

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday 26th July 2021

To be held online Via Microsoft Teams

Commencing at **2:00 PM**, Please click the below link to join the meeting:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjEzMDMxM2EtMmJIYy00ZTU2LTkyMzAtZmI5ODM5OTdmMjAy%40thread.v2/0?context=%7b%22Tid%22%3a%228ca50226-ee8b-41b5-8203-f73c5a5a5361%22%2c%22Oid%22%3a%22798934de-6084-4f3e-a967-4fcb9af14405%22%7d

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, 23rd July 2021.

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

ITEM No.	SUBJECT	PAGE No.
1	<p>Development Application DA-6/2018/A</p> <p>Demolition of existing structures, subdivision of the site into 2 separate lots and construction of a single storey allied health facility with 40 at-grade car parking spaces and a slip lane off Heathcote Road and creation of a residential lot.</p> <p>Lot D & Cnr Lot E DP 407758, Lot 7 & Lot 8 DP 539636 2-6 Walder Road and 192-194 Heathcote Road, Hammondville</p>	2-68

ITEM No.	SUBJECT	PAGE No.
2	<p>Development Application DA-681/2019</p> <p>Demolition of existing structures and construction of a five (5) storey residential flat building comprising 11 residential units above 2 levels of basement carparking.</p> <p>Lot 70 DP 235785 12 Mckay Avenue, Moorebank</p>	68-181

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

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Item no:	1
Application Number:	DA-6/2018/A
Proposed Development:	Demolition of existing structures, subdivision of the site into 2 separate lots and construction of a single storey allied health facility with 40 at-grade car parking spaces and a slip lane off Heathcote Road and creation of a residential lot.
Proposed Modifications:	Modification to Development Consent DA-6/2018 under Section 4.55(1a) of the Environmental Planning and Assessment Act 1979, to delete condition 2 to incorporate an ancillary pharmacy as part of the medical centre.
Property Address:	2-6 Walder Road and 192-194 Heathcote Road, Hammondville
Legal Description:	Lot D & Cnr Lot E DP 407758, Lot 7 & Lot 8 DP 539636
Applicant:	Mammoth Projects Pty Ltd
Land Owner:	Garloft Pty Ltd and Topglove Pty Ltd
Cost of Works:	Initial cost of development was \$3,124,854. No changes proposed.
Recommendation:	Approval, subject to modified conditions of consent
Assessing Officer:	Nabil Alaeddine

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-6/2018/A) to modify the approved consent DA-6/2018. DA-6/2018 was approved by the Liverpool Local Planning Panel (LLPP) at its meeting on 30 March 2020 for *'Demolition of existing structures, subdivision of the site into 2 separate lots and construction of a single storey allied health facility with 40 at-grade car parking spaces and a slip lane off Heathcote Road and creation of a residential lot'*.

At the meeting on 30 March 2020, the LLPP removed the use indicated as "Pharmacy" from the application as it is not a permissible use under the Liverpool Environmental Plan 2008 (LLEP). However, the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) nominates the R2 Low Density Residential zone as a 'prescribed zone' and a *'health services facility'* is a permitted land use within a prescribed zone (Clause 57 of the Infrastructure SEPP). As the SEPP prevails to the extent of any inconsistency between itself and the LLEP 2008, the proposal would therefore be permissible with consent.

Under the original development application, the pharmacy was including as ancillary to the medical centre, however, was prohibited with a condition imposed by the LLPP. This modification application proposes to remove the condition to permit a pharmacy to operate from the approved health services facility. The applicant has agreed to restrictions on the items sold to ensure it is ancillary to the approved health service facility.

The proposed medical centre is a prohibited land use in the R2 zone pursuant to LLEP 2008 for which the site is zoned. However, the application was made pursuant to the Infrastructure

SEPP which permits health services facilities within a prescribed zone and the amendments proposed under this modification application are consistent with the medical centre proposed.

The R2 Zone is listed as a prescribed zone and pursuant to Clause 57 of the Infrastructure SEPP, the proposed medical centre – being a type of health services facility – is a permissible land use with consent. In addition, Part 1 Clause 8 of SEPP (Infrastructure) 2007 provides that in the event of an inconsistency between itself and any other Environmental Planning Instrument, the SEPP takes precedence to the extent of the inconsistency.

The modification application was notified for a period of 14 days from 9 November 2020 to 24 November 2020 in accordance with the Liverpool Community Participation Plan 2019, and nine submissions were received in response to the public consultation process, objecting to the proposal.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements as the application was approved by the LLPP and the modification application proposes changes to conditions imposed by the LLPP relating to the use of a pharmacy as ancillary to the medical centre.

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 and restrictions on use.

2. SITE DESCRIPTION AND LOCALITY

2.1. The site

The subject site is identified as Lot D & Corner Lot E D DP 407758, Lot 7 & 8 DP 539636 and is known as 2-6 Walder Road and 192-194 Heathcote Road, Hammondville. It is irregular in shape with a frontage of 57.91 metres to Walder Road, a frontage of 88.115 metres to Heathcote Road, with a total area of 4705m². The subject site has a slope of approximately 1.8 metres from east to the west.

Currently, 192 & 194 Heathcote Road each contains an existing health consulting rooms with direct vehicular access via Heathcote Road. 4 Walder Road is currently vacant with the exception of trees. 2 Walder Road contains a building that operates as a boardroom for the health consulting rooms and is used for overflow car parking associated with the health consulting rooms. 4 Walder Road can be access via the existing driveway off Walder Road.

An aerial photograph of the site is provided below.



Figure 1: Aerial view of the site (Source: Geocortex Data)

2.2. The locality

The site is located in Hammondville on the intersection of Walder Road and Heathcote Road. The site is located on a block that contains a mix of one and two-storey detached dwelling houses. Opposite the site on Walder Road are detached dwellings. Opposite the site on Heathcote Road is a large landscape buffer between detached dwelling houses and the carriageway.

The subject site is located approximately 300m to the south-west of Hammondville Public School and 340m to the south of M5 Motorway. The site is located approximately 3.4 km south-east of the Liverpool Train Station.

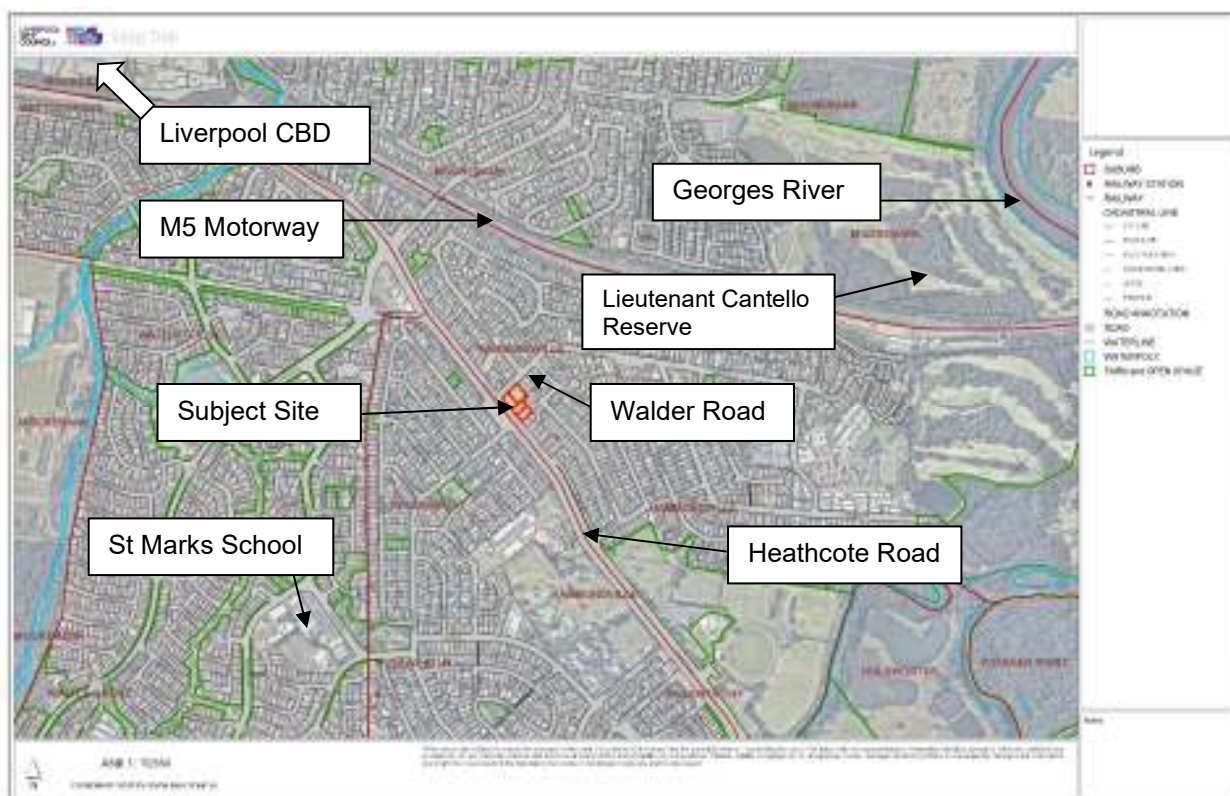


Figure 2: Locality Map Surrounding the Proposed Development (Source: Geocortex Data)

3. BACKGROUND/HISTORY

- A Planning Proposal was lodged on 12 May 2017 to include ‘medical centres’ in the list of permissible uses to be developed with consent in the R2 Low Density zone, via an enabling clause to be inserted in Schedule 1 under the LLEP 2008.
- A pre-lodgement meeting held with Council on 27 September 2017 for the development of a medical centre, to replace the existing health consulting rooms on adjoining sites.
- DA-6/2018 was lodged with Council on 3 January 2018. The application was lodged for construction of a two-storey medical centre at 2 & 4-6 Walder Road, comprising of undercroft parking for 37 cars with access from Walder Avenue.
- DA-6/2018 was notified for a period of 14 days from 31 January 2018 to 15 February 2018 in accordance with LDCP 2008. 19 submissions were received in response to the public consultation process.
- RZ-3/2017 was a Planning Proposal lodged to Council on 12 May 2017.
- The Planning Proposal RZ-3/2017 was withdrawn from Council on 30 January 2019.
- Division 10 of the State Environmental Planning Policy (Infrastructure) 2007 was amended on 15 December 2017 to permit *health facilities* in the R2 zone, subject to consent. Accordingly, the Planning Proposal was withdrawn by the applicant, as *medical centres* are a type of *health facility* under the Standard Instrument.

- A formal amendment was made to the DA-6/2018 for demolition of existing structures, subdivision of the site into 2 lots and construction of a single storey allied health facility with 40 at-grade car parking spaces and a slip lane off Heathcote Road and subdivision of a residential lot.
- DA-6/2018 was re-notified for a period of 14 days from 20 March 2019 to 4 April 2019 in accordance with LDCP 2008. 12 submissions were received in response to the public consultation process.
- DA-6/2018 was approved by the Liverpool Local Planning Panel (LLPP) at its meeting on 30 March 2020.
- The subject modification (DA-6/2018/A) was lodged to Council on 4 September 2020 to modify consent DA-6/2018 by deleting condition 2 which was imposed by the LLPP to restrict the premises from operating a pharmacy.
- DA-6/2018/A was notified for a period of 14 days between 11 November 2020 and 24 November 2020. Nine submissions were received in response to the public consultation period.

4. DETAILS OF THE PROPOSAL

The existing health consulting rooms at 192 Heathcote Road were initially approved in 1978 and expanded in 1994 when the dwelling at 194 Heathcote Road was also converted into health consulting rooms.

The proponent seeks to redevelop the current buildings (under DA-6/2018) as they are not fit for purpose, and evidence suggests that there is an increasing demand for allied health services in the locality. The development initially consisted of the following:

- Demolition of existing buildings on site and construction of a single storey medical centre comprising of 16 consultation rooms; pathology; allied health; a pharmacy and ancillary spaces.
- Building forms are articulated extensively, and facades incorporate a variety of materials and finishes.
- The proposal involves the construction of a two-way driveway, with access via a slip lane via Heathcote Road, located toward the southern boundary of the site. Access to the site will also be achieved via a two-way driveway on Walder Road.
- The proposed new development will provide 40 parking spaces at basement level, including 2 accessible spaces.
- The site will be subdivided into two separate allotments. Proposed lot 1 will have an area of 811.0m² with a frontage to Walder Road of 20m and Proposed Lot 2 will have an area of 3709m² with a frontage to Walder Road of 37.9m and a frontage of 88.05m to Heathcote Road.

An image of the proposed development is provided below:



Figure 3: Streetscape view of the site from Heathcote Road (Source: Crawford Architects)

The LLPP did not support the pharmacy as an ancillary use to the health services facility and imposed a condition (number 2) which states the following:

'Pharmacy

No approval is given or implied for the pharmacy component of the development as part this development consent.'

This modification application seeks to remove condition 2 from the consent for DA-6/2018 and proposes to include a pharmacy as ancillary to the approved health services facility.

The applicant submitted a legal opinion with the application regarding the use of a pharmacy on the site. The legal advice provided by Addison's dated 22 July 2020 raised the following points:

- (a) *A pharmacy is not permissible as a standalone use at the Site. Therefore, for a modification application to be approved, the proposed pharmacy needs to be 'ancillary to the currently approved use being a medical centre.*
- (b) *The following principles emerge from the caselaw in relation to ancillary uses:*
 - (i) *a use is ancillary if it is a use of part of the land for a purpose that is subordinate to, or subserves the primary purpose;*
 - (ii) *where the land is used for two or more purposes, none of which subserves the other, there is no ancillary use;*
 - (iii) *an independent use can nonetheless be incidental to the primary purpose if it is inspired by the primary purpose; and*
 - (iv) *whether a use is for an independent purpose or subserves the dominant purpose is a question of fact and degree in all the circumstances of the case.*

The justification for the Pharmacy as ancillary to the medical centre is provided by the applicant as follows:

The Pharmacy

- (i) the entire gross floor area (GFA) of the building the subject of the Consent is 1,032m² and the proposed pharmacy will be approximately 83.2m², making it approximately 8.06% of the total GFA;
- (ii) the proposed pharmacy will utilise the same entry point as the medical centre and no separate entry to the pharmacy will be provided;
- (iii) the opening hours for the pharmacy will be the same as the medical centre;
- (iv) the pharmacy will share facilities (toilets, staff room, meeting room etc) with the medical centre as well as services (air-conditioning, electric, water, cleaning, phone, internet etc), including a single electricity and water meter for both the pharmacy and the medical centre;
- (v) the pharmacy will not have separate outdoor signage;
- (vi) the pharmacy will share a data base of patient's clinical records that are stored on the medical centre server to allow the pharmacist to check important clinical information relating to patients providing medication and advice;
- (vii) the pharmacy will be electronically linked to the medical centre consultants allowing electronic prescriptions to be sent directly to the pharmacist; and
- (viii) the information set out in paragraph 4.1(a) to 4.1(h) will apply to the 'allied health' services as well.

Development that is 'ancillary to' as identified by the applicant's legal advice:

- (a) As discussed above, a pharmacy is prohibited at the Site as a standalone use under the LEP. Accordingly, for a modification application for the removal of Condition 2 to be approved, the proposed pharmacy must be defined as a use that is ancillary to the primary development.
- (b) Planning Circular PS13-001 (the Planning Circular) issued by the Department of Planning and Infrastructure (as it then was) states that for a use to be 'ancillary' it must be "subordinate or subservient to the dominant purpose."
- (c) In addition to this, the Planning Circular states that "a component of a development may have features that are both ancillary and independent. If this is the case [one must] consider the following:
 - (i) Is the component going to serve the dominant purpose of the development or is it independent?
 - (ii) What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary.
 - (iii) Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary.
 - (iv) If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use.
 - (v) If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).
 - (vi) Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.
 - (vii) Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship, although again not necessarily determinative."

In relation to the above justification, attachment 2 of this report below include the legal advice provided by Addison's which discusses the key principles for consideration under case law as above.

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5. STATUTORY CONSIDERATIONS

5.1. Relevant matters for consideration

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

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- 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
 - Part 3.8: Non-Residential development in Residential zones

6. ASSESSMENT

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

6.1. Section 4.55 – Modifications of Consent-Generally

The following is an assessment of the modification against the relevant section of the Environmental Planning and Assessment Act 1979:

(1A) Modifications involving minimal environmental impact:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Planners Comments:

The proposed modification application proposes to remove condition 2 which currently prohibits a pharmacy to operate from the approved medical centre. The approved medical centre remains substantially the same development with no changes proposed to floor plan, design, scale and bulk of the building as approved under DA-6/2019. The pharmacy would occupy floorspace that was previously identified for use as the pharmacy but was not supported by the LLPP under DA-6/2018. Restrictions are to be placed on the operation of the pharmacy to ensure it only sells items that are ancillary to the medical centre. Therefore, Council is satisfied that the proposed modification application is of minimal environmental impact.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Planners Comments:

The proposed modification application proposes to remove condition 2 which currently prohibits a pharmacy to operate from the approved medical centre. The approved medical centre remains substantially the same development with no changes proposed to floor plan,

design, scale and bulk of the building as approved under DA-6/2019. As restrictions will be placed on the operation of the pharmacy relating on items being sold, the pharmacy will not contribute to additional parking. The items that are permitted to be sold are restricted to medicines from behind the counter and regularly available medicines in front of the counter in additions to general items such as:

- *Prescription medicines,*
- *Non prescription medicines,*
- *Sanitisers and disinfectants,*
- *Needles and syringes,*
- *Face masks,*
- *Medical gadgets, aids and equipment such as glucometer, nebulizer, vaporizer, spacers, thermometers etc,*
- *Bottles of saline, eye lens care products,*
- *Babies' nappies, these are often required at the surgery during their visit,*
- *Incontinence pads and other sanitary products including menstruation pads,*
- *Crutches and other walking aids, folding wheelchairs,*
- *Personal health and self-care related items such as moisturizing creams.*

As a result of the above, Council is satisfied that the development is substantially the same as approved under DA-6/2019.

- (c) *it has notified the application in accordance with—*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Planners Comments:

The proposal was notified and advertised between 11 November 2020 and 24 November 2020 in conjunction with Liverpool Community Participation Plan 2019 which has been imposed under the Environmental Planning and Assessment Regulation 200 (the regulations). As a result, nine submissions were received objecting to the proposal.

- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Planners Comments:

The proposal was notified and advertised between 11 November 2020 and 24 November 2020 in conjunction with Liverpool Community Participation Plan 2019 which has been imposed under the Environmental Planning and Assessment Regulation 200 (the regulations). As a result, nine submissions were received objecting to the proposal. The submissions have been considered in the assessment of the proposal and are discussed late in this report.

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

Planners Comments:

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The matters referred to in Section 4.15(1) are discussed in the report.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

Planners Comments:

Noted, as the proposal has been lodged in accordance with Section 4.55(1A) this proposal is for a modification to an existing consent.

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

(a) State Environmental Planning Policy (Infrastructure) 2007

The proposed development is best described as a ‘medical centre’ which is defined by the Standard Instrument as:

*“**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.*

Note.

*Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.”*

While the proposed medical centre is a prohibited development in the R2 zone pursuant to LLEP 2008, the Infrastructure SEPP nominates the R2 Low Density Residential zone as a ‘prescribed zone’ and a health services facility is a permitted land use within a prescribed zone (Clause 57 of the SEPP). As the SEPP prevails to the extent of any inconsistency between itself and the LLEP 2008, the proposal would be permissible with consent.

Also, the applicant proposes to redevelop land with a frontage to Heathcote Road. Heathcote Road is a classified road. Pursuant to Clause 101 - Development with frontage to classified road of SEPP (Infrastructure) 2007, the following shall be addressed:

- (1) *The objectives of this clause are:*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

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

The existing health consulting rooms at 192 Heathcote Road were initially approved in 1978 and expanded in 1994 when the dwelling at 194 Heathcote Road was also converted into health consulting rooms. The existing health consulting rooms have access to Heathcote Road.

Originally, the application proposed the installation of a roundabout at the Walder Road/Meehan Avenue intersection with vehicular access to the site via Walder Road. The application was subsequently amended to provide for left in/left out access on Heathcote Road via a deceleration lane in addition to the local road access to Walder Road. TfNSW have raised no objection to the proposed vehicular access to the land, subject to conditions of consent.

TfNSW also raises no objection to the proposed design of the vehicular access to the land and scale of development proposed. In relation to the potential vehicle emissions to impact the site, all medical activities will be conducted inside a building. Having regard to potential impact of traffic noise, a condition will be imposed on any consent granted that requires that the building achieve a desirable internal noise level as per the Australian Standards. In this regard, the modification application does not propose any amendment from the approved development and therefore the advice provided remains consistent and relevant to this modification application.

Given the above, it is considered that the proposed development achieves the provisions of Clause 101 - Development with frontage to classified road of SEPP (Infrastructure) 2007.

(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.

A Detailed Contamination Assessment was submitted under the DA-6/2018 which indicates that the site is suitable for development for use as a medical centre and that no remediation is required. This report was reviewed by Council's Environmental Health Officer who concurred with the findings of the report. The findings remain relevant to the modification application, and there are no changes to the assessment finding of the original DA.

(c) 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.

There is no change to the assessment of the original DA. As such, it is considered that the

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proposal and modifications proposed satisfy the provisions of the GMREP No. 2 subject to appropriate sedimentation and erosion controls being implemented during construction.

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned R2 Low Density Residential pursuant to the LLEP 2008. An extract of the zoning map is provided in Figure 5 below.

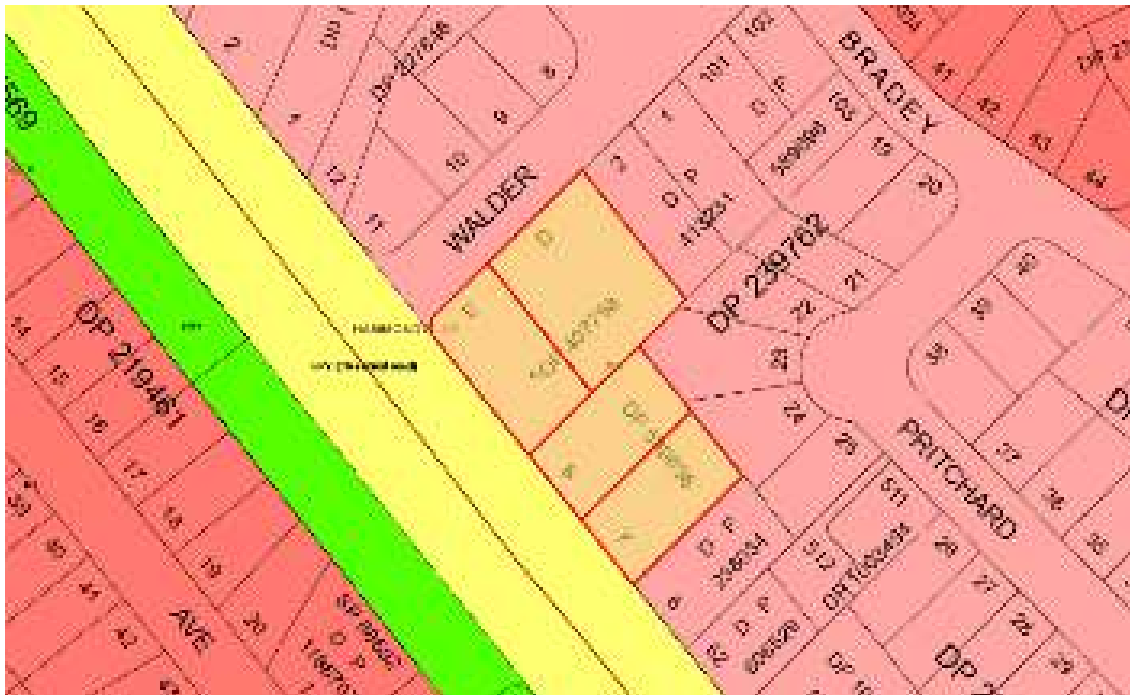


Figure 5: Zoning Map (Source: Geocortex)

(ii) Permissibility

The proposed development would be defined as a “medical centre”, which is a prohibited use within the R2 Low Density Residential zoning under the Liverpool LEP 2008. However, medical centres are permitted with consent pursuant to the Infrastructure SEPP which permits health services facilities within a prescribed zone (the R2 Zone is classed as a prescribed zone).

The application proposes a pharmacy dispensary at the site. A pharmacy is classified as a ‘retail premises’ which is a prohibited use in the R2 zone. However, under this modification application, consent is sought for a pharmacy as an ancillary use to the medical centre. It is noted that the pharmacy has a floor area of 83.5m², which equates to 8.5% of the total floor area of the centre.

The applicant argues that the proposed pharmacy is ancillary to the dominant purpose of a medical centre for the following reasons:

- *There is no proposed external signage for the pharmacy.*
- *Access to the pharmacy is only accessible via the medical centre central lobby and has no separate access point.*

- *The hours of operation of the pharmacy also align with the medical centre and are operated under the same entity.*
- *The pharmacy will dispense medicines/services on referral of the centre's medical professionals.*

At this stage, it is considered that the applicant has submitted a legal justification with the modification application arguing that the pharmacy can be considered as 'ancillary' to a health services facility as it is considered 'subordinate' and 'subserving' to a dominate use.

(iii) Objectives of the zone

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide a suitable low scale residential character commensurate with a low dwelling density.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed modification is considered to remain consistent with the objectives of the zone in that:

- The medical centre will provide uses that serve the day to day needs of local residents within the area.
- The medical centre will maintain the existing residential amenity of surrounding low density residential environment.

(iv) Principal Development Standards

LLEP 2008 contains a number of principal development standards which are relevant to the proposal, as detailed below and have been considered under the modification application:

Development Provision	Requirement	Proposed	Comment
Part 4 Principal Development Standards			
2.7 Demolition	The demolition of a building or work may be carried out only with development consent	Demolition was proposed under DA-6/2018 and was approved. No additional demolition works or changes to the demolition are proposed.	Complies
4.1 Minimum subdivision lot size	The minimum lot size permitted on the subject land is 300sqm and is marked "D" on the building heights map.	Subdivision was considered and approved under DA-6/2018 and the site will be subdivided into two separate allotments as follows:	Complies

		<ul style="list-style-type: none"> Proposed lot 1 will have an area of 811m²; and Proposed Lot 2 will have an area of 3709m². <p>No change to the subdivision is proposed under this modification application.</p>	
4.3 Height of Buildings	The maximum building height permitted on the subject land is 8.5 metres and is marked "I" on the building heights map	The development is 5.3 metres at its highest point and no changes are proposed in this modification application.	Complies
4.4 Floor Space Ratio	The permitted FSR for the site is 0.5:1.	FSR proposed is 0.26:1 or GFA of 982m ² on Proposed Lot 2 and no changes are proposed in this modification application.	Complies
7.13 Minimum Lot width in Zones R1, R2, R3 and R4	The width of any lot, resulting from a subdivision of land, that is capable of accommodating residential development, must not be less than 10 metres.	Proposed Lot 1 is for a residential lot with a width of 20m and no changes are proposed in this modification application.	Complies

As demonstrated in the above compliance table, the proposed development is consistent with the provisions of LLEP 2008.

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

The modification application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development and Part 3.8 Non-residential development in Residential zones*. In considering the proposed development, as there are no specific development controls for medical centres in non-residential zoned, the application has been assessed against the controls in Part 3.8 of LDCP 2008 as it relates to health consulting rooms.

The proposed modification application does not propose any changes from the approved development as it was assessed under DA-6/2019 and full compliance to the LDCP remains as approved. The proposed changes are to remove a condition that will allow a tenancy on site to be used as Pharmacy. The proposed pharmacy will not add any additional gross floor area or additional bulk and scale to the approved building.

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

6.5. Section 4.15(1)(a)(iiia) - Planning Agreements

There are no Planning Agreements which apply to the development.

6.6. 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.

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

Natural and Built Environment

The proposed modification to the approved 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 modification to the approved development is unlikely to create any adverse impacts on the surrounding built environment as no additional bulk to the building will result from the removal of condition 2. The proposed modified development is considered to be of an appropriate scale and with restrictions imposed on uses is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole.

The proposal is not an over-development and is consistent with the desired built character of the locality with a single storey building and as permitted under the Infrastructure SEPP for a medical facility and ancillary uses fronting a classified. The proposed removal of a condition to permit the operation of a pharmacy does not propose to add additional bulk and scale to the approved medical facility. Therefore, the 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.

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 in the locality.

6.8. 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.

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

(a) Internal Referrals

No internal referrals were required as the modification did not propose any changes to the building design, layout and configuration. The proposal remains substantially the same as approved under DA-6/2018/A therefore all referrals completed under DA-6/2018 remains current.

(b) External Referrals

No external referrals were required as the modification did not propose any changes to the building design, layout and configuration.

(c) Community Consultation

The amended proposal was notified and advertised for a period of 14 days from 11 November 2020 to 24 November 2020 in accordance with the Liverpool Community Participation Plan 2019. Nine submissions were received in response to the public consultation process for the amended application. The key issues raised in the submissions relate to traffic and parking, security, landscaping, acoustics, waste management, impacts to existing health services and non-support for a pharmacy to be ancillary to the medical facility.

A summary and assessment of the issues raised in the submissions, is detailed in the following table below.

ISSUES	COMMENTS
The Pharmacy	
<i>A Pharmacy is a retail premises and is not ancillary to a medical centre as stated.</i>	<i>The applicant has provided legal advice which is private and cannot be disclosed to the public. The legal firm who provided the justification for a pharmacy being ‘ancillary’ to the medical facility has indicated that the advice is Privileged and Confidential, which is why it has not been published to Council’s website.</i>
<i>The documents provided imply that the applicant will have a pecuniary interest in the pharmacy which is not in line with Code of Conduct for Pharmacists 2014. ‘The pharmacy will share a database of patients records that are stored on the medical server’, which raises concerns about patient records and is not in line with Confidentiality and Privacy in the Code of Practice.</i>	<i>Aside from any approval given in this application, the applicant/developer/landowner is still required to comply with all other relevant policies relevant to the operation of a Pharmacy. This consent alone, does not simply imply all other legislative polices and/or codes of conduct are not relevant. The operator will still be required to ensure all relevant polices and codes of conduct are adhered to.</i>
<i>The R2 zone doesn’t permit a Pharmacy to operate. Pharmacies are specialised retail premises that should remain in local centres only.</i>	<i>The pharmacy is not permitted under the R2 zone. However, the Health Services Facility was approved under the Infrastructure SEPP and legal advice has been provided stating a Pharmacy can be considered as an ancillary use to a health services facility. Restrictions have been placed on the type of items that</i>

	<i>can be sold which will be restricted to items relating to the medical operation of the health services facility only.</i>
<i>The community already has 4 existing pharmacies within close proximity that services the community. Another pharmacy is not required. The pharmacy within a medical centre will still be a retail shop, they will have deliveries from supplies and extra parking used to use this.</i>	<i>The pharmacy will have restrictions placed on use by condition limiting the type of products to items that are related to a health services facility. Items such as general shampoo, conditioner and the like cannot be sold.</i>
<i>The doctors can send E-scripts up to any other pharmacies at the patient's choice.</i>	<i>With respect to the operation of the pharmacy, the operation of the proposed pharmacy in regard to scripts and patient choice is not a matter for the development application. In this regard, it is considered that the issue raised is not a relevant planning consideration to the proposed development.</i>
<i>There is mention that the pharmacy will be operated by the same entity. We are unsure whether the applicants are aware of State legislation (Pharmacy Practice Bill 2006) that prohibits a person from having pecuniary interest in a pharmacy unless they are a registered pharmacist, a pharmacists' partnership or a pharmacists' body corporate. Council should seek clarification around this matter.</i>	<i>With respect to the operation of the pharmacy, the operation of the proposed pharmacy in regard to any policy relating to the operation of a pharmacy is not a matter for the development application. Furthermore, the modification application does not override any other relevant policy or code of conduct for operation of a pharmacy. In this regard, it is considered that the issue raised is not a relevant planning consideration to the proposed development.</i>
<i>Pharmacists are the most accessible health care professional in Australia and are seen on average 6 times more than a doctor.</i>	<i>Operational aspects of the pharmacy are policed under other legislation not planning related. The operational aspects of a pharmacy relating to the number of patient visits are not a planning issue.</i>
<i>The legal opinion prepared by the proponent should be completely disregarded and their authority on the point should ignored as the pharmacy would not just operate as an ancillary use to the medical centre.</i>	<i>Noted. The legal opinion is from a registered legal organisation who have signed the advice provided.</i>
Impacts on existing Health Service Facilities	
<ul style="list-style-type: none"> <i>The applicant promotes this redevelopment as providing new medical services to the local community when in fact we believe that they intend to consolidate existing services at Hammondville and Wattle Grove into one location and therefore reduce access to health services in other areas of the</i> 	<i>This matter was addressed under the initial DA as follows: Division 10 of the State Environmental Planning Policy (Infrastructure) 2007 applies to health services facilities. Reference is made to Clause 57(1) of SEPP which states that development for the purposes of health services facilities may be carried out by any person with consent on any land. In this</i>

<p><i>locality.</i></p> <ul style="list-style-type: none"> <i>There may be positive economic benefits for the nearby shopping centre at Hammondville (IGA and cafes) however there will likely be a detrimental effect on the nearby existing health professionals, that is the pharmacy, doctor and podiatrist.</i> <i>The convenience of a medical centre in Wattle Grove is a plus for the elderly and other members of the community who cannot travel easily to the Hammondville location.</i> <i>Wattle Grove Shopping Centre already has a medical centre. By closing this centre and moving into one centre, this is a disadvantage to the community at large.</i> 	<p><i>regard, the proposed development can be considered by Council.</i></p> <p>As advised under the initial DA, Council's assessment of the proposal is based only on planning considerations relevant to the proposed development and does not take into consideration the interests of property, business or product owners (commercial interests). In this regard, it is considered that the issue raised is not a relevant planning consideration to the proposed development.</p> <p>The applicant provided the following response relating to impacts to existing health services in the initial DA which remain relevant to these issues raised:</p> <ul style="list-style-type: none"> <i>At this stage we are informed by the client that Wattle Grove has no plans to close.</i> <p>The allied health services already exist on site. The inclusion of an ancillary pharmacy is not unexpected as part of a modern medical centre.</p>
<p>Traffic and Parking</p>	
<p><i>There will be increased traffic and parking should the pharmacy go ahead.</i></p>	<p>The pharmacy will be restricted on items sold that are related to the medical aspect of the facility. As these items are not related to the retail aspect of a pharmacy, the parking remains consistent to what has been approved under DA-6/2019 and considered satisfactory.</p>
<p>Security</p>	
<p><i>I have concerns relating to security and the requested for an onsite pharmacy. Pharmacies are key crime targets for potential thefts and break-in and of grave concerns for neighbouring residents.</i></p>	<p>The initial application with a pharmacy included on plans was referred to NSW Police for comments. No comments were received from NSW Police in relation to the proposed development. A condition was imposed that requires CPTED principles to be incorporated into the building. Also, it is considered that pedestrian egress/ingress from the site is considered to be satisfactory.</p> <p>The applicant provided the following comments in response to the security concerns raised in the initial submissions relating to security and crime concerns:</p> <ul style="list-style-type: none"> <i>CPTED principles have been reviewed in light of the design and include:</i>

	<ul style="list-style-type: none"> ○ Adequate lighting ○ Passive surveillance over the roadways and the car park ○ 24 hour security ○ Well maintained site ensuring all gardens are maintained and any rubbish removed, graffiti promptly removed and the like
General Other Matters	
<i>There has been a number of community meetings/panels held by council, with the last one occurring on 30Mar20 about the original DA-6/2018, however no communication has been sent to the people who attended or raised objections as to what has been finally approved by council. There were many comments made at the last meeting however we have not received any minutes from this meeting or clarification on what was finally approved. I have enclosed my email sent on 30Mar20 as to yet I am still awaiting a reply.</i>	The initial DA (DA-6/2019) was approved by the panel. All submissions were acknowledged, and no additional meetings were organised under this modification application. Under the initial DA all submitters have an opportunity to attend the LLPP meeting. The modification application will be forwarded to the LLPP and all who submitted will get the next opportunity to speak and raise objections at that meeting.
<i>Presently there is another DA in place for another medical facility directly across the road to this DA request (this is: DA-773/2020 at 3 Walder road, Hammondville), when we again raised concerns about parking & traffic in/out of Walder Road – especially with the proposed medical centre in DA-6/2018 (being directly adjacent) having an entry/exit in Walder Road – we were told that we should have raised our concerns earlier in regards to DA-6/2018. We DID raise this & it appears are comments have been disregarded.</i>	Noted. The other DA and is a matter raised for consideration under that DA and do not impact the removal of the condition 2 as the main issue in the modification application.
<i>I feel there was no transparency from the developers as to what their actual intentions were relating to a DA and zoning application for the site.</i>	The planning proposal for rezoning was refused for the site and has been completed. The DA for the Health Services facility has been approved.
<i>There are a number of other medical centres nearby and a school that contribute to parking and traffic issues.</i>	The medical centre was approved under DA-6/2018 and is not under assessment in this modification application.

The issues raised in the submissions are considered to contain varying degrees of relevance and have been considered in the assessment of the application. Given that the submissions received are unable to be resolved and that the proposed condition to be removed was imposed by the LLPP, the application is referred to the LLPP for consideration.

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

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The proposed development is considered to be in the public interest.

7. DEVELOPMENT CONTRIBUTIONS

Section 7.11 Development Contributions are not applicable to the proposed development.

8. CONCLUSION

The modification application has been assessed having regard to the provisions of Section 4.15 and 4.55 of the EP&A Act 1979, and the Environmental Planning Instruments, including the applicable State Environmental Planning Policies, Liverpool LEP 2008, LDGP 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.

9. RECOMMENDATION

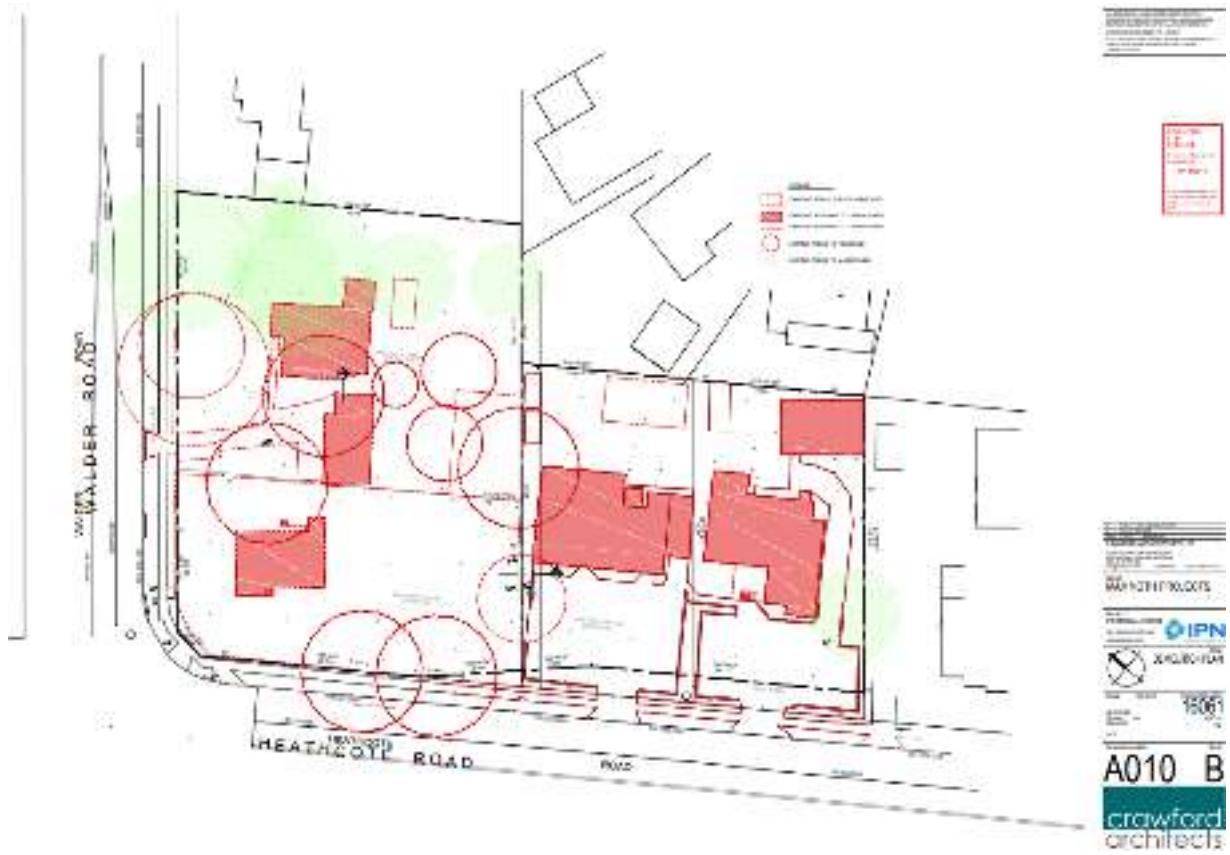
That Development Application DA-6/2018/A be approved subject to the modified conditions of consent.

10. ATTACHMENTS

- 1. APPROVED PLANS OF THE PROPOSAL**
- 2. DRAFT MODIFIED CONDITIONS OF CONSENT**

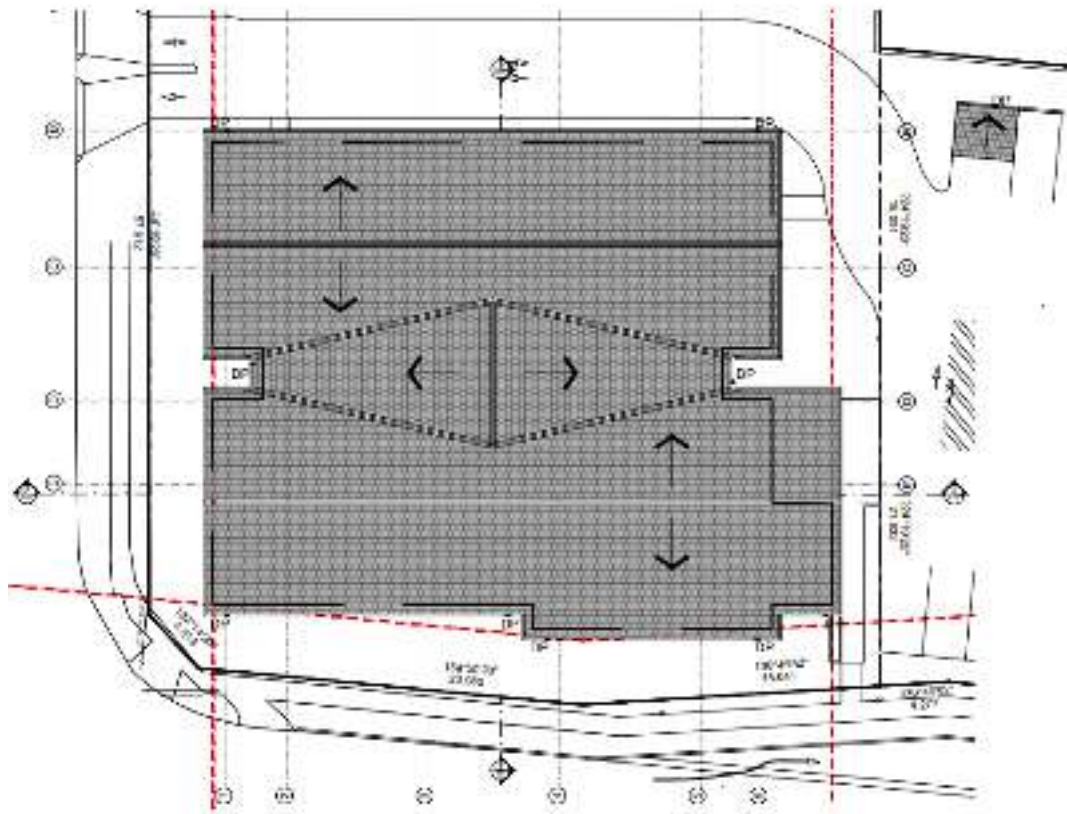
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DATE: 23/07/2021
 TIME: 10:00 AM
 DRAWING NO: A101 E



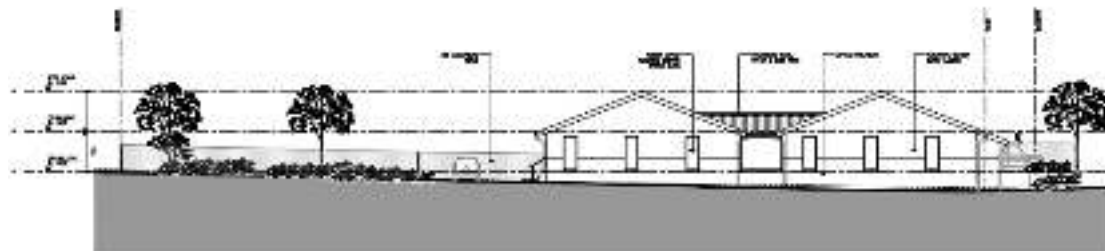
WARRINGTON PROJECTS
 ARCHITECTS



A101 E

crowford architects

DATE: 23/07/2021
 TIME: 10:00 AM
 DRAWING NO: A101 E

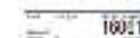
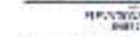
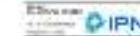


1W ELEVATION - WALDER ROAD



2W ELEVATION - HEATHCOTE ROAD

WARRINGTON PROJECTS
 ARCHITECTS



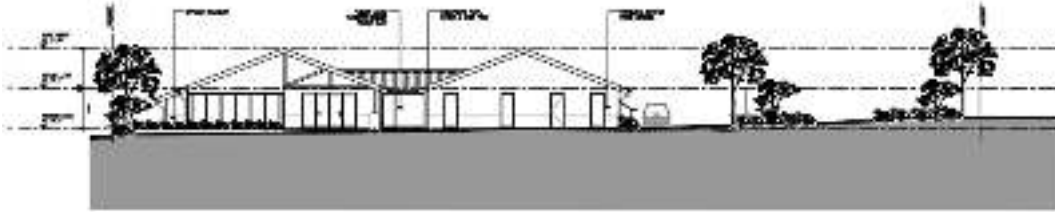
A200 D

crowford architects

DATE: 23/07/2021
 TIME: 10:00 AM
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SE ELEVATION - (ADDRESS)



RE ELEVATION



SW ELEVATION

PROJ: 180051
DATE: 18/07/2021
DRAWN: JAC
CHECKED: JAC



PROJ: 180051
DATE: 18/07/2021
DRAWN: JAC
CHECKED: JAC

IPN
ELEVATION

180051

A201 D
crawford
architects

PROJ: 180051
DATE: 18/07/2021
DRAWN: JAC
CHECKED: JAC



PROJ: 180051
DATE: 18/07/2021
DRAWN: JAC
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IPN
ELEVATION

180051

A210 B
crawford
architects

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HAMMONDVILLE MEDICAL CENTRE
PROJECT NO. 40024
TOWN PLANNING LANDSCAPE MASTERPLAN



LANDSCAPE NOTES

1. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION AND THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION FOR PLANTING.

2. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION AND THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION FOR PLANTING.

3. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION AND THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION FOR PLANTING.

4. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION AND THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION FOR PLANTING.

5. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION AND THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION FOR PLANTING.

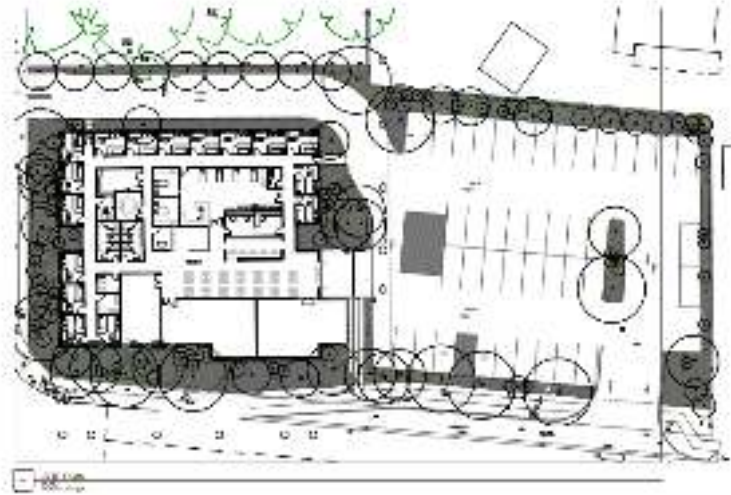
6. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION AND THE LSCS (LIVERPOOL CITY COUNCIL STREETWORKS) SPECIFICATION FOR PLANTING.

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- SCHEDULE OF DRAWINGS**
- APP. 01 SITE PLAN
 - APP. 02 PLANTING PLAN
 - APP. 03 PLANTING PLAN - CURB WALL
 - APP. 04 SITE & LANDSCAPE
 - APP. 05 STREET LIGHTING
 - APP. 06 SIGNAGE

POLYGON LANDSCAPE ARCHITECTURE 10 ALLEN ROAD, SOUTH SEAS, SOUTHAMPTON, SO9 4NR 02380 230000			CLIENT LIVERPOOL CITY COUNCIL	PROJECT HAMMONDVILLE MEDICAL CENTRE	DATE 2021	SCALE 1:400
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ATTACHMENT 2: DRAFT CONDITIONS OF CONSENT**Approved Plans**

1. Development the subject of this determination notice must be carried out strictly in accordance with the following plans/reports marked as follows:

Plans

Title	Plan No.	Revision	Dated	Prepared by
Site Plan	A002	J	19.06.20	Crawford Architects Pty Ltd
Areas	A005	C	19.06.20	Crawford Architects Pty Ltd
Demolition Plan	A020	B	19.04.11	Crawford Architects Pty Ltd
Ground Floor Plan	A100	F	19.06.21	Crawford Architects Pty Ltd
Roof Plan	A101	E	19.06.20	Crawford Architects Pty Ltd
Elevations – Sheet 1	A200	D	19.06.20	Crawford Architects Pty Ltd
Elevations – Sheet 2	A201	D	19.06.20	Crawford Architects Pty Ltd
Section A-A	A210	B	19.04.11	Crawford Architects Pty Ltd
Section B-B	A211	B	19.04.11	Crawford Architects Pty Ltd
Finishes Board	A700	B	19.04.11	Crawford Architects Pty Ltd
Cover Sheet	L400	-	25-Jun-19	Polygon Landscape Architecture Pty Ltd
Planting Plan – Building	L401	-	25-Jun-19	Polygon Landscape Architecture Pty Ltd
Planting Plan – Car Park	L402	-	25-Jun-19	Polygon Landscape Architecture Pty Ltd
Street Elevation	L403	-	25-Jun-19	Polygon

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				Landscape Architecture Pty Ltd
Street Elevation	L404	-	25-Jun-19	Polygon Landscape Architecture Pty Ltd
Planting Details	L405	-	25-Jun-19	Polygon Landscape Architecture Pty Ltd
Locality Map & Schedule of Drawings	C00	G	14/01/2020	Samana Blue Engineering
Existing Site Layout Plan	C01	G	14/01/2020	Samana Blue Engineering
Concept Layout – Sheet 1 of 2	C02	G	14/01/2020	Samana Blue Engineering
Concept Layout – Sheet 2 of 2	C03	G	14/01/2020	Samana Blue Engineering
Services Layout Plan	C04	G	14/01/2020	Samana Blue Engineering
Deceleration Section	C05	G	14/01/2020	Samana Blue Engineering
Manoeuvring Plan Sheet 1 of 2	C06	G	14/01/2020	Samana Blue Engineering
Manoeuvring Plan Sheet 2 of 2	C07	G	14/01/2020	Samana Blue Engineering
Notes and Legend	C01	5	31.02.20	Greenview Consulting
Ground Floor Drainage Plan	C02	5	31.02.20	Greenview Consulting
Catchment Plan	C03	4	31.01.20	Greenview Consulting
Site Stormwater Details Sheet 1	C04	5	31.02.20	Greenview Consulting

Reports

Title	Project No.	Revision	Dated	Prepared by
Noise Impact Assessment	Report R170361R2	2	23 May 2019	Rodney Stevens Acoustics Pty Ltd
Waste Management Plan	-	-	-	Mammoth Projects
Arboricultural Impact Assessment	AIA – MAM (HAM) (U) 02/19	-	15 February 2019	NSW Tree Services P/L
Ecological Impact Assessment	Mamm1	1.1	November 2017	Narla Environment

except where modified by the undermentioned conditions.

Pharmacy

- ~~2. No approval is given or implied for the pharmacy component of the development as part of this development consent.~~

Condition Deleted under Modification Application DA-6/2018/A

2A. Restrictions on Pharmacy Trading

The pharmacy is restricted to selling items associated with Health Services Facility as specified under Condition 117A in this consent.

Condition Imposed under Modification Application DA-6/2018/A

Amendments in Red

3. Prior to the issue of any Construction Certificate, the following amendments shall be made to the approved plans to the satisfaction of Principal Certifying Authority:
- a) The height of the acoustic barrier shall be increased in height from 1.8m to 2.1m behind the building line of the medical centre along Heathcote Road and Walder Road; and
 - b) The height of the acoustic barrier shall be reduced to 1.2 metres forward of the building line of the medical centre to the property boundary of the site along Walder Road and Heathcote Road.

Works at no cost to Council

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

Utility relocation/adjustment

5. Prior to the issue of any Construction Certificate, written approval and approved utility relocation/adjustment plans are to be provided to the PCA from any affected utility authority.

General Provisions

6. 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.

Site Development Work

7. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 8.8, 8.10 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).

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Construction Certificate by the Principal Certifying Authority:

General Terms of Approval

8. All the conditions issued by Transport for NSW, dated 14 February 2020, shall be complied with prior, during, and at the completion of construction, as required in accordance with the conditions detailed in their correspondence. A copy of the correspondence is attached to this decision notice.

Provision of Services

9. 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.

10. 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.
11. 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 following requirements of the *Telecommunications Act 1997*:
- (a) For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation, and
 - (b) 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

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conduits to accommodate the future connection of optic fibre technology telecommunications.

Fee Payments

12. 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 Development Application/Construction Certificate.

The following fees are applicable and payable:

- (a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery.
- (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
- (c) Long Service Levy – based on 0.35% of the cost of building work where the costing of the CC is \$25,000 or more.

These fees are reviewed annually and will be calculated accordingly.

13. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

Substation

14. 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).

Disabled Access

15. 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

16. 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.

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Recommendations of Acoustic Report

17. The recommendations provided in the approved acoustic report, report reference R170361R2, Revision 2, prepared by Rodney Stevens Acoustics Pty Ltd dated 23 May 2019 shall be implemented and incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.

The construction methodology and plans accompanying the Construction Certificate application shall be assessed and certified in writing by a suitably qualified acoustic consultant to verify conformance with the requirements of the aforementioned acoustic report. The written certification from the suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

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:

1. 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 provision of Stormwater Drainage in Walder Road and Heathcote 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: 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.

Construction Certificate for Subdivision Works

20. Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by Samana Blue, reference number 2019014, revision G, dated 14/01/2020 and that all Civil works have been designed in accordance with conditions of this consent, Liverpool City Council’s Design Guidelines and Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

The Civil works may include but are not limited to the following:

- Public and private roads
- Stormwater drainage including water quantity and quality treatment measures
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Overland flow paths
- Flood control measures
- Traffic facilities including roundabouts, intersection treatments, car parks, bus stops, cycleways, pathways etc.
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works
- All works required for conversion of the proposed sediment basin to a bio retention function
- All works required for the decommissioning temporary OSD systems including pipe removal, basin filling and works to existing pit structures if required

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

On-Site Detention

21. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval; as follows:

Company	Job No./Drawing No.	Title	Revision/Issue	Date
Greenview Consulting	170228-C01	NOTES & LEGENDS	6	6.2.2020
Greenview Consulting	170228-C02	GROUND FLOOR DRAINAGE PLAN	6	6.2.2020
Greenview Consulting	170228-C03	CATCHMENT PLAN	5	6.2.2020
Greenview Consulting	170228-C04	SITE STORMWATER	6	6.2.2020

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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.

No loading on easements

22. 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

23. Prior to the issue of a Construction Certificate the Certifying Authority 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 Council's Development Control Plan.

The Construction Certificate 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 Liverpool City Council with notification of the Construction Certificate issue.

Access, Car Parking and Manoeuvring

24. A road safety audit shall be carried out to assess vehicular and pedestrian safety at both driveway access points (Heathcote Road and Walder Road) and recommend appropriate facilities to be provided. The road safety audit shall be undertaken by an accredited auditor who is independent of the design consultant. The road safety audit shall be submitted to Council's Traffic and Transport Section for approval by Liverpool Pedestrian, Active Transport and Traffic Committee (Traffic Committee), prior to the issue of any Construction Certificate.
25. Prior to the issue of any Construction Certificate, detailed design plans for access driveways and car parking including swept path diagrams, line markings and sign posting in accordance with the DCP and AS2890 are to be submitted to Council's Traffic and Transport Section for review and approval by Liverpool Traffic Committee. The design shall include the following features and facilities:

- a) Features that can physically restrict vehicular right turn manoeuvres and re-enforce the left in/left out arrangement at the Walder Road access driveway;
 - b) Features that can physically restrict vehicular right turn manoeuvres and/or re-enforce the left in/left out arrangement at the Heathcote Road access driveway;
 - c) "No Parking" sign on Walder Road along the entire frontage of the development site;
 - d) A minimum of 2.0m paved footpath on Walder Road, and a minimum of 2.5m paved footpath on Heathcote Road, along the entire frontages of the development on both streets;
 - e) Provide pram ramps where the footpath is terminated by the driveways; and
 - f) Any facilities to be provided as per the recommendations of the road safety audit approved by Liverpool Traffic Committee.
26. The existing Traffic Control Signal (TCS) plan for the Walder Street/Heathcote Road intersection will need to be updated accordingly to include the new vehicular access on Walder Road. The updates are to be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner. The developer is advised to contact TfNSW to obtain a copy of the most current TCS plan.

The amended TCS plan shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

Construction Traffic Management Plan

27. A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council's Traffic and Transport Section for approval prior to the issue of a Construction Certificate.

The CTMP is to outline the need for a Road Occupancy Permit to be issued by Council or by Transport Management Centre.

Public Lighting

28. Public lighting design brief in accordance with Council's and Endeavour Energy specifications along the road frontage of the development site is to be submitted to Council's Traffic and Transport Section for review.

Dilapidation report

29. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Walder Road and Heathcote 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 20m either side of the development.

Waste Storage Area - Construction

30. All waste management facilities shall comply with the Liverpool Development Control Plan 2008. Prior to the issue of a Construction Certificate, detailed floor and section plans shall be submitted to and approved by the Principal Certifying Authority for the

waste storage area/s. The plans shall identify the location of the waste storage area/s and incorporate the following requirements:

- a) Sufficient space for access by residents, storage and easy manoeuvring of bins;
- b) The area is to be fully enclosed and include a solid roof and concrete or cement rendered walls coved to the floor;
- c) A concrete floor graded to an approved sewer connection comprising a sump and galvanised fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer;
- d) Adequate ventilation to the external air by natural or mechanical means;
- e) The door to the room must be tight fitting and self-closing;
- f) A hose cock adjacent to the garbage storage area to facilitate cleaning of bins and the storage area. If the hose cock is located inside the waste storage area, it shall not protrude into the space indicated for the placement of bins;
- g) Sufficient lighting to permit usage at night; and
- h) Should garbage chutes be integrated into the design of the building, operational instructions shall be located prominently next to the chute.

Any modifications to the construction of the waste storage area require Council's prior written Approval.

Internal Acoustic Amenity

31. A suitably qualified acoustic consultant is to be engaged to certify that the design of the traffic noise affected portions of the building comply with Australian Standard AS/NZS2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors to achieve a desirable internal noise level.

C. PRIOR TO WORKS COMMENCING

The following conditions are to be complied with or addressed prior to works commencing on the subject site/s:

Construction Certificate

32. Prior to the commencement of any building works, the following requirements must be complied with:
 - a) Construction Certificate must be obtained from the Liverpool City Council or an Accredited Certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
 - b) Where Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979,
 - c) 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 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,
 - d) 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,

- e) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and
- f) 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

Building Work

- 33. 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.

Demolition Works

- 34. 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, and
 - 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.

Notification of Service Providers

- 35. 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 easements, 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.

Waste Classification

- 36. 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).

Environmental Management

37. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:
- (a) Measures to control noise emissions from the site;
 - (b) Measures to suppress odours and dust emissions;
 - (c) Selection of traffic routes to minimise residential noise intrusions;
 - (d) Soil and sediment control measures;
 - (e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
 - (f) Community consultation.
38. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. 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.

Sediment & Erosion Control

39. 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".

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

Traffic Control Plan

40. The developer shall seek road occupancy, road opening permits, and works zone approval from Council if required, before undertaking any works within public road reserve. The application forms are available on Council's website or can be requested from the Council's Customer Services.
41. Prior to commencement of any works a Traffic Control Plan including details for pedestrian and cyclist access management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services publication "Traffic Control at Worksites" and certified by an appropriately

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accredited Roads and Maritime Services Traffic Controller, and submitted to Council's Traffic and Transport Section for review.

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.

Matters to be addressed prior to commencement of Subdivision Works

42. 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 are to be complied with or addressed during construction:

Building Inspections

43. The building works must be inspected by the Principal Certifying Authority, in accordance with section 6.5 (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, Liverpool City Council's development consent and the construction certificate.
44. The *Principal Certifying Authority* (PCA) must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the PCA, prior to proceeding to the subsequent stages of construction or finalisation of the works.

Hours of Construction Work and Deliveries

45. 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, 8:00am to 1:00pm Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

Demolition Inspections

46. 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 or 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 Management Plan

47. 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.

General site works

48. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.
49. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
50. 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.

Construction Traffic Management

51. The endorsed CTMP is to be implemented during construction.
52. Applications must be made to Council's Traffic and Transport 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.

Traffic Management

53. If a Works Zone is required, an application is to be made to Council's Traffic & Transport Section for approval. The application form can be found at <https://www.liverpool.nsw.gov.au/council/Fees-Forms-Policies-and-Enforcement/forms>.

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54. Applications must be made to Council's Traffic & Transport Section for temporary road closures. Applications prepared by a suitably qualified person, are to specify the date and times of proposed closures, traffic control plans, insurances and any other relevant information. This activity may require a seven (7) days advance notice to be installed near the site and/or advertisement in local newspapers and websites to Council's satisfaction.
55. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA's Traffic Control at Worksites Manual and the RTA's Interim Guide to Signs and Markings.

Contamination

56. 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).

Imported Fill Material

57. Filling material must be limited to the following:
- a) Virgin excavated natural material (VENM)
 - b) Excavated natural material (ENM) certified as such in accordance with *Protection of the Environment Operations (Waste) Regulation 2014*; and/or
 - c) Material subject to a Waste Exemption under Clause 91 and 92 *Protection of the Environment Operations (Waste) Regulation 2014* and recognised by the NSW Environment Protection Authority as being "fit for purpose" with respect to the development subject of this application.

Certificates proving that the material imported is ENM or VENM must be provided to the Principal Certifying Authority prior to filling. Certificates are to be provided to Council officers if and when requested.

Fill imported on to the site must be compatible with the existing soil characteristic for site drainage purposes.

Record Keeping of Imported Fill

58. The following records of accepted waste derived fill material must be submitted to the Principal Certifying Authority 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) documentation confirming the results of the waste classification assessment carried out on the fill material used in the development, and
 - c) the results of any chemical testing undertaken on fill material.

Vegetation

59. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.
60. Any works or activities shall adhere to the recommendations outlined in the approved Flora and Fauna Report prepared for the site.
61. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
62. 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.
63. 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.

Air Quality

64. Dust screens shall be erected and maintained in good repair around the perimeter of the construction zone during land clearing, demolition, and construction works.
65. 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.
66. 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.

Water Quality

67. 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.

Pollution Control

68. 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.
69. The loading and unloading of all vehicles associated with the development must be undertaken within the property boundary of the premises subject to this consent.

Measures must be implemented to prevent tracking of sediment by vehicles onto roads.

Vehicle loads must be covered when entering and exiting the site with material.

Identification Survey Report

70. 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.

Sign Notice Board

71. A sign must be erected and maintained in a prominent position on the site, which contains the following details:
- a) name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
 - b) name, address and telephone number of the *Principal Certifying Authority*
 - c) a statement stating that ‘unauthorised entry to the work site is prohibited’.

Notification/Principal Certifying Authority

72. 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.

Toilet Facilities

73. 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:
- be a standard flushing toilet connected to a public sewer, or
 - have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - be a temporary chemical closet approved under the *Local Government Act 1993*.

Hoarding

74. 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. 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.

Construction Requirements

75. 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.

Site Facilities

76. 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.

Security Fence

77. 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.

Crime Prevention Through Environmental Design

78. The following Crime Prevention Through Environmental Design (CPTED) principles be incorporated into the building.
- (a) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be considered;
 - (b) 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;

Erosion and sediment control

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

Street Lighting

80. Street lighting is to be provided for all new and existing streets within the proposed subdivision to Liverpool City Council's standards.

The developer shall submit a Public Lighting Design Brief to Council for approval for the provision of street lighting on all new public roads dedicated to Council. A street lighting design plan must be prepared by an accredited service provider for approval prior to construction. All street lighting must comply with the electricity service provider Street Lighting Policy and illumination requirements and Council's Street Lighting policy.

All cost associated with the installation of street lighting shall be borne by the developer.

Construction Noise

81. 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.
82. 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.

E. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Subdivision Certificate by Council:

Completion of subdivision works

83. Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Liverpool City Council for any outstanding works.

Completion of subdivision works

84. Prior to the issue of an Subdivision Certificate the Principal Certifying Authority shall ensure that the:
- (i) On-site detention system/s
 - (ii) Stormwater pre-treatment system/s
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

- Details of the approved and constructed system/s shall be provided as part of the Works-As-Executed drawings.

Restriction as to User and Positive Covenant

85. Prior to the issue of a Subdivision Certificate a restriction as to user and positive covenant relating to the:
- (i) On-site detention system/s
 - (ii) Stormwater pre-treatment system/s

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 Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Rectification of Damage

86. Prior to the issue of a Subdivision 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 Liverpool City Council.

Any rectification works within Walder Road and Heathcote Road will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

Subdivision Compliance

87. Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority:
- a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Design Guidelines. Electronic copies of the WAE shall be provided in PDF format and a DXF format to Council along with two hard copies of the WAE plans,
 - b) The WAE drawings shall clearly indicate the 1% Annual Exceedence Probability flood lines (local and mainstream flooding),
 - c) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges,
 - d) CCTV footage in DVD format to Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Inspections are to be carried out in accordance with the Conduit Inspection Reporting Code of Australia WSA 05-2006. Any damage that is identified is to be rectified in consultation with Liverpool City Council,

- e) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries,
- f) Documentation for all road pavement materials used demonstrating compliance with Council Design Guidelines and Construction Specification,
- g) Structural Engineer's construction certification of all structures, and
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Council's Design Guidelines and Construction specifications. The report shall include:
 - i. Compaction reports for road pavement construction,
 - ii. Compaction reports for bulk earthworks and lot regrading,
 - iii. Soil classification for all residential lots, and
 - iv. Statement of Compliance.

Linen Plans and 88B

- 88. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.
- 89. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.
- 90. The following restriction as to user must be placed over proposed Lot 1. Details shall be submitted with the application for a Subdivision Certificate.
 - a) No Construction Certificate shall be issued for a building on the lot burdened until on site drainage detention has been designed in accordance with Council's On-Site Detention Policy and Construction Specification, and
 - b) No Occupation Certificate for a building shall be issued until the designed on-site detention system has been constructed on the subject lot and a licensed Surveyor prepares a "Work As Executed" plan and is certified as complying with the approved detention design by an appropriate accredited professional engineer.
- 91. The final plan of subdivision must be supported by an 88B Instrument. This instrument must burden each lot with a restriction as to user that the dwellings to be erected on each lot are to be sited and constructed in accordance with approved plans and notice of determination (Development Consent) issued by Council for Development Application No. **DA-6/2018**. Any costs associated with the preparation and checking of the instrument are to be borne by the applicant. The preparation of an 88B Instrument will not be required if construction has reached a stage where all brickwork is a minimum 500mm above finished floor level and the construction is in accordance with the development consent and the CC's.
- 92. Where common drainage lines or other drainage lines are required, a drainage easement shall be created in accordance with Council's minimum widths as scheduled in councils design specification for subdivisions (as amended).

93. Correct notation concerning easements is required. The prepared 88B Instrument should be forwarded initially to Council. The land value of the easement and costs associated with checking the instrument are to be borne by the applicant. Part 2 of the 88B Instrument shall contain a provision that the easement may not be extinguished or altered without the written consent of Council.

Service Providers

94. The following documentation is to be provided prior to the release of the subdivision certificate:

- a) Written evidence of suitable arrangements with Sydney Water (Section 73 Compliance Certificate) for the supply of water and sewerage services to the development is to be submitted to the PCA prior to the issue of a Subdivision Certificate.

Council will not issue a Subdivision Certificate unless the method of sewerage disposal is by gravity reticulation mains to either Sydney Water branch and trunk sewers or Sydney Water point of treatment. Council will not accept any temporary facilities to service the site, including pump-out wet-wells.

- b) Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.
- c) Written certification from the relevant service providers that the telecommunications infrastructure is installed in accordance with:
- i. The requirements of the *Telecommunications Act 1997*;
 - ii. For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - iii. 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 connections of optic fibre technology telecommunications.

Footpaths

95. Construction of 1.5m wide by 100mm thick (with one layer of SL72 reinforcing mesh) concrete path paving on both sides of all residential access roads and both sides of all collector and distributor roads.

Dilapidation Report

96. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

Bonds

97. A maintenance bond in the form of a bank Guarantee or cash bond (\$TBA), shall be lodged with Council prior to the issue of a Subdivision Certificate. The bond shall cover maintenance and any damage to roads, drainage lines, public reserves or other council property or works required as a result of work not in accordance with Council's standards, and /or development consent conditions. The bond will be held by Council for a minimum period of 12 months from the date of Council acceptance of final works.

F. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

Occupation Certificate

98. The premises must not be utilised until an Occupation Certificate is issued by the Principal Certifying PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.
99. An Occupation Certificate (interim or final) shall not be issued for the proposed development until a Subdivision Certificate has been issued for the subdivision of the site into two (2) Torrents title allotments.
100. 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*.
101. 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.

Liverpool City Council clearance – Roads Act/ Local Government Act

102. 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 - General

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

An original set of works-as-executed drawings and electronic copies on a USB of compliance documentation shall also be submitted to Liverpool City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

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Stormwater Compliance

104. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:
- a) On-site detention system/s
 - b) Stormwater pre-treatment system/s
 - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.
 - Details of the approved and constructed system/s shall be provided as part of the Works-As-Executed drawings.

Restriction as to User and Positive Covenant

105. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:
- a) On-site detention system/s
 - b) Stormwater pre-treatment system/s

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 Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Rectification of Damage

106. 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 Liverpool City Council.

Any rectification works within Walder Road and Heathcote Road will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

Dilapidation Report

107. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

Directional Signage

108. Prior to the issue of an Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

Transport and Traffic

109. Prior to the issue of any Occupation Certificate, all approved road safety features and facilities are to be completed to Liverpool City Council requirements, including:
- a) Features that can physically restrict right turn manoeuvres and re-enforce the left in/left out arrangement at the Walder Road access driveway;
 - b) Features that can physically restrict right turn manoeuvres and/or re-enforce the left in/left out arrangement at the Heathcote Road access driveway;
 - c) "No Parking" sign on Walder Road along the entire frontage of the development site;
 - d) A minimum of 2.0m paved footpath on Walder Road, and a minimum of 2.5m paved footpath on Heathcote Road, along the entire frontages of the development on both streets;
 - e) Provide pram ramps where the footpath is terminated by the driveways; and
 - f) Any facilities to be provided as per the recommendations of the road safety audit approved by Liverpool Traffic Committee.
110. All redundant laybacks must be removed and replaced with kerb to Council specifications.

Fire Safety – Cladding

111. 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.

Street Numbers

112. Street numbers 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 to comply with the *Local Government Act 1973*, Section 124(8). The number should be a minimum height of 120mm and be visible at night.

Landscaping

113. Upon completion of the approved landscape works associated with the development and prior to the issue of any OC, 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.

Recommendations of Acoustic Report

114. Upon completion of works and prior to the issue of an Interim or Final Occupation Certificate, written certification prepared by a suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA). The written certification prepared by the suitably qualified acoustic consultant shall confirm that the development complies with all requirements and recommendations detailed within the approved acoustic report titled (Report Title), report reference (Project Number/Job Number, Revision) prepared by (Author) dated (date). The acoustic consultant shall confirm that the development or use is capable of operating in accordance with the design criteria.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the

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qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Roadwork

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

Street Lighting

116. Street lighting provision is to be completed to Liverpool Council requirements, at no expense to Liverpool Council or Roads and Maritime Services.

Asset damage

117. Council's on-street assets such as footpath should be protected at all times. Any damages should be rectified to Council satisfaction.

G. CONDITIONS RELATING TO USE

The following conditions relate to the ongoing use of the premises:

Restriction on use of the Pharmacy

- 117A.** The pharmacy is restriction to sell the following items relating to the Health Service Facility as follows:

- Prescription medicines,
- Non prescription medicines,
- Sanitisers and disinfectants,
- Needles and syringes,
- Face masks,
- Medical gadgets, aids and equipment such as glucometer, nebulizer, vaporizer , spacers, thermometers etc,
- Bottles of saline, eye lens care products,
- Babies' nappies, these are often required at the surgery during their visit,
- Incontinence pads and other sanitary products including menstruation pads,
- Crutches and other walking aids, folding wheelchairs,
- Personal health and self-care related items such as moisturizing creams.

Condition Imposed under Modification Application DA-6/2018/A

Car Parking

118. A total of forty (40) off street car parking spaces must be provided in accordance with Council's relevant development control plan. Two (2) of the spaces must be designed and signposted/marked for the specific use of persons with a disability.
119. All parking areas shown on the approved plans must be used solely for this purpose.

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120. All loading and unloading must take place from the designated loading dock. This area is to be clearly marked/signposted for use by delivery vehicles only.
121. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, with the exception of 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.

Graffiti

122. Any graffiti carried out on the property shall be removed, within 48 hours, at full cost to the owner/occupier of the site.

Advertising

123. Advertising matter not approved in conjunction with this decision notice, must not be erected, painted or displayed without the prior approval of Council.

Use of the Site

124. All materials and goods associated with the use shall be contained within the building at all times.

Hours of Operation

125. The hours of operation of the medical centre are limited to:

Monday to Friday: 8am – 8pm
Saturday and Sunday: 8am – 4pm

Lighting

126. Illumination of the site is to be arranged in accordance with the requirements and specifications of Australian Standard 4282:1997 so as not to impact upon the amenity of the occupants of adjoining and nearby premises.

Waste Management

127. All solid waste stored on site is to be covered at all times. Furthermore, all solid and liquid waste is to be removed from the site by a registered waste contractor.
128. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
129. Waste bins must be stored in designated garbage refuse 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.

Landscaping

130. 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.

An annual report shall be submitted to Council, for the 3 years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

Unreasonable Noise and Vibration

131. The industry, including but not limited to the operation of vehicles, mechanical plant and equipment, 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, particularly from machinery, plant, 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 a suitably qualified acoustic 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 consultant's recommendations and any additional requirements to the satisfaction of Liverpool City Council.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Noise Complaints Register

132. The operator shall keep a legible record of all complaints received in an up-to date Complaints Register. The Complaints Register must record, but not necessarily be limited to:

- a) the date and time, where relevant, of the complaint;
- b) the means by which the complaint was made (telephone, mail or email);
- c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
- d) the nature of the complaint;
- e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.
- f) allocate an individual "complaint number" to each complaint received.

The Complaints Register must be made available for inspection when requested by Liverpool City Council.

The industry shall be operated in accordance with the approved Noise Management Plan and Complaints Handling Procedure at all times.

Environment

133. The use of the premises shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.

Noise

134. Any alarm installed on the site is to be “silent back to base” type.
135. Noise associated with the use of the premises, including mechanical plant and equipment, shall not give rise to any one or more of the following:
- a) The use of the premises including the cumulative operation of any mechanical plant, equipment, public address system or other amplified sound equipment shall not give rise to the emission of ‘offensive noise’ as defined by the Protection of the Environment Operations Act 1997.
 - b) The operation of any mechanical plant, equipment, public address system or other amplified sound equipment installed on the premises shall not cause:
 - i. The emission of noise as measured over a 15 minute period ($L_{Aeq (15 \text{ minute})}$) that exceeds the $L_{A90 (15 \text{ minute})}$ background noise level by more than 5 dB(A) when measured at the most affected residential boundary. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the NSW Environment Protection Authority’s ‘Noise Policy for Industry’ (2017);
 - ii. An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2016 Acoustics – Recommended design sound levels and reverberation times for building interiors;
 - iii. ‘offensive noise’ as defined by the Protection of the Environment Operations Act 1997; and
 - iv. Transmission of vibration to any place of different occupancy greater than specified in AS 2670.

Spruiking

136. No persons, such as those commonly known as ‘spruikers’ shall operate either with or without sound amplification equipment for the purpose of advertising the use of the premises, the sale and availability of goods, services, entertainment or the like.

Medical/Dental Waste Disposal

137. Suitable waste disposal containers with securely fitting lids shall be provided for any clinical, contaminated or related waste. The waste material is to be disposed of at an appropriately licensed waste facility.

H. ADVISORY

- a) Section 8.2, 8.3, 8.4 & 8.5 allows Liverpool City 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" DIAL 1100

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

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1800 810 443.

- k) The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required by other conditions of this consent.

- l) 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.

- m) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

- n) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the 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.

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ATTACHMENT 2 – TFNSW REQUIREMENTS



14 February 2020

TINSW Reference: SYD18/00690/09
Council Reference: DA-6/2018

Liverpool City Council
Locked Bag 7054
Liverpool BC NSW 1871

Attention: Boris Santana

**REVIEW APPLICANTS RESPONSE AND AMENDED PLANS FOR MEDICAL CENTRE
- 2-6 WALDER ROAD & 192-194 HEATHCOTE ROAD, HAMMONDVILLE**

Dear Sir/Madam,

Reference is made to Council's correspondence dated 16 January 2020, regarding the abovementioned application which was referred to Transport for NSW (TINSW) for concurrence in accordance with Section 136 of the Roads Act, 1993.

TINSW has reviewed the development application and would provide concurrence under Section 136 of the Roads Act, 1993, subject to Council's approval and the following requirements being included in the development consent:

1. The proposed eastbound deceleration lane along Heathcote Road shall have a minimum length of 40.9 metres. The proposed works along Heathcote Road shall be designed to meet TINSW requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TINSW for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. TINSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

2. A 3.5m wide strip of land along the full length of the site within the property boundary shall be dedicated as public road at the full cost of the developer, and shall be executed prior to the release of the Construction Certificate.
3. The design and construction of the gutter crossing on Heathcote Road shall be in accordance with TINSW requirements. Details of these requirements should be

Transport for NSW
27 Argyle Street, Parramatta NSW 2150 | Locked Bag 5085, Parramatta NSW 2154
P (02) 8949 2888 | W transport.nsw.gov.au | ABN 18 604 256 032

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obtained by email to Development@liverpool.gov.uk.

Detailed design plans of the proposed gutter crossing are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

- Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval prior to the commencement of any works. Documents should be submitted to Development@liverpool.gov.uk.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- The layout of the proposed car parking area associated with the subject development (including driveways, grades, kerb data, sight triangle requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2884.1-2011, AS 2884.2-2010 and AS 2884.3-2017 for heavy vehicle usage.
- The swept path of the largest vehicle (including garbage trucks, building maintenance vehicles and removable) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSI-SURDS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with the requirement.
- A Construction Traffic Management Plan detailing construction vehicle routes, number of trips, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- All vehicles are to enter and leave the site in a forward direction.
- All vehicles are to be wholly contained on site before being required to stop.
- A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Heathcote Road during construction activities. A ROL can be obtained through <http://myrol.com.au/rol/paperwork/apply/apply.html>.
- All construction and maintenance vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Heathcote Road.
- The developer shall be responsible for all construction works for the proposed development on Heathcote Road and public utility adjustment/construction works

necessitated by the above work and as required by the various public utility authorities or other third parties.

- All works/activities/signposting associated with the proposed development are to be at no cost to TfNSW.

In addition to the above, TfNSW provides the following advisory comments to Council for consideration in its determination of the development application:

- The proposed new on access from Walker Road. Due to the proximity to the signalised intersection of Heathcote Road and Walker Road the access is to be physically restricted to left left out (LLO). The LLO access is to be physically restricted to ensure that right turn manoeuvres are not able to be undertaken for safety and efficiency reasons. A signed restriction dividing the ingress and egress into the site to physically restrict the right turn manoeuvres (accompanied by signage) in line with Australian Standards should be provided.

- The existing Traffic Control Signal (TCS) plan for the Walker Street/Heathcote Road intersection may need to be updated accordingly to include the new vehicular access on Walker Street. The updates are to be done by a suitably qualified person and endorsed by a suitably qualified practitioner. The developer is advised to contact Senior Network Operations Officer Steve Adams on 02 9712 1839 to obtain a copy of the most current TCS plan.

The amended TCS plan shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of road works. TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

- The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.

- The applicant is advised that detailed civil design plan for the proposed road works on Heathcote Road will need to address the comments in the attached Level Crossed Road. Prior to the issue of the Construction Certificate.

- The suitability of this development being located along a major road is a matter for Council.

If you have any further questions please direct attention to Malgy Corran on 0245 2411 or email development@liverpool.gov.uk. I hope this has been of assistance.

Yours sincerely,


Malgy Corran
Senior Land Use Planner

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ATTACHMENT 3 – ENDEAVOUR ENERGY REQUIREMENTS

The General Manager
Liverpool City Council

ATTENTION: Barb Isakiano DEVELOPMENT ASSESSMENT

Dear Sir or Madam

I refer to Council's below email of 24 July 2020 regarding Development Application DA-G/2018 at 2 & 4 & WALDER ROAD AND 101 & 104 HEATHCOTE ROAD, HAMMINGTONVILLE NSW 2176 (LOTS D & E OF 40/794, LOTS F & G OF 40/954) for the relocation of existing structures, consolidation of 4 lots and construction of a single storey sided health facility with 40 aggregate car parking spaces and a slip lane off Heathcote Road.

As shown in the below site plan from Endeavour Energy's (Net meter facility model) (and extract from Google Maps Street View) there are:

- No easements over the site benefiting Endeavour Energy (active easements are indicated by red hatching).
- Low voltage and 11,000 volt / 11 kilovolt (KV) high voltage overhead power lines to the Heathcote Road Road verge / railway.
- Low voltage overhead service conductors going to the customer connection points for the existing structures (which will become redundant assets with the redevelopment of the site).

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 KV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customer owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dig Before You Dig' plan under the provisions of Part 66 (Protection of underground electricity power lines) of the Electricity Supply Act 1988 (NSW).

Endeavour Energy has noted the Statement of Environmental Effects indicates 'As such we understand that the access arrangement and slip lane from Heathcote Road have obtained in principle support from Council and RMI, subject to detailed documentation being prepared for the council traffic and site law engineering'. As shown in the following extract of 'Architectural Design 22.04.20' two of the three existing power poles (PP) located to the Heathcote Road road verge will be impacted by the proposed slip lane i.e. a) asset relocation will be required to facilitate this proposed access arrangement but does not appear to be addressed in the Statement of Environmental Effects.

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Please find attached for the applicant's reference a copy of Endeavour Energy's Form FPI4015 'Application for the Relocation / Removal of Endeavour Energy's Electrical Network Assets' which should be submitted to Endeavour Energy's Network Connections Branch for assessment. As indicated in the form 'The developer is encouraged to approach a Level 3 Accredited Service Provider (ASP) to obtain preliminary details of the assets and discuss possible solutions to the developer's requirements'. In this instance if the existing overhead power lines are relocated overhead, there is potentially an issue with the safety clearances to the proposed facility / building - please also refer to the below points 'Network Capacity / Connection' and 'Safety Clearances'.

Subject to the resolution of the foregoing (please note however that this does not imply or indicate the granting of permission to any or all of the proposed asset relocation works) and the following recommendations and comments, Endeavour Energy has no objection to the Development Application.



- Network Capacity Connection

Endeavour Energy has that the Statement of Environmental Effects does not appear to address in detail if the electricity services are available and adequate for the proposed development.

6.4. SUITABILITY OF THE SITE FOR DEVELOPMENT

The subject site is well suited to accommodate the proposed medical centre for the following reasons:

- The site is situated within an established area such that access to services and stormwater infrastructure are readily available, and

The availability of electricity supply to a site is based on a wide range of factors eg. the age and design of the network, other development in the locality utilising previously spare capacity within the local network; the progress of nearby / surrounding sites including electricity infrastructure works eg. a smaller and isolated development that may not of its own accord require a distribution substation may require a substation to facilitate the development and from which the spare capacity is made available to subsequent nearby development. Older / above ground areas of the network utilising pole mounted substations (indicated by the symbol  on the site plan from Endeavour Energy's G/Net master facility model) have comparatively limited capacity of 25 kilovolt amperes (kVA) up to a maximum of 400 kVA where as a newer padmount substation (indicated by the symbol  on the site plan from Endeavour Energy's G/Net master facility model) can accommodate loads from 315 kVA up to 1,500 kVA (typically 500 kVA) ↓ there is a significant variation in the number and type of premises able to be connected to a substation.

4.11.7 Distribution reticulation

In order to improve the reliability performance of and to reduce the operating expenditure on the network over the long term the company has adopted the strategy of requiring new lines to be either underground cables or where overhead is permitted, to be predominantly of covered or insulated construction. Reinforcing this strategy, bare wire overhead construction is appropriate and permitted in some situations as defined below.

In areas with the potential for significant overhanging foliage, CCT is used to provide increased reliability as it is less susceptible to outages from wind blown branches and debris than bare conductors. CCT must only be used in these areas as the probability of a direct lightning strike is low. In open areas where the line is not shielded from a direct lightning strike, bare conductors must generally be used for 11kV and 22kV reticulation.

Non-metallic Screened High Voltage Aerial Bundled Cable (NHVHABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.

* A 'tree' area is one with a substantial number of trees adjacent to the line. In comparison, in these situations CCT is used to provide increased reliability as it is less susceptible to outages from weather.

5.11.7.1 Urban areas

Reticulation of new residential subdivisions will be underground. In areas of low density development, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by other environmental or local council requirements.

Where underground reticulation is required on a feeder that supplies a mixture of industrial, commercial and/or residential loads, the standard of underground construction will apply to all types of load within that development.

Where ducting is used, adequate spare ducts and easements must be provided at the outset to cover the final land requirements of the entire development plan.

Extensions to the existing overhead 11kV/22kV network must generally be underground. Bare wire will be used for conductor replacements and augmentations except in those areas where CCT or NHVHABC must be used.

Extensions to the existing overhead LV network and augmentations must either be underground or ABC. Conductor replacements greater than 100m in route length must utilise aerial bundled cable.

• Safety Clearances

The construction of any building or structure (including fencing, signage, flag poles etc.) in either temporary or permanent must comply with the minimum safe distances / clearances for voltages up to and including 110,000 volts (110kV) as specified in:

- i) Australian/New Zealand Standard AS/NZS 7000 – 2010, 'Overhead line design' as updated from time to time.
- ii) 'Service and installation rules of wires' which are accessed via the following link to the NSW Planning & Environment website:
<http://www.nsw.gov.au/planning-and-environment/infrastructure/overhead-wire-requirements/service-installation-rules>.

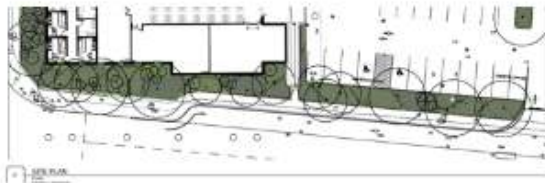
As a guide please find attached a copy of Endowor Energy showing 'Overhead Lines; Minimum Clearances Near Structures'

Different voltages are kept at different heights, the higher the voltage, the higher the wires are positioned on the pole. Similarly, the higher the voltage, the greater the setback building

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proposal involves the planting of trees to the front building setback. Due to the large mature height and spread of the trees in proximity of the overhead power lines, Endeavour Energy objects to the proposed tree planting.



PROPOSED PLANTING SCHEDULE - FULL SITE

Code	Botanical Name	Common Name	Size (mm)	Per Size	Qty
19115					
Af	Angophora floribunda	Rough-barked Apple	45 x 15	10%	3
A	Albizia julibrissin (M2)	Lightwood	10 x 5	4%	23
Cg	Cassipouira glauca	Swamp She Oak	15 x 7	4%	3
Ef	Eucalyptus amezoniana (M2)	Forest Red Gum	30 x 20	10%	7
Pc	Platanus orientalis	London Plane	12 x 7	4%	6

Endeavour Energy's recommendation is that existing street trees which are of low ecological significance in proximity of overhead power lines be replaced and any proposed planting of new trees within in the proximity of overhead power lines be replaced by an alternative smaller planting to ensure appropriate clearances are maintained whilst minimising the need for future pruning.

- Dial Before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the **Dial Before You Dig 1100** service in accordance with the requirements of the **Electricity Supply Act 1995** (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical or other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Removal of Electricity Supply

Approval for the permanent disconnection and removal of supply must be obtained from Endeavour Energy's Network Connections Branch (contact via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve:

- o The disconnection and removal of an underground service cable or overhead service line,
- o Removal of metering equipment.

The written request must be submitted to Endeavour Energy using Form FPJ4003 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work

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Item no:	2
Application Number:	DA-681/2019
Proposed Development: (Revised)	Demolition of existing structures and construction of a five (5) storey residential flat building comprising 11 residential units above 2 levels of basement carparking.
Property Address	12 Mckay Avenue, Moorebank
Applicant:	Baini Design
Land Owner:	AMDG Micharl Pty Ltd
Cost of Works:	\$3,239,549
Recommendation:	Approval, subject to conditions
Assessing Officer:	Emmanuel Torres

1 EXECUTIVE SUMMARY

1.1 Reasons for the Report

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements in that the development falls into Schedule 2 of a sensitive development which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is 4 storeys and above in height.

1.2 The proposal

The application seeks consent for the demolition of existing structures and construction of a five (5) storey residential flat building comprising 11 residential units above 2 levels of basement with 17 carparking spaces.

1.3 The site

The site is legally referred to as Lot 70 in DP 235785 with a street address of 12 McKay Avenue, Moorebank. It has a total land area of 682.9m² and can be best described as irregular in shape with a frontage of 24.685m to McKay Avenue on the west and 37.175m to Harvey pathway to the south. It is zoned R4 High Density Residential under Liverpool Local Environmental Plan 2008 and the proposed development is permissible with consent.

1.4 Exhibition of the proposal

The development application was notified for a period of 14 days from 11 to 26 November 2019 in accordance with Liverpool Development Control Plan 2008. A total of six (6) written objections were received which raised concerns relating to: privacy, traffic, height, solar access, parking, noise, lot size, public infrastructure, dilapidation and local character.

Following assessment by Council officers and 3 separate meetings with the Design Excellence Panel (DEP), after several revisions by the applicant, the proposal finally got to a stage where it can be supported.

1.5 The issues

The key issues associated with the proposal relate to:

- The proposed development has a small lot size. While the LLEP 2008 do not require a minimum site area, the proposed development on the site with a lot area of 682.9m² has proved to be a design challenge having gone through 3 DEP iterations and revisions to achieve a satisfactory outcome and gain DEP support.
- The ideal scenario is for the site to be amalgamated with the adjoining northern property (10 McKay Ave.) to optimise the development potential in the R4 zone. However, it was noted in the application that the adjoining owner was approached with no success.
- The current design is reduced in size and scale from the original application complies with the maximum building height and floor space ratio (FSR). However there are non-compliances with regard to the LDCP and ADG on front setback and building separation, respectively. These are discussed in detail in this report.
- The proposed main pedestrian entry into the residential flat building is thru the side public walkway (Harvey Parkway to the mid-section of the building).
- The proposal provides 21% of the required 25% Landscaped Area in the LDCP. This is discussed in this report.

Conclusion

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

2 SITE DESCRIPTION AND LOCALITY

2.1 The site

The site is legally known as Lot 70 in DP 235785 with a street address of 12 McKay Avenue, Moorebank. It has a total land area of 682.9m² and can be best described as irregular in shape with a frontage of 24.685m to McKay Avenue on the west and 37.175m to Harvey pathway to the south. The measurements of the side boundary to the north and rear boundary to the east is 37.73m and 12.8m, respectively. The site has a gradual cross-slope from its highest point (16.93m AHD) on the southeast corner to the lowest point (16.28m AHD) on the northwest corner.

As depicted on Figure 1 and 2 below, the site is currently occupied by one (1) detached dwelling and ancilliary outbuildings, an inground swimming pool and sparse vegetation including small seized trees.



Figure 1: Aerial photograph of the site



Figure 2: Streetview of site from south looking north

2.2 The locality

The general area is characterised by predominantly 1 to 2 storey single detached dwellings. The site is located in a residential block bounded by McKay Avenue, Lucas Avenue (to the east), Harvey Avenue (to the south) and Dredge Avenue (to the west) with a midblock pedestrian walkway (Harvey /walkway) that adjoins the south boundary of the site.

A local centre comprising of Moorebank Shopping Centre and Nuwarra Public School is located to the south of the subject site, while the Ernie Smith Reserve is located approximately 740m to the west. An aerial photograph of the locality is provided below.



Figure 2: Aerial photograph of the locality

3 BACKGROUND/HISTORY

The proposal has undergone several iterations before culminating into the current version of the plan. A history of the DA is detailed below:

3.1 Pre-lodgement Design Excellence Panel (DEP) Briefing

On 12 July 2018, a Pre-DA (PL-62/2018) to the DEP was conducted. The initial application was for *the removal of identified trees, demolition of existing structures and construction of an RFB containing 13 DEP was units on 5 levels and basement parking for 17 cars under the SEPP (ARH) DEP.*

The panel noted that many matters affecting the design are yet to be fully resolved. Unless the site satisfies the SEPP ARH criteria for an “accessible area” the design fails. The Panel was also concerned to see how the design is refined to provide a compliant and workable car parking arrangement and a better relationship with neighbours in regard to setbacks. The amount and utility of COS proposed and the need to improve the entry to the building and the apartments at each level has to be resolved and a secondary frontage of some units to the

laneway could provide a better outcome. There is a need to better resolve the bulk and scale of the building and to explore options for high quality materiality that avoids render.

3.2 DA lodgement and notification

On 16 October 2019, DA-681/2019 was lodged. Subsequently, the DA was notified to surrounding properties for a period of 14 days from 11 November 2019 to 26 November 2019 in accordance with LDCP 2008. A total of six (6) written objections were submitted.

3.3 Post-lodgement DEP Briefings

On 13 February 2020, the DA was referred to the DEP for the first time after lodgement. The panel suggested that the site requires a more nuanced and thoughtful response that contributes to the context that includes providing a physical contribution to the amenity and spatial quality of the street frontage and adjoining laneway. As the proposal may be the first development under new planning controls for McKay Street it is considered that this will be seen as a benchmark for future development, therefore Design Excellence must be achieved to the satisfaction of the panel before support will be given.

The DEP comments include the front building elevation that needs to relate to McKay Avenue as it will establish the future character for the locale. Provision of at least one entrance to a ground floor unit directly from the street to help activate the frontage at street level. Resolve the balance between vehicle access and pedestrian and resident amenity more generously through landscape and ground treatments, among other comments (See Appendix 2 for minutes).

The DEP concluded that recommendations and in conjunction with significant variations of the planning controls means the proposal falls a long way short of achieving Design Excellence. Any future proposal will need to return to the DEP for review.

On 12 November 2020, the application was referred again to the DEP for the second time after DA lodgement. In the deliberations, the Panel acknowledged the response of the applicant to the previous comments and noted the recommendations have significantly improved the overall design outcome. However, the Panel was concerned with the width of the driveway and recommends the applicant to engage a traffic consultant/engineer to optimise the required width of the driveway. The Panel noted that the proposal is an appropriate precedent for all future Residential Flat Building (RFB) developments taking place within Moorebank.

The Panel notes that the proposed foyer at Level 3 does not have a window opening for the lobby and requires the applicant to include a window on the external facade to the foyer to comply with the requirements of the Apartment Design Guide (ADG)/ SEPP 65. Regardless, the overall density was also supported.

In addition, the following recommendations were noted: internal layout of the residential units on Level 3 can be improved, there is adequate potential within the development to incorporate sustainable design measures as part of the proposal including consider double

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glazing for all windows and doors and requires the design to respond appropriately to the climatic conditions of western Sydney.

Comment:

The revised plans have responded to most of the DEP comments including the provision of a window on L3 foyer, reconfiguration of the units on the Level 3, increased the size of the pergola on the roof level, identify the location of the fire hydrant boosters on the Landscape Plan, revised the tree species, provide plant layering around the street frontage, adopt solid balustrades in-lieu of transparent material. The DEP finally supported the application subject to Council review/approval.

It is considered that the proposal in its current revised form have satisfied the DEP requirements.

4 DETAILS OF THE PROPOSAL

The application initially proposed the demolition of existing structures and construction of a five (5) storey residential flat building containing 12 units above 2 basement levels for 17 carparking spaces.

Following an assessment of the application, the proposal was redesigned in response to issues raised by DEP and Council officers. The application is now seeking development consent for the *demolition of existing structures and construction of a five (5) storey residential flat building comprising 11 units above 2 levels of basement carparking for 17 cars.*

Further details of the proposal are summarised as follows:

Element	Proposed
Site Area	698.3m ²
FSR	Proposed GFA = 805m ² FSR = 805/698.3 = 1.15:1 < 1:1.2 (LLEP)
Residential Units	Total of 11 residential units. Dwelling mix as follows: <ul style="list-style-type: none"> • 5 x 1 bedroom (45%) • 5 x 2 bedroom (45%) • 1 x 3 bedroom (10%)
Height	16.55m (33.150 – 16.4 AHD) < 18m (LLEP)
Storeys	Five (5) storeys
Front Setback	4.3m < 5.5m (LDGP)
Building Separation/ Side Setbacks (north)	Ground to Level 3 (upto 10m in height) = 6m = 6m(ADG) Level 4 = 9m (ADG), > 7.2m & 7.9m
Side Setback (south);	3m (south)
Rear Setback	6.0m
Car parking spaces	17 basement parking spaces includes 3 visitor and 2 accessible parking spaces.

4.1 Building Form and Design

The proposed 5 storey residential flat building is comprised of 5 x 1br, 5 x 2br and 1x 3br units. Units 9 & 10 occupy 2 levels with the lower level dedicated for the living, dining and kitchen area and bedrooms on the upper level. All the other units have typical floor plan layouts of 1 and 2 bedroom units on each floor level. A summary of the various units is shown on the table below:

Unit No.	Bedroom Type	Area m ²	POS m ²	Level
01	1	50	32	Ground
02	2	71	15	Ground
03	1	50	16	Ground
04	1	50	8	Level 1
05	2	75	10	Level 1
06	1	50	12	Level 1
07	1	50	8	Level 2
08	2	75	10	Level 2
09	3	97	12	Level 2 & 3
10	2	84	11.5	Level 3 & 4
11	2	75	10	Level 3

The building outline is appropriately set back from the site boundaries with the frontage designed to align with the curvature of the property boundary. In effect, the front elevation is articulated by a combination of varied wall planes punctuated by protruding balconies and use of contrasting material finishes and colours.

4.2 Communal Open Space

There are two (2) Communal Open Space (COS) areas provided for the residents. The Ground Floor COS wraps around the rear portion of the RFB. It features raised planter boxes, a turfed outdoor open space, seating areas shaded with pergola and mature tree planting. The other POS is located at the rooftop on the Level 4 similarly furnished with peripheral planter box, BBQ facilities, seating and a unisex toilet facility.

4.3 Access and Parking

The main pedestrian access to the development is via Harvey Walkway which is a public accessway connecting McKay Avenue to the west and Harvey Avenue to the east and is the direct route to the local shopping centre for residents from the north as far as Lucas and Dredge Avenue.

Located south of the RFB, the main entry door is highlighted by an overhead canopy that leads to the foyer area where the lift lobby, fire stairs and access to the ground level common area to the rear are integrated. The entry point from McKay Avenue is solely Unit 02. All other units are accessed through the Harvey Pathway frontage

The proposal includes construction of a driveway to the basement levels with direct access from Mackay Avenue. There are two levels of basement car parking incorporating the following:

- 17 parking spaces (including 3 visitors and 2 accessible parking) with storage cages;

- Bicycle rack for 7 bikes;
- Bin storage area;
- Bulky Waste Storage area; and
- Storage areas

4.4 Landscaping

The development includes landscaping of the site which includes retention of the existing tree to the street frontage, 9 new trees having a mature spread of between 2.5 to 10m within the deep soil zones and planter boxes located in the common opens spaces at the ground and roof top levels.

Planting incorporates a mix of canopy trees, shrubs and hedges and accent plants of native and exotic variety. Landscaping is also provided within the front setback on of the site including fencing, paving and street trees.

4.5 Materials and finishes

The proposal includes a combination of painted rendered concrete, face brick composite cladding, aluminium sliding shutters, privacy screens and windows and doors to create a palette of colours and finishes that are compatible with other developments within the locality and provides a contemporary building design that would be consistent with the future desired image of the area.

4.6 Site Servicing Facilities

The development proposes to drain the site via an On-Site Detention (OSD) basin located to the front of the site below the basement ramp.

A garbage storage room is proposed in the Basement Level 1. Transfer of bins for collection on the street will be carried out by the strata management utilizing a mobile bin towing device capable of transporting at least 8 x 240-litre waste bins.



Figure 3: 3D render of the Mckay Avenue frontage

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- 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; and
- Liverpool Local Environmental Plan 2008

Draft Environmental Planning Instruments

- N/A

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 3.7 – Residential Flat Buildings in the R4 zone

Contributions Plans

- Liverpool Contributions Plan 2009 applies to the subject development.

5.2 Zoning

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The site is zoned R4 High Density Residential pursuant to LLEP 2008 as depicted in Figure 4 below.



Figure 4: Zoning Map with site highlighted in yellow

5.3 Permissibility

The proposed development is defined as a *Residential flat building*, which is a permissible land use within the R4 High Density Residential zoning, subject to consent. An RFB is defined as follows:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note—

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 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 Guidelines

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:

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<p><i>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.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>The Architect’s SEPP 65 statement in part states that “<i>the proposed development responds favourably and contributes to the quality and identity of the area. The site entry into the building is accessed from McKay Avenue and from the Hrvey Pathway to the east.</i>”</p> <p><i>This type of medium density housing is desirable in the area. The development also contributes positively to the street by presenting more contemporary, articulated facades to the street frontage of the site. The proposed facades combine the use of face brick and render, with balcony and vertical elements, thereby reinforcing local urban grain. 67% of the apartments overlook McKay Avenue, so that the quality facade design contributes to the increasing activity, safety and amenity of the area.</i></p> <p><i>The subject area will continue to undertake a transformation from low density to higher density. This includes the recent 6 storey residential flat building at 80 - 82 Lucas Avenue, approximately 300 metres from the subject site, and the 6 storey residential flat building at 96 - 98 Nuwarra Road and the 5 storey residential flat building at 93 Nuwarra Road, approximately 350 metres from the subject site.</i></p> <p><i>The proposed residential flat building is contemporary in style and is consistent with future vision of the locality. The proposal development incorporates articulation of the built form and a mixed palette of building materials. The front façade is broken up by the provision of balcony spaces, vertical elements roof form, and clear entry points.</i></p> <p><i>The proposed design of the residential flat building presents a building of diversified design, which acknowledges and respects the emerging urban pattern and setting within the precinct.”</i></p>

Design Quality Principle	Comment
Design Principle 2 – Built form and scale	
<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>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.</i></p> <p><i>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.</i></p>	<p><i>The applicant’s architect considers that “the proposed bulk and height achieves the scale identified for the desired future character of the area, while still remaining contextually appropriate with its surroundings and the streetscape of the area. The design concept gives address to the street frontage to Mckay Avenue and provides scaled elements through the use of residential architectural design elements and the proposed landscaping.</i></p> <p><i>The proposal achieves an appropriate built form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. The built form defines the public domain, contributes to the character of streetscapes, including their views and vistas.</i></p> <p><i>Articulation and modulation of the building façades, achieved by indentation of walls and strategically placed balconies, enhances the presentation of the building and contributes to the streetscape character. The size, proportion and distribution of window openings provide internal amenity and outlook for the future residents.</i></p> <p><i>Materials used are consistent with other residential flat buildings within the Moorebank area. The range of materials contributes to the articulation of the building and reducing the overall bulk and mass of the building.</i></p> <p><i>The built form is appropriate to the urban setting and will contribute to the character of the streetscape. The new forms at the front facades of the building and the setbacks of the façades maintain their visual strength when viewed from Mckay Avenue. The façades continue the established and expanding pattern of medium density housing within this precinct of Moorebank with a more contemporary building façade, presenting a modern face to the streetscape while providing amenity and outlook.</i></p> <p><i>The north, east, west and south elevations have been designed to regulate solar access, ventilation and privacy for the living and sleeping areas. The configuration of the apartments provides all apartments with</i></p>

Design Quality Principle	Comment
	<i>northern, western or eastern sun, ventilation and privacy.”.</i>
Design Principle 3 – Density	
<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The applicant’s architect considers that “<i>the development consists of 5 x 1 bedroom, 5 x 2 bedrooms and 1x 3 bedroom apartments. This mix of apartment type is consistent with the demographic of the area which largely consists of single people, couples, students and family living in low to medium density housing with most of the medium density housing concentrated around the Liverpool railway line. The proximity to public transport, being located 2600 metres to Liverpool station and numerous bus stops within 250 metres of the site, supports this demographic make-up. The increase in density is consistent with the commercial and retail uses in the locality. The proposal has a density appropriate for the site and its context, in terms of floor space yields, number of units and residents. The density is sustainable and consistent with the desired future density, responding to the regional context, availability of infrastructure, public transport, community facilities and environmental quality. The design responds to the regional context, readily available infrastructure, public transport, community facilities and environmental quality.</i></p>
Design Principle 4 – Sustainability	
<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>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</i></p>	<p>The applicant’s architect considers that “<i>the design of the building incorporates passive design and suncontrol elements. The building design is characterized by natural light, air flow and solar access to achieve personal comfort and low energy consumption</i></p> <p><i>The proposed development addresses resource, energy and water efficiency in the following ways:</i></p> <ul style="list-style-type: none"> <i>•The compact and efficient configuration</i> <i>•75% of the apartments achieve 3 hours of solar access at the winter solstice</i> <i>•8% of apartments have a northern aspect with a dual eastern aspect</i> <i>•25% of apartments have an eastern aspect with a dual southern aspect</i> <i>•67% of apartments have a western aspect with a dual northern or southern aspect</i> <i>•100% of apartments are corner apartments with multiple aspects to assist with cross ventilation</i> <i>•100% of kitchens have access to natural</i>


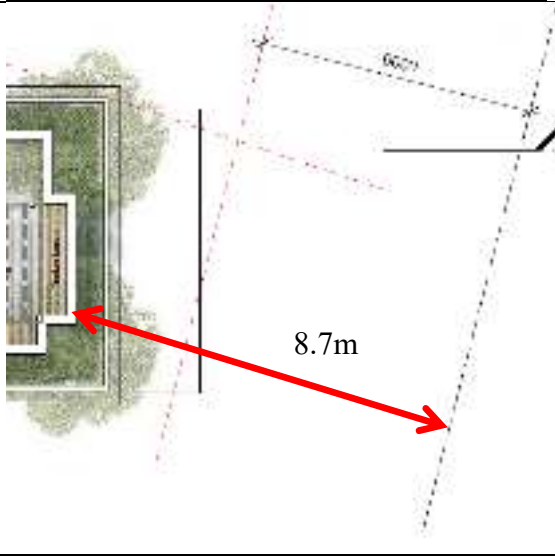
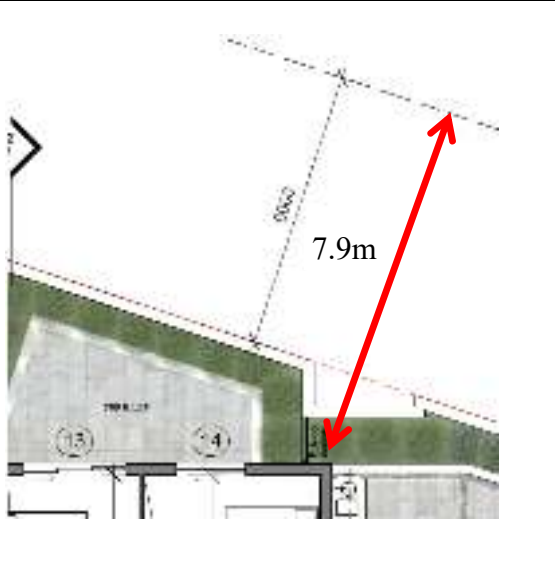
Design Quality Principle	Comment
	<p><i>ventilation</i></p> <ul style="list-style-type: none"> •56% bedrooms are concentrated to the north, 22% to the east and 22% to the west •All units comply with the requirements of both ABSA and BASIX.”
Design Principle 5 – Landscape	
<p><i>Good design recognises 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.</i></p> <p><i>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.</i></p> <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours’ amenity and provides for practical establishment and long term management.</i></p>	<p>The applicant’s architect considers that “the landscape design is integrated with the development resulting in aesthetic quality and amenity for both the occupants and the adjoining public domain. The development includes a common landscaped area to the rear of the site facing east, perimeter landscaping to the whole site, landscaped private open spaces to the north and west for the ground floor apartments, and north, east, west and south facing balconies on each level of the apartment building to each of the 1 bedroom apartments and 2 bedroom apartments, and a roof top garden located on Level 4. The landscape design enhances the development’s natural environmental performance by managing solar access, micro-climate and habitat values. The landscape design optimizes sustainability, privacy, equitable access and respect for neighbours’ amenity.</p> <p>The proposal provides communal open space compliant with this provision as shown on the plans. Sufficient private open space areas have been provided in the form of courtyards to the ground floor apartments and useable balconies on each level of the apartment building to each of the 1 bedroom apartments and 2 bedroom apartments.</p> <p>Furthermore, sufficient open space opportunities are found within close proximity to the subject site, including local parks within the locality such as Central Park Park, Montenegro Park and Ernie Smith Reserve.”</p>
Design Principle 6 – Amenity	
<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>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</i></p>	<p>The applicant’s architect considers that “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 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</p>

Design Quality Principle	Comment
<p><i>access for all age groups and degrees of mobility.</i></p>	<p><i>age groups and degrees of mobility has been considered.</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>
Design Principle 7 – Safety	
<p><i>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.</i></p> <p><i>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.</i></p>	<p><i>The applicant’s architect considers that “the design of the buildings optimises safety and security, both internally in the development and to the public domain. The proposal achieves safety and security for the residents of the building by utilising secure lobbies to the residential units, and allowing for passive surveillance of the communal space within the development.”</i></p>
Design Principle 8 – Housing Diversity and Social Interaction	
<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p><i>The applicant’s architect considers that “the development is designed to meet the continuing and growing need for residential development in the Moorebank area. The proposal responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. The proposal provides housing to suit the social mix and needs in the neighbourhood.</i></p> <p><i>The proposed development provides a compact residential flat building that will make available the most required housing type and contribute towards increasing the housing stock of Moorebank, and is consistent with the evolving high density character of the subject area. The proposal provides quality housing and facilities whilst maintaining affordability by providing a medium density development of one and two bedroom apartments.</i></p> <p><i>The site is well located and is located within proximity essential services, the local shopping</i></p>

Design Quality Principle	Comment
	<p><i>precinct, public transportation and recreation opportunities. Liverpool train station is located 2600 metres from the site providing an affordable alternative to car transport.</i></p> <p><i>The proposed residential flat buildings contain the following apartment types which offers affordable accommodation:</i></p> <ul style="list-style-type: none"> • <i>5 x 1 bed apartments (45%)*</i> • <i>5 x 2 bed apartments (45%)</i> • <i>1 x 3 bed apartment (10%)</i> <p><i>*including 2 adaptable apartments</i></p> <p><i>The provision of the proposed housing allows for affordable accommodation and provides a positive contribution to the diverse economic and social needs of the community.”</i></p>
Design Principle 9 – Aesthetics	
<p><i>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.</i></p> <p><i>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p><i>The applicant’s architect considers that “the building has a modern aesthetic that expresses the environmental responsiveness of the development. The appearance of the building is designed primarily to respond to the environment and the surroundings.</i></p> <p><i>The composition of the building elements, textures, material and colours reflect the use, internal design and structure of the development, creating an appropriate quality aesthetic. The proposal provides for smooth line design without adding inappropriate features, projections or artificial elements. The street aesthetics respond to the environment, context and existing streetscape, contributing to the desired future character of the area.</i></p> <p><i>The north, east, west and south elevations have been designed to regulate solar access, ventilation and privacy for the living and sleeping areas beyond. The buildings will be of masonry construction beneath a Colorbond metal roof with aluminium windows and doors featuring articulated walls on the external balconies. These screened thresholds are shaded by sun shading elements, pergolas and balconies.”</i></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.

Required	Proposed	Complies?																						
2E Building depth																								
<p>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 optim%ise natural cross ventilation</p>	<p>The proposal responds to the general principals of building depth design in ensuring the minimum requirements for solar access and natural ventilation for the development are met.</p> <p>The longest unarticulated length is 11.5m</p>	<p>Yes</p>																						
2F Building separation																								
<p>Minimum separation distances for buildings are:</p> <p><u>Up to four storeys (approximately 12m):</u></p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies (6m to boundary) • 9m between habitable and non-habitable rooms (4.5m to boundary) • 6m between non-habitable rooms <p>Five to eight storeys (12m to 25m)</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies (9m to boundary) • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <p>Note: It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance.</p>	<p>The proposal provides the following:</p> <p><u>Up to four storeys (Ground to Level 3)</u></p> <table border="1" data-bbox="799 857 1238 1131"> <thead> <tr> <th colspan="2">Setback to boundary</th> <th>Variance</th> </tr> </thead> <tbody> <tr> <td>Rear</td> <td>5.4m to balcony 7.3 to building</td> <td>10% 0%</td> </tr> <tr> <td>Side (North)</td> <td>6m to building</td> <td>0%</td> </tr> </tbody> </table> <p><u>Five to eight storeys (Level 4)</u></p> <table border="1" data-bbox="799 1234 1273 1720"> <thead> <tr> <th colspan="2">Setback to boundary</th> <th>Variance</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Rear</td> <td>8.4m to accessible part of roof COS</td> <td>6%</td> </tr> <tr> <td>14.6m to building line</td> <td>0%</td> </tr> <tr> <td rowspan="2">Side (North)</td> <td>7.2m to accessible part of the COS</td> <td>20%</td> </tr> <tr> <td>7.9m to nearest part of building</td> <td>12%</td> </tr> </tbody> </table> <p>Nothing over 25m</p> <p>See discussion below on building separation/setbacks:</p>	Setback to boundary		Variance	Rear	5.4m to balcony 7.3 to building	10% 0%	Side (North)	6m to building	0%	Setback to boundary		Variance	Rear	8.4m to accessible part of roof COS	6%	14.6m to building line	0%	Side (North)	7.2m to accessible part of the COS	20%	7.9m to nearest part of building	12%	<p>Yes, by merit</p>
Setback to boundary		Variance																						
Rear	5.4m to balcony 7.3 to building	10% 0%																						
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Discussion on building separation																								
<p>The relevant discussion in terms of building separation is the boundary to east (rear) and north (side) where potential RFB's may be constructed in the future. The front boundary and the southern site boundaries are discussed in the LDCP being front and side setbacks, respectively.</p>																								

Required	Proposed	Complies?
<p>Rear Setback/Building Separation</p> <p>The rear setback at the ground floor level is 5.4m from the rear boundary to the edge of the balcony and 7.3m to the edge of the building on Unit 3. The breach occurs on a small triangular part of the balcony as shown on the image on the right.</p> <p>Similar breaches occur on the balconies of Unit 6 on Level 1 and Unit 9 on Level 3 above where the setbacks are 5.3m and 5.4m, respectively. Again the breach occurs on a small triangular section and between 10% and 11% variance from the 6m prescribed in the ADG.</p>	 <p>The image is a site plan showing a building footprint on the left and a common area on the right. A red dashed line indicates a 6m setback from the rear boundary. A red arrow points to a specific location where the actual setback is 5.4m, showing a small triangular breach. Labels include '6000', 'COMMON AREA', 'P.O.S. 10m²', '0.4', '0.8', '17', '16.98', and '5.4m'.</p>	
<p>At the rooftop level, the prescribed separation is 18m between buildings or 9m to the boundary of each site. As depicted on the snap shot of the eastern portion of the COS, distance to the rear boundary is 8.7m or a breach of 3%.</p>	 <p>The image is a rooftop view showing a building footprint on the left and a common area on the right. A red arrow points to a specific location where the actual separation is 8.7m, showing a breach from a 9m boundary. A label '8.7m' is present.</p>	
<p>North Side Setback/Building Separation</p> <p>The side setback provided on the northern boundary is 6m and complies with the ADG. However, as shown on the figure on the right, the setback of the balcony of Unit 10 which is located on Level 4 is still 6m as it lines up with the building line below.</p> <p>The prescribed setback is 9m to achieve a building separation of 18m prescribed in the ADG. The building itself is 7.9m from the property boundary.</p> <p>To achieve compliance means a much reduced balcony for Unit 10 and the 1.1m breach to the building line is 12% which is considered acceptable in this instance.</p>	 <p>The image is a north side view showing a building footprint on the left and a common area on the right. A red arrow points to a specific location where the actual setback is 7.9m, showing a breach from a 9m boundary. A label '7.9m' is present.</p>	
<p>Comment:</p> <p>The above breaches allows for increased living areas, more useable balconies and common areas with overall increase in residential amenity for future occupants. No undue overshadowing</p>		

Required	Proposed	Complies?
<p>or overlooking into neighbouring sites comes as a result.</p> <p>It should be noted that the proposal complies with FSR and maximum building height development standards, and is not considered to be an over development of the site with regards to the LLEP 2008.</p> <p>Therefore, given the constrained nature of the site and overall compliance to development standards, these minor variations are considered to be acceptable in this instance.</p>		
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>A detailed site analysis plan has been provided.</p>	<p>Yes</p>
3B Orientation		
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter.</p> <p>Solar Access to living rooms, balconies and private open spaces of neighbours should be considered.</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond the minimums contained in section 3F Visual Privacy</p> <p>Overshadowing should be minimised to the south or downhill by increased upper level setbacks.</p> <p>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</p>	<p>Shadow diagrams submitted for the development during 21 June shows that overshadowing to the rear yard of the adjoining property across Harvey Pathway (No. 14 Mckay Avenue) does not start until midday.</p> <p>Although window openings are minimised on the south elevation to avoid overlooking, the window sills are measured at 1.2m which is not sufficient to prevent casual overlooking.</p> <p>See discussion below on orientation</p>	<p>Yes, by condition of consent</p>
<p>Discussion on Orientation</p> <p>The south facing windows with only a 1.2m sill height will on one hand provide casual surveillance to the adjoining Harvey Pathway but on the other hand will allow overlooking into the rear yard of the adjoining property across the pathway.</p> <p>A condition of consent to increase the sill heights to 1.5m should minimise casual overlooking.</p>		
3C Public Domain Interface		
<p>Transition between private and public domain is achieved without compromising safety and security.</p> <p>Amenity of the public domain is retained and, enhanced.</p>	<p>The setback area at the Mckay Ave. frontage is proposed be planted with a mature tree to augment the existing tree located on the Council verge which will remain. The frontage along the Harvey Pathway is proposed to be</p>	<p>Yes</p>

Required	Proposed	Complies?												
	lined with low level planter boxes to be planted with a variety of shrubs behind the fenceline. The pedestrian entrance is highlighted with larger planter box to accommodate a larger sized tree and planting underneath.													
3D Communal and public open space														
<p>Communal open space has a minimum area equal to 25% of the site</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p> <p>Communal open space should be co-located with deep soil areas.</p> <p>Where communal open space cannot be provided at ground level, it should be provided on a podium or roof</p>	<p>The are 2 Communal Open Space provided in the development. The ground level COS is a contagious space of 186m² accessible to all residents from the main foyer. The COS is provided with planter boxes, formal and informal seating areas, outdoor dining with with pergola and turfed areas for active recreation.</p> <p>The COS wraps around the rear portion of the building with most of the area exposed to the east and north orientation that allows for good solar access.</p> <p>In rooftop COS comprising 95m² is provided with seating, and dining with larger overhead pergola, roofed bbq area, unisex toilet and surrounded by planter boxes. It is accessible to all residents via the lift and fire stairs.</p> <p>The total of 281m² COS (186 + 95) or 30% is provided and exceeds the 25% requirement.</p>	Yes												
3E Deep soil zones														
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="193 1563 762 1973"> <thead> <tr> <th data-bbox="193 1563 456 1697">Site Area</th> <th data-bbox="456 1563 611 1697">Minimum Dimensions</th> <th data-bbox="611 1563 762 1697">Deep Soil Zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td data-bbox="193 1697 456 1733">Less than 650m²</td> <td data-bbox="456 1697 611 1733">-</td> <td data-bbox="611 1697 762 1973" rowspan="4">7%</td> </tr> <tr> <td data-bbox="193 1733 456 1769">650m² to 1500m²</td> <td data-bbox="456 1733 611 1769">3m</td> </tr> <tr> <td data-bbox="193 1769 456 1839">Greater than 1500m²</td> <td data-bbox="456 1769 611 1839">6m</td> </tr> <tr> <td data-bbox="193 1839 456 1973">Greater than 1500m² with significant tree cover</td> <td data-bbox="456 1839 611 1973">6m</td> </tr> </tbody> </table>	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² to 1500m ²	3m	Greater than 1500m ²	6m	Greater than 1500m ² with significant tree cover	6m	<p>Complies</p> <p>Proposal provides 118m² of deep soil zone, which is 17% of the site area and exceeds the 7% requirement</p> <p>Were this area of deep soil to be excluded from the calculation then the site would have a total 61m² of deep soil zone, which is equivalent to 7% of the site area.</p> <p>The deep soil zones have minimum dimensions of 3m.</p>	Yes
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)												
Less than 650m ²	-	7%												
650m ² to 1500m ²	3m													
Greater than 1500m ²	6m													
Greater than 1500m ² with significant tree cover	6m													
3F Visual Privacy														

Required	Proposed	Complies?									
<p>Minimum separation distances from buildings to the side and rear boundaries</p> <table border="1" data-bbox="193 360 762 499"> <tr> <td>12m to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> </table> <p>are as follows:</p> <table border="1" data-bbox="193 566 762 770"> <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> </table>	12m to 25m (5-8 storeys)	9m	4.5m	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 storeys)	6m	3m	<p><u>See discussion below and in 2F - Building Separation above</u></p>	<p>Yes, by merit</p>
12m to 25m (5-8 storeys)	9m	4.5m									
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms									
Up to 12m (4 storeys)	6m	3m									
<p>Discussion on visual privacy</p> <p>The aims of section 3F – Visual Privacy of the ADG are as follows:</p> <ul style="list-style-type: none"> • Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy • Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space <p>From the assessment of the development proposal, it is considered to be consistent with the aims for visual privacy listed above. Privacy concerns to existing residences to the west and any future development of the adjacent lots can be alleviated via privacy screens, which are both proposed with the development and required to be complied with via condition. It should be noted that the building is predominantly under the maximum allowable building height and is consistent with FSR development standards and is therefore of a scale that is considered to be consistent with the desired future character of the locality.</p> <p>Therefore, notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to visual privacy.</p>											
<p>3G Pedestrian Access and Entries</p>											
<p>Building entries and pedestrian access connects to and addresses the public domain</p>	<p>The development site is unique in that it shares a boundary with Harvey pathway which the proposal taken advantage by designating the main pedestrian entry from the pathway.</p> <p>The building entry from the walkway is easily identifiable by the canopy and planting</p>	<p>Yes</p>									
<p>Access, entries and pathways are accessible and easy to identify</p>											
<p>Large sites provide pedestrian links for access to streets and connection to destinations</p>											
<p>3H Vehicle Access</p>											
<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>Vehicle access point is considered to be in a satisfactory location.</p>	<p>Yes</p>									
<p>3J Bicycle and Car Parking</p>											

Required	Proposed	Complies?
<p>For development in the following locations:</p> <ul style="list-style-type: none"> - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p>	<p>The site is located across a shopping centre.</p> <p>A total of 17 carparking, including 3 visitor parking of spaces is provided on-site.</p> <p>Basement parking is proposed. A dual entry at the street kerb to allow 2 vehicles, one entering and another exiting is provided. The driveway ramp tapers into a single lane at the roller shutter entry point.</p>	Yes
Parking and facilities are provided for other modes of transport		
Car park design and access is safe and secure		
Visual and environmental impacts of underground car parking are minimised		
Visual and environmental impacts of on-grade car parking are minimised		
Visual and environmental impacts of above ground enclosed car parking are minimised		
4A Solar and Daylight Access		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	A total of 11 units are proposed. There are 8 units that receive at least 2 hours sunlight between 9am and 3pm during mid-winter. This equates to 72% of the units.	Yes
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	A total of 3 Units or 27% do not receive direct solar access. This is over the 15% prescribed. The 3 units are located at the southern corner of the site and unlikely to receive solar access, regardless. Given the site constraints, the proposed layout designates these units to be 1 bedroom to allow the larger units to have direct solar access which is considered to be a much better compromise. It should be noted that the DEP are supportive of the design of the RFB despite this inconsistency with the ADG.	Yes, by merit

Required	Proposed	Complies?												
Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms	High sills are used where there is potential of overlooking for example on the south elevation.	Yes, by merit												
4B Natural Ventilation														
All habitable rooms are naturally ventilated	All units are corner units and are naturally cross ventilated.	Yes												
The layout and design of single aspect apartments maximises natural ventilation		Yes												
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		Yes												
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		Yes												
4C Ceiling Heights														
<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="193 1070 764 1653"> <tr> <td colspan="2" data-bbox="193 1070 764 1106">Minimum ceiling height</td> </tr> <tr> <td data-bbox="193 1111 379 1173">Habitable rooms</td> <td data-bbox="383 1111 764 1173">2.7m</td> </tr> <tr> <td data-bbox="193 1178 379 1240">Non-habitable</td> <td data-bbox="383 1178 764 1240">2.4m</td> </tr> <tr> <td data-bbox="193 1245 379 1447">For 2 storey apartments</td> <td data-bbox="383 1245 764 1447">2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td data-bbox="193 1451 379 1554">Attic spaces</td> <td data-bbox="383 1451 764 1554">1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td data-bbox="193 1559 379 1653">If located in mixed use areas</td> <td data-bbox="383 1559 764 1653">3.3m from ground and first floor to promote future flexibility of use</td> </tr> </table> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building</p>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use	All storeys are provided with at least 2.8m floor to ceiling heights.	Yes
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
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4D Apartment Size and Layout														

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

26th July 2021

Required	Proposed	Complies?										
<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="193 383 762 591"> <thead> <tr> <th>Apartment Type</th> <th>Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Complies</p> <ul style="list-style-type: none"> All 1 bedroom units are ≥ 50m² All 2 bedroom units are ≥ 70m² The 3 bedroom unit is ≥ 90m² 	<p>Yes</p>
Apartment Type	Minimum Internal Area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											
<p>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>Habitable rooms are provided with windows of sufficient glass areas.</p>	<p>Yes</p>										
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p>	<p>Habitable rooms are generally limited to 2.5 x the ceiling height.</p>	<p>Yes</p>										
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Kitchens of all units are less than 8m from a window.</p>	<p>Yes</p>										
<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p>	<p>Bedrooms are of sufficient size.</p>	<p>Yes</p>										
<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	<p>Bedrooms have a minimum dimension of 3m, with the exception of one bedroom in Unit 13 and 15.</p>	<p>Yes</p>										
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments 	<p>Sufficient widths are provided to living rooms/dining rooms.</p>	<p>Yes</p>										
<p>4E Private Open Space and Balconies</p>												

Required			Proposed	Complies?
All apartments are required to have primary balconies as follows:			All apartments provide the minimum required balcony areas and depths. See tabulation of POS areas in 4.1 Building Form and Design.	Yes
Dwelling Type	Minimum Area	Minimum Depth		
Studio	4m ²	-		
1 bedroom	8m ²	2m		
2 bedroom	10m ²	2m		
3 bedroom	12m ²	2.4		
The minimum balcony depth to be counted as contributing to the balcony area is 1m				
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 15m ² and a minimum depth of 3m			Units 1,2 & 3 are all located on the ground level with a POS of 32,15 & 16m ² , respectively. Because of site constraints the depth of 3m cannot be achieved although all widths are over 3m.	Yes, by merit
4F Common Circulation and Spaces				
The maximum number of apartments off a circulation core on a single level is eight			Single lift core provided. Maximum 3 units are proposed off one lift.	Yes
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40			Not applicable	N/A
Daylight and natural ventilation should be provided to all common circulation spaces that are above ground Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors			Complies The lift lobby area has windows in an external wall	Yes
4G Storage				
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:			Adequate storage has been provided for all units as indicated on the individual unit floor plans and basement plans	Yes
Dwelling Type	Storage Size Volume			
Studio	4m ³			
1 bedroom	6m ³			
2 bedroom	8m ³			
3 bedroom	10m ³			
At least 50% of the required storage is to be located within the apartment.				
4H Acoustic Privacy				
Noise transfer is minimised through the siting of buildings and building layout			The development is in accordance with the objectives.	Yes

Required	Proposed	Complies?
Noise impacts are mitigated within apartments through layout and acoustic treatments		
4K Apartment Mix		
A range of apartment types and sizes is provided to cater for different household types now and into the future	5 x 1 bedroom units = 45% 5 x 2 bedroom units = 45% 1 x 3 bedroom units = 10%	Yes
The apartment mix is distributed to suitable locations within the building		
4L Ground Floor Apartments		
Street frontage activity is maximised where ground floor apartments are located	Unit 2 is provided with direct access to the McKay Ave. frontage.	Yes
Design of ground floor apartments delivers amenity and safety for residents	All other units are accessed thru the Harvey Walkway. Units 1, 2 & 3 all have balconies facing the street/walkway frontage.	
4M Facades		
Building facades provide visual interest along the street while respecting the character of the local area	The design of the building façade provides appropriate transition from the bottom four storeys to the top storey which steps back on all sides.	Yes
Building functions are expressed by the facade		
4N Roof Design		
Roof treatments are integrated into the building design and positively respond to the street	The rooftop level is partly used as a COS. The other part is a residential unit with solar panels on its rooftop.	Yes
Opportunities to use roof space for residential accommodation and open space are maximised		
Roof design incorporates sustainability features		
4O Landscape Design		
Landscape design is viable and sustainable	A landscape plan is provided which has identified the deep soil zone unencumbered by the basement parking as well as planter boxes on top of concrete slabs for the provision of viable and sustainable planting areas.	Yes
Landscape design contributes to the streetscape and amenity		
4P Planting on Structures		
Appropriate soil profiles are provided	As above	Yes
Plant growth is optimised with appropriate selection and maintenance		
Planting on structures contributes to the quality and amenity of communal and public open spaces		
4Q Universal Design		
Universal design features are included in apartment design to promote flexible housing for all community members	The development provides Unit 3 as the adaptable unit in accordance with the Australian	Yes

Required	Proposed	Complies?
A variety of apartments with adaptable designs are provided	Standard AS 4299-1995 <i>Adaptable Housing</i> .	
Apartment layouts are flexible and accommodate a range of lifestyle needs		
4R Adaptive Reuse		
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	The DA is for the development of a new building and not the adaptive reuse of an existing building.	N/A
Adapted buildings provide residential amenity while not precluding future adaptive reuse		
4S Mixed Use		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The DA does not proposed a mixed use development.	N/A
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	Awnings are provided to entries for wet weather protection.	Yes
Signage responds to the context and desired streetscape character	Building address signage will be integrated into the building design.	
4U Energy Efficiency		
Development incorporates passive environmental design.	The proposal is accompanied by a BASIX Certificate	Yes
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer		
Adequate natural ventilation minimises the need for mechanical ventilation		
4V Water Management and Conservation		
Potable water use is minimised	The proposal is accompanied by a BASIX Certificate.	Yes
Urban stormwater is treated on site before being discharged to receiving waters	The proposal has been reviewed by Council engineer who raised no issues.	Yes
Flood management systems are integrated into site design	Not applicable	N/A
4W Waste Management		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Waste storage facilities are provided and will be maintained by the strata management.	Yes
Domestic waste is minimized by providing safe and convenient source separation and recycling		
4X Building Maintenance		

Required	Proposed	Complies?
Building design detail provides protection from weathering	The development is in accordance with these objectives	Yes
Systems and access enable ease of maintenance		
Material selection reduces ongoing maintenance costs		

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

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.*

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Clause 7 of SEPP 55 states:

- (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*
 - (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*
 - (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 is currently utilised only for residential purposes and has been since the lot was created in the late 1960s. The subject land has been used for residential purposes for approximately 50 years. There is no reason to suspect that the land is contaminated or requires specific remediation or works beyond those that will be required in accordance with standard conditions attached to any consent issued (if applicable).

With consideration to this and the above information, there is no evidence to suggest that the land has been or is contaminated and a formal land contamination assessment is considered to not be necessary.

Given the above, SEPP 55 considerations have been addressed and the land is considered suitable for its continued use for residential purposes.

(d) State Environmental Planning Policy (BASIX) 2004

The proposal is accompanied by a BASIX Certificate which is inconsistent with the latest set of architectural plans. Therefore, it cannot be demonstrated that the proposal meets the aims and intent of the Plan.

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

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(2)).

Stormwater Concept Plans have been submitted with the DA that provide a scheme for capturing, detaining and treating stormwater flow and connecting to Council’s system. The plans have been assessed by Council’s Land Development Engineers and are considered satisfactory for the purpose of dealing with stormwater on site and protecting the quality of water discharging to the Georges River.

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, the development will have minimal impact on the Georges River Catchment.

(g) Liverpool Local Environmental Plan 2008

(i) Permissibility

The proposed development is for a *residential flat building*, which is defined as follows:

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

The proposed development satisfies the definition of a *residential flat building* as it is a building which contains more than 3 dwellings.

(ii) Objectives of the zone

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

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

The proposed development would meet and satisfy the above stated objectives. Specifically, the building will provide a total of 11 dwellings and the site is located in an area identified for urban renewal and transformation, in close proximity to transport, retail and commercial facilities.

Principal Development Standards

The LLEP 2008 contains a number of principal development standards which are relevant to the proposal. Assessment of the application against the relative standards is provided below.

Clause	Provision	Comment	Complies?
Clause 2.7 Demolition	The demolition of a building or work may be carried out only with development	Development consent is sought for the demolition of the existing dwelling,	Yes

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	consent	ancillary structures, swimming pool and one located on the south east corner. A demolition plan has been submitted.	
Clause 4.1 Minimum Subdivision Lot Size	The size of any lot resulting from a subdivision of land is not to be less than 1000m ² .	Not Applicable The proposal development comprises a residential flat building on an existing lot of less than 1000sqm. Although this clause of the LLEP does not apply to the proposal as no subdivision is proposed, it is important to consider its objectives. The minimum subdivision lot size ensures that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls. Having regard to the site and its locality, the clause indicates that any lot less than 1000sqm is the minimum required to develop the site for the purpose of high density residential i.e. residential flat building. The applicant has noted that efforts to amalgamate with the adjoining property to the north was approached with a formal offer based on a valuation which was rejected. Notwithstanding, Council need to be satisfied that any development is suitable for the site and locality.	N/A
Clause 4.3 Height of Buildings	Maximum height of 18m	A building height of 16.5m is proposed which complies	Yes
Clause 4.4 Floor Space Ratio	Maximum FSR of 1.2:1	The development provides an FSR of 1.15:1 which complies.	Yes
Clause 4.6 Exceptions to development standards	Provisions relating to exceptions to development standards	No development standard is breached.	N/A
Clause 7.14 Minimum Building	Minimum building street frontage of 24m	The site has a frontage of approximately 24.685m to	Yes

Street Frontage		McKay Avenue	
Clause 7.31 Earthworks	Provisions relating to bulk earthworks	No earthworks proposed other than those ancillary to the development being excavation for the proposed basement	

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

No draft Environmental Planning Instruments applies to the site.

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

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

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

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment	Complies?
Section 2. Tree Preservation	Controls relating to the preservation of trees	A single small tree is proposed to be removed and will be replaced with 9 new trees having a mature spread of between 2.5 to 10m. Retention of the existing tree to the street frontage is also proposed.	Yes
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	A Landscape Plan is submitted which outlines the planting strategy including the retention of the tree along the Council verge. The Landscape Plan proposes a variety of planting along the street frontages, and throughout the communal open space.	Yes
Section 4 Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	The development site is not identified as containing any native flora and fauna.	N/A
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	The development site is not identified as being bushfire prone land.	N/A
Section 6. Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater	This aspect has been reviewed by Council's Land Development Engineers, who have raised no objections and conditions of	

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	drainage concept plan is to be submitted.	consent have been provided.	
Section 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.	The development site is not within close proximity to a water course.	N/A
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.	Yes, by condition
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	The development site is not affected by flooding.	N/A
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	As discussed earlier within this report, the site is considered suitable for the development.	Yes
Section 11. Salinity Risk	Provisions relating to development on saline land.	The development site is identified as containing a moderate salinity potential. Should the DA be supported, conditions are recommended to be imposed to manage salinity at the construction stage.	Yes by condition
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	The development site is not identified as containing the potential for acid sulphate soils to occur.	N/A
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	The site is not identified as containing noxious weeds.	N/A
/A	Provisions relating to demolition works	Should the application be supported, conditions of consent will be imposed to ensure demolition works are carried out in accordance with relevant Australian Standards	Yes by condition
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	OSMS is not proposed or required.	N/A
Section 16. Aboriginal Archaeology	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.	The site is highly disturbed. As such, it is unlikely that it would contain Aboriginal Archaeology.	N/A
Section 17.	Provisions relating to	The site is not identified as a	N/A

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Heritage and Archaeological Sites	heritage sites.	heritage item or within the immediate vicinity of a heritage item.	
Section 18. Notification of Applications	Provisions relating to the notification of applications.	The application was notified to properties within 75m of the site. Six (6) submissions were received.	Yes
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	The DA does not propose used clothing bins.	
Section 20. Car Parking and Access	Residential Development Car Parking Requirements: <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 	Does not comply The following parking is required: <ul style="list-style-type: none"> - 5 x 1 bedroom units require 5 spaces - 5 x 2 bedroom units require 7.5 spaces - 1 x 3 bedroom units requires 2 space - 1 visitor parking every 4 units 4 visitor spaces A total of 14 spaces are required for the residents and 3 for visitors or a total of 17 car parking spaces	Yes
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	The DA does not propose the subdivision of land.	N/A
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Conditions of consent will be imposed to ensure compliance with the BASIX commitments.	Yes, by condition
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Waste storage facilities are provided and will be maintained by the caretaker. Councils Waste Management officer has reviewed the waste management plan and conditions of consent were provided.	Yes, by condition
Section 27. Social Impact Assessment	A social impact comment (SIC) shall be submitted for residential flat buildings greater than 20 units or affordable rental housing.	The proposal is not more than 20 and a SIC is not warranted or required in this instance.	N/A

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

Development Control	Provision	Comment	Complies?
Frontage and Site Area			
	Minimum lot width of 24m	The site provides for a frontage of approximately 24.685m to McKay Avenue.	Yes
Site Planning			
	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Minimal earthworks are proposed except for the basement level.	Yes
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	The building has been designed to maximise northern exposure of the dwellings and COS	Yes
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	The vehicular access and parking arrangements are safe	Yes
	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.	The development is in accordance with the objectives of the zone and provides for an appropriate built form in its context	Yes
	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	A Stormwater Drainage Plan has been submitted and reviewed by Council engineer who has no objection to the proposal.	Yes
	The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	As demonstrated within this report, the development complies with most of the SEPP 65 requirement except where the non-compliance has been thoroughly discussed and supported.	Yes

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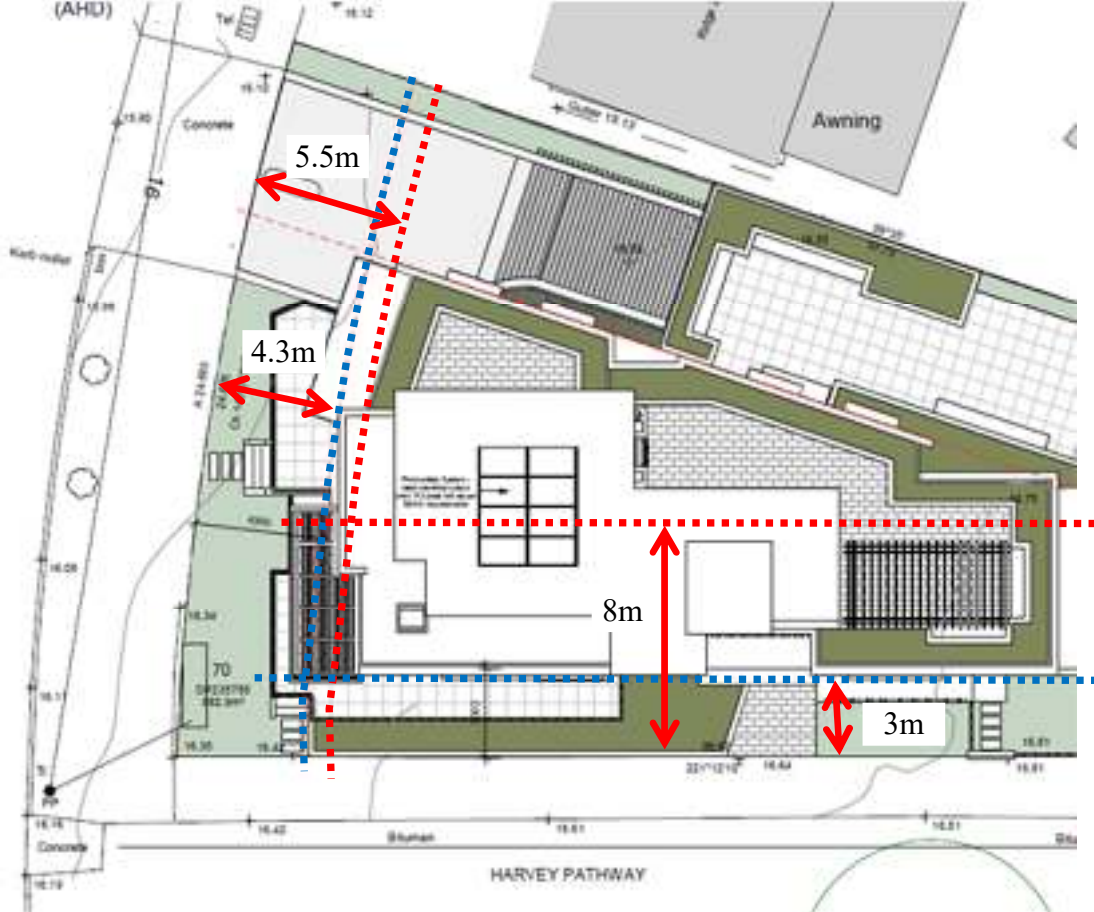
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Development Control	Provision	Comment	Complies?
Setbacks			
Front Setback	Front setback of 5.5m is required Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.	The proposal provides a 4.3m or a breach of 20%. Similarly, the balconies also breach the prescribed 1m allowable intrusion into the setback area. <u>See discussion below</u>	Yes, by merit
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	The southern boundary is considered to be the side boundary of the site which in this instance complies from Ground Floor to Level 3. However, with regard to the northern site boundary, the applicable setback is in accordance with the ADG associated with SEPP 65 which takes precedence over the LDCP 2008. Please refer to ADG 2F Building separation	Yes
	Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m	On Level 4, the setback at the southern boundary is 3m which is below the required 10m. See discussion below:	Yes, by merit
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all building heights	Please refer to ADG 2F Building separation	Yes
<p>Discussion on setbacks: As discussed previously in the ADG on Section 2F - Building Separation, the relevant discussion in terms of building separation is the boundary to east (rear) and north (side) where potential RFB's may be constructed in the future. However, the front boundary and the southern site boundaries relate to this section of the LDCP being front and side setbacks, respectively.</p> <p>Front Boundary: The proposal provides a 4.3m front setback at the nearest part of the building. Likewise, the balconies extend over the 1m allowed intrusion into the setback area. As shown on the image below, these breaches does not extend along the entire length of the building. A small triangular protrusion of the building at the middle part of the site and with regard to the balconies, largely at the Ground Level and to a lesser extent on Levels 1 ,2, 3 & 4. The front boundary has an arched configuration and an irregular shaped building configuration is the result. Inadvertently, the building façade design added a desirable articulation to the streetscape..</p> <p>Side Setback (south boundary): From the Ground to Level 3, the building is setback at 3m and complies with the LDCP. However, the requirement increase to 8m from Level 4 upwards an thus the non-compliance occurs. It is noted that Level 4 is predominantly occupied by COS and the only living area is the single 2 bedroom unit (Unit 10) that occupies less than half of the floor area and located close to</p>			

Development Control	Provision	Comment	Complies?
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the site frontage.

Adjoining the southern boundary is a 6m wide public Harvey Pathway and in addition to a similar setback on the property opposite the laneway will provide a total of 12m building separation.



Comment:

The above breaches allows for increased living areas, more useable balconies and common areas with overall increase in residential amenity for future occupants. No undue overshadowing or overlooking into neighbouring sites comes as a result. To force the required setbacks, particularly on Level 4 will not improve the design outcome and result in underutilisation of the site.

It should be noted that the proposal complies with FSR and maximum building height development standards, and is not considered to be an over development of the site with regards to the LLEP 2008. The objective of building setbacks to provide reasonable space for landscaping, open spaces and solar access, visual and acoustic privacy has not been compromised.

Therefore, given the constrained nature of the site and overall compliance to development standards, these minor variations are considered to be acceptable in this instance.

Landscaped Area and Private Open Space

Landscaped Area	A minimum of 25% of the site area shall be landscaped area.	Based on a site area of 698.3m ² , a minimum landscaped area of 174.7 m ² is	Yes, by merit
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Development Control	Provision	Comment	Complies?
		required. The proposed architectural plans indicate that approximately 145m ² of landscaping area will be provided, which equates to 21% of the site area. See discussion below	
	A minimum of 50% of the front setback area shall be landscaped area	The submitted Landscape plans indicate that about half of the front setback area to Mc Kay Avenue will be landscaped.	Yes
	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.	Landscape Plans indicate that landscaped areas will be generally consolidated within the front, side setbacks and rear setback areas.	Yes
	Promote landscape health by supporting for a rich variety of vegetation type and size	A planting schedule has been submitted which shows a variety of landscaping is proposed.	Yes
<p>Discussion on Landscaped Area.</p> <p>The landscape design given site constraints, enhances the development's natural environmental performance by managing solar access, micro-climate and habitat values. The landscape design optimizes sustainability, privacy, equitable access and respect for neighbours' amenity.</p> <p>The shortfall in the landscaped area is compensated by a generous provision of COS and POS areas for the use and enjoyment residents. The proposal provides COS compliant with this provision as shown on the plans. Sufficient POS have been provided in the form of courtyards to the ground floor apartments and useable balconies on each level of the apartment building to each of the 1,2 and 3 bedroom apartments.</p> <p>In addition, sufficient open space opportunities are found within close proximity to the subject site, including local parks within the locality such as Central Park Park, Montenegro Park and Ernie Smith Reserve. The landscape design has been</p>			
Open Space	Provide communal open space, which is appropriate and relevant to the context and the building's setting.	The communal open space will be provided in the rear at ground level that is adjacent to the balcony and habitable bedroom windows of Unit 3. This arrangement compromises the privacy afforded to future occupants of the subject unit, and does not offer an appropriate configuration.	

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Development Control	Provision	Comment	Complies?
	<p>Where communal open space is provided, facilitate its use for the desired range of activities by:</p> <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. 	<p>The both the ground and roof top level COS have predominantly northern orientation and will have optimum solar access. The POS of Unit 3 at the ground level adjoins the COS but is provided with peripheral planting as a buffer.</p>	Yes
	Locate open space to increase the potential for residential amenity.	As above	Yes
Private Open Space	<p>Private open space shall be provided as follows:</p> <ul style="list-style-type: none"> - 10m² for a dwelling size less than 65m² - 12m² for a dwelling size over 65m² 	Private open space requirements are provided in accordance with the requirements of the ADG.	Yes
	Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor.	Private courtyards are provided for all units on the ground floor. Balconies have also been provided for units above the ground floor.	Yes
	Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like.	The POS acts as an extension of the internal living rooms.	Yes
	Private open space should be clearly defined for private use.	The POS is clearly defined.	Yes
Building Design, Style and Streetscape			
Building Appearance and Streetscape	<p>Objectives of the controls are as follows:</p> <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 	The architectural quality of the proposal was considered by the DEP several times and on the last occasion, after amendments found to be satisfactory.	Yes

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Development Control	Provision	Comment	Complies?
	<p>developments have facades which define and enhance the public domain and desired street character.</p> <p>d) To ensure that building elements are integrated into the overall building form and facade design.</p>		
Roof Design	<p>Objectives of the controls are:</p> <p>a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings;</p> <p>b) To integrate the design of the roof into the overall facade, building composition and desired contextual response;</p> <p>c) To increase the longevity of the building through weather protection.</p>	<p>The proposed roof design contributes positively to the design of the building.</p>	<p>Yes</p>
Building Entering entry	<p>Objectives of the controls are:</p> <p>a) To create entrances which provide a desirable residential identity for the development.</p> <p>b) To orient the visitor.</p> <p>c) To contribute positively to the streetscape and building facade design.</p>	<p>A physical and direct connection for pedestrians entry via Harvey pathway to the site is provided.</p>	<p>Yes</p>
Balconies	<p>Objectives of the controls are:</p> <p>a) To ensure that balconies contribute positively to the façade of a building.</p> <p>b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents.</p> <p>c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings.</p> <p>d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address.</p>	<p>Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.</p>	<p>Yes</p>
Daylight Access	<p>Objectives of the controls area:</p> <p>a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas</p>	<p>The proposed development is designed in a manner that maximises solar access to future occupants of the apartments.</p>	<p>Yes</p>

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Development Control	Provision	Comment	Complies?
	<p>of residential flat development.</p> <p>b) To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours.</p> <p>c) To provide residents with the ability to adjust the quantity of daylight to suit their needs.</p>		
Internal Design	<p>Objectives of the controls are:</p> <p>a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties.</p>	<p>The building has been designed to take advantage of the northern aspect.</p>	<p>Yes</p>
Ground Floor Dwellings	<p>Objectives of the controls are:</p> <p>a) To contribute to the desired streetscape of an area and to create active safe streets.</p> <p>b) To increase the housing and lifestyle choices available in dwelling buildings.</p>	<p>The ground floor units have been designed in a manner that contributes to the desired streetscape and create active safe streets.</p>	<p>Yes</p>
Security	<p>Objectives of the controls are:</p> <p>a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings.</p> <p>b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders.</p> <p>c) To ensure buildings are safe and secure for residents and visitors.</p> <p>d) To contribute to the safety of the public domain.</p>	<p>The entrance to the building is clearly defined on both the McKay Avenue and Harvey pathway frontages, where causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.</p>	<p>Yes</p>
Natural Ventilation	<p>Objectives of the controls are:</p> <p>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.</p> <p>b) To provide natural ventilation in non-habitable rooms, where possible.</p> <p>c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning.</p>	<p>100% of apartments have direct access to natural ventilation.</p>	<p>Yes</p>

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Development Control	Provision	Comment	Complies?
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.	Considered to be acceptable in its current form.	Yes
Storage Areas	A secure storage space is to be provided for each unit on the building 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.	Adequate storage spaces are provided within units and on the basement levels as reflected on the submitted plans	Yes
	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Storage areas within the building are adequately lit.	Yes
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. b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape. c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development. a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality. b) To provide privacy, summer shade and allow winter sun. c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality. d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.	The development includes landscaping of the site which includes retention of the existing tree to the street frontage, 9 new trees having a mature spread of between 2.5 to 10m within the deep soil zones and planter boxes located in the common opens spaces at the ground and roof top levels. Planting incorporates a mix of canopy trees, shrubs and hedges and accent plants of native and exotic variety. Landscaping is also provided within the front setback on of the site including fencing, paving and street trees	Yes

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Development Control	Provision	Comment	Complies?
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>Sufficient deep soil is provided a ground level outside the extents of the basement carparking. Where impacted by the basement below, planter boxes have sufficient depth to support healthy growth of vegetation is provided as in the northern part of the COS and on the roof top level.</p>	Yes
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>Boundary fences shall be lapped and capped timber or metal sheeting.</p>	<p>The proposed development provides for a maximum height of front fence of 1.2m along McKay Avenue and Harvey Pathway consisting of a low solid masonry at the base and metal grilles on the upper portion which is more than 50% permeable.</p> <p>Fencing to be provided as required.</p>	<p>Yes</p> <p></p> <p></p> <p></p> <p>Yes</p>
Car Parking and Access			
Car Parking	<p>Visitor car parking shall be clearly identified and may not be stacked car parking.</p> <p>Visitor car parking shall be located between any roller shutter door and the front boundary.</p> <p>Pedestrian and driveways shall be separated.</p> <p>Driveways shall be designed to accommodate removalist vehicles.</p> <p>Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway</p>	<p>Visitor parking has been provided.</p> <p>Pedestrian access and driveways are separated.</p> <p>Driveway has been designed to accommodate a range of vehicle types.</p> <p>Side vehicular entrance is not appropriate in this instance.</p>	<p>Yes</p> <p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

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Development Control	Provision	Comment	Complies?
	to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.		
	Give preference to underground parking	Underground parking is provided.	Yes
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.	Pedestrian entries are clearly defined and accessible.	Yes
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.	The shadow diagrams submitted demonstrate the extent of overshadowing during the winter solstice which indicates that shadows cast on the street frontage and adjoining walkway. Where it falls on the adjoining neighbour backyard, that the prescribes minimum of 3 hours exposure is achieved.	Yes
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.	The building has been designed to generally comply with the building separation distances of the ADG and setbacks in the LDCP. Where the breaches occur these were thoroughly discussed in this report and found to be acceptable. While it is recognised that initially there will be potential for existing residents to feel they are being overlooked and for new RFB residents to feel they are visually exposed, the expectations of various residents are expected to change as the locality transitions from low to high density. In the	Yes, by merit

Development Control	Provision	Comment	Complies?
		meantime, it is considered that the design of the proposed development has given appropriate consideration to preserving residential privacy.	
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.	The submitted Acoustic Report did not identify any issues relating to noise.	Yes
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.	The development is likely to require the installation of a substation. No details have been submitted to suggest that this location is suitable for the service provider. Also no screening method has been indicated on the submitted plans.	Yes, by condition

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

6.4 Section 4.15 (1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed 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)(a) (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

The design of the development is considered to comply with the future desired character of residential development in the area and the zone.

The design of the residential flat building it is considered to achieve adequate amenity for future residents and is likely to not adversely impact on the amenity of any redevelopment on the adjoining properties for high density residential development.

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

The site is considered suitable to accommodate a residential flat building as proposed and approval of the application would not create undesirable precedent in the area.

6.9 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	No objection subject to conditions of consent.
Engineering	No objection subject to conditions of consent
Traffic and Transport	No objection subject to conditions of consent.
Waste	No objection subject to conditions of consent

(b) Community Consultation

The development application was notified for a period of 14 days from 11 to 26 November 2019 in accordance with Liverpool Development Control Plan 2008. A total of six (6) written objections were received. A summary of the issues and corresponding responses are outlined in the table below.

Issue	Comment
<ul style="list-style-type: none"> The height will diminish the amount of sunlight received by adjoining neighbour. Adjoining properties will lose sunlight during winter as a result of the height of the building. 	<p>The proposed building height of 16.5m is complies with the maximum of 18m in the LLEP 2008.</p> <p>A review of the shadow diagrams reveal that overshadowing from 9am to 3pm in mid winter is cast on the backyard of the adjoining neighbour across Harvey /pathway starting at midday onwards. The rear yard will still receive at least 3 hours in the morning during mid winter, which is consistent with Council's local controls for solar access to neighbouring properties.</p>
<ul style="list-style-type: none"> Intrusion into privacy to adjoining properties especially with the COS on the rooftop overlooking into private yards. 	<p>The difference in height and scale also means that there is potential for high rise development to overlook established developments as the area transitions from low to high density.</p> <p>Design features of the proposed development aim to mitigate that impact in the meantime and for future high rise neighbours. For example:</p> <ul style="list-style-type: none"> Balconies generally comply with the ADG building/balcony separation. Rooftop COS is provided with peripheral planter boxes, when landscaped will prevent users to

	<p>overlook into adjoining property backyards below.</p> <ul style="list-style-type: none"> • Windows that face the Harvey Walkway are conditioned to provide a sill height of 1.5m. <p>It is recognised that in the transition period, established properties will be overlooked by new development. It is considered that the subject design provides a quality precedent for future development and has been designed to mitigate potential privacy impacts as much as possible.</p>
<ul style="list-style-type: none"> • Impact of the digging for the basement parking • Neighbouring residents need assurance that no damage or slippage happen to their property during construction as a result of the basement car park. 	<p>Conditions of consent are imposed to minimise noise and vibration during work and to supports adjoining development during excavation.</p> <p>The applicant submitted a Geotechnical Report that indicates that a detailed geotechnical subsurface investigation must be carried out prior to final design and issue of CC.</p> <p>A condition can be imposed to ensure that that a Geotechnical Report is submitted to the PCA to ensure that the excavation is satisfactory prior to CC. Council can take action on any development that is not being carried out in accordance with the conditions.</p>
<ul style="list-style-type: none"> • The bulk and scale is completely inappropriate and contrary to the existing residential area, existing development and is completely incompatible with the existing area. The proposal does not at all blend with the existing streetscape 	<p>As a residential flat building, the proposed development will present a very different character to the existing single storey dwellings currently in McKay Avenue. However, the locality is zoned R4 enable a higher and denser built form and the proposed development meets these expectations and parameters. The proposed development is considered to provide a quality expression of high density development in accordance with the R4 zone.</p>
<ul style="list-style-type: none"> • Streets are too narrow for to accommodate additional RFB. • Safety concern as the site is located on a bend and people using the Harvey Walkway especially for the elderly person, children and mothers with prams going to the shopping centre. • The proposal will generate additional traffic in the surrounding streets when existing infrastructure. • Inadequate parking provision 	<p>The application was accompanied by a traffic report which was referred to Council's Traffic Engineering Unit for review.</p> <p>Both concur that the surrounding road network has the capacity to accommodate the increased traffic generated by the development.</p> <p>A condition of consent will be imposed to improve the walkway pedestrian crossing the street to the shops.</p> <p>In terms of car parking the proposed development provides sufficient car parking according to Council parking rates for residential flat buildings.</p>

<ul style="list-style-type: none"> • Access from the side laneway is not allowed as part of the contract of purchase 	<p>Council has no evidence to substantiate this prohibition.</p>
<ul style="list-style-type: none"> • Increased safety concerns, graffiti and antisocial behaviour with the proposed access from Harvey Walkway. 	<p>On the contrary, increased traffic on the walkway and designation of the accessway as the main entrance to the proposed RFB is likely to increase active and passive surveillance. Increased passive surveillance is usually associated with a corresponding deterrence to anti-social behaviour.</p>
<ul style="list-style-type: none"> • Impact on quality of life in the area 	<p>The development is consistent with the objectives of the R4 zone and is generally consistent with the planning requirements for the locality and RFB's. Accordingly, the development is considered unlikely to negatively impact the quality of the life in the area beyond the expected character for an R4 zone.</p>
<ul style="list-style-type: none"> • Inadequate existing infrastructure to support potential increase in population. 	<p>The proposed development has been assessed by Council's development engineers and it is considered that drainage and stormwater can be satisfactorily handled for the site. Sydney Water has identified that it will deal with water and sewer connections at Construction Certificate stage. It is considered that adequate infrastructure is available or will be provided to service the proposed development.</p>
<ul style="list-style-type: none"> • Safety for pedestrians and traffic during the construction phase of the development is a concern. 	<p>A condition of consent will be imposed for the applicant to submit to Council a Construction Traffic Management Plan for review and approval prior to CC.</p>
<ul style="list-style-type: none"> • The development is not compatible with the local character of the area which is characterised by single and double storey detached houses. • Moorebank is not a suitable area for high density residential development, particularly as it is not well serviced by public transportation. 	<p>The land and the locality is zoned R4 – High Density Residential. Residential Flat Buildings are types of development that are permitted within the R4 Zone. It is noted that Moorebank is under transition from low density development to high density development as evidenced by the current construction of flat buildings in the area.</p>

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

Approval of the application is in the public interest, for the reasons outlined in this report.

7. SECTION 7.11 CONTRIBUTIONS

A Section 7.11 Development Contribution is applicable to the proposed development in accordance with Liverpool Contributions Plan 2009 and will be imposed as a condition of

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consent of any approval for the proposed development. The development attracts a total contribution of **\$61,311**.

8. CONCLUSION

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

9. RECOMMENDATION

That the Development Application DA-995/2017 be approved, subject to conditions of consent

10. ATTACHMENTS

Attachment 1: RECOMMENDED CONDITIONS OF CONSENT

Attachment 2: PLANS OF THE PROPOSAL

Attachment 3: DEP MINUTES

ATTACHMENT 1 – RECOMMENDED CONDITIONS OF CONSENT**ATTACHMENT 1 – CONDITIONS OF APPROVAL**

Council has imposed the following conditions under 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.

(a) Architectural Plans

Plan Name	Plan Number	Date	Rev	Prepared By
Cover Page	00	05/12/19	E	Baini Design
Compliance Table	01	05/12/19	E	Baini Design
Site Plan	02	05/12/19	E	Baini Design
Site Analysis	03	05/12/19	E	Baini Design
Demolition Plan	04	05/12/19	P	Baini Design
Basements Floor Plans and Driveway Sections	05	05/12/19	P	Baini Design
Ground Floor Plan	06	05/12/19	P	Baini Design
Level 1 & 2 Floor Plan	07	05/12/19	P	Baini Design
Level 3 & 4 Floor Plan	08	05/12/19	P	Baini Design
Roof Plan	09	05/12/19	P	Baini Design
Sections	10	05/12/19	P	Baini Design
Elevations	11	05/12/19	P	Baini Design
3D Height Plane	12	05/12/19	P	Baini Design
Solar Access & Cross Ventilation 1	13	05/12/19	P	Baini Design

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Solar Access & Cross Ventilation 2	14	05/12/19	P	Baini Design
Calculation Plan 1	15	05/12/19	P	Baini Design
Calculation Plan 2	16	05/12/19	P	Baini Design
Landscape/Deep Soil Calculations	17	05/12/19	P	Baini Design
External Colours and Finishes 1	18	05/12/19	P	Baini Design
External Colours and Finishes 2	19	05/12/19	P	Baini Design
External Colours and Materials	20	05/12/19	P	Baini Design
Shadow Diagrams (June 21 st)	21	05/12/19	P	Baini Design
Streetscape Elevation	22	05/12/19	P	Baini Design
BASIX commitments	23	05/12/19	P	Baini Design
3D – Views 1	24	05/12/19	P	Baini Design
3D – Views 1	25	05/12/19	P	Baini Design
3D - Perspectives	26	05/12/19	P	Baini Design
Notification Plan	27	05/12/19	P	Baini Design
Photomontages	28	05/12/19	P	Baini Design

(b) Landscape Plans

Overall Landscape Plan	LA-00	29/01/21	D	Studio IZ
Landscape Plan (Ground Floor)	LA-01	29/01/21	D	Studio IZ
Landscape Plan (Ground	LA-02	29/01/21	D	Studio IZ

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Floor)				
Landscape Plan (Level 4)	LA-03	29/01/21	D	Studio IZ
Planting Palette	LA-04	29/01/21	D	Studio IZ
Details and Specification	LA-05	29/01/21	D	Studio IZ

(c) Stormwater Concept and Sediment and Erosion Control Plans

Report Name	Date	Job/ Drawing No.	Rev	Prepared By
Cover Sheet Plan	02/10/19	190036 - 000	A	Australian Consulting Engineers
Stormwater Concept Plan Basement Level 2 Sheet 1 of 2	02/10/19	190036 - 101	D	Australian Consulting Engineers
Stormwater Concept Plan Basement Level 2 Sheet 2 of 2	02/10/19	190036 - 102	D	Australian Consulting Engineers
Stormwater Concept Plan Basement Level 1	02/10/19	190036 - 103	C	Australian Consulting Engineers
Stormwater Concept Plan Ground Floor	02/10/19	190036 - 104	E	Australian Consulting Engineers
On-site Detention Details and Calculation Sheets	02/10/19	190036 - 105	E	Australian Consulting Engineers
Miscellaneous Details Sheet		190036 - 106	C	Australian Consulting Engineers

(d) Reports

Report Name	Date	Reference	Prepared By
Parking and Traffic Impact Assessment Report	August 2019	19-008-2	Stanbury Traffic Planning
Acoustic Report	16/07/2019	190007R1	Rodney Stevens Acostics
Waste Management Plan	-	-	Baini Design

(e) BASIX certificate number 992450M_03, dated 24 September 2019 & Naters Summary prepared by Envision Energy.

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Except where modified by the undermentioned conditions.

Amendments to Architectural Plans

2. Amended Architectural plans and details reflecting the required amendments (as detailed below), shall be submitted to and approved by Liverpool Council's Manager of Development Assessment.
 - (a) Provide amended Site Plan/Landscape Plan with details of the proposed development on any public domain works (i.e. street lighting, footpath paving and street trees/vegetation along Mackay Avenue and Harvey Pathway). Indicate the proposed location of the substation, fire hydrants, etc.) must be integrated within the building and/or landscaping as to not impact the visual amenity of the development.

All podium/upper-level vegetation must have irrigation supplied through non-potable water sources and have adequate supply for 32mm of irrigation, with a supply allowance for at least 4 weeks without rain.

- (b) Amend Basement Floor Plan & Driveway Sections, Dwg No. 05, Revision E dated 05.02.21 to show the following:
 - Install double-leaf door, to the bulky household waste storage room on Level 1 to allow access to larger items.
 - Indicate location of any control device for roller gates into the basement should be located to accommodate a vehicle fully within the site.
- (c) Amend Elevations Plan, Dwg No. 11, Revision E dated 05.02.21 on South Elevation windowsills to be a minimum of 1.5m above floor level on Levels 1, 2 & 3

Comply with EP&A Act

3. 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 Liverpool City Council.

Prescribed Condition

4. 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).

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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 are to be complied with or addressed prior to the issue of a Construction Certificate by the Principal Certifying Authority.

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 2009)

7. As a consequence of this development, Liverpool City 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 **\$61,311.00** and will be adjusted at the time of payment in accordance with the contributions plan.

A breakdown of the contributions payable is provided in the attached payment form. Payment must be accompanied by the form.

The Contributions Plan may be inspected online at:

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

Construction Certificates

8. Any Construction Certificate that may be issued in association with this development consent must ensure that any certified plans and designs are consistent (in terms of site

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layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

Building Work

9. 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.

Site Development Work

10. 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.

Accessibility

11. 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.

Cladding

12. 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 and relevant Australian Standards. The certifier must be able to demonstrate compliance with evidence of suitability as per clause A2.2 of the NCC for all products/systems proposed.

Products banned

13. No building products that are banned, or products that are subject to a ban if used in a particular way under the Building Products (Safety) Act 2017 are to be used in the construction of the development.

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 and should refer to the stamped plans. 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.
- (c) Back to base alarm systems shall be installed;
 - (d) Basement parking areas shall be painted a light colour;
 - (e) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be implemented;
 - (f) 'Way finding' signage should be utilised at all major interchanges such as lifts and stair wells;
 - (g) 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
 - (h) Access to the parking levels of the building shall be controlled via a security controlled device.

S138 Roads Act – Minor Works in the public road

17. Prior to the issue of a Construction Certificate, a Section 138 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:
- (a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings),
 - (b) Road opening for utilities and stormwater (including stormwater connection to Council infrastructure), or
 - (c) 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.

Retaining Walls on Boundary

18. 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.

S138 Roads Act – roadworks requiring approval of civil drawings

19. Prior to the issue of a Construction Certificate for building 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 provision of the following within the site frontage:
- i. Demolish all existing driveways and laybacks, including reinstate kerb and gutter.
 - ii. Minimum 1.5m wide concrete footpath paving. The works within **Harvey Pathway** will also need to address:
 - a) stormwater overland flows from upstream properties.
 - b) incorporate agreed landscaping to improve the overall design quality.
 - iii. Reconstruction of concrete kerb and gutter.
 - iv. Road pavement reconstruction for the full width of the road carriageway, and associated works such as linemarking.

Note: All works shall be undertaken at no cost to Liverpool City Council.

Waste Materials

20. Details of the name and address of the facilities that the different types of waste materials coming from the demolition/excavation and construction stages of the project will be taken to, must be supplied in writing both to Council and to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Dilapidation Report Private Property (Excavations)

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.

On-Site Detention

22. On-site Stormwater Detention (OSD) shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Australian Consulting Engineers, and referenced as per the following:

Job No./ Drawing No.	Title	Revision/ Issue	Date
190036 - 000	Cover Sheet Plan	A	24/01/2019
190036 - 101	Stormwater Concept Plan Basement Level 2 Sheet 1 of 2	D	8/05/2020
190036 - 102	Stormwater Concept Plan Basement Level 2 Sheet 2 of 2	D	8/05/2020
190036 - 103	Stormwater Concept Plan Basement Level 1	C	8/05/2020
190036 - 104	Stormwater Concept Plan Ground Floor	E	25/05/2021
190036 - 105	On-site Detention Details and Calculation Sheets	E	25/05/2021
190036 - 106	Miscellaneous Details Sheet	C	25/05/2021

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 (including the proposed OSD) or adjoining properties. Particular attention should be given to Harvey Pwy and coordinate with any works approved in the S138 Roads Act application for Harvey Pwy.

The outlet pipe from the DCP shall be sized to convey 2 times the PSD of the orifice outlet.

Engineering plans and supporting calculations for the OSD 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.

S68 Local Government Act – Stormwater drainage works

23. 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,

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and approved by Liverpool City Council for new pit and pipe connection to McKay Avenue.

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.

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 carparks.

Residential storage areas, lift entry points and services rooms in the basement shall be set a minimum of 100mm above the surface level of the tank.

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 LDCP 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, Car Parking 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.

Provide an Operational Traffic Management Plan (OTMP) with detailed plans indicating proposed driveway and car parking layout as shown on the stamped Architectural Plans including swept path analysis to parking and un-loading manoeuvres, sign posting and line markings and provision of safety measures as convex mirrors, bollards and the like. Markings should clearly identify the unit allocation for each car parking space with tandem layout designated to a single unit only. An interactive electronic display showing capacity and availability of parking in the basement car park.

On street parking along the street frontage on both sides of McKay Avenue is to be

restricted to 'No Parking' following approval of a submitted parking scheme. The applicant is to review the adequacy of the existing street lighting in front of the property and, if required, provide street lighting upgrade to Category 'P4' to Council's specifications.

The detailed plan is to be submitted to Council's Traffic and Transport section for review.

Provision of Services

28. 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.

29. 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.
30. 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.
31. 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.
32. 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.

Dilapidation Report

33. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in **Mckay Avenue**, 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 **20m** either side of the development.

Dilapidation Report Private Property (Excavations)

34. A full dilapidation survey and report on the visible and structural condition, with comment on the footings and foundations, 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, survey and comments are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property. A copy is also to be provided to the affected adjoining property owner/s.

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

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must:

- a) Undertake as much as possible the survey from the development site, public areas and/or adjoining private property, and
- b) Demonstrate in writing to the satisfaction of the Certifying Authority 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.

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.

C. PRIOR TO WORKS COMMENCING

The following conditions are to be complied with or addressed prior to works commencing on the subject site/s:

Commencement of Building works

35. 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.

Construction certificate

36. 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 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 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

37. 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.
38. 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

39. 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.
40. 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.

Sediment and Erosion Control Measures

41. 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".

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

Waste Classification

42. 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

43. 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.

Return of Waste Bins

44. Prior to any works commencing, including demolition or site clearing, any residential waste bins that have been issued to 12 or 34 McKay Avenue Moorebank must be returned to Liverpool City Council. Ring 1300 26 2170 to notify Council when those waste bins are ready for collection and so that their removal can be noted.

Disposal of refrigerants

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45. Prior to any works commencing, any air-conditioning or refrigeration systems fitted to the dwelling or outbuildings to be demolished, must have the refrigerants present in those systems extracted into a durable, air-tight container by a licensed air-conditioning technician. This container and its contents must be sent intact, for secure destruction, to a facility licensed to destroy such refrigerants. Documentary evidence that this has been completed, if indeed these systems are fitted to the dwelling, must be sighted by the Principal Certifying Authority and included as part of the Occupation Certificate documentation.

Notification of Service Providers

46. 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.

Demolition Works

47. 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

48. 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.

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- (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.

D. DURING CONSTRUCTION

The following conditions are to be complied with or addressed during construction:

Building Inspections

49. The building works must be inspected by the Principal Certifying Authority, in accordance with Sections 6.5 (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.
50. 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

51. 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.

Sign Notice Board

52. A sign must be erected and maintained in a prominent position on the site, which contains the following details:
- a. name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable);
 - b. name, address and telephone number of the principal certifier; and
 - c. a statement stating that 'unauthorised entry to the work site is prohibited'.

Excavation

53. 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 building, structure or work from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.
 - (c) a and b above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
 - (d) 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.

Hoarding

54. 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.

Craning

55. 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.

Toilet Facilities

56. 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.

Retaining wall

57. 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.

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Refuse Disposal

58. 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.
59. All demolition, excavation and construction wastes must be separated as they are generated and kept in separate spoil piles, bays, builder's skips and/or site bins. No wastes other than those noted on the approved waste management plan as being re-used on site, are to be left on site after the completion of the works.
60. All lightweight or granular excavation or construction wastes such as wrapping, packaging materials, bags, insulation, sand, soil etc. must be kept fully enclosed to prevent them from becoming wind-blown litter in strong wind conditions or from washing into drains, sewers or waterways or onto neighbouring properties or public land in wet weather.

Security Fence

61. 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

62. 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

Drainage Connection

63. 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 Filling/Earthworks

64. 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

65. 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.

66. 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

67. 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.
68. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
69. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
70. 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.
71. 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.
72. 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.
73. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
74. All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.
75. 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

76. 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

77. 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).

Imported Fill Material

78. 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.

Record Keeping of Imported Fill

79. 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.

Unidentified Contamination

80. 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 4.55 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

Traffic Management

81. 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.

82. 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.

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.

83. 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.
84. The endorsed Construction Traffic Management Plan (CTMP) is to be implemented during the construction.

Ventilation

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

External

86. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.
87. The mailboxes are to be consistent with the design and colours and materials for the development.
88. 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.
89. The reflectivity index of glass used in the external facade of the building is not to exceed 20%.
90. The windows of all bathrooms, W.C. and ensuites shall be fitted with translucent obscure glazing to the satisfaction of the PCA.

Graffiti

91. 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

92. 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.

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Display of Street Numbers

93. 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

94. Adequate lighting is required at the entrances and main foyers or the building, basement carpark, and mailbox area.
95. Surveillance cameras are required to be installed covering the entrance and exit and main areas of the car park.
96. The underground car park is required to be locked with access to be provided to residents only.
97. All openable windows that are located two metres or more above the ground level and have a sill height less than 1.7m above the internal floor level shall be fitted with devices that lock the window opening at less than 125mm.

Vegetation and Landscaping

98. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
99. 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.
100. Premium quality organic garden soil shall be incorporated into all planting areas in sufficient quantity to achieve optimum plant growing conditions.
101. 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.

E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifier (PC):

Building/Compliance

102. The premises must not be utilised until an Occupation Certificate is issued by the Principal Certifying Authority. Copies of all documents relied upon for the issue of the Occupation Certificate must be attached to the Occupation Certificate and registered with Liverpool City Council.
103. Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Liverpool City Council with the occupation certificate.

Cladding

104. 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.

Design Verification Statement

105. 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

106. 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.

Landscaping

107. 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

108. 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

109. 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.

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Structural Engineer Certificate

110. 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

111. Prior to the issue of an Occupation Certificate the PCA shall ensure that the:

- (a) On-site detention system/s,
- (b) Overland flowpath works,
- (c) Basement carpark pump-out system:
 - i. Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent,
 - ii. Have met the design intent with regard to any construction variations to the approved design, and
 - iii. Any remedial works required to be 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

112. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the on-site detention system/s and basement carpark pump-out system shall be registered on the title of the property:

- (a) On-site detention system,
- (b) Overland flowpaths works,
- (c) Basement Carpark pump-out system

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.

113. 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.

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Footpaths

114. 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

115. 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 **Mckay Avenue** will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

Completion of works Survey and Report

116. At completion of works a survey and report must be undertaken and submitted to the Certifying Authority and affected adjoining property owner/s, commenting on the risk of latent damage (if any) to the existing building caused by the excavation and construction activities.

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

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

If access for undertaking the survey is denied by an adjoining owner, the applicant must:

- a) Undertake as much as possible the survey from the development site, public areas and/or adjoining private property.
- b) Demonstrate in writing to the satisfaction of the Certifying Authority 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.

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.

Service Providers

117. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to issue of Occupation Certificate.
118. Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.

119. 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.

Waste

120. All waste products associated with the use of the residential flat building are to be placed in containers and stored within the building.
121. All permanent signage required for residents needed to be able to locate and correctly use waste facilities, including undertaking waste separation, must be fixed in place prior to the issue of an Occupation Certificate. This includes the bulky household waste storage room.
122. All waste management facilities, equipment (except waste bins), features and permanent signage will be installed and operational prior to the issue of an Occupation Certificate

Dilapidation Report

123. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

F. CONDITIONS RELATING TO USE

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

Car Parking / Loading

124. A total of eighteen (17) off street car parking inclusive of six (3) visitor and one (1) disabled spaces must be provided.
125. All parking areas shown on the approved plans must be used solely for this purpose.
126. All line marking and sign posting is to be maintained in good condition at all times, to the satisfaction of Council.
127. Council's on-street assets should be protected at all times. Any damages should be rectified to Council satisfaction.

Landscaping

128. 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

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

Noise and Environmental Emissions

131. The use of the dwellings including music, mechanical plant and equipment and the like shall not give rise to the emission of "offensive noise" as defined under the Protection of the Environment Act 1997.
132. The use of the site shall not give rise to the emission into the surrounding environment of gases, vapours, dusts, odours or other impurities which are a nuisance, injurious or prejudicial to health.
133. 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

134. The mobile bin towing device (MBTD) and trailer are to be supplied at the developer's expense and are to be of a power and capacity needed to move the bins and trailer up and down the 1:4 driveway ramp. This is to be used for all movements of bins up and down the ramp, and must be used only by persons who are both trained and insured to use it. It must be securely stored, when not in use, in such a way as it cannot be accessed or interfered with by the residents. If the MBTD is to be a battery-powered rechargeable unit, then a suitable recharging point must also be provided.

The MBTD and trailer are to be maintained and kept in working order by the strata, and replaced when necessary. Any bin hitches or other attachments needed to connect the bins to the MBTD or trailer are to be supplied, installed and maintained privately.

135. Once the Occupation Certificate has been issued for the new residences, but prior to residents moving in, Council is to be contacted to arrange delivery of the domestic waste bins to this building. Please contact Council on 1300 36 2170 to arrange the delivery of waste bins.
136. Under current collection arrangements, the development will be issued with a total of 6 x 240 litre general waste bins and 6 x 240 litre recycling bins. These arrangements re bin sizes and types may be subject to change under future collection contracts. No green (garden) waste bins or services will be provided, and green waste is to be removed from site as it is generated and disposed of lawfully.
137. Agents of the strata must present the waste bins for emptying to the kerbside of McKay Avenue, no earlier than the afternoon before collection. After emptying, all bins must be removed from the kerbside as soon as possible, and no later than 24 hours after collection, and placed back into the waste storage room.

138. The management of the building, including the strata manager and any cleaner or maintenance persons working for them, shall ensure that residents are provided with feedback, guidance, and correction if necessary, with regard to their waste practices, including correct waste separation. The building management shall be responsible for ensuring residents use the bulky household waste room provided, and for making clean-up bookings with Council for the removal of the contents of the bulky waste store room, as needed.

Washing on Balconies

139. 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) Sections 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979 allow you to request the consent authority to review this determination notice if you are dissatisfied with it or the conditions contained within this determination notice. This right must be exercised within six (6) months from the date of this notice with the appropriate fee.
- b) Under Sections 8.7 & 8.10 of the Environmental Planning and Assessment Act 1979 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 of determination.
- 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) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the applicant should investigate their liability under the Act.
- g) 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.

h) "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.

i) 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.

j) 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.

k) 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.

l) Letter boxes must be provided in accordance with the requirements of Australia Post. In this regard, the developer is required to obtain approval from Australia Post for address numbering, and letter box positioning and dimensions.

m) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

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ATTACHMENT 2: SECTION 7.11 PAYMENT FORM

**CONTRIBUTIONS PURSUANT TO SECTION 7.11 OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT, 1979**

Liverpool Contribution Plan 2009

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 current quarter and will be adjusted at the time of payment in accordance with the conditions of consent.

APPLICATION NO.: **DA-681/2019**

<u>Facilities</u>	<u>Amount</u>	<u>Job No.</u>
	<u>(\$)</u>	
Liverpool Contributions Plan 2018 Established Areas		
Community Facilities - works		
Eastern	\$4,737	GL.10000001870.10098
District Sporting Fields - works		
Eastern	\$16,187	GL.10000001869.10212
District Passive Open Space - works		
Eastern	\$8,405	GL.10000001869.10092
Local Passive Open Space - works		
Moorebank	\$22,730	GL.10000001869.10100
Transport - Bikeways - works		
Eastern	\$1,630	GL.10000001865.10208
Transport - Traffic management - works		
Eastern	\$4,646	GL.10000001865.10214
Drainage - works		
Eastern	\$2,069	GL.10000001866.10210
Administration	\$906	GL.10000001872.10104
<u>TOTAL</u>	<u>\$61,311</u>	

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Residential Flat Building

31 BAKER AVE, MERSEBURGH

18009

Draw Number	Draw Name
00	COVER PAGE
01	CONFORMANCE TABLE
02	SITE PLAN
03	SITE ANALYSIS
04	ORIENTATION PLAN
05	BASEMENT FLOOR PLAN & SERVICES SECTION
06	GROUND FLOOR PLAN
07	FIRST FLOOR PLAN
08	LEVEL 1 & 2 FLOOR PLAN
09	LEVEL 3 & 4 FLOOR PLAN
10	ROOF PLAN

Draw Number	Draw Name
10	SECTION
11	ELEVATIONS
12	ROOF PLAN
13	ROOF ACCESS & ESCAPE IDENTIFICATION 1
14	ROOF ACCESS & ESCAPE IDENTIFICATION 2
15	ORIENTATION PLAN 1
16	ORIENTATION PLAN 2
17	ANNOUING ZONE SOIL CALCULATIONS
18	ENVIRONMENTAL COLOURS AND FINISHES 1
19	ENVIRONMENTAL COLOURS AND FINISHES 2

Draw Number	Draw Name
20	SCHEDULE OF EXTERNAL MATERIALS & FINISHES
21	SHADOW DIAGRAMS (SUMMER TIME)
22	SHADE PLAN & LAYOUT
23	BRICK COLOUR MATCH
24	3D - VIEWS 1
25	3D - VIEWS 2
26	3D - PHOTOGRAPHS
27	NOTIFICATION PLAN
28	NOTIFICATION LOSS



LOCATION PLAN



RENDER

Draw Number	Draw Name
00	COVER PAGE
01	CONFORMANCE TABLE
02	SITE PLAN
03	SITE ANALYSIS
04	ORIENTATION PLAN
05	BASEMENT FLOOR PLAN & SERVICES SECTION
06	GROUND FLOOR PLAN
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08	LEVEL 1 & 2 FLOOR PLAN
09	LEVEL 3 & 4 FLOOR PLAN
10	ROOF PLAN

FOR SA APPROVAL

baird architects

Architects

18009

31 Baker Ave, Merseburgh

0151 275 275

www.bairdarchitects.co.uk

LIVERPOOL CITY COUNCIL
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26th July 2021



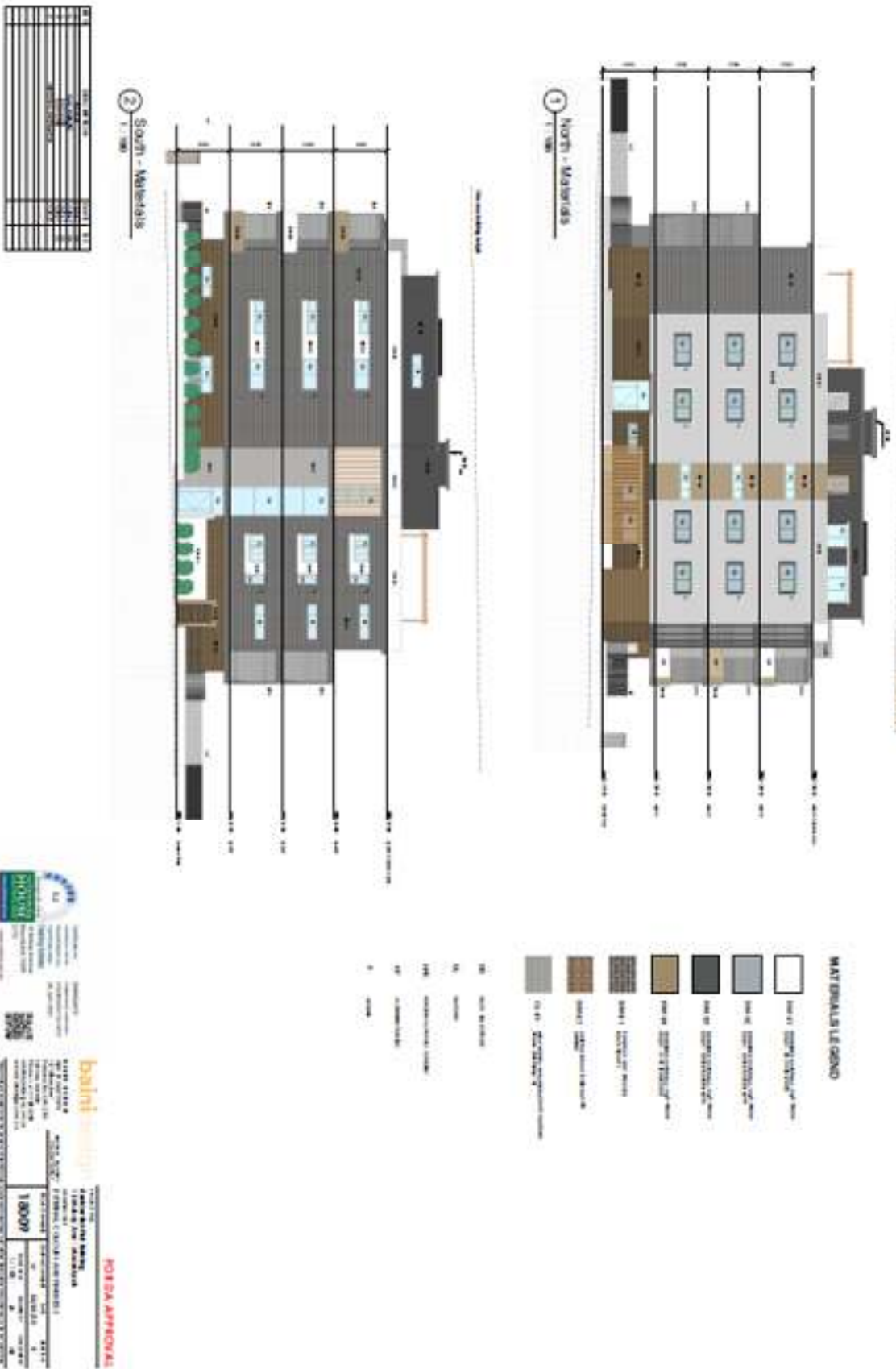
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LIVERPOOL CITY COUNCIL

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LEGEND

ITEM NUMBER	ITEM NAME	ITEM DESCRIPTION
01	01 - BRICK WALL	RED BRICK WALL
02	02 - BRICK WALL	RED BRICK WALL
03	03 - BRICK WALL	RED BRICK WALL
04	04 - BRICK WALL	RED BRICK WALL
05	05 - BRICK WALL	RED BRICK WALL
06	06 - BRICK WALL	RED BRICK WALL
07	07 - BRICK WALL	RED BRICK WALL
08	08 - BRICK WALL	RED BRICK WALL
09	09 - BRICK WALL	RED BRICK WALL
10	10 - BRICK WALL	RED BRICK WALL
11	11 - BRICK WALL	RED BRICK WALL
12	12 - BRICK WALL	RED BRICK WALL

NOT TO SCALE AND FOR INFORMATION ONLY

NO.	DESCRIPTION	DATE
1	APPROVED	26.07.2021
2	APPROVED	26.07.2021
3	APPROVED	26.07.2021
4	APPROVED	26.07.2021
5	APPROVED	26.07.2021
6	APPROVED	26.07.2021
7	APPROVED	26.07.2021
8	APPROVED	26.07.2021
9	APPROVED	26.07.2021
10	APPROVED	26.07.2021
11	APPROVED	26.07.2021
12	APPROVED	26.07.2021

18000

FOR DA APPROVAL

DATE: 26/07/2021

TIME: 10:00 AM

LOCATION: 18000

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26th July 2021

1 Shadows 9 AM
 1:30M

2 Shadows 12 Noon
 1:30M

June 21st

3 Shadows 3 PM
 1:30M

NO.	DESCRIPTION	DATE
1	DATE	2021
2	DESCRIPTION	2021
3	DATE	2021
4	DESCRIPTION	2021
5	DATE	2021
6	DESCRIPTION	2021
7	DATE	2021
8	DESCRIPTION	2021
9	DATE	2021
10	DESCRIPTION	2021
11	DATE	2021
12	DESCRIPTION	2021
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17	DATE	2021
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26	DESCRIPTION	2021
27	DATE	2021
28	DESCRIPTION	2021
29	DATE	2021
30	DESCRIPTION	2021

Bathurst
 Bathurst Planning Services
 100-102, The Quadrant, Liverpool, L1 1JG
 Tel: 0151 236 2362
 Fax: 0151 236 2363
 Email: info@bathurstplanning.co.uk
 Website: www.bathurstplanning.co.uk
 Bathurst Planning Services is a registered company with the Companies House, No. 08428487, VAT No. 254 240 710

FOR DA APPROVAL
 DATE: 2021
 DRAWING NO: 18007
 SCALE: 1:300
 PROJECT NO: 18007

ATTACHMENT 3 – DEP minutes



Minutes

MINUTES OF DEP MEETING 12 July 2018

DEP PANEL MEMBERS PRESENT:

Darlene van der Breggen	Chair
Geoff Baker	Panel Member
Alf Lester	Panel Member

OTHER ATTENDEES:

Glenn Ford	Convener
Glenn Ford	Planner

APOLOGIES:

Michael Oliveira	Planner
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OBSERVERS:

Joe Michael	Landowner	0414 894 404	
Charlie Baini	Baini Design	9188 8250	
Ben Vitale	Vitale Design	0418 285 160	
Brad Delapierre	Think Planners	0405 330 095	brad@thinkplanners.com.au

AGENDA:

Property Address: 12 McKay Avenue, Moorebank

Application Number: PL-62/2018

Item Number: 3

1. WELCOME AND OPENING

The Liverpool Design Excellence Panel (the Panel) comments are to assist Liverpool City Council in its consideration of the development application.

The absence of a comment under any of the principles does not necessarily imply that the Panel considers the particular matter has been satisfactorily addressed, as it may be that changes suggested under other principles will generate a desirable change.

The 9 design quality principles will be grouped together where relevant, to avoid the unnecessary repetition of comments.

2. DECLARATIONS OF INTEREST

Nil

3. CONFIRMATION OF PREVIOUS MINUTES

N/A

4. PRESENTATION

The applicant presented the proposal for demolition of existing structures and the construction of a 5-storey Residential Flat Building which provided for 13 units and basement parking pursuant to the State Environmental Planning Policy (Affordable Rental Housing).

The applicant's planner briefly explained the scheme as follows:

- An approach to No. 10 McKay Street to amalgamate with No. 12 McKay Street has been unsuccessful. It is therefore proposed to proceed as a single site. The feasibility of the site is based on the additional yield provided by the Affordable Rental Housing SEPP.
- The Development Application will address the Land and Environment Court Principles for Isolated Sites.
- The DA will rely on the ARHSEPP control of minimum lot size of 450m² for affordable rental housing. It was noted that the subject site was 683m².
- The DA will rely on the parking controls in the ARHSEPP and provide one basement level.
- At this stage, it has not been confirmed that the site is in an "accessible area" under the ARHSEPP although information has been presented towards that end.
- The presented design relies on a variation of the 18m building height limit (lift overrun) which will require a Clause 4.6 variation to be supported.

5. DEP PANEL COMMENTS

The 9 design principles were considered by the panel in discussion of the development application. These are 1] Context, 2] Built Form+ Scale 3] Density 4] Sustainability 5] Landscape 6] Amenity, 7] Safety 8] Housing Diversity +Social Interaction 9] Aesthetics.

The Design Excellence Panel makes the following comments in relation to the project:

- The Panel thanks the proponent for bringing the scheme forward at the Pre-DA stage and notes that the design is based on a number of departures from development standards. No site analysis was provided at the Pre-DA stage and several matters are as yet unresolved including the 'accessible area' issue and the number of units proposed to be retained for affordable rental accommodation.
- Density: The maximum permitted FSR on the site depends on whether the project qualifies under SEPPARH, which is yet to be determined. In any event, the proposal should comply with the maximum permissible FSR under the appropriate (default) applicable controls.
- Height: The proposal significantly exceeds the LEP height limit and there has been no justification for this non-compliance, which should be provided.
- Basement: The car parking layout appears tight and it would need to be confirmed that it complies with AS2890 and that workable swept paths can be achieved. The basement is also required to cater for waste management and other storage needs for the site. There is a need to demonstrate compliance with applicable requirements for car parking provision.
- Deep soil areas: It is considered that the basement should be reconfigured to provide additional and better deep soil areas for the site.

- **Setbacks:** The setbacks prescribed by the Apartment Design Guide (ADG) are not met. In particular, there are habitable rooms and balconies facing the northern boundary (with number 10) which are too close to the boundary. There is a need to refine the design to increase the setbacks to achieve ADG compliance, eg acoustic and visual privacy. This may require deletion of a bedroom from one apartment on each of the upper levels.
- **Orientation:** The design does not optimise the northerly aspect of the site. This is a challenge given the need to provide appropriate setbacks and protect privacy. Consideration could be given to the use of translucent material along this façade, provided that every habitable room has an outlook and that there is acoustic privacy from adjacent sites.
- **Cross ventilation:** The Panel was not convinced that the cross-ventilation of the proposed development is satisfactory. The applicant indicated that the building will be designed to comply, with full information to be provided at DA stage.
- **Relationship to laneway:** As the lane is a public thoroughfare, the Panel sees value in using it as an access route and not replicating pathways within the development site (ie to reduce hard paving areas and increase landscape area). Ground level units should address the laneway to provide a "safer by design" outcome for this frontage.
- The Panel was advised that DA-100/2017 for 14 McKay Street, which also adjoins the laneway, was still under assessment after more than 12 months. It was noted that the subject site shared many of the challenges facing No 14 McKay Street in attempting to maximise the yield potential under the ARHSEPP on a small site.
- **Communal Open Space (COS):** The Panel noted that a substantial proportion of COS is at level 4 compared to the area provided at ground level.
- **Building Design:** The Panel questioned how the built form and scale proposed will work in the context of the neighbourhood. The disparity of height may create turbulence and unpleasant conditions at ground level. The top storeys seem to be overbearing and ungainly. The building looks like a composite of several design ideas and requires substantial refinement to achieve an integrated architectural design.
- **Access to the main foyer** is neither direct nor functional. The upper level foyers are fully enclosed with no natural light penetration and would not meet ADG criteria.
- **Materials:** Avoid render as it can create maintenance issues for a residential flat building. The proposed use of perforated metal as a feature is interesting and supported.
- The fire stair configuration needs to be reviewed to ensure separation between garage and apartment exit paths.

Summary Comments: Many matters affecting the design are yet to be fully resolved. Unless the site satisfies the SEPPARH criteria for an "accessible area" the design fails. The Panel is concerned to see how the design is refined to provide a compliant and workable car parking arrangement and a better relationship with neighbours in regard to setbacks. Concern remains with the amount and utility of COS proposed and the need to improve the entry to the building and the apartments at each level. Secondary frontage of some units to the laneway could provide a better outcome. There is a need to better resolve the bulk and scale of the building and to explore options for high quality materiality that avoids render.

General

Note: All SEPP 65 apartment buildings must be designed by an architect and their registration number is to be on all drawings. The architect is to attend the DEP presentations.

Quality of construction and Material Selection

Consideration must be given by the applicant to the quality of materials and finishes. All apartment buildings are to be made of robust, low maintenance materials and be detailed to avoid staining weathering and failure of applied finishes. Render is discouraged

Floor-to-floor height

The panel recommends a minimum 3050 to 3100mm floor-to-floor height so as to comfortably achieve the minimum 2700mm floor-to-ceiling height as required by the ADG.

Sectional Drawings

Sectional drawings at a scale of 1:20 of wall section through with all materials, brickwork, edging details to be submitted.

6. CLOSE

Given the number of elements that are still proposed to be "designed to comply with full information to be provided at DA stage", the submitted DA is to be referred to the Panel.



Minutes

MINUTES OF DESIGN EXCELLENCE PANEL MEETING Thursday 13th February 2020

DEP PANEL MEMBERS PRESENT:

Rory Toomey	Chairperson	Government Architect NSW
Caroline Pidcock	Panel Member	Pidcock
Shaun Carter	Panel Member	Carter Williamson Architects

APPLICANT REPRESENTATIVES:

Ben Vitale	Vitale Design
Charlie Baini	Baini Design

APOLOGIES:

NIL

OBSERVERS:

Scott Sidhom	Coordinator Urban Design	Liverpool City Council
Emmanuel Torres	Senior Development Planner	Liverpool City Council
Robert Micallef	Development Planner	Liverpool City Council
Kevin Kim	Senior Development Planner	Liverpool City Council
Michael Oliveira	Team Leader Development Assessment	Liverpool City Council
Adam Flynn	Acting Team Leader Development Assessment	Liverpool City Council

ITEM DETAILS:

Application Reference Number: DA-681/2019

Property Address: 12 Mckay Avenue MOOREBANK NSW 2170

Council's Planning Officer: Emmanuel Torres

Applicant: Baini Design

Proposal: The demolition of existing structures, the construction of a four level residential flat building and basement parking

1.0 WELCOME, ATTENDANCE, APOLOGIES AND OPENING

The Chairperson introduced the Panel and Council staff to the Applicant Representatives.

Attendees signed the Attendance Registration Sheet.

The Liverpool Design Excellence Panel's (the Panel), comments are to assist Liverpool City Council in its consideration of the Development Application.

The absence of a comment under any of the principles does not necessarily imply that the Panel considers the particular matter has been satisfactorily addressed, as it may be that changes suggested under other principles will generate a desirable change.

All nine design principles must be considered and discussed. Recommendations are to be made for each of the nine principles, unless they do not apply to the project. If repetition of recommendations occur, these may be grouped together but must be acknowledged.

2.0 DECLARATIONS OF INTEREST

NIL.

3.0 PRESENTATION

The applicant presented their proposal for DA-681/2019, 12 Mckay Avenue MOOREBANK NSW 2170

4.0 DEP PANEL RECOMMENDATIONS

The nine design principles were considered by the panel in discussion of the Development Application. These are 1] Context, 2] Built Form + Scale, 3] Density, 4] Sustainability, 5] Landscape, 6] Amenity, 7] Safety, 8] Housing Diversity + Social Interaction, 9] Aesthetics.

The Design Excellence Panel makes the following recommendations in relation to the project:

Council's Assessing Officer has advised that a Residential Flat Building (RFB) is not permitted under the LEP for a 600m² size lot in this location. The DEP will only provide comments on how the design of the proposal may be improved, however, determination of whether this proposal can be assessed will be made by Council's Assessing Officer.

4.1. Context

- The panel recommends that if the applicant intends to propose an RFB for this site, fewer planning concessions must be sought and greater public benefit offered. A building on this site requires a more nuanced and thoughtful response that contributes to the site context; this includes providing a physical contribution to the amenity and spatial quality of the street frontage and adjoining laneway.
- As this may be the first development under new planning controls for McKay Street it is considered that this will be seen as a benchmark for future development, therefore Design Excellence must be achieved to the satisfaction of the panel before support will be given.
- The established building line is based on the existing buildings in the street, however this condition will change given the new planning controls for the area. The panel therefore can conditionally support encroachment of the building into the front setback if this is offset with a larger communal open space area at the rear of the site, improved apartment planning and greater engagement with the laneway.
- The panel supports providing pedestrian access off the laneway, provided that a good design solution is given to the entrance and a significant contribution is provided to the laneway (a dollar amount determined by Council to provide for a reasonable share of costs to upgrade the laneway), as this will help activate the laneway and improve its safety and amenity for users.
- The front building elevation needs to relate to McKay Avenue and a desired future character for the locale. Provide at least one entrance to a ground floor unit directly from the street to help activate the frontage at street level. Resolve the balance between vehicle access and pedestrian and resident amenity more generously through landscape and ground treatments.
- Prepare some sections to explore the relationship between the building and surrounding frontages.
- The recommendations detailed above, and when considered in conjunction with significant variations of the planning controls means this proposal falls a long way short of achieving Design Excellence.

4.2. Built Form + Scale

- Consider incorporating maisonette apartments that would enable two levels of apartments to have access to the laneway.
- Consider reorientating the stair and lift zone to be parallel to the laneway to allow for increased developable areas within the building, and achieving more north-facing apartments. Also consider eliminating lifts from the building in consultation with your access consultant.

- Explore the possibility of relocating the driveway along the southern boundary of the site and test spatial implications for both the development and the laneway.

4.3. Density

- The panel could support the proposed density, however it would need to achieve design excellence and promote the desired future character of the area; as it stands, the proposal would need to be reorganised within the site to achieve a better response to the site, context and solar orientation both for residents and for neighbouring properties and public space.

4.4. Sustainability

- Consider all aspects of sustainability from passive solar and ventilation design to active design solutions and integrated energy and water systems. Design Excellence is not about achieving the minimum for compliance but rather achieving an exemplary level of sustainability. Any future proposal will need to respond meaningfully to how a quickly changing climate will affect the lives of the residents of this building and surrounds.

4.5. Landscape

- Engage an AILA Registered Landscape Architect to prepare landscape plans for the site, and ensure they attend the next DEP meeting.
- Provide a built contribution to the adjacent laneway with public benefit. Treat the laneway as a pedestrian place and include paving, planting and lighting for safety. Underground all electricity poles and cables wherever possible.
- As noted in '4.1 Context' consider replanning the site to achieve a larger north-facing communal open space and entry courts that address the laneway, offering casual seating opportunities and passive surveillance.
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4.6. Amenity

- As per comments in '4.2 Built Form + Scale', the panel recommends further resolving the planning of the building to achieve solar access to all apartments. Design Excellence requires any proposal to exceed ADG requirements rather than barely meet them.
- The panel recommends maintaining approximately a 6-metre setback along the north-western boundary, to preserve solar access and visual amenity to both this and the neighbouring site.

4.7. Safety

- The streetscape and laneway façade design will need to be considered carefully to provide passive surveillance to both, whilst also activating the street and laneway. This will improve pedestrian safety to the well used and proportioned laneway.

4.8. Housing Diversity + Social Interaction

- Panel acknowledges that this proposal will not be eligible for affordable housing, on this site and recommends careful design to suit the prospective demographic – garden apartments suited to young families and accessible units for the elderly should be considered alongside other market apartment types.

4.9. Aesthetics

- The panel recommends undertaking further research of the site context and planning controls, as well as the desired future character of the area in order to achieve design excellence through site responsive and contextual arrangement of form, materials and spaces.
- There are many available precedents to refer to for modest scale apartment buildings such as this, both locally and overseas, and we recommend you investigate a broad range of references during further design development.

5.0 OUTCOME

The panel have determined the outcome of the DEP review and have provided final direction to the applicant as follows:

In its current form, the proposal is not supported by the DEP. The panel recommends the proponents consider all feedback as they develop proposals that demonstrate a deeper understanding of the context and planning controls in order to produce scheme capable of achieving Design Excellence. Any future proposal will need to return to the DEP for review.



Minutes

MINUTES OF DESIGN EXCELLENCE PANEL MEETING 12th November 2020

DEP PANEL MEMBERS PRESENT:

Shaun Carter	Chairperson	Cartenwilliamson
Matthew Taylor	Panel Member	TaylorBrammer
Kim Crestani	Panel Member	OrderArchitects

APPLICANT REPRESENTATIVES:

Jonathan Wood	Think Planners
Charlie Bains	Bains Design
Ben Vitale	Vitale Design Architects

OBSERVERS:

Ariz Ashraf	Acting Coordinator Urban Design	Liverpool City Council
Danielle Hijazi	Panel Support Officer	Liverpool City Council
Emmanuel Torres	Senior Planner	Liverpool City Council

ITEM DETAILS:

Application Reference Number: DA-681/2019

Property Address: 12 McKay Avenue Moorebank

Council's Planning Officer: Emmanuel Torres

Applicant: BAINI DESIGN

Proposal: The demolition of existing structures, the construction of a four level residential flat building and basement parking

1.0 WELCOME, ATTENDANCE, APOLOGIES AND OPENING

The Chairperson introduced the Panel and Council staff to the Applicant Representatives.

Attendees signed the Attendance Registration Sheet.

The Liverpool Design Excellence Panel's (the Panel), comments are to assist Liverpool City Council in its consideration of the Development Application.

The absence of a comment under any of the principles does not necessarily imply that the Panel considers the particular matter has been satisfactorily addressed, as it may be that changes suggested under other principles will generate a desirable change.

All nine design principles must be considered and discussed. Recommendations are to be made for each of the nine principles, unless they do not apply to the project. If repetition of recommendations occur, these may be grouped together but must be acknowledged.

2.0 DECLARATIONS OF INTEREST

NIL

3.0 PRESENTATION

The applicant presented their proposal for DA-681/2019, 12 McKay Avenue Moorebank.

4.0 DEP PANEL RECOMMENDATIONS

The nine design principles were considered by the panel in discussion of the Development Application. These are 1] Context, 2] Built Form + Scale, 3] Density, 4] Sustainability, 5] Landscape, 6] Amenity, 7] Safety, 8] Housing Diversity + Social Interaction, 9] Aesthetics.

The Design Excellence Panel makes the following recommendations in relation to the project:

4.1. Context

- The Panel acknowledges and appreciates the response of the applicant to the previous comments of the Panel, and notes the recommendations have significantly improved the overall design outcome.
- The Panel is concerned with the width of the driveway and recommends the applicant to engage a traffic consultant/engineer to optimise the required width of the driveway.
- The Panel notes that the proposal is an appropriate precedent for all future Residential Flat Building (RFB) developments taking place within Moorebank.

4.2. Built Form + Scale

- The Panel notes that the proposed foyer at Level 3 does not have a window opening for the lobby and requires the applicant to include a window on the external facade to the foyer to comply with the requirements of the Apartment Design Guide (ADG) / SEPP 65.
- The Panel notes that the internal layout of the residential units on Level 3 can be improved and asks they be reconsidered to achieve a better design outcome. The Panel encourages the applicant to keep pursuing design development to achieve design excellence for the proposal.

4.3. Density

- The Panel supports the overall density being proposed on the subject site.

4.4. Sustainability

- The Panel notes that there is adequate potential within the development to incorporate sustainable design measures as part of the proposal. The Panel recommends the applicant to consider sustainability principles as part of the design to achieve a better performing environmental and energy efficient building. The Panel recommends the applicant consider double glazing for all windows and doors and requires the design to respond appropriately to the climatic conditions of western Sydney.
- The Panel recommends the applicant to incorporate photovoltaic (solar) panels as part of the design to, at the least, power the common property energy requirements.

4.5. Landscape

- The Panel notes that the Communal Open Space (COS) proposed on roof level can include a larger sized pergola to improve the amount of shade/amenity being provided.
- The Panel notes that the landscape drawings do not indicate the location of bin storage area and the fire hydrant boosters required as part of the development. The Panel requires the applicant to indicate the location of bin storage area and identify the location of booster outlets within the landscape plans.
- The Panel notes that the proposed design should carefully evaluate the tree species being considered for the development and requires the applicant to include layering of the landscape treatments around the street frontage where possible.
- The Panel recommends the applicant re-consider the detailing of the driveway and to clearly identify the proposed materiality of the driveway interface along the public domain.
- The Panel requires the applicant to consider alternatives for the landscape design to provide more frontage to the building and its adjacent landscaping.
- The Panel requires the applicant to consult with council on the improvement of the design of the laneway and either:
 - incorporate agreed landscaping works to improve the overall design quality, or
 - contribute to the future laneway improvement to an agreed value between Council and proponent.

4.6. Amenity

- The Panel notes that the COS provided on the roof level does not include a toilet facility. The Panel requires the applicant to include a unisex toilet at the roof level for the proposed COS.

4.7. Safety

- The Panel recommends the applicant to incorporate the principles of CPTED as part of the proposed development to improve the overall safety/security for the Residents.

4.8. Housing Diversity + Social Interaction

- The Panel supports the diversity being proposed as part of the site.

4.9. Aesthetics

- The Panel notes that the materiality of the building indicates metal panelling which might not be appropriate for fire rating compliance for the development. The panel requires the applicant consider alternate materials to ensure compliance for the building design. The Panel requires the applicant to ensure that the design is in compliance with all relevant fire rating requirements and existing regulations.
- The Panel supports the solid balustrades being proposed for the balconies and encourages the applicant to consider the aspect of privacy within the balconies especially for the units located towards the north within the development.

5.0 OUTCOME

The panel have determined the outcome of the DEP review and have provided final direction to the applicant as follows:

The project is supported. Respond to recommendations made by the panel, then the plans are to be reviewed/approved by Council