

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday the 29th May 2023

To be held via
MS Teams
Commencing at 12:00pm

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Note: Submissions by the applicant and concerned parties will be considered at the hearing. A concerned party is deemed to be a person who has made a written submission in respect to the application. The Panel shall, upon request, hear submissions from persons who identify prior to a hearing that they wish to make a submission to be considered by the Panel. Presentations to the Panel by the applicant and concerned parties shall be restricted to **3 minutes each**. The Panel Chairperson has the discretion to extend the period if considered appropriate.

Should you wish to address the Panel, please advise Amanda Merchant, Panel Support Officer on 8711 7712 or 1300 36 2170, by 4pm, Friday, 26th May 2023.

LIVERPOOL CITY COUNCIL
LOCAL PLANNING PANEL REPORT

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The following development applications are referred to the Liverpool Local Planning Panel for its determination.

ITEM No.	SUBJECT	PAGE No.
1	<p>DEVELOPMENT APPLICATION DA-965/2021</p> <p>INSTALLATION OF 285 PHOTOVOLTAIC SOLAR PANELS AND 4 INVERTORS, ALONG WITH CABLING AND ASSOCIATED WORKS, TO THE EXISTING CONCRETE ROOF OF THE POWERHOUSE BUILDING</p> <p>LOTS 22 AND 24 IN DP 1132574</p> <p>CASULA POWERHOUSE, 1 POWERHOUSE ROAD, CASULA NSW 2170</p>	3 - 22

ITEM No.	SUBJECT	PAGE No.
2	<p>DEVELOPMENT APPLICATION DA-221/2021</p> <p>DEMOLITION OF EXISTING BUILDING STRUCTURES, TREE REMOVAL, AND CONSTRUCTION OF A FIVE STOREY RESIDENTIAL FLAT BUILDING OVER 2 LEVELS OF BASEMENT PARKING, AND RELATED LANDSCAPING AND STORMWATER MANAGEMENT.</p> <p>LOTS 22 & 23 IN DP 235788</p> <p>1 HARVEY AVENUE AND 11 DREDGE AVENUE, MOOREBANK</p>	23 - 55

ITEM No.	SUBJECT	PAGE No.
3	<p>PLANNING PROPOSAL RZ-3/2022</p> <p>PLANNING PROPOSAL TO AMEND HOB AND FSR OF THE LLEP 2008 RELATING TO LAND AT 93-145 HOXTON PARK ROAD, 51 MARYVALE AVENUE & 260 MEMORIAL AVENUE, LIVERPOOL NSW</p> <p>LOTS 53 – 80 DP 1154816, LOT 2 DP 1050030</p> <p>93-145 HOXTON PARK ROAD, 51 MARYVALE AVENUE & 260 MEMORIAL AVENUE</p>	56 - 88

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Item no:	1
Application Number:	DA-965/2021
Proposed Development:	Installation of 285 photovoltaic solar panels and 4 invertors, along with cabling and associated works, to the existing concrete roof of the Powerhouse building
Property Address	Casula Powerhouse, 1 Powerhouse Road, Casula NSW 2170
Legal Description:	Lots 22 and 24 in DP 1132574
Applicant:	Liverpool City Council
Land Owner:	Liverpool City Council
Cost of Works:	\$250, 000
Recommendation:	Approval, subject to conditions of consent
Assessing Officer:	Liam Spinks - APP

1 EXECUTIVE SUMMARY

Council has received a Development Application (DA-965/2021) for the installation of 285 photovoltaic solar panels and 4 inverters, along with cabling and associated works, to the existing concrete roof of the Powerhouse building.

The development site is identified as 1 Powerhouse Road, Casula and is legally described as Lots 22 and 24 in DP 1132574. The land is zoned RE1 Public Recreation under the Liverpool Local Environmental Plan 2008. The proposed works are permissible with consent under the State Environmental Planning Policy (Transport and Infrastructure) 2021.

The proposal was not required to be notified in accordance with Liverpool Community Engagement Strategy 2022.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 30 June 2020, as the development falls in the category of conflict of interest as Liverpool City Council are the owner of the land.

Assessment of the proposal has been undertaken in accordance with the relevant matters for consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Liverpool Local Environmental Plan 2008 (LLEP 2008). Based on the assessment of the application, it is recommended that the application be approved subject to conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 Site Description

The development site is legally defined as Lots 22 and 24 in DP 1132574. The site is currently occupied by the existing Casula Powerhouse, which is also known as the Casula Powerhouse Arts Centre. Casula Railway Station is located to the west of the site and the Georges River runs parallel to the site to the east.

The complex comprises of the main former powerhouse building which is the largest structure, several smaller ancillary structures of brick and concrete construction, and two large steel tanks used as graffiti walls. There is also a former coal loading area between the Powerhouse and the railway line, with remnant concrete footings and retaining walls. The main powerhouse building, dating from 1953, comprises two adjoining sections of 3 and 4 storeys containing the former Boiler House and Turbine Hall.

The subject site is shown below at Figure 1.



Figure 1: Subject site (Source: Near Map)

2.2 Locality Description

The site is separated from residential uses to the west by the existing T2 and T5 railway line. Casula Station is located to the immediate west of the site and to the north and south of the site is existing bushland. The Georges River runs to the east of the site. On the opposite side of the Georges River is a large vacant lot of land zoned C3 Environmental Management.

The locality of the site can be seen in Figure 2 below.



Figure 2: Locality surrounding the proposed development

2.3 Site Constraints

<p>Are there any constraints or affectations on the site:</p> <ul style="list-style-type: none"> • Bushfire • Flood Prone Land • Heritage Items • Aboriginal heritage • Environmentally Significant Land • Threatened Species/ Flora/ Habitat/ Critical Communities • Acid Sulphate Soils • Salinity • Aircraft Noise • Flight Paths • Railway Noise • Road Noise/ Classified Road • Significant Vegetation • Contamination • Sydney Water Assets 	<p>Site Constraints:</p> <ul style="list-style-type: none"> • The site is within the high, medium and low flood risk zones of the Georges River Catchment Area; • The site is Bushfire Prone; • The site is identified as being affected by Class 5 Acid Sulfate Soils • The site is identified on the Environmentally Sensitive Land Map • The site is identified as a Local Heritage Item (Item No. 10) • The site is salinity affected
<p>Are there are any easements or restrictions on the site?</p>	<p>There are no restrictions or easements on the title.</p>

2.4 Application History

- The DA was lodged with Council on 02 September 2021.
- A Request for Further Information (RFI) was issued to the Applicant seeking clarification as to how many solar panels are proposed as there were inconsistencies between the Site Plan, which stated 285 panels and SEE, which stated 245.
- In August 2022, the Applicant confirmed that 285 panels are proposed.
- A further RFI was issued to the Applicant on 6 December 2022 requesting clarification regarding the permissibility of the proposed use. A final RFI was issued on 16 February 2023, however no response has been received by the Applicant. In spite of not receiving a response, the assessing officer considered the permissibility of the proposal and proceeded with a recommendation of approval of the application.

3. DETAILS OF THE PROPOSED DEVELOPMENT

The DA seeks consent for the installation of 285 photovoltaic solar panels and 4 inverters, with associated cabling and fixtures.

Solar Panels

- Construction of two sets of solar panels along the higher and lower respective roof surfaces of the building (285 LG Neon 2 Solar Panels and 4 Fronius Symo inverters), with a total capacity of 85.750kWdc.
- Cabling works within conduit to roof inverters via roof valley
- Connection to Main Switch Board

The proposed panels are to be structurally framed to the existing roof structure and are to be mounted at a 5 degree pitch to optimise solar reception.

The proposed photovoltaic site plan and elevations are shown below at Figures 3 to 8.

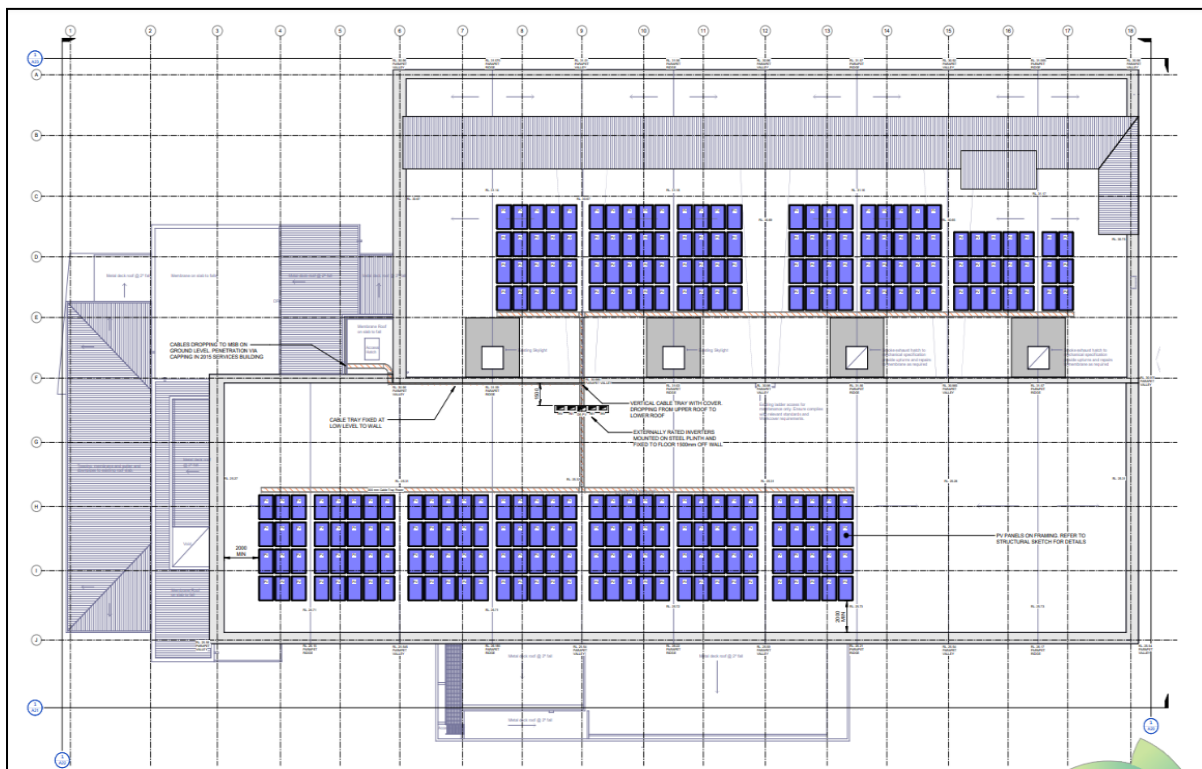


Figure 3: Roof Plan

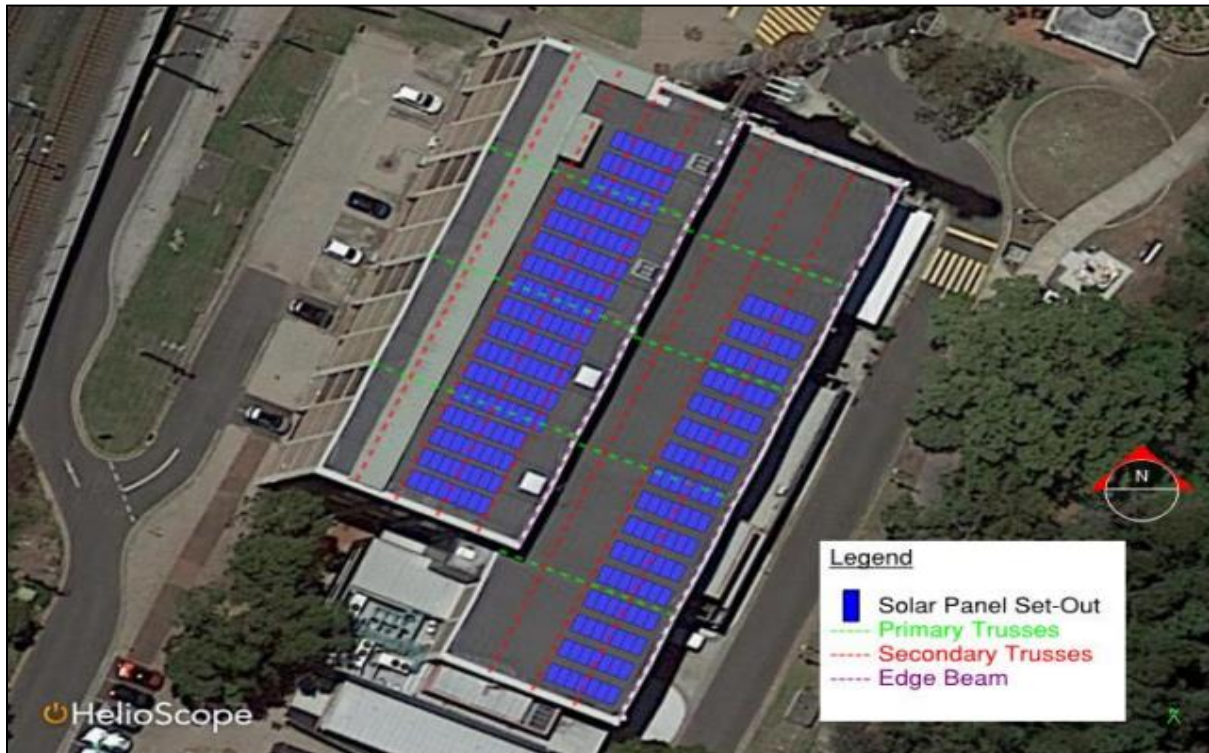


Figure 4: Solar Panel Layout and Roof Structure

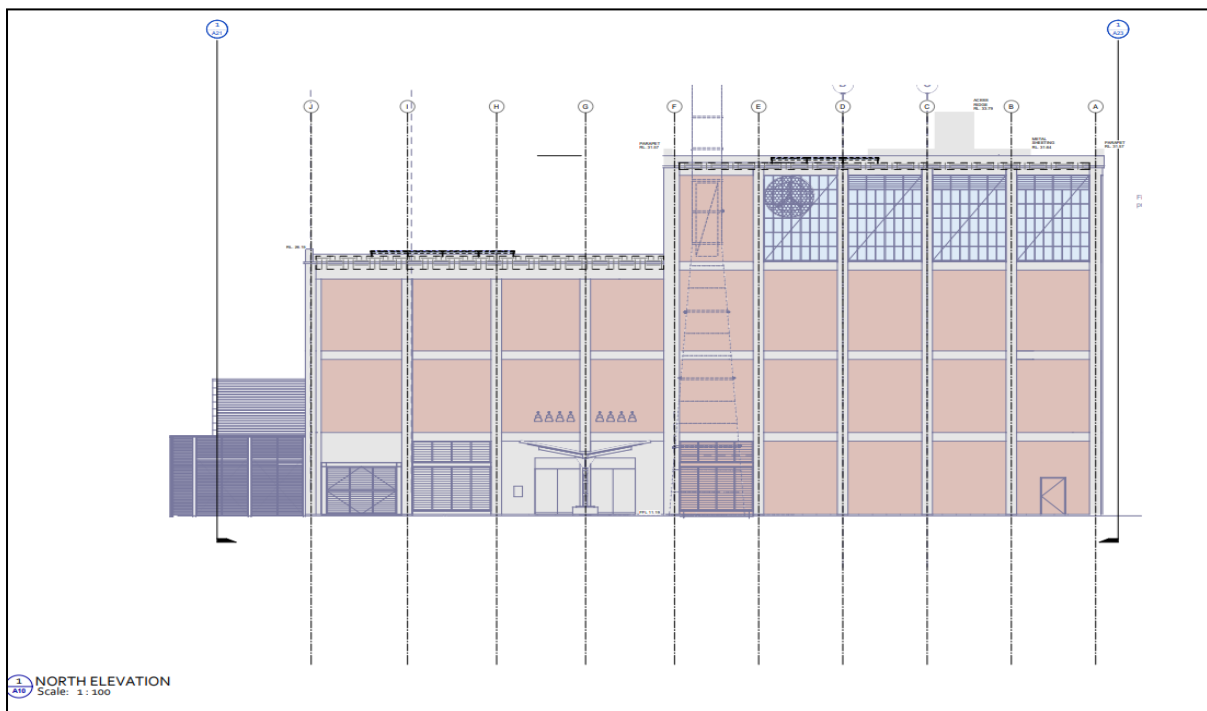


Figure 5: North Elevation

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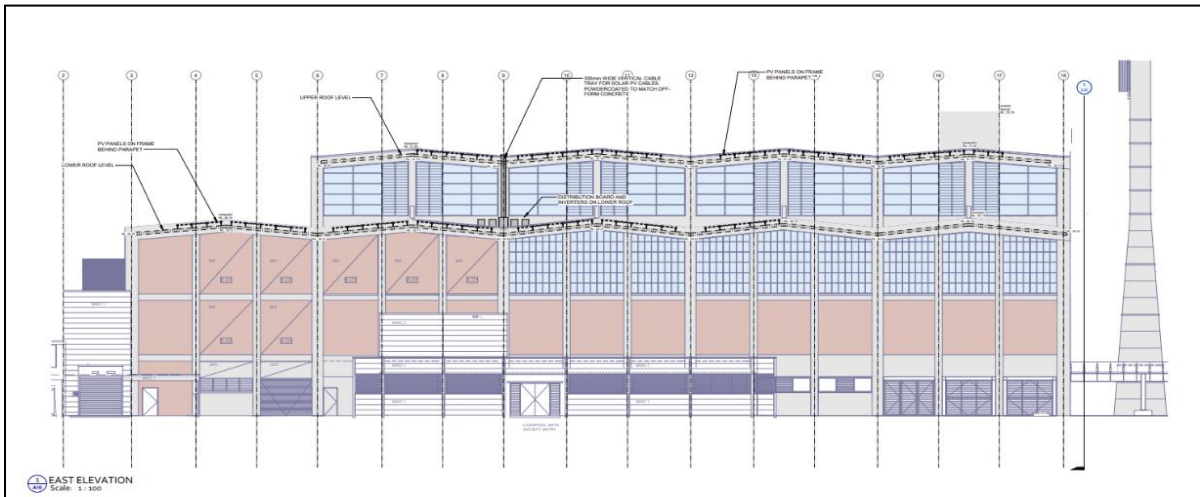


Figure 6: East Elevation

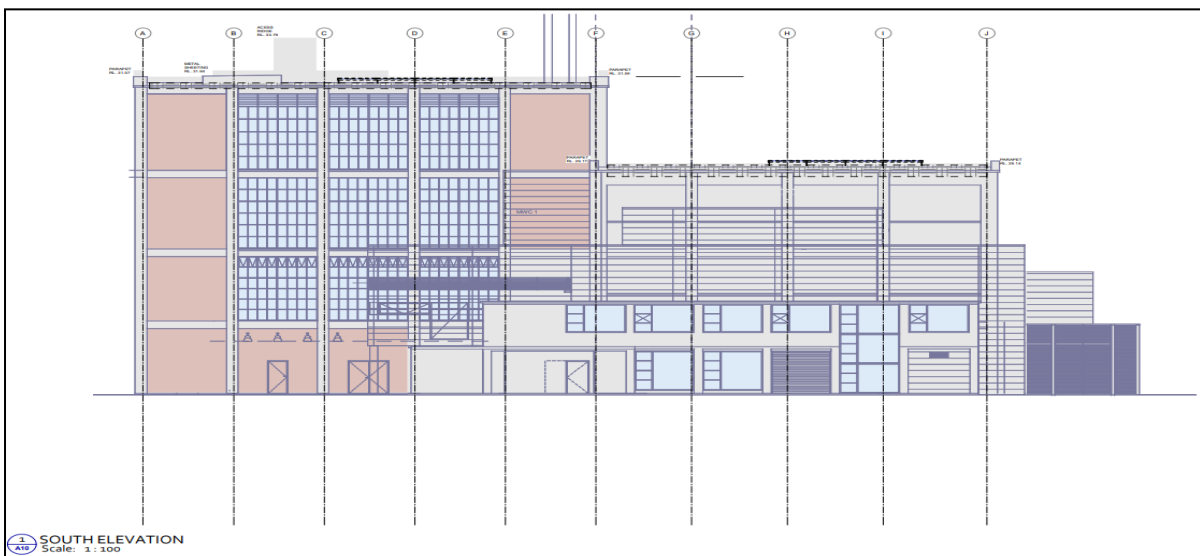


Figure 7: South Elevation

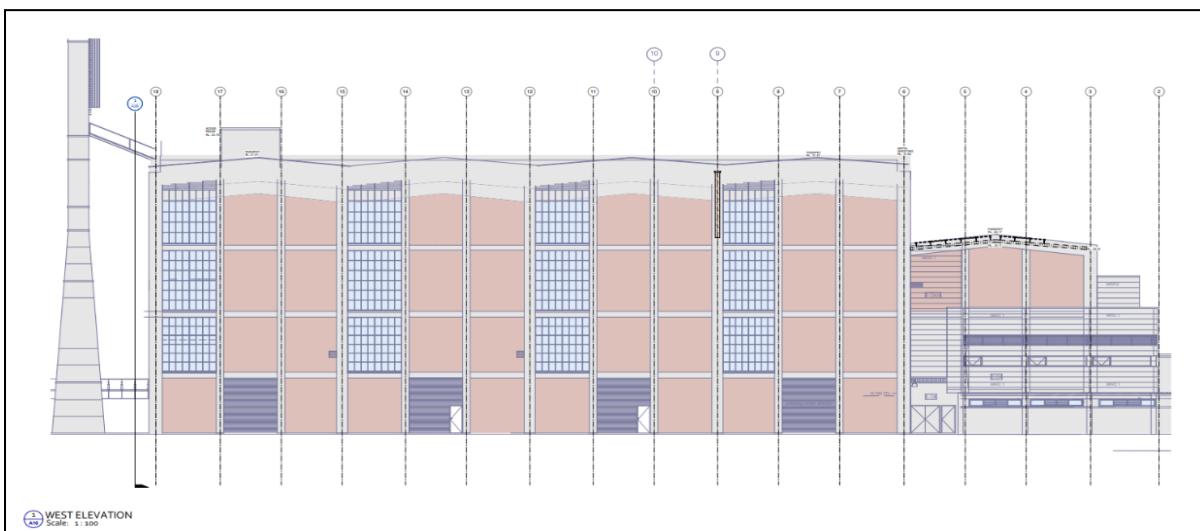


Figure 8: West Elevation

4. STATUTORY CONSIDERATIONS

The following planning instruments and plans are relevant to the proposed development:

- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Liverpool Local Environmental Plan 2008
- Liverpool Development Control Plan 2008

5. ASSESSMENT

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

5.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed development can be classified under Division 4 ‘Electricity generating works or solar energy systems’ of the Transport and Infrastructure (T&I) SEPP.

Section 2.35 of the SEPP defines *solar energy systems* as:

Solar Energy System means any of the following systems—

(a) a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—

(i) carried out on the land on which the system is located, or

(ii) carried out by the owner of the system on adjoining land,

(b) a solar hot water system,

(c) a solar air heating system.

Therefore, the proposed development can be identified and defined as a solar energy system in the form of photovoltaic panels used for the purposes of powering the Casula Powerhouse.

Section 2.36 of the T&I SEPP identifies Energy Generating Works that are Permitted with Consent.

Section 2.36, Subclause 9 states:

“Solar Energy Systems - Development for the purpose of a solar energy system may be carried out by any person with consent on any land”

Therefore, the proposed development is permissible under the SEPP as the development can be carried out for the purpose of a solar energy system and may be carried out by any person with consent on any land under section 2.36 (9).

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

Pursuant to the SEPP, Council must consider whether land to be developed is contaminated and whether land is suitable for in its current state for development.

Pursuant to Chapter 4 of the SEPP, Council is required to consider the provisions in clause 4.6 of the SEPP shown in the following table in determining a development application.

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	<p>Consideration of the land being contaminated is not required to be undertaken as the proposal is restricted solely to the roof structure of the Powerhouse.</p> <p>No ground construction or ground disturbance will occur as part of the proposal. Therefore, the proposal is highly unlikely to uncover any potentially contaminated land.</p>
(b) 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, and	It is not considered that the land is contaminated.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	No remediation is required.

The proposed development does not relate to the disturbance of any ground soils and is limited solely to the roof structure of the Powerhouse. The proposed development is considered to satisfy the requirements of the SEPP.

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

Note: The DA was lodged on 02/09/2021, prior to the commencement of State Environmental Planning Policy Amendment (Biodiversity and Conservation) 2021 and was previously governed under The Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment (GMREP No. 2).

The subject land is located within the Georges River Catchment and as such the State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 11 Georges River is applicable. This chapter generally aims to protect the environment of the Georges River system by ensuring that impacts of future land uses are considered in a state, regional, and local context.

The proposed development will have no impact on the Georges River as the proposed works are limited solely to the roof structure of the Casula Powerhouse. No ground disturbance or construction works are to occur at the ground level and as such, the risk of adverse impacts on the Georges River, its tributaries or any downstream water body are minimal.

The application was referred to Council's Flood Engineering Department who reviewed the proposal and supporting documentation and has no objection to the proposed application, subject to conditions.

It is considered that the proposal satisfies the provisions of the Biodiversity and Conservation SEPP, subject to conditions on consent.

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The development site is zoned RE1 Public Recreation pursuant to the Liverpool Local Environmental Plan 2008.

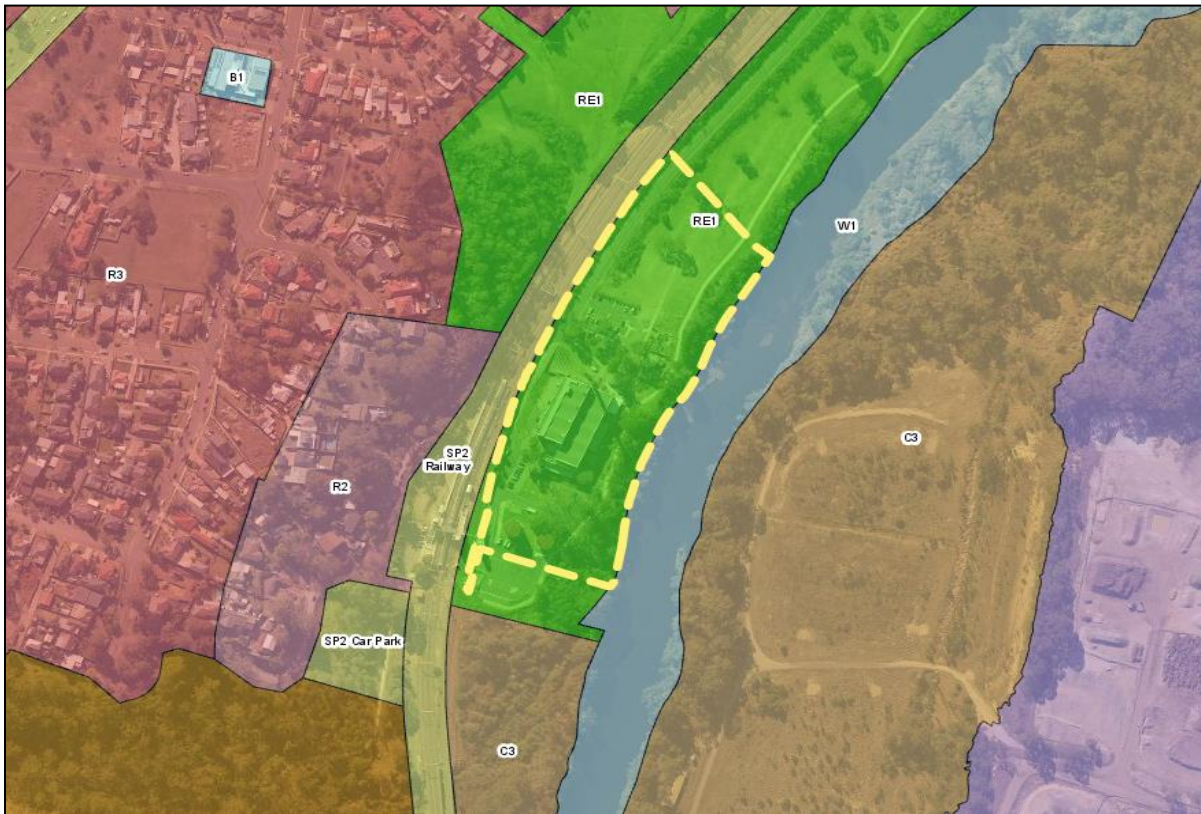


Figure 9: Extract of zoning image of the site.

(ii) Permissibility under State Environmental Planning Policy (Transport and Infrastructure) 2008

The proposal is not identified as a permissible use within the Liverpool Local Environmental Plan 2008 under the RE1 Public Recreation Zone.

However, as discussed above, the proposed development can be defined as **solar energy systems** under Division 4 of the T&I SEPP. The proposal is defined below.

solar energy system means any of the following systems—

(a) a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—

(i) carried out on the land on which the system is located, or

(ii) carried out by the owner of the system on adjoining land,

(b) a solar hot water system,

(c) a solar air heating system.

Section 2.36 (9) of the T&I SEPP allows for development for the purposes of a solar energy system to be permitted with consent. As the proposal involves the erection of photovoltaic panels for the purpose of generating electricity for the Casula Powerhouse, the proposal is permitted with consent.

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(iii) Objectives of the zone

Objectives of the RE1 Public Recreation Zone are:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To provide sufficient and equitable distribution of public open space to meet the needs of residents.*
- *To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.*

Although, the proposal is not directly consistent with the objectives of the RE1 Zone, it will provide for a green-energy generation system for an existing historical building that will have a negligible impact on the surrounding natural environment.

3

(iii) Summary of Relevant Liverpool LEP 2008 Provisions

The Liverpool LEP 2008 contains a number of provisions which are relevant to the proposal. Assessment of the application against the applicable provisions is provided below.

The proposal demonstrates compliance with these provisions.

Clause	Provision	Proposed	Comment
2.7 Demolition requires consent	The demolition of a building or work may be carried out only with development consent.	No demolition is proposed to occur as part of the proposed development.	Not applicable
4.3 Height of Buildings (as per HOB Map)	No Height control for this site.	The proposal will not alter the building height of the existing Powerhouse.	Not applicable
4.4 Floor Space Ratio	No FSR control for this site.	Not applicable.	Not applicable.
5.10 Heritage Conservation	Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect	The Casula Powerhouse is listed as a local heritage item under Schedule 5 of the Liverpool LEP. The site is also within 300m of the local heritage item "Railway Viaduct". The Application is	Complies

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	of the proposed development on the heritage significance of the item or area concerned.	<p>accompanied by a Statement of Heritage Impact which affirms that the proposal has been carefully designed to minimise impacts to the structure and appearance of the Powerhouse.</p> <p>The proposed system will not be visible from the public domain and will have no adverse impacts on the heritage status of the building.</p> <p>The proposal was referred to Council's Heritage Officer who reviewed the submitted Heritage Impact Statement. Council's Heritage Officer has no objections to the proposal and is satisfied that the proposal will have no adverse impact on the Powerhouse's heritage status.</p> <p>Based on Council's Heritage Officer's review of the proposal and recommended condition of consent, it is considered that the proposed development would protect and conserve existing items containing heritage value.</p>	
5.21 Flood Planning	Minimise flood risk to life and property	The site is identified being affected by high, medium and low flood risk. The development does not increase any flood impacts, or increase risk to life or property and therefore is considered acceptable given the minor nature of the works.	Complies
7.6 Environmentally	The consent authority must consider impacts to	A portion of the site is identified as Environmentally	Complies

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Significant Land	Environmentally Significant Land.	Significant Land along the eastern boundary. No works or disturbances are proposed within this area.	
7.7 Acid Sulfate Soils	The consent authority is to consider Acid Sulfate Soils on site.	The site is affected by Class 5 Acid Sulfate Soils. No works are proposed that will disturb the soils on site as all development is confined to the roof structure.	Complies
7.31 Earthworks	To ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and to allow earthworks of minor nature without requiring separate development consent.	No earthworks are proposed.	Complies

Having regard to the above assessment, the proposal is permitted with consent under the T&I SEPP and is considered appropriate in the context of the site and compliant with the relevant development standards in the LEP.

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

There are no draft EPIs applicable to the site.

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

(a) Liverpool Development Control Plan 2008

The application has been considered against the controls contained in the Liverpool Development Control Plan 2008 (DCP) in particular:

- Part 1 – General Controls for all Development

The assessment has identified that the proposal generally demonstrates compliance with the relevant DCP requirements. The key controls are discussed below.

Part 1 General Controls for all Development			
Control	Requirement	Proposed	Comment
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	No trees are proposed to be removed.	Not applicable
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	Not applicable	Not applicable
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	No Environmentally Significant Land is proposed to be disturbed or removed.	Complies
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	The site is identified as bushfire prone land. The Rural Fire Service have reviewed the Application and raise no concerns.	Complies
Section 6 – Water Cycle Management	Consideration of stormwater and drainage	No stormwater or water management systems are proposed or required.	Not applicable
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	Development is not located within 40m of a watercourse.	Not applicable
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	Sediment control measures have not been proposed as no construction at ground level is proposed.	Not applicable
Section 9 – Flooding Risk	Flood affectation of property to considered	The site is identified as flood prone from the Georges River. The Application has been referred to Council's Flooding Department and no issues have been raised as the proposal is isolated to the roof of the Powerhouse and is not at risk of flooding.	Complies

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Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	An assessment of contaminated land risk is not considered to be necessary in this instance as no development will occur at the ground level on the site. All development will be on top of the existing structure and has no risk of exposing any potential contaminants.	Complies
Section 11 – Salinity Risk	Salinity Management response required for affected properties	The site is affected by salinity. However, no disturbance to soils will occur as the proposed works are isolated to the roof.	Complies
Section 12 – Acid Sulphate Soils Risk	Affected properties to consider impact of development on soils	The site is affected by Class 5 Acid Sulfate Soils. No works are proposed at the ground level that will potentially disturb these soils and all works will occur on the existing Powerhouse structure.	Complies
Section 13 - Weeds	Noxious weeds to be removed as part of development where applicable	No weeds have been identified on site.	Not applicable
Section 14 – Demolition of Existing Development	Demolition to be considered	No demolition is proposed.	Not applicable
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	Not applicable	Not applicable
Section 16 & 17 – Aboriginal Archaeology & Heritage	A Statement of Heritage Impact is required for applications relating to impacts on	The site is identified as a local heritage item and a Statement of Heritage Impact has been prepared. Council is satisfied that the	Complies

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	heritage items.	proposal has been carefully designed to minimise any impacts to the Powerhouse structure and no impacts to the heritage status of the building are anticipated.	
Section 19 – Used Clothing Bins	Applies to any charity bins located on either private or Council land.	No charity bins located on site	Not applicable
Section 20 – Car parking and access	Carparking requirements are to be considered.	No additional carparking is proposed or required as part of the development.	Complies
Section 21 – Subdivision of Land and Buildings	This section applies to land that is proposed to be subdivided.	No subdivision is proposed.	Not applicable
Section 22 – Energy Conservation	This section applies to development involving the use of energy and aims to minimise greenhouse gas emissions.	The proposal achieves the objectives of this section by proposing solar voltaic panels to generate electricity for the Casula Powerhouse.	Complies
Section 23 – Reflectivity	Visible light reflectivity from building materials used on the facades of new buildings must not exceed 20%. Subject to the extent and nature of glazing and reflective materials used, a Reflectivity Report that analyses potential solar glare from the proposed development on	The proposal has the potential to generate glare from the reflectivity of solar panel surfaces. The Application is accompanied by a Solar PV Glare Assessment. The Assessment identified a number of potential receivers within a 2km radius of the site. There are no adverse impacts of the proposal as a result of glare from the panel surfaces. No mitigation measures are required to minimise glare.	Complies

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	pedestrians, motorists or aircraft may be required.		
Section 25 – Waste Disposal & re-use Facilities	This section applies to Subdivision and excavation of land and Demolition of existing buildings.	A waste management plan has been submitted.	Complies

5.4 Section 4.15(1)(a)(iia) – Any Planning Agreement or Draft Planning Agreement

There is no planning agreement or draft planning agreement applying to the site.

5.5 Section 4.15(1)(a)(iv) –The Regulations

The proposal is satisfactory with respect to provisions contained in the EP&A Regulation 2021. Conditions of consent will be applied in relation to compliance with the National Construction Code and Australian Standards.

5.6 Section 4.15(1)(b) – The Likely Impacts of the Development

Heads of Consideration	Comment
Built Environment	The proposal will have a minimal impact on the built environment of the locality. The solar panels will not be visible from the public domain and will not impact the appearance of the Casula Powerhouse.
Natural Environment	The proposal will not have an adverse impact on the natural environment of the site and surrounding area. The proposed works are to be confined solely to the roof of the Powerhouse and will not disturb the ground surface or waterways of the site.
Social Impacts	The proposal is unlikely to cause any detrimental social impacts and will provide for clean energy generation at the site.
Economic Impacts	Positive economic impacts in the locality through the capital investment in the area and the creation of new jobs through installation. The proposal will also lower electricity generation costs for the operators of the Casula Powerhouse, allowing for further investment into arts and cultural events at the site.

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5.7 Section 4.15(1)(c) – The Suitability of the Site for the Development

The proposed development site is suitable to accommodate the proposed solar panels. The site's environmental constraints of bushfire, flooding, environmentally significant land, acid sulfate soils and salinity do not restrict the development as proposed. The proposal is confined wholly to the roof structure of the Casula Powerhouse and the site is capable of accommodating the proposed photovoltaic panels.

5.8 Section 4.15(1)(d) – Any Submissions made in relation to the Development

(a) Internal Referrals

DEPARTMENT	COMMENTS
Fire Safety	Supported, subject to conditions
Building	Supported, subject to conditions
Flooding	Supported, subject to conditions
City Design Heritage	Supported, subject to conditions

(b) External Referrals

The development was referred to the Rural Fire Service for comment. Due to the minor nature of the proposal, the RFS reviewed the proposed plans and documents and raised no concerns to the proposed development.

(c) Community Consultation

The proposal was not required to be notified in accordance with Liverpool Community Engagement Strategy 2022.

5.9 Section 4.15(1)(e) –The Public Interest

Approval of the proposed development is considered to be in the public interest. The development is permissible with consent and will provide clean energy which reduces fossil fuel dependence for the Casula Powerhouse. The development provides a public benefit and is appropriate in the context of the site and the existing development.

5.10 Development Contributions

The proposed development does not require development contributions to be paid in accordance with the Liverpool Contributions Plan 2018.

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7. CONCLUSION

• Having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is considered satisfactory with the following matters noted:

-
- The proposed development complies with the relevant provisions of the relevant Environmental Planning Instruments and complies with the provisions of the Liverpool DCP 2008.
- Conditions of consent will be imposed to minimise any potential negative environmental impacts resulting from the development.
- The proposed development is appropriate for the site and approval is in the public interest.

8. RECOMMENDATION

That Development Application DA-965/2021 be approved subject to conditions of consent.

ATTACHMENTS

1. Conditions of consent

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Item no:	2
Application Number:	DA-221/2021
Proposed Development:	Demolition of existing building structures, tree removal, and construction of a five storey residential flat building over 2 levels of basement parking, and related landscaping and stormwater management.
Property Address	1 Harvey Avenue and 11 Dredge Avenue, Moorebank
Legal Description:	Lots 22 & 23 in DP 235788
Applicant:	Alain Assoum
Land Owner:	Mr Dennis John Muller, Ms Lorraine Joyce Muller and Ms Kylie Jacklynne Gleza
Cost of Works:	\$7,047,408
Recommendation:	Approved subject to conditions
Assessing Officer:	Emily Lawson

1 EXECUTIVE SUMMARY

Council has received a Development Application (DA-221/2021) seeking consent for the demolition of existing building structures, tree removal, and subsequent construction of a five storey residential flat building over two (2) levels of basement parking and related landscaping and stormwater management at 1 Harvey Avenue and 11 Dredge Avenue, Moorebank.

The site is zoned R4 High Density Residential pursuant to Liverpool Local Environmental Plan 2008 and the proposed development is permissible with consent.

The development application was advertised/notified for a period of 14 days from 28 April to 12 May 2021 in accordance with Liverpool Community Participation Plan 2019. Six (6) submissions were received during the public consultation period objecting to the proposed development. The issues of concern raised in the submissions can be summarised as follows:

- Waste disposal.
- Public infrastructure.
- Traffic management.
- Landscaping.
- Character.
- Solar access and Overshadowing.
- Privacy and Overlooking.

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- Bulk and scale.
- That the issues culminate in a development not in the public interest.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 30 June 2020, as the development falls in the categories of:

Sensitive Development

(b) Development to which State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development applies and is 4 or more storeys in height.

Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

The proposed development has a number of non-compliances, however, are deemed acceptable in terms of the overall design, scale and built form of the proposed Residential Flat Building.

The non-compliances are summarised below:

- The proposal does not comply with Clause 4.3 Height of Buildings pursuant to the Liverpool Local Environmental Plan 2008. The development has a non-compliance of 14%, which is deemed acceptable in this regard.
- The proposal has minor non-compliances with the ADG regarding:
 - 2F Building Separation
 - 3F Visual Privacy
 - 4A Solar and Daylight AccessThese are deemed minor and acceptable in terms of the whole built form design.
- The proposal has minor noncompliance with the Liverpool DCP regarding:
 - 8 – Landscaped Area and Private Open Space.

This report concludes, on balance, the proposal has sufficient merit to be recommended for approval to the Liverpool Local Planning Panel, subject to the standard conditions attached to the recommendation.

2. SITE DESCRIPTION AND LOCALITY

2.1 The locality

The site is located in an area characterised by existing low density residential development in R4 high density and R3 medium density residential zones around the edge of the Moorebank local centre. It is located approximately 70m north-east of the Moorebank local centre which provides a number of retail land uses and services.

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The site is adjoined by single storey dwelling houses on large lots. The houses generally have relatively deep front setbacks and sizeable back yards. An aerial photograph of the locality is provided below.



Figure 1 – Aerial view of the locality (Source: Geocortex)

2.2 The site

The site is identified as Lots 22 and 23 in DP 235788 and is located at 11 Dredge Avenue and 1 Harvey Avenue, Moorebank. The location and zoning of the site is shown below in Figures 1 and 2. The site has a total area of 1,405.8m² with a frontage width 27.04m to Dredge Avenue and a frontage width of 40.26m to Harvey Avenue. The western side boundary has a length of 42.04m and the rear boundary length of 29.78m.

The site has a very gentle almost flat sloping topography with a fall of approximately 0.8m from the high point at RL16.2 at the rear southwest part of the site to the low point at RL 15.2 on the northwest corner on the street front boundary at Dredge Avenue.

The vegetation on the site includes trees and shrubs scattered across the site and along the southern boundary and grass cover around the existing building curtilages.



Figure 2: Aerial view of the subject site (Source: Geocortex)

3. BACKGROUND/HISTORY

A brief history of the development application is presented below:

Date	Details
9 March 2021	Development Application lodged.
2 July 2021	Council issued Request for Further Information pertaining to: <ul style="list-style-type: none"> - Stormwater. - The applicant identifies the location of the proposed electrical substation.
9 September 2021	Design Excellence Panel held.
19 October 2022	Additional information provided by the applicant including: <ul style="list-style-type: none"> - Response to DEP minutes - Waste Management Plan - Amended Stormwater Plan

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	<ul style="list-style-type: none"> - Amended Landscape Plan - Amended Architectural Plans <p>It is noted this submission did not adequately address the issues raised in the earlier RFI in relation to stormwater, nor the DEP minutes.</p>
8 December 2022	<p>Council issued RFI requesting:</p> <ul style="list-style-type: none"> - Operational detail regarding the existing easement located along the western boundary. - The location of the proposed substation to be identified. - An updated Cost Estimate Report.
17 December 2022	<p>Additional information provided by the applicant including:</p> <ul style="list-style-type: none"> - Sydney Water Map and Council Plan - Applicant has noted that the location of substation was identified on a previous plan-set. However, the location has not been noted on updated plan-set. - Updated Cost Estimate Report - Dial Before You Dig <p>The applicant's response did not adequately satisfy Council's request relating to the existing easement.</p>
20 March 2023	<p>Council issued RFI requesting:</p> <ul style="list-style-type: none"> - Clause 4.6 Exception report justifying non-compliant building height. - Further information relating to the existing stormwater easement. - Amended plans addressing Council's City Design and Public Domain comments. - Further information to demonstrate proposals compliance with ADG requirements.
4 April 2023	<p>Additional information provided by the applicant including:</p> <ul style="list-style-type: none"> - Amended architectural plans. - Amended landscape plans. - Clause 4.6 variation request - Cover letter.

The DEP recommended the proposal be supported. The applicant was requested to respond to recommendations made by the panel, which have been reviewed by Council Urban Design team and have been satisfied.

Initially, the applicant's response as outlined above was not considered to adequately address the panels comments as amended plans were not submitted to identify footpaths within the public domain along the site boundaries as a public realm contribution.

This was raised as an outstanding item within an additional request for information provided to the applicant on 20 March 2023. This RFI raised the issue of the lack of pedestrian infrastructure to the Harvey Avenue and Dredge Avenue frontages. The applicant submitted a revised scheme on 4 April 2023 which provided satisfactory pedestrian infrastructure.

4. DETAILS OF THE PROPOSAL

The development application seeks approval for the demolition of site structures, tree removal and subsequent construction of a five (5) storey residential flat building over two (2) levels of basement parking.

Details of the proposal are provided as follows:

Element	Proposed
Site Area	1,405.8m ²
FSR	Site area=1,405.8m ² Proposed GFA = 1,690m ² FSR = 1.20:1
Residential Units	Total of 24 residential units. Dwelling mix as follows: <ul style="list-style-type: none"> • 18 x 2 bedroom (75%) • 6 x 1 bedroom (25%)
Height	Approximately 20.6m to the lift overrun. Approximately 16.22m to the highest point on main roof line
Storeys	Five (5) storeys
Front Setbacks to street boundaries	5.5m to 8m (4.5m to balconies on southeast corner and northwest corner of building)
Side Setback (southern boundary)	Ground to Level 3: 6m (and 5.2m to balcony on southeast corner) Level 4: 9m (and 6m to planter box)
Side Setback (western boundary)	Ground to Level 3: 6m to 10.5m Level 4: 7.5m to 12m (and 6m to planterbox)
Car parking spaces	39 Basement parking spaces including: 33 resident spaces including three (3) disabled resident spaces; Six (6) visitor spaces including one (1) disabled visitor space.

Communal Open Space (COS)

The proposal provides Communal Open Space (COS) at the rooftop and rear of the site. The rooftop COS has an area of 136sqm and the rear COS an area of 361sqm, providing a total of 35.4% COS.

Access and Parking

The proposal includes the construction of two basement levels, with access provided from Dredge Avenue at the western edge of the site. The basement levels include the following:

- 33 residential parking spaces
- 6 visitor parking spaces
- Storage
- 12 bicycle parking spaces
- Fire pump room, services, and switch room.

Landscaping

The development incorporates a variety of landscaping throughout the site which includes large and small plantings within deep soil zones and planter boxes on the built form.

Materials and finishes

The proposal incorporates a dark grey painted finish, off-form concrete finishes, natural concrete with feature ribbing, a stainless-steel cable trellis system, aluminium window frames and aluminium screening coloured dark grey. These finishes contribute to the contemporary building design and are compatible with other developments within the locality.

Site Servicing Facilities

The development proposes to install an electricity substation within the northern setback. Insufficient information has been submitted to demonstrate that the substation meets the requirements of Endeavour Energy. This is mitigated through a condition of consent.

Stormwater Management

The DA includes a stormwater management plan that includes basement pump out, on-site detention tanks and discharge to kerb inlet pit in Dredge Avenue.

Demolition, Tree Removal and Excavation

The proposed development includes demolition of existing dwellings and building structures, removal of 12 trees, and excavation for basements.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

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

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Draft Environmental Planning Instruments

- No Draft Environmental Planning Instruments apply to the site.

Contributions Plans

- Liverpool Contributions Plan 2018 applies to the subject development.

6. ASSESSMENT

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

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

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

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

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	It is unlikely the land is contaminated as it is an existing residential zoned allotment with a history of residential use.
(b) 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, and	As above.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

Aerial images from 2005 found on Council's Review GIS system illustrates the presence of the existing dwelling (Figure 2), which suggests the site has principally been used for residential purposes for over 15 years.

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

With consideration to the above-mentioned points, there is sufficient evidence to suggest the land is not contaminated and therefore a land contamination assessment is not considered to be necessary.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of Chapter 4 of the SEPP (Resilience and Hazards) 2021.

(b) State Environmental Planning Policy (BASIX) 2004

In accordance with this policy, all new residential dwellings and those seeking alterations and additions require a BASIX certificate that measures the Building Sustainability Index to ensure dwellings are designed to meet energy and water efficiency targets.

A BASIX certificate (No. 1178174M_02 dated 19 February 2021) has been submitted with the development. The proposal is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

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

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 generally aims to maintain and improve the water quality and river flows the majors Rivers associated its tributaries. As the site is located within the Georges River Catchment, Chapter 11 of the SEPP is applicable.

(Note: Chapters 7 – 12 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 were repealed on 21 November 2022. However, the savings and transitional provisions in Part 6.6 of the SEPP (Biodiversity and Conservation) 2021 state these former repealed provisions of the SEPP continue to apply to a development application made, but not yet determined, before the date of the repeal. Given that DA-1483/2021 was lodged and not determined before the repeal date of 21 November 2022, the former Chapter 9 of the SEPP (Biodiversity and Conservation) 2021 applies to this DA.

The application was referred to Council's Land Development Engineering Department who reviewed the stormwater management and drainage associated with the proposal. Land Development Engineering raises no objection to the proposed application, subject to conditions.

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

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Clause 11.6 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposed works are unlikely to significantly impact on the Georges River.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal seeks consent for the use of the site as a residential flat development. The proposed works are unlikely to significantly impact on the Georges River
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	Consistent with the strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	The site is not located within 40m of a waterway. The application was not required to be referred to the Natural Resource Access Regulator (NRAR).
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No. The site is located in an area nominated for high density residential development.
When this Part applies the following must be taken into account:	The site is located in an area nominated for R4 High Density Residential development and the proposal is consistent with this zoning.
Clause 11.7 Specific Principles	Comment

(1) Acid sulfate soils	The land is not identified as containing acid sulfate soils (ASS). The detailed site investigation report noted that no visual ASS were observed during the geotechnical field investigations and therefore unlikely that ASS was present and the need for ASS management was not required.
(2) Bank disturbance	No bank disturbance is proposed.
(3) Flooding	The site is not flood affected.
(4) Industrial discharges	Not applicable.
(5) Land degradation	The proposed development is unlikely to cause land degradation. An erosion and sedimentation plan was submitted with the application and conditions of consent will be provided.
(6) On-site sewage management	The site will be connected to a reticulated sewer system.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Stormwater matters have not yet been satisfied by the development.
(10) Urban development areas	The site has been historically used for residential purposes. The proposal is generally consistent with planning controls and guidelines for urban development.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control and salinity measures to be implemented in construction.
(13) Wetlands	Not applicable

It is considered the proposal satisfies the provisions of the SEPP (Biodiversity and Conservation) 2021 – Chapter 11 – Georges River Catchment.

(d) State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential flat development. SEPP 65 requires the consent authority to consider the development against 9 key design quality principles and against the guidelines of the ADG. The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

The application was accompanied by a SEPP 65 Design Verification Statement and a Principles Statement. The statement provided an assessment of the proposed development against the Design Quality Principles and the Apartment Design Guidelines.

Further to the nine (9) design quality principles outlined in SEPP 65, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning Apartment Design Guide (ADG). The applicant has provided an assessment of the proposal in accordance with the 9 key design quality principles of SEPP 65. This is provided within Attachment 7 for review.

Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. Compliance tables for the ADG can be found in Report Attachment 1.

The following table provides an assessment of the proposal against the relevant provisions of the ADG which propose variations that are deemed to be acceptable for the proposed development.

Apartment Design Guide		
Provisions	Proposed	Complies
2F Building Separation		
<p>Minimum separation distances for buildings are:</p> <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 6m between non-habitable rooms • 9m between habitable and non-habitable rooms • 12m between habitable rooms / balconies <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 9m between non-habitable rooms • 12m between habitable and non-habitable rooms • 18m between habitable rooms / balconies <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 12m between non-habitable rooms • 18m between habitable and non-habitable rooms • 24m between habitable rooms 	<p>The proposed development has side setbacks to residential properties on the southern and western boundaries of the site as follows:</p> <p>Setback to southern boundary: G to L3: 6m (and 5.2m to balcony on southeast corner) L4: 9m (and 6m to planter box)</p> <p>Setback to western boundary: G to L3: 6m to 10.5m L4: 7.5m to 12m (and 6m to planterbox)</p> <p>The development also maintains a breezeway with building elements separated by approximately 2.8m. Privacy screening is provided to the breezeway which is considered suitable screening for privacy.</p> <p>Overall, the development achieves compliance with the</p>	<p>Complies with minor encroachments into setbacks which are justified on merit</p>

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Apartment Design Guide		
Provisions	Proposed	Complies
<p>/ balconies</p> <p>Note: <i>It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance</i></p>	<p>minimum boundary setbacks except for parts of balconies which are relatively minor encroachments and reasonable in the circumstances. The balcony encroachments into the minimum setbacks are as follows:</p> <ul style="list-style-type: none"> • Balcony on southeast corner on Levels 1 to 3 with a setback of 5.2m encroaching into the minimum 6m setback on the southern side boundary. • Balcony corners on Level 4 with a setback down to 7.5m encroaching into the minimum 9m setback on the western side boundary. <p>These balcony encroachments are considered reasonable as they are in part a function of an irregular site shape / geometry and relatively minor with minimal impact.</p> <p>The encroachment of the balcony on the southeast corner on Levels 1 to 3 by 0.8m into the minimum 6m southern boundary setback is directly adjacent to the front setback area on the neighboring property which will not have habitable building space on it. It will not look directly into any building on the neighbouring property and will achieve the minimum 12m ADG separation distances to residential development behind the front and side setback on the neighbouring property.</p>	

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Apartment Design Guide								
Provisions	Proposed	Complies						
	<p>The encroachment of the balcony corners on Level 4 by up to 1.5m into the minimum 9m western boundary setback is not unreasonable as it is a relatively small part of the balconies which have varying setbacks of 7.5m and up to 12m with an average setback over 9m.</p> <p>Level 4 also has a planter box with a varying setback down to 6m from the western boundary, and planter box with a setback of 6m from the southern boundary. The planter box along the southern side also has a maintenance pathway next to it which is setback 7.5m from the southern boundary. These planter box elements are effectively the roof of Level 3 below and considered non-habitable elements that comply with the ADG setbacks for non-habitable space. The planter boxes have positive impacts in providing some visual privacy screening and landscaping amenity.</p>							
3F Visual Privacy								
<p><i>Minimum separation distances from buildings to the side and rear boundaries are as follows:</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;"><i>Building Height</i></th> <th style="text-align: center;"><i>Habitable Rooms and Balconies</i></th> <th style="text-align: center;"><i>Non-Habitable Rooms</i></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><i>Up to 12m (4 storeys)</i></td> <td style="text-align: center;"><i>6m</i></td> <td style="text-align: center;"><i>3m</i></td> </tr> </tbody> </table>	<i>Building Height</i>	<i>Habitable Rooms and Balconies</i>	<i>Non-Habitable Rooms</i>	<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>	Refer to justification in 2F above.	Complies with minor encroachments justified on merit
<i>Building Height</i>	<i>Habitable Rooms and Balconies</i>	<i>Non-Habitable Rooms</i>						
<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>						

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Apartment Design Guide				
Provisions			Proposed	Complies
12m to 25m (5-8 storeys)	6m	4.5m		
Over 25m (9+ storeys)	12m	6m		
4A Solar and Daylight Access				
<p><i>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</i></p>			<p>16% of apartments receive no solar access. This is considered reasonable as it is limited to just one apartment on each level. Furthermore, due to the site constraints and lot design, the development is limited in terms of an appropriate bulk and scale. The proposed design is suitable in terms of the overall design, this proposed non-compliance, does not impact upon the overall design, built form, scale, bulk and solar access to surrounding developments.</p>	<p>Does not comply, but is considered acceptable.</p>

Whilst the proposal has minor non-compliance with the ADG, the over design of the proposal is suitable in terms of the context of the site, and therefore can adequately satisfy the design objectives and criteria in the Apartment Design Guide.

(e) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned R4 -High Density Residential under Liverpool Local Environmental Plan 2008 (LLEP 2008). An extract of the zoning map is provided in Figure 3 below.

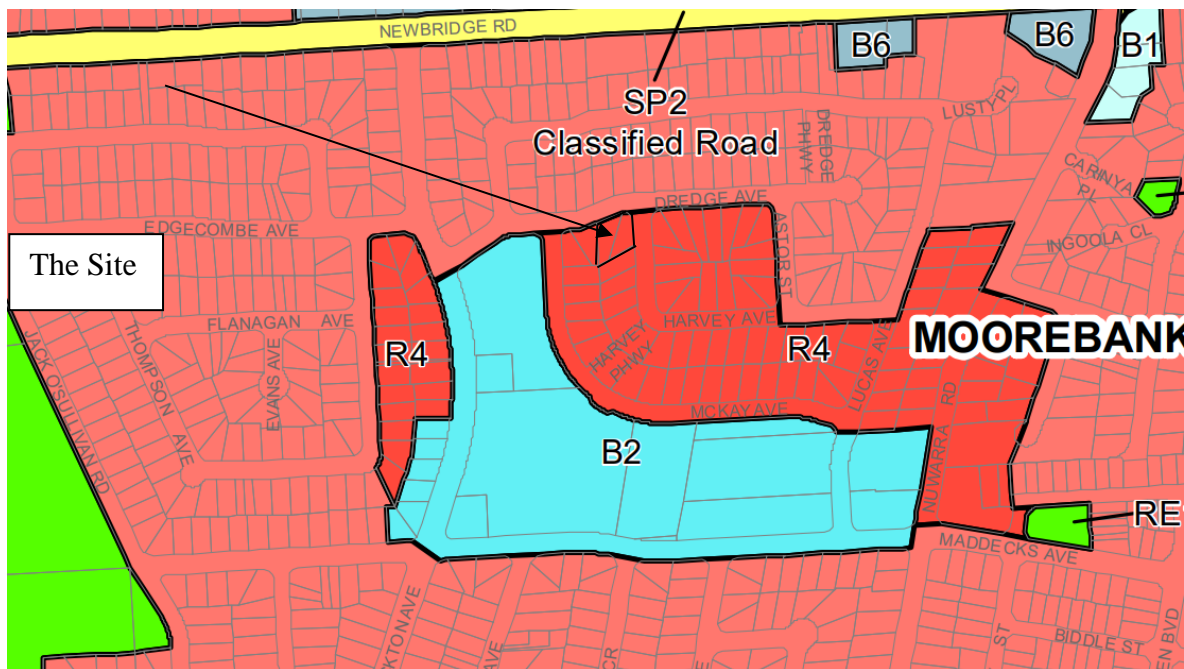


Figure 3: Zoning Map (source: LLEP 2008)

The proposed development is for a *residential flat building* (RFB) which is defined as:

“Residential flat building means a building containing 3 or more dwellings but does not include an attached dwelling or multi dwelling housing.”

The proposed development satisfies the definition of a *residential flat building* as it is a building which contains 3 or more dwellings. The form of the development is permissible within the R4- High Density Residential Zone.

(iv) Objectives of the zone

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

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

The proposed development satisfies the objectives of the R4 zone in that:

- It will provide for housing needs within a high-density residential environment. While established development around the site consists of low-density residential development; the area has been zoned for high density residential development and it is therefore envisioned any redevelopment be in a form which establishes the higher density of residential buildings and other uses that are permitted in that zone.
- It will contain a mix of different sized units providing a variety of housing opportunities in a high-density form.
- It will not hinder the opportunity for other land uses which provide facilities or services to meet the day to day needs of residents.
- The site is within close proximity to required services and facilities required to support higher density development including public transport, shops, schools and employment opportunities; and
- The proposal will provide high density residential development on a site that is an amalgamation of two allotments, and it will not fragment land or hinder the opportunity for other high density residential development within the area.

(ii) Principal Development Standards

The following principal development standards of LLEP2008 apply to the proposal:

Development Provision	Requirement	Compliance
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	Complies Development consent is sought for the demolition of the existing structures on site.
4.1 Minimum Subdivision Lot Size	Minimum lot size of 1000m ²	Complies The combined site area = 1405.8m ²
4.3 Height of Building	The maximum building height permitted on the subject land is 18 metres on the Heights of Buildings map.	Considered acceptable – see Clause 4.6 - Variation assessment below. A building height of 20.6m is proposed.
4.4 Floor Space Ratio	The permitted FSR for the site is 1:2:1 under LLEP2008.	The maximum FSR of 1.2:1 on the site area of 1,405.8sq.m equates to a maximum GFA of 1,690sq.m. The proposed GFA is 1,690sq.m.
4.6 Exceptions to development	Provisions relating to exceptions to development standards.	Considered acceptable – see Clause 4.6 - Variation

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standards		assessment below. A building height of 20.649m is proposed.
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	The site is located within an established residential area with public utilities available.
7.14 Minimum building street frontage	Development consent must not be granted to development, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres.	The Dredge Avenue frontage has a width of 32.17m
7.7 Acid sulfate soils	Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	The site is not identified to be affected by acid sulphate soils.

Clause 4.6 - Exceptions to development standards

(Variation to Clause 4.3 - Height of Buildings)

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

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

The subject proposal seeks a variation to the maximum height of buildings contained in LLEP 2008. The maximum height of buildings is to be 18m. The subject development is applying for an exceedance of building height. The maximum height proposed as part of this application is 20.6m to the lift overrun. This equates to a variation of 2.649m which is expressed in a percentage as 14.7% to the development standard. The extent of the variation can be found in the Figure below.

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Figure 4 – Height Plane of the development showing extent of the building height encroachment.

Consequently, pursuant to Clause 4.6 of the LLEP 2008, the applicant has submitted a written request seeking a variation to the maximum height of buildings as prescribed by Clause 4.3.

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

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

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Planning Secretary has been obtained.*

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

Variation to Height of Buildings, Clause 4.3:

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

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

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

Applicant Comment

*Historically, the most common way to establish a development standard was unreasonable or unnecessary was by satisfying the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method requires the objectives of the standard are achieved despite the non-compliance with the standard.*


*This was recently re-affirmed by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17]. Similarly, in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.*

The applicant’s request addresses the first method outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

- ***The objectives of the standard are achieved notwithstanding non-compliance with the standard*** (the first method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43])

The specific objectives of the height of buildings development standard as specified in clause 4.3 of LLEP 2008 are detailed in the table below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Objectives	Assessment
<p><i>(a) to establish the maximum height limit in which buildings can be designed, and floor space can be achieved,</i></p>	<p>The proposal adopts a building height which generates a built form that is consistent with the anticipated scale of development in this locality, insofar as it relates to sites zoned R4 High Density Residential with a maximum height limit of 18m.</p> <p>The height breaching element (being largely the proposed list over run) does not influence the dwelling yield or intensity of the development, noting that the proposal complies with the FSR standard in the LEP. Accordingly, there is no identifiable nexus between the proposed height variation and the extent of residential density sought for the land. Specifically, the extent of non-compliance observed across the proposed built form is limited to encroachments that will facilitate for amenity benefits across the rooftop communal open space by way of weather protection, privacy mitigation measures and equitable access. These elements are predominately sited away from the roof plate peripheries, and they will not have a high degree of visibility from the public domain/s.</p>
<p><i>(b) to permit building heights that encourage high quality urban form,</i></p>	<p>The proposal demonstrates that the building, notwithstanding the breach, will visually adapt to the height, bulk and scale of neighbouring built forms (both existing and evolving) and the resulting height breach has been favourably sited across the rooftop, thus reducing its visual prominence from both neighbouring properties and the public domain/s.</p> <p>The height breaching elements of the building are of a siting, scale and aspect where it will not identify as visually dominant nor jarring to contextual character.</p> <p>Due to scale and location of the breach which has been predominately sited away from the building edges, it will present as largely imperceptible from vantage points in the vicinity of the site. The scale, nature and aspect of the site and, in turn, the height breach, enables the proposed building to visually integrate with that of neighbouring buildings (both existing/anticipated) serving as an affirmation of the objective and not that of a building that abandons height controls.</p>
<p><i>(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,</i></p>	<p>The non-compliant element will not generate an additional level of shadowing over that of a compliant scheme. This has been demonstrated in Figure 3 below this table being a comparative shadowing analysis prepared by Fuse Architects. As identified across this analysis, any additional shadow cast by the breach is limited to a nominal increase across both the subject and neighbouring properties. Furthermore, the breach is not responsible for any additional adverse impacts upon adjoining</p>

	<p>properties in terms of sky exposure which will remain commensurate with that envisaged across a compliant scheme.</p>
<p>(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.</p>	<p>The proposed breach will have no bearing on the future relationship the development as a 'whole', will have with adjoining land uses noting the transitional interface to the north with an R3 Zone across Dredge Avenue. The breach/es, noting they only pertain to elements that provide equitable access to and/or improve the amenity of a rooftop communal space, are predominately sited away from the building edges where they will not be interpreted as a stepping outside of the anticipated built form envelope. The breach/es will not bear any adverse influence on built form interrelationships, nor will they result in any untoward impact to land use intensities or transitional built form relationships.</p> 

Council Comment

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

- The extent of the height exceedance occurs at the lift overrun of the building. The lift overrun is located further towards the centre on the roof of the building and is not readily visible when viewed from the street and does not generate additional overshadowing on adjoining properties.
- The extent of the variation is 14.649%, which is considered minor in this instance and will not contribute to additional visual bulk and scale of the development.
- The development provides a consistent floor to floor height of 3.1m, which exceeds the minimum in the ADG. The additional height provides added amenity for the units

by enabling better solar access and cross-ventilation and enables a better urban design outcome. The floor-floor height may be reduced to achieve a height compliance, however, will result in a less the ideal design outcome.

- Notwithstanding the height exceedance the proposed development does not create any detrimental overshadowing or privacy impacts on the adjoining developments.
- The proposed development is considered to be of an appropriate bulk and scale and is consistent with the design principles and relevant standards and objectives of the ADG.

Furthermore, the additional height is not contributing to any detrimental increases in bulk and scale over the site including compliance with the floor space ratio provisions for the whole development as provided in this concept. Compliance with the standard is unreasonable in this case as the development can be sited with adherence to local provisions and any future development on the allotments would still be able to provide a valuable housing product suitable for the area and provide for the housing needs for the community.

Based on the applicant's comments and investigation into the 4.6 variation to the building height, and the review of the potential impact of the height extrusion it is considered a strict compliance is unlikely to reduce any impact and it is argued the height variation for the purpose of lift overruns provides improved amenity for future residents and does not negatively impact on the local area in terms of additional overshadowing or determinantal impact to the design of the building.

Further, the additional height is not contributing to any detrimental increases in bulk and scale over the site including compliance with the floor space ratio provisions for the development. Compliance with the standard is unreasonable in this case as a development can be constructed on the site that generally adheres with the planning controls and provisions for a form of development which is consistent with the future anticipated high density residential character. Having regard to the above, it is considered there are sufficient environmental planning grounds to vary Clause 4.3 – Height of Buildings in this instance.

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

Applicant Comment

Clause 4.6(3)(b) of the LLEP 2008, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating:

"That there are sufficient environmental planning grounds to justify contravening the development standard".

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as summarised in (Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118).

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There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above. These include:

- The proposal is consistent with the objectives of the development standard and objectives of the R4 – High Density Residential Zone.
- The proposal is compliant with the maximum FSR applicable to the site. Therefore, the height variation does not seek to provide any additional density or gross floor area (GFA) outside of that prescribed to the development on the land.
- The lift overrun facilitates equitable access to the rooftop communal open space.
- The location and design of the height breaching element has been organised to ensure that it does not present as visually jarring to the streetscape and in addition, does not result in any adverse level of amenity impact on neighbouring properties. The elements in breach of the height observe in most part, a relatively central location across the roof plate well away from the allotment boundaries.
- The characteristics of the site whereby variable natural ground levels are presented, bears a level of influence with regards to the extent of breach observed.

Based on the above, it has been demonstrated there are sufficient environmental planning grounds to justify the proposed non-compliance to the maximum height of buildings in this instance.

Council Comment

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

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

Has the written request adequately addressed the matters in Sub-Clause (3)

Applicant Comment:

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

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Each of the sub-clause (3) matters are comprehensively addressed in this written request, including detailed consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds, including matters specific to the proposal and the site, to justify the proposed variation to the development standard.

Comment:

The applicant has adequately addressed the requirements under Sub-Clause (3) of Clause 4.6. The justifications provided suitably addressed the non-compliance pertaining to Clause 4.3

Consistency with objectives of the zone – R4 High Density Residential

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

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

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

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

The proposal provides for the housing needs of the community in a high-density environment by increasing the supply of housing stock within the Moorebank Precinct.

- *To provide a variety of housing type within a high density residential environment*

The proposal contributes to housing diversity by providing a mix of dwelling sizes including adaptable dwellings, in the form of a 'residential flat building' housing development.

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

The objective is not relevant to the proposal.

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

The proposal is located in proximity to the Moorebank services precinct located to the southwest of the site. A number of Proximate bus services along Newbridge Road and or Maddecks Avenue also service the site.

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

The proposal does not restrict the future redevelopment of neighbouring lands.

The objectives of the zones as demonstrated above, as well as the objectives for the standard, have been adequately satisfied. Therefore, the proposal is considered to be in the public interest.

Council Comments

The proposed variation in height does not prevent the ability of the proposed development to provide the housing needs for the community. The proposed development also provides an opportunity for the provision of a variety of housing types and densities in a developing area. Additionally, the development is amalgamating two sites which will reduce land fragmentation in the area and achieves a high-density development. Having regard to the above it is considered that the proposed development is consistent with the objectives of the R4 High Density Residential Zone. Therefore, the proposal is considered to be in the public interest.

Consistency with Clause 4.6 objectives

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

It is considered appropriate in this instance for the reasons stated above to apply a degree of flexibility when applying the maximum height development standard.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Development Standards is assumed by the Local Planning Panel.

In this regard, the applicant's written request has demonstrated the proposed development is an orderly and economic use and development of the land, and the structure is of a good design which will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cl 1.3 (c) and (g) of the EPA Act. Therefore, the applicant's written request has adequately demonstrated there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

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Therefore, Council is satisfied the written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

The proposed development is subject to the Liverpool Development Control Plan 2008 (LDCP) 2008. The proposed subdivision has been assessed under the following Parts of the LDCP 2008:

- Part 1 of the LDCP 2008, which covers general controls relating to all types of development within the Liverpool LGA.
- Part 3.7: Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre).

The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008. All relevant compliance tables for the LDCP 2008 can be found in Report Attachment 2.

Below provides a summary of the non-compliances with the LDCP 2008 which are deemed supportable.

Development Control	Required	Provided	Complies
8. Landscaped Area and Private Open Space			
Fencing Primary Frontage	– The maximum height of a front fence is 1.2m.	The front fence to Harvey Avenue is stepped in response to the slope of the land. The DEP acknowledge the proposed front fence being a maximum height of 1.8m. Given the ground floor apartments fronting Harvey Avenue, and stepped nature of the fence, this is considered to be acceptable on merit.	Justified on merit
	The front fence may be built to a maximum height of 1.5m if the fence is setback 1m from the front boundary with suitable landscaping	Refer above.	Justified on merit

	in front of the proposed fence.		
	<p>The front fence may be built to a maximum of 1.8m only if:</p> <ul style="list-style-type: none"> • The primary frontage is situated on a Classified Road. • The fence is articulated by 1m for 50% of its length and have landscaping in front of the articulated portion. • The fence does not impede safe sight lines from the street and from vehicles entering and exiting the site. 	Refer above.	Justified on merit
Fencing Secondary Frontage	- Fences and walls must be a maximum of 1.8m in height, and constructed of masonry, timber and/or landscaped.	The front fence to Dredge Avenue has a height of 1.9m. The DEP examined the proposed fencing in relation to the overdesign and considered it on the grounds, given the multiple frontages and ground floor terraces fronting Dredge Avenue, this is considered to be acceptable on merit.	Justified on merit
	For side walls or fences along the secondary frontage, a maximum height of 1.2m is required for the first 9m measured from the front boundary, the remaining fence / wall may then be raised to a maximum of 1.8m. The secondary setback is the longest length boundary.	The proposal maintains a length of 9m with a height of approximately 800mm.	Complies
Fencing Boundary Fences	- The maximum height of side boundary fencing within the setback to the street is 1.2m.	Boundary fencing is not proposed.	N/A
	Boundary fences shall be lapped and capped timber or metal sheeting.	Fencing is to be comprised of aluminum screens.	Justified on merit

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

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

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the National Construction Code NCC and the Safety standards for demolition (AS 2601 – 2001). If approved, appropriate conditions of consent will be imposed requiring compliance with the NCC.

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

Built Environment

The proposed development of a 5-storey residential flat building is considered to provide for an appropriate built form for the locality consistent with the objectives and intended outcome for the R4 High Density Residential Zone. It provides a satisfactory level of compliance with key building envelope controls and design controls promoting facade articulation and visual interest. The development provides an appropriate interface and presentation to the streetscape at ground level with legible entries, landscaping and fencing and clear definition between public domain, common areas and private dwellings. The final amended plans address the recommendations of Council's Design Excellence Panel.

Natural Environment

The proposed development satisfactorily addresses planning considerations and impacts relating to the natural environment including in the proposed landscaping, stormwater management, waste management, and water and energy use efficiency. This includes satisfactory compliance with relevant planning controls and guidelines relating to these aspects of the natural environment.

The development requires the removal of 13 trees and retains 11 trees. The proposed landscape plan shows appropriate planting of at least 15 new medium, to large sized trees and establishment of vegetation within the setbacks.

Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality through the capital investment value of the development, generation of economic activity and employment in construction, and additional residents on site increasing spending and supporting businesses in the locality.

The development is considered beneficial to the community in increasing housing supply and variety in the locality with a diverse unit mix to meet market demand. The proposal will provide a positive social impact through increasing housing stock within the locality, in an accessible location. The proposal is unlikely to create substantial demand for community infrastructure and will have negligible impact to items or qualities that are culturally valuable or significant to the community.

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

The site is considered to be suitable for the proposed form of development as it is zoned to permit it, has a size and dimensions capable of accommodating the development with adequate setbacks to surrounding properties, road and utility services infrastructure available, and no prohibitive environmental constraints.

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Traffic	Supported, subject to conditions of consent
Waste Management	Supported, subject to conditions of consent
Environmental Health	Supported, subject to conditions of consent
Land Development Engineering	Supported, subject to conditions of consent
Urban Design and Public Domain	Supported, subject to conditions of consent
Building	Supported, subject to conditions of consent

(b) External Referrals

The following comments have been received from external Agencies:

DEPARTMENT	COMMENTS
Endeavour Energy	No objection, however, recommendations and comments pertaining to the proposed substation if needed, and separation of proposed trees with existing power lines have been provided and are addressed in conditions of consent.
Sydney Water	No objection, Subject to standard conditions of consent.

(c) Community Consultation

The proposal was notified for a period of 14 days from 28 April 2021 to 12 May 2021 in accordance with the Liverpool Community Participation Plan 2019. Six (6) submissions were received in response to the public consultation process. They key issues raised in the submissions relate to:

- Waste disposal
- Public infrastructure
- Traffic management
- Landscaping
- Character
- Solar access and Overshadowing

- Privacy and Overlooking and
- Bulk and scale

ISSUE 1: Waste Disposal

The proposal was referred to Council's Waste Management department. Council's Waste Management officer has reviewed the submitted plans and waste management plan and has no objections to the proposal, subject to conditions of consent. Additionally, the proposal will not have a set of bins for each unit as per surrounding dwellings. Bins will be presented to the kerbside by the building manager/ caretaker and taken to the street by a bin tug/ trailer.

ISSUE 2: Public Infrastructure

Objections were raised in relation to the proposal potentially having an adverse impact on the area's infrastructure. The application was referred to Endeavour Energy and Sydney Water and these essential services of water, sewer and electricity are considered to be sufficient, subject to the imposition of conditions of consent. Additionally, development contributions will be applicable to this development and will assist in the provision of local and district community facilities.

ISSUE 3: Traffic Management

The application was accompanied by a traffic impact assessment which was assessed by Council's Traffic Management Section who had no objection subject to conditions of consent. As such, generated traffic associated with the proposal is considered acceptable based on Council's Traffic Engineers review and for a residential flat building development of this nature in a high-density zone. Furthermore, the proposed development is highly unlikely to promote any disregard of traffic laws, which may compromise the safety of pedestrians and children in the locality.

The development requires 39 car spaces onsite in accordance with the parking provisions of the Liverpool Development Control Plan 2008. The application proposes 39 car parking spaces. Therefore, the development provides adequate car parking spaces with regards to the relevant plans and policies.

The application has been reviewed and supported by Council's Traffic Engineers, who investigated parking impacts as well as impacts and safety considerations to the local street network and access arrangements and they raised no objections to the development on those grounds.

ISSUE 4: Landscaping

The application was accompanied by Landscape Plans which were referred to the DEP and Council's Urban Design Department which supported the proposed landscaping. As such, suitable landscaping treatments have been integrated into the site to ensure adequate privacy is maintained to the two adjoining properties on the site boundaries. Furthermore, the treatments provided are suitable in terms of character and amenity of the existing and future outlook of Harvey Avenue and Dredge Avenue.

ISSUE 5: Character

A residential flat building development is a land use which is permissible within the zone and the immediate locality. The proposed development has been designed by the applicant to incorporate a streetscape appearance which is compatible with the locality and the desired

future character of the area. The matter of the character and context of the site and proposed building has also been considered by the Design Excellence Panel in which they are supportive of the proposal. The development also proposes a Floor Space Ratio (FSR) which is within the allowable FSR for the site, which in turn results in a development which is considered to be of an appropriate bulk and scale for the locality. As demonstrated in this report, the proposal is generally consistent with Council's provisions and is therefore consistent with the desired character of the area.

ISSUE 6: Solar access and overshadowing

The proposed development is unlikely to generate any unreasonable impacts in terms of overshadowing on adjoining properties in accordance with the provisions of Council's Development Control Plan. The shadow diagrams submitted with the application indicate the proposed development will not prevent any adjoining sites from receiving the minimum required 3 hours of solar access between 9am and 5pm in mid-winter to a living room window on any adjoining property and to at least 50% of the private open space of an adjoining site. This is consistent with Council's Development Control Plan. In this regard, the development is not considered to provide an unreasonable impact to the immediate locality by way of impacts to solar access and it is consistent of character of a high-density environment.

ISSUE 7: Privacy and Overlooking

The proposed development provides an acceptable outcome in terms of impacts on the privacy of neighbouring properties. Balconies are mostly sited to face Dredge Avenue and Harvey Avenue to provide passive surveillance of the street or north to take advantage of the orientation for solar access. The building is largely compliant with the Apartment Design Guide regarding building setbacks and separation which contributes towards reducing the impacts of overlooking into the living areas and yards of adjoining properties. Where separation does not comply as per the ADG discussion, visual privacy measures to mitigate any potential overlooking impacts to future occupants have been proposed through solid walls which prevent overlooking.

ISSUE 8: Bulk and Scale

The development is considered accepted in terms of bulk and scale and is supported by the DEP. Whilst the proposal has a non-compliance with the proposed height, in the scheme of the development a whole it is minor in nature. The height non-compliance is due to the lift overrun which does not impact upon overshadowing, privacy or amenity of the adjoining properties.

The application was supported by a Clause 4.6 and Council has deemed it supported in this regard. As demonstrated within this report, the design of the RFB in terms of bulk and scale is suitable in terms of the objectives of the R4- High Density Zoning and the current and future public domain of the area.

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

The proposed development is consistent with the zoning of the land and would represent a quality development for the suburb. The development provides additional housing opportunities within close proximity to employment opportunities. For this reason, the development is considered to be in the public interest.

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7. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contribution is applicable to the proposed development in accordance with Liverpool Contributions Plan 2018 – Established Areas and will be imposed as a condition of consent of any approval for the proposed development. The development attracts a total contribution of \$229,770.00.

8. CONCLUSION

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development the proposal is considered to be;

- Consistent with the objectives of the R4 -High Density Residential Zone of the LLEP2008.
- Consistent with the objectives of the Liverpool DCP.
- Consistent with the objectives of the applicable EPIs.
- Consistent with the objectives of the EP& A Act 1979.

9. RECOMMENDATION

The Liverpool Local Planning Panel as the consent authority grant Development Consent for DA-221/2021 for Demolition of existing building structures, tree removal, and construction of a five storey residential flat building over two (2) levels of basement parking, and related landscaping and stormwater management at 1 Harvey Avenue and 11 Dredge Avenue, Moorebank subject to the conditions outlined within Attachment 6.

ATTACHMENTS

1. Apartment Design Guide Compliance Table
2. Liverpool Development Control Plan Assessment
3. Architectural Plans
4. Clause 4.6 Variation for Height
5. Design Excellence Panel Minutes
6. Draft Notice of Determination
7. Applicants Assessment against the 9 Key Design Quality Principles in SEPP 65.

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Item no:	3
Application Number:	RZ-3/2022
Proposed Development:	Planning proposal to amend HOB and FSR of the LLEP 2008 relating to land at 93-145 Hoxton Park Road, 51 Maryvale Avenue & 260 Memorial Avenue, Liverpool NSW
Property Address	93-145 Hoxton Park Road, 51 Maryvale Avenue & 260 Memorial Avenue, Liverpool
Legal Description:	Lot 53-80 DP 1154816 Lot 2 DP 1050030
Applicant:	ABA Estate PTY LTD
Land Owner:	91-143 Hoxton Park Road Liverpool – ABA Estate PTY LTD 260 Memorial Avenue Liverpool – NSW Trustee and Guardian 145 Hoxton Park Road Liverpool and 51 Maryvale Avenue Liverpool – Transport for New South Wales
Cost of Works:	Not Applicable
Recommendation:	Proceed to Gateway determination with minor changes as outlined in section 8 of this report.
Assessing Officer:	Stephen Peterson

1. EXECUTIVE SUMMARY

In July 2022, Mecone submitted a planning proposal prepared on behalf of ABA Estate Pty Ltd to amend development standards within the *Liverpool Local Environmental Plan 2008* (LLEP 2008), for land at 93-145 Hoxton Park Road, 51 Maryvale Avenue and 260 Memorial Avenue, Liverpool, to facilitate the development of six residential flat buildings. The proposal as lodged sought to amend *Liverpool Local Environmental Plan 2008* (LLEP 2008) in the following manner:

1. Increase the maximum height of buildings from 15m to 21m (40% increase); and
2. Increase the floor space ratio control from 1:1 to 2:1 (100% increase).

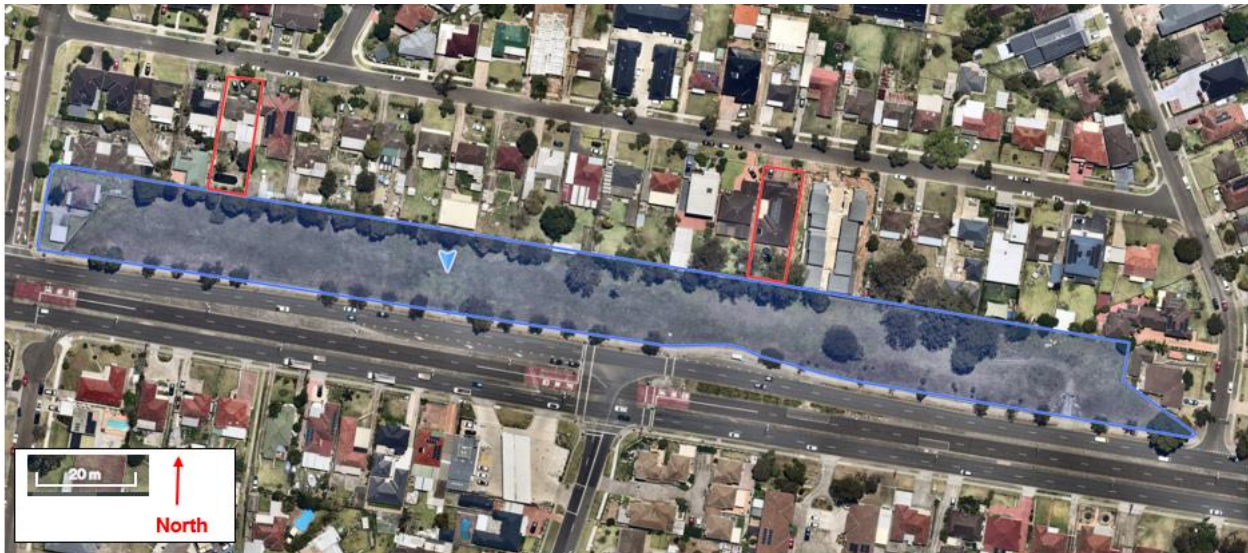


Figure 1: Aerial view of subject site. The allotments subject to the planning proposal are highlighted blue and the two red lots form the proposed vehicular access points for a future development on the subject allotments however do not form part of the request amended development standards of Height and Floor Space Ratio. Source Nearthmap: 18 January 2023.

The planning proposal (**Attachment 1**) is submitted pursuant to Section 3.33 of the *Environmental Planning and Assessment (EP&A) Act 1979* and the proposal is referred to the Liverpool Local Planning Panel for advice in accordance with Section 2.19 of the EP&A Act 1979.

The Planning Proposal, as amended by Council, seeks to amend the LLEP 2008 in the following manner:

1. Increase the maximum height of buildings from 15m to 20.5m (36.7% increase);
and
2. Increase the floor space ratio control from 1:1 to 1.5:1 (50% increase).

Further, the draft site specific DCP is to be updated, prior to the Council meeting, to include the proposed amendments recommended throughout this report.

Strategic Merit

The site is zoned R4 High Density Residential and the proposal does not seek to change the existing zoning of the site. The intent of the planning proposal is to facilitate the development of six residential flat buildings where each will be a six-storey structure. The proposal will provide approximately 300 residential units and seven neighbourhood shops. The planning proposal accompanies concept architectural plans which are provided in **Attachment 3**.

The proponent has framed the strategic merit of the proposal predominantly around the need for additional housing at desirable locations. It is noted that the Liverpool LGA has achieved the dwelling target identified under the Western Sydney District Plan for 2016-2021 and is on track to achieve the dwelling target for 2021-2026. Therefore, there is insufficient justification

on this point alone for providing additional housing by potentially undermining the viability of the existing established centres.

The proposal is consistent with the majority of the provisions of the Greater Sydney Region Plan, Western Sydney District Plan, Council's Local Strategic Planning Statement (LSPS) and Liverpool Local Housing Strategy. However, the proposal is inconsistent with Planning Priority 7 of LSPS which requires that the new developments should be focused in the City Centre and centres well

serviced by public transport. The proposal is not located in any centre identified under the Liverpool Centres and Corridors Strategy.

Whilst not located within a local centre the subject site is located within a well-connected strategic area being approximately 2.2km to Liverpool CBD and railway station, which in addition to Paramatta CBD, are easily accessible from the subject site by the frequent T-way bus services and within close proximity to the M5 and M7 motorways and approximately 295m to the nearest supermarket. The proposal provides opportunity for diverse housing choice within a well-connected location.

Site Specific Merit

As outlined below within section 2 of this report (Site and Locality description - The Locality), the subject site is well serviced by public transport with both the Transit way (T-Way) and local bus services providing frequent access to and from Liverpool CBD and Railway Station, Parramatta CBD and Railway Station, and various other strategic Centres.

Subject to further amendments to the draft site specific DCP, the proposed additional height and FSR are expected to maintain amenity to the adjoining residential properties to the north, east and west and provide greater amenity to future occupants of the proposed development. The proposal is expected to have minimal additional impact on overshadowing as adjoining residential properties are located to the north. The site specific DCP is proposed to be further amended to ensure minimal additional privacy impacts to the adjoining residential properties and to ensure that the existing mature trees on site can be retained.

Conclusion of strategic and site specific merit

Given the access to public transport and close proximity to the Liverpool Metropolitan Cluster, there is sufficient strategic merit for a modest increase in the potential yield of the site to enable this development.

This report provides the detailed assessment of the planning proposal along with the Council staff's recommendations. It is found that the planning proposal demonstrates sufficient strategic merit and site-specific merit to proceed to a Gateway determination which will allow for further assessment, community consultation and referrals. Council officers recommend that the planning proposal proceeds to Gateway, subject to a reduced FSR of 1.5:1 and further site specific DCP amendments as outlined within this report prior to the Council meeting. Advice is sought from the LPP in relation to this assessment and recommendation.

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2. SITE AND LOCALITY DESCRIPTION

The Site

The development site comprises 31 lots along the Hoxton Park Road frontage. The planning proposal relates to 29 lots which are located at 93-145 Hoxton Park Road, 51 Maryvale Avenue and 260 Memorial Avenue. The lots at 20 and 48 Dale Avenue will only be used to provide access to the proposed development site, therefore are not subject to the planning proposal. The area of the total development site is 14,889.23m², with the planning proposal applying to 13,498.03m², referred to as the subject site (refer to Figure 1 above).

With the exception of 260 Memorial Avenue, 51 Maryvale Avenue, 20 Dale Avenue and 48 Dale Avenue, the remaining allotments fronting Hoxton Park Road are predominantly regular in shape with a lot depth ranging from 25.685m to 32.975m. The sites fronting Hoxton Park Road to the east contain a fall of approximately 1m from rear to front (Hoxton Park Road). The western portion of sites fronting Hoxton Park Road have a fall of approximately 450mm from front to rear (northern boundary). The sites fronting Hoxton Park Road have a cross slope from east (93 Hoxton Park Road) to west (145 Hoxton Park Road) of approximately 8.4m.

With the exception of 260 Memorial Avenue and 20 and 48 Dale Avenue which contain dwellings and associated ancillary structures, the remaining allotments fronting Hoxton Park Road are currently vacant with the majority of the allotments containing large mature trees (59 trees ranging in height from 5m to 23m) towards the rear (northern) boundary and front (southern elevation fronting Hoxton Park Road) elevations. Existing development on the site is provided in Table 1 below.

Table 1 – Existing development on the site

Address	Description
93-145 Hoxton Park Road & 51 Maryvale Avenue, Liverpool	Vacant lots with scattered trees which are concentrated along the rear boundary.
260 Memorial Ave, Liverpool	Single storey weatherboard dwelling with tile roof
20 Dale Avenue, Liverpool	Single storey dwelling
48 Dale Avenue, Liverpool	Single storey dwelling

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Figure 2: The site as viewed looking northwest on Hoxton Park Road. Source: Google Maps.



Figure 3: View of Dale Avenue looking west. Source: Google Maps

The subject site and adjoining sites to the north fronting Dale Avenue are currently zoned R4 – High Density Residential and have a minimum lot size of 1,000sqm. The current FSR of the subject site is 1:1 and the adjoining sites to the north fronting Dale Street have a current FSR of 0.75:1. The current HOB of the subject site is 15m and the adjoining sites to the north fronting Dale Street have a current HOB of 12m.

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Figure 4: Zoning of the immediate vicinity and subject site being R4 – High Density Residential.



Figure 5: Current FSR of the subject site being 1:1 and adjoining sites to the north fronting Dale Street have a current FSR of 0.75:1

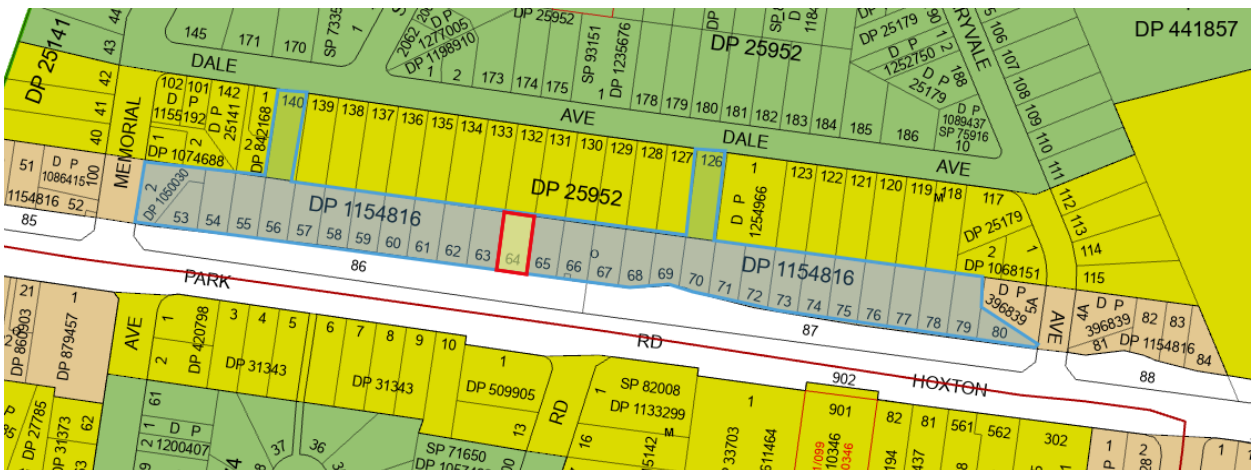


Figure 6: Current HOB of the subject site being 15m and adjoining sites to the north fronting Dale Street have a current HOB of 12m.

The Locality

The site is located 3.2km east of the M7 Motorway northbound and southbound on ramps and 3.9km northwest of the M5 Motorway eastbound and westbound on ramps. The Liverpool CBD and Train Station are located approximately 2.2km to the east.

The site is located in an area which is currently undergoing transition from low density residential to medium and high-density residential typologies, in accordance with the current R4 High Density Residential and R3 Medium Density Residential zones. The predominant building types in the locality are one and two storey residential dwellings and multi dwelling housing developments (townhouses). A five story residential flat building is located to the east at 42-50 Hoxton Park Road, Liverpool and a part 4 and part 5 storey residential flat building located to the west at 153 Hoxton Park Road, Liverpool. A large industrial area is located further to the west in Prestons.

The site adjoins a row of single dwellings, a multi dwelling housing development and a childcare facility to the north. The site adjoins Maryvale Avenue to the east and Memorial Avenue to the west.

The site has a frontage to Hoxton Park Road, which is a major public transport corridor with multiple bus services providing frequent services into the Liverpool CBD, including the rapid bus T-Way service.

Railway

The Location of the site to Liverpool Railway Station is approximately 2.2km (6 minutes by vehicle).

Bus - Tway

The Liverpool to Parramatta Transitway (Tway) runs adjacent to the subject site on Hoxton Park Road. The nearest eastbound (Towards Liverpool Railway Station) Tway bus stop is approximately 165m to the west of the subject site and the nearest westbound (towards Parramatta) Tway bus stop is approximately 175m to the west of the subject site.



Figure 7: Aerial view of subject site indicating location of nearest eastbound Tway bus stop (green line) and westbound Tway bus stop (red line) from the subject site (highlighted blue).

The Tway provides bus services between Liverpool Station and Parramatta Station approximately every 10-15 minutes (depended on time of day) during 5:00am (6:00am Saturday and Sunday) and 11:50pm Monday to Sunday.

The Tway provides bus services between Parramatta Station and Liverpool Station approximately every 10-30 minutes (depended on time of day) during 5:00am (6:00am Saturday and Sunday) and 11:50pm Monday to Sunday.

Bus – Other

There is one bus stop located on Memorial Avenue adjacent to the western boundary of the subject site. Adjacent to the subject site is one other bus stop east bound (Adjacent to approximately 111 Hoxton Park Road) and two bus stops westbound (Adjacent to approximately 116 Hoxton Park Road, Liverpool and 146 Hoxton Park Road Liverpool).

The eastbound bus stop on Hoxton Park Road, Liverpool is serviced by bus routes 853, 854 and 869 providing frequent access from the subject site to Liverpool Railway Station.

The westbound bus stops on Hoxton Park Road, Liverpool are also serviced by routes 853, 854, and 869 providing frequent access to Austral, Edmondson Park, Ingleburn, Prestons, Lurnea Middleton Grange, Horningsea Park, Hoxton Park and West Hoxton.



Figure 8: Aerial view of subject site with Tway and other bus stops circled green.

Vehicle

The planning proposal architectural plans demonstrate two (2) vehicular access points via 20 and 48 Dale Avenue. Dale Avenue is located to the north of the subject site.

Westbound vehicular entrance to the site

There is no right turn permitted for vehicles travelling westbound on Hoxton Park Road onto either Maryvale Avenue or Memorial Avenue at any given time. In this regard, vehicular access to Dale Avenue is restrictive for westbound vehicular traffic with vehicles being required to turn right approximately 270m to the east of the subject site from Hoxton Park Road onto Flowerdale Road with vehicles than following the local streets for approximately 5 minutes/1.6km to Dale Avenue. Refer to figure 9 below.

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Figure 9: Aerial view of subject site. Red line indicating the route of how vehicles travelling westbound on Hoxton Park Road would be required to access the site on Dale Avenue.



Figure 10: View travelling westbound on Hoxton Park Road indicating no right turn permitted onto Maryvale Avenue.

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Figure 11: View travelling westbound on Hoxton Park Road indicating no right turn permitted onto Memorial Avenue.

Eastbound vehicular entrance to the site

Vehicular access to Dale Avenue for vehicles travelling eastbound on Hoxton Park Road is either via Memorial Avenue (west of subject site) or Maryvale Avenue (east of subject site). Vehicular access via Memorial Avenue is restricted to vehicles which are under 3 tonnes and no left turn from Hoxton Park Road onto Memorial Avenue is permitted Monday to Friday during the hours of 6am to 10am (Buses excepted).

The site contains one traffic signal intersection at the intersection of Hoxton Park Road and Webster Road (Approximately adjacent to 117 and 119 Hoxton Park Road) however there is no right turn lane or traffic signal for westbound traffic on Hoxton Park Road and no left turn lane or traffic signal for east bound traffic on Hoxton Park Road. The pre lodgement advice provided by Council recommended vehicular access via Dale Avenue. The planning proposal is yet to be referred to Transport for New South Wales (TfNSW) and as such vehicular access may be amended.

It is noted that vehicular access to and from the site is an existing issue regardless of the planning proposal. The proposal offers opportunity to rectify this issue through Development Control Plan (DCP) provisions that require access from Dale Avenue.

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3. DETAILS OF THE PROPOSAL

Planning Proposal Summary

The planning proposal in its current form was submitted to Council on 14 and 20 March 2023, seeking an increase in HOB from 15m to 20.5m and an increased FSR from 1:1 to 1.75:1. Further the planning proposal was accompanied with a site specific DCP and VPA Letter of Offer.

The planning proposal relates to the lots of 93-145 Hoxton Park Road, 51 Maryvale Avenue and 260 Memorial Avenue. The lots at 20 and 48 Dale Avenue will only be used to provide access to the proposed development site, therefore are not subject to the planning proposal.

The planning proposal architectural plans demonstrate seven ground floor ‘neighbourhood shops’ across four of the six buildings. A neighbourhood shop is an existing permitted land use within the R4 High Density Residential zone. It is noted that as per LLEP 2008 a neighbourhood shop is limited to a maximum 100sqm GFA and is limited to selling general merchandise such as foodstuffs, personal care products, newspapers and the like and excludes a food and drink premises.

Planning Proposal History

Table 2 – Planning Proposal History

Date	Event
10 December 2020	Pre-planning proposal meeting held with Council seeking to Increase HOB to 18m and FSR to 2:1. Refer to 18 November 2021 below for issues raised by Council.
18 November 2021	Pre-planning proposal meeting held with Council seeking to Increase HOB to 21m and FSR to 2:1. Council raised the following matters: <ul style="list-style-type: none"> • Consistency with the planning framework and relevant strategies; • Privacy concerns of the adjoining properties to the north; • Efforts should be made to retain the existing on-site trees; • The proposal included multiple retail outlets which are prohibited under the <i>Liverpool Local Environmental Plan 2008</i> (LLEP 2008) with exception of neighbourhood shops; • Did not support access off Memorial Avenue and Hoxton Park Road, with the preferred option being two access points from Dale Avenue; and • Suggestion to lodge a concurrent Development Application (DA) to streamline the assessment process.
13 July 2022	Lodged with proposed HOB of 21m (6 storeys) and FSR of 2:1.
21 November 2022	Meeting held with Proponent and Council to discuss HOB. A height of 18m was discussed of which the proponent indicated was not adequate to support a 6 storey development and that 19m HOB was required.

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	In this regard, the proposed HOB and FSR were to be reduced due to significant bulk and scale and privacy concerns. Further, a draft VPA and draft site specific DCP were discussed to support the planning proposal. Meeting discussed a 19m height limit and FSR of 1.75:1.
<u>6 December 2022</u>	The proponent submitted amended documentation including amended architectural plans, VPA letter of offer and draft site-specific DCP. The updated planning proposal reduced the proposed HOB to 19.5m and FSR to 1.75:1. No updated Planning Proposal document was submitted.
<u>6 January 2023</u>	As a HOB of 19.5m was now proposed, Council emailed the proponent seeking a planning proposal report with justification of a revised HOB of 19m and FSR of 1.75:1.
<u>23 January 2023</u>	The proponent emailed Council a revised Planning proposal report with a 19.5m HOB and FSR of 1.75:1.
<u>24 January 2023</u>	Council emailed the proponent requesting that the revised planning proposal document submitted on 23 January 2023 be amended to be 19m and for architectural plans to correspond.
<u>8 February 2023</u>	Meeting held with proponent which raised various issues regarding HOB, setbacks, privacy and bulk and scale. A request for information letter was issued to proponent.
<u>14 and 20 March 2023</u>	Proponent provided amended plans to Council in response to the RFI issued on 8 February 2023 which included documentation proposing a HOB of 20.5m and a FSR of 1.75:1

As outlined above, the proponent has nominated various HOB controls ranging from 18m to 21m with all being based on 6 storeys. The current proposal as requested by the proponent is for a HOB of 20.5m and FSR of 1.75:1.

4. CONSIDERATIONS FOR STRATEGIC MERIT

The Department's *Local Environmental Plan Making Guideline* includes the following questions to justify the proposal.

Section A – Need for the planning proposal

Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The planning proposal is not the result of any endorsed strategic study or report.

The planning proposal is a site-specific response to the particular circumstances of the site, being a large, consolidated land holding on a prominent transport corridor. The proposal represents a strategic opportunity to enable housing supply in an appropriate location with convenient access to transport and proximity to local employment and services.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the best means of facilitating the identified objectives and intended outcomes for the specific circumstances of the site being large, consolidated land holding on a prominent transport corridor. The planning proposal provides an opportunity to address height and FSR, along with pedestrian links and greater emphasis on affordable housing. It is noted that State Environmental Planning Policy (Housing) 2021 encourages affordable housing with bonus FSR provisions.

Section B – Relationship to the strategic planning framework

Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Greater Sydney Regional Plan - A Metropolis of Three Cities

In March 2018, the NSW Government released the Greater Sydney Region Plan: A Metropolis of Three Cities ("the GSRP") a 20-year plan which outlines a three-city vision for metropolitan Sydney. The plan encompasses a global metropolis of three cities – the Western Parkland City, the Central River City and the Eastern Harbour City. The plan envisions for the people of Greater Sydney to live within 30 minutes of their jobs and have access to education and health facilities, services and high-quality places. The site is located within the Western Parkland City.

Consistency with the relevant parts of the Regional Plan is assessed below in Table 3 below:

Table 3: Consistency with the Regional Plan

Greater Sydney Region Plan - A Metropolis of Three Cities	
Direction	Comment
Infrastructure and Collaboration	
Objective 1. Infrastructure supports the three cities	<p>The VPA letter of offer proposes 5% of the total number of units (Approximately 15 units based on current planning proposal documentation) to be affordable housing units and be a mix of 1, 2 and 3 bedroom units on various levels and various locations (Not just west or south facing or ground floor fronting Hoxton Park Road).</p> <p>The VPA letter of offer includes pedestrian links, upgrade of the pathway on Hoxton Park Road and upgrade of a bus stop adjacent to the subject site. The VPA letter of offer is at a very early stage and requires a cost of works to be submitted. Further negotiations of the VPA letter of offer will occur prior to finalisation of the planning proposal.</p> <p>The increased housing and job creation in this brownfield area will optimise co-location of existing and future infrastructure associated with the Liverpool Metropolitan Cluster, by locating density along the strategic corridor of Hoxton Park Road, which has access to the Liverpool City Centre and T-Way.</p>
Objective 2. Infrastructure aligns with forecast growth – growth infrastructure compact	
Objective 3. Infrastructure adapts to meet future needs	
Objective 4. Infrastructure use is optimised	
A city for people	
Objective 7. Communities are healthy, resilient and socially connected	<p>The proposal encourages walking and cycling as the site adjoins West Hoxton Bicycle Route which connects the site with the Liverpool CBD. The proposal provides future residential development with access to public transport, schools, health, aged care, sporting and cultural facilities, due to its location along Hoxton Park Road and proximity to the City Centre.</p>
Housing the city	
Objective 10. Greater housing supply	<p>The proposal will provide additional housing and will contribute to achieving Council’s housing targets.</p>
Objective 11. Housing is more diverse and affordable	<p>The proposal will provide housing in the form of apartments which helps to diversify the housing stock of the area and provide a modestly more affordable form of housing. The proposal will provide a range of apartment sizes to suit a diverse range of user groups. The VPA letter of offer nominates 5% (Approximately 15 units) of the total number of units to be affordable housing units.</p>

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Greater Sydney Region Plan - A Metropolis of Three Cities	
Direction	Comment
A well-connected city	
Objective 14. A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities	The site is located approximately 2.2km from Liverpool CBD and has access to active and public transport. Therefore, the proposal gives effect to this objective.
A city in its landscape	
Objective 27. Biodiversity is protected, urban bushland and remnant vegetation is enhanced	The site is not identified as having any particular biodiversity value and does not contain any bushland.
Objective 30. Urban tree canopy cover is increased	<p>The site contains approximately 59 mature trees ranging in heights from 6m – 23m along the northern (rear) and southern (front) setbacks.</p> <p>The site specific DCP supporting the proposal requires refinement to ensure the protection of these existing urban trees is required at the DA stage. Additional tree canopy can be incorporated within the front and side setbacks as part of future development application.</p> <p>It is noted the future DA would be required to be supported by an arboriculture report, detailing tree protection zones etc.</p>

Western City District Plan

Section 3.8 of the EP&A Act requires that the planning proposal authority gives effect to any district strategic plan applying to the LGA to which the planning proposal relates. The Western City District Plan provides a series of priorities and actions to guide development and expected growth throughout the district. Relevant priorities and actions are outlined in Table 4 below:

Table 4: Consistency with the District Plan

Western City District Plan	
Planning Priority	Comment
Infrastructure and collaboration	
Planning Priority W1 Planning for a city supported by infrastructure	The proposal seeks to provide future residential development in a location which benefits from the existing and future infrastructure associated with the Liverpool Metropolitan Cluster.

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Western City District Plan	
Planning Priority	Comment
Liveability	
<p>Planning Priority W3 Providing services and social infrastructure to meet people's changing needs</p>	<p>The proposal does not directly provide any social infrastructure. The proposal is located in close proximity to the Liverpool Metropolitan Cluster which has a major public hospital, health precinct and a range of social infrastructure to service the needs of a growing community. The proposal will optimise the use of the existing infrastructure.</p>
<p>Planning Priority W4 Fostering healthy, creative, culturally rich and socially connected communities</p>	<p>As stated above, the proposal encourages walking and cycling as the site adjoins a wide pedestrian/bicycle pathway which provides active transport to the western end of Liverpool CBD. The proposal also provides access to public transport, schools, health, aged care, sporting and cultural facilities.</p>
<p>Planning Priority W5 Providing housing supply, choice and affordability, with access to jobs, services and public transport</p>	<p>The proposal involves the development of six residential flat buildings comprising approximately 300 residential units. Residential flat buildings are a relatively affordable housing option. The proposal also provides a range of 1, 2 and 3 bedroom apartments which will suit a diverse range of user groups, and result in housing diversity. The housing mix will be further assessed at the DA stage.</p> <p>The proposal has access to public transport and is located in close proximity of Liverpool Metropolitan Cluster which provides range of social services and job opportunities.</p>
Productivity	
<p>Planning Priority W9 Growing and strengthening the metropolitan cluster</p>	<p>The proposal will provide housing options close to metropolitan cluster with direct public transport access. Therefore, the proposal will strengthen the metropolitan cluster.</p>
Sustainability	
<p>Planning Priority W15 Increasing urban tree canopy cover and delivering Green Grid connections</p>	<p>As mentioned above under Objective 30 of Greater Sydney Region Plan, the site is not identified as having any particular biodiversity value and does not contain any bushland.</p> <p>The site contains approximately 59 mature trees ranging in heights from 6m – 23m along the northern (rear) and southern (front) setbacks.</p>

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Western City District Plan	
Planning Priority	Comment
	<p>The site specific DCP supporting the proposal requires refinement to ensure the protection of these existing urban trees is required at the DA stage. Additional tree canopy can be incorporated within the front and side setbacks as part of future development application.</p> <p>It is noted the future DA would be required to be supported by an arboriculture report, detailing tree protection zones etc.</p>

Will the planning proposal give effect to council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Connected Liverpool 2040 - Local Strategic Planning Statement (LSPS)

Council's Local Strategic Planning Statement (LSPS) was endorsed in 2020. Assessment of consistency with the LSPS is as below:

Table 5: Consistency with LSPS

Connected Liverpool 2040 - Local Strategic Planning Statement (LSPS)	
Planning Priority	Comment
Connectivity	
<p>Planning Priority 1 Active and public transport reflecting Liverpool's strategic significance</p>	The proposal has access to public transport and bicycle path located along the Hoxton Park Road. Therefore, the proposal encourages active and public transport.
<p>Planning Priority 2 A rapid smart transit link between Liverpool and Western Sydney International Airport /Aerotropolis</p>	The proposal improves the viability of the proposed route of rapid transit link between Liverpool CBD and the Western Sydney Airport by increasing the population within a walking catchment.
Livability	
<p>Planning Priority 7 Housing choice for different needs, with density focused in the City Centre and centres well serviced by public</p>	<p>The proposal is partly consistent with this priority.</p> <p>The proposal benefits from public transport access and would help to develop and diversify housing stock of the immediate area. However, the proposal is not located within</p>

<p>transport</p>	<p>the City Centre, or around a Town Centre, and seeks to provide housing above what is permitted under the existing development standards.</p> <p>The Liverpool LGA has achieved the dwelling target identified under the Western Sydney District Plan for 2016-2021 and is on track to meet the dwelling target for 2021-2026. Therefore, there is insufficient justification for providing additional housing by potentially undermining the viability of the existing established centres.</p> <p>Nonetheless, given the access to public transport and close proximity to the Liverpool City Centre, there is strategic merit for a relatively small scale increase for a consolidated site to enable this development to occur and deliver housing.</p>
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Liverpool Local Housing Strategy 2020

Liverpool’s Local Housing Strategy was endorsed in 2020. Assessment of consistency with the Local Housing Strategy is as below.

Table 6: Consistency with Liverpool Local Housing Strategy 2020

<p>Liverpool Local Housing Strategy 2020</p>	
<p>Priority</p>	<p>Comment</p>
<p>Diversity Ensuring there is a sufficient range of diverse housing types to meet the changing needs of its residents</p>	<p>The proposal will provide a range of apartment sizes to suit a diverse range of user groups.</p>
<p>Affordability Encouraging greater housing affordability in the LGA to ensure existing community members can remain within their community and that essential workers in the locality can access appropriate housing</p>	<p>The proposal will provide housing in the form of apartments which helps to diversify the housing stock of the area and provide a modestly more affordable form of housing. The proposal will provide a range of apartment sizes to suit a diverse range of user groups. The VPA letter of offer nominates 5% (Approximately 15 units) of the total number of units to be affordable housing units. The VPA letter of offer remains under assessment by Council with further negotiations expected.</p> <p>Further, the recommended reduced FSR of 1.5:1 provides incentive for a future development to consider additional affordable housing through the bonus FSR provisions for affordable housing contained within State Environmental</p>

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Liverpool Local Housing Strategy 2020	
Priority	Comment
	Planning Policy (Housing) 2021.
Built form and sustainability Encouraging good built form outcomes and sustainability in housing and neighbourhood design	<p>The proposal is supported by concept architectural plans. The proposal is capable of complying with the provisions of <i>SEPP 65—Design Quality of Residential Apartment Development</i>, <i>Apartment Design Guide</i> and <i>SEPP (Building Sustainability Index: BASIX)</i>. The planning proposal is subject to a future DA.</p> <p>As noted above within the report, the proposed HOB of 20.5m is generally supported by Council. This is subject to various amendments to the draft site specific DCP submitted with the planning proposal in order to provide greater amenity and visual privacy to future occupants of the development and adjoining residential land uses to the north and east and the wider vicinity.</p> <p>Further, the DCP amendments must help to reduce the bulk and scale of the development on the streetscape, adjoining residential properties to the north and vicinity. Particularly given the proposed width of each of the 6 proposed buildings ranging from 45m to 58m and proposed HOB of 20.5m compared to the adjoining R4 – High Density Residential zoned land to the north having a HOB of 12m.</p>

Is the planning proposal consistent with the applicable State Environmental Planning Policies?

The planning proposal is consistent with SEPPs applying to the land as explained in Table 7.

Table 7: Consistency with SEPPs

State Environmental Planning Policies	
Policy	Comment
SEPP (Biodiversity and Conservation) 2021	The planning proposal does not inhibit the application of the SEPP. The proposal is not located in an environmentally sensitive area. Any future tree removal would be required to be supported by arborist's advice as part of any DA.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	The requirements of this SEPP can be addressed at DA stage.

State Environmental Planning Policies	
Policy	Comment
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)	The proposal does not inhibit the application of Exempt and Complying Development Codes SEPP.
State Environmental Planning Policy (Housing) 2021	The proposal does not inhibit the application of Housing SEPP. A VPA letter of offer is being reviewed by Council which nominates 5% of units to be affordable housing. A future DA may permit a bonus FSR under the provision of the SEPP should affordable housing be proposed in a future development.
State Environmental Planning Policy (Industry and Employment) 2021	The proposal does not inhibit the application of the Industry and Employment SEPP.
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	The future development application will be subject to SEPP 65 provisions and the Apartment Design Guide.
State Environmental Planning Policy (Planning Systems) 2021	Given the number of apartments proposed being 300 apartments, the development is likely to have a capital investment value of more than \$30 million and in this regard, would be defined as Regionally Significant Development.
State Environmental Planning Policy (Precincts—Central River City) 2021	Not applicable.
State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021	Not applicable.
State Environmental Planning Policy (Precincts—Regional) 2021	Not applicable.
State Environmental Planning Policy (Precincts—Western Parkland City) 2021	Not applicable.
State Environmental Planning Policy (Primary Production) 2021	Not applicable.
State Environmental Planning Policy (Resilience and Hazards) 2021	The proposal is supported by a Preliminary Site Investigation, prepared by EI Australia. The report provides a review of historic site uses and confirms that the likelihood of site contamination is low-moderate. The report recommends the preparation of a Hazardous Materials Survey and Stage 2 Detailed Site Investigation to further assess the site contamination. It is intended that a Hazardous

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State Environmental Planning Policies	
Policy	Comment
	Materials Survey and Stage 2 DSI will be requested at the DA stage, or if required by Gateway conditions.
State Environmental Planning Policy (Resources and Energy) 2021	Not applicable.
State Environmental Planning Policy (Sustainable Buildings) 2022	The Proposal does not inhibit the application of this SEPP.
State Environmental Planning Policy (Transport and Infrastructure) 2021	Given the site fronts Hoxton Park Road, which is identified as a classified road, a future DA would trigger State Environmental Planning Policy (Transport and Infrastructure) 2021 and the Roads Act 1993 and require referral to Transport for New South Wales (TfNSW). It is noted that the proposal will be referred to TfNSW at the state agency referral stage.

Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The assessment of the Planning Proposal against the relevant Ministerial Directions is provided in Table 8 below:

Table 8: Ministerial Direction Consistency

Direction	Comment	Consistency
1. Planning Systems		
1.1 Implementation of Regional Plans	The proposal is predominantly consistent with the Greater Sydney Region Plan. The complete assessment of the proposal against Greater Sydney Region Plan is provided in Table 3.	Consistent
3. Biodiversity and Conservation		
3.2 Heritage Conservation	The site is not heritage listed or in the immediate vicinity of a heritage item.	Not applicable
4. Resilience and Hazards		
4.1 Flooding	A small portion of 260 Memorial Avenue within the northwest corner of the site is identified being affected by low flood risk. The concept plans show the proposed development footprint clear of any flood prone land.	Consistent

Direction	Comment	Consistency
	Indicative site access points (Dale Avenue) are also clear of any flooding risk and the road network provides several flood free evacuation routes, should a flooding event occur.	
4.3 Planning for Bushfire Protection	A small portion of 260 Memorial Avenue within the northwest corner of the site is identified as being bushfire prone. The concept plans show the proposed development footprint and access points to the site are clear of any bushfire prone land. Given the minor nature of the impact, the bushfire report can be prepared at DA stage.	Consistent
4.4 Remediation of Contaminated Land	The proposal is supported by a Preliminary Site Investigation, prepared by EI Australia (Attachment 13). The report provides a review of historic site uses and confirms that the likelihood of site contamination is low-moderate. The report recommends the preparation of a Hazardous Materials Survey and Stage 2 Detailed Site Investigation to further assess the site contamination. A Hazardous Materials Survey and Stage 2 DSI will be requested at the DA stage, or after Gateway if required by the Department.	Consistent
4.5 Acid Sulphate Soils	The site is identified as class 1 for Acid Sulphate Soils. Acid Sulphate Soils can be addressed at Development Application stage.	Consistent
5. Transport and Infrastructure		
5.1 Integrating Land Use and Transport	The proposal will enhance access to jobs and services through connections to the existing bus services. The increased intensity will strengthen the viability of existing public transport services in the area.	Consistent
5.2 Reserving Land for Public Purposes	The proposal does not contain any land that has been reserved for a public purpose.	Not applicable
6. Housing		
6.1 Residential Zones	The proposal does not include a change of zoning and seeks to maintain the current R4 zone. The proposal will broaden the choices of building types and make	Consistent

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Direction	Comment	Consistency
	more efficient use of existing infrastructure and services.	

5. CONSIDERATIONS FOR SITE SPECIFIC MERIT

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Council vegetation mapping does not indicate the presence of any native ecological communities within the vicinity of the proposed planning proposal. It is considered that further consideration of ecological matters is not warranted for the planning proposal given the apparent limited biodiversity values within the site. However, the site contains multiple mature trees which are scattered across the site.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Existing vegetation

The Western Sydney District Plan identifies a target of 40% tree canopy cover by 2036. The majority of the suburbs in the Liverpool LGA are visibly deficient in tree canopy cover. Considering that, it is critical to retain the existing on-site trees wherever possible.

As stated above, the site contains approximately 59 mature trees ranging in heights from 6m – 23m along the northern (rear) and southern (front) setbacks. The setbacks are proposed to be strengthened within the site specific DCP and greater emphasis on controls imposed to ensure the mature trees are retained as part of a future DA.

It is noted a future DA would be required to be supported by an arboriculture report, detailing tree protection zones etc.

Traffic

The proposal is provided two access points via 20 and 48 Dale Avenue. It is noted that the main access to the subject site is through two key intersections on Hoxton Park Road at Memorial Avenue and Maryvale Avenue with left in/left out only arrangements. Refer to section 2 (Site and locality description – The locality) above, for details regarding vehicular access to and from the site for vehicles travelling eastbound and westbound on Hoxton Park Road.

The planning proposal was submitted with a Traffic Impact Assessment (T.I.A) and Green Travel Plan at lodgement which was reviewed internally by Council's Transport Planner who raised concerns with the modelling used within the T.I.A. As such the comments provided by Council's Transport Planner were included within the Request for Information (RFI) letter issued by Council to the proponent.

The proponent provided a response to Council's RFI in March 2023. The amended documentation submitted to Council included a response letter prepared by the proponents traffic consultant. The letter was reviewed internally by Council's Transport Planner who raised no objection subject to a local traffic management plan being prepared for Dale Avenue in consultation with Councils Transport Team. The identified traffic improvement scheme is to be included in the VPA. Council's transport planner noted support for the transport facilities and upgraded identified within the VPA letter of offer.

Hoxton Park Road is a classified road in accordance with Transport for New South Wales Schedule of Classified Roads and Unclassified Regional Roads and as such, the planning proposal will be referred to TfNSW post Gateway determination.

Acoustics, visual privacy and bulk and scale

The proposal is supported by an Acoustic Assessment, prepared by Acouras Consultancy, dated 23 June 2022 (**Attachment 7**). The report provides an assessment of existing noise conditions and future noise conditions as a result of the development, primarily from traffic. The report concludes that the compliance with EPA noise levels can be achieved by incorporating the recommended building materials. The acoustic matters can be further addressed at the DA stage with the submission of a Noise Impact Assessment Report when actual yield and design are known.

As noted above within the report, the proposed HOB of 20.5m is generally supported by Council subject to various amendments to the draft site specific DCP submitted with the planning proposal in order to provide greater amenity and visual privacy to future occupants of the development and adjoining residential land uses to the north and east and the wider vicinity.

Further, the DCP amendments must help to reduce the bulk and scale of the development on the streetscape, adjoining residential properties to the north and vicinity. Particularly given the proposed width of each of the 6 proposed buildings ranging from 45m to 58m and proposed HOB of 20.5m compared to the adjoining R4 – High Density Residential zoned land to the north having a HOB of 12m.

Contamination

The proposal is supported by a Preliminary Site Investigation, prepared by EI Australia, dated 5 May 2022 (**Attachment 13**). The report provides a review of historic site uses and confirms that the likelihood of site contamination is low-moderate. The report recommends the preparation of a Hazardous Materials Survey and Stage 2 Detailed Site Investigation to

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further assess the site contamination. A Hazardous Materials Survey and Stage 2 DSI will be requested at the DA stage or after Gateway if required by the Department.

Has the planning proposal adequately addressed any social and economic effects?

Economic effects

The planning proposal will have a positive economic impact by providing multiple short term employment opportunities during the construction phase and bringing investment in the Liverpool LGA. The proposal also comprises seven neighbourhood shops which will provide on-going employment opportunities to the local population.

Social effects

The proposal is supported by a Social Impact Assessment, prepared by Hill PDA, dated June 2022 (**Attachment 10**). The assessment includes an analysis of the existing social environment and aims to identify both positive and negative social impacts associated with the proposed development.

The adverse social impacts caused by the development include pressure on public schools, congestion, reduced access to parking and visual privacy concerns for the adjoining properties to the north. The increased traffic volume on Dale Avenue will expose existing residents to higher noise levels. Upgrades and improvements can be made in Dale Avenue to mitigate issues such as congestion and parking. Council continues to advocate for upgrades to infrastructure and services.

Further measures to ensure the privacy of the adjoining properties can be included at DA stage. The impacts during the construction stage can be appropriately mitigated through standard plans of management, including a construction management transport plan.

A draft VPA submitted to Council nominates a minimum of 5% of the residential component of a future development application to be nominated for the purposes of affordable housing. Subject to further review, this requirement can be implemented on title and addressed during the lodgement of a future DA. Further, the proposed reduced FSR of 1.5:1 provides greater incentive for a future development to consider the bonus FSR provision provided within State Environmental Planning Policy (Housing) 2021 for affordable housing.

Positive social impacts include provision of diverse and relatively affordable housing stock for the growing population in close proximity of Liverpool Metropolitan Cluster. The proposal will be subject to Section 7.11 contribution and it will be utilised in upgrading the local infrastructure to meet the needs of the growing population.

With mitigation measures in place, it is likely that the proposal will have a net positive effect.

Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The site is located in an existing urban area and is serviced by all relevant utilities. All utility providers will be consulted should a Gateway determination be issued.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Views of State and Commonwealth public authorities will be consulted should a Gateway determination be issued. Relevant public authorities will be identified for consultation at the Gateway determination stage.

6. DISCUSSION

Pursuant to the requirements of a Guide to Preparing Planning Proposals and relevant Ministerial Directions, this report provides a merit assessment of the planning proposal request.

Strategic Merit

As detailed within this report, the proposal is consistent with the majority of the provisions of Greater Sydney Region Plan, Western Sydney District Plan, Council's Local Strategic Planning Statement (LSPS) and Liverpool Local Housing Strategy. The proposal is justifiably inconsistent with Planning Priority 7 of LSPS which requires that new developments be focused in the City Centre and around centres well serviced by public transport. The proposal is not located in any centre identified under the Liverpool Centres and Corridors Strategy, however the site has strong connections to the City Centre and other centres via the T-Way and active transport routes.

Site Specific Merit

As noted within this report, the proposal raises some amenity concerns in relation to visual privacy and the overall bulk and scale of the proposal upon the adjoining properties, streetscape and vicinity including concerns regarding the retention of trees.

Height of Building Discussion

The proposed HOB being 20.5m is derived from a 6 storey development with a ground floor level of 3.3m (Due to neighbourhood shops as per ADG), 2.7m floor to ceiling height for levels 1-6, 0.4m slab between levels and lift overrun. The height of building proposed being 20.5m is generally supported by Council subject to future amendments to the draft site specific DCP to minimise visual and acoustic privacy impacts to the adjoining residential properties to the north and to reduce the overall bulk and scale of the development including to the streetscape of Hoxton Park Road. It is noted that adjoining residential developments

are to the north and east of the subject site only and an increase in overshadowing to residential properties is expected to be minimal.

Currently the draft site specific DCP includes a section regarding building setbacks. It is noted that building setbacks for residential flat buildings in the R4 zone are already stated within Liverpool DCP 2008. Currently the planning proposal proposes a reduction to the majority of the building setbacks already outlined within Liverpool DCP 2008. It is noted that the site depth is approximately 30m compared to various other R4 zoned lots being 35m or greater in depth.

Regardless of the site depth, there is the possible opportunity for development of the sites in stages and theoretically the opportunity for amalgamation of the sites from Hoxton Park Road with the sites located to the north fronting Dale Avenue. These sites have a greater site depth, are also zoned R4 – High Density Residential and the majority of lots are undeveloped currently.

Increased front and rear building setbacks will reduce the impact to the existing mature trees located towards the front and rear setbacks of the lots fronting Hoxton Park Road. This will enable greater opportunity for the trees to be retained at development application (DA) stage, helping to further reduce the privacy and bulk and scale impacts of a future development.

It is therefore recommended that the HOB is supported subject to additional amendments to the draft site specific DCP including limiting rooftop communal open space and for levels 4, 5 and 6 of the proposed development to have greater front and rear setbacks as to further reduce the bulk and scale of a future development. This is especially important given that the planning proposal demonstrates a building width ranging from 45m to 58m (up to approximately 4 single lot widths) whereas the majority of existing residential flat buildings within the vicinity are approximately 30m in width.

Refer to figure 12 below for a residential flat building development within the Liverpool LGA on Hoxton Park Road where the upper two levels have greater setbacks.



Figure 12: View of a two separate 5 storey residential flat buildings where levels 4 and 5 are further setback from the streetscape than levels 1 -3, reducing the bulk and scale of the development. Each development is across 2 allotments (Approximately 30m width).



Figure 13: View of a two separate 6 storey residential flat buildings built closer to the street setback and with no indentation to upper levels increasing the bulk and scale. Each development is approximately 45m width.

Floor Space Ratio discussion

The planning proposal as lodged, proposed an FSR of 2:1 and currently proposes an FSR of 1.75:1. It is noted that all R4 – High Density Residential sites within Liverpool LGA which have a HOB of 21m, an FSR of 1.5:1 applies. Sufficient justification for this site to have a variation to the current height to FSR ratio this has not been provided.

As outlined above under HOB discussion, the planning proposal currently seeks to increase the HOB by 5.5m (36.7%), however seeks to increase FSR by 0.75:1 (75%) and reduce the building setbacks as contained within the existing Liverpool DCP for residential flat building development within the R4 zone. Further, the overview urban structure plan contained within the draft site specific DCP, proposes building separation which differs from the Apartment Design Guideline (ADG). It is seen that this mismatch would lead to poor outcomes for both the residents of the future development and the neighbouring residential properties.

Further it is noted that State Environmental Planning Policy (Housing) 2021 (SEPP) encourages affordable housing by providing opportunities for greater FSR than permitted under an Environmental Planning Instrument. These provisions function by providing a commensurate FSR bonus for the quantity affordable housing provided. As a result, the 5% affordable housing offer currently accompanying the planning proposal will result in a small FSR allowance increase. If at the DA stage additional affordable housing is voluntarily offered, further FSR allowances would apply under the provisions of the SEPP.

In this regard, Council recommends an FSR of 1.5:1, a 50% increase from the current FSR. The justification for this recommended change is:

- The site is constrained by the potential amenity impacts to adjoining residential lots and a reduced overall building footprint, yet taller form, will help to alleviate these impacts to a certain extent whilst still enabling the feasible development of this consolidated site;
- A reduced building footprint with indentations at upper levels in accordance with the recommended FSR will help to facilitate greater setbacks to further reduce amenity impacts and allow for better tree retention and new tree planting;
- The 1.5:1 FSR recommended aligns with the strategic approach taken elsewhere in the LLEP 2008 for R4 zoned land of a similar height;
- A 50% increase to the FSR control is better aligned with the 36.7% increase in height sought; and
- If affordable housing is proposed in accordance with the current draft VPA letter of offer, a small additional FSR allowance will be accessible above the recommended 1.5:1.

Conceptual Architectural Plans

The planning proposal is supported by concept architectural plans, prepared by Tony Owen Partners, submitted to Council 14 March 2023 (**Refer to Attachment 3**). The concept design envisions the following outcomes:

- 6 x 6 storey residential flat buildings ranging in width from 45m to 58m;
- 3 basement car parking levels;
- Approximately 300 residential apartments, including a mix of 1, 2 and 3 bedroom apartments;
- Ground floor with a mix of commercial and residential uses, including seven neighbourhood shops;
- Vehicular and pedestrian site access via 20 and 48 Dale Avenue;
- Pedestrian links through the site, connecting residents from the north (e.g. Dale Avenue) to Hoxton Park Road; and
- Landscaped areas and deep soil planting in semi-public spaces as well as communal open spaces.

The above proposed built form concept is shown in Figures 14-16 below and is without the indentation to levels 4, 5 and 6, increased building separation, increased building setbacks or other draft site specific DCP amendments recommended by Council and do not consider the proposed reduced FSR of 1.5:1. The proposed site specific DCP changes and FSR recommended by Council may reduce the overall number of units for a future development on the subject site. However, this would provide greater amenity, visual privacy and bulk and scale to the streetscape, adjoining residential properties, future occupants of the proposed development and the vicinity.

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Figure 14: Concept massing study. Source: Architectural plans by Tony Owen Partners

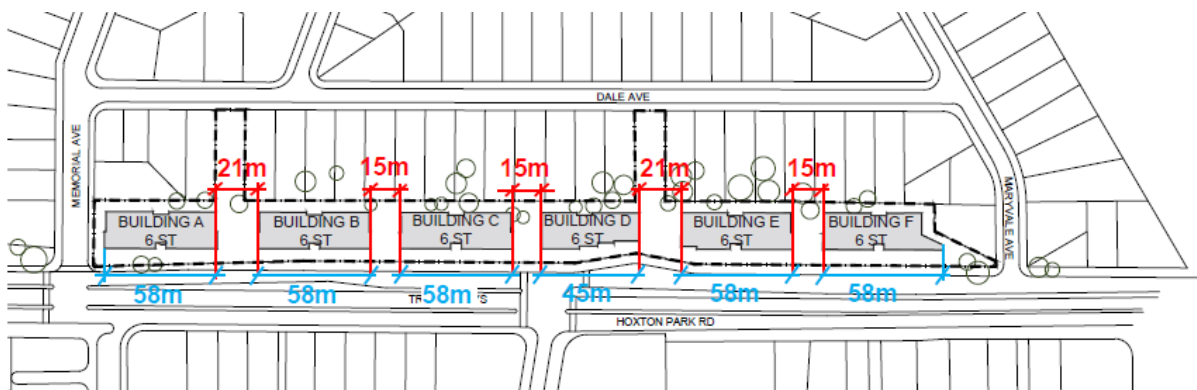


Figure 15: Overview of site layout including building separation and building width. Source: Architectural plans by Tony Owen Partners



Figure 16: Concept view of proposal looking eastbound from Hoxton Park Road as seen by westbound vehicles. Source: Architectural plans by Tony Owen Partners

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VPA Letter of Offer including Affordable Housing Provision

A VPA letter of offer was submitted with amended documentation in December 2022 and a revised VPA letter of offer in March 2023. The VPA letter of offer proposes 5% of the total number of units (Approximately 15 units based on current planning proposal documentation) to be affordable housing units and be a mix of 1, 2 and 3 bedroom units on various levels and various locations (Not just west or south facing or ground floor fronting Hoxton Park Road). The VPA letter of offer also includes pedestrian links, upgrade of pathway on Hoxton Park Road and upgrade of a bus stop adjacent to the subject site.

The VPA letter of offer is at a very early stage and requires a cost of works to be submitted. Further negotiations of the VPA letter of offer are expected prior to finalisation of the planning proposal.

Conclusion

As noted above within the report, the proposed HOB of 20.5m is generally supported by Council subject to an amended 1.5:1 FSR and various amendments to the supporting draft site specific DCP submitted with the planning proposal. This is in order to provide greater amenity and visual privacy to future occupants of the development and adjoining residential land uses to the north and east and the wider vicinity.

To this end, the following work is expected to occur following the LPP meeting in relation to the draft site specific DCP:

- Control stating maximum building height of 6 storeys.
- For all buildings, the front and rear (North and south elevations) building envelope for levels 4, 5 and 6 be decreased by a minimum of 2m from that of the floors below.
- Revision of setback controls, noting their reduction from existing setback controls in the DCP for RFB developments in the R4 zone. These revisions would aim for greater certainty at the planning proposal stage that privacy impacts are mitigated, bulk and scale is better managed, and the existing mature trees located along the front and rear setback can be retained to further reduce the bulk and scale and increase privacy from the development.
- Control regarding privacy measures to be incorporated into a future DA design regarding habitable rooms and balconies facing the northern (rear) elevation.
- Revision of building separation controls with reference to the Apartment Design Guide which contains more generous separation controls.
- Additional controls limiting privacy impacts resulting from any potential upper floor or rooftop communal open space areas.
- Controls to ensure sufficient deep soil landscaping is provided, enabling the retention of existing and planting of new mature canopy trees to achieve 40% canopy targets for the site.

7. NEXT STEPS

Following the Panel's consideration, the planning proposal will be reported to Council for consideration. It is recommended that the FSR be reduced to 1.5:1 and that the draft site specific DCP and concept architectural plans are updated to include the proposed amendments recommended throughout this report prior to the Council meeting. Any advice provided from the Panel will be considered in these revisions by the proponent and Council. Further discussion regarding the VPA letter of offer is also recommended prior to the Council meeting.

Should the planning proposal request be endorsed, it will be forwarded to DPE seeking a Gateway determination. Following a Gateway determination in support of the planning proposal, there will be public agency and community consultation and a further report will be prepared for Council prior to proceeding with the making of any amendment to the LLEP 2008.

It is noted that the provision of various additional studies and clarification may be required by DPE prior to exhibition occurring as part of a future Gateway determination.

8. RECOMMENDATION

That the planning proposal is supported in the following form:

1. Amend the Liverpool LEP 2008 Height of Buildings Map (Sheet HOB_010) from 15 metres to a maximum building height of 20.5 metres for the site.
2. Amend the Liverpool LEP 2008 Floor Space Ratio Map (Sheet FSR_10) from 1:1 to a maximum of 1.5:1 for the site.

Additionally, it is recommended that that the draft site specific DCP and concept architectural plans are updated to include the proposed amendments recommended throughout this report. Further discussion regarding the VPA letter of offer is also recommended.

ATTACHMENTS

1. Planning Proposal
2. Survey Plans
3. Concept Architectural plans
4. Draft Site Specific DCP
5. Draft VPA Offer
6. Landscape design report
7. Acoustic impact assessment
8. Traffic impact assessment
9. Traffic response letter
10. Social impact assessment
11. Operational waste management plan

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12. Preliminary geotechnical assessment
13. Preliminary site investigation
14. Desktop flood assessment