consent". In effect Preston CJ goes on to outline that approval of an Amending DA may affect the Original Consent in two ways;

1. The Amending DA may include a condition of a consent requiring the modification or surrender of the Original Consent.
2. The terms in which the Amending DA consent is granted may have the effect of varying the original consent. Notably Preston CJ states that "*there is nothing to prevent a person having two development consents to carry out development on the same land... The two development consent applying to the development on the same land need to be read together to ascertain the development that is authorised to be carried out on the land*".

The decision in *Gordon & Valich Pty Ltd v City of Sydney Council* [2007] NSWLC 780 (**Gordon & Valich**) demonstrates the need to ensure in the circumstances of an Amending DA it is important to accurately describe and consider the components of the proposal that amend the Original Consent. The assessment of the DA should therefore be constrained to the parts of the Original Consent that are affected by the proposed changes, but should not be constrained so as to not consider the overall effect of the entire amended development.

In recognition of the framework established for Amending DAs established by the various judgements, this section of the SEE details the specific development being proposed under this DA, the aspects of the Original Consent that are being retained and thereby establishing the scope of the Consent Authority's assessment. Further, in acknowledgement of the two ways in which an Amending DA may affect the Original Consent (*AQC v Minister for Planning*), we have outlined the relevant conditions in the Original Consent that would be amended in the Decision Notice for the Amending DA and confirm that we would accept a condition of consent on the Amending DA that would require the surrender of the Original Consent.

3.2 Proposed Amendments

This development application seeks development consent to amend three (3) approved residential flat buildings. This DA seeks to retain the approved development with an amendment to accommodate an additional 41 apartments including 27 affordable housing apartments. Subsequent amendments to the three approved buildings include:

- Increase in the gross floor area (GFA) by 30%
- Amendments to buildings including:
 - Building A – increase from 20 apartments over 3 storeys to 27 apartments (all affordable housing apartments) over 4 storeys,
 - Building B – increase from 46 apartments over 3/6 Storeys to 61 apartments 4/8 storeys, and
 - Building C – increase from 71 apartments over 5/6 storeys to 90 apartments over 6/8 storeys.
- Minor reconfiguration of apartments to accommodate additional lift and access arrangements in Building A, B and C,
- Floor level lowered to Basement 2 and Basement 1 to accommodate increased structural slabs, and
- Minor amendments to open space, service parking, waste and egress.

3.2.1 Construction of Residential Apartment Buildings and Affordable Housing

The proposed application seeks approval to amend the Original Consent under DA-1320/2021 to accommodate an additional 41 units, including 27 affordable housing units. The proposal is designed to amend the structures approved under DA-1320/2021 to accommodate these additional dwellings. A maximum of an additional two storeys is proposed under this amending DA. The proposal is being enabled by recent incentive provisions for FSR and Building Height under Clause 16 of the Housing SEPP.

The proposed architectural package includes the architectural plans and an updated Design Verification Statement that demonstrates the proposal reflects the objectives and design criteria of the Apartment Design Guide.

A comparison of the proposed development and the development approved under DA-1320/2021 is provided at **Table 1**. The additional height proposed under this DA is demonstrated at **Figure 5**, and shows that the maximum additional height proposed is two storeys at Buildings B and C. Only one additional storey is proposed at Building A.

Table 1. Development Summary of Approved and Proposed DA

Development component	Approved Stage 2 DA-1320/2021	Proposed Amending DA
Number of units	38 x 1 bedroom (27.7%) 87 x 2 bedroom (63.5%) 12 x 3 bedroom (8.7%) Total: 137 units	50 x 1 bedroom (28.5%) 114 x 2 bedroom (64.2%) 14 x 3 bedroom (7.3%) Total: 178 units
GFA	Total - 12,106.46m ² (1.197:1). Affordable component -Nil	Total - 15,867.49m ² (1.57:1) Affordable component 2,380m ² (15%)
Number of car parks	240	237
Maximum building height	21.78m (6 storeys) Maximum above height of buildings standard 6.64m (55.3%)	27.98m (8 storeys) Maximum above height of buildings standard 9.24m (59.2%)
Solar access	71%	69.7%
Cross-ventilation	60%	62.4%



Source: Stanisc Architects, 2024

Figure 5. Additional Height Proposed under Amending DA

The proposal has been sensitively designed to achieve the principles of the ADG, in particular to ensure that there are no adverse overshadowing or other amenity impacts within the development or upon any surrounding developments.

As noted above, a total of 15% of the proposed GFA is to be used for affordable housing, equating to 27 units. Per the requirements of the EP&A Regulations, the Applicant expects a condition of consent requiring a restriction on title requiring affordable housing component to be used only for affordable housing and that the units are to be managed by a Community Housing Provider (**CHP**). The proposed housing is required to be used for affordable housing for a period of at least 15 years per the requirements of the Housing SEPP.

Other more minor changes proposed to the architectural plans have been clouded in the architectural plans and are summarised as:

- Minor reconfiguration of apartments to accommodate additional lift and access arrangements in Building A, B and C. Notably additional lifts have been included in Building B and C. The Applicant has nominated to include additional lifts in these two buildings to provide an appropriate level of service to the residents. In Building C specifically, the proposal now includes three lifts, one servicing the western portion of the building and two servicing the eastern portion. To ensure a reasonable level of access is maintained if the single western lift is out of service the proposal has amended the layout of apartments on Level 4 minimise the flights of stairs occupants may be required to traverse for the time the lift is out of service.
- Minor amendments to open space, services, car parking (resulting in a net loss of 3 parking spaces to comply with the Housing SEPP) and waste collection (increased in size and capacity to accommodate the additional residents).
- Lowering of floor levels to basement levels to accommodate increased structural transfer slabs.

The landscaping has remained largely unchanged from the Original Consent. Minor changes to the ground floor plane to accommodate suitable access to the revised lift cores has been incorporated into the Landscape Plans submitted as part of the DA package.

3.2.2 Amended Conditions

The following details the relevant conditions from the Original Consent that require amendment to be included in a consent issued for this DA. The revised wording of the condition is expressed in **bold**.

1. *Approved Plans*

Development the subject of this determination notice must be carried out strictly in accordance with the following approved plans/reports marked as follows, except where modified by the undermentioned conditions

Plan Name	Drawing No.	Job No.	Date	Issue	Prepared By
Drawing List + Location Plan	DA0001	20 117	29/02/2024	C	Stanisic Architects

Plan Name	Drawing No.	Job No.	Date	Issue	Prepared By
<i>Accommodation Schedule</i>	<i>DA0002</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>Development Data</i>	<i>DA0003</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>Context Analysis Plan</i>	<i>DA0004</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>
<i>Site Analysis Plan</i>	<i>DA0005</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>
<i>Site Plan</i>	<i>DA0006</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>General Arrangement Plans (BLD A+B)</i>	<i>DA1001 – DA1008</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>General Arrangement Plans (BLD A+B)</i>	<i>DA1009 – DA1010</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>A</i>	<i>Stanisic Architects</i>
<i>General Arrangement Plans (BLD C)</i>	<i>DA1102 – DA1106, DA1111 – DA1112</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>
<i>General Arrangement Plans (BLD C)</i>	<i>DA1107 - 1110</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>General Arrangement Plans (BLD C)</i>	<i>DA1113 – DA1114</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>A</i>	<i>Stanisic Architects</i>
<i>Elevations + Sections (BLD A+B)</i>	<i>DA2001 – DA2003</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>Elevations + Sections (BLD C)</i>	<i>DA2101 – DA2102</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>
<i>Aerial Views</i>	<i>DA4001 – DA4002</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>
<i>Sun Eye View Diagrams</i>	<i>DA5001 – DA5002</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>
<i>Diagrams</i>	<i>DA8001, DA802, DA8005 – DA8007, DA8013</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>C</i>	<i>Stanisic Architects</i>

Plan Name	Drawing No.	Job No.	Date	Issue	Prepared By
<i>Diagrams</i>	<i>DA8003, DA8004, DA8008, DA8011, DA8012, DA8014, DA8015</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>
<i>Diagrams</i>	<i>DA8016 – DA 8019</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>A</i>	<i>Stanisic Architects</i>
<i>External Materials, Finishes + Colours</i>	<i>DA9001 – DA9003</i>	<i>20 117</i>	<i>29/02/2024</i>	<i>B</i>	<i>Stanisic Architects</i>

19. On Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by SGC reference number **20240006** revision A dated **23.02.2024**

...

22. Proposed development shall be in accordance with the following DA submission:

(a) Concept civil engineering plans prepared by SGS Consulting Plan no. DWG100 to 911 Rev A dated 11/10/2021

(b) Stormwater Drainage Design prepared by SGS Consulting Plan no. DWG S01-SW100 – S01-SW502 Rev A dated 23.02.2024

(b) Stormwater Management Report prepared by SGS Consulting and dated **23.02.2024**

175. Under current collection arrangements, Building A and B together will be issued with **10** x 1100 litre general waste bins and **10** x 1100 litre recycling bins, emptied once per week. The two cores of Building C together will be issued with **11** x 1100 litre general waste bins, and **11** x 1100 litre recycling bins, emptied once per week. No green waste bins or services will be supplied by Council...

195. A total of **237** off street car parking spaces must be provided for the development.

In addition to the above amended conditions, the consent will include the following additional condition as required by the SEPP Housing:

A Restriction is to be placed over the 27 Apartments within Building A, restricting the use of the building for Affordable Housing (as defined in the *Environmental Planning and Assessment Act 1979*) and managed by a registered Community Housing Provider for a period of 15 years.

The proposed amending DA does not affect the approved site preparation works, which involve the removal of the temporary detention basin and establishment of erosion and sediment control measures on each development Site.

4 Environmental Assessment

This section of the report assesses the proposed development against the planning considerations and detailed controls applicable to the site and the development, including:

Threatened Species and Biodiversity Impacts (section 1.7 of the EP&A Act)

Integrated development matters (section 4.46 of the EP&A Act)

Matters for consideration relating to DAs (section 4.15 of the EP&A Act)

4.1 Biodiversity and Threatened Species Impact

Whilst the land has been substantially cleared of vegetation, Section 1.7 of the EP&A Act requires consideration as to whether a proposed development will have a significant effect on threatened species, populations or ecological communities relating to terrestrial and/or aquatic environments as required under Part 7 of the *Biodiversity Conservation Act 2016* (**BC Act**) and Part 7A of the *Fisheries Management Act 1994* (**FM Act**).

4.1.1 Biodiversity Conservation Act 2016

In accordance with the BC Act, consideration as to whether the proposal is likely to significantly affect threatened species or ecological communities, or their habitats is required in accordance with the test outlined in section 7.3 of Part 7 of the BC Act. The site has been Biodiversity Certified under the now repealed *Threatened Species Conservation Act 1995* (**TSC Act**) in the Western Sydney Growth Centres Biodiversity Certification.

On the 25 August 2017, the BC Act commenced, superseding the TSC Act. Clause 35 of the *Biodiversity Conservation (Savings & Transitional) Regulation 2017* states:

Biodiversity certification that was conferred on land under Part 7AA of the Threatened Species Conservation Act 1995 and that was in force on the repeal of that Act is taken to be biodiversity certification conferred on the land under Part 8 of the new Act.

As a result, no further assessment of threatened species is required in relation to this DA pursuant to Section 1.7 of the EP&A Act.

4.1.2 Fisheries Management Act 1994

The FM Act contains several provisions for the protection of fish habitat and threatened species and aims 'to conserve, develop and share the fishery resources of the State for the benefit of present and future generations'. The proposed works under this amending DA do not include any works that will affect Maxwells Creek other than what has already been approved.

4.1.3 Environmental Protection and Biodiversity Conservation Act 1999

The Commonwealth Minister for the Environment on 28 February 2012 announced that the program of development activities under the Growth Centres was approved under the Strategic Assessment process. The decision means that the Growth Centres Program will satisfy the environmental protection requirements under the EPBC Act. Therefore, there is no requirement for any application

on certified land that is consistent with the program to be referred or considered under the EPBC Act.

4.2 Integrated Development

Section 4.46 and s4.47 of the EP&A Act requires a review of whether the proposed development would trigger an approval under other environmental or related legislation. This development is categorised as 'integrated development'.

A summary outlining whether any integrated approvals are required is provided within **Table 2**.

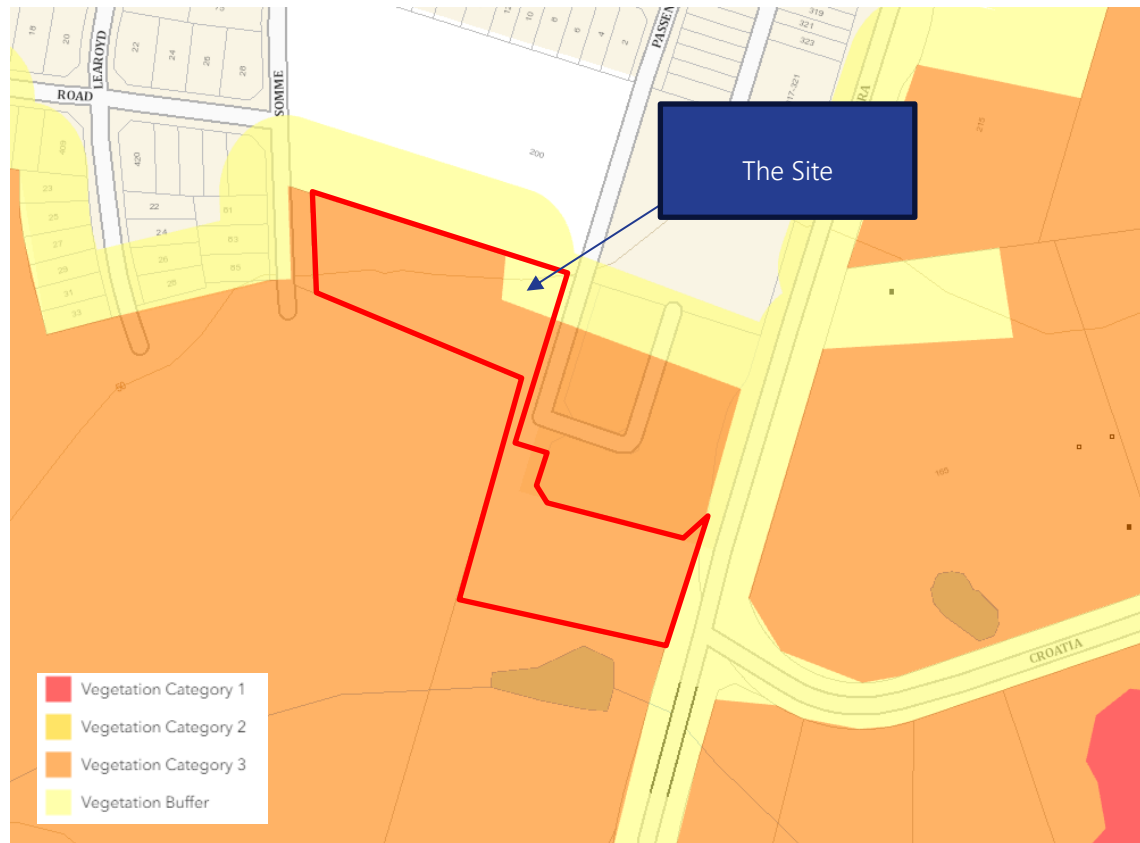
Table 2. Summary of Integrated Development approvals

Integrated Development	Comments	Approval required?
<i>Coal Mine Subsidence Compensation Act 2017</i> Approval is required to alter or erect improvement, or to subdivide land, within a mine subsidence district.	The Site is not situated within a mine subsidence district.	No
<i>Fisheries Management Act 1994</i> Requires a permit for the carrying of certain works which may damage or destroy marine vegetation or restrict the free passage of fish.	The proposal does not involve works that will destroy marine vegetation or restrict the free passage of fish, nor is the mapped hydroline situated to the south of the Site mapped as containing key fish habitat per the meaning of the FM Act.	No
<i>Heritage Act 1977</i> Approval is required in respect of doing or carrying out an act, matter or thing as referred to within s57(1) relating to an interim heritage order or listing on the State Heritage Register.	The Site is not situated on or near any items of affected by an interim heritage order or listed on the State Heritage Register.	No
<i>Mining Act 1992</i> Requires an approval to the granting of a mining lease	A mining lease is not being sought under this application.	No
<i>National Parks and Wildlife Act 1974</i> Requires an approval under s90 for an Aboriginal Heritage Impact Permit (AHIP)	A Statement of Heritage Impact was prepared by Artefact to support DA-1320/2021, which included a due diligence assessment for Aboriginal heritage items. The report included a desktop study and site inspection and concluded that there were no sites on the AHIMS register and that the Site was unlikely to contain archaeological remains reaching the threshold of local significance. Accordingly it is not envisaged that an AHIP will be required.	No
<i>Petroleum (On-shore) Act 1991</i>	A production lease is not being sought under this DA.	No

Integrated Development	Comments	Approval required?
Requires an approval to the granting of a production lease		
<i>Protection of the Environment Operations Act 1997</i> This Act requires an environmental protection licence for the carrying out of certain works.	The implementation of appropriate environmental protection works will ensure that no licence will be required. No integrated approval is required to address this legislation.	No
<i>Roads Act 1993</i> Approval is required for works in, on or over a classified road including connecting to a classified road and pumping water into a public road.	The Council is the Roads Authority for the road works associated with this development. No referral to Transport for New South Wales is required under this legislation.	No
<i>Rural Fires Act 1997</i> Authorisation is required in respect of 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.	The site is mapped as bush fire prone land and subdivision for residential purposes is sought, requiring approval from the NSW RFS under Section 100B of the RF Act. A Bushfire Hazard Assessment Report has been prepared by Blackash Bushfire Consulting which outlines the measures to protect the development for referral to the Rural Fire Service as integrated development. The report by Blackash Bushfire Consulting accompanies the application. Additional commentary is provided at Section 4.2.1 below.	Yes
<i>Water Management Act 2000</i> Approval is required under s89, s90 and s91 for certain water related uses and activities.	The south west corner of Proposed Lot 2 contains development including basement parking that is within the 20m riparian zone to the existing Maxwells Creek. The works within Proposed Lot 2 as well as interim arrangements for treatment of stormwater from the new extents of roads and drainage have already been approved and is not affected by this application.	Yes

4.2.1 Bush Fire Prone Land

Section 4.14 of the EP&A Act provides for the general consideration of bushfire hazards on land mapped as bushfire prone. The Site is mapped as being affected by bush fire prone land, being category 3 vegetation and a small vegetation buffer associated with the land associated with Maxwell Creek.



Source: NSW ePlanning Spatial Viewer

Figure 6. Bush Fire Prone Land Mapping

DA-1320/2021 was previously supported by a Bush Fire Hazard Assessment prepared by Blackash Consulting (uploaded to portal as part of this DA). The report recommends a series of Asset Protection Zones (**APZ**) and Bushfire Attack Level (**BAL**) rating requirements to be followed, which are generally more considerable towards the south of the site adjacent Maxwells Creek. General Terms of Approval were provided by the RFS on 30 May 2022.

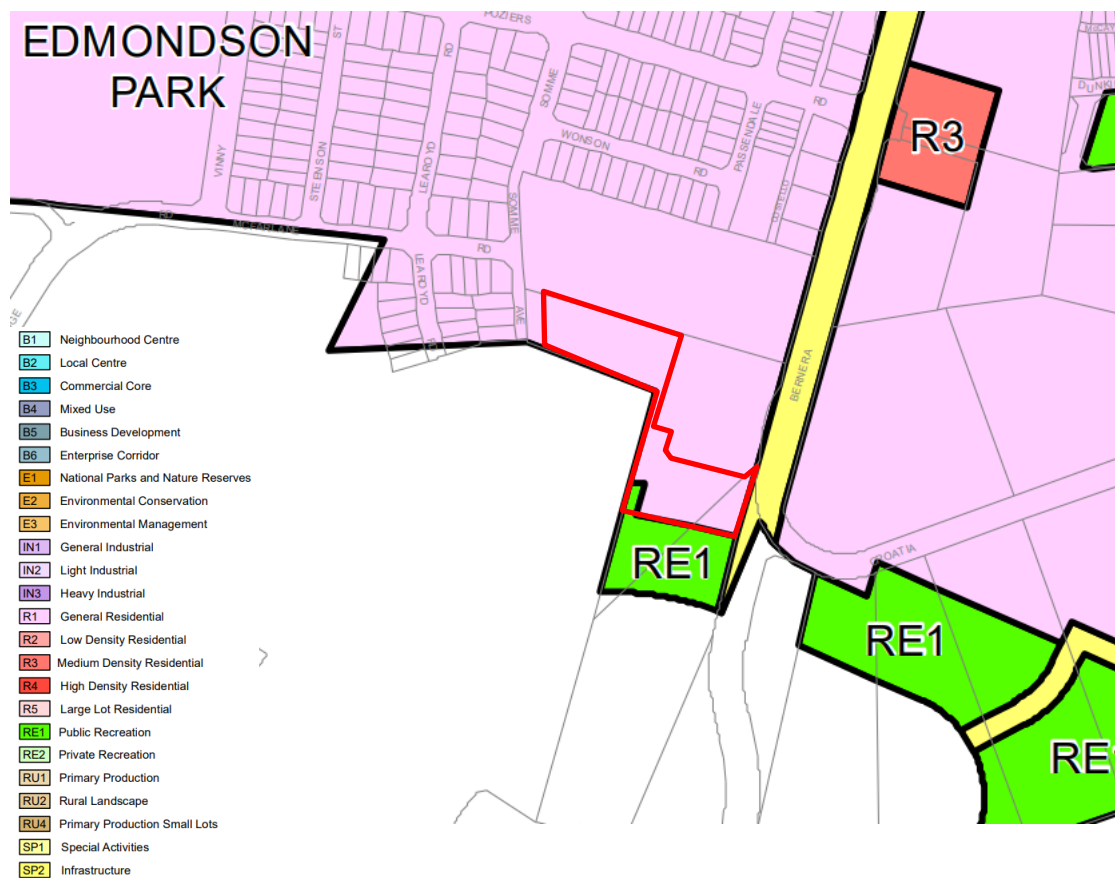
Blackash have provided an addendum letter advising that the findings of the bush fire report remain applicable to this development application and therefore no additional consideration is required (refer to the report uploaded to the Planning Portal). Regardless of the fact that the amendments proposed under the DA do not affect the Original Consent's risk to bushfire, the proposal triggers the requirement for referral to the RFS.

4.3 Environmental Planning instruments

Environmental Planning Instruments is the collective name for Local Environmental Plans and State Environmental Planning Policy (SEPPs).

4.3.1 Liverpool Local Environmental Plan 2008

The Liverpool LEP provides the primary statutory framework regulating land uses within the Liverpool LGA. The Site is primarily zoned R1 General Residential, with a small section of the southern extent of the Site zoned RE1 Public Recreation as shown in **Figure 7** below. The proposed development is contained to the area zoned R1 General Residential.



Source: NSW Legislation, 2023

Figure 7. Land Zoning Map Extract

The objectives of the R1 zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

- To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.
- To facilitate development of social and community infrastructure to meet the needs of future residents.

The proposal involves 'Residential flat buildings' and 'roads', both of which are permissible with consent in the zone. An assessment against the relevant provisions of the LEP are provided at **Table 3** below:

Table 3. Assessment against Liverpool LEP

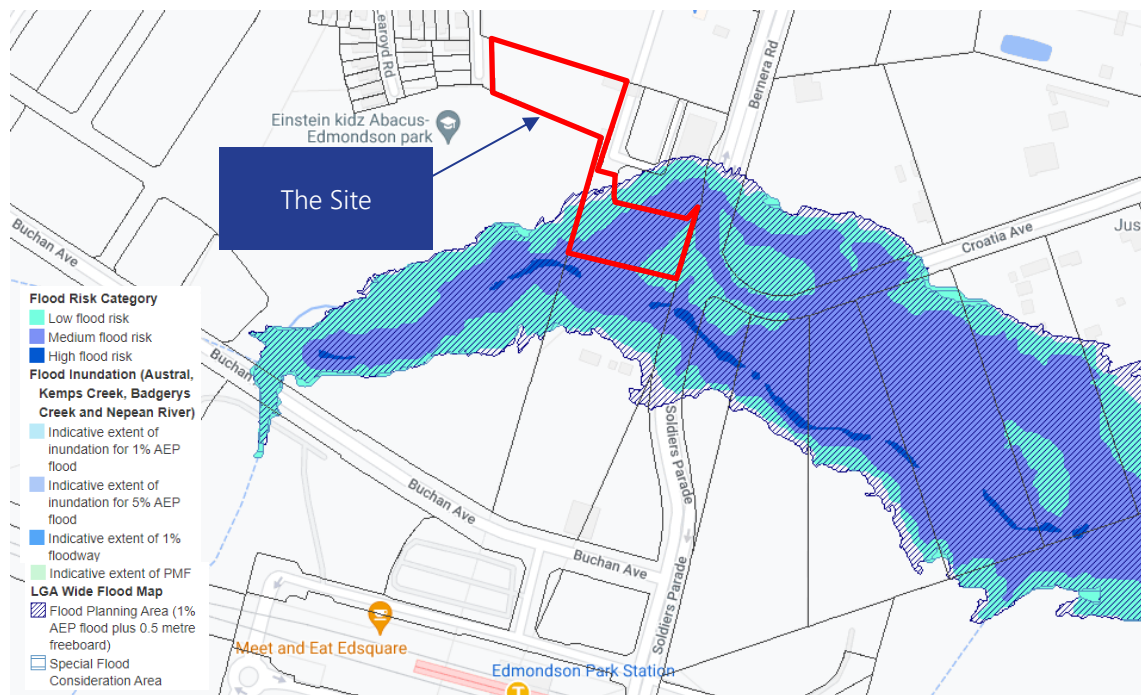
Clause	Requirement	Comment	Compliance
Part 1 Preliminary			
CI 1.2 Aims of plan	The LEP has a number of aims including to encourage a range of housing types and other land uses, to conserve the natural environment, minimise risk to the community and promote a high standard of urban design.	The proposal includes amendments to an approved multi building residential flat building development that will deliver essential housing supply, including affordable housing in close proximity to public transport, with a high quality design that responds to the characteristics of the Site in terms of adjoining development and natural features including the riparian corridor. The proposal is therefore considered to be consistent with the aims of the plan.	Yes
Part 2 Permitted or prohibited development			
CI 2.3 Zone objectives and land use table	The consent authority must have regard to the relevant objectives for development in a zone when determining a development application.	The Site is zoned R1 General Residential, and a small part of the Site is zoned RE1 Public Recreation. The proposed development is limited to the R1 Zone, and will provide for the housing needs of the community, being market and non-market rate housing in close proximity to the Edmondson Park town centre, which includes public transport, services and employment opportunities. The proposal is considered to be consistent with the objectives of the zone.	Yes
CI 2.6 Subdivision – consent requirements	Land to which this Plan applies may be subdivided, but only with development consent.	The proposal affects and existing Consent, which contains subdivision. The proposed amendments do not affect the existing approved subdivision.	Yes

Clause	Requirement	Comment	Compliance
Part 4 Principal development standards			
CI 4.1 Min Subdivision Lot Size	The size of any lot created is not to be less than the minimum size shown on the Lot Size Map.	The Site is affected by a minimum lot size for subdivision of 300m ² . The proposal does not affect the approved lot size under the Original DA. Each proposed lot is substantially larger than 300m ² .	Yes
CI 4.3 Height of buildings	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 Site is affected by a maximum building height of 12 metres and 21 metres. The proposed development has a maximum height of 27.98 metres above the existing ground level, and will seek to utilise the incentive clauses of the Housing SEPP for in-fill affordable housing. The proposal is supported by a Clause 4.6 variation which is provided to support this DA via the Planning Portal.	Refer to Clause 4.6 variation.
CI 4.4 Floor space ratio	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	The Site is affected by a maximum floor space ratio of 0.75:1 and 1.5:1. The proposal achieves a floor space ratio of 1.57:1 overall, although the proposal will also seek to utilise the incentive clauses under the Housing SEPP for in-fill affordable housing. Additional commentary is provided below, where non-compliance with the standard is justified in the Clause 4.6 variation which is provided via the Planning Portal.	Refer to Clause 4.6 variation.
Part 5 Miscellaneous Provisions			
CI 5.1A Development on land intended to be acquired for a public purpose	Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 3 of the Table to this clause.	A small section of the Site in the south western corner is mapped in the RE1 Zone and on the land reservation acquisition map. The amending DA does not affect any previously approved works in this area, which are limited to earthworks which are permissible under this Clause, and stormwater drainage works which are permissible with consent on any land under Section 2.138 of the Transport and Infrastructure SEPP.	Yes
CI 5.10 Heritage conservation	The consent authority is required to consider development on or in close proximity to any local heritage items and/or Aboriginal objects.	The Site is not situated on or near any items of local heritage significance, and as per the Heritage Assessment which supported the original DA, it was concluded as not being likely to contain any Aboriginal objects.	Yes

Clause	Requirement	Comment	Compliance
CI 5.21 Flood planning	Development consent must not be granted on land which is within a flood planning area unless the development is, among other things, compatible with the flood function and behaviour of the land and incorporates appropriate measures to manage risk to life in the event of a flood.	The Site is partly mapped as being situated within a flood planning area. Additional commentary is provided below.	Yes. Refer below.
CI 5.22 Special flood considerations	Consent authority to consider the safe occupation and efficient evacuation, and risk to life if any in the event of a flood.	Refer to commentary below.	Yes
Part 6 Urban release areas			
CI 6.5 Public utility infrastructure	Development consent not to be granted unless the adequate arrangements for public utility infrastructure have been made.	The Edmondson Park Precinct has sufficient public utility infrastructure to service the development, noting that approval has previously been granted under DA-1320/2021.	Yes
CI 6.6 Development Control Plan	Development consent not to be granted unless a development control has been prepared for the land.	Part 2.11 of the Liverpool DCP has been prepared to govern development within the Edmondson Park Precinct.	Yes
Part 7 Local provisions - general			
CI 7.11 Minimum dwelling density	Development consent for subdivision not to be granted unless the consent authority is satisfied that a certain dwelling density is delivered.	The Site is nominated as having a minimum dwelling density of 17 and 28 dwellings per hectare. The development is for a high density multi residential flat building development that easily exceeds the minimum requirements for each area.	Yes
CI 7.14 Minimum building street frontage	Development consent for a residential flat building requires at least one public frontage of 24 metres.	The proposal has public frontages significantly greater than 24 metres to Somme Avenue, Passendale Road and Bernera Road.	Yes

Clause 5.21 and 5.22 – Flood Planning Considerations

Council's flood prone land mapping under the LEP has since been superseded by Council's GIS mapping to support the Liverpool DCP. The Site is partly situated within a known Flood Planning Area at **Figure 8** over the page, being affected by the 1% AEP and Probable Maximum Flood (PMF) events.



Source: Liverpool Council, 2024

Figure 8. Flood Risk Affecting the Site

The land within the release has been subject to detailed flood investigations by FloodMit and Storm, with Council previously deeming that the Site was suitable for the proposed development under DA-1320/2021. The report titled Design for the Modification of Creeks in Edmondson Park- Final Flood Report dated June 2014 (Flood Report) examined the capacity to fill the zoned residential parts of the land above flood level and the impact that this would have with and without creek modification works. The report found that the extents of flooding with or without the creek modification work would still be limited to the established open space corridors. The Liverpool DCP 2008 specifically nominates "Indicative Fill Areas" across the release including Proposed Lot 2 on the site.

The final levels of the land will be set to ensure the land is above flood level consistent with the above studies and evacuation in PMF events. A Flood Statement prepared by SGC Engineers accompanies this application and has been uploaded to the Planning Portal.

4.3.2 State Environmental Planning Policy (Housing) 2021

The Housing SEPP aims to deliver a diverse range of housing types with a reasonable level of amenity that serves the needs of more vulnerable members of the community.

Chapter 2 - Development for affordable housing aims to facilitate the delivery of new in-fill affordable housing that meets the need of very low, low and moderate income households.

The development involves the delivery of affordable housing consisting of 27 units intended to be rented to as affordable housing as per the meaning of the SEPP. The component of the overall development that is being used as affordable housing (the affordable housing component) equates to 2,380m² of GFA or 15% of the total GFA of the development.

The Applicant intends to utilise the additional floor space ratio and building height bonuses that are incentivised under Division 1, Clause 16. Per the formula under the SEPP, a 30% bonus in FSR and height are available given that the development proposes 15% of the total GFA to be used for affordable housing.

It is intended that the development will be suitably conditioned to ensure that the units are managed by a registered Community Housing Provider (**CHP**), to which the Applicant is in preliminary discussions.

Compliance with the relevant provisions of the SEPP are provided below:

Table 4. Assessment against Part 2, Division 1 of Housing SEPP

Clause	Requirement	Comment
Division 1 In-fill affordable housing		
15C Development to which division applies	Applies to development that includes residential development, delivering at least 10% affordable housing. Development in Six Cities Region should be in an accessible area.	The proposal involves the delivery of a multi residential flat building development, and proposes to deliver 15% of the total GFA (27 units) to be used for affordable rental housing. The Site is situated approximately a 500 metre walk from the Edmonson Park town centre and train station and is considered to be in a highly accessible location.
16 Affordable housing requirements for additional floor space ratio	Maximum floor space ratio bonus is the maximum permissible floor space ratio for the land plus 30%. Affordable housing component is the additional floor space ratio divided by 2.	<p>As 15% of the total GFA is to be used for affordable housing, a 30% bonus in FSR and Height is available to the proposed development per Clauses 16(1) and 16(3).</p> <p>The Site is affected by a maximum FSR of 0.75:1 and 1.5:1. The maximum permissible FSR, based on the areas situated within each portion are summarised as:</p> <p>0.75:1 portion + 30% bonus = 3,849.3m² GFA 1.5:1 portion + 30% bonus = 12,017.2m² GFA</p> <p>The proposed GFA in each portion under this DA is:</p> <p>5,779.05m² GFA (50.1% above permissible FSR standard) 10,088m² GFA (-16% under permissible FSR standard)</p> <p>When the 0.75:1 and 1.5:1 portions of the Site are blended, the total permissible GFA, inclusive of the 30% bonus is 15,867.64m². The total FSR to be delivered is 15,867.49m², which is therefore marginally less than the total permissible blended GFA.</p> <p>Similarly, as a consequence of development approved under the Original Consent exceeding the height of building controls, the proposal will seek a variation to the</p>

Clause	Requirement	Comment
		bonus 30% height available under this clause. A Clause 4.6 variation has been prepared to support a variation to the FSR and Height bonus standards under the Housing SEPP.
18 Affordable housing requirements for additional building height	Maximum height bonus is the maximum permissible height for the land plus 30%. Affordable housing component is the additional floor space ratio divided by 2.	N/A - The proposal intends to use the floor space ratio bonus under Clause 16 and therefore is eligible to use the additional height bonus under Clause 16(3).
19 Non-discretionary development standards	Minimum site area of 450m ²	The Site area exceeds 450m ² .
	Minimum landscaped area of 35m ² per dwelling or 30% site area, whichever is lesser.	A total of 4,523m ² (44.7%) of the site has been provided as landscaped area.
	Deep soil zone of at least 15% site area, with minimum dimension 3m and if practicable, 65% to be located at rear of site.	N/A – clause is not applicable to residential flat buildings.
	Living rooms and private open space areas to receive 3 hours solar access between 9am – 3pm at mid-winter.	N/A – clause is not applicable to residential flat buildings.
	Parking spaces for affordable housing units (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,	The minimum requirements for parking across the Site for the affordable dwellings is 14 spaces. The proposal exceeds the minimum requirements. The proposal exceeds the minimum parking requirements for affordable and non-affordable units. The proposal is therefore compliant with this standard. Additional detail of parking allocation is provided in the Traffic Report uploaded to the Planning Portal.
	Parking spaces for dwellings not used for affordable housing (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	The minimum requirements for parking across the Site for non-affordable dwellings is 137 spaces. A total of 237 spaces is provided across the development including affordable housing spaces, guest spaces and shared spaces. The proposal exceeds the minimum parking requirements for affordable and non-affordable units. The proposal is therefore compliant with this standard. Additional detail of parking allocation is provided in the Traffic Report uploaded to the Planning Portal.

Clause	Requirement	Comment
	Minimum internal areas per the Apartment Design Guide	All units have been designed to meet or exceed the minimum area requirements for 1, 2 and 3 bedroom dwellings in the ADG.
20 Design requirements	Consent authority must consider whether the design of the proposed development is compatible with the desirable elements of the local area, or for precincts undergoing transformation, the desired character of the precinct.	The proposal is situated within Edmondson Park which is undergoing substantial transformation into a mixed-use, transit oriented precinct. Key to the success of the Precinct is to provide housing options for those on a range of incomes to foster a mixed social outcome, including housing for key workers. The design of the development is consistent with the pattern of development within the Site and in adjacent lands, and will not readily be distinguishable from units sold at market rates.
21 Must be used for affordable housing for at least 15 years	Development must be used for affordable for at least 15 years after issue of the occupation certificate	The proposal can be appropriately conditioned to ensure that the units are managed by a registered CHP for at least 15 years.

Chapter 4 - Design of residential apartment development repeals and replaces *SEPP No. 65 – Design Quality of Residential Flat Development*. The chapter contains controls that, if met, cannot be used as grounds for refusal, including car parking provision, apartments sizes and ceiling heights. It also requires that the consent authority is to take into consideration:

(a) the advice (if any) obtained from the design review panel, and

(b) the design quality of the development when evaluated in accordance with the design quality principles, and

(c) the Apartment Design Guide.

In addition, Clause 29 of the EP&A Regulations requires a Statement from a qualified designer that must:

(a) verify that he or she designed, or directed the design, of the development, and

(b) explain how the development addresses

(i) how the design quality principles for residential apartment development, and

(ii) the objectives in Parts 3 and 4 of the Apartment Design Guide

The Design Verification Statement and Design Principles Compliance Statement has been prepared by Stanisis Architects has been uploaded to the Planning Portal in support of this DA.

The Apartment Design Guide (**ADG**) is broken into 4 parts. Part 1 – Identifying the Context and Part 2 – Developing the Controls provides advice on understanding the context when designing, examining strategic planning outcomes and setting future planning controls in locations where

Councils wish to encourage apartments. Part 3 – Siting the Development and Part 4 – Designing the Building are expressly relevant to the assessment of the application.

The assessment of the proposed residential flat buildings on the Site against the relevant parts of the ADG are provided in the compliance table prepared by Stanisc that accompanies this application and is provided via the Planning Portal.

The following summarises how the proposed amendments to the Original Consent affect compliance with the main objective Design Criteria of the ADG:

- 3D Communal Open Space

The proposal maintains 44.7% of the Site area for communal open space, almost doubling the minimum requirement in the ADG.

The active areas of communal open space (including the rooftop areas) will receive direct solar access to more than 50% of the area during mid winter.

- 3E-1 Deep Soil

- The proposal more than triples the minimum amount of deep soil required to be provided.

- 3F-1 Visual Privacy

- The floor plan of the Original Consent is generally continued for the additional storeys. Separation distances and privacy established by the approved development is maintained by the proposed amendments.

- 4A-1 Solar Access

- 2 hours of direct solar access to balconies and living rooms during mid winter is maintained to 69.7% of the apartments, which is marginally below the criteria of 70%. However, the proposed development ensures that all but 12 apartments (6.7%) receive some solar access. This greatly exceeds the criteria that accepts 15% apartments with no direct solar access. Considering so few apartments receive zero hours of direct solar access it can be considered that on the balance the development receives excellent solar access.

- 4B-3 Natural Ventilation

- 62.4% of apartments are naturally cross ventilated, exceeding the criteria of 60%.

- 4D-1 Apartment size and layout

- The proposal provides 1 bedroom apartments with a minimum area of 50m², 2 bedroom apartment a minimum area of 70m² and 3 bedroom apartments a minimum area of 90m².

- 4E-1 Private open space and balconies

- Balconies and private open space meet or exceed the minimum requirements.

4.3.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021 (B&C SEPP)* repeals and replaces a number of SEPPs as part of the NSW Government's plan to simplify the planning system, providing a consolidated instrument to preserve, conserve and manage the natural environment and heritage in the State.

Chapter 2 – Vegetation in Non-Rural Areas (formerly *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*) aims to protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of those areas through the preservation of trees and other vegetation. As per the Department of Planning, Housing and Infrastructure's Vegetation SEPP Frequently Asked Questions for Council, this part of the B&C SEPP applies to clearing of vegetation that occurs outside of a development consent.

Chapter 6 – Water catchments aims to ensure the impact of urban development on regulated catchments, including the Hawkesbury Nepean River, is minimised by considering the catchment management, water quality and quantity, and protection and management of environmentally sensitive areas, flora and fauna and wetland habitats.

As shown in the Civil Plans, the proposal includes a range of sediment and erosion control measures that will mitigate water quality impacts during construction works and ultimately minimise human interference with natural watercourses by farming and other invasive activities associated with previous land use practices on the land.

The works will be closely monitored during the activity period to ensure that all mitigation measures identified in the Erosion and Sediment Control Plan have been installed correctly and are working effectively throughout the construction of the project.

An assessment against the provisions of the SEPP is provided at **Table 5**.

Table 5. Assessment against Chapter 6 of B&C SEPP

Section	Comment
6.1 Land to which Chapter Applies	The development is located within the Georges River Catchment and therefore the Chapter applies.
6.6 Water quality and quantity	<p>The civil works that form part of the Original Consent include erosion and sediment control measures that will mitigate water quality impacts during construction works and ultimately minimise human interference with natural watercourses. Updated plans have also been submitted as part of this DA and are provided via the Planning Portal.</p> <p>On-site water quality measures include Oceanguard pit inserts and Stormfilter chambers which will remove litter and fine sediments, and is designed to meet Council's pollutant reduction targets. On-site detention tanks are also proposed which will discharge to existing kerb inlet pits.</p> <p>The proposed development will also connect to the future raingardens in Maxwells Creek before clean flows are discharged into the watercourse.</p>
6.7 Aquatic ecology	The proposed development will require a CAA given works are proposed within 40 metres of a watercourse, whilst the Site is not identified on or near any waterways containing key fish habitat.
6.8 Flooding	Refer to discussion in Section 4.3.1 above.
6.9 Recreation and public access	The development will not prevent public access to the Maxwells Creek riparian corridor.
6.10 Total catchment management	The development is not likely to have any adverse downstream impacts, so consultation is not considered necessary at this time.
6.11 Land within 100m of natural waterbody	The uses proposed are not water-dependent, and it is not anticipated that there will be any land use conflicts associated with the proposed development.
6.12 Riverine Scenic Areas	The Site is not identified within a Riverine Scenic Area.

Section	Comment
6.13 Hawkesbury-Nepean conservation area sub-catchments	N/A – the site is not situated within a sub-catchment of the Hawkesbury-Nepean River.
6.21 Stormwater management	The proposal contains appropriate on-site stormwater detention and treatment facilities which are designed to meet Council's pollutant reduction targets.

4.3.4 State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 (R&H SEPP) commenced on 1 March 2022 and consolidates and repeals three SEPPs into Chapters 2, 3 and 4.

Chapter 4 - Remediation of land provides a State-wide planning approach to remediation and aims to promote the remediation of any contaminated land for reducing the risk of harm to human health and the environment.

Council have previously deemed that the lands are suitable for residential land uses under DA-1320/2021. To support this DA, the contamination assessment by EI Australia is that was originally prepared to support the Original Consent has been uploaded to the Planning Portal and verifies that the subject lands are suitable and that no remediation works are required.

4.3.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

The Transport and Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across NSW by ensuring matters relating to the provision of that infrastructure or its impact on adjoining land uses is considered as part of the development assessment framework. The provisions which potentially have relevance to the assessment of the application are:

Section 2.100 relates to ensuring developments adjacent to rail corridors consider the rail noise and vibration impacts from this infrastructure. 2.100(3) states:

If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

A copy of the acoustic report by Acoustic Logic has been uploaded to the Planning Portal and confirms that the buildings can be designed to address noise impacts per the requirements of the SEPP. The Acoustic Logic Report revisited the original noise monitoring and applied it to the amended DA finding that similar measures should be applied to the additional apartments/levels to mitigate noise intrusion. These relate to window and façade composition, which will be reflected in the detailed design of the development.

Section 2.120 relates to the impact of road noise or vibration on non-road development where proposed on:

land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration

Bernera Road is being upgraded and realigned to a major road as part of the precinct works, ultimately extending between Campbelltown Road and Camden Valley Way. It is noted that the Council required an acoustic assessment with the previous application on the Site to ensure the bedroom and living spaces of the proposed apartments are not affected by potential adverse road noise. The acoustic report that accompanies the application (uploaded to the Planning Portal) also confirms that the building can be designed to address traffic noise as per the ISEPP.

Schedule 3 – Traffic Generating Development - relates to 'traffic generating development' that must be referred to Transport for New South Wales (**TfNSW**) for comment during assessment and includes (amongst other things), car parks (whether or not ancillary to other development) of 200 or more spaces. The proposal involves the delivery of two car parks with 121 and 116 spaces each, with access from separate roads proposed. Out of an abundance of caution, we anticipate that the DA will be referred to TfNSW. Varga in their Traffic Report have concluded that the proposal will only generate an additional 6-8 trips during weekday periods compared to that approved under DA-1320/2021, and therefore this proposal will not generate any unacceptable impacts on the local road network.

4.3.6 State Environmental Planning Policy (Sustainable Buildings) 2022

This SEPP requires residential development to be certified to meet sustainability targets for reduction in potable water consumption and energy efficiency. The BASIX Certificate and stamped plans accompany this application and are provided via the Planning Portal

4.4 Proposed Environmental Planning Instrument

There are no draft Environmental Planning Instruments of relevance to this development application.

4.5 Development Control Plan

The following section discusses the relevant planning control under the adopted DCP.

4.5.1 Liverpool Development Control Plan 2008

The DCP provides the non-statutory planning, design and environmental objectives and controls to ensure orderly, efficient and sensitive development within the LGA is achieved.

Liverpool DCP 2008, Part 2.11 - Edmondson Park contains provisions for the development of sites within the Edmondson Park Precinct. The DCP is broadly structured to address controls for the delivery of the public domain as well as controls based on development within particular areas, in this case, for land within the different minimum dwelling density areas that apply to the site as shown on the Minimum Density Dwelling LEP Map.

It is noted that the DCP states that Residential Flat Buildings are not preferred in the 17 or 21 dwellings/hectare areas, however, if proposed, they are subject to objectives and controls for the Urban 28 dwellings/hectare area. As noted above, the Site is located in the 17 and 28 dwelling per ha areas.

The controls which are relevant to the assessment of the application in the DCP are summarised in the table below:

Table 6. Assessment against Liverpool DCP

Development Standard	DCP Requirements	Proposed Development	Compliance
Part 1 General Controls for All Development			
Clause 5	Land identified on Council's Bushfire Prone Land Maps. The land within Maxwells Creek including the site was added to the Bushfire Prone Land Map in January 2021.	The proposed development has been designed to incorporate the appropriate Bushfire Attack Levels after considering APZs as per the Bushfire Report provided via the Planning Portal.	Yes
Clause 6 Water Cycle Management	Outlines controls for drainage to Council's drainage system of direct to creek	The proposed development will complete the roads and drainage infrastructure as proposed in DA 265/2018 whilst containing a range of water quality and quantity measures to ensure that stormwater is appropriately treated before being discharged to the existing pit and pipe network and eventually to raingardens at Maxwells Creek.	Yes
Clause 8 Erosion and Sediment Control	A Plan is required for levelling and excavation on a site	The proposed development of both proposed Lots will require excavation of basements and an erosion and sediment control plan to be implemented per the civil plans.	Yes
Clause 9 Flooding Risk	Controls to determine flood risk and resulting flood risk planning outcomes including floor levels, materials and evacuation.	As discussed previously part of the site is identified as within a flood planning area and studies have been undertaken to address these requirements. The proposed development meets recommended flood provisions, noting that the flood assessment by SGC (provided via the Planning Portal) has concluded that the site is not affected by flooding	Yes

Development Standard	DCP Requirements	Proposed Development	Compliance
		from Maxwells Creek for all storm events up to and including the 1% AEP event. Floor levels will be set at a minimum 500mm above the 1% AEP level.	
Clauses 16 & 17 European and aboriginal archaeology	Outlines investigations to determine whether sites contain European or aboriginal heritage.	The site is not situated on or near any items of indigenous or non-indigenous heritage.	N/A
Clause 20 – Car Parking and Access	Car parking rates for residential flat buildings: 1 Bedroom –1 space per dwelling 2 Bedroom –1.5 spaces per dwelling 3+ Bedroom –2 spaces per dwelling Visitors –1 space per 4 dwellings Bicycle parking is 1 per 2 units and 1 per 10 units for visitor spaces	The Consent authority is prevented from imposing more onerous standards for car parking than those in Clause 19 of the Housing SEPP. Notwithstanding this, visitor parking spaces are not specified under the Housing SEPP. The proposal allocates a total of 45 visitor parking spaces which is compliant with the DCP. The proposal also provides more than the required bicycle parking for residents.	N/A
Clause 25 - Waste Disposal and Re-Use Facilities	Provides requirements for designing waste management measures during construction and ongoing management.	A Construction Waste Management Plan and Operational Waste Management Plan (uploaded to the Planning Portal) for the construction and ongoing management have been prepared by EF Consulting and accompany this application.	Yes
Clause 27 – Social Impact Assessment	Social Impact Comment required for residential flat buildings greater than 20 units, but less than 250 units.	A Social Impact Comment has been prepared by GLN Planning and accompanies this application.	Yes
Clause 29 – Safety and Security	The controls require preparation and submission of a Crime Prevention Through Environmental Design (CPTED)	An updated CPTED report has been prepared by GLN Planning and accompanies this application.	Yes
Part 2.11: Land Subdivision and Development in Edmondson Park			
Clause 1.1 – Indicative Layout	All development is to be undertaken generally in accordance with the indicative layout plan for Edmondson Park	The proposed development is generally consistent with the character areas for the built form and with the fixed road	Yes.

Development Standard	DCP Requirements	Proposed Development	Compliance
		plan for the design of Maxwells Crescent and extension of Passendale Road and as approved under DA-1320/2021.	
Clause 3.3 - Setbacks	Setbacks within the 17/dwg/ha and 28 dwg/ha areas Front Setback - 4.5m Secondary Setback - 2.5m Side and Rear Setbacks - as required by the ADG	The residential flat buildings on Proposed Lot 1 both propose a setback exceeding 4.5m. The residential flat building proposed on Lot 2 has a minimum 4.38m setback to the face of the building at the northern western corner. However, the curve in the road means the remainder of the building complies along Maxwells Crescent and Bernera Road. Side and rear setbacks are set by building separation requirements under ADG, to which the development is consistent.	Yes
Clause 3.4 – Landscaped Area and Private Open Space	Landscaped area - Minimum of 20% of the site area. Private open space for residential flat buildings to be consistent as ADG.	In accordance with the calculation of landscaped area within the Housing SEPP, the proposal includes 44.7% of the site for landscaped area.	Yes
Clause 3.5 – Building Design and Streetscape	Building facades shall be articulated and roof form is to be varied to provide visual variety. The pedestrian entrance to the building shall be emphasised. A sidewall must be articulated if the wall has a continuous length of over 14m.	The buildings on both Proposed Lot 1 and Lot 2 are well articulated, have distinctive entries visible to the street to each building and there is no wall over 14m which is unarticulated.	Yes
Clause 3.6 – Car Parking and Access	Car parking should be designed to reflect the following: Visitor parking to be clearly identified Parking should be in basements Where possible, vehicular entrances should be provided from the side of the building. The proposal should also provide equitable pedestrian access.	Visitor parking will be clearly identified and driveway locations have been rationalised in the development in the northern part of the site at Passendale Road and provided as part of the articulation in the southern building. Pedestrian access meets the BCA requirements. See Report prepared by BCA Logic that accompanies this application (uploaded to the Planning Portal). See also the revised Access and Adaptability	Yes

Development Standard	DCP Requirements	Proposed Development	Compliance
		Assessment Report prepared by Access Mobility Solutions that accompanies this application (uploaded to the Planning Portal)	
Clause 3.7 – Amenity and Environmental Impact	<p>The proposal should be designed to ensure that:</p> <p>50% of the private open space on adjoining properties receive at least a minimum three hours of sunlight between 9am and 5pm on 21 June;</p> <p>Onlooking is avoided to maximise visual privacy; and</p> <p>A high level of acoustic amenity is provided for residents and guests within the proposed residential flat buildings.</p>	<p>At present the only adjoining development is to the north and east of the Site and will not be unreasonably overshadowed. The development has been designed so that setbacks and built form do not unreasonably overshadow adjoining lands including the Landcom site. See the suns' eye diagrams in the architectural package.</p> <p>The solar access and visual privacy requirements of the ADG prevail over the DCP. A total of 69.7% of units are provided with at least 2 hours solar access to private open spaces and living areas. The extent of the variation is minor and the proposal delivers an additional 27 units receiving more than 2 hours at mid-winter. It is noted that the proposed development ensures that only 12 apartments will receive no direct solar access, which is well below the maximum of 15% that is afforded under the ADG. Overall, the proposal is deemed to have excellent solar access.</p> <p>An Acoustic Report has been prepared and its recommendations will be implemented to ensure acoustic compliance with the requirements of the Transport and Infrastructure SEPP for acoustic amenity in habitable rooms.</p>	Yes
Clause 3.9 – Apartment Mix	<p>The controls require:</p> <p>Studio and 1 bed – no more than 25%</p> <p>2 bed – no more than 75%</p>	<p>The proposed development incorporates the following mix of dwellings:</p> <p>1 bed – 28.1%</p>	Minor variation – see justification note under the table for

Development Standard	DCP Requirements	Proposed Development	Compliance
	10% of apartments to be designed as adaptable	2 bed – 64% 3 bed – 7.8% 10.1% of apartments are adaptable.	further discussion.

Note: – The mix of apartments proposes a minor variation to increase the number of 1 bed apartments from 25% to 28.5%. The minor variation is considered reasonable as the proposal includes 11 units (40.7% of Building A) as 1 bedroom units in recognition that the key target for affordable housing includes single person households and key workers. The development also includes 7.8% of 3 bedroom dwellings to enable a broader mix of apartments than the provisions might otherwise produce.

4.6 Planning Agreement

There is no Planning Agreement registered on the land. The proposed development will be required to pay contributions in accordance with Liverpool Contributions Plan 2008– Edmondson Park.

4.7 Likely Impacts

The likely impacts of the development have been examined in this SEE. The proposal will deliver a range of social and economic benefits, primarily from the delivery of 27 affordable rental units that are considered to be in dire need, including the Liverpool LGA. A Social Impact Comment has been prepared to justify the proposal and has been provided via the Planning Portal.

4.8 Suitability of the Site

The Site is considered to be suitable in accommodating the proposed development for the following reasons:

- The site is in walking distance of Edmondson Park Station and in a location identified for higher density housing.
- Proposed Lot 1 and Proposed Lot 2 are identified for future development, the land is identified as biodiversity certified, and flood studies have demonstrated the filling of land above flood level will not impact on flood extents outside the Maxwells Creek Corridor.
- A bush fire hazard assessment confirms that the development can be designed to meet the required bushfire attack levels.
- The DA will complete the sections of Maxwells Crescent and extend Passendale Road adding to the permeability of the road layout.

4.9 Submissions

The DA is required to be notified in accordance with Council’s Policy. The Applicant requests the opportunity to review and comment on any submissions received.

4.10 Public Interest

The proposed development under this DA is in the public interest as it provides for the orderly and economic use of zoned residential land in a manner which responds to the known planning opportunities and constraints applying to the land. In turn the proposed development will contribute to the public interest through the delivery of affordable rental housing in addition to contributions being paid through Council's Local Contributions Plan.

5 Conclusion

This Statement of Environmental Effects accompanies a development application seeking approval for the construction of three residential flat buildings, including affordable rental housing, at Lot 101 DP1267563; Somme Avenue, Edmondson Park.

The DA has been designed to follow on from, and amend the existing approval DA-1320/2021 on account of recent changes to *State Environmental Planning Policy (Housing) 2021* permitting additional height and floor space to be made available, provided an affordable housing component of at least 10% of gross floor area is provided.

The site is zoned R1 General Residential under the *Liverpool Local Environmental Plan 2008* and the proposed development is permissible with consent and provides a high level of amenity for future residents. The proposed development complies with the relevant plans and policies that apply to the land.

We consider the proposed development an acceptable development consistent with the plans, policies, and future anticipated growth of Edmondson Park. Based on the information contained within this SEE, the proposed development should be granted consent, subject to appropriate conditions of consent.

6 Glossary

Abbreviation	
ADG	Apartment Design Guide
APZ	Asset Protection Zone
B&C SEPP	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>
BAL	Bushfire Attack Level
BC Act	<i>Biodiversity Conservation Act 2016</i>
CHP	Community Housing Provider
Council	Liverpool City Council
CPTED	Crime Prevention Through Environmental Design
DA	Development Application
DP	Deposited Plan
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
FM Act	<i>Fisheries Management Act 1994</i>
FSR	Floor Space Ratio
Housing SEPP	<i>State Environmental Planning Policy (Housing) 2021</i>
LEP	Local Environmental Plan
LGA	Local Government Area
PMF	Probable Maximum Flood
R&H SEPP	<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>
RF Act	<i>Rural Fires Act 1997</i>
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
TfNSW	Transport for New South Wales
TSC Act	<i>Threatened Species Conservation Act 1995</i>

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