

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday 29th July 2019

To be held at the
“Gold Room, Liverpool Library”
170 George Street
Liverpool

Doors open at **1:45 PM** to commence at **2:00 PM**

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 Danielle Hijazi, Panel Support Officer on 8711 7627 or 1300 36 2170, by 4pm, Friday, 26th July 2019.

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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 | Development Application DA-118/2017 Demolition Of Existing Structures And The Construction Of A 4-Storey Residential Flat Building Containing 14 Residential Apartments Over 1 Level Of Basement Car Parking, And Associated Landscaping And Consolidation Of Two Lots Into One Lot Lot 668 DP 236792, Lot 669 DP 236792 311- 313 Hoxton Park Road, Cartwright | 2-77 |

| ITEM No. | SUBJECT | PAGE No. |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 2 | Development Application DA-532/2017 Demolition of existing structures and construction of a 5-storey residential flat building containing 23 apartments (4 x 1-bedroom, 17 x 2-bedroom & 2 x 3-bedroom) over 1 level of basement car parking and associated landscaping and consolidation of three lots into one lot. Lots 387, 388, 389 DP 237249 11-15 Woolnough Place, Cartwright | 78-138 |

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|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Item no: | 1 |
| Application Number: | DA-118/2017 |
| Proposed Development: | Demolition Of Existing Structures And The Construction Of A 4-Storey Residential Flat Building Containing 14 Residential Apartments Over 1 Level Of Basement Car Parking, And Associated Landscaping And Consolidation Of Two Lots Into One Lot. |
| Property Address | 311- 313 Hoxton Park Road, Cartwright Nsw 2168 |
| Legal Description: | LOT 668 DP 236792, LOT 669 DP 236792 |
| Applicant: | BAINI DESIGN |
| Land Owner: | MR R KUMAR and MRS S KUMAR |
| Cost of Works: | \$3,500,000.00 |
| Recommendation: | Approval subject to conditions of consent |
| Assessing Officer: | Kevin Kim |

1. EXECUTIVE SUMMARY

Council has received a Development Application seeking consent for the demolition of existing structures and construction of a 4-storey residential flat building containing 14 residential apartments over 1 level of basement car parking, and associated landscaping and consolidation of two lots into one lot, at 311-313 Hoxton Park Road, Cartwright.

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

The development application was notified in accordance with Liverpool Development Control Plan (LDCP) 2008 from 31 March 2017 to 20 April 2017. No submissions were received as a result of the notification.

The proposed development is generally consistent with the objectives and development standards of the LLEP 2008 and is compliant with the provisions of the LDCP 2008. The proposal is also consistent with the provisions of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the design requirements of the Apartment Design Guide (ADG).

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements, as the development constitutes a sensitive development in that it is a development to which State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development applies and is 4 or more storeys in height.

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

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2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lots 668 and 669 in DP 236792, 311-313 Hoxton Park Road, Cartwright. An aerial photograph of the subject site is provided in **Figure 1** below.



Figure 1: Aerial photograph of the subject site (Source: Councils GeoCortex program)

The site has primary frontage to Hoxton Park Road to the south with a service lane providing access to Hoxton Park Road. The site has a combined frontage of 36.58m to Hoxton Park Road and a total site area of 1,126m². The site is a north-south orientated allotment and is generally flat across the site.

Currently located on the site are two detached residential dwelling houses with associated outbuildings and minimal vegetation.

The site has been identified as being flood affected (low risk) and bushfire prone land (vegetation buffer).

2.2 The locality

The area is characterised by a mix of existing low density residential dwellings and both older walk-up residential flat buildings and approvals for newer high density residential development.

The locality is undergoing a transition to increasing higher density residential development as a result of the R4 High Density zoning and desired future character of the area.

To the south along Hoxton Park Road is existing commercial/industrial development.

An aerial photograph of the locality is provided in **Figure 2** below.

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Figure 2: Aerial Photograph of the Locality (Source: Councils GeoCortex program)

Site isolation – 315 Hoxton Park Road, Cartwright

To the immediate east and west are detached dwelling houses. Further to the west of the site is a Council owned park, being Powell Park, as depicted in **Figure 2** above.

The western neighbouring property at No 315 Hoxton Park Road (owned by Department of Housing) is located between the subject site and Powell Park and could potentially become 'isolated' once the development takes place at the subject site.

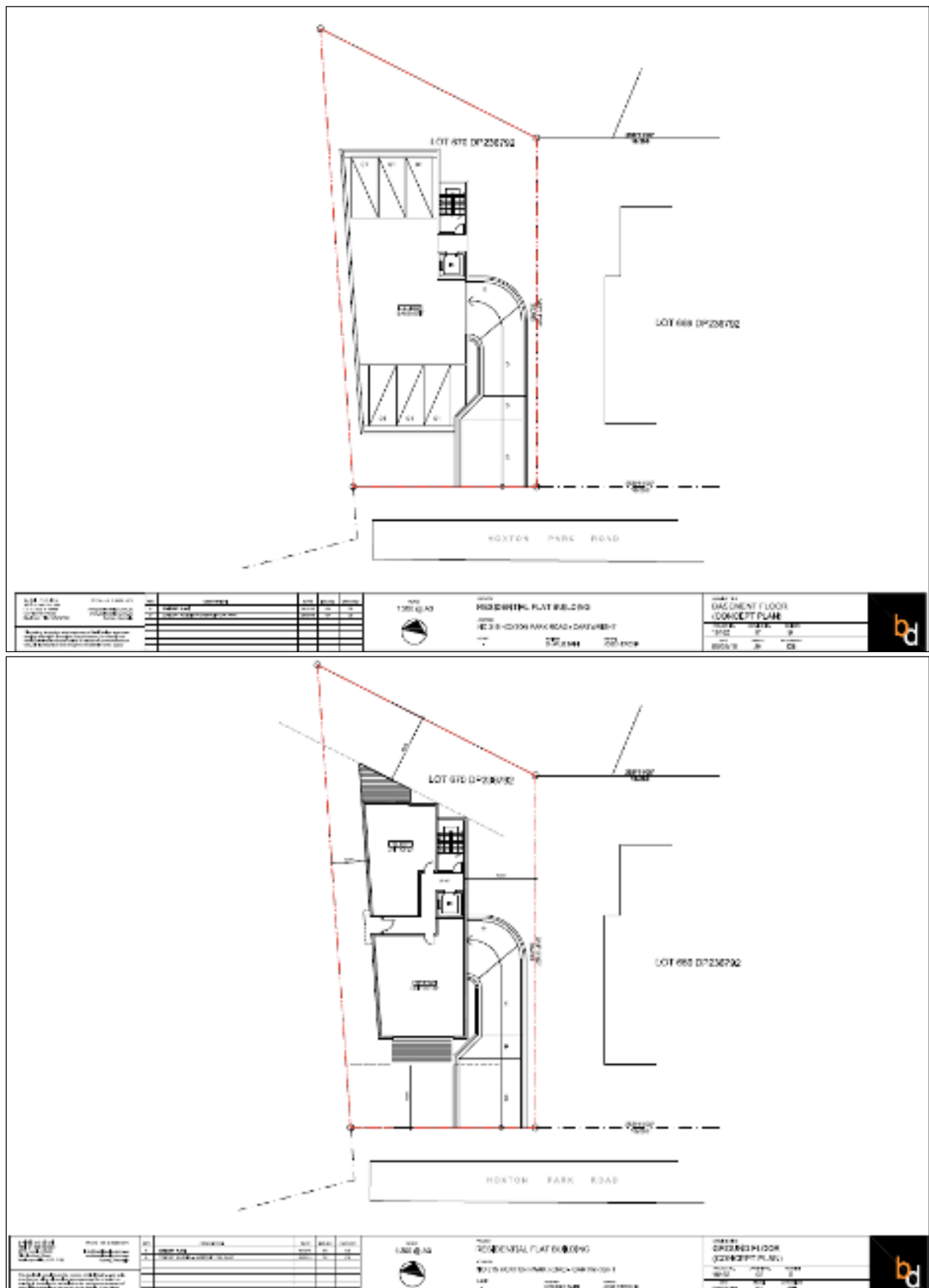
In considering potential site isolation a consent authority is to be satisfied that the planning principles established by the NSW Land and Environment Court in the proceedings of *Karavellas v Sutherland Shire Council [2004] NSW LEC 251 – Redevelopment* have been satisfactorily addressed. The considerations of the planning principle requires the applicant to provide evidence of reasonable attempts/negotiation to amalgamate and to provide a schematic diagram to demonstrate development potential for the isolated site.

In response the applicant has provided evidence of negotiations to amalgamate the western neighbouring property at No 315 Hoxton Park Road as part of this application, but this has not been achieved. Council has advised the applicant that *"the response provided from the adjoining property owner Land and Housing Corporation in regards to potential amalgamation is adequate at this stage. They have clearly indicated they cannot sell the property directly to your clients and nor can they provide any timeframe or information as to any future sale of this property"* and no further issues were raised in relation to the site isolation.

Also the subject application was accompanied by a schematic diagram which illustrates development potentials for the isolated site at 315 Hoxton Park Road. This scheme for the neighbouring property is considered acceptable, as it demonstrates that the isolated site is capable of accommodating a suitable development (3 storey RFB) once the subject site is built out with the proposed development. Refer to Schematic diagrams provided in **Figure 3** below for details.

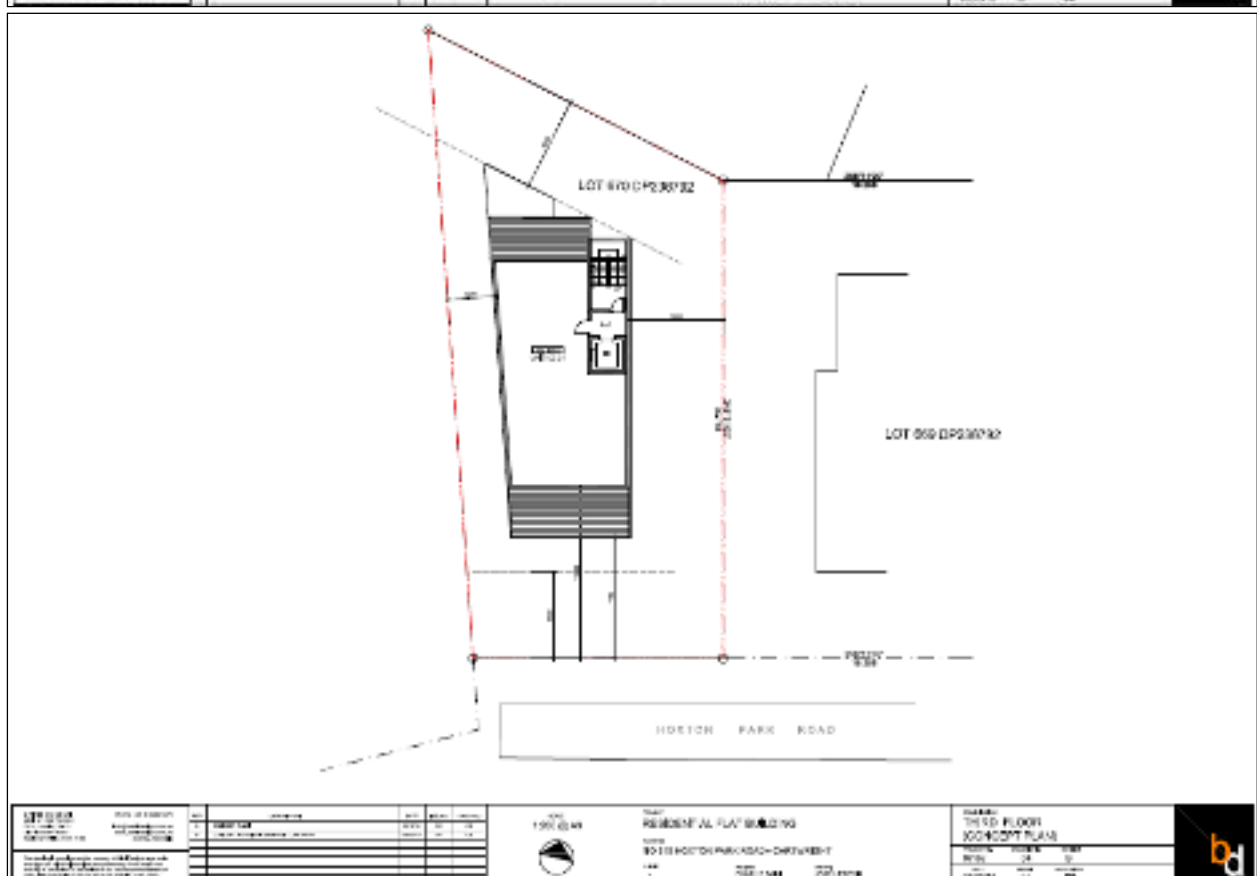
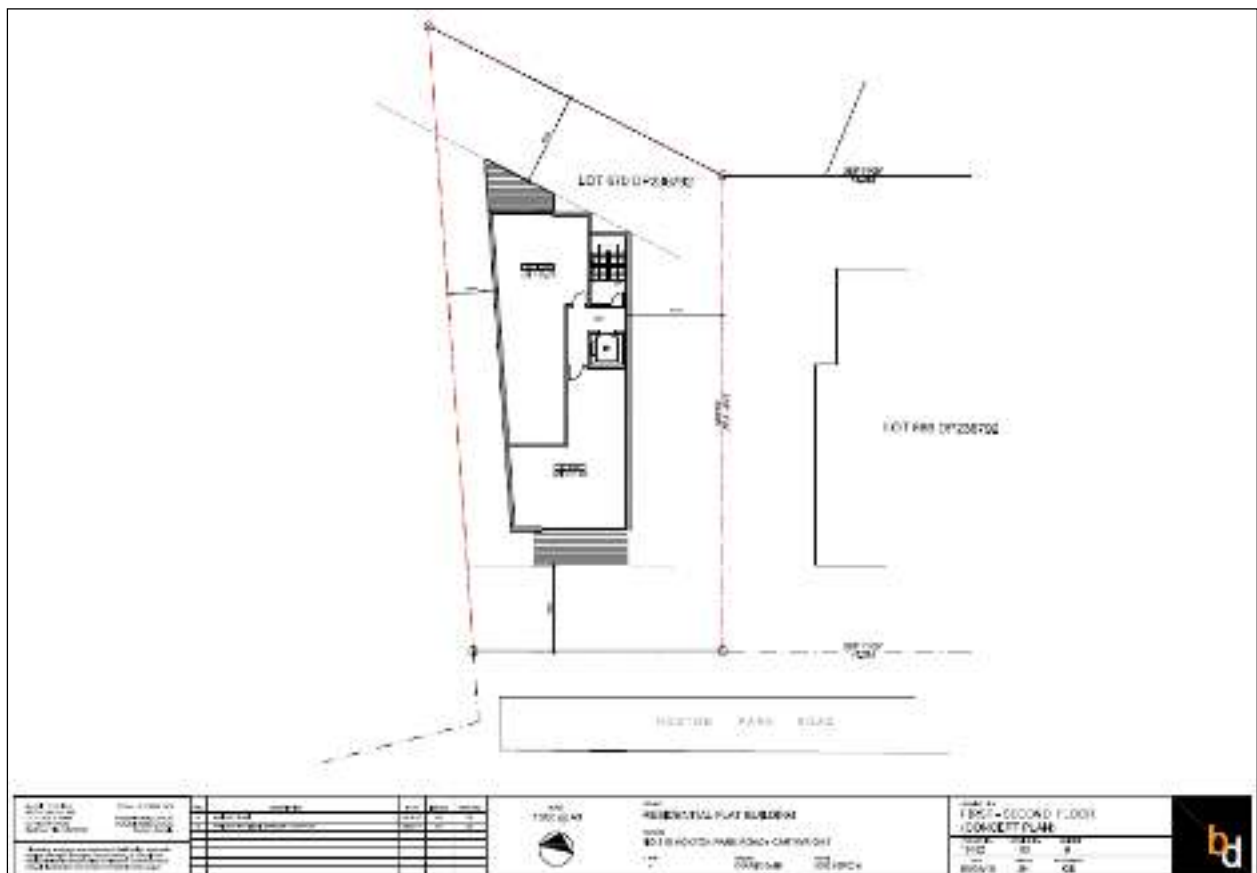
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Figure 3: Schematic diagrams for 315 Hoxton Park Rd (source: 16162 Rev B prepared by Baini Design). In view of the above, it is considered that the applicant has adequately demonstrated that 315 Hoxton Park Road, will not be isolated by the proposal.

3. DETAILS OF THE PROPOSAL

3.1 Background/History

- A pre-lodgement DEP meeting (PL-104/2016) held with Council 22 September 2016.
- Issues raised by DEP pertaining to bin location, bedroom design, number of materials used, increased landscaping required, and several minor design elements.
- The subject Development Application was lodged with Council on 3 March 2017.
- The proposal sought to address the design issues raised by the DEP panel.
- Additional information and amended plans (Revision E) submitted on 28 May 2019.
- Traffic referral completed on 29 May 2019.

3.2 Details of the Proposal

The proposal seeks consent for demolition of existing structures and the construction of a 4-storey residential flat building containing 14 residential apartments over 1 level of basement car parking, and associated landscaping and consolidation of two lots into one lot at 311-313 Hoxton Park Road, Cartwright.

Details of the proposed development can be summarised as follows:

Basement Level

- 24 car spaces, including 2 accessible (with a shared zone) and 4 visitors, are provided in the basement. This level is accessible for vehicles through a ramp located to the eastern side, and for residents a central lift core and fire stairs.
- Bin storage and general storage areas are located to the north-east corner.

Ground Floor

- 4 units are located on the ground floor in the following distribution:
 - 2 x 1 bedroom units (sizes 56 m² and 62 m²)
 - 1 x 2 bedroom unit (size 79 m²)
 - 1 x 3 bedroom unit (size 98 m²)
- Each unit is allocated Private Open Space (POS) and have direct ground floor access from a pathway that circulates the development to their respective courtyard/terrace.
- Pedestrian access to the site is provided from a service lane off Hoxton Park Road.
- A central lift core in the lobby provides access to all floors of the building. One set of fire stairs are accessible from the ground floor, which is centrally located and provides access to basement, upper levels, and the roof.
- Two communal open space areas are provided at the ground floor level, oriented to the north and west. This space includes deep soil, landscaped area, communal BBQ area, and seating areas
- The vehicular access is via a double width driveway and passing bay from the service lane off Hoxton Park Road.
- 6 bicycle storage spaces are provided within the western side POS.

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First to Second Floor

- 4 x 2 bedroom units per level are located on the first through second floor with unit sizes ranging from 75m² to 81m².
- Each unit is provided with private open space in the form of a balcony.
- A central lift and stairs allow access to other floors within the development.

Third Floor

- The third floor has 2 x 2 bedroom units being 75m² and 76m² in size.
- Each unit is provided with private open space in the form of two balconies.
- A central lift and stairs allow access to the lower floors within the development.

Roof level

- The lift overrun for the proposed building is located on the roof level.

Extracts of the proposed site analysis, ground floor plan and elevations are shown in **Figures 4, 5, 6 and 7** below.

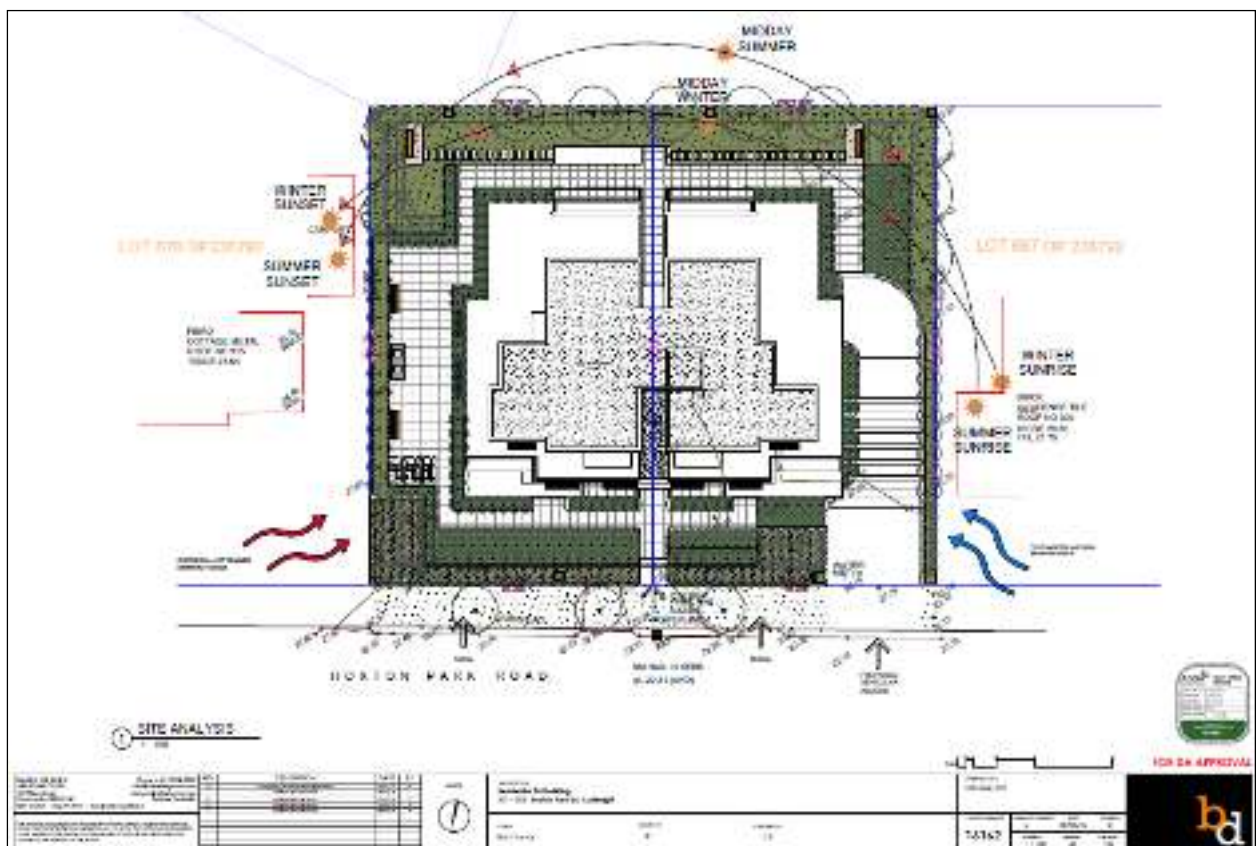


Figure 4: Proposed Site Analysis Plan (source: 16162-4 Rev E prepared by Baini Design).

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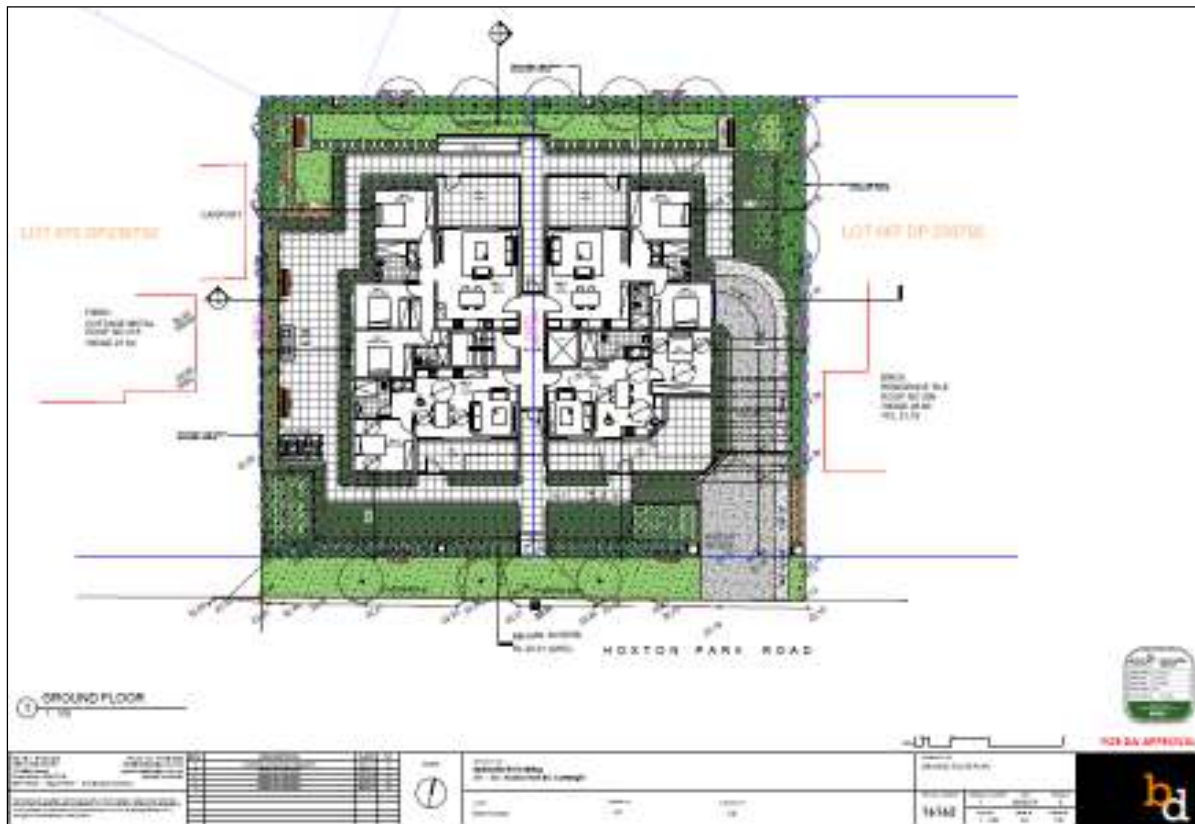


Figure 5: Proposed Ground Floor Plan (source: 16162-7 Rev E prepared by Baini Design).



Figure 6: View of the North and South Elevations of the Proposal (source: 16162-12 Rev E prepared by Baini Design).

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Figure 7: View of the East and West Elevations of the Proposal (source: 16162-13 Rev E prepared by Baini Design).

4. STATUTORY CONSIDERATIONS

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

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development and associated Apartment Design Guide;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development; and
 - Part 3.7: Residential Flat Buildings in the R4 zone
- Liverpool Contributions Plan 2009 applies to all development pursuant to Section 7.11 of the EP&A Act.

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5. ASSESSMENT

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

(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and the Apartment Design Guide

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential flat development. SEPP 65 does not contain numerical standards but requires Council to consider the development against nine (9) key design quality principles; and against the guidelines of the associated Apartment Design Guide (ADG). The ADG provides additional detail and guidance to the design quality principles outlined in SEPP 65.

The nine (9) key design quality principles that must be considered are listed below. The application demonstrates consistency with the principles and is acceptable

- | | |
|--------------------------------------|-------------------------------------------|
| 1. Context & Neighbourhood Character | 6. Amenity |
| 2. Built Form & Scale | 7. Safety |
| 3. Density | 8. Housing Diversity & Social Interaction |
| 4. Sustainability | 9. Aesthetics |
| 5. Landscape | |

Assessment of the application against the principles of SEPP 65 and the guidelines of the ADG, together with advice from Council's independent Design Excellence Panel (DEP) has concluded that the proposal is generally satisfactory with respect to the provisions of SEPP 65 and the ADG. The matter was considered by the DEP prior to lodgement of the application.

The panel made the following recommendations:

- *Bins storage should be relocated away from the front of the building.*
- *Beds should not be against the window.*
- *Master Bedrooms must comply with ADG.*
- *The proposed number of materials needs to be reduced. Consider limiting the areas of render and using more robust materials in preference.*
- *The applicant should develop a landscape plan and introduce trees along the frontage to the street. The number of car spaces should be reduced by eliminating the 4 visitor's car parking spaces. This will reduce the size of the basement and enable trees to be planted at the rear side and front.*
- *The box gutter should be eliminated and replaced by using a mono pitch roof. This would improve the relationship of the roof to the building and be a preferable form of construction.*
- *Individual entries to the ground floor units that face the street should be introduced.*
- *A pergola should be located over the driveway so that it can be planted thereby introducing some more greenery.*
- *The applicant should prepare a concept plan that addresses how the Department of Housing can develop their site independently*

The proposal was amended in response to the issues raised by the DEP, incorporating the following amendments:

1. Bin storage relocated to the basement level.
2. No beds are located against windows and these bedrooms are generally compliant with ADG.

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3. Total number of materials have been reduced.
4. Landscape plan has been embellished with additional trees and soft landscaping. Visitor car parking spaces cannot be eliminated as they are required under Council's DCP.
5. Roof has been provided with a mono pitch, however it provides box gutters in the periphery of the roof of the building as required by the mono-pitched roof construction.
6. Individual entries to street facing units at ground floor have been provided.
7. A pergola has been provided over the driveway.
8. A concept plan has been submitted which demonstrates that the adjoining site can be developed independently.

It is considered that the amended plans have satisfactorily addressed the DEP Panel's comments.

As demonstrated in Attachment 2 of the report, it is considered that the applicant has adequately demonstrated that the proposed development is consistent with the 9 design quality principles of SEPP 65 - Design Quality of Residential Apartment Development.

Apartment Design Guide

In addition to the design quality principles of SEPP 65, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the associated ADG.

As shown in Attachment 2 of this report, and specifically within the ADG compliance table, the proposed development achieves compliance with the requirements of the ADG.

(b) State Environmental Planning Policy (Infrastructure) 2007

Clause 101(2) of SEPP (Infrastructure) 2007 requires that a consent authority must not consent to the carrying out of any development on land unless:

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

In response to these requirements, the application was referred to RMS for review and comments. The referral by RMS makes the following comments:

- "1. The subject property abuts a County Road Reservation along the Hoxton Park Road frontage as shown by the green broken line on the attached Aerial – "X".*

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All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Hoxton Park Road boundary.

2. *Council needs to give consideration to the future development of properties along the entire length of the Hoxton Park Road service lane, particularly when there is no rear access. Motorists entering these service lanes have nowhere to turn around other than in driveways and it is not clear how service vehicles will enter and exit this development. Therefore access issues for this development needs to be addressed and turning paths need to be provided confirming that vehicles can safely enter and exit the service lane.*
3. *Any increase in the number of dwellings, particularly the approval of medium density units, will see a significant cumulative increase in traffic volumes, parking problems, access issues and safety concerns particularly along a laneway that has not been designed for this type of development. As such, careful consideration should be given by Council to approving units where alternate access cannot be gained otherwise, as in this instance, the demands are going to exceed the capabilities of the service lane.*
4. *It is unlikely that visitors will be attracted to park in the basement due to the tight constraints of the ramp and trade and service vehicles are unlikely to even fit down there. Additionally it is noted that the parking allocation does not meet Council's DCP by 1 space. Given Roads and Maritime would request "No Stopping" on the service road due to its width and on street parking is not an option, Council should be satisfied that adequate car parking is provided on-site for this development."*

Council's Traffic and Transport section has reviewed the above RMS' comments and advises that the proposal will be satisfactory subject to conditions.

(c) State Environmental Planning Policy No. 55 – Remediation of Land

Pursuant to Clause 7 of SEPP 55, 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.

Although it is unlikely that the land would be contaminated, given its previous residential use, Council must consider this and the likelihood of any contamination on-site and the possible impacts which may arise from any works associated with this proposal.

The applicant has submitted in their Statement of Environmental Effects that the site has been historically used for residential purposes and is therefore highly unlikely to be affected by contamination sources. Further, a search of Council's available records suggest that the site appears to have been used for residential purposes since the existing dwellings were constructed. This is based on aerial imagery showing no development or use on-site, and no physical alteration. On this basis, it is unlikely that the site is contaminated and it is considered that no further investigation, such as, the submission of any further contamination reports is necessary.

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*

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- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

| Clause 7 - 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 residentially zoned allotment. |
| (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 | The land is suitable for the proposed works and as it is unlikely that the land is contaminated, based on Council records |
| (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. |

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55, therefore, it is considered that the subject site is suitable for the proposed development.

(e) State Environmental Planning Policy (BASIX) 2004

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

A BASIX Certificate has been submitted for the proposed development. The proposal is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

(f) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (Deemed SEPP)

The subject land is located within the Georges River Catchments and as such the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River applies to the application.

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application, planning principles are to be applied (Clause 7(b)). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 8 and Clause 9), and compliance with such is provided within Attachment 3 of this report.

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to appropriate sedimentation and erosion controls being implemented during construction.

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(g) Liverpool Local Environmental Plan 2008

(i) Zoning

The proposed development is appropriately defined by the standard instrument as “residential flat building” which means *a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing*.

Residential Flat Building is identified as a permitted land use with consent within the R4 High Density Residential Zone under Liverpool Local Environment Plan 2008.

(iii) Objectives of zone

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 proposal generally satisfies the above objectives of the R4 zone as follows:

- It will provide for housing needs within a high density residential environment. The area has been zoned as High Density Residential and is undergoing transition from low density to high density residential development and it is therefore envisioned that redevelopment of the area will result in the establishment of other residential flat buildings within close vicinity of the subject site.
- It will contain a number of different sized units, thereby providing a variety of housing types within a high density residential environment;
- The proposal is unlikely to hinder the opportunity for other land uses that provide facilities or services to meet the day to day needs of residents.
- The site is in the vicinity of transport facilities which include bus services, cycle ways and other forms of transport access.
- It does not result in the fragmentation of land that would prevent future high density residential development.

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Zoning Map



Figure 8: Zoning Map (source: Geocortex)

(iv) Principal Development Standards and Provisions

The application has also been considered against the relevant provisions and principal development standards of the LLEP 2008, which are listed in the table below. The proposal demonstrates compliance with the LLEP 2008, where applicable.

| Clause | Provision | Comment |
|-----------------------------------------------|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Part 4 Principal Development Standards | | |
| 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 buildings on the development site. |
| Clause 4.1 Minimum Subdivision Lot Size | Minimum lot size of 1000m ² | Complies The existing 2 lots will be consolidated into 1 lot with a total site area of 1126m ² . |
| 4.3 Height of Buildings (as per HOB Map) | Maximum height 15m | Complies The proposal provides for a maximum building height of 14.26m to the rooftop lift overrun (RL36.45). |
| 4.4 Floor Space Ratio (as per FSR Map) | Maximum FSR of 1:1 Therefore, maximum floor area is: 1126m ² (1:1) | Complies The proposed floor area is: 1124.8m ² (0.99:1) |
| 7.14 Minimum Building Street Frontage | Minimum building street frontage of 24m | Complies The site has street frontage of 36.576m to Hoxton Park Road. |
| 7.8 Flood Planning | (1% AEP flood plus 0.5m freeboard) | Complies. Council's flood planning engineer has reviewed the proposal and raised no issues. The lowest habitable floor level is RL 22.80 which is 300mm above the recommended FFL by Council's flood planning engineer. |

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

There are currently no draft planning instruments that would be applicable to the proposal.

**5.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan
(a) Liverpool Development Control Plan (LDCP) 2008**

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development and Part 3.7 Residential Flat Buildings in the R4 zone*.

Overall, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008, as detailed within the compliance table in Attachment 4 of this report.

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

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the BCA and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

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

(a) Natural and Built Environment

The proposed development is unlikely to create a detrimental impact on the natural environment surrounding the subject site, subject to the imposition of appropriate conditions of consent.

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is considered to be of an appropriate scale and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate for high quality residential development which is consistent with the desired future character of the locality.

It is considered that the proposed development has been designed with sufficient regard to surrounding properties to ensure that any adverse amenity impact is minimised, particularly in terms of visual and acoustic privacy and overshadowing.

(b) 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 and is unlikely to generate any identifiable detrimental social impacts, being consistent with the desired development type for the locality.

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

The proposal generally complies with the relevant planning controls and the site is considered to be suitable for the proposed development.

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5.8 Section 4.15(1)(d) - Any submissions made in relation to the Development

(a) Internal Referrals

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

| Department | Comments |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development Engineer | Approval subject to conditions of consent |
| Landscape Officer | Approval. No conditions imposed. |
| Traffic Engineer | Approval subject to conditions of consent |
| Flood Engineer | Approval subject to conditions of consent |
| Environmental Health | Approval subject to conditions of consent (including the recommendations of the submitted acoustic report prepared by Acoustic Consulting Engineers, dated 15 February 2017) |
| Waste Management | Approval subject to conditions of consent |
| Building | Approval subject to conditions of consent |

(b) External Referrals

The following comments have been received from external agencies:

| External Department | Comments |
|-----------------------------|-----------------------------------------------|
| Roads and Maritime Services | Satisfactory. No conditions imposed. |
| NSW Rural Fire Service | No objection subject to conditions of consent |

(c) Design Excellence Panel

The application was considered by Council's Design Excellence Panel on 22 September 2016. As articulated earlier in the report, the design issues raised by the DEP have been resolved by the applicant.

(d) Community Consultation

The development application was notified in accordance with Liverpool Development Control Plan 2008 from 31 March 2017 to 20 April 2017. No submissions were received as a result of the notification.

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

It is considered that the applicant has sufficiently demonstrated that the proposed development is in the public interest.

6. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contributions (established areas – December 2018) is applicable to the proposed development in accordance with Liverpool Contributions Plan 2009 and will be imposed as a condition of consent of any approval for the proposed development. The development attracts a total contribution of **\$38,035.00** (refer to Attachment 5 of this report).

7. CONCLUSION

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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 SEPP 65 and the associated Apartment Design Guide, Liverpool LEP 2008, LDCP 2008, and the relevant codes and policies of Council.

The proposed development is unlikely to result in any adverse impact upon neighbouring properties and the locality.

Based on the assessment of the application, it is recommended that the application be approved subject to the imposition of conditions.

8. RECOMMENDATION

That Development Application No. DA-118/2017 for the demolition of existing structures and construction of a 4-storey residential flat building containing 14 residential apartments over 1 level of basement car parking, and associated landscaping and consolidation of two lots into one lot, be approved subject to conditions of consent.

9. Attachments

- 1. Perspective Plans of the Proposal**
- 2. Sepp 65 & ADG Compliance Table**
- 3. Greater Metropolitan Regional Environmental Plan No. 2 –Georges River Catchment (Deemed Sepp) Compliance Table**
- 4. DCP Compliance Table**
- 5. Draft Conditions of Consent and Section 7.11 Contributions**

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Attachment 1: Perspectives of the proposal



① 3D VIEW 1



② 3D VIEW 2



3D views of the proposal from various angles (source: 16162-25 Rev E prepared by Baini Design).



① PERSPECTIVE 1



② PERSPECTIVE 2



3D views of the proposal from various angles (source: 16162-26 Rev E prepared by Baini Design).

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Attachment 2: SEPP 65 and ADG Compliance Tables

SEPP 65 Design Quality Principles table

| Principle | How does the development address the principles? |
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| <p>Principle 1: Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p> | <p>Planner's Comment: <i>The subject site sits adjacent to other high density residential zoned land and the proposed residential flat building is therefore considered to reflect the desired future character of the area.</i></p> <p><i>The site benefits from a north-south orientation which allows for maximum northerly aspect and maximises solar access while minimising overshadowing. Further, the architectural design has sought to address this context by ensuring a site responsive design that addresses the entire site.</i></p> |
| <p>Principle 2: Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> | <p>Planner's Comment: <i>The built form is considered appropriate to the site, in terms of building alignment, proportion and typology. The proposal provides a contemporary architectural form that is appropriate for the R4 High Density Residential zone and sets the precedent for future surrounding development.</i></p> <p><i>The building has been appropriately modulated and articulated to reduce apparent bulk and express its residential character. The articulation of the facades expresses both the buildings internal function, whilst being responsive to the sites orientation and context.</i></p> <p><i>The proposed scheme provides an urban framework that responds to the evolving context of Cartwright, while maximising the quality of residential amenity for future occupants.</i></p> |
| <p>Principle 3: Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected</p> | <p>Planner's Comment: <i>The density is appropriate for the site given its accessibility to public transport, access to communal open space, the built form context, and the high amenity achieved for every unit by virtue of the spacious apartment sizes and optimal layouts.</i></p> <p><i>The development provides for new residential</i></p> |

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| <p>population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p> | <p><i>accommodation in a location earmarked for future higher density residential development.</i></p> <p><i>The development is located within good proximity to transport access, surrounding commercial and industrial with potential employment opportunities, as well as community facilities, and public open spaces.</i></p> |
| <p>Principle 4: Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</p> | <p><i>Planner's Comment:</i> <i>Sustainability is integral to the design. The building has been designed to achieve a 6.1 star NatHERS Rating. The building design reflects an efficient use of natural resources through effective cross-flow ventilation within 100% of units and ensuring adequate solar access to 85% of units. The building will incorporate energy and water efficient devices as detailed in the BASIX report.</i></p> <p><i>The building also maximises thermal comfort and cross ventilation to reduce the reliance on technology.</i></p> <p><i>The scheme allows for re-use and revitalisation of materials and waste, waste management plan indicates the re-use of bricks, existing concrete for temporary driveway, and green waste for landscaping. Deep soil zones are provided throughout the site to provide for groundwater recharge and natural landscaping</i></p> |
| <p>Principle 5: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</p> | <p><i>Planner's Comment:</i> <i>The common and private open spaces will be landscaped for residents' amenity, featuring significant landscaping within the perimeter of the site, including the planting of shrubs at the street frontage and the planting of trees at the rear boundary.</i></p> <p><i>The proposed landscaped areas will aid in reducing the scale of the building</i></p> <p><i>and integrate the development with the surrounding environment.</i></p> <p><i>The landscape design maximises privacy between adjoining properties by incorporating the planting of trees at the rear boundary. The planting of trees are proposed to be planted in areas where optimum solar access and summer shade is possible. The landscape design has provided open lawn space to increase social interaction.</i></p> |
| <p>Principle 6: Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive</p> | <p><i>Planner's Comment:</i> <i>The design provides amenity through the physical, spatial and environmental quality of the development. Appropriate room dimensions and shapes, access to sunlight, natural ventilation and visual and acoustic</i></p> |

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| <p>living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility</p> | <p><i>privacy have been provided in each dwelling. The provision of storage, indoor and outdoor space, efficient layouts and service areas contribute to the design. Outlook and ease of access for all age groups and degrees of mobility has been considered (provision of a chair lift at the street frontage).</i></p> <p><i>Internal room sizes and layout provide resident amenity and balconies are directly accessible from the internal living and bedrooms enabling a direct link between internal and external recreational areas.</i></p> <p><i>Boundary setbacks enable the rooms to be well ventilated and access to sunlight is available through proportioned window openings placed according to the use of each room.</i></p> |
| <p>Principle 7: Safety</p> <p>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p> | <p><i>Planner's Comment:</i> <i>The proposal has been designed in such a way that safety and security is ensured for the site and its residents by virtue of casual surveillance of open spaces, with casual surveillance of entrances and exits on the site possible from the street facing units.</i></p> <p><i>Proposed orientation of building and floor layouts provide natural passive surveillance of public domain and common open space.</i></p> <p><i>Appropriate security arrangements are incorporated at pedestrian entry lobbies. All pedestrian areas are designed to provide clear sight lines and minimise potential for 'hiding places'. The main entry, lift lobby and hallways will be well lit for better visibility at night (by conditions).</i></p> <p><i>Fences and gates are of a height and rigidity to provide visual privacy and physical security to common open spaces and private areas.</i></p> |
| <p>Principle 8: Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</p> | <p><i>Planner's Comment:</i> <i>The proposal includes a variety of different housing typologies that will be offered in different sizes and layouts which will extend the diversity of residential accommodation available in the area.</i></p> <p><i>Apartment mix:</i></p> <p><i>1 bedroom units: 2 – (14%)</i></p> <p><i>2 bedroom units: 11 – (78%)</i></p> <p><i>3 bedroom units: 1 – (7%)</i></p> <p><i>It is noted that all apartment sizes are generously apportioned and exceed the minimum ADG size requirements.</i></p> |
| <p>Principle 9: Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good</p> | <p><i>Planner's Comment:</i> <i>An appropriate composition of building elements, materials, textures, and colours has been utilised to reflect the building's layout and structure. As noted by the DEP, a considerable level of design excellence has been</i></p> |

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| <p>design uses a variety of materials, colours and textures.</p> <p>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p> | <p><i>achieved both internally and externally, and it is anticipated the development will set a high precedent for future high density residential development within the area.</i></p> <p><i>The design of the development is considered compatible with the future context of the locality of Cartwright.</i></p> |
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Apartment Design Guide (ADG) Compliance Table

| Provisions | Comment |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| PART 2 DEVELOPING THE CONTROLS | |
| 2A Primary Controls | |
| Sets out the objectives of the provisions and in the developing of the controls in assessing apartment buildings. | The proposed development is considered to be consistent with the primary controls. |
| 2B Building Envelopes | |
| <p>Sets out the appropriate scale of future development in terms of bulk and height relative to streetscape, public and private open space, and block and lot size.</p> <p>They help to define the three dimensional form of buildings and inform decisions about density, open space and future mass and scale of new development.</p> | The proposed development is considered to be consistent with the building envelope controls. |
| 2C Building Height | |
| Helps shape the desired future character and defines the relationship between buildings and public and private spaces in terms of physical and visual amenity. It informs the maximum number of storeys especially for residential development. | Refer to detailed assessment under LLEP 2008. |
| 2D Floor Space Ratio | |
| Helps ensure that optimum capacity and desired density for the site and local area is achieved. It also provides opportunities for building articulation within a building envelope. | Refer to detailed assessment under LLEP 2008. |
| 2E Building Depth | |
| Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation | <p>Complies.</p> <p>The proposal features apartment depths of maximum 12m to 18m.</p> |
| 2F Building Separation | |

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| <p>Minimum separation distances for buildings are:</p> <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms | <p>Complies.</p> <p>A minimum separation distance of 6m is provided between habitable rooms/balconies of the building and the rear and side boundaries</p> |
| 2G Street setbacks | |
| <p>Sets out the objectives of the front setback in ensuring a coherent threshold between the public and private realms and to promote appropriate entries points and establishing landscaped areas and a passive surveillance and outlook to the street.</p> | <p>The proposed development is consistent with the primary controls with respect to street setback to Hoxton Park Road</p> |
| 2H Side and rear setbacks | |
| <p>Sets out setbacks to boundaries relative to the height of buildings in helping to achieve amenity for development and buildings on adjacent sites, and also providing for open space areas and separation between buildings.</p> | <p>The proposed development is consistent with the primary controls in respect to side and rear setbacks.</p> |
| PART 3 SITING THE DEVELOPMENT | |
| 3A Site Analysis | |
| <p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p> | <p>Complies</p> <p>A detailed site analysis plan has been provided.</p> |
| 3B Orientation | |
| <p>3B-1. Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> | <p>Complies</p> <p>The building has been designed to address its frontage, with direct street access to the proposed 4 storey building provided via Hoxton Park Road.</p> |
| <p>3B-2. Overshadowing of neighbouring properties is minimised during mid-winter</p> | <p>The site is provided with a north-south orientation, and the majority of units have been orientated to maximise solar access.</p> <p>The proposal is not considered to result in unreasonable overshadowing of neighbouring properties, due to the north-south orientation of the site.</p> |

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| 3C Public Domain Interface | | | | | | | | |
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| 3C-1 Transition between private and public domain is achieved without compromising safety and security | | Complies Living areas and balconies are orientated towards the public domain with defined physical separation elements to ensure a safe and secure transition between the private and public domain. | | | | | | |
| 3C-2 Amenity of the public domain is retained and enhanced | | | | | | | | |
| 3D Communal and public open space | | | | | | | | |
| 3D-1. An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter) | | Complies Minimum 281.5m required (25%). The proposal provides an area of 346.29sqm (30%) for communal open space. This is distributed to the north and west. The main north facing area will receive more than 2 hours direct sunlight in mid-winter. The multiple landscape elements provide various spaces for residents to engage and enjoy. Communal garden beds, fixed seating, and a BBQ area are provided to the west within the development. The ground floor communal open space areas are accessible and visible from habitable rooms and private open space areas. Proposal ensures that direct, equitable access in line with relevant Australian Standard is provided to communal open space areas from common circulation areas, entries and lobbies | | | | | | |
| 3D-2. Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting | | | | | | | | |
| 3D-3. Communal open space is designed to maximise safety | | | | | | | | |
| 3D-4. Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood | | | | | | | | |
| 3E Deep soil zones | | | | | | | | |
| Site Area <1500m ² Min. Dimensions 3m Deep soil zone (% of site area) - 7% | | Complies Minimum 78.82m required (7%) required. The proposal provides 159.1sqm (14%) deep soil landscaping adjacent to the front and rear boundaries. The deep soil areas are a minimum of 3m in dimensions (outside the basement footprint). | | | | | | |
| 3F Visual Privacy | | | | | | | | |
| Requirement: <table><tr><td>Building Height</td><td>Habitable Rooms and Balconies</td><td>Non Habitable Rooms</td></tr><tr><td></td><td>6m</td><td>3m</td></tr></table> | | Building Height | Habitable Rooms and Balconies | Non Habitable Rooms | | 6m | 3m | Complies The proposal provides the required separation to the boundaries in accordance with this section to address visual privacy. However the uppermost level of the building provides balconies with an area of 83sqm which wrap around this level. Appropriate conditions of consent have been imposed to require privacy screening to prevent overlooking into the neighbouring properties. |
| Building Height | Habitable Rooms and Balconies | Non Habitable Rooms | | | | | | |
| | 6m | 3m | | | | | | |
| 3G Pedestrian access and entries | | | | | | | | |
| 3G-1. Building entries and pedestrian access connects to and addresses the public domain | | Complies Building access areas, entries and pathways are clearly visible from the public domain. The entrance to the residential foyers is easily identifiable and | | | | | | |
| 3G-2. Access, entries and pathways are accessible and easy to identify | | | | | | | | |

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| 3G-3. Large sites provide pedestrian links for access to streets and connection to destinations | distinguishable. Entries and pathways from the front of the building and to the communal open areas are accessible. |
| 3H Vehicle Access | |
| Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes | Complies Vehicle access point is appropriately located to provide satisfactory access and minimal conflicts. Also the driveway ramp to the basement is to be covered with a pergola with planting as recommended by the DEP. |
| 3J Bicycle and Car Parking | |
| 3J-1. Minimum car parking requirement for residents and visitors to comply with Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. | Complies Car parking has been provided as per the requirements of the LDCP 2008. Bicycle parking spaces are provided within the ground floor level (western POS), are secure and is easily accessible. The vehicle entrance to the underground car parking area is considered acceptable. |
| 3J-2. Parking and facilities are provided for other modes of transport | |
| 3J-3. Car park design and access is safe and secure | |
| 3J-4. Visual and environmental impacts of underground car parking are minimised | |
| 3J-5. Visual and environmental impacts of on-grade car parking are minimised | |
| 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised | |
| PART 4 DESIGNING THE BUILDING | |
| 4A Solar and Daylight Access | |
| 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. | Complies More than 70% of units achieve the required 2 hours of solar access at mid- winter. 0% of apartments receive no solar access on June 21 between 9am and 3pm (as shown on the submitted plans). |
| 2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. | |
| 4A-2 Daylight access is maximised where sunlight is limited | Complies The site provides sufficient daylight access to apartments given the orientation of the site. |
| Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months | |
| 4B Natural Ventilation | |
| 4B-1 All habitable rooms are naturally ventilated to create healthy indoor living environments. | Complies A total of 100% of apartments will receive natural cross ventilation. Overall apartment depths do not exceed 12-18m. |
| 1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the | |

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| <p>building Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> | | | | | | | |
| 4B-2 The layout and design of single aspect apartments maximises natural ventilation | | | | | | | |
| 4B-3 The number of apartments with natural cross ventilation is maximised | | | | | | | |
| 4C Ceiling Heights | | | | | | | |
| <p>4C-1 Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Minimum ceiling height for apartment and mixed use buildings</p> <table> <tr> <td>Habitable Rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-Habitable</td> <td>2.4m</td> </tr> <tr> <td>If located in mixed use areas</td> <td>3.3m for ground and first floor</td> </tr> </table> | Habitable Rooms | 2.7m | Non-Habitable | 2.4m | If located in mixed use areas | 3.3m for ground and first floor | <p>Complies All floors achieve a minimum floor-to-ceiling height of 2.7m.</p> |
| Habitable Rooms | 2.7m | | | | | | |
| Non-Habitable | 2.4m | | | | | | |
| If located in mixed use areas | 3.3m for ground and first floor | | | | | | |
| 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms. | All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms. | | | | | | |
| 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building | The floor to ceiling heights at ground floor and above is consistent with the buildings residential use. | | | | | | |
| 4D Apartment Size and Layout | | | | | | | |
| <p>4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> <p>1. Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio 35m² • 1 bedroom 50m² • 2 bedroom 70m² • 3 bedroom 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass</p> | <p>Complies All units exceed the required minimum areas. Unit sizes are distributed as follows:</p> <p>Ground floor 1 x 3 -bedroom unit (98m²) 2 x 1-bedroom units (56m² to 62m²) 1 x 2-bedroom units (79m²)</p> <p>First and Second floor 4 x 2-bedroom units each level (75m² to 81m²)</p> <p>Third Floor 2 x 2-bedroom units (75m² and 76m²)</p> <p>All habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room.</p> | | | | | | |

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| area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms | | | | | | | | | | | | | | | | |
| <p>4D-2 Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> | <p>Complies</p> <p>The scheme complies with this requirement, noting that the proposal incorporates open plan layouts.</p> <p>No open plan layout has a habitable room depth more than 8m from a window.</p> | | | | | | | | | | | | | | | |
| <p>4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p> | <p>Complies</p> <p>All master bedrooms and other bedrooms achieve the required areas and the minimum dimensions.</p> <p>All apartments achieve the minimum dimension requirements to living/dining rooms.</p> <p>Cross through apartments are more than 4m in width</p> | | | | | | | | | | | | | | | |
| 4E Private Open Space and Balconies | | | | | | | | | | | | | | | | |
| <p>4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>1. All apartments are required to have primary balconies as follows:</p> <table><tr><td>Dwelling type</td><td>Minimum Area</td><td>Min. Depth</td></tr><tr><td>Studio</td><td>4m²</td><td></td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p> | Dwelling type | Minimum Area | Min. Depth | Studio | 4m ² | | 1 bedroom | 8m ² | 2m | 2 bedroom | 10m ² | 2m | 3+ bedroom | 12m ² | 2.4m | <p>All apartments comply with the minimum numeric requirements for the area and depth of primary balconies and POS.</p> <p>Private open space is directly accessible from the living area of each dwelling.</p> <p>The balconies are integrated into the overall design of the development and form part of the detail of the building.</p> <p>Balustrades height to comply with BCA requirements.</p> |
| Dwelling type | Minimum Area | Min. Depth | | | | | | | | | | | | | | |
| Studio | 4m ² | | | | | | | | | | | | | | | |
| 1 bedroom | 8m ² | 2m | | | | | | | | | | | | | | |
| 2 bedroom | 10m ² | 2m | | | | | | | | | | | | | | |
| 3+ bedroom | 12m ² | 2.4m | | | | | | | | | | | | | | |
| <p>4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents</p> | | | | | | | | | | | | | | | | |
| <p>4E-3 Private open space and balcony design</p> | | | | | | | | | | | | | | | | |

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| is integrated into and contributes to the overall architectural form and detail of the building | | | | | | | | | | | |
| 4E-4 Private open space and balcony design maximises safety | | | | | | | | | | | |
| 4F Common circulation and spaces | | | | | | | | | | | |
| 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments. 1. The maximum number of apartments off a circulation core on a single level is eight. 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40 | Complies One circulation area is proposed, with a maximum of 4 units serviced on Ground Level, 4 units serviced on Levels 1 and 2, and 2 units serviced on Level 3. The building is less than 10 storeys height. | | | | | | | | | | |
| 4F-2 Common circulation spaces promote safety and provide for social interaction between residents | The proposal incorporates a common foyer/lobby area. | | | | | | | | | | |
| 4G Storage | | | | | | | | | | | |
| 4G-1 Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><td>Dwelling Type</td><td>Storage volume</td></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedroom</td><td>10m³</td></tr></table> At least 50% of the required storage is to be located within the apartment | Dwelling Type | Storage volume | Studio | 4m ³ | 1 bedroom | 6m ³ | 2 bedroom | 8m ³ | 3+ bedroom | 10m ³ | Complies The proposal provides for storage within each apartment and in the basement levels. These areas comply with the minimum volume specified in the ADG. |
| Dwelling Type | Storage volume | | | | | | | | | | |
| Studio | 4m ³ | | | | | | | | | | |
| 1 bedroom | 6m ³ | | | | | | | | | | |
| 2 bedroom | 8m ³ | | | | | | | | | | |
| 3+ bedroom | 10m ³ | | | | | | | | | | |
| 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments | Complies Storage is provided within each apartment, and there are 30 spaces allocated for storage within the basement. | | | | | | | | | | |
| 4H Acoustic Privacy | | | | | | | | | | | |
| 4H-1 Noise transfer is minimised through the siting of buildings and building layout | Complies Noise transfer has been minimised through the siting of the building and adequate setbacks. | | | | | | | | | | |
| 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments | The apartments have been configured so as to mitigate noise impacts. | | | | | | | | | | |
| 4J Noise Pollution | | | | | | | | | | | |
| 4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings | Complies Noise attenuation measures will be required for potential road noise impacts from Hoxton Park Road. | | | | | | | | | | |
| 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission | | | | | | | | | | | |
| 4K Apartment Mix | | | | | | | | | | | |

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| <p>4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>4K-2 The apartment mix is distributed to suitable locations within the building</p> | <p>Complies</p> <p>The development includes the following unit mix:</p> <p>Ground floor 1 x 2-bedroom units 2 x 1-bedroom units 1 x 3-bedroom units</p> <p>First to Second floor 8 x 2-bedroom units</p> <p>Third Floor 2 x 2-bedroom units</p> |
| 4L Ground Floor Apartments | |
| <p>4L-1 Street frontage activity is maximised where ground floor apartments are located</p> <p>4L-2 Design of ground floor apartments delivers amenity and safety for residents</p> | <p>Complies</p> <p>Ground floor apartments are provided with direct access to the street.</p> <p>Where appropriate windows and balconies have been provided to front the street.</p> |
| 4M Facades | |
| <p>4M-1 Building facades provide visual interest along the street while respecting the character of the local area</p> <p>4M-2 Building functions are expressed by the facade</p> | <p>Complies</p> <p>Building façades are articulated and modulated through the use of balconies, varying windows, and recessed elements. Ground floor building entries are clearly defined.</p> |
| 4N Roof Design | |
| <p>4N-1 Roof treatments are integrated into the building design and positively respond to the street</p> <p>4N-2 Opportunities to use roof space for residential accommodation and open space are maximised.</p> <p>4N-3 Roof design incorporates sustainability features</p> | <p>Complies</p> <p>As demonstrated in the elevation drawings and perspectives a flat roof treatment is proposed, which assists in mitigating building bulk and overshadowing.</p> <p>The proposal complies with requirements of BASIX and will include thermal insulation.</p> |
| 4O Landscape Design | |
| <p>4O-1 Landscape design is viable and sustainable</p> | <p>Complies</p> <p>The landscape plan incorporates sustainable environmental design and landscaping to the site. The landscape design maximises the use of drought tolerant and native species.</p> |
| 4P Planting on Structures | |
| <p>4P-1 Appropriate soil profiles are provided</p> <p>4P-2 Plant growth is optimised with appropriate selection and maintenance</p> <p>4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces</p> | <p>Complies</p> <p>As demonstrated in the Landscape Plan the species selected are appropriate for the soil depths and volumes.</p> |
| 4R Adaptive Reuse | |
| <p>4R-1 New additions to existing buildings are</p> | <p>Not Applicable</p> |

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| contemporary and complementary and enhance an area's identity and sense of place | |
| 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse | |
| 4S Mixed Use | |
| 4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement | Not Applicable |
| 4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents | |
| 4Q Universal Design | |
| 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members | Complies Apartment layouts are generously apportioned and flexible. |
| 4Q-2 A variety of apartments with adaptable designs are provided | |
| 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs | |
| 4U Energy Efficiency | |
| 4U-1 Development incorporates passive environmental design | Complies The BASIX Certificate provided with the application identifies that the proposed development achieves the required levels of thermal comfort. The proposed development also satisfies natural ventilation and solar access criteria. |
| 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer | |
| 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation | |
| 4V Water Management and Conservation | |
| 4V-1 Potable water use is minimised | Complies Potable water use will be minimised where possible. The BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements. Stormwater will be treated on site, prior to being discharged into Council's stormwater system. |
| 4V-2 Urban stormwater is treated on site before being discharged to receiving waters | |
| 4V-3 Flood management systems are integrated into site design | |
| 4W Waste Management | |
| 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. | Complies The residential waste facilities are incorporated into the design of development and are not readily visible from the public domain. A separate residential waste room is provided in the basement. |
| 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling | |
| 4X Building Maintenance | |
| 4X-1 Building design detail provides protection from weathering | Complies The proposal incorporates overhangs to protect walls and openings. The proposed external walls are constructed of robust and durable materials. |

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Attachment 3: Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Deemed SEPP)

| Clause 8 General Principles | Comment |
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| (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, | Stormwater concept plan reviewed by Council's Engineers. Minimal impact. |
| (c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries, | A Stormwater concept plan submitted and reviewed by Council's development engineers. Minimal impact. |
| (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, | Not required to be referred. |
| (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: | Planning principles are to be applied when a consent authority determines a development application. |
| Clause 9 Specific Principles | Comment |
| (1) Acid sulfate soils | The land is not identified as containing Acid Sulfate Soils |
| (2) Bank disturbance | No bank disturbance. |
| (3) Flooding | Council's flood planning engineer has reviewed the proposal and raised no issues. The lowest habitable floor level is RL 22.80 which is 300mm above the recommended FFL by Council's flood planning engineer. |
| (4) Industrial discharges | Not applicable. |
| (5) Land degradation | An erosion and sediment control plan to minimise erosion and sediment loss required prior to CC. |
| (6) On-site sewage management | Not applicable. |
| (7) River-related uses | Not applicable. |
| (8) Sewer overflows | Not applicable. |
| (9) Urban/stormwater runoff | Stormwater Concept Plan submitted. |

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| (10) Urban development areas | Not in an urban development area. |
| (11) Vegetated buffer areas | Not applicable |
| (12) Water quality and river flows | Erosion and sediment control to be implemented in construction. |
| (13) Wetlands | Not applicable. |

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Attachment 4: DCP compliance table

LDCP 2008 - Part 1 General Controls for All Development

| Development Control | Proposal | | Comment |
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| PART 1 – General Controls For All Development | | | |
| 2. Tree Preservation | The site does not contain any significant vegetation. | | N/A |
| 3. Landscaping | The Landscape Plans show the location and design of these areas by a qualified landscape architect. A condition of consent will require that these areas are appropriately planted and maintained. | | Complies |
| 4. Bushland And Fauna Habitat Preservation | The site does not include any significant native vegetation. | | N/A |
| 5. Bush Fire Risk | The site is identified as bush fire prone. A Bushfire report was submitted with DA-118/2017. | | N/A |
| 6. Water Cycle Management | Stormwater runoff shall be connected to Council's drainage system via an on-site detention system. A stormwater drainage concept plan has been submitted and referred to Council's Land and Development Engineers who raised no objections subject to the imposition of condition. | | Complies |
| 7. Development Near A Watercourse | The subject site is not within 40m of a watercourse. | | N/A |
| 8. Erosion And Sediment Control | Soil and erosion measures reviewed by Council Engineers and conditions of consent imposed. | | Complies |
| 9. Flooding Risk | The site is affected by flood planning area and flood related development controls apply. Council's Flooding and Engineering department has reviewed the application and raised no objections subject to the impositions of conditions. | | Complies |
| 10. Contamination Land Risk | The site is unlikely to be contaminated and thus no remediation is required for the proposed works. | | Complies |
| 11. Salinity Risk | The site is identified as containing a moderate potential for saline soils. Conditions relating to erosion and sediment control measures will be implemented to prevent further spread of potentially saline soils. | | Complies |
| 12. Acid Sulfate Soils | Site is not identified as affected by Acid Sulfate Soils | | N/A |
| 13. Weeds | Site is not affected by Weeds | | N/A |
| 14. Demolition Of Existing Development | Demolition of existing structures is to comply with the relevant standards. | | Complies |
| 15. On-Site Sewerage Disposal | Not proposed. | | N/A |
| 16. Aboriginal Archaeological Sites | The proposal does not impact on any known aboriginal heritage. | | N/A |
| 17. Heritage And Archaeological Sites | Not identified as a heritage listed site and not in the vicinity of a heritage item. | | N/A |
| 18. Notification Of Applications | The application was notified in accordance with the LDCP 2008 from 3 April 2018 to 20 April 2017. No submissions were received. | | Complies |
| 20. Car-parking And Access | Refer to assessment under Part 3.7 of the LDCP 2008. | | Complies |
| 21.Subdivision Of Land And Buildings | None Proposed. The development site is required to be consolidated as proposed. | | N/A |
| 22. Water Conservation | To comply with BCA requirements and BASIX | | Complies |
| 23.Energy Conservation | To comply with BCA requirements and BASIX | | Complies |
| 24.Landfill | None Proposed | | N/A |
| 25.Waste Disposal And | Management during construction and on-going waste. | | Complies |

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| Re-Use | <p>During Construction: A waste management plan (WMP) has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction.</p> <p>On-going Waste Management is dealt with in Part 3.7 of the LDCP 2008.</p> | | |
| 26. Outdoor Advertising | No signage proposed | | N/A |
| 27. Social Impact Assessment | A Social Impact Assessment was not required to be reviewed by Council's Community Planner. | | N/A |

LDCP 2008 - Part 3.7 Residential Flat Buildings In The R4 Zone

| Development Control | Provision | Comment |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Frontage and Site Area | | |
| | Minimum frontage of 24m | Complies The site provides for a frontage of 36.576m to Hoxton Park Road. |
| Site Planning | | |
| | The building should relate to the site's topography with minimal earthworks, except for basement car parking. | Complies Minimal earthworks are proposed. |
| | Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design | Complies Where possible, ground level private open space, balconies and windows have been orientated to the north to maximise solar access and improve energy efficiency of the building. |
| | Site layout should provide safe pedestrian, cycle and vehicle access to and from the street. | Complies Where possible proposed units have been orientated to address Hoxton Park Road providing opportunities for casual surveillance of pedestrian pathways, the driveway and the street. |
| | Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity. | Complies The development is in accordance with the objectives of the R4 high density residential zone and provides for an appropriate built form and scale. |
| | Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate | Complies This aspect has been reviewed by Council's Land and Development Engineer officers, who have recommended approval subject to conditions. |
| | The development will need to | Complies |

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| | satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development. | As demonstrated within this report, the development generally demonstrates compliance with SEPP 65 and the Apartment Design Guidelines (ADG). |
| Setbacks | | |
| Front Setback | Front building setback of 5.5m is required Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m. | Complies The building is setback 5.5m from Hoxton Park Road. No encroachment of front balconies over the 5.5m building line. |
| Side Setback | Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, Level 1, Level 2 and Level 3 | Acceptable. The side and rear setbacks of the development have been designed to achieve compliance with the ADG associated with SEPP 65 which takes precedence over the LDCP 2008. |
| | Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m | |
| Rear Setback | Boundary to land in R4 zone: 8m building setback required for all building heights | |
| Landscaped Area and Private Open Space | | |
| Landscaped Area | A minimum of 25% of the site area shall be landscaped area. | Complies The proposal provides 159.1sqm (14%) deep soil landscaping adjacent to the front and rear boundaries. The deep soil areas are a minimum of 3m in dimensions (outside the basement footprint) in accordance with the ADG associated with SEPP 65 which takes precedence over the LDCP 2008. |
| | A minimum of 50% of the front setback area shall be landscaped area | Acceptable. Greater than 50% of the front setback area to Hoxton Park Road is to be landscaped in the form of garden beds, planter boxes and lawn area. |
| | Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties. | Complies Landscaped areas are generally consolidated within the front, side and rear setback areas. |
| | Promote landscape health by supporting for a rich variety of vegetation type and size | Complies (by condition). A variety of native plant species are provided. |
| Open Space | Provide communal open space, which is appropriate and relevant to the context and the building's setting. | Complies. Communal open space areas are provided along the rear setback and the western boundary. |

| Development Control | Provision | Comment |
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| | Where communal open space is provided, facilitate its use for the desired range of activities by: <ul style="list-style-type: none"> - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking. | Complies. The ground floor communal open space areas will receive sufficient solar access and will allow for a range of activities. |
| | Locate open space to increase the potential for residential amenity. | Complies. The communal open space increases residential amenity. |
| Private Open Space | Private open space shall be provided as follows: <ul style="list-style-type: none"> - 10m² for a dwelling size less than 65m² - 12m² for a dwelling size over 65m² | Complies. Private open space requirements are provided in accordance with the requirements of the ADG. |
| | Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor. | Complies. Private terrace/courtyards are provided for units on the ground floor and balconies are provided for units above the ground floor. |
| | Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like. | Complies. The private open space areas are designed as an extension of the internal living rooms. |
| | Private open space should be clearly defined for private use. | Complies. Private open space areas are clearly defined. |
| Building Design, Style and Streetscape | | |
| Building Appearance and Streetscape | Objectives of the controls are as follows: <ul style="list-style-type: none"> a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which define and enhance the public domain and desired street character. d) To ensure that building | Complies. The composition of building elements, materials, textures and colours is likely to complement the future character of the area in terms of height, bulk, scale, built form and roof design. The proposed building is highly articulated and designed to suit the site and address the streetscape. |

| Development Control | Provision | Comment |
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| | elements are integrated into the overall building form and facade design. | |
| Roof Design | Objectives of the controls are: a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings; b) To integrate the design of the roof into the overall facade, building composition and desired contextual response; c) To increase the longevity of the building through weather protection. | Complies. The proposed roof design contributes positively to the design of the building as recommended by the DEP. |
| Building Entry | Objectives of the controls are: a) To create entrances which provide a desirable residential identity for the development. b) To orient the visitor. c) To contribute positively to the streetscape and building facade design. | Complies. Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors. |
| Balconies | Objectives of the controls are: a) To ensure that balconies contribute positively to the façade of a building. b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents. c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings. d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address. | Complies. Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance. |
| Daylight Access | Objectives of the controls area: a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development. b) To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours. c) To provide residents with the ability to adjust the quantity of daylight to suit their needs. | Complies. The majority of the units and the communal open space will receive adequate solar access. |
| Internal Design | Objectives of the controls are: a) To ensure that the internal | Complies. The building is designed with optimal amenity for |

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| | design of buildings provide a pleasant environment for the occupants and residents of adjoining properties. | future occupants, providing pleasant living spaces, solar access, and natural ventilation. |
| Ground Floor Dwellings | Objectives of the controls are: a) To contribute to the desired streetscape of an area and to create active safe streets. b) To increase the housing and lifestyle choices available in dwelling buildings. | Complies. The ground floor units will complement the streetscape and provide safe access. |
| Security | Objectives of the controls are: a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings. b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders. c) To ensure buildings are safe and secure for residents and visitors. d) To contribute to the safety of the public domain. | Complies. The entrance to the building is clearly defined, casual surveillance opportunities are included, and the development provides a safe and secure building for future occupants and visitors. |
| Natural Ventilation | Objectives of the controls are: a) To ensure that dwellings are designed to provide all habitable rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants. b) To provide natural ventilation in non-habitable rooms, where possible. c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning. | Complies. All units have direct access to natural ventilation. |
| Building Layout | Objectives of the controls are: a) To provide variety in appearance. b) To provide increasing privacy between dwellings within the building. c) To assist with flow through ventilation. d) To improve solar access. | Complies. The proposed building layout is optimised for natural light and ventilation, whilst presenting an articulated presentation. |
| Storage Areas | A secure storage space is to be provided for each dwelling with a minimum volume of 8m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement | Complies. Storage spaces are provided both within units and within the basement level. |

| Development Control | Provision | Comment |
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| | or garage. | |
| | Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas. | Complies. Storage areas within the apartment are adequately lit. |
| Landscaping and Fencing | | |
| Landscaping | <p>Objectives of the controls are:</p> <p>a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape.</p> <p>b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape.</p> <p>c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development.</p> <p>a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality.</p> <p>b) To provide privacy, summer shade and allow winter sun.</p> <p>c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality.</p> <p>d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.</p> | Complies. The use of landscaping elements is appropriate to the scale of the development and provides a variety of native species in varying heights to complement the development. |
| Planting on Structures | <p>a) To contribute to the quality and amenity of communal open space on podiums and internal courtyards.</p> <p>b) To encourage the establishment and healthy growth of trees in urban areas.</p> | Not applicable as there are no plantings on structures proposed. |
| Fencing | <p>Maximum height of front fence is 1.2m. 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 in front of the proposed fence.</p> <p>Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.</p> | <p>Complies. Proposed front fence to Hoxton Park Road ranges from 1.2m to 1.6m and is set back at intervals with landscaping as a buffer. The proposed fence is acceptable in this instance as it contributes to privacy for future ground floor level occupants whilst still maintaining visual interest.</p> <p>Overall the fence design is appropriate and will complement the building design.</p> |

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| | The front fence must be 30% transparent. | |
| | Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling. | |
| | The maximum height of side boundary fencing within the setback to the street is 1.2m. | Complies , via condition. |
| | Boundary fences shall be lapped and capped timber or metal sheeting. | Complies , via condition. |
| Car Parking and Access | | |
| Car Parking | Visitor car parking shall be clearly identified and may not be stacked car parking. | Parking spaces have been provided in accordance with LDCP 2008 as follows: 1 per 1 bedroom unit (x 2 units) = 2 1.5 per 2 bedroom units (x 11 units) = 16.5 2 per 3 bedroom units (x 1 units) = 2 1 visitor space per 4 units = 3.5 Therefore total of 24 spaces required. |
| | Visitor car parking shall be located between any roller shutter door and the front boundary. | |
| | Pedestrian and driveways shall be separated. | Complies . Pedestrian access and driveways are separated. |
| | Driveways shall be designed to accommodate removalist vehicles. | Acceptable . Passing bay within the driveway is available for removalist vehicles. |
| | Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street. | Complies . Side vehicular entrance is proposed. |
| | Give preference to underground parking | Complies . Parking is provided in the form of an underground basement. |
| Pedestrian Access | Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use | Complies . Pedestrian entries are clearly defined and accessible. |

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| | communal areas via minimum grade ramps, paths, access ways or lifts. | |
| Amenity and Environmental Impact | | |
| Over-shadowing | Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space. | Complies. Shadow diagrams of the proposed development have been prepared for 21 st June (winter solstice). The shadow diagrams demonstrate that a reasonable amount of solar access will be afforded to the immediate sites to the east and west, between the hours of 9am to 3pm. |
| Privacy | Objectives of the controls are: a) To locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents. b) To avoid any external impacts of a development, such as overlooking of adjoining sites. c) To provide reasonable levels of visual privacy externally and internally, during the day and at night. d) To maximise outlook and views from principal rooms and private open space. | Complies (by condition). The building has been designed to generally comply with the building separation distances of the ADG, which will ensure that a reasonable amount of privacy is afforded to future development. |
| Acoustic Impact | Objectives of the controls are: a) To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings. | As discussed previously within this report, the development is able to achieve a high level of amenity, subject to the implementation of noise attenuation measures. |
| Site Services | | |
| | Objectives of the controls are: a) To ensure that the required services are provided. b) To ensure that the services provided are easily protected or maintained. | Complies. All required site services will be provided to the site and maintained. |

Attachment 5: Draft Conditions Of Consent And Section 7.11 Contributions

The following conditions have been imposed to achieve the objectives of the relevant planning instruments and policies.

A. THE DEVELOPMENT**Approved Plans**

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

| Plan Name | Plan Number | Date | Revision | Prepared By |
|----------------------------------------------|---------------|-----------|----------|--------------------------------|
| Architectural Plans | 16162/1-15 | 20/5/2019 | E | Baini Design |
| External Colours and Finishes | 16162/16-18 | 20/5/2019 | E | Baini Design |
| Floor Calculations and Solar Access Diagrams | 16162/17-24 | 20/5/2019 | E | Baini Design |
| 3D Views and BASIX Commitments | 16162/25-27 | 20/5/2019 | E | Baini Design |
| Landscape Plan and Details & Specification | 1534.GD.01-02 | 5/2019 | D | Greenland Landscape Architects |

| Report Name | Date | Reference | Prepared By |
|-----------------------------------------------------|------------|-------------------|-----------------------------------|
| Concept Design – Neighbouring Site (Site Isolation) | 9/3/2018 | 16162/01-04 Rev B | Baini Design |
| Acoustic and Traffic Noise Report | 15/02/2017 | 160847-01L-DD | Acoustic Consulting Engineers P/L |
| Detailed Contour Survey Plan | 25/8/2017 | JE2256 Rev 01 | J Elmir Surveyor |
| Traffic and Parking Impact Assessment Report | 12/2016 | 161041 | NSA Consulting |
| SEPP 65 Design Verification Statement | 14/12/2016 | -- | Vitale Design |
| Waste Management Plan | 16/12/2016 | -- | --- |

Required Design and Waste Management Amendments

2. Prior to the issue of a Construction Certificate, amended plans and details reflecting the required amendments (as detailed below), shall be submitted to and approved by Liverpool Council's Manager of Development Assessment. These include the following:
 - (a) An amended Operational Waste Management Plan shall provide details for a once a week collection to service the development, and the provision within the bin holding room for fourteen (14) 240 litre mobile garbage bins (7 x 240L general waste bins and 7 x 240L recycling bins).

Details are to be provided for how the bins are to be managed and how waste is to be collected from the loading / unloading area in the Basement, to avoid

impacts of garbage collection on the street kerb, and the footpath immediately in front of the site.

- (b) The front fence is limited to a maximum 1.3m in height.

This is required to ensure compliance with the principles of the transition from public to the private domain as enshrined in the controls of the Liverpool Development Control Plan.

- (c) Detailed design plan for the access driveway and basement car park including swept path analysis, line markings and sign posting in accordance with the DCP and AS2890 is to be submitted to Traffic and Transport Section for review.

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval.

Roads and Maritime Services Requirements

3. All conditions issued by the **Roads and Maritime Services** shall be implemented and complied with at all times, as required in accordance with its requirements dated 12 March 2018. A copy of the document is attached of this determination notice (attachment 3).

Rural Fire Service (RFS) NSW Requirements

4. The development is to demonstrate compliance with all relevant requirements issued by the **Rural Fire Service (RFS) NSW**, dated 9 October 2017 (Attachment 4).

Works at no Cost to Council

5. All roadworks, drainage works and dedications, required to effect the consented development shall be undertaken at no cost to Liverpool City Council.

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions shall be complied with prior to issue of a CC by the PCA:

Fee Payments

6. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the DA/CC. The following fees are applicable:
- (a) Damage Inspection Fee;
 - (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve; and
 - (c) Long Service Levy – based on 0.35% of the cost of building work.

These fees are reviewed annually and will be calculated accordingly

Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

Section 7.11 Payment (Liverpool Contributions Plan 2018)

7. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2009 as amended.

The total contribution is **\$38,035.00**

A breakdown of the contributions payable is provided in the attached payment form. Contributions will be adjusted at the time of payment in line with the Consumer Price Index (all groups index number for Sydney).

<https://www.liverpool.nsw.gov.au/development/liverpools-planning-controls/contribution-plans>

Site Development Work

8. Site development work in the form of excavation, underpinning or shoring works must not take place, until such time as a Construction Certificate has been issued.

BCA Compliance

9. The requirements and provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

10. In accordance with Section 4.16(11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:
 - (a) Complying with the Deemed to Satisfy Provisions; or
 - (b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).
11. Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 1.4 of the EP&A Act means any physical activity involved

in the erection of a building and includes but is not limited to, the placement of any site shed/s or builders facilities, site grading, retaining walls, excavation, cutting trenches, installing formwork and steel reinforcement or, placing of plumbing lines.

12. Access must be provided to the building for people with a disability in accordance with the relevant requirements of the Building Code of Australia, Disability (access to Premises – Buildings) Standard 2010 and Australian Standard – AS1428.1 (2009), Design for Access and Mobility – General requirements for new building work, to the satisfaction of the Certifying Authority.

Cladding

13. Cladding - Prior to issue of a construction certificate the certifier must be satisfied that all proposed attachments, cladding material and systems forming part of external walls comply with the NCC BCA and relevant Australian Standards. The certifier must be able to demonstrate compliance with evidence of suitability as per clause A2.2 of the BCA for all products/systems proposed.

Notification

14. The certifying authority must advise Council, in writing of:
 - (a) The name and contractor licence number of the licensee who has contracted to do or intends to do the work, or
 - (b) The name and permit of the owner-builder who intends to do the work.

If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.

Design Verification Statement

15. In accordance with the EP&A Regulation and State Environmental Planning Policy (SEPP) 65 “Design Quality of Residential Apartment Development”, the subject development must be undertaken or directed by a ‘qualified designer’ (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
 - (a) A valid and current chartered architect’s certificate number (as issued by the Board of Architects of NSW);
 - (b) That the qualified designer has designed or directed the design of the subject development; and
 - (c) That the plans and specifications lodged with the CC achieve or improve the design quality of the development for which the subject development consent was granted, having regard to the design principles set out in Part 2 of SEPP 65.

Note: The design verification statement must provide an explanation of the design in terms of the design quality principles set out in Part 2 of SEPP 65.

Crime Prevention Through Environmental Design

16. The following Crime Prevention Through Environmental Design principles are to be incorporated into the building.
- (a) Back to base alarm systems shall be installed;
 - (b) Basement parking areas shall be painted a light colour;
 - (c) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be implemented;
 - (d) 'Way finding' signage should be utilised at all major interchanges such as lifts and stair wells;
 - (e) Lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard AS 1158. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant, especially external lighting; and
 - (f) Access to the parking levels of the building shall be controlled via a security controlled device.

Security Access to car park

17. Secure access is to be provided to the basement car park to prevent any unauthorised entry. Details are to be provided with the Construction certificate.

S138 Roads Act – Minor Works in the public road

18. Prior to the issue of a Construction Certificate a S138 Roads Act application/s, including payment of fees shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:
- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
 - Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Liverpool City Council's specifications.

Note: Approvals may also be required from the Roads and Maritime Service (RMS) for classified roads.

S138 Roads Act – Roadworks requiring approval of civil drawings

19. Prior to the issue of a Construction Certificate for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with Liverpool City Council

(being the Roads Authority under the Roads Act), for all works associated with the development in Hoxton Park Road.

Engineering plans are to be prepared in accordance with the development consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works, Austroad Guidelines and best engineering practice.

Note:

1. Where Liverpool City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
2. Approvals may also be required from the Roads and Maritime Service (RMS) for classified roads.

Retaining Walls on Boundary

20. All retaining walls shall be of masonry construction and must be wholly within the property boundary, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage works along common boundaries shall not compromise the structural integrity of any existing structures.

Where a retaining wall exceeds 600mm in height, the wall shall be designed by a practicing structural engineer and a construction certificate must be obtained prior to commencement of works on the retaining wall.

Dilapidation Survey

21. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

S68 Local Government Act – Stormwater drainage works

22. Prior to the issue of a Construction Certificate the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under S68 of the Local Government Act, including the payment of application and inspection fees, has been lodged with, and approved by Liverpool City Council for new pit and pipe connection to Service Road (Hoxton Park Road).

Engineering plans are to be prepared in accordance with the development consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works and best engineering practice.

On-Site Detention

23. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by ACE Pty Ltd, reference ACE161275.SW.DA Sheets 101 to 105 revision B., dated 29/8/2017.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the on-site detention system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the on-site detention system has been designed in accordance with Liverpool City Council's Design Guidelines and Liverpool City Council's On-Site Stormwater Detention policy and Technical Specification.

Stormwater Discharge – Basement Car Parks

24. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3:2003 and Council's Stormwater Drainage Design Specifications for pump out systems for basement car parks.

No loading on easements

25. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.

Water Quality

26. Prior to the issue of a Construction Certificate the PCA shall ensure that details of a stormwater pre-treatment system have been provided on the stormwater plans and that the design meets pollutant retention criteria in accordance with the LDGP 2008. The CC must be supported by:
- Specification & installation details of the stormwater pre-treatment system

- The approval of an operation and maintenance manual/ schedule for the stormwater pre-treatment system

A copy of the approved operation and maintenance manual/ schedule shall be submitted to Council with notification of the CC issue.

Access and Manoeuvring

27. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Liverpool City Council's Development Control Plan.

Detailed design plans indicating line markings and sign posting are to be submitted to Council's Traffic and Transport Section for review.

28. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that:
- a) Off street access and parking complies with AS2890.1.
 - b) Sight Distance at the street frontage has been provided in accordance with AS 2890.1.
 - c) All cars can enter and exit the site in a forward direction

Construction Traffic Management Plan

29. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

Recommendations of Acoustic Report

30. The recommendations provided in the approved Acoustic and Traffic Noise Report (ref no: 160847-01L-DD) prepared by Acoustic Consulting Engineers P/L dated 15 February 2017, shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the CC application.

Balcony Balustrades and privacy screen design

31. All glass balustrades must be 1.2m in height and must be translucent, obscured, frosted or sandblasted glazing in design.

Reason: To mitigate inadvertent privacy impacts from a seated position within the units of the building to adjoining properties and to ensure any items stored within the balconies are appropriately screened from the public, and to restrict direct views from the public domain into the living areas of the units.

Any privacy screens shown on the approved plans are to be designed to extend to a height of 1.5m from their immediate floor level, and are to be designed with fixed 45 degree upward angled louvres.

Balcony and courtyard window and door design

32. The openings for windows and doors to balconies/courtyards are to be full height so that they extend from the floor to the underside of the slab above. This is to:
- enable the openings to read as 'panels' of glazing rather than 'hole in the wall' openings
 - assist in the proportioning of elevations
 - ensure maximum light to the interior of the dwellings
 - create a seamless relationship between the balcony / courtyard and the interior

Glazing is to extend full height within the opening. If for some reasons it is not possible to extend the glazing then an opaque material can be introduced into the overall frame so that it still reads as a full height panel.

Provision of Services

33. An application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, must be lodged with Sydney Water. To facilitate this, an application must be made through an authorised Water Servicing Coordinator. Please refer to the "building and developing" section of Sydney Water's web site at www.sydneywater.com.au, or telephone 13 20 92.

Following receipt of the application, a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of the 'Notice of Requirements' must be submitted to the PCA.

34. Written clearance from Endeavour Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.
35. Should the Electrical Substation be located outside the building envelope, the location and any associated fire separation walls must comply with Integral Energy Substation Design Instruction Document No SDI 104 (Current Version). The colours and materials used in the construction of any wall of structure are to match those of the approved development.
36. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

37. The applicant is to arrange with the appropriate service provider for any above ground service riser or access point to be constructed clear of any proposed or existing

pedestrian footways, and if possible, located in recessed unobtrusive locations. Should any service provider require and/or insist the applicant/developer build a service riser that would create an obstruction and pose a potential safety hazard, then the applicant/developer should refer the request to Council for negotiation directly with the Service Network Authority.

C. PRIOR TO WORKS COMMENCING

The following conditions shall be complied with prior to works commencing on the subject site:

Building/Compliance

38. Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 4 of the EP&A Act means any physical activity involved in the erection of a building and includes but is not limited to, the placement of any site shed/s or builders facilities, site grading, retaining walls, excavation, cutting trenches, installing formwork and steel reinforcement or, placing of plumbing lines.
39. Prior to the commencement of any building works, the following requirements must be complied with:
 - (a) Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
 - (b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
 - (c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - (d) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate; and
 - (e) The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.

Residential Building Work

40. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be commenced unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the name and licence number of the principal contractor; and the name of the insurer by which the work is insured under Part 6 of that Act.
41. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates (not being the Council) has given the council written notice of the updated information.

Notification/Principal Certifying Authority

42. Written notice of intention shall be given to the owners or the adjoining allotments of land, outlining the particulars of the work, which involves:
- a) Any excavation below the base of the footings of a building on an adjoining allotment of land.
 - b) The notice shall be given seven (7) days prior to the commencement of work.
43. In the event the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer;
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage.
 - (c) Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer.

Site Notice Board

44. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
- (a) The name, address and telephone number of the principal certifying authority for the work;
 - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Unauthorised entry to the premises is prohibited.

Sediment and Erosion Control Measures

45. Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Landcom's publication "Managing Urban Stormwater – Soils and Construction (2004)" – also known as "The Blue Book". Measures must include, as a minimum:
- (a) Siltation fencing;
 - (b) Protection of the public stormwater system; and
 - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

Demolition Works

46. Demolition works shall be carried out in accordance with the following:
- (a) Prior to the commencement of any works on the land, a detailed demolition work

plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- (b) Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- (c) The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.

Demolition Inspections

47. The following inspections are required to be undertaken by Council in relation to approved demolition works:
- (a) Immediately prior to the commencement of the demolition or handling of any building structure that contains asbestos. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works. Please note that demolition works are not permitted to commence on site until such time as a satisfactory inspection result is obtained from Council.
 - (b) Immediately following completion of the demolition. Please note that proof of appropriate disposal of demolition materials (including asbestos) may be required at this time in accordance with the approved Waste Management Plan.

To book an inspection with Council, please call 1300 362 170.

Waste Classification

48. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act and NSW DECCW, (EPA) 'Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes'. The classification of the material is essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non-liquid waste advice should be sought from the DECCW (EPA).

Traffic Control Plan

49. Prior to commencement of works a Traffic Control Plan including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Liverpool City Council.

Site Facilities

50. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
 - (c) be a temporary chemical closet approved under the Local Government Act 1993.
51. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.
52. All existing domestic waste bins that have been issued to the current residential dwellings, 311 and 313 Hoxton Park Road, Cartwright must be returned to Liverpool City Council prior to any work (including demolition) commencing on site. Council should be notified that the bins are ready to collect so that they can be removed and their removal be noted.

Notification of Service Providers

53. The approved development must be approved through the 'Sydney Water Tap In' service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. A receipt must be provided to Council.

Please refer to the website www.sydneywater.com.au for more information.

Dilapidation Report

54. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in service road (Hoxton Park Road) is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 10m either side of the development.

Matters to be addressed prior to Commencement of Subdivision Works

55. Work on the subdivision shall not commence until:
 - a Construction Certificate (if required) has been issued,
 - a Principal Certifying Authority has been appointed for the project, and
 - any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been

complied with.

A Notice of Commencement is to be submitted to Liverpool City Council two (2) days prior to commencement of engineering works or clearing associated with the subdivision.

D. DURING CONSTRUCTION

The following conditions shall be complied with during construction:

Building Inspections

56. The building works must be inspected by the Principal Certifying Authority, in accordance with sections 109E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.
57. The Principal Certifying Authority must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceedings to the subsequent stages of construction or finalisation of the works (as applicable).

Identification Survey Report

58. The building and external walls are not to proceed past ground floor/reinforcing steel level until such time as the PCA has been supplied with an identification survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels and setbacks to boundary/boundaries. The slab shall not be poured, nor works continue, until the PCA has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

In the event that Council is not the PCA, a copy of the survey shall be provided to Council within three (3) working days.

On placement of the concrete, works again shall not continue until the PCA has issued a certificate stating that the condition of the approval has been complied with and that the slab has been poured at the approved levels.

Construction Requirements

59. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:
 - a) Protect and support the adjoining premises from possible damage from the excavation, and;
 - b) Where necessary, underpin the adjoining premises to prevent any such damage.
 - c) Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the

manufacturers details or by a practising structural engineer.

60. If the work is likely to cause pedestrian or vehicular traffic in a public area to be obstructed or rendered inconvenient; or if craning of materials is to occur across a public area or road reserve area a construction hoarding must be erected to prevent any substance from, or in connection with the construction site, falling onto a public area as follows:

Such hoarding or barrier must be designed and erected in accordance with Council's guidelines on hoarding construction. Relevant application under the Roads Act approval must be completed and fees paid prior to the construction of a hoarding on Council road reserve area.

61. Lifting or craning materials over a public footway or roadway is not permitted unless a "B" class construction hoarding has been installed in compliance with work cover authority requirements.
62. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.
63. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.
64. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer. Retaining walls on any boundary are to be of masonry construction.

Security Fence

65. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction.

Note: Fencing is not to be located on Council's reserve area.

Hours of Construction Work

66. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 6:00pm Monday to Friday and 8:00am to 1:00pm on Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council

Erosion and Sediment Control

67. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

Drainage Connection

68. Prior to the connection of private drainage to Council's drainage system, an inspection is to be carried out by Liverpool City Council's Development Engineering Unit. A fee will be charged in accordance with Council's adopted Fees and Charges, and is to be paid prior to the inspection.

Major Earthworks

69. All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

Construction Noise

70. Construction noise shall not exceed the management levels defined within the Interim Construction Noise Guideline published by the NSW Department of Environment and Climate Change dated July 2009.
71. Construction activities, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

General Site Works

72. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
73. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
74. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
75. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface

and there shall be measures in place in accordance with the approved erosion and sediment control plan.

76. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
77. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
78. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
79. All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.
80. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor, licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of in accordance with DECCW (EPA) requirements.

Waste Management Plan

81. The Waste Management Plan submitted to and approved by Council must be adhered to at all times throughout all stages of the development. Supporting documentation (receipts/dockets) of waste/recycling/disposal methods carried out, is to be kept and must be produced upon the request of Council or any other authorised officer.

Note: Any non-compliance with this requirement will result in penalties being issued.

Contamination

82. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
83. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
 - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
 - (e) must provide Council with copies of validation certificate verifying the material to be

used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.

84. Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:
- (a) The course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
 - (b) The results of a preliminary contamination assessment carried out on any fill material used in the development.
 - (c) The results of any chemical testing of fill material.
85. Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination must be notified to Council and the accredited certifier immediately after discovery. A Section 96 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

Traffic Management

86. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RMS's Traffic Control at Worksites Manual and the RMS's Interim Guide to Signs and Markings.
87. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
88. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours to prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.
89. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

Car Parking Areas

90. Car parking spaces and driveways must be constructed of a minimum of two coat finish seal or better. The spaces must be clear of obstructions and columns, permanently line marked and provided with adequate manoeuvring facilities. The design of these spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.

Termite Protection

91. To protect the buildings from subterranean termite, termite barriers must be installed in accordance with AS 3660.1 to the underside and penetrations of the concrete slab floor. In addition a durable notice must be permanently fixed inside the metre box indicating:
- (a) The method of protection;
 - (b) The date of installation of the system;
 - (c) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label;
 - (d) The need to maintain and inspect the system on a regular basis

Certification from a licensed pest controller shall be submitted to the PCA certifying that the termite protection system installed complies with AS3660.1.

Ventilation

92. The premises shall be ventilated in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 & 2)

External

93. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.
94. The mailboxes are to be consistent with the design and colours and materials for the development.
95. Any external lighting is to incorporate full cut-off shielding and is to be mounted so as to not cause any glare or spill over light nuisance within the development, neighbouring properties or road users.
96. The reflectivity index of glass used in the external facade of the building is not to exceed 20%.
97. The windows of all bathrooms, W.C. and ensuites shall be fitted with translucent obscure glazing to the satisfaction of the PCA.

Graffiti

98. A graffiti resistant coating shall be applied to any fences or structures that have frontage to a public area, for example a roadway, public reserve etc.

Front fence and boundary fencing

99. Any front fence and returns must not exceed 1.3m in height, and shall be constructed in masonry to be compatible with the design of the building and any gates associated with a front fence shall swing inwards into the property. Boundary fences shall be lapped and capped timber or metal sheeting.

Display of Street Numbers

100. Street/address number must be prominently displayed at the front of the development in a contrasting colour to the building materials and at the front of each individual unit.

Security and Safety

101. Adequate lighting is required at the entrances and main foyers or the building, basement carpark, and mailbox area.
102. Cameras are required to be installed covering the entrance and exit and main areas of the car park.
103. The underground car park is required to be locked with access to be provided to residents only.
104. Windows in the building above the ground level are to be fitted with devices to be locked at 12.5cm.

Vegetation and Landscaping

105. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
106. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
107. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.
108. Premium quality organic garden soil shall be incorporated into all planting areas in sufficient quantity to achieve optimum plant growing conditions.
109. All garden/planting areas shall be mulched to a depth of not less than 75mm using weed free leaf mulch, wood chip or similar, not pine bark.

Waste Storage Area

110. Any bin bays must be:
- (a) Provided with mechanical ventilation;
 - (b) Provided with a hose cock for hosing the garbage bin bay and a sewerage drainage point in or adjacent to the bin storage area. The drainage point should have a fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer. If the hose cock is located inside the bin storage bay, it is not to protrude into the space indicated for the placement of bins;
 - (c) Provided with sufficient light to permit usage at night;
 - (d) Allocated with sufficient space within the bin bay to allow for access to all required bins by residents and waste collectors, as well as manoeuvring of bins within the bay and for the removal and return of bins by the waste collector;
 - (e) Provided with signage to be prominently displayed in each bin bay, or waste

service room, as appropriate indicating that:

- (f) Garbage is to be placed wholly within the garbage bins provided;
- (g) Only recyclable materials accepted by Council are to be placed within the recycling bins;
- (h) The area is to be kept tidy;
- (i) A phone number for arranging disposal of bulky items;
- (j) Graphic illustrative content to be 50%.
- (k) Bin bay signs are available from Council;
- (l) Should garbage chutes be incorporated into the design of the building, signage on how to use the chutes is to be located prominently next to the chute;
- (m) Operation, maintenance and cleaning of the garbage compactor and associated equipment is the responsibility of the strata management or body corporate and not of Council;
- (n) Maximum compaction ratio is 2:1;
- (o) Operation, maintenance and cleaning of the garbage chutes and associated waste cupboards, rooms, or equipment is the responsibility of the strata management or body corporate, and not of Council.

E. PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions shall be complied with prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifying Authority:

Building/Compliance

- 111. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.
- 112. Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Council with the occupation certificate.
- 113. The premises must not be utilised until an Occupation Certificate is issued by the PCA. Copies of all documents relied upon for the issue of the Occupation Certificate must be attached to the Occupation Certificate and registered with Council.

Cladding

- 114. Prior to issuing an occupation certificate the Principal Certifying Authority must be satisfied that suitable evidence has been provided to demonstrate that the external wall cladding material and system is consistent with the consent documentation, NCC and relevant Australian Standards.

Fire Safety Certificate

- 115. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the *Occupation Certificate*.

Access Report

116. A Compliance Certificate or other documentation deemed suitable to the PCA is to be submitted to the PCA prior to the issue of an Occupation Certificate, detailing compliance with the following:
- (a) Certification is to be obtained from a qualified access consultant certifying that the building has been constructed to meet the access criteria in accordance with the approved access report and that all recommendations have been adopted.

Lot Consolidation/Registration

117. All separate lots shall be consolidated. The applicant shall provide evidence that the linen plan for the required lot consolidation, endorsed by Council, has been registered with the Land Titles Office. This shall be provided to Council prior to the issue of an Occupation Certificate.

Design Verification Statement

118. In accordance with the Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Apartment Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA assessing the development, upon completion of all works subject of this consent and its accompanying CC. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
- (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
- (b) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the CC, having regard to the design principles set out in Part 2 of SEPP 65.

BASIX

119. Supporting documentation issued by a suitable qualified person who has installed or carried out the works associated with the BASIX commitments shall be submitted to Council.

Recommendations of Acoustic Report

120. A Compliance Certificate or other documentation deemed suitable to the PCA is to be submitted to the PCA prior to the issue of an Occupation Certificate, detailing compliance with the following:
- (a) Certification is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report and that all recommendations have been adopted.

Landscaping

121. Upon completion of the approved landscape works associated with the development and prior to the issue of any Occupation Certificate, an Implementation Report is to be submitted to the PCA attesting to the satisfactory completion of the landscape works in accordance with the approved landscape plan. The report is to be prepared by a suitably qualified person.

Liverpool City Council clearance – Roads Act/ Local Government Act

122. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Liverpool City Council.

Works as Executed

123. Prior to the issue of an Occupation Certificate, works-as-executed drawings and compliance documentation shall be submitted to the PCA in accordance with Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Council with notification of the issue of the Occupation Certificate where Council is not the PCA.

Structural Engineer Certificate

124. A Structural Engineer's construction certification of all structures is to be issued to the PCA prior to the issue of the Occupation Certificate.

Stormwater Compliance

125. Prior to the issue of an Occupation Certificate the PCA shall ensure that the on-site detention system, stormwater pre-treatment systems and the basement carpark pump-out system:

- (a) Has been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
- (b) Has met the design intent with regard to any construction variations to the approved design; and.
- (c) Any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system shall be provided as part of the works-as-executed drawings.

Restriction as to User and Positive Covenant

126. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the on-site detention system, stormwater pre-treatment system and the basement carpark pump-out system shall be registered on the title of the property.

The restriction as to user and positive covenant shall be in Liverpool City Council's

standard wording as detailed in Council's Design and Construction Guidelines and Construction Specification for Civil Works.

127. Prior to the issue of an Occupation Certificate, the following restriction as to user must be registered on the title of the property:

The hanging of washing, including any clothing, towels, bedding or other article of a similar type on any balcony is not to be visible from any street.

The restriction as to user may not be extinguished or altered except with the consent of Liverpool City Council.

128. Prior to the Issue of an Occupation Certificate, if no provision is to be made in the waste storage area for green waste bins to store garden waste from the property, then the following restriction as to user shall be placed on the title of the property at the applicant's expense, and this restriction cannot be altered or removed without Council's consent:

Liverpool City Council will not supply green (garden) waste removal services to this property, nor any waste bins associated with the removal of garden waste.

Basement Pump-out System

129. Stormwater runoff from the proposed driveway to the underground garage shall be via a pump-out system subject to the following conditions:
- (a) The pump-out system shall be independent of any gravity drainage lines except at the site property boundary inspection pit where a surface grated inlet pit shall be constructed, from which a connection may be permitted to the gravity stormwater system.
 - (b) Engineering details and manufacturer's specifications for pumps and switching system shall be submitted for approval prior to issue of construction certificate.
 - (c) An 88B positive covenant shall be placed on the property title. This requires the property owner to be responsible for the proper maintenance and repair of the abovementioned pumps, pipes and pit system. Council is the Authority benefited and the property owner is burdened by this restriction. Evidence of the creation of the positive covenant shall be forwarded to Council prior to the issue of an OC.

Roadworks

130. All roadworks and signposting is to be completed to Liverpool Council requirements, at no expense to Liverpool Council or Roads and Maritime Services.

Footpaths

131. Construction of 1.5m wide by 100mm thick (with one layer of SL72 reinforcing mesh) concrete path paving on one side of all residential access roads and both sides of all collector and distributor roads. Path paving will not be required in minor cul-de-sac with less than fifteen lots.

Rectification of Damage

132. Prior to the issue of an Occupation Certificate any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be rectified at no cost to Council.

Any rectification works within Service Road (Hoxton Park Road) will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

Service Providers

133. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to issue of Occupation Certificate.
134. Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.
135. Prior to the issue of an occupation certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with:
- (a) The requirements of the Telecommunications Act 1997;
 - (b) For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - (c) For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Garbage Services

136. The developer/owner of the site is to contact Liverpool Council- Waste Management Section to determine the required number of waste and recycle bins for the residential component of the development as well as servicing requirements. These waste and recycle bins are to be kept at all times within the residential waste storage rooms except before and after collection days. Waste and Recycle bins are to be returned to the storage rooms within 24 hours of collection.

Waste

137. All waste products associated with the use of the residential flat building are to be placed in containers and stored within the building.

F. GENERAL CONDITIONS

The following general conditions shall be complied with at all times:

Car Parking / Loading

- 138. A total of 24 off street residential and 2 visitor car parking spaces must be provided. 2 of the spaces must be designed and signposted/marked for the specific use of persons with a disability.
- 139. All parking areas shown on the approved plans must be used solely for this purpose.
- 140. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, including any garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with AS 2890.1 Parking Facilities – Off Street Car Parking.
- 141. All line marking and sign posting is to be maintained in good condition at all times, to the satisfaction of Council.

Landscaping

- 142. Landscaping shall be maintained in accordance with the approved plan, in a healthy state and in perpetuity by the existing or future owners and occupiers of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

Mail-boxes

- 143. The mailboxes must not be accessed by universal keys and must each have their own keys for private access.
- 144. Vegetation must not cover or obstruct natural surveillance to the mailboxes.

Noise and Environmental Emissions

- 145. The intruder alarm/s associated with the development shall only be permitted to operate in accordance with the requirements of Clause 53 of the Protection of the Environment Operations (Noise Control) Regulation 2000 under the POEO Act.

Waste Management

- 146. After the issue of the occupation certificate, but before occupants start to move in, Council must be contacted to arrange the delivery of the waste bins for the development.

Bins are to be presented to a designated waste collection point by contractors of the strata, bins will be emptied by Council's waste contractors, and the bins will be replaced promptly in the waste storage rooms.

The cleaning and maintenance routine of the bin storage area as detailed in the approved

waste management plan must be adhered to in the ongoing use of the building.

147. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties.
148. Waste bins must be stored in designated garbage areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of the building, and must not leave the site onto neighbouring public or private properties.
149. Bins must be moved from the waste room to the loading / unloading areas in the basement for collection by agents of the body corporate or strata management, or individual owners. The bins shall be collected from the loading / unloading area and returned as soon as possible after collection by the same persons.
150. Sufficient space shall be provided within each dwelling for the storage of a minimum of one day's waste and recycling.
151. The development is required to be serviced by a waste collection contractor, once in any one week.

Waste Storage Area

152. Any bin bays must be:
 - (a) Allocated with sufficient space within the bin bay to allow for access to all required bins by residents and waste collectors, as well as manoeuvring of bins within the bay and for the removal and return of bins by the waste collector;
 - (b) Provided with signage to be prominently displayed in each bin bay, or waste service room, as appropriate indicating that:
 - (c) Only recyclable materials accepted by Council are to be placed within the recycling bins;
 - (d) A phone number for arranging disposal of bulky items; and
 - (e) Maximum compaction ratio is 2:1.

Washing on Balconies

153. The hanging of washing, including any clothing, towels, bedding or other article of a similar type on any balcony shall not be visible from any street.

G. ADVISORY

- a) Section 8.2, 8.3, 8.4 & 8.5 allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- b) Under Section 8.7 & 8.10 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.
- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- e) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- f) In accordance with Section 8.8 and 8.10 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for designated development (including designated development that is integrated development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- g) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- h) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- i) "DIAL BEFORE YOU DIG"

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

- j) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

- k) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- l) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- m) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or applicant's agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.

ATTACHMENT 2: SECTION 7.11 CONTRIBUTION**CONTRIBUTIONS PURSUANT TO SECTION 7.11 OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT, 1979****Liverpool Contribution Plan 2018 (Established Areas)**

Note to the applicant: When remitting payment as specified in the Conditions of Consent to the approval, this Form must be submitted with your payment.

These figures have been calculated to the CPI March 2019 quarter and will be adjusted at the time of payment in accordance with the conditions of consent.

APPLICANT: BAINI DESIGN

LAND: 311-313 HOXTON PARK ROAD, CARTWRIGHT NSW 2168
LOT 668 DP 236792 AND LOT 669 DP 236792

PROPOSED DEVELOPMENT: DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A 4-STOREY RESIDENTIAL FLAT BUILDING CONTAINING 14 RESIDENTIAL APARTMENTS OVER 1 LEVEL OF BASEMENT CAR PARKING, AND ASSOCIATED LANDSCAPING AND CONSOLIDATION OF TWO LOTS INTO ONE LOT.

| <u>Facilities</u> | <u>Amount (\$)</u> | <u>Job No.</u> |
|-----------------------------------------|---------------------------|-----------------------|
| Liverpool Contributions Plan 200 | | |

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

29 July 2019

| | | |
|------------------------------------------|------------------------|---------------------|
| 9 | | |
| Whitlam Centre Extensions | \$1,871 | GL.10000001869.1011 |
| Central Library Extensions | \$1,270 | GL.10000001870.1011 |
| Powerhouse | \$1,082 | GL.10000001870.1011 |
| District Community Facilities | | |
| Central | \$1,707 | GL.10000001870.1009 |
| District Recreation | | |
| Central | \$6,329 | GL.10000001869.1009 |
| Local Recreation | | |
| Miller Area | \$25,318 | GL.10000001869.1009 |
| Administration | \$458 | GL.10000001872.1010 |
| <u>TOTAL</u> | <u>\$38,035</u> | |
| Check average per Lot or Dwelling | \$3,170 | |

ATTACHMENT 3: RMS Requirements



Transport
Roads & Maritime
Services

12 March 2018

Roads and Maritime Reference: SYD18/00201/01 (A21081003)
Council Ref: DA-118/2017

The General Manager
Liverpool City Council
Locked Bag 7064
LIVERPOOL BC NSW 1871

Attention: Marcus Jennejohn

Dear Ms Fishburn

**CONSTRUCTION OF RESIDENTIAL FLAT BUILDING – 311-313 HOXTON PARK ROAD,
CARTWRIGHT**

Reference is made to Council's correspondence dated 25 January 2018, regarding the abovementioned Application which was referred to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime has reviewed the submitted application and provides the following comments for Council's consideration in the determination of this application.

1. A strip of land has previously been dedicated as Public Road (Heathcote Road) by private subdivision (DP 208630), along the Heathcote Road frontage of the subject property, as shown by yellow colour on the attached Aerial – "X".

All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Heathcote Road boundary.

2. Council needs to give consideration to the future development of properties along the entire length of the Hoxton Park Road service lane, particularly when there is no rear access. Motorists entering these service lanes have nowhere to turn around other than in driveways and it is not clear how service vehicles will enter and exit this development. Therefore access issues for this development needs to be addressed and turning paths need to be provided confirming that vehicles can safely enter and exit the service lane.
3. Any increase in the number of dwellings, particularly the approval of medium density units, will see a significant cumulative increase in traffic volumes, parking problems, access issues and safety concerns particularly along a laneway that has not been designed for this type of development. As such, careful consideration should be given by Council to approving units where alternate access cannot be gained otherwise, as in this instance, the demands are going to exceed the capabilities of the service lane.

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 |
PO Box 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 13 22 13

LOCAL PLANNING PANEL REPORT

29 July 2019

4. It is unlikely that visitors will be attracted to park in the basement due to the tight constraints of the ramp and trade and service vehicles are unlikely to even fit down there. Additionally it is noted that the parking allocation does not meet Council's DCP by 1 space. Given Roads and Maritime would request "No Stopping" on the service road due to its width and on street parking is not an option, Council should be satisfied that adequate car parking is provided on-site for this development.

Any inquiries in relation to this Application can be directed to Malgy Coman on 8849 2413 or development.sydney@rms.nsw.gov.au.


Yours sincerely

RTimming

Rachel Cumming
Senior Land Use Assessment Coordinator
North West Precinct



ATTACHMENT 4: RFS Requirements

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-------------------------------------------------------------------------------------|
| <i>All communications to be addressed to:</i> | |  |
| Headquarters 15 Carter Street Lidcombe NSW 2141 | Headquarters Locked Bag 17 Granville NSW 2142 | |
| Telephone: 1300 NSW RFS e-mail: pes@rfs.nsw.gov.au | Facsimile: 8741 5433 | |
| <hr/> | | |
| The General Manager Liverpool City Council Locked Bag 7064 LIVERPOOL BC NSW 1871 | | Your Ref: DA-118/2017 Our Ref: D17/3277 DA17092009354 MA |
| <hr/> ATTENTION: Marcus Jennejohn | | 9 October 2017 |
| Dear Sir/Madam | | |
| Integrated Development for 669 & 668/236792 313 & 311 Hoxton Park Road Cartwright NSW 2168 | | |
| <p>I refer to your letter dated 15 September 2017 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.</p> <p>This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:</p> | | |
| Asset Protection Zones | | |
| <p>The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:</p> | | |
| <ol style="list-style-type: none">1. At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. | | |
| Water and Utilities | | |
| <p>The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:</p> | | |
| ID:109354/102952/5 | | Page 1 of 2 |

2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

Landscaping

4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Matthew Apps on 1300 NSW RFS.

Yours sincerely



Nika Fomin
Manager Planning and Environment Services (East)

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

| | |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Item no: | 2 |
| Application Number: | DA-532/2017 |
| Proposed Development: | Demolition of existing structures and construction of a 5-storey residential flat building containing 23 apartments (4 x 1-bedroom, 17 x 2-bedroom & 2 x 3-bedroom) over 1 level of basement car parking and associated landscaping and consolidation of three lots into one lot. |
| Property Address | 11-15 Woolnough Place, Cartwright |
| Legal Description: | Lots 387, 388, and 389 DP 237249 |
| Applicant: | Melmismak First Properties Pty Ltd |
| Land Owner: | Melmismak First Properties Pty Ltd |
| Cost of Works: | \$6,700,005 |
| Recommendation: | Refusal |
| Assessing Officer: | Peter Oriehov |

2. EXECUTIVE SUMMARY

Council has received a Development Application (DA No. 532/2017) seeking consent for the demolition of existing structures and the construction of a 5-storey residential flat building containing 23 apartments (4 x 1-bedroom, 17 x 2-bedroom & 2 x 3-bedroom) over 1 level of basement car parking and associated landscaping, and the consolidation of three lots into one lot, at 11-15 Woolnough Place, Cartwright.

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

The development application was notified in accordance with the Liverpool Development Control Plan 2008 from 22 August 2017 to 6 September 2017. No submissions were received as a result of the notification.

The proposed development is inconsistent with the objectives and development standards of the Liverpool Local Environmental Plan 2008 (LLEP) and does not comply with the provisions of the Liverpool Development Control Plan 2008 (LDCP). The proposal is also inconsistent with the provisions of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the design requirements of the Apartment Design Guide.

The key issues associated with the proposal relate to:

- The proposed development does not comply with the development standard for maximum building height in Clause 4.3 of LLEP 2008 and the written request made under Clause 4.6 of LLEP 2008 in relation to the contravention of the development standard is not consistent with the revised proposal.

- The floor space ratio of the proposed development is excessive and does not comply with the development standard for maximum floor space ratio in Clause 4.4 of LLEP 2008.
- The proposed development is inconsistent with SEPP 65 Design Principles, Part 2F (Building Separation) of the Apartment Design Guide.
- The proposed development is inconsistent with SEPP 65 Design Principles, Part 2C (Building height), 2D (Floor Space Ratio), 2F (Building Separation), 2H (Side and Rear setbacks), 3F (Visual Privacy), 3J (Bicycle and car parking), and 4N (Roof Design) of the Apartment Design Guide.
- The proposed development is inconsistent with Section 20 of Part 1 of LDCP 2008. The proposed development is also inconsistent with Sections 3 and 9 of Part 3.7 of the LDCP 2008.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements, as the development constitutes a *sensitive development* in that it is a development to which *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development* applies.

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

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lots 387, 388, and 389 in DP 237249, 11-15 Woolnough Place, Cartwright. An aerial photograph of the subject site is provided below.



Figure 1: Aerial photograph of the site.

The site has a dual frontage to Woolnough Place to the north and Hoxton Park Road to the south with a service lane providing access to Hoxton Park Road. However it is noted the primary vehicle access and the primary frontage is via Woolnough Place. The site has frontages of 37.665m to Woolnough Place, and 51.815m to Hoxton Park Road and a site area of 1,724m². It is a north-south orientated allotment. Currently located on the site are three detached residential dwellings with associated outbuildings.

2.2 The locality

The area is characterised by a mix of existing low density housing and both older walk-up residential flat buildings and newer high density residential development. The locality is undergoing a transition to higher density residential development as a result of the R4 High Density Residential zoning and the desired future character of the area. To the immediate east are detached dwellings and to the immediate west are vacant lots. To the south on the opposite side of Hoxton Park Road is existing commercial/industrial development.

An aerial photograph of the locality is provided below:



Figure 2: Aerial Photograph of the Locality.

3. BACKGROUND/HISTORY

- A pre-lodgement meeting (PL-13/2017) held with Council 22 February 2017.
- The subject DA lodged with Council on 14 July 2017.
- The application considered by Council's Design Excellence Panel on 19 October 2017.
- Application deferred on 26 October 2017 requesting the applicant to address the issues raised by the DEP relating to communal open space, landscaping and storage.
- Amended plans received 2 February 2018.

4. DETAILS OF THE PROPOSAL

Demolition of existing structures and construction of a 5-storey residential flat building containing 23 apartments (4 x 1-bedroom, 17 x 2-bedroom & 2 x 3-bedroom) over 1 level of basement car parking and associated landscaping and consolidation of three lots into one lot. Details of the proposed development can be summarised as follows:

Basement Level

- 39 car spaces, including 1 accessible, are provided on the basement level. This level is accessible for vehicles through a ramp located to the north western side of the site, a central lift core and fire stairs to the north-west corner and east end of the site.
- Storage areas are located to the north-west corners and range from 3.71m³ to 7.44m³.

Ground Floor

- 6 units are located on the ground floor in the following distribution:
 - 2 x 2-bedroom units
 - Unit 1.01 – 84.88m²
 - Unit 1.02 – 82.48m²
 - 4 x 1-bedroom units
 - Unit 1.03 – 56.24m²
 - Unit 1.04 – 59.62m²
 - Unit 1.05 – 60.60m²
 - Unit 1.06 – 51.74m²
- Each unit is allocated private open space and have rear access directly from a pathway that circulates the development to their respective courtyard/terrace.
- Pedestrian access to the site is provided from both Woolnough Place and the service lane off Hoxton Park Road.
- A central lift core in the lobby provides access to all floors of the building. Three sets of fire stairs are accessible from the ground floor, including a central staircase that provides access to upper levels and the roof, and two providing access to the basement in the north-west corner and east end of the site.
- A communal open space is provided at the front of the site, oriented to the north. This space includes deep soil, landscaped area, and a BBQ area.
- The vehicular access is via a double width driveway from Woolnough Place.
- A bin room is located off the central lobby area in a self-contained room accessed externally.
- 8 bicycle storage spaces are provided.

First to Third Floor

- 5 x 2-bedroom units per level are located on the first through third floor with the following unit sizes:

| First Floor | Second Floor | Third Floor |
|---------------------------------|---------------------------------|---------------------------------|
| Unit 2.01 – 84.87m ² | Unit 3.01 – 84.88m ² | Unit 4.01 – 84.88m ² |
| Unit 2.02 – 82.05m ² | Unit 3.02 – 82.05m ² | Unit 4.02 – 82.05m ² |
| Unit 2.03 – 83.33m ² | Unit 3.03 – 83.33m ² | Unit 4.03 – 83.28m ² |
| Unit 2.04 – 91.83m ² | Unit 3.04 – 91.83m ² | Unit 4.04 – 91.83m ² |

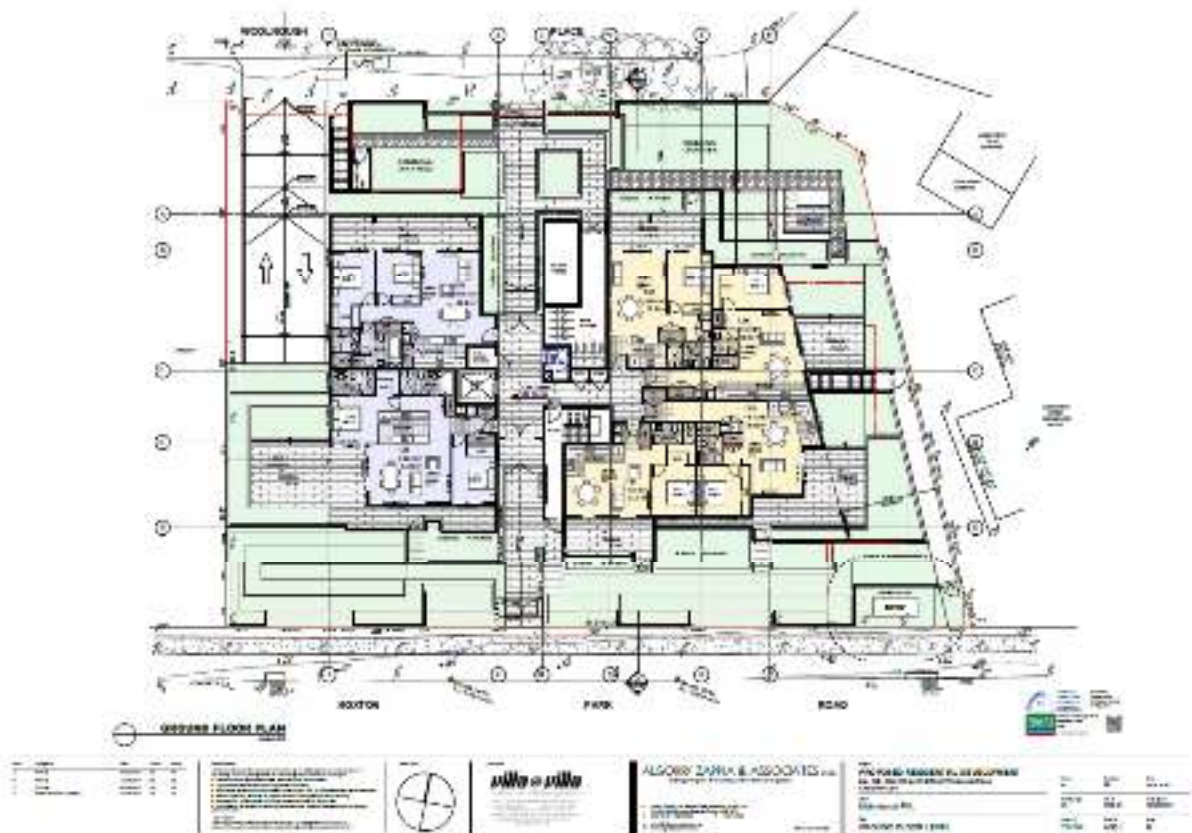


Figure 4: Proposed Ground Floor Plan



Figure 5: View of the South and East Elevations of the Proposal



Figure 6: View of the North and West Elevations of the Proposal

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development and associated Apartment Design Guide;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development; and
 - Part 3.7: Residential Flat Buildings in the R4 zone

Contributions Plans

- Liverpool Contributions Plan 2009 applies to all development pursuant to Section 7.11 of the EP&A Act.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration as prescribed by Section 4.15 of the EP&A Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

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

(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and the Apartment Design Guide

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

| Principle | How does the development address the principles? |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Principle 1: Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p> | <p>It is noted that the area is in transition from low density housing to high density housing. However, the building type proposed is considered to be an overdevelopment of the site, has not been designed in a manner that is consistent with the desired character of high density in the locality.</p> <p>It is considered that the proposal is inappropriate for the context and will set a poor precedent for the locality that is inconsistent with the desired future character of the land.</p> |
| <p>Principle 2: Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type,</p> | <p>Although the built form of the proposal was considered by the DEP and found to be satisfactory, the bulk and scale of the proposed development is inconsistent with the controls set out in the LLEP 2008, ADG and LDCP 2008 and therefore is considered to be inconsistent with the desired future character of the locality and streetscape.</p> <p>Accordingly, it cannot be determined that the built form and scale of the development is consistent with the design</p> |

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| <p>articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> | <p>principles of SEPP 65.</p> |
| <p>Principle 3: Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p> | <p>The development does not comply with Council's FSR requirement and the building separation requirement of the ADG. Due to the extent of non-compliances it cannot be determined that the development would achieve a density that is appropriate for the site.</p> <p>Accordingly, it cannot be determined that the built form and scale of the development is consistent with the design principles of SEPP 65.</p> |
| <p>Principle 4: Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</p> | <p>The building has been designed to achieve a 6.1 star NatHERS Rating. The building design reflects an efficient use of natural resources through effective cross-flow ventilation within 87% of units and ensuring adequate solar access to 95% of units.</p> <p>The design of the proposed development is considered to appropriately respond to the northern aspect. Also, a majority of the apartments will achieve natural ventilation requirements of the ADG.</p> <p>Accordingly, it is considered that the development has been designed to achieve sustainably environmental and social outcomes for the locality.</p> |
| <p>Principle 5: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and</p> | <p>The common and private open spaces, will be landscaped for residents' amenity, featuring significant landscaping within the perimeter of the site, including large trees at both street frontages of the site.</p> <p>Communal open space is provided to greater than 30% of the site area and is appropriately landscaped and accessible to provide an attractive useable environment integrated with functional gravel areas and a BBQ area.</p> <p>Deep soil areas have been incorporated throughout the perimeter of the site, to allow for plantings along the boundaries and providing for visual benefit to the street frontages.</p> <p>The proposed landscaped areas will aid in reducing the scale of the building and integrate the development with the</p> |

| | |
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| <p>soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</p> | <p>surrounding environment. A selection of native species have been incorporated to preserve natural habitats and green networks.</p> |
| <p>Principle 6: Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility</p> | <p>The development does not provide adequately separation distance between the proposed building and the side boundary to the west of the site. The proposed development does not achieve compliance with the requirements of ADG, where the building separation to the 5th storey provides a separation of 7.937m is provided in lieu of the 9m required.</p> <p>Given the above, the proposed development is considered to result in sub-optimal amenity outcome for the development and neighbouring dwellings in terms of privacy.</p> |
| <p>Principle 7: Safety</p> <p>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p> | <p>Proposed orientation of building and floor layouts provide natural passive surveillance of public domain and common open space.</p> <p>Appropriate security arrangements are incorporated at pedestrian entry lobbies. All pedestrian areas are designed to provide clear sight lines and minimise potential for 'hiding places'. The main entry, lift lobby and hallways will be well lit for better visibility at night.</p> <p>Fences and gates are of a height and rigidity to provide visual privacy and physical security to common open spaces and private areas.</p> |
| <p>Principle 8: Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</p> | <p>The proposal includes a variety of different housing typologies that will be offered in different sizes and layouts which will extend the diversity of residential accommodation available in the area.</p> <p>Apartment mix:</p> <ul style="list-style-type: none"> 1 bedroom units: 4 – (17.4%) 2 bedroom units: 17 – (73.9%) 3 bedroom units: 2 – (8.7%) |

| | |
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| <p>Principle 9: Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p> | <p>An appropriate composition of building elements, materials, textures, and colours has been utilised to reflect the building's layout and structure. As noted by the DEP, a considerable level of design excellence has been achieved both internally and externally.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

| Provisions | Comment |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PART 2 DEVELOPING THE CONTROLS | |
| 2C Building Height | |
| Helps shape the desired future character and defines the relationship between buildings and public and private spaces in terms of physical and visual amenity. It informs the maximum number of storeys especially for residential development. | Refer to detailed assessment under LLEP 2008. |
| 2D Floor Space Ratio | |
| Helps ensure that optimum capacity and desired density for the site and local area is achieved. It also provides opportunities for building articulation within a building envelope. | Refer to detailed assessment under LLEP 2008. |
| 2E Building Depth | |
| Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation | <p>Complies.</p> <p>The proposal responds to the general principles of building depth design in ensuring the minimum requirement for solar access and natural ventilation for the development are met.</p> |
| 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"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms | <p>Does not comply</p> <p><u>Up to four storeys</u></p> <p>The proposal provides a compliant building separation distance for up to four storeys of the residential flat building.</p> <p><u>Five to eight storeys</u></p> |

| | |
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| <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none">• 18m between habitable rooms/balconies• 12m between habitable and non-habitable rooms• 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none">• 24m between habitable rooms/balconies• 18m between habitable and non-habitable rooms• 12m between non-habitable rooms | <p><i>The proposed development does not achieve compliance with the requirements of ADG, where the building separation to the 5th storey provides a separation of 7.937m is provided in lieu of the 9m required.</i></p> <p><u>Nine storeys and above (25m)</u></p> <p>Nothing over 25m.</p> |
| 2G Street setbacks | |
| <p>Sets out the objectives of the front setback in ensuring a coherent threshold between the public and private realms and to promote appropriate entries points and establishing landscaped areas and a passive surveillance and outlook to the street.</p> | <p>Complies</p> <p>The proposed development is consistent with the primary controls with respect to street setbacks to both Woolnough Place and Hoxton Park Road.</p> <p>Woolnough Place setback: 7.6m to 1.28m Hoxton Park Road setback: 5m</p> |
| 2H Side and rear setbacks | |
| <p>Sets out setbacks to boundaries relative to the height of buildings in helping to achieve amenity for development and buildings on adjacent sites, and also providing for open space areas and separation between buildings.</p> | <p>Does not comply</p> <p>The proposed development does not achieve compliance with the requirements of ADG, where the building separation to the 5th storey provides a separation of 7.937m is provided in lieu of the 9m required.</p> |
| PART 3 SITING THE DEVELOPMENT | |
| 3A Site Analysis | |
| <p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p> | <p>Complies</p> <p>A detailed site analysis plan has been provided.</p> |
| 3B Orientation | |
| <p>3B-1. Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> | <p>Complies</p> <p>The proposed building has been designed to address both Woolnough Place and Hoxton Park Road through the provision of pedestrian and vehicle access points. All ground floor units are provided with private entries.</p> <p>The site is provided with a north-south orientation, and the majority of units have been orientated to maximise solar access.</p> |
| <p>3B-2. Overshadowing of neighbouring properties is minimised during mid-winter</p> | |
| 3C Public Domain Interface | |
| <p>3C-1 Transition between private and public domain is achieved without compromising safety and security</p> | <p>Complies</p> <p>Living areas and balconies are orientated towards the public domain with defined physical separation elements to ensure a safe and secure transition</p> |
| <p>3C-2 Amenity of the public domain is retained</p> | |

| | | | | | | | | | | |
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| and enhanced | between the private and public domain. | | | | | | | | | |
| 3D Communal and public open space | | | | | | | | | | |
| 3D-1. An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter) | Complies Minimum 431sqm (25%) required. The proposal incorporates a generous area of 540sqm (31.3%) communal open space. This is distributed to the north and south along respective street frontages. The main north facing area will receive more than 2 hours direct sunlight in mid-winter. The multiple landscape elements provide various spaces for residents to engage and enjoy. Communal garden beds, fixed seating, and a BBQ area are provided within the development. The ground floor communal open space areas are accessible and visible from habitable rooms and private open space areas. | | | | | | | | | |
| 3D-2. Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting | | | | | | | | | | |
| 3D-3. Communal open space is designed to maximise safety | | | | | | | | | | |
| 3D-4. Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood | | | | | | | | | | |
| 3E Deep soil zones | | | | | | | | | | |
| Site Area >1500m ² Min. Dimensions 6m Deep soil zone (% of site area) - 7% | Complies Minimum 120.7sqm (7%) required. The proposal provides 186.5sqm (10.8%) deep soil landscaping adjacent to the front and rear boundaries. The deep soil areas are a minimum of 6m in dimensions. | | | | | | | | | |
| 3F Visual Privacy | | | | | | | | | | |
| Requirement: <table><tr><td>Building Height</td><td>Habitable Rooms and Balconies</td><td>Non Habitable Rooms</td></tr><tr><td>Up to 12m (4 Storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 Storeys)</td><td>9m</td><td>4.5m</td></tr></table> | Building Height | Habitable Rooms and Balconies | Non Habitable Rooms | Up to 12m (4 Storeys) | 6m | 3m | Up to 25m (5-8 Storeys) | 9m | 4.5m | Does not comply <u>Up to four storeys</u> The proposal provides a compliant building separation distance for up to four storeys of the residential flat building. <u>Five to eight storeys</u> The proposed development does not achieve compliance with the requirements of ADG, where the building separation to the 5 th storey provides a separation of 7.937m is provided in lieu of the 9m required. <u>Nine storeys and above (25m)</u> Nothing over 25m. |
| Building Height | Habitable Rooms and Balconies | Non Habitable Rooms | | | | | | | | |
| Up to 12m (4 Storeys) | 6m | 3m | | | | | | | | |
| Up to 25m (5-8 Storeys) | 9m | 4.5m | | | | | | | | |
| 3G Pedestrian access and entries | | | | | | | | | | |
| 3G-1. Building entries and pedestrian access connects to and addresses the public domain | Complies | | | | | | | | | |

| 3G-2. Access, entries and pathways are accessible and easy to identify | Building access areas, entries and pathways are clearly visible from the public domain. The entrance to the residential foyers is easily identifiable and distinguishable. Entries and pathways from the front of the building and to the communal open areas are accessible. | | | | | | | | | | | | | | |
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| 3G-3. Large sites provide pedestrian links for access to streets and connection to destinations | | | | | | | | | | | | | | | |
| 3H Vehicle Access | | | | | | | | | | | | | | | |
| Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes | Complies The proposal provides vehicular access via Woolnough Place which is considered acceptable. | | | | | | | | | | | | | | |
| 3J Bicycle and Car Parking | | | | | | | | | | | | | | | |
| 3J-1. Minimum car parking requirement for residents and visitors to comply with Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. | Does not comply As per LDGP 2008: <table><tr><th colspan="2">Table 13 Car Parking, Service and Loading Provisions – Residential Flat Buildings</th></tr><tr><th>Requirement</th><th>Proposed</th></tr><tr><td>1 space per small dwelling or 1 bedroom – 4 Spaces</td><td>4 spaces provided</td></tr><tr><td>1.5 spaces per medium dwelling or 2 bedrooms – 25.5 (therefore, 26 spaces)</td><td>25 spaces provided. Shortfall of 1 car parking space</td></tr><tr><td>2 spaces per large dwelling or 3 or more bedrooms – 4 spaces.</td><td>4 spaces provided</td></tr><tr><td>1 visitor car space for every 4 dwellings or part thereof – 5.75 (therefore, 6 spaces required)</td><td>6 visitors spaces provided</td></tr><tr><td>Service access for removalists and garbage servicing</td><td>Parking for service vehicles provided.</td></tr></table> Based on the above the total number of car parking spaces required is 40 spaces. However, the total number of car parking spaces proposed is 39 which has a shortfall of one (1) car parking space. | Table 13 Car Parking, Service and Loading Provisions – Residential Flat Buildings | | Requirement | Proposed | 1 space per small dwelling or 1 bedroom – 4 Spaces | 4 spaces provided | 1.5 spaces per medium dwelling or 2 bedrooms – 25.5 (therefore, 26 spaces) | 25 spaces provided. Shortfall of 1 car parking space | 2 spaces per large dwelling or 3 or more bedrooms – 4 spaces. | 4 spaces provided | 1 visitor car space for every 4 dwellings or part thereof – 5.75 (therefore, 6 spaces required) | 6 visitors spaces provided | Service access for removalists and garbage servicing | Parking for service vehicles provided. |
| Table 13 Car Parking, Service and Loading Provisions – Residential Flat Buildings | | | | | | | | | | | | | | | |
| Requirement | | Proposed | | | | | | | | | | | | | |
| 1 space per small dwelling or 1 bedroom – 4 Spaces | | 4 spaces provided | | | | | | | | | | | | | |
| 1.5 spaces per medium dwelling or 2 bedrooms – 25.5 (therefore, 26 spaces) | | 25 spaces provided. Shortfall of 1 car parking space | | | | | | | | | | | | | |
| 2 spaces per large dwelling or 3 or more bedrooms – 4 spaces. | | 4 spaces provided | | | | | | | | | | | | | |
| 1 visitor car space for every 4 dwellings or part thereof – 5.75 (therefore, 6 spaces required) | | 6 visitors spaces provided | | | | | | | | | | | | | |
| Service access for removalists and garbage servicing | Parking for service vehicles provided. | | | | | | | | | | | | | | |
| 3J-2. Parking and facilities are provided for other modes of transport | | | | | | | | | | | | | | | |
| 3J-3. Car park design and access is safe and secure | | | | | | | | | | | | | | | |
| 3J-4. Visual and environmental impacts of underground car parking are minimised | | | | | | | | | | | | | | | |
| 3J-5. Visual and environmental impacts of on-grade car parking are minimised | | | | | | | | | | | | | | | |
| 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised | | | | | | | | | | | | | | | |
| PART 4 DESIGNING THE BUILDING | | | | | | | | | | | | | | | |
| 4A Solar and Daylight Access | | | | | | | | | | | | | | | |
| 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. | Complies A total of 95% (22 of 23) of apartments achieve minimum of two hour solar access between 9am and 3pm in mid-winter. A maximum of 4.3% of apartments receive no solar access on June 21 between 9am and 3pm. | | | | | | | | | | | | | | |
| 2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. | | | | | | | | | | | | | | | |

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| 4A-2 Daylight access is maximised where sunlight is limited | Complies The site provides ample daylight access to apartments given the orientation of the site. |
| Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months | |
| 4B Natural Ventilation | |
| 4B-1 All habitable rooms are naturally ventilated to create healthy indoor living environments. 1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. | Complies A total of 87% of apartments will receive natural cross ventilation. Overall apartment depths do not exceed 12-18m. |
| 4B-2 The layout and design of single aspect apartments maximises natural ventilation | |
| 4B-3 The number of apartments with natural cross ventilation is maximised | |
| 4C Ceiling Heights | |
| 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Minimum ceiling height for apartment and mixed use buildings Habitable Rooms 2.7m Non-Habitable 2.4m If located in mixed use areas 3.3m for ground and first floor | Complies All floors achieve a minimum floor-to-ceiling height of 2.7m. |
| 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms. | |
| 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building | The floor to ceiling heights at ground floor and above is consistent with the buildings residential use. |
| 4D Apartment Size and Layout | |
| 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity 1. Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none">• Studio 35m²• 1 bedroom 50m² | Complies All units exceed the required minimum areas. Unit sizes are distributed as follows: Ground floor 2 x 2-bedroom units (82.48 m ² to 84.88 m ²) 4 x 1-bedroom units (51.74 m ² to 60.60 m ²) |

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| <ul style="list-style-type: none"> • 2 bedroom 70m² • 3 bedroom 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p> | <p>First to Third Floor 5 x 2-bedroom units (82.05m² to 91.83m²)</p> <p>Fourth Floor 2 x 3-bedroom units (103.72 m² and 107.06 m²)</p> <p>All habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room.</p> |
| <p>4D-2 Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> | <p>Complies</p> <p>The scheme complies with this requirement, noting that the proposal incorporates open plan layouts.</p> <p>No open plan layout has a habitable room depth more than 8m from a window.</p> |
| <p>4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p> | <p>Complies</p> <p>All master bedrooms and other bedrooms achieve the required areas and the minimum dimensions.</p> <p>All apartments achieve the minimum dimension requirements to living/dining rooms.</p> <p>Cross through apartments are more than 4m in width</p> |
| <p>4E Private Open Space and Balconies</p> | |

| <p>4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>1. All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Min. Depth</th></tr><tr><td>Studio</td><td>4m²</td><td></td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p> | Dwelling type | Minimum Area | Min. Depth | Studio | 4m ² | | 1 bedroom | 8m ² | 2m | 2 bedroom | 10m ² | 2m | 3+ bedroom | 12m ² | 2.4m | <p>Complies</p> <p>All apartments comply with the minimum numeric requirements for the area and depth of balconies and POS.</p> <p>Private open space is directly accessible from the living area of each dwelling and can be used in conjunction with these.</p> <p>The balconies are integrated into the overall design of the development and form part of the detail of the building. All balconies include balustrades of a sufficient height to ensure safety is maintained.</p> |
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| Dwelling type | Minimum Area | Min. Depth | | | | | | | | | | | | | | |
| Studio | 4m ² | | | | | | | | | | | | | | | |
| 1 bedroom | 8m ² | 2m | | | | | | | | | | | | | | |
| 2 bedroom | 10m ² | 2m | | | | | | | | | | | | | | |
| 3+ bedroom | 12m ² | 2.4m | | | | | | | | | | | | | | |
| <p>4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents</p> | | | | | | | | | | | | | | | | |
| <p>4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p> | | | | | | | | | | | | | | | | |
| <p>4E-4 Private open space and balcony design maximises safety</p> | | | | | | | | | | | | | | | | |
| <p>4F Common circulation and spaces</p> | | | | | | | | | | | | | | | | |
| <p>4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>1. The maximum number of apartments off a circulation core on a single level is eight.</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p> | <p>Complies</p> <p>One circulation area is proposed, with a maximum of 6 units serviced on Ground Level, 5 units serviced on Levels 1 – 3, and 2 units serviced on Level 4.</p> <p>The building is less than 10 storeys height.</p> | | | | | | | | | | | | | | | |
| <p>4F-2 Common circulation spaces promote safety and provide for social interaction between residents</p> | <p>The proposal incorporates a common foyer/lobby area.</p> | | | | | | | | | | | | | | | |
| <p>4G Storage</p> | | | | | | | | | | | | | | | | |
| <p>4G-1 Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedroom</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p> | Dwelling Type | Storage volume | Studio | 4m ³ | 1 bedroom | 6m ³ | 2 bedroom | 8m ³ | 3+ bedroom | 10m ³ | <p>Complies</p> <p>The proposal provides for storage within each apartment and on the basement levels. These areas comply with the minimum volume specified in the ADG.</p> | | | | | |
| Dwelling Type | Storage volume | | | | | | | | | | | | | | | |
| Studio | 4m ³ | | | | | | | | | | | | | | | |
| 1 bedroom | 6m ³ | | | | | | | | | | | | | | | |
| 2 bedroom | 8m ³ | | | | | | | | | | | | | | | |
| 3+ bedroom | 10m ³ | | | | | | | | | | | | | | | |

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| 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments | Complies Storage is provided within each apartment, and there are 23 spaces allocated for storage within the basement. |
| 4H Acoustic Privacy | |
| 4H-1 Noise transfer is minimised through the siting of buildings and building layout | Complies Noise transfer has been minimised through the siting of the building and adequate setbacks. |
| 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments | The apartments have been configured so as to mitigate noise impacts. |
| 4J Noise Pollution | |
| 4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings | Complies Noise attenuation measures will be required for potential road noise impacts from Hoxton Park Road. |
| 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission | |
| 4K Apartment Mix | |
| 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future. | Complies The proposal includes a variety of different housing typologies that will be offered in different sizes and layouts which will extend the diversity of residential accommodation available in the area. Apartment mix: 1 bedroom units: 4 – (17.4%) 2 bedroom units: 17 – (73.9%) 3 bedroom units: 2 – (8.7%) |
| 4K-2 The apartment mix is distributed to suitable locations within the building | |
| 4L Ground Floor Apartments | |
| 4L-1 Street frontage activity is maximised where ground floor apartments are located | Complies Ground floor apartments face either Woolnough Place or Hoxton Park Road and provide opportunities for passive surveillance. |
| 4L-2 Design of ground floor apartments delivers amenity and safety for residents | |
| 4M Facades | |
| 4M-1 Building facades provide visual interest along the street while respecting the character of the local area | Complies Building façades are articulated and modulated through the use of balconies, varying windows, and recessed elements. Ground floor building entries are clearly defined. |
| 4M-2 Building functions are expressed by the facade | |
| 4N Roof Design | |
| 4N-1 Roof treatments are integrated into the building design and positively respond to the street | Does not comply The development results in a non-compliance with |

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| 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised. | the height controls of the LLEP 2008. Additionally, there are no discernible sustainability features incorporated into the roof design of the building. Accordingly, it has not been demonstrated that the roof design meets the objectives of the ADG. |
| 4N-3 Roof design incorporates sustainability features | |
| 4O Landscape Design | |
| 4O-1 Landscape design is viable and sustainable | Complies The landscape plan incorporates sustainable environmental design and landscaping to the site. The landscape design maximises the use of drought tolerant and native species. |
| 4P Planting on Structures | |
| 4P-1 Appropriate soil profiles are provided | Complies As demonstrated in the Landscape Plan the species selected are appropriate for the soil depths and volumes. |
| 4P-2 Plant growth is optimised with appropriate selection and maintenance | |
| 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces | |
| 4Q Universal Design | |
| 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members | Complies Apartment layouts are generously apportioned and flexible. |
| 4Q-2 A variety of apartments with adaptable designs are provided | |
| 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs | |
| 4R Adaptive Reuse | |
| 4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place | Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building. |
| 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse | |
| 4S Mixed Use | |
| 4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement | Not Applicable The DA does not propose a mixed use development. |
| 4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents | |
| 4T Awnings and Signage | |
| Awnings are well located and complement and integrate with the building design. | Complies Awnings are provided to entries for wet weather protection. |
| Signage responds to the context and desired streetscape character | Not applicable. No signage proposed as part of the development. |
| 4U Energy Efficiency | |

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| 4U-1 Development incorporates passive environmental design | Complies The BASIX Certificate provided with the application identifies that the proposed development achieves the required levels of thermal comfort. The proposed development also satisfies natural ventilation and solar access criteria. |
| 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer | |
| 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation | |
| 4V Water Management and Conservation | |
| 4V-1 Potable water use is minimised | Complies Potable water use will be minimised where possible. The BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements. Stormwater will be treated on site, prior to being discharged into Council's stormwater system. |
| 4V-2 Urban stormwater is treated on site before being discharged to receiving waters | |
| 4V-3 Flood management systems are integrated into site design | |
| 4W Waste Management | |
| 4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. | Complies The residential waste facilities are incorporated into the design of development and are not readily visible from the public domain. A separate residential waste room is provided on the ground level. |
| 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling | |
| 4X Building Maintenance | |
| 4X-1 Building design detail provides protection from weathering | Complies The proposal incorporates overhangs to protect walls and openings. The proposed external walls are constructed of robust and durable materials. |

(b) State Environmental Planning Policy No. 55 – Remediation of Land

Pursuant to Clause 7 of SEPP 55, 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.

Although it is unlikely that the land would be contaminated, given its previous residential use, Council must consider this and the likelihood of any contamination on-site and the possible impacts which may arise from any works associated with this proposal.

A preliminary site investigation prepared by Ground Technologies (report no: GTE1224) dated 1st June 2017, was submitted by the applicant. Council's Environmental Health Section reviewed this investigation and provided the following comments:

The objective of the Stage 1 Contamination Report was to ascertain whether the site presents a risk to human health and/or the environment arising from any past/present activities at the site or neighbouring properties.

The assessment was conducted in accordance with NSW EPA guidelines on contaminated sites and carried out scope of works. The assessment also includes historical land use search, title search, perusal of POEO register and contaminated land register.

Ground Technologies conclude that the site is suitable for development for “residential” use and no remediation is required.

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

| Clause 7 - Contamination and remediation to be considered in determining development application | Comment |
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| (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 | A preliminary site investigation prepared by Ground Technologies (report no: GTE1224) dated 1st June 2017, was submitted by the applicant. The report concludes that the site is suitable for development for “residential” use and no remediation is required. |
| (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 | See 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. |

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55, therefore, it is considered that the subject site is suitable for the proposed development.

(c) State Environmental Planning Policy (Infrastructure) 2007

Pursuant to Clause 102 – Impact of road noise or vibration on non-road development of SEPP (Infrastructure) 2007, the following shall be addressed:

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*

- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) *If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (4) *In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.*

The site is located in proximity to Hoxton Park Road which is a classified road. The traffic volume maps for Infrastructure SEPP indicates that Hoxton Park Road has a traffic volume of more than 40,000 vehicles. As the proposal is for a residential flat building the consent authority is required to consider the impacts of traffic noise on the development.

The application was accompanied by an Acoustic Report, in which the existing background noise level to the site was measured at the front of the site which represent the levels of external road traffic noise intrusion into the development site.

The report concluded that external noise intrusion into the proposed development can be controlled with appropriate mitigation measures which include upgraded glazing to all sleeping and other habitable areas with external glazed windows. Additionally, the report recommends various construction materials at certain thickness for the walls and roof of the development.

The report also recommends that a qualified acoustic consultant be engaged during the construction phase of the project when details of mechanical plant and equipment and noise emission levels are available, to review the potential environmental noise impact from the development.

Conditions of consent have also been imposed to ensure compliance with the recommendations of this report and with the nominated noise criteria so as to ensure compliance with the SEPP (Infrastructure) 2007.

(d) State Environmental Planning Policy (BASIX) 2004

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

A BASIX Certificate has been submitted for the proposed development. The proposal is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

(e) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (Deemed SEPP)

The subject land is located within the Georges River Catchments and as such the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River applies to the application.

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application, planning principles are to be applied (Clause 7(b)). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 8 and Clause 9), and compliance with such is provided within Attachment 3 of this report.

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to appropriate sediment and erosion controls being implemented during construction.

(f) Liverpool Local Environmental Plan 2008

(i) Zoning

The proposed development is appropriately defined by the standard instrument as “residential flat building” which means *a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.*

A Residential Flat Building is identified as a permitted land use with consent within the R4 High Density Residential Zone under Liverpool Local Environment Plan 2008.

(iii) Objectives of zone

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 proposal generally satisfies the above objectives of the R4 zone as follows:

- It will provide for housing needs within a high density residential environment. The area has been zoned as High Density Residential and is undergoing transition from low density to high density residential development and it is therefore envisioned that redevelopment of the area will result in the establishment of other residential flat buildings within close vicinity of the subject site.
- It will contain a number of different sized units, thereby providing a variety of housing types within a high density residential environment;

- It will not hinder the opportunity for other land uses that provide facilities or services to meet the day to day needs of residents.
- The site is in the vicinity of transport facilities which include bus services, cycle ways and other forms of transport access.
- It does not result in the fragmentation of land that would prevent future high density residential development.

Zoning Map

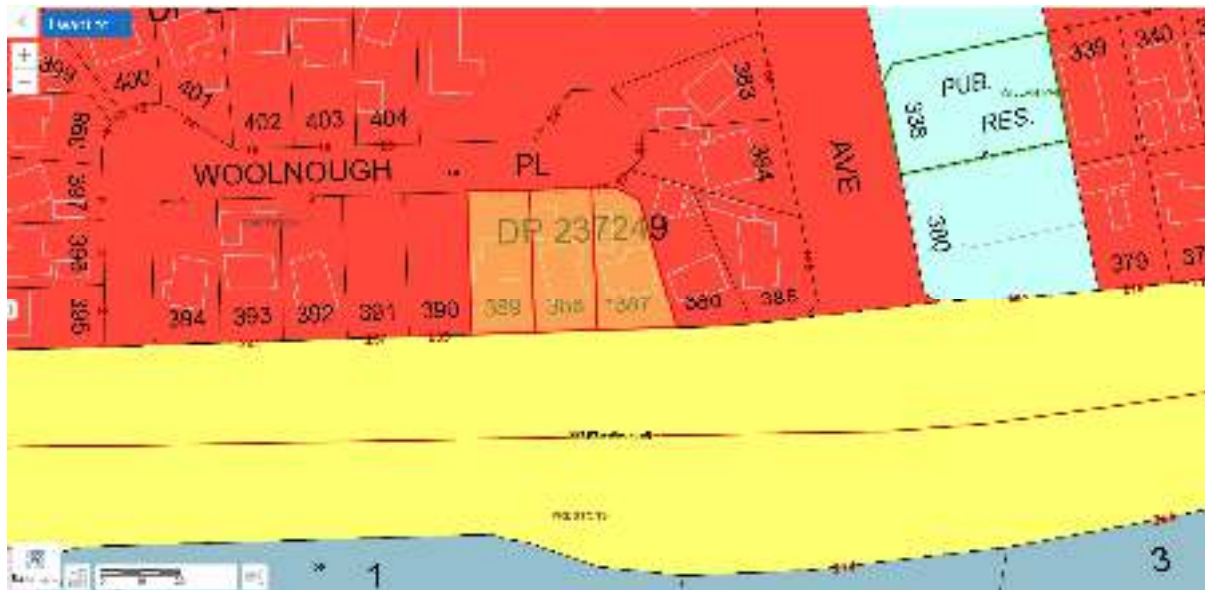


Figure 7: Zoning Map (source: Geocortex)

(iv) Principal Development Standards and Provisions

The application has also been considered against the relevant provisions and principal development standards of the LLEP 2008, which are listed in the table below. The proposal demonstrates compliance with the LLEP 2008, where applicable.

| Clause | Provision | Comment |
|-----------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Part 4 Principal Development Standards | | |
| 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 buildings on the development site. |
| Clause 4.1 Minimum Subdivision Lot Size | Minimum lot size of 1000m ² | Complies The existing 3 lots will be consolidated into 1 lot with a total site area of 1724.6m ² . |
| 4.3 Height of Buildings (as per HOB Map) | Maximum height 15m | Does not comply The maximum building height applicable to the site is 15m. The |

| | | |
|----------------------------------------------|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | <p>development proposes a height of 15.6m for the building and an overall maximum height of 16.6m to the lift overrun. This represents a numerical variation of 0.6m or 5% excluding the lift overrun and 1.6m or 9% including the lift overrun.</p> <p>A Clause 4.6 variation has been submitted refer to detailed discussion below.</p> |
| 4.4 Floor Space Ratio (as per FSR Map) | Maximum FSR of 1:1 | <p>Does not Comply</p> <p>The development proposes an FSR of 1.2:1 totalling 2069sqm GFA, which represents a numerical variation of 345sqm or 20%. The DEP indicated in their minutes that operable corridors and lobbies on upper floors should not be included as floor area. In this regard, the FSR calculation would be reduced to 1.1:1 totalling 1893.34sqm. With the absence of operable corridors and lobbies the FSR continues to exceed the development standard.</p> <p>A Clause 4.6 variation has been submitted refer to detailed discussion below.</p> |
| 7.8 Flood Planning | Minimise flood risk to life and property associated with the use of land | <p>Complies</p> <p>The site is not affected by flooding under 1% Annual Exceedance (AEP) event, however, it is categorised as low flood risk. The proposal was reviewed by Council's Flooding engineers and considered satisfactory subject to the imposition of a water quality management condition.</p> |
| 7.14 Minimum Building Street Frontage | Minimum building street frontage of 24m | <p>Complies</p> <p>The site has dual street frontages, with 37.665m to Woolnough Place and 51.815m to Hoxton Park Road.</p> |

Clause 4.6 Exception to development standards

As identified in the compliance table above, the application proposes variations to Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio under the LLEP 2008. These are discussed below:

Variation to Clause 4.3 – Height of Buildings:

Clause 4.3(2) of the LLEP 2008, stipulates that:

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 maximum building height applicable to the site is 15m. The development proposes a height of 15.6m for the building and an overall maximum height of 16.6m to the lift overrun. This represents a numerical variation of 0.6m or 5% excluding the lift overrun and 1.6m or 9% including the lift overrun. Building height as defined by the LLEP 2008 is as follows:

“building height (or height of building) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

In accordance with the above definition the full extent of the variation is 1.6m or 9%.



Figure 8: Section plan showing building elements which exceed the 15m height control limit.

As shown in the figure above, the proposal does not comply with the maximum height of 15 metres required as per Clause 4.3 of LLEP 2008 and is seeking a variation of 9% from the development standard. Consequently, the applicant has provided a written request to vary the

height of buildings development standard. The clause 4.6 variation request is attached to this report.

The submitted written request to vary Clause 4.3 has been assessed against the provisions of Clause 4.6, and is discussed below:

The objectives and pertinent considerations of Clause 4.6 of the LLEP 2008, as they relate to the subject DA, 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*
- 1) 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**

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, as follows:

- **Reason for Variation 1 – Site constraints.**

Stormwater infrastructure in the vicinity of the site is comparatively old and trunk drainage pipes have been built relatively close to the surface level of both Hoxton Park Road and Wollnough Place. The proposed development drains to both roads. In order to achieve gravity fall to reticulated stormwater infrastructure, it has been necessary to modestly raise the ground level of the proposed development.

It is this proposed response to site constraints which represents the primary cause the building height exceedance insofar as it relates to the main building (excluding lift overrun). Given finished ground level of the development is fixed by stormwater infrastructure within Council's system, the only opportunity to amend the design to achieve strict compliance would be to remove a full storey from the proposed development. Such alternative would offend, to an egregious extent, Objective 5(a)(ii) of the EP&A Act 1979 in that it would be an anathema to orderly and economic development. Having regard to the above, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

- **Reason for Variation 2 – Promotion of Housing Affordability.**

The proposed development provides 3.1m floor to floor heights which responds to a recommendation made by the Design Excellence Panel. A 3m floor to floor height can readily achieve 2.7m floor to ceiling height, however the additional 100mm (which translates to 500mm over the height of the building) affords additional opportunity for ceiling conduit and particular lighting fixtures such as flush downlights. This in turn is considered to contribute to a higher level of amenity. Given the site context and absence of impact (see Reason for Variation 3 below) a design which maximises amenity is preferred over a design which pursues slavish adherence to the standard. Accordingly, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

- **Reason for Variation 3 – Site Context and Absence of Impact Supports Minor Variation to Building Height.**

The subject site enjoys frontage to two roads and is a north south orientated site. The effect of these two site characteristics is twofold. First, additional shadow caused by the height exceedance is cast to Hoxton Park Road rather than adjoining buildings. Secondly, the dual street frontage context provides an additional level of separation from rear adjoining buildings than would otherwise be the case. This increased separation in turn, mitigates against any minor additional bulk and scale impacts caused by the proposed building height exceedance. For the above reason, strict compliance with the height of buildings development standard is unreasonable and unnecessary in the circumstances of the case.

- **Reason for Variation 4: The design actively mitigates against bulk and scale impacts by the use of progressive setbacks, truncation of the top level floor plate and the use of visually lighter weight materials.**

The above listed characteristics of the top elements of the design coordinate to deliver a visually recessive top storey. This in turn, mitigates bulk, scale and other visual impact impacts which might otherwise arise from a less sophisticated and sensitive design response. Having regard to the particular design skill and care with which the top storey of the development has been designed, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

- **Reason for Variation 5 - The proposed development exceedance in maximum building height and FSR does not derogate from the attainment of the R4 – High Density Residential zone objectives.**

Particular attention is drawn to the first, second and fourth zone objectives. In this

regard:

Drainage design requirements aside, the minor exceedance in building height creates an opportunity for two additional apartments to be provided on the fourth level. The two units comprise 3 bedrooms with generously proportioned living spaces and outdoor balconies. The provision of three bedroom units maximizes the development's market potential by being accessible to larger household groups or families. Such an outcome is directly consistent with the second zone objective in that it provides a variety of housing types within a high density residential environment.

The proposed lift overrun, does not derogate from the design quality of the building and indeed it is not visible from the public pedestrian domain. In addition, the building will be located in an area with good access to transport, services and facilities accordingly, the proposed building height remains consistent with the fourth objective of the R4 – High Density Residential zone.

Lift Overrun

The following reasons for variation deal specifically with the proposed lift overrun.

- *The provision of lift access to each floor level is an integral feature of the building and is consistent with the first zone objective. In this regard, the lift, including its overrun is essential for residential development to provide for the variety of housing needs of the community.*
- *The proposed lift overrun, does not derogate from the design quality of the building and indeed it is not visible from the public domain at ground level. Accordingly, the left overrun does not offend the objectives of the height of buildings development standard.*
- *The overrun structure itself measures 3.14m x 2.68m and is centrally located within the building's roof top. It is set back 8m from the Hoxton Park Road building edge and 8.2m from the Woolnough Place building edge. This placement, together with the overall height of the building results in the lift overrun simply not being visible from ground level at both Hoxton Park Road and Woolnough Place. In essence, the lift overrun delivers negligible contribution to the overall bulk and the building.*
- *Given the lift overrun will have no visibility at ground level, together with its extremely minor contribution to overall bulk of the building, bulk and scale impacts are considered to be satisfactory.*

For these reasons, strict compliance with the height of buildings development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

In response to the applicant's comments listed above, Council has provided the following commentary as to why compliance with applicable building height development standard is not considered unreasonable and not unnecessary in this instance:

- In this regard, compliance with the height control is not considered an unreasonable requirement where the applicant has not sufficiently addressed the proposal's impact

on the development potential of adjoining sites in the context the desired future character of the locality.

- In addition to this, the applicant's discussion that the design maximises amenity over a design that slavishly adheres to the maximum building height standard is not considered to adequately justify a departure from the standard. A high level of amenity could also be achieved through a compliant development, therefore, compliance has not been demonstrated to be unnecessary.

The proposed development is not in accordance with the objectives of 4.3 Height of Buildings and provides for an inappropriate built form due to overdevelopment and excessive height.

- The bulk and scale of the proposed development is inconsistent with the controls set out in the LEP 2008, ADG and LDGP 2008 and therefore is considered to be inconsistent with the future character of the locality and streetscape. Accordingly, it cannot be determined that the built form and scale of the development is consistent with the design principles of SEPP 65.

The applicant has provided the following comments addressing whether there are sufficient environmental planning ground to justify contravening the development standard, as follows:

- *In the absence of a legislative or other definition we adopt a definition for "environmental planning grounds" as 'any matter arising from consideration of either Section 79C of the EP&A Act 1979 or its Objectives contained within Section 5 which in the circumstances of the particular development on the particular site, warrants variation from the development standard'.*

Based on that methodology, the environmental planning grounds which support variation to the standard in this instance are:

Environmental Planning Ground 2 – Generous Floor to Floor Heights Maximise Amenity and Building Design Flexibility

The particular design exacerbates height of buildings non-compliance by approximately 500mm as compared to a design which provided typically observed 3m floor to floor heights. The 3.1 floor to floor height proposed responds to a direct recommendation for the same made by the Design Excellence Panel. Whilst a compliant design could achieve 2.7m floor to ceiling heights, the Panel's recommendation provides additional design flexibility for roof cavity conduit and flush mounted downlights. This in turn allows for greater residential amenity and is therefore supported as a particular aspect of the design, notwithstanding that it exacerbates non-compliance with the height of buildings development standard.

Environmental Planning Ground 2 – The particular design in the context of this particular site means that the non-complying building height and FSR is not visible from the public domain and therefore does not have any adverse effects on the streetscape or urban form otherwise anticipated by the controls.

As presented above, a contravention in development standards in this case does not undermine the objectives or reasons for the standards of the R4 – High Density

Residential zone. The encroachment of the building height and lift over run is not visible and does not contribute to building bulk when viewed from the public domain.

The excess in gross floor area is 194.3sqm. The central positioning of the building, generous setbacks and landscape buffer areas as well as the highly articulated façade creates a building of architectural interest and distinction. A reduction of 194sqm to therefore achieve the 1:1 FSR requirement would not make any external alterations to the building's bulk or appearance. The excess floor area does not have any adverse effects on the streetscape.

Environmental Planning Ground 3 – The particular orientation of the site is such that the most significant overshadowing effects caused by the building are over Hoxton Park Road, rather than to adjoining properties or to the public domain.

The natural conclusion of this particular site characteristic is that for a degree of noncompliance as minor as that which is proposed, the subject site is particularly well suited to accommodate that non-compliance without imparting adverse impact as a consequence.

Environmental Planning Ground 4 - The particular part of the building which most significantly breaches the height limits is inaccessible, does not add to floor space and does not introduce any privacy impacts

It is relevant that the majority of the non-compliant element of the building is specifically a lift overrun and building parapet. This element of the built form will not contribute to impacts relevant to Section 79C(1)(b) save extremely minor additional overshadowing in the afternoon period. However, in respect of overshadowing, the lift overrun and overall building height does not prevent full compliance with ADG solar access requirements being achieved for likely future adjoining developments.

In response to the comments raised above, Council has provided the following commentary as to why there are insufficient planning grounds to justify contravening the development standard in this instance:

- The applicant's test for environmental planning grounds is reliant on consistency with Section 4.15 of the Act. Part of this requires the consideration of any environmental planning instrument. In the case of this DA the development is required to be consistent with SEPP 65 and subsequently the ADG. As previously discussed, the proposal is not consistent with the building separation requirements of the ADG and it is therefore considered that the development is inconsistent with Section 4.15 of the Act. Accordingly, the applicant has not demonstrated that there are sufficient planning grounds to justify contravening the building height standard.
- Again, using the applicant's test for environmental planning grounds, the applicant would need to appropriately consider the impacts of the proposal on the built environment. As previously discussed, where the development would prejudice the development potential of an adjoining site, the likely impacts of the proposal have not been appropriately considered and the applicant has not demonstrated that there are sufficient planning grounds to justify contravening the building height standard.

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

The objectives of Clause 4.3 and assessment are as follows:

(1) *The objectives of this clause are as follows:*

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

The proposed development is not considered to be consistent with all of the objectives of Clause 4.3(1)(d) of the LLEP 2008 in that:

- The objectives of building height is to establish the maximum height limit in which buildings can be designed and floor space can be achieved, however, the proposed development does not comply with controls relating to floor space ratio and thus provides for an inappropriate built form due to overdevelopment, poor urban design outcomes and excessive height.
- Building height controls ensure development responds to the desired future scale and character of the street and local area, the applicant's discussion that the design maximises amenity over a design that slavishly adheres to the maximum building height standard is not considered to adequately justify a departure from the standard. A high level of amenity could also be achieved through a compliant development, therefore, compliance has not been demonstrated to be unnecessary.

For the reasons above, the proposed development is considered to be inconsistent with the objectives of Clause 4.3 of LLEP 2008.

3) Consistency with objectives of the zone – R4 High Density Residential

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

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

The proposed development is considered to be consistent with all of the objectives of the R4 Zone.

4) 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 not appropriate in this instance to apply a degree of flexibility when applying variation in height of building controls given the above discussion. Based on that discussion it is not considered that a better outcome would be achieved where the development varies the maximum building height standard.

5) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.3 “*Building of Heights*” does not adequately address Clause 4.6 (3) and is not in the public interest in this instance.

Variation to Clause 4.4 Floor Space Ratio.

Clause 4.4(2) of the LLEP 2008, stipulates that:

“The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map”

Clause 4.4 of the LLEP 2008 identifies a maximum floor space ratio (FSR) of 1:1 for the site which equates to 1724sqm of gross floor area (GFA).

The development proposes an FSR of 1.2:1 totalling 2069sqm GFA, which represents a numerical variation of 345sqm or 20%. The DEP indicated in their minutes that operable corridors and lobbies on upper floors should not be included as floor area. In this regard, the FSR calculation would be reduced to 1.1:1 totalling 1893.34sqm. With the absence of operable corridors and lobbies the FSR continues to exceed the development standard. Notwithstanding this, the applicant has noted the following in their written request to vary the development standard:

“However, in the interests of providing the most prudent available assessment methodology, we adopt for the purposes of this assessment, a proposed FSR of 1.2:1”

For the purpose of this variation assessment, an FSR of 1.2:1 will be used as directed by the applicant.

The applicant has provided a written clause 4.6 variation statement in order to justify the variation to the maximum FSR which is attached to this report. The submitted written request to vary Clause 4.4 to accommodate additional floor space has been assessed against the provisions of Clause 4.6, the objectives of Clause 4.4 and the objectives of the R4 zone. This is discussed below:

The objectives and pertinent considerations of Clause 4.6 of the LLEP 2008, as they relate to the subject DA, are as follows:

- (c) *To provide an appropriate degree of flexibility in applying certain development standards to particular development,*

-
- (d) *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:*
- (c) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (d) *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:*
- (ii) *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*
- 1) **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.**

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable and unnecessary in this case, as follows:

- ***Reason for Variation 1: The FSR exceedance is brought about by the provision of large and generously sized units rather than a greater number of units than the FSR control would otherwise anticipate.***

The proposed FSR exceedance is attributed to the provision of large and generously proportioned units which significantly exceed minimum unit sizes under the ADG. For example the 2 bedroom units propose a floor area of between 82 and 91.1sqm. This far exceeds the minimum requirement within the Apartment Design Guidelines of 70sqm for a two bedroom, one bathroom unit. Such generous sizing delivers higher amenity for residents of the proposed development than would a compliant design involving the same number of units. Objective (a) of Clause 4.4 aims to control the maximum density of development taking into account infrastructure and vehicle and pedestrian traffic demands. Objective (e) of the standard aims to provide an appropriate correlation between the size of a site and the extent of any development on that site. Both objectives operate together to control the overall quantum of development. The development standard itself deals only with gross floor area. Whilst one way of measuring the intensity of development, it is not the only way. In the case of Objective (a) of the standard, it is actually an inferior way to measure the intensity of development because it is number of bedrooms, not gross floor area which causes demand for

infrastructure and which generates vehicular and pedestrian traffic. However even in the case of Objective (e) metrics by which to assess the appropriateness of correlation between the size of a site and the extent of development is not limited to gross floor area. Bulk and scale as a more subjective metric or dwellings per hectare as an alternative objective metric are relevant considerations when considering the proposed development's servitude to the underlying objectives or purpose of the standard.

The proposed development proposes the same yield in terms of apartments as would be achievable if the development complied with the FSR development standard. Accordingly, despite the numerical non-compliance, the density of the proposed development when expressed as number of dwellings rather than gross floor area, does not offend Objective (a) of the standard. As such, strict compliance is considered to be unreasonable and unnecessary in the circumstances of the case. Strict compliance is unnecessary because the yield of the proposed development is not increased. It would be unreasonable because in order to achieve compliance, smaller and lesser amenity units would be delivered.

We note in relation to the contention of unreasonableness described above, that an officer of the Council has suggested that an alternative means of achieving compliance would be to provide the same size of units, just fewer of them. Whilst mathematically correct, this methodology for assessing unreasonableness of strict compliance ought not be preferred. It is a methodology which assumes an intending developer will not seek to maximise capital investment value. Hence it is a methodology which purports the availability of an alternative which would never be proposed for a residential apartment building in the location of the subject site.

In relation to this issue, we draw to Council's attention two Court decisions of particular relevance.

Currey v Sutherland Shire Council and Russell [2003] NSWCA 300 (18 September 2003)

At para [35] Spigelman CJ observed that he saw, "Very little, if any, scope in this legislative scheme for the concept of a "valid" application. Citizens are entitled to apply to authorities for whatever they like. The relevant prohibition in the legislative scheme is found in S 76A, which prohibits development without consent, where an environmental planning instrument provides that development may not be carried out except with consent. There is no relevant prohibition, express or implied, which impinges upon the application making process."

Council is not empowered to assume or direct an alternative "valid" application. An intending development is entitled to apply for "whatever they like" and the advice being provided to the Council is that if the subject application is refused, the developer will provide the same number but smaller units.

The Benevolent Society v Waverley Council [2010] NSWLEC 1082 (14 April 2010)

At paras [64 and 65] then SC Moore introduces the concept of constructive dismissal to the assessment of reasonableness of alternative designs. Clearly, economic viability of those alternatives is a relevant matter for the consent authority, contrary to the Council officer's contentions otherwise.

64 Although I found the joint report of Ms Squires and Ms Bath of interest, its relevance in the proceedings is, in my view, confined to a comparatively simple proposition. That proposition, from Ms Squires, is that a 90 unit development (that being the development yield on the current configuration that would result from the building envelopes said by Mr Sanders to be acceptable) was not financially viable for the Society and would not be undertaken.

65 In light of that evidence, I sought agreement from the advocates to ask Ms Squires (and provide Ms Bath with the opportunity to comment if she wished – although she subsequently did not wish to do so) what would be the unit yield that constituted the “tipping point” for constructive refusal. It was agreed that she could give such evidence and, as a result, her evidence was that the Society needed to obtain, on the basis of its undisclosed financial modelling, at least 130 units in order to sustain the cost of the project and the provision of the ongoing services of the “ageing in place” philosophy earlier discussed.

Larger, but fewer units might conceivably be proposed in order to create a point of market difference in situations where there is very high supply within a confined location. In the case of the subject site, which is outside of the Liverpool CBD and in a location which has historically failed to attract private investment in urban renewal, the situation is the exact antithesis of what might prompt an intending developer to provide fewer but larger units.

Additional Observation

Since it has been established that the development as proposed, does not increase demand on infrastructure, or generate additional vehicular pedestrian traffic demand; , it is demonstrated that strict compliance with the standard is unnecessary on the basis that no additional apartment yield is proposed. Clause 4.6(3)(a) allows for an applicant to demonstrate that strict compliance is unreasonable or unnecessary.

In the light of Currey, it would be unreasonable in the extreme for Council to conclude that strict compliance with the FSR standard is reasonable because it might prompt the Applicant to submit an alternative application which the Applicant says they would not propose, which would make no economic sense from a first principles analysis, and which would under impose on infrastructure demand and vehicle and pedestrian traffic generation, compared with that which the planning framework anticipates.

To that extent, subsequence demonstration of concurrent unreasonableness arising from strict compliance is otiose.

- **Reason for Variation 2: Additional floor space as proposed does not compromise design quality of the development.**

The building bulk, positioning on the block and landscaping provision is not compromised due to the additional floor space. Evidence of the retained design quality of the proposal is founded on the Design Excellence Panel’s satisfaction with both the general design and the proposed FSR exceedance.

Objectives (b), (c) and (d) of Clause 4.4 deal with various design quality outcomes. These are desired future character; preservation of amenity to adjoining properties and the public domain; preservation of existing character in areas which are not undergoing

transition.

In the case of the subject site, it is a locality transitioning from a low density to a high-density environment and accordingly, Objective (d) of the standard is not relevant.

Consistency with desired future character and preservation of satisfactory amenity is most conveniently demonstrated by comparison of the proposed development to an alternative design that complied with the development standard. Whilst we acknowledge that this is a test of neutral or beneficial effect, it is not undertaken for the purposes of satisfying an implied requirement of Clause 4.6. Rather the purpose of the standard is most conveniently demonstrated not to have been offended by the particular proposal, by comparison of the proposed development with a hypothetically compliant scheme.

Included as Appendix 1 of this Request for Variation are concept plans of an alternative design in which gross floor area has been selectively removed over each level of the proposed building in order to deliver a total gross floor area which complies with the RSF development standard. The following juxtaposes the floor by floor GFA calculations on that scheme with the actually proposed development.

| Proposed Development | | | | | FSR Compliant Proposal | | | | |
|----------------------|-------|-------|-------|-----------------------|-------------------------------------|-------|-------|-------|----------------------|
| FLOOR BUILDING AREAS | | | | | GROSS FLOOR AREA | | | | |
| FLOOR | 1-BED | 2-BED | 3-BED | GFA | EXCLUDING LOBBIES FROM LEVEL 1 TO 4 | | | | |
| FLOOR | 1-BED | 2-BED | 3-BED | GFA | FLOOR | 1-BED | 2-BED | 3-BED | GFA |
| GROUND FLOOR | 4 | 2 | - | 447.20m ² | GROUND FLOOR | 4 | 2 | - | 429.80m ² |
| LEVEL 1 | - | 5 | - | 475.20m ² | LEVEL 1 | - | 5 | - | 403.30m ² |
| LEVEL 2 | - | 5 | - | 475.20m ² | LEVEL 2 | - | 5 | - | 403.30m ² |
| LEVEL 3 | - | 5 | - | 475.20m ² | LEVEL 3 | - | 5 | - | 403.30m ² |
| LEVEL 4 | - | - | 2 | 207.00m ² | LEVEL 4 | - | - | 2 | 105.60m ² |
| TOTALS | 4 | 17 | 2 | | TOTALS | 4 | 17 | 2 | |
| APARTMENT MIX | 17.4% | 73.9% | 8.7% | 2 109.8m ² | APARTMENT MIX | 17.4% | 73.9% | 8.7% | 1835.3m ² |
| TOTAL: 23 APARTMENTS | | | | | TOTAL: 23 APARTMENTS | | | | |

Both schemes and resultant GFA distributions comply with the Apartment Design Guide (ADG).

More detailed comparison between the two schemes, relative to Objectives (b) and (c) of the standard, reveals:

- The majority of the 'additional' floor space is located on the western and northern sides of the building. To the west of the subject site is a vacant site which is taken to be a future development site. The width of the proposed development, when viewed from the west remains unchanged. However, the width of the westernmost point of articulation reduces, under the compliant scheme, from 13.5m as proposed to 9.7m under the compliant scheme. Balcony and wall setbacks to the western boundary are the same under both schemes.*
- There is no significant change in overshadowing impacts.*

- *The height of the building does not change.*
- *There is no demonstrable change to the northern, eastern or southern elevations.*

Having regard to the above, the proposed non-compliance with GFA cannot be said to have caused adverse environmental effects on the use or enjoyment of adjoining properties and the public domain (objective (c)). Further, given the negligible differences between the two schemes in terms of visual presentation and compatibility with desired future character it similarly cannot be said that the proposed development does not respond to designed future character.

For the above reasons, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

- **Reason for Variation 3 – Site Context Supports Additional Floor Space.**

The site's dual street frontage creates an additional extent of built form void around the site when compared to typical midblock situation. This particular characteristic of the site creates two opportunities. First, there is an additional separation distance from rear adjoining properties such that the impacts of additional gross floor area are mitigated when compared to a typical mid-block site. Secondly, there is an additional volume of built form void around the site as compared to typical mid-block sites. Sensitive design which is respectful of relevant building envelope controls can off-set part of that additional void by the provision of a modest increase in gross floor area outside of the additional built form void spaces. The proposed development is considered to deliver a sensitive design and the extent of non-compliance is considered to be modest. Accordingly, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

The particular site characteristics are relevant to objectives (b), (c) and (e) of the Clause 4.4. In the case of objectives (b) and (c) the special attributes surrounding the site positively contribute to maintaining strong compatibility with desired future character and operate to minimise potential adverse impact on adjoining properties. In respect of Objective (e) the spatial openness surrounding the site means that gross density is similar to net density in more spatially constrained locations. The general openness surrounding the site is therefore a particular characteristic which influences the extent to which servitude to objective (e) is delivered, notwithstanding the proposed numerical non-compliance.

For the above reasons, strict compliance with the standard is considered to be unreasonable and unnecessary.

In response to the applicant's comments listed above, Council has provided the following commentary as to why compliance with the applicable FSR development standard is not considered unreasonable and not unnecessary in this instance:

- Much of the applicant's reasons for the exceedance of the maximum allowable FSR is attributed to the provision of larger apartment sizes than the minimum apartment sizes specified in the ADG and by virtue of these "generously proportioned units", a higher level of amenity is provided when compared to apartments meeting the minimum ADG sizes. The applicant has provided no further assessment of how larger apartments

equates to greater amenity in this case beyond the assertion that, where apartments are larger than the minimum sizes specified under the ADG they have higher amenity.

- Beyond this, the applicant appears to be attempting to formulate the argument that where apartment sizes are larger than ADG minimum requirements for compliance with the FSR development standards is superfluous in all cases, not only the circumstances of this case. Following that notion, it could be demonstrated that exceeding the minimum apartment sizes specified in the ADG precludes compliance with any FSR development standard in any EPI which relates to residential development. It is considered that accepting this position would set an unacceptable precedent in the consideration and application of FSR and gross floor area beyond the circumstances of just this proposal.
- Notwithstanding this, the provision of increased apartment sizes beyond the minimum ADG requirements is not considered to be an adequate demonstration that compliance with a development standard is unnecessary where the same outcome could be achieved with a compliant development. In relation to this issue, the following case law is considered pertinent, especially where increased apartment sizes coupled with a breach in FSR would likely result in a larger building envelope on the site:

PDE Investments No 8 Pty Ltd v Manly Council [2004] NSWLEC 355 (07 June 2004)

Commissioner Annelise Tuor stated the following:

- FSR and building envelope controls should work together and both controls and/or their objectives should be met.*
- A building envelope is determined by compliance with controls such as setback, landscaped area and height. Its purpose is to provide an envelope within which development may occur but not one which the development should necessarily fill.*
- Where maximum FSR results in a building that is smaller than the building envelope, it produces a building of lesser bulk and allows for articulation of the building through setbacks of the envelope and variation in building heights.*
- The fact that the building envelope is larger than the FSR is not a reason to exceed the FSR. If it were, the FSR control would be unnecessary.*

A correlation could be drawn from the above statement, that providing larger apartment sizes is not a reason to exceed FSR, as if it were, FSR controls for all residential developments would be unnecessary.

- With regards to the notion that the larger apartments could also be provided by way of a compliant development, the applicant notes this “would make no economic sense” due to a reduction in overall apartment numbers. No evidence has been provided for Council’s assessment that would suggest the development would not be economically viable if it were to comply with the FSR development standard. As such, unsupported assertions regarding the economic sense of the development are not considered to adequately demonstrate compliance with FSR is unreasonable or unnecessary. Notwithstanding this, this is not a matter for consideration under Section 4.15 of the Act and would not be considered when demonstrating that compliance with a development standard is unreasonable or unnecessary.
- As discussed in the previous 4.6 assessment for the building height variation, building separation under the ADG is not achieved by the proposed development. It is

considered that one of the reasons this occurs is due to the extended building envelope caused by the FSR exceedance. The applicant has attempted to make a case that additional FSR onsite would not have any impact on the adjoining sites. However, it is considered that the ADG variation to shared building separation distances, is likely to prejudice the development potential of the adjoining site where it is developed as a residential flat building. It is considered unacceptable that the development potential of an adjoining site is prejudiced by the proposal and in this regard, compliance with the FSR control is not unreasonable where the applicant has not adequately addressed the proposal's impact on the development potential of adjoining sites.

- The applicant has also attempted to make the case that compliance with the FSR standard is unnecessary or unreasonable as the DEP have specifically noted that the FSR is acceptable due to increased apartment sizes. While this comment is noted, the DEP do not provide planning advice and have not demonstrated why the provision of a compliant scheme which also provides larger apartments, would be unreasonable in this case.

The applicant has provided the following comments addressing whether there are sufficient environmental planning ground to justify contravening the development standard, as follows:

- ***Environmental Planning Ground 1: The FSR exceedance is brought about by the provision of generously proportioned individual units rather than the total number of proposed units exceeding that which would otherwise be anticipated by the FSR development standard.***

Accepting that ADG minimum unit sizes express a minimum level of internal residential amenity, and that in practice a range of apartment sizes would be expected, it is a characteristic and distinguishing feature of the design that the proposed building provides very generous unit sizes in practically all instances.

An alternative design, which strictly complied with the standard could be achieved by reducing the size of proposed units. However, in circumstances where site context and opportunities support additional FSR, such reduction unit sites would operate to reduce presently proposed residential amenity without any corresponding improvement to public domain or adjoining owner amenity.

Accordingly, the particular characteristics of the design whereby FSR excellence is manifest in the form of generously proportioned units rather than an avaricious total yield, represents compelling environmental planning grounds upon which to justify variation to the FSR development standard.

Environmental Planning Ground 2: The subject site enjoys two road frontages which provide additional opportunity for gross floor area to be expressed without adverse impact to adjoining properties or the public domain

The dual street frontage with which the site benefits, is a particular site characteristic which creates additional separation distance to rear adjoining properties than would otherwise be the case for a typical mid-block site. Similarly, the presence of the second road frontage creates an additional area of built form void around the site creates opportunity for the inbuilt upon road area to be offset by a marginal increase in gross floor area compared with what might otherwise be an appropriate gross floor area in a typical mid-block situation.

Given that this particular site characteristic supports additional floor space and mitigates against the impacts of the same, the site's dual road frontage is a key environmental planning ground which supports variation to the floor space ratio development standard.

Environmental Planning Ground 3: The north-south orientation of the site minimises overshadowing impacts to adjoining properties.

The orientation of this particular site is ideal for accommodating additional floor space. To the extent that the FSR development standard regulates bulk and scale, and that bulk and scale is a contributing factor to overshadowing. The site's orientation is an important environmental planning ground which supports variation to the standard as proposed.

In response to the comments raised above, Council has provided the following commentary as to why there are insufficient planning grounds to justify contravening the development standard in this instance:

- The applicant's test for environmental planning grounds is reliant on consistency with Section 4.15 of the Act. Part of this requires the consideration of any environmental planning instrument. In the case of this DA the development is required to be consistent with SEPP 65 and subsequently the ADG. As previously discussed, the proposal is not consistent with the building separation requirements of the ADG and it is therefore considered that the development is inconsistent with Section 4.15 of the Act. Accordingly, the applicant has not demonstrated that there are sufficient planning grounds to justify contravening the FSR standard.
- Furthermore, the development is not consistent with any development control plan. The proposal does not provide sufficient parking to service the apartments in accordance with Council's parking rates. As such, the applicant has not demonstrated that there are sufficient planning grounds to justify contravening the FSR standard.
- Again, using the applicant's test for environmental planning grounds, the applicant would need to sufficiently consider the impacts of the proposal on the built environment. As previously discussed, where the development would prejudice the development potential of an adjoining site, the likely impacts of the proposal have not been appropriately considered and the applicant has not demonstrated that there are sufficient planning grounds to justify contravening the FSR standard.
- The applicant has attempted to demonstrate that providing larger apartment sizes than the minimum ADG requirements is an environmental planning ground to justify contravening FSR. However, as noted above, the implication of accepting this argument is that exceeding the minimum apartment sizes of the ADG would then preclude all FSR development standards in any EPI that relates to residential development. Ultimately, all FSR development standards where a design guide applies and provides minimum dwelling sizes, would be redundant. In this regard, providing larger apartment sizes than the ADG minimum requirements is not considered an environmental planning ground.
- It should be noted that the ADG is silent on the sizes of apartment with regards to increased amenity, however notes: *"the layout directly impacts the quality of residential amenity by incorporating appropriate room shapes and window designs to deliver daylight and sunlight, natural ventilation, and acoustic and visual privacy. The*

apartment layout also includes private open space and conveniently located storage.” Accordingly, were the applicant seeks to increase overall amenity of apartments, a further investigation into the efficiency of all apartment layouts should be considered within the confines of the FSR development standard.

2) Consistency with objectives of the development standard Clause 4.4 Floor Space Ratio.

The objectives of Clause 4.4 and assessment are as follows:

- (1) *(a) To establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic.*
- (b) To control building density and bulk in relation to the site area in order to achieve the desired future character for different locations.*
- (c) To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*
- (d) To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.*
- (e) To provide an appropriate correlation between the size of a site and the extent of any development on that site.*
- (f) To facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

The proposed development is considered to be inconsistent with the objectives of Clause 4.4 of the LLEP 2008 in that:

- The development will not minimise adverse environmental effect on the use or enjoyment of adjoining properties, where it may prejudice their ability to be developed for high density purposes; and
- The development which does not provide adequate shared building separation distances does not provide an appropriate correlation between the size of a site and the extent of the development proposed.

For the reasons above, the proposed development is considered to be inconsistent with the objectives of Clause 4.4 of LLEP 2008.

3) Consistency with objectives of the zone – R4 High Density Residential

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

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

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

The proposed development is considered to be consistent with all of the objectives of the R4 Zone.

4) 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 not appropriate in this instance to apply a degree of flexibility when applying variation to the applicable FSR standard given the above discussion. Based on that discussion it is not considered that a better outcome would be achieved where the development varies the maximum FSR standard.

5) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.4 “*Floor space ratio*” does not adequately address Clause 4.6 (3) and is not in the public interest in this instance.

Conclusion with regard to 4.6 Variations

Given the above assessments, in that the proposed development fails to comply with both the height and FSR controls of the LEP (and in addition the building separation distances of the ADG), it is considered that these non-compliances demonstrate the proposal results in the over-development of the site, and would set an undesirable precedent for similar developments.

It is not considered appropriate to apply a degree of flexibility when applying the height and floor space ratio development standard applicable to the subject site. Having regard to the concerns raised previously in the report it is considered that the proposed design does not achieve a better outcome in this instance.

It is considered the proposed development has not appropriately responded to the surrounding environment particularly when having regard to the non-compliant building separation, and the potential visual impact on the adjoining western site.

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) - Provisions of any Development Control Plan

(a) Liverpool Development Control Plan (LDCP) 2008

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development and Part 3.7 Residential Flat Buildings in the R4 zone*.

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

| Development Control | Provision | Comment |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| PART 1 – General Controls For All Development | | |
| 2. Tree Preservation | Controls relating to the preservation of trees. | Does not comply Trees proposed to be removed onsite. No arborist report submitted as part of the application. |
| 3. Landscaping | Controls relating to landscaping and the incorporation of existing trees. | Complies Landscape plan submitted as part of application. |
| 4. Bushland And Fauna Habitat Preservation | Controls relating to bushland and fauna habitat preservation | Not applicable The development site is not identified as containing any native flora and fauna. |
| 5. Bush Fire Risk | Controls relating to development on bushfire prone land | Not applicable The development site is not identified as being bushfire prone land. |
| 6. Water Cycle Management | Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted. | Complies Council's Development Engineer raises no concern to proposal subject to conditions. |
| 7. Development Near A Watercourse | If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water. | Not Applicable The development site is not within close proximity to a water course. |
| 8. Erosion And Sediment Control | Erosion and sediment control plan to be submitted. | Complies Sediment Erosion Plan submitted as part of application. |
| 9. Flooding Risk | Provisions relating to development on flood prone land. | Complies Subject site is located in low risk flooding. Council's flood engineer raised no concern subject to conditions. |
| 10. Contamination Land Risk | Provisions relating to development on contaminated land. | Complies |

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| | | Contamination report submitted and concluded the site is considered to be suitable for development. |
| 11. Salinity Risk | Provisions relating to development on saline land. | <p>Comply by condition</p> <p>The development site is identified as containing a high salinity potential. Should the DA be supported, conditions are recommended to be imposed to manage salinity at the construction stage.</p> |
| 12. Acid Sulfate Soils | Provisions relating to development on acid sulphate soils | <p>Not applicable</p> <p>The development site is not identified as containing the potential for acid sulphate soils to occur.</p> |
| 13. Weeds | Provisions relating to sites containing noxious weeds. | <p>Not applicable</p> <p>The site is not identified as containing noxious weeds.</p> |
| 14. Demolition Of Existing Development | Provisions relating to demolition works | <p>Comply by condition</p> <p>Should the application be supported, conditions of consent will be imposed to ensure demolition works are carried out in accordance with Australian Standards.</p> |
| 15. On-Site Sewerage Disposal | Provisions relating to OSMS. | <p>Not applicable</p> <p>OSMS not proposed or required.</p> |
| 16. Aboriginal Archaeological Sites | An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology. | <p>Not applicable</p> <p>The site is highly disturbed. As such, it is unlikely that it would contain Aboriginal Archaeology.</p> |
| 17. Heritage And Archaeological Sites | Provisions relating to heritage sites. | <p>Not applicable</p> <p>The site is not identified as a heritage item or within the immediate vicinity of a heritage item.</p> |
| 18. Notification Of Applications | Provisions relating to the notification of applications. | <p>Complies</p> <p>The development application was notified in accordance with Liverpool Development Control Plan 2008 from 22 August 2017 to 6 September 2017.</p> |

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| 20. Car-parking And Access | <p>Residential Development Car Parking Requirements:</p> <ul style="list-style-type: none"> - 1 space per one bedroom; - 1.5 spaces per two bedroom units; - 2 spaces per three or more bedroom dwelling; - 1 space per 4 units or part thereof, for visitors - One service bay | <p>Does not comply</p> <p>The following parking is required:</p> <ul style="list-style-type: none"> - 1 x 4 bedroom units require 4 spaces - 17 x 2 bedroom units require 25.5 spaces - 2 x 3 bedroom units requires 4 spaces - 23 residential units require 6 visitor spaces <p>A total of 40 spaces required for the proposed development. Only 39 car parking spaces have been provided.</p> |
| 21.Subdivision Of Land And Buildings | Provisions relating to the subdivision of land. | <p>Not Applicable</p> <p>The DA does not propose the subdivision of land.</p> |
| 22. Water Conservation | New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX). | <p>Complies</p> <p>Should the DA be supported, conditions of consent will be imposed to ensure compliance with the BASIX commitments.</p> |
| 23.Energy Conservation | New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX). | <p>Complies</p> <p>Should the DA be supported, conditions of consent will be imposed to ensure compliance with the BASIX commitments.</p> |
| 25.Waste Disposal And Re-Use | Provisions relating to waste management during construction and on-going waste. | <p>Complies</p> <p>Waste Storage area proposed in basement.</p> |
| 26.Outdoor Advertising | Provisions of signage | <p>Not applicable</p> <p>No signage proposed</p> |
| 27. Social Impact Assessment | A social impact comment (SIC) shall be submitted for residential flat buildings greater than 20 units or affordable rental housing. | <p>Complies</p> <p>Social Impact comment provided.</p> |

LDCP 2008 – Part 3.7 Residential Flat Buildings in the R4 Zone

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

| Development Control | Provision | Comment |
|------------------------|-----------|---------|
| Frontage and Site Area | | |

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| Development Control | Provision | Comment |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Minimum frontage of 24m | Complies The site provides for a frontage of 37.665m to Woolnough Place and 51.815m to Hoxton Park Road. |
| Site Planning | | |
| | The building should relate to the site's topography with minimal earthworks, except for basement car parking. | Complies Minimal earthworks are proposed except for the basement level. |
| | Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design | Complies Where possible, ground level private open space, balconies and windows have been orientated to the north to maximise solar access and improve energy efficiency of the building. |
| | Site layout should provide safe pedestrian, cycle and vehicle access to and from the street. | Complies Where possible proposed units have been orientated to address either Woolnough Place or Hoxton Park Road providing opportunities for casual surveillance of pedestrian pathways, the driveway and the street. |
| | Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity. | Does not comply The development is not in accordance with the objectives of the zone and provides for an inappropriate built form due to overdevelopment, poor urban design outcomes and excessive height. |
| | Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate | Complies This aspect has been reviewed by Council's development engineers, who have recommended approval subject to conditions. |
| | The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development. | Does not comply As demonstrated within this report, the development does not demonstrate compliance with SEPP 65. |
| Setbacks | | |
| Front Setback | Front building setback of 5.5m is required Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m. | Complies A primary front setback of 7.6m is provided to Woolnough Place, along with a secondary setback of 5m to terrace and 7.6m to the building facing Hoxton Park Road. |

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| Development Control | Provision | Comment |
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| Side Setback | Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, Level 1, Level 2 and Level 3 | Not Applicable The side and rear setbacks of the development have been proposed in accordance with the ADG associated with SEPP 65 which takes precedence over the LDCP 2008. |
| | Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m | |
| Rear Setback | Boundary to land in R4 zone: 8m building setback required for all building heights | |
| Landscaped Area and Private Open Space | | |
| Landscaped Area | A minimum of 25% of the site area shall be landscaped area. | Complies The proposal includes approximately 430.9m ² of landscaping areas which equates to 25% of the site area |
| | A minimum of 50% of the front setback area shall be landscaped area | Complies Greater than 50% of the front setback area to Woolnough Place is landscaped. Considerable landscaping is also provided to the Hoxton Park Road setback. |
| | Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties. | Complies Landscaped areas are generally consolidated within the front, side setbacks and secondary street frontage areas. |
| | Promote landscape health by supporting for a rich variety of vegetation type and size | Complies A variety of native plant species are provided. |
| Open Space | Provide communal open space, which is appropriate and relevant to the context and the building's setting. | Complies Communal open space areas are provided along the Woolnough Place setback and Hoxton Park Road setback. |
| | Where communal open space is provided, facilitate its use for the desired range of activities by: - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. | Complies The ground floor communal open space areas will receive sufficient solar access and will allow for a range of activities. |

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|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking. | |
| | Locate open space to increase the potential for residential amenity. | Complies The communal open space increases residential amenity. |
| Private Open Space | Private open space shall be provided as follows: - 10m ² for a dwelling size less than 65m ² - 12m ² for a dwelling size over 65m ² | Complies Private open space requirements are provided in accordance with the requirements of the ADG. |
| | Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor. | Complies Private terrace/courtyards are provided for units on the ground floor and balconies are provided for units above the ground floor. |
| | Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like. | Complies The private open space areas are designed as an extension of the internal living rooms. |
| | Private open space should be clearly defined for private use. | Complies Private open space areas are clearly defined. |
| | | |
| Building Design, Style and Streetscape | | |
| Building Appearance and Streetscape | Objectives of the controls are as follows: a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which define and enhance the public domain and desired street character. d) To ensure that building elements are integrated into the overall building form and facade design. | Complies The architectural quality of the proposal was considered by the DEP and found to be unsatisfactory. |
| Roof Design | Objectives of the controls are: a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings; b) To integrate the design of the roof into the overall facade, building composition and desired contextual response; | Complies The proposed roof design contributes positively to the design of the building. |

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| | c) To increase the longevity of the building through weather protection. | |
| Building Entry | Objectives of the controls are: a) To create entrances which provide a desirable residential identity for the development. b) To orient the visitor. c) To contribute positively to the streetscape and building facade design. | Complies Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors. |
| Balconies | Objectives of the controls are: a) To ensure that balconies contribute positively to the façade of a building. b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents. c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings. d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address. | Complies Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance. |
| Daylight Access | Objectives of the controls area: a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development. b) To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours. c) To provide residents with the ability to adjust the quantity of daylight to suit their needs. | Complies The majority of the units and the communal open space will receive adequate solar access. |
| Internal Design | Objectives of the controls are: a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties. | Complies The building is designed with optimal amenity for future occupants, providing pleasant living spaces, solar access, and natural ventilation. |
| Ground Floor Dwellings | Objectives of the controls are: a) To contribute to the desired streetscape of an area and to create active safe streets. b) To increase the housing and lifestyle choices available in dwelling buildings. | Complies The ground floor units will complement the streetscape and provide safe access. |

| Development Control | Provision | Comment |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Security | Objectives of the controls are: a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings. b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders. c) To ensure buildings are safe and secure for residents and visitors. d) To contribute to the safety of the public domain. | Complies The entrance to the building is clearly defined, casual surveillance opportunities are included, and the development provides a safe and secure building for future occupants and visitors. |
| Natural Ventilation | Objectives of the controls are: a) To ensure that dwellings are designed to provide all habitable rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants. b) To provide natural ventilation in non-habitable rooms, where possible. c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning. | Complies All units have direct access to natural ventilation. |
| Building Layout | Objectives of the controls are: a) To provide variety in appearance. b) To provide increasing privacy between dwellings within the building. c) To assist with flow through ventilation. d) To improve solar access. | Complies The proposed building layout is optimised for natural light and ventilation, whilst presenting an articulated presentation. |
| Storage Areas | A secure storage space is to be provided for each dwelling with a minimum volume of 8m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement or garage. | Complies Storage spaces are provided both within units and within the basement level. |
| | Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas. | Complies Storage areas within the apartment are adequately lit. |
| Landscaping and Fencing | | |
| Landscaping | Objectives of the controls are: a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape. | Complies The use of landscaping elements is appropriate to the scale of the development and provides a variety of native species in varying heights to complement the development. |

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| | <p>b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape.</p> <p>c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development.</p> <p>a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality.</p> <p>b) To provide privacy, summer shade and allow winter sun.</p> <p>c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality.</p> <p>d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.</p> | |
| Planting on Structures | <p>a) To contribute to the quality and amenity of communal open space on podiums and internal courtyards.</p> <p>b) To encourage the establishment and healthy growth of trees in urban areas.</p> | <p>Not applicable</p> <p>There are no plantings on structures proposed.</p> |
| Fencing | <p>Maximum height of front fence is 1.2m. 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 in front of the proposed fence.</p> <p>Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.</p> <p>The front fence must be 30% transparent.</p> <p>Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.</p> <p>The maximum height of side boundary fencing within the setback to the street is 1.2m.</p> <p>Boundary fences shall be lapped and capped timber or metal sheeting.</p> | <p>Complies</p> <p>Proposed front fence to Woolnough Place ranges from 1.2m to 1.6m and is set back at intervals with landscaping as a buffer. The proposed fence is acceptable in this instance as it contributes to privacy for future ground floor level occupants whilst still maintaining visual interest.</p> <p>Proposed fence to Hoxton Park Road ranges from 1m to 1.2m with additional landscaping to provide a buffer to the main road.</p> <p>Overall the fence design is appropriate and will complement the building design.</p> <p>Complies, via condition should the development be supported</p> <p>Complies, via condition. should the development be supported</p> |
| Car Parking and Access | | |

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

29 July 2019

| Development Control | Provision | Comment |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Car Parking | Visitor car parking shall be clearly identified and may not be stacked car parking. | Complies Six (6) visitor car parking spaces provided and are not stacked car parking. |
| | Visitor car parking shall be located between any roller shutter door and the front boundary. | |
| | Pedestrian and driveways shall be separated. | Complies Pedestrian access and driveways are separated. |
| | Driveways shall be designed to accommodate removalist vehicles. | Complies Driveway has been designed to accommodate a range of vehicle types. |
| | Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street. | Not Applicable Side vehicular entrance is not appropriate in this instance. |
| | Give preference to underground parking | Complies Parking is provided in the form of an underground basement. |
| Pedestrian Access | Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts. | Complies Pedestrian entries are clearly defined and accessible. |
| Amenity and Environmental Impact | | |
| Over-shadowing | Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space. | Complies Shadow diagrams of the proposed development have been prepared for 21 st June (winter solstice). The shadow diagrams demonstrate that a reasonable amount of solar access will be afforded to the immediate sites to the east and west, between the hours of 10am to 2pm. |
| Privacy | Objectives of the controls are: a) To locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents. | Does not Comply Refer to 2F – Building Separation in this report |

| Development Control | Provision | Comment |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | b) To avoid any external impacts of a development, such as overlooking of adjoining sites. c) To provide reasonable levels of visual privacy externally and internally, during the day and at night. d) To maximise outlook and views from principal rooms and private open space. | |
| Acoustic Impact | Objectives of the controls are: a) To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings. | Complies The development is able to achieve an acceptable level of amenity, subject to the implementation of noise attenuation measures as recommended in the submitted Acoustic Report. |
| Site Services | Objectives of the controls are: a) To ensure that the required services are provided. b) To ensure that the services provided are easily protected or maintained. | Complies All required site services will be provided to the site and maintained. |

As per the above DCP compliance tables, the development is inconsistent with the relevant development controls.

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 Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

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

Natural and Built Environment

The site is not considered to be of a size that is large enough to accommodate the size and scale of development proposed. The design of the development is considered to be out of character with the existing and desired character of residential development in the area. Also, it is considered that the design of the residential flat building is likely to adversely impact on the ability of any redevelopment on the adjoining properties for high density residential.

Social Impacts and Economic Impacts

It is considered that the documentation submitted with the proposal is insufficient in order to make an assessment regarding the social and economic impacts of the development.

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

The site is not considered suitable to accommodate a residential flat building such as that proposed and approval of the application would create an undesirable precent in the area. It is considered that the site is not suitable for the proposed development as the built form of the proposed development is not compatible with the existing and desired character of the area and is unlikely to preserve and maintain the amenity of the adjoining residential properties.

6.8 Section 4.15(1)(d) - Any submissions made in relation to the Development

(a) Internal Referrals

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

| DEPARTMENT | COMMENTS |
|----------------------|-------------------------------------------|
| Building Officer | Approval subject to conditions of consent |
| Development Engineer | Approval subject to conditions of consent |
| Landscape Officer | Approval subject to conditions of consent |
| Traffic Engineer | Approval subject to conditions of consent |
| Flood Engineer | Approval subject to conditions of consent |
| Heritage Advisor | Approval subject to conditions of consent |

(b) Design Excellence Panel

The application was considered by Council's Design Excellence Panel on 19 October 2017. As articulated earlier in the report, the design issues raised by the DEP have been resolved by the applicant.

(c) Community Consultation

The development application was notified in accordance with Liverpool Development Control Plan 2008 from 22 August 2017 to 6 September 2017. No submissions were received as a result of the notification.

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

Approval of the application is not considered to be in the public interest, for the reasons outlined in the report.

7. DEVELOPMENT CONTRIBUTIONS

The proposed development is not supported. Contributions are not required in this instance. However, in the event the application was approved contributions would be applied.

8. CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, the provisions of the LLEP 2008, LDCP 2008. Accordingly, it is recommended that the application be refused.

9. RECOMMENDATION

That Development Application DA No. 532/2017 for demolition of existing structures and construction of a 5-storey residential flat building containing 23 apartments (4 x 1-bedroom, 17 x 2-bedroom & 2 x 3-bedroom) over 1 level of basement car parking and associated landscaping and consolidation of three lots into one lot is refused for the following reasons:

1. The proposed development is inconsistent with Clause 1.3(c) of the Environmental Planning and Assessment Act 1979, in that the proposal does not promote the orderly and economic use and development of land;
2. The development application be refused as the proposed building separation distances are inadequate and do not comply with the SEPP 65 – Design Quality of Residential Apartment Development – Design Quality Principles, in particular the bulk, scale & density and that the design of the proposed development does not achieve an appropriate design outcome pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979;
3. The proposed development is inconsistent with the Clause 30(2)(b) of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development – in that the design of the proposed development is not considered to give appropriate regard to the objectives specified in the Apartment Design Guide (ADG), particularly Sections 2F (Building Separation) pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
4. The proposed development is considered to be inconsistent with the provisions of the Clause 4.6 as it relates to variations proposed to Clause 4.3 Building Height within LLEP 2008, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
5. The proposed development is considered to be inconsistent with the provisions of the Clause 4.6 as it relates to variations proposed to Clause 4.4 Floor Space Ratio within LLEP 2008, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
6. The development application be refused as the proposed development does not comply with the development standard for maximum building height (or the objectives of the standard) in Clause 4.3 of LLEP 2008 and the written request made under clause 4.6 of LLEP 2008 in relation to the contravention of the development standard has not been revised to establish the maximum height limit in which buildings can be design and floor space can be achieved pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
7. The development application be refused as the floor space ratio of the proposed development is excessive and does not comply with the development standard for maximum floor space ratio in clause 4.4 of LLEP 2008, as it does not provide an appropriate correlation between the size of a site and the extent of any development on that site pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
8. The development application be refused as development is not consistent with Section 20 – Parking and Access of the LDCP 2008 in that the development provides a shortfall

of one car parking space pursuant to Section 4.15(1)(a)(i) and (b) of the Environmental Planning and Assessment Act 1979.

9. It is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and therefore the subject site is not considered suitable for the proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
10. It is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development is therefore not in the public interest, pursuant to provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

10. ATTACHMENTS

- 1. PERSPECTIVE PLANS OF THE PROPOSAL**
- 2. PHOTOGRAPHS OF THE SITE**

ATTACHMENT 1: PERSPECTIVE PLANS OF THE PROPOSAL



PERSPECTIVE VIEW FROM WOOLNOUGH PLACE



| | | | | | |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <p>Site Plan</p> <p>Scale: 1:500</p> <p>North Arrow</p> | <p>Project Name: [illegible]</p> <p>Client: [illegible]</p> <p>Design Team: [illegible]</p> | <p>ALSOBY ZARRA & ASSOCIATES</p> <p>Architects & Interiors</p> | <p>Project Location: [illegible]</p> <p>Project Number: [illegible]</p> | <p>Project Status: [illegible]</p> <p>Project Date: [illegible]</p> | <p>Scale: 1:500</p> <p>North Arrow</p> |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|



PERSPECTIVE VIEW FROM HOXTON PARK ROAD



| | | | | | |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <p>Site Plan</p> <p>Scale: 1:500</p> <p>North Arrow</p> | <p>Project Name: [illegible]</p> <p>Client: [illegible]</p> <p>Design Team: [illegible]</p> | <p>ALSOBY ZARRA & ASSOCIATES</p> <p>Architects & Interiors</p> | <p>Project Location: [illegible]</p> <p>Project Number: [illegible]</p> | <p>Project Status: [illegible]</p> <p>Project Date: [illegible]</p> | <p>Scale: 1:500</p> <p>North Arrow</p> |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|

ATTACHMENT 2: PHOTOGRAPHS OF THE SITE





