

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday 30th August 2021

To be held online
Via MS Teams
commencing at **2:00 PM**

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTNiYzkxM2QtMDUzMj00MTM1LTkxYzYtYjRiZDK4ZjVlOTVI%40thred.v2/0?context=%7b%22Tid%22%3a%228ca50226-ee8b-41b5-8203-f73c5a5a5361%22%2c%22Oid%22%3a%22798934de-6084-4f3e-a967-4fcb9af14405%22%7d

Or call in (audio only)
+61 2 9161 1229, Australia, Sydney
Phone Conference ID: 711 453 683#

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, 27th August 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-532/2020</p> <p>The construction of a part two-storey and part three-storey self storage facility with consolidation of all existing lots into one lot and associated civil works, landscaping and signage.</p> <p>LOT 1 DP 784736, LOT 3 DP 784736, LOT 2 DP 784736, LOT 9 Sec E DP 2373, LOT 8 Sec E DP 2373, LOT 10 Sec E DP 2373, LOT 11 Sec E DP 2373, DP 2373 Sec E Pt Lot 4, LOT 1 DP 784738, LOT 2 DP 784738, LOT 3 DP 784738</p> <p>653, 659 & 661 Hume Highway & 6-8 & 10-12 Wattle Road, Casula</p>	2-118

ITEM No.	SUBJECT	PAGE No.
2	<p>Development Application DA-215/2021</p> <p>Demolition of existing structures, remediation, Torrens Title subdivision to create twelve (12) residential lots, associated road construction and civil works over two (2) stages.</p> <p>The application is identified as Integrated Development pursuant to the Rural Fires Act 1997 requiring General Terms of Approval from the NSW Rural Fire Service.</p> <p>Lot 2, DP 512264 22 Eighteenth Avenue, Austral</p>	119-180

Item no:	1
Application Number:	DA-532/2020
Proposed Development:	The construction of a part two-storey and part three-storey self storage facility with consolidation of all existing lots into one lot and associated civil works, landscaping and signage.
Property Address	653, 659 & 661 Hume Highway & 6-8 & 10-12 Wattle Road, CASULA
Legal Description:	LOT 1 DP 784736, LOT 3 DP 784736, LOT 2 DP 784736, LOT 9 Sec E DP 2373, LOT 8 Sec E DP 2373, LOT 10 Sec E DP 2373, LOT 11 Sec E DP 2373, DP 2373 Sec E Pt Lot 4, LOT 1 DP 784738, LOT 2 DP 784738, LOT 3 DP 784738
Applicant:	Storcross Pty Ltd
Land Owner:	Storcross Pty Ltd
Date Lodged:	3 July 2020
Cost of Works:	\$7,402,926
Recommendation:	Approval, subject to conditions of consent
Assessing Officer:	Robert Micallef

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-532/2020) seeking consent for the construction of a part two-storey and part three-storey self storage facility with consolidation of all existing lots into one lot and associated civil works, landscaping and signage, on a site currently consisting of 11 allotments legally known as LOT 1 DP 784736, LOT 3 DP 784736, LOT 2 DP 784736, LOT 9 Sec E DP 2373, LOT 8 Sec E DP 2373, LOT 10 Sec E DP 2373, LOT 11 Sec E DP 2373, DP 2373 Sec E Pt Lot 4, LOT 1 DP 784738, LOT 2 DP 784738, LOT 3 DP 784738, and formally known as 653, 659 & 661 Hume Highway & 6-8 & 10-12 Wattle Road, Casula.

The site is predominantly zoned as B6 – Enterprise Corridor, with land along the Hume Highway marked for acquisition and zoned as SP2 – Infrastructure (Classified Road) pursuant to Liverpool Local Environmental Plan (LEP) 2008 with the proposed development being permissible with consent within the B6 zoning. The proposed development has been amended by the applicant since lodgement in order to address particular issues raised during the assessment process. The amended proposal is considered to be consistent with Council’s applicable local provisions and an acceptable form of development in that regard. The proposal involves a variation under Clause 4.6 of the Liverpool LEP 2008 in regards to Clause 4.4 - Floor Space Ratio, being a variation of 49%.

The proposal was notified for a period of 15 days from 12 August to 27 August 2020 in accordance with Liverpool Community Participation Plan 2019. Twenty-one (21) submissions were received, consisting of eighteen (18) unique submissions in response to the public consultation process objecting to the proposal.

The issues of concern raised in the submissions are summarised as follows:

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- Solar Access and Overshadowing;
- Noise;
- Traffic;
- Location, Character and Use;
- Lighting;
- Roadworks;
- Acoustic and Boundary Fencing and Retaining Walls;
- Signage;
- Safety and Security;
- Devaluation of Surrounding Property and Insurance Premium Increases;
- Provisions of the Liverpool Local Environmental Plan and Zoning;
- Landscaping;
- Electricity Pole; and
- Notification Process and Public Meeting.

The key issues associated with the assessment of the subject Development Application relate to the matters raised in the submissions received during the notification period as well as issues regarding the NSW Roads and Maritime/ Transport for NSW.

It is recommended that the application be approved as the matters of objection are considered to have been adequately resolved through amendments to the proposal made by the applicant and subject to conditions of consent. Accordingly, the objections received in relation to the proposed development are not considered to warrant the refusal of the application in this case.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements as the development falls into the categories of:

- Departure from development standards, as the application has a departure from the Floor Space Ratio development standard of more than 10%; and
- Contentious development, as the application received 10 or more unique submissions.

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.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site consists of 11 allotments which are legally described as LOT 1 DP 784736, LOT 3 DP 784736, LOT 2 DP 784736, LOT 9 Sec E DP 2373, LOT 8 Sec E DP 2373, LOT 10 Sec E DP 2373, LOT 11 Sec E DP 2373, DP 2373 Sec E Pt Lot 4, LOT 1 DP 784738, LOT 2 DP 784738, LOT 3 DP 784738, commonly known as 653, 659 & 661 Hume Highway & 6-8 & 10-12 Wattle Road, Casula. The site is irregular in shape with three street frontages. The site has a primary frontage of 77.95m to the Hume Highway, which is a classified road, a secondary frontage of 135.68m to Ayshford Street and a rear width to Wattle Road of 57.65m. The combined land area is 7,443.2sqm. The northern quarter of the land slopes towards Wattle Road with a fall of approximately 3.5 metres and the remaining area of the

site has a fall of approximately 4.5 metres towards the Hume Highway. The site also incorporates a small strip of land required to be dedicated to NSW Roads and Maritime along the Hume Highway.

The site is also located approximately 350m east of the Jemena gas pipeline, which is located within Cedar Road. The site is surrounded by a mix of single and double storey dwellings. On the opposite side of Ayshford Street and along the Hume Highway frontage is the Casula Best Western hotel. Also opposing the site on the Hume Highway are a scattering of commercial premises among residential houses. The northern end of Ayshford Street is an unformed road, which due to a heavy slope, is unlikely to be built through to Wattle Road. The site is located east of a major intersection of where the Hume Highway is split into Camden Valley Way and Campbelltown Road, frequently referred to as the Crossroads. Access into Ayshford Street is restricted to left in, left out arrangements to the Hume Highway. As shown on Figure 1, the site is currently vacant with vegetation scattered across the site.



Figure 1: Aerial view of subject site (in red) (Source: Geocortex)

2.2 The locality

The area is characterised by a mix of business uses and low density and medium density residential development. Although the general locality is currently and predominantly characterised by low density single and double storey dwellings with some business uses along the Hume Highway, the immediate locality south and south-west is zoned B6 - Enterprise Corridor and is under transition, whilst the immediate locality north, west and east is zoned for low and medium density residential development. There is also a break in the B6 zoning along the Hume Highway to the east of 220m, which is zoned as residential, which then transitions back into a B6 zone further north-east.

The Hume Highway is a major state arterial road. The Casula Crossroads homemaker centre and Crossroads Hotel is located approximately 250m to the south-west, a number of hotels along the Hume Highway to the west and 220m east is the Casula Central business centre.

The major junction of Camden Valley Way with the M5 and M7 Motorways is located 1 kilometre to the west. The locality of the site is demonstrated within Figure 2.



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

3. BACKGROUND/HISTORY

- The subject DA was lodged with Council on 3 July 2020.
- Application put on notification from 12 August 2020 to 27 August 2020.
- 19 October 2020 – First deferral letter sent regarding Floor Space Ratio, Setbacks, LEP Clauses, Future Use, Shadow Diagrams, Elevations & Perspectives, Fencing, Design, Landscaping, Electricity Services, Acoustics, Contamination, Engineering, Traffic and Roads and Maritime (RMS)/ Transport for NSW (TfNSW) Issues.
- 4 November 2020 – Site Inspection carried out.
- 20 November 2020 – Additional information received.
- January and February 2021 – Requests for amendments and further explanations to plans, traffic matters and 4.6 variation.
- 24 February 2021 – Additional plans received.
- March to May 2021 – Applicant dealing with TfNSW/ RMS regarding driveway and access to the site.
- 7 May 2021 – TfNSW/ RMS provide concurrence on the development.
- 11 May 2021 – Update provided to applicant with outstanding matters and TfNSW/ RMS request.
- June 2021 – Information provided and application deemed satisfactory to proceed to Liverpool Local Planning Panel with Council assessment officer recommendation.

4. DETAILS OF THE PROPOSAL

The construction of a part two-storey and part three-storey self storage facility with consolidation of all existing lots into one lot and associated civil works, landscaping and signage.

The proposal will consist specifically of the following:

- Earthworks, clearing and civil works;
- Construction of a part two-storey and part three-storey self-storage premises with associated office facilities, which will operate at the following times

- Monday to Friday – 9am to 6pm
- Saturday – 9am to 5pm
- Sunday – 9am to 3pm
- Access Hours for existing customers via security pin code entry to the facility - 6am to 9pm
- At-grade parking with provision of 28 spaces (6 permanent, 22 around site) and associated driveways and circulation area;
- Landscaping works;
- Signage associated with Rent-a-Space;
- Consolidation of eleven existing allotments into one; and
- Half-road construction of Ayshford Street and Roadworks within Wattle Road.



Figure 3: Site Plan of the proposal

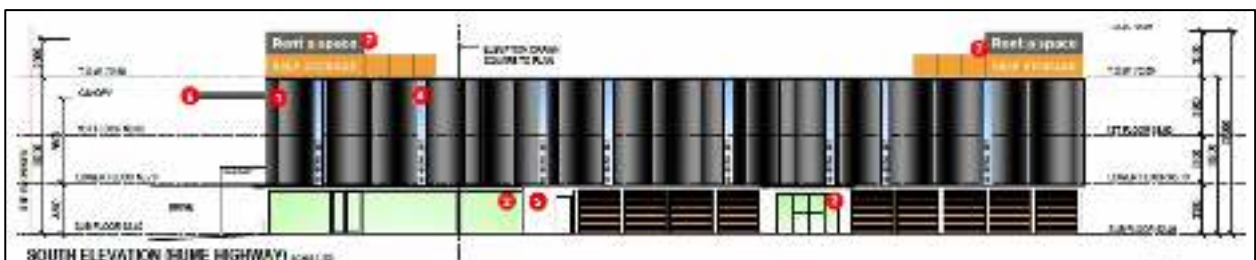


Figure 4: Front elevation facing Hume Highway



Figure 5: Streetscape Perspective from corner of Hume Highway & Ayshford Street

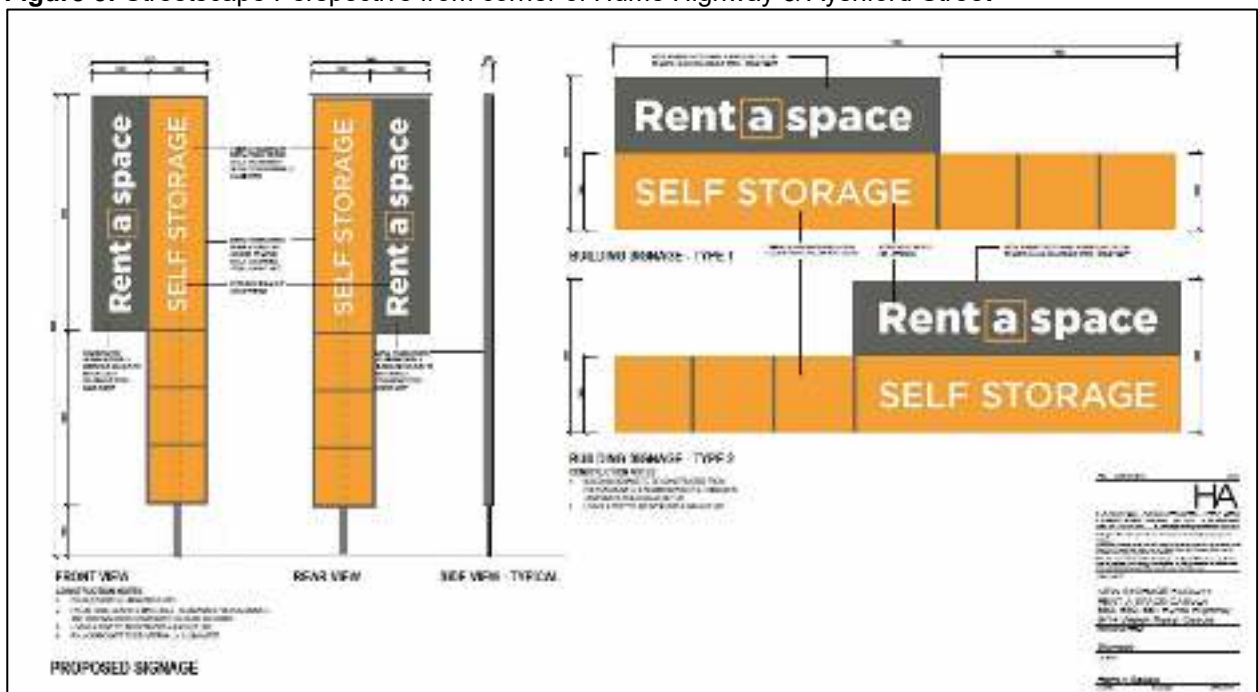


Figure 6: Proposed Signage

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

- Biodiversity Conservation Regulation 2017;
- State Environmental Planning Policy No. 55 – Remediation of Land;

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- State Environmental Planning Policy No. 64 – Advertising and Signage;
- State Environmental Planning Policy (Infrastructure) 2007;
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development; and
 - Part 6: Development in Business Areas

Contributions Plans

- Liverpool Contributions Plan 2009 – Hoxton Park, Carnes Hill & Prestons Release Areas applies pursuant to Section 7.11 of the EPA & Act.

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, as follows:

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

(a) Biodiversity Conservation Regulation 2017

On 27 November 2020, the site was mapped on the Biodiversity Values Map. Clause 7.3(5) of these regulations reads as follows:

(5) If an area of land is included in the Map, proposed development to be carried out in that area of land does not exceed the biodiversity offsets scheme threshold if it is the subject of an application for planning approval when the area is so included or within 90 days after it is so included.

As a proposed development was subject to a planning approval when the area was included on the map, the application is not considered to exceed the biodiversity offsets scheme and trigger the requirements for a Biodiversity Assessment.

(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.

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.

The applicant has provided a Detailed Site Investigation to ensure the site is or can be made suitable for the proposed use. The assessment has been reviewed by a Certified Environmental Practitioner thus being prepared/ reviewed by a suitably qualified and experienced contamination consultant as deemed by Council's Environmental Health Section.

Based on the findings of the Detailed Site Investigation, Ayshford Street, Casula, NSW (Report No. E25050.E02_Rev0) prepared by EI Australia Pty Ltd dated 25 March 2021, the report concludes that the site meets the suitability criteria and ecological criteria for commercial/ Industrial land use. The consultant has confirmed that the site is suitable for the proposed use as a self-storage facility subject to remediation recommendations in accordance with this report.

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

(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.

When a consent authority determines a development application, planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 8 and Clause 9), and compliance with such is provided below.

Clause 8 General Principles	Comment
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	Proposal reviewed by Council's Engineers and considered satisfactory subject to conditions.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The earthworks plan was submitted and reviewed by Council's development engineers. Conditions of consent apply with respect to sediment and erosion mitigation measures.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.

(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	Consistent with the strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	Not required to be referred, not closer than 40m to a water body.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No. The site is located in an area nominated for commercial development.
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No bank disturbance is proposed.
(3) Flooding	The site is not mapped as being flood prone land.
(4) Industrial discharges	The proposed development is unlikely to cause any industrial discharge into the creek system.
(5) Land degradation	An erosion and sediment control plan to manage salinity and minimise erosion and sediment loss required prior to CC.
(6) On-site sewage management	The development is expected to be connected to the reticulated sewer.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Water management details provided in civil engineering details and approved by conditions of consent by Council's Engineers.
(10) Urban development areas	The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control to be implemented in construction. Salinity measures to be implemented in earthworks and construction.
(13) Wetlands	Not applicable

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.

(d) State Environmental Planning Policy No. 64 – Advertising and Signage

Schedule 1 Assessment Criteria

Section	Requirement	Comment
1. Character of the Area	<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	The signage is compatible and consistent with the locality, other uses within the B6 zoned corridor between Edmondson Park and Liverpool and the commercial zoning of the site.

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2. Special Areas	<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	There are no environmentally sensitive or heritage sensitive sites that the proposal may affect. Additionally, due to the nature, scale and locations, the signage is unlikely to impact on these items.
3. Views and Vistas	<i>Does the proposal obscure or compromise important views?</i>	The signage is not expected to inhibit important views.
	<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	Proposal does not dominate or detract from any skylines or vistas and does not breach the height limit in the area.
	<i>Does the proposal respect the viewing rights of other advertisers?</i>	The signage is considered to be respectful to viewing rights of other businesses.
4. Streetscape, setting or landscape	<i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	The signage is an appropriate size and scale for the type of development, the site and the locality.
	<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	The signage would neither contribute nor detract from the visual interest of the area.
	<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	The signage is simple and is not considered to cause clutter.
	<i>Does the proposal screen unsightliness?</i>	Signage will not screen unsightliness
	<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	The proposal is wholly within the boundaries of the site, however protrudes above the building line, but is within the height limit for the development and will not cause unnecessary shadowing.
	<i>Does the proposal require ongoing vegetation management?</i>	No vegetation directly associated with the signage.
5. Site and Building	<i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i>	The proposal is compatible with the site and building it is associated with in terms of size and colour themes.
	<i>Does the proposal respect important features of the site or building, or both?</i>	The proposal is considered to respect the features of the site.
	<i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i>	The proposal is consistent with the Rent-a-Space brand and respects the site and proposal.
6. Associated devices and logos with advertisements and advertising structures	<i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i>	The logos and writing are integral to the sign for the business's identification needs.
7. Illumination	<i>Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination result in unacceptable glare?</i>	The proposed signage is unlikely to cause any unnecessary illumination or glare for vehicles pedestrians or aircraft.
	<i>Would illumination detract from the amenity of any residence or other form</i>	The amenity level will unlikely be impacted from the signage as it is

	<i>of accommodation?</i>	consistent with similar signage within the area it is located.
	<i>Can the intensity of the illumination be adjusted, if necessary?</i>	Illumination will be appropriate for outdoor display and intensity is able to be adjusted if required.
	<i>Is the illumination subject to a curfew?</i>	Illuminated signs would not be subject to a curfew.
8. Safety	<i>Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists?</i>	The proposed signage is unlikely to reduce the safety of road users beyond existing and similar signage used along the Hume Hwy and in the locality. Therefore, it is not considered to pose a safety risk beyond what is typical of development in the B6 zone.
	<i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i>	The signage is unlikely to reduce safety of pedestrians as it is located away from the footpaths and not within the lines of sight.

(e) State Environmental Planning Policy (Infrastructure) 2007

The Hume Highway is a classified road. It is also zoned as an SP2 Classified Road within the Liverpool LEP 2008, with part of the frontage of the subject site requiring acquisition from NSW Roads and Maritime. The provision of the Infrastructure SEPP 2007 are to be considered in respect of Clause 101 – Development with frontage to a classified road.

Considerations	Comments
101. Development with frontage to classified road	
1. Objectives 2. Development consent must not be granted unless: (a) Where practicable, vehicular access to the land is provided by a road other than the classified road, (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 vehicle 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.	The application was referred to NSW RMS/ Transport NSW who have provided concurrence for the proposed development and are now satisfied with vehicular access as well as potential impacts on the Hume Highway.

The development application was referred to Jemena and APA Group for comment as the site is within the measurement length of a gas pipeline. These agencies have advised Council that they have no objections to the proposal. As such, the development is considered to be satisfactory in relation to the risk, safety and integrity concerns regarding pipeline corridors in accordance with the requirements of Clause 66C of this SEPP.

(e) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is predominantly zoned B6 - Enterprise Corridor with a small area at the Hume Highway frontage zoned as SP2 – Infrastructure (Classified Road) pursuant to Liverpool Local Environmental Plan 2008 (LLEP 2008). No work is proposed within the SP2 zoned land. An extract of the zoning map is provided in Figure 7 below, which also

demonstrates the surrounding land zonings as well.



Figure 7: Zoning Map of the subject site (red box) (Source: Geocortex Mapping System)

(ii) Permissibility

The proposed development is best described as **self-storage units** which is identified as a permitted land use with consent within the B6 Enterprise Corridor Zone under LLEP 2008 as it falls under the blanket definition of a **storage premises**. These definitions are defined in the LLEP 2008 as follows:

self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

storage premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

(iii) Objectives of the zone

The objectives of the B6 zone are:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting the retailing activity.
- To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.
- To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.
- To provide for residential uses, but only as part of a mixed use development.

The proposal is a permissible type of development within the B6 Enterprise Corridor zone and is consistent with the above zone objectives. The location of the business is along the main

road and is the only kind of self-storage premises in the locality, which will help support small business in the area as well. The development has also been designed to limit its impact on surrounding residential uses and in turn, the residential area surrounding it is unlikely to undermine the viability of the business, considering it is a lower scale use compared to other uses that are permissible in the zone.

(iii) Principal Development Standards

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

LLEP 2008 - Principal Development Standards		
Development Provision	Requirement	Comment
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Not Applicable No demolition of structures is proposed, only tree removal.
4.1 Minimum Lot Size	Minimum lot size permitted: 2000m ²	Not Applicable Torrens title subdivision not proposed. Amalgamation of 11 allotments into 1 is proposed, with a total site area of 7,443.2sqm (once land is acquired by NSW RMS/ TfNSW).
4.3 Height of Buildings	Maximum height permitted: 15m and 8.5m	Complies The proposed maximum building height from natural ground level is 13.4m and 11.5m to the top of the signage in the south west and south east corners of the site respectively. The maximum height of the building roof line is 10.4m and 8.5m in the south west and south east corners of the site respectively. There is no portion of the building within the 8.5m height limit area.
4.4 Floor Space Ratio (FSR)	Maximum FSR permitted: 0.75:1.	Considered acceptable – see Clause 4.6 - Variation assessment below. Proposed FSR is 1.117:1 Exceedance of 0.367:1 or (49%)
4.6 Exceptions to Development Standards	Provisions relating to exceptions to development standards	See 4.6 discussion below regarding Clause 4.4 Floor Space Ratio.
5.1 Relevant Acquisition Authority	Land to be acquired and for public purposes and nominated authorities.	Complies There is a portion of land along the Hume Highway frontage of the site that is to be acquired for a 'Classified Road' by Transport for NSW. Provision has been made in the consolidation plan for this area of the site to be acquired.
5.10 Heritage Conservation	To protect and conserve existing items/locations identified as containing significant heritage value	Not Applicable The site is not identified as being a heritage item, adjoining a heritage item or lying within a heritage conservation area as per the LLEP Heritage Map 2008.
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	All required utilities are considered to be available.

7.7 Acid Sulfate Soils	Class 1, 2, 3, 4 or 5	Not Applicable The site is not mapped as containing acid sulfate soils.
7.8 Flood Planning	To minimise the flood risk to life and property associated with the use of land	Not Applicable The site is not mapped as flood prone land.
7.22 Development in Zone B6	<p>Development consent must not be granted to development that would result in total gross floor area of all retail premises (other than timber and building supplies, landscape and garden supplies or vehicle sales or hire premises) in a single building being more than 8,000 square metres.</p> <p>Development consent must not be granted for development for the purposes of a building on land to which this clause applies that is within 50 metres of a classified road unless the consent authority is satisfied that the ground floor of the building will have at least one entrance and at least one other door or window on the front of the building facing a street other than a service lane.</p>	<p>Not Applicable The proposed use is not defined as a retail premises. Condition has been imposed to require the storey, labelled 'first floor', within the building to be removed upon change of use from self-storage units.</p> <p>Complies The ground floor of the proposed building has at least one entrance and one window on the front of the building facing the roadways that provides activation of the development frontage.</p>
7.31 Earthworks	Council to consider matters listed (a)-(g)	Complies subject to conditions Excavation for cut and fill across the site for will be occurring and is unlikely to adversely impact on the amenity of adjoining properties, drainage patterns and soil stability, subject to the imposition of conditions of consent. Sediment control details have also been provided.

Clause 4.6 – Exceptions to development standards

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes:

“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.”*

Circumstances of variations proposed

The proposed variations to development standards made in accordance with Clause 4.6 of the LEP are as follows:

1. **Variation to Clause 4.4 – Floor Space Ratio (FSR):** Based on the subject site’s location on the FSR map, the total maximum FSR afforded to the site under clause 4.4(2) is equal to 0.75:1. Based upon the total proposed gross floor area of the development (8320sqm), the proposal seeks to achieve a FSR of 1.117:1. That is 0.367:1 (or 49%) greater floor space, equivalent to 2,733sqm, more than the maximum permitted for the site.

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

The applicant submitted a Clause 4.6 Variation Statement to FSR Development Standard, dated 19 June 2020 and subsequent submissions to add into the 4.6 request on 30 November 2020 and 3 June 2021, in order to justify the variation described above. In conjunction with detailed examination of case law regarding 4.6 Variations judgements, this document provides the following justifications based on the merits of the proposal:

Note: Amendments to the proposal have been during the DA process, which further reduces the floor space ratio on the site than that originally proposed. Thus some figures are higher than what is now proposed.

Variation to FSR, Clause 4.4:

The proposed storage premises forms part of the collection of industries that enable businesses and residents to operate. Further, the proposal will introduce a development that complements the range of surrounding land uses along the Hume Highway and integrates appropriately with the variety of built forms in the surrounding area.

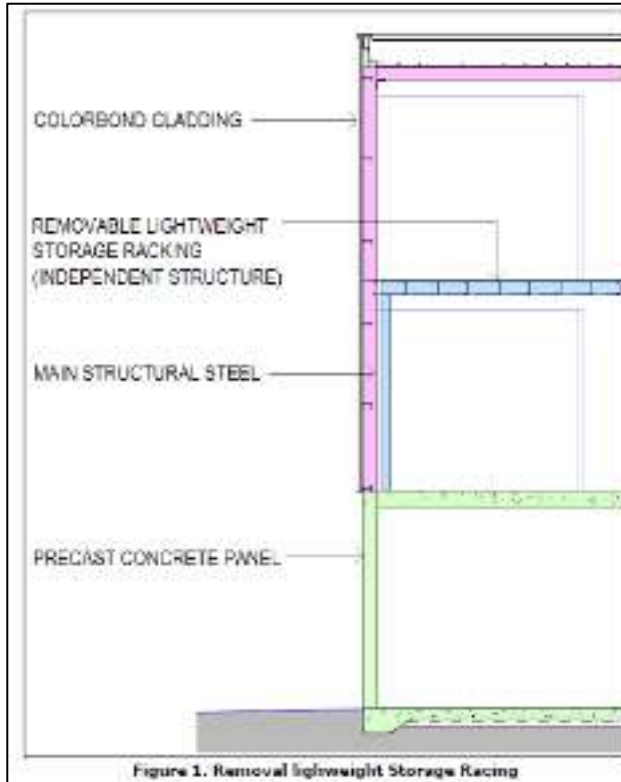
*When considering the proposed departure from Clause 4.4 (Floor Space Ratio) of the LEP 2008, it is important to acknowledge that the proposed departure from this development standard is a direct result of the proposed land use as a storage facility and the provision of removable storage racking floors for storage purposes on the upper levels which will be made of removable lightweight construction materials (refer to **Figure 1** below). In this respect, a greater amount of internal floor space (GFA) is provided for storage purposes across the three levels compared to a typical industrial or commercial facility which would otherwise not require internal storage levels such as these, whilst still delivering a similar building envelope. **The additional floor space above the maximum FSR development standard under LLEP2008 makes up approximately 3,138.5m² of GFA, which does not result in any additional bulk or scale to the building, or an intensification of the land use given this floor space is used nearly entirely for self-storage purposes.***

*In the event the proposed building were to be converted into another use in the future (such as warehouse, industry, commercial), it is likely that these lightweight storage structures which make up a large portion of GFA would be removed. In such a scenario, the **removal of the upper floor level, being 3,535m² would subsequently reduce the total GFA to a total***

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GFA of 5,185m² (including only the sub floor area of 1,650m² and lower floor of 3,535m²). This would result in an FSR of **0.59:1**, and thus be compliant with the maximum FSR specified under Clause 4.4 of the LLEP2008 (0.75:1).



The current proposal with an increased FSR results in traffic generation rates of 27 trips in the AM and PM peaks and requirement of 13 car parking spaces (as shown in **Table 1**). A compliant FSR for a self-storage premises with 5,600m² GFA would result in 18 trips in the AM and PM peaks and 10 car parking spaces. While the traffic generation and parking requirements would be less, there is not a substantial difference in the trips generated in the peak hours that would cause considerable impacts to the surrounding uses.

Traffic generation and car parking rates for other permissible uses in the B6 Enterprise Corridor zone have been considered and tabled below (refer to **Table 1**).

Table 1 Permissible Use Comparison		
Use	Trip Generation	Parking
Self Storage premises – additional FSR (8,720sqm)	27 trips in AM and PM peaks	13 spaces
Self storage premises – compliant FSR (5,600sqm)	18 trips in AM and PM peaks	10 spaces
Commercial use (5,600sqm)	112 trips in AM and PM peaks	140 spaces
Hardware and building supplies (5,600sqm)	235 trips in AM and PM peaks	133 spaces
Light Industrial (5,600sqm) – (business park and industrial estates)	28 trips in AM and PM peaks	75 spaces

The proposed self-storage premises generates significantly less trips and requires less

parking than other permissible uses in this zone. Even a very low impact industrial use would still generate on average one additional peak trip than the proposed self-storage development and require a larger number of parking spaces. It is considered that while the proposal exceeds the FSR on site, the overall impacts of the development are minimal in terms of traffic generation. The limited traffic generation of the proposal compared to other permissible uses on the site supports the Clause 4.6 variation request. Furthermore, self-storage is mainly used for personal storage with up to 93% of storers indicating personal use with only 14% for business use (State of the Industry Report 2020 - Self Storage Association of Australasia). The method of transportation for customers moving in and out of storage is generally small commercial vans or small 3.5-tonne pantech trucks, followed by use of private vehicles for the duration of the stay. Truck movements of heavy rigid vehicles can occur, however the applicant has indicated that this is the exception rather than the norm. Other permissible uses would generate greater truck movements than the proposed GFA for self-storage.

The location of the driveway near the Hume Highway on Ayshford Street has been designed in response to concerns raised by Transport for NSW. The location of the entry/exit minimises impacts on the surrounding local streets, as an alternative entry location further North along Ayshford Street would be in closer proximity to residential development. Wattle Road bounds the site to the North, and entry from this location would see a far greater impact on the local street network with vehicles using either Ayshford Street or Box Road. The proposed entry/exit driveway has considered the surrounding locality and street network and is the most sympathetic outcome to the surrounding area.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ set out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

1. Establish that compliance with the development standard is **unreasonable or unnecessary** because **the objectives of the development standard are achieved notwithstanding non-compliance with the standard**.
2. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
4. Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary".

In applying the tests of *Wehbe v Pittwater Council* [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding the proposed variation, the development is consistent with the underlying objectives of the standard for Floor Space Ratio and the relevant Zoning prescribed under LLEP2008.

In view of the particular circumstances of this case, strict compliance with Clause 4.4 of LLEP2008 is considered to be both unnecessary and unreasonable. The proposed development does not conflict with the intent of Clause 4.4 as demonstrated above (Note: within the report attached) and satisfies the objectives, notwithstanding the proposed numeric variation.

The proposed development is justified on the following environmental outcomes:

- *It represents logical and co-ordinated development of the Site for a storage premises;*
- *It will result in improvements to the functionality and operations of the Site through a carefully designed built form that is responsive to the Site context and its desired character;*
- *The architectural design provides a superior built form outcome for the Site and is functional for the proposed outcomes;*
- *Development will be compatible with the desired and future character of the immediate locality;*
- *The proposed variation to the floor space ratio will not give rise to any environmental or amenity impacts to surrounding development in relation to views, overshadowing, solar access, noise and visual privacy;*
- *Compliance may be achieved by reducing the scale of the development, but this would undermine the visual quality and functionality of the design, and the requirements of the storage premises would not be achieved;*
- *A similar building envelope (density and scale) would be able to be achieved still with a compliant FSR (i.e. removal of upper level for storage purposes); and*
- *Reducing the building height to achieve a compliant floor space ratio would not deliver any measurable environmental or amenity benefits.*

A different Site configuration would have likely resulted in a less efficient use of the Site. Use of a different Site would have meant that suitably zoned, unused enterprise corridor zoned land would remain under-utilised and therefore not developed to its full planning potential.

As aforementioned the non-compliance with the FSR development standard is largely a result of the type of land use (self-storage facility) being proposed and upper floor level comprising a large amount of GFA for storage purposes. This additional floor is made of a lightweight removable structure suitable only for self-storage purposes. As such, in the event the building was not used for self-storage purposes and was converted into another use, this level would likely need to be removed, resulting in a compliant FSR.

Accordingly, in this circumstance, the application of the FSR development standard to its full extent is considered to be unreasonable and unnecessary.

*In light of the above, the abovementioned justifications are considered valid and, in this instance, the proposed Clause 4.6 Variation is considered to be acceptable. The proposed development represents a more efficient use of the Site when compared to a compliant floor space ratio scenario. The objectives of Clause 4.4 as well as the B6 Enterprise Corridor zone would be upheld as a result of the proposed development. Therefore, **the application of the floor space ratio standard is therefore unreasonable and unnecessary in response to the proposed development.***

The variation to the development standard for Floor Space Ratio is considered well founded because, notwithstanding the proposed non-compliance with the standard:

- *The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated;*
- *The scale of the proposal is appropriate for the Site and the proposed use;*
- *The breach in floor space ratio is primarily due to the additional 'light weight' upper floor level, as discussed in **Section 4.1** above, which may be removed in the future without any visual changes to the built form;*
- *A greater amount of internal floor space is provided for the storage premises across the 3 levels compared to a typical industrial or commercial facility of this nature;*

- *The proposal provides a design outcome that responds to the Site area and considers the context as well as the anticipated built form;*
- *The proposed development would not create a significant visual or overshadowing impact for surrounding land users. Limiting the floor space ratio to a strict 0.75:1 compliance would have a negligible impact on any such impacts to surrounding land users;*
- *The proposed development will not give rise any unreasonable amenity impacts to adjoining properties;*
- *Strict compliance with the building controls would unreasonably restrict the potential to develop the Site to its full potential as a self-storage premises;*
- *The proposed development is consistent with the desired and future character of the Site and will not result in measurable or unreasonable environmental or amenity impacts;*
- *The proposed development is a low-intensive land use that would comply with Clause 4.4 should the land use conversion and removal of the upper level occur in the future, and thus the proposed additional GFA does not contribute to the intensification of the Site; and*
- *Reducing the building height to achieve a compliant floor space ratio would not deliver any measurable environmental or amenity benefits.*

In SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 (SJD DB2), Acting Commissioner Philip Clay handed down his judgement, approving the proposed six-storey shop top housing development, having a height of 21.21m where the control was 14.7m – representing a maximum variation of approximately 44% (or 6.51m) – and a floor space ratio (FSR) of 3.54:1 where the control was 2.5:1 – representing a variation of approximately 41%. The Court accepted that the Clause 4.6 variations were well-justified, and ultimately better than a compliant (smaller) scheme on the subject site.

The Court referred to the proposed development as “an excellent response to its context” and a “high quality architectural design”. SJD DB2 emphasised that there is no maximum number or percentage by which a development standard may be varied, and no such numerical limitation on the size of a variation to a development standard such as height or FSR exists under the Standard Instrument Clause 4.6 wording.

Refer to the applicant’s Clause 4.6 Variation Statement and further letters discussing the FSR Development Standard, in the attached document, for a comprehensive examination of the proposal regarding the Clause 4.6 Variation in relation to the subject proposal. The examination of the case law and further planning justification in relation to the objectives of Clauses 4.4 & 4.6 and the land zoning by the applicant is considered acceptable in support of the proposed variations.

Council Assessment of variation proposed

It should be noted that the height limit for the site, where the tallest element of the structure is situated, is 15m. The proposed maximum building height from natural ground level is 13.4m and 11.5m to the top of the signage in the south west and south east corners of the site respectively. The maximum height of the building roof line is 10.4m and 8.5m in the south west and south east corners of the site respectively. This is within the permissible building height for the site and consistent with the desired character of the B6 zoned land along the Hume Highway and Camden Valley Way. As such, the variation to FSR in this case is not contributing to an inconsistency with maximum building height in the locality.

The objectives of the FSR development standard seek to minimise adverse environmental

effects on the use or enjoyment of adjoining properties and the public domain. This has been approached by considering FSR in the context of solar access, acoustic and visual amenity and traffic impacts.

As a result of the proposal, solar access to the adjoining dwellings to the east of the site will achieve 3 hours of solar access to their private open space and a living room between the hours of 11am and 2pm, with potential for some compliance from 10.30am; which is in line with Council's development controls. It should be noted that the overshadowing to the east from the proposed structure is negligible up to 2pm, as the existing boundary fences cast the majority of shadows over these properties. The proposed structure is similar in scale and shadows cast by that of a double storey structure relative to the eastern neighbouring sites, as the natural ground level is higher on this side and the proposed setbacks are greater than 10 metres from the rear fences. Along the western boundary, the proposed development includes a variation of 0.5m to the side setback of 10m along Ayshford Street. However, in terms of overshadowing and visual and acoustic privacy, the impacts are negligible with no potential for overshadowing of the dwellings on the western side of Ayshford Street from 10am onwards. It should be noted that the development has been built to accommodate the natural site levels, by having a two storey element in the rear and a part three-storey element toward the Hume Highway, where the site slopes down. As such, the shadow cast from the roof signage, being the highest building element, is cast over the Hume Highway from 10am onwards. In this regard, the breach in the FSR development standard is deemed acceptable as it will not cast shadows upon neighbouring development beyond what is expected of a development that complies with FSR and building height on the subject site.

Furthermore, acoustic fencing has also been proposed adjacent to the eastern boundary, in order to mitigate potential acoustic disturbances to the eastern neighbouring dwellings, with a setback 2.5m from the shared boundaries, as opposed to it being placed directly on the boundary fencing. This acoustic fencing has a 1 metre upper element of clear perspex to allow sunlight to penetrate through and to reduce visual bulk associated with the development.

Regarding traffic impacts in the locality, the proposed self storage facility would generate an increase in the amount of traffic in the area, however, when compared to other permissible uses within the B6 zoning that could be accommodated on the site, the proposed facility would be lower impact, especially within the AM and PM peak periods. In accordance with the applicant's justification and traffic reporting, the traffic generation and parking requirements of a self-storage facility, modelled using the proposed breach in FSR and based on an FSR compliant facility is considerably lower than other permissible uses in the zone which would also have a compliant FSR; such as commercial uses, light industry and hardware and building suppliers.

The site entry is only left in, left out from Ayshford Street to the Hume Highway. Due to the nature of the site in its location and the access and egress restrictions associated with it, the utilisation of the local street network is unavoidable for any proposed development on this site. Vehicles coming from the east and potentially north as well as vehicles leaving the facility in most directions would be required to utilise the local road network, including Box Road, Wattle Road and York Street to access or leave the site. The applicant's traffic consultant has modelled this outcome and if it is assumed that traffic is equal from all directions, the small increase of vehicles utilising the local road network would be negligible and the roads are capable of accommodating this potential increase in traffic generation.

The driveway location is also in an area where RMS/ TfNSW considers this to be acceptable in terms of queueing and impacts to Hume Highway.

Traffic generation also involves traffic noise and with a lower amount of expected traffic than other permitted uses onsite, this would provide reduced traffic impact for the locality comparably. Due to the location of the driveway, impacts on the residents of Ayshford Street are considered to be reduced, as the driveway is near the front of the site and vehicles would not be encouraged to drive along the length of Ayshford Street to enter the site. It also is to be noted that as part of the civil works proposed, half road construction with kerb and gutter and footpath, as well as turning head works for the eastern side of Ayshford Street will occur as a result of the development, which is likely to be beneficial to the streetscape.

The traffic concerns and traffic report have been reviewed by Council's traffic section, who have considered the proposal to be acceptable subject to conditions of consent.

Accordingly, the building density, bulk of the development and proposed FSR non-compliance is considered to be acceptable based on the objectives of the Clause including existing character of the area as well as minimising any adverse environmental effects on the use or enjoyment of adjoining properties and the public domain and also taking into account the intensity of the land use in terms of the availability of infrastructure and the generation of vehicle and pedestrian traffic..

The self storage facility also incorporates a false first floor which will be able to be of a temporary nature for the facility. This storage racking system is able to be easily removed in the future and creates additional storage space for the self-storage units only. It has been recommended to impose a restriction on the title regarding the temporary first floor, to only be present in the building as part of the self-storage facility use, with any other use requiring development consent and the removal of this temporary first floor structure. Further, the proposed development has a considerable amount of corridor space across the levels. Although this space is enclosed and included in the definition of gross floor area, these areas are primarily used for access to the self storage units between the car parking areas and is unlikely to be contributing to the intensity of the use. These corridors are wider than normal corridors to ensure that bulkier items can be manoeuvred around the site to the storage lockers.

The development with the variation would also assist in facilitating employment and growth within the region. Although the facility would only require a handful of permanent staff, the self-storage premises would be able to facilitate the growth in the region as well as surrounding businesses in the region. With the boom in housing within the south-west growth centres and a likely increase in needs for storage options, this facility would assist in accommodating people moving into these areas, as well storage space in close proximity to workplaces. With the provision of additional floor space the proposed facility is considered to be in line with other self-storage facilities in the region in terms of building bulk and scale.

Considering the matters discussed above, the proposed variation to FSR requested in accordance with Clause 4.6 of the LEP is considered acceptable in this circumstance. Furthermore, compliance with the FSR development standard is unreasonable or unnecessary due to the circumstances of this case and there are sufficient environmental planning grounds to justify contravening the development standard. The objectives of the FSR clause have also been addressed, as well as the objectives of the zone.

Consistency with objectives of the development standards being varied

Objectives of Clause 4.4 Floor space ratio:

(a) to establish standards for the maximum development density and intensity of land use,

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

Consistency with objectives of the zone – B6 Enterprise Corridor

Objectives of Zone B6 – Enterprise Corridor

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting the retailing activity.*
- *To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.*
- *To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.*
- *To provide for residential uses, but only as part of a mixed use development.*

Comment: Based on the planning assessment of Clause 4.6 Variation provided above, the development is considered to be consistent with the objectives of the B6 Enterprise Corridor zone as well as Clause 4.4 – Floor Space Ratio, as per the LLEP 2008.

Consistency with Clause 4.6 objectives

Objectives of Clause 4.6 Exceptions to development standards:

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

It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum FSR development standard applicable to the subject site based on the town planning assessment of the Clause 4.6 Variation provided above. It is considered that achieving a greater FSR in this instance is unlikely to result in detrimental impacts to the built and natural environments as well as produce unfavourable outcomes socially and to the economy as compared to a fully compliant self-storage facility on the site and the other permissible land uses which could be carried out on the site.

Recommendation

With considerations to the discussion above, the proposed variation to Clause 4.4 – Floor

space ratio, have satisfied the provisions of Clause 4.6 and are supported in this circumstance.

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

The proposed development is subject to the Liverpool Development Control Plan 2008 (LDCP) 2008. Part 1 of the LDCP 2008 covers general controls relating to all types of development within the Liverpool LGA. The following key controls are discussed in the following table:

LDCP 2008 - Part 1 General Controls for all Development			
Control	Requirement	Proposed	Comment
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	Tree removal on the site is proposed and is considered to be acceptable to facilitate the development.	Considered Acceptable
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	The landscaping plan includes the planting of more mature trees with larger pot sizes being planted.	Complies
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	The site does not include any significant bushland, according to the submitted arborist report.	Complies
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	The site is not mapped as bushfire prone land.	N/A
Section 6 – Water Cycle Management	Consideration of stormwater drainage and	The stormwater plans have been reviewed by Council's Land Development Engineer who have no objections to the proposal subject to conditions of consent.	Complies by conditions
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	The site is not located within 40m of a watercourse.	N/A
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	Erosion and sediment control details have been provided and can be conditioned.	Complies by condition
Section 9 – Flooding Risk	Flood affection of property to considered	The site is mapped is not mapped as flood prone land.	N/A

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Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	As assessed under SEPP 55, a detailed site investigation has concluded that the site is suitable for the proposed development. The development was referred to Council's Environmental Health Officer, who is satisfied with the development subject to conditions.	Complies by condition
Section 11 – Salinity Risk	Salinity Management response required for affected properties	To comply with BCA requirements	Complies by condition
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils	The subject site is not identified as containing acid sulphate soils LLEP2008 map.	N/A
Section 13 - Weeds	Noxious weeds to be removed as part of development where applicable	No noxious weeds are known to be present on site.	N/A
Section 14 – Demolition of Existing Development	Appropriate measures proposed	No demolition is proposed. Tree removal and earthworks occurring.	N/A
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	The site is considered to be able to connect to sewer.	Complies
Section 16 – Aboriginal Archaeology	AHIA required where items of aboriginal archaeology exist	The site is unlikely to be impacted by Aboriginal Archaeology. Standard conditions will apply for any unexpected finds during works.	Complies by condition
Section 17 – Heritage and Archaeology	Consideration of the impact on the heritage significance on any heritage buildings, sites, streetscapes or areas.	Site is not a heritage item or within a heritage conservation area.	N/A
Section 18 – Notification of Applications	Applications to be notified in accordance with Table 10.	Superseded by the Liverpool Community Participation Plan 2019.	N/A
Section 20 – Car and Parking Access	Self-storage premises not specified.	28 spaces provided. As the DCP does not specify parking requirements for self-storage facilities, the Traffic Impact Report based its assessment on the Aurecon Self Storage Facility Traffic and Parking Study 2009. The application was reviewed by Council's Traffic Planning Engineer who is satisfied with the proposed parking, access and road safety arrangements, subject to conditions	Considered Acceptable

		of consent.	
Section 22 - Water Conservation	Non-residential developments to provide water efficiency measures	The development will be in compliance with Section J of the BCA/NCC.	Complies
Section 23 - Energy Conservation	Non-residential developments to provide energy efficiency measures	The development will be in compliance with Section J of the BCA/NCC. A condition of consent will be made to have the applicant install solar panels on the roof, in which the applicant has clarified they would be happy to accept.	Complies with conditions
Section 24 - Landfill	This section applies to development, which involves cutting and or filling of land. It does not involve land cut and filling in conjunction with a development application for a building(s).	The proposal involves cut and filling in conjunction with a development application for a warehouse like structure.	Complies
Section 25 – Waste Management	Waste Management Plan shall be submitted for demolition, construction and on-going waste management.	A waste management plan has been provided with the proposal and is considered acceptable.	Complies
Section 26 – Outdoor Advertising and Signage	Controls relating to signage and advertising material	As per SEPP 64 discussion above and table below for signage.	Considered Acceptable

Section 26 Outdoor Advertising and Signage

General Controls for all Development: Outdoor Advertising and Signage	
Objectives	Comment
<p>26.1 General Controls</p> <ol style="list-style-type: none"> 1. Signage design, materials, colours, and placement should be visually compatible with the building, nearby signage, and the surrounding locality. 2. The scale of signage must be consistent with the scale of the building or the property on which it is located. 3. Signs must not display offensive content, be reflective, or result in glare. 4. Signage should complement natural features and not result in the removal, trimming or damage of trees and other vegetation. 5. Signage is to be constructed and secured in accordance with the relevant Australian Standards. 6. New and replacement signage should be designed and located in a manner that avoids the intensification of visual clutter caused by the cumulative effect of signage within the streetscape. 	<p>Considered Acceptable</p> <p>The signage will be consistent with the zoning and other developments in the area. The signs conform to the character of the area and are considered to not detract from any special items and areas in the locality.</p> <p>The signs do not display offensive content and are not considered to be reflective and result in glare. Signage will be conditioned to meet the relevant standards.</p> <p>The signs are simple and do not resemble traffic signs. Illumination of the signs would be constant and not</p>

<p>7. Signage displays must not contain/use:</p> <ul style="list-style-type: none"> • Flashing lights; • Animated display, moving parts or simulated movement; • Complex displays that hold a driver's attention beyond glance appreciation; • Displays resembling traffic signs or signals, or giving instruction to traffic by using colours and shapes that imitate a prescribed traffic control device or words such as 'halt' or 'stop'; or • A method of illumination that distracts or dazzles. <p>8. Signage shall not hinder driver sightlines to critical road infrastructure.</p> <p>9. Signage shall not distract a driver from or reduce the visibility and effectiveness of directional signs, traffic signals, other traffic control devices, regulatory signs or advisory signs, or to obscure information about the road alignment.</p> <p>10. Advertising signage along transport corridors should meet location criteria set out in 'Section 3.2 Sign Location Criteria' of the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i> for assessing development applications under SEPP 64.</p> <p>11. Signage must not obstruct pedestrian/bicycle paths.</p> <p>12. Signage must not create trip hazards.</p>	<p>flashing and is unlikely to cause glare.</p> <p>The sign conveys the identification of the storage premises and is consistent with this form of development and thus is not expected to impact on traffic or pedestrian safety.</p> <p>The signage is in a position where they are unlikely to hinder driver, cyclist and pedestrian sightlines, roads and pathways. The signage is a business identification signage and meets the guidelines with SEPP 64.</p>
<p>26.2 Signage Controls by Type</p> <p>Pole or Pylon Signs</p> <p>1. The height of pole or pylon signs from the ground level are to be in proportion with the scale of the subject and surrounding development.</p> <p>2. A minimum clearance of 2.6m from ground level to the underside of the sign.</p>	<p>Considered Acceptable</p> <p>The proposed sign 1B would be 9m above ground level which is considered acceptable as it allows for the tenancy on the subject site to be clearly identified from the Hume Highway. The proposed pylon sign would be consistent with the current and desired streetscape, with similar scale signage currently existing within close proximity of the proposed development in the business areas along Hume Highway, Camden Valley Way and Campbelltown Road. The sign is located close to the ground and is away from where pedestrians would walk as it is within the landscaped corner. Illuminated Business Identification Pylon Sign is located near a driveway, and acts as a guide to indicate the tenant and the direction of the entrance.</p>
<p>Business Zones</p> <p>1. The cumulative area of all signs is not to exceed 1sqm of advertising area per 1m length of street frontage.</p> <p>2. One under awning sign is permitted on each shop or commercial premises. For premises with wide frontages, under awning signs are permissible at a maximum rate of one sign per 8m of frontage.</p> <p>3. Under-awning signs are to be at least 6m apart to provide adequate visibility.</p> <p>4. One projecting wall sign is permitted per building</p>	<p>Considered Acceptable</p> <p>There is one proposed pylon sign, which is located at the front of the site alongside the entrance from Ayshford Street as well as roof signs along the Hume Highway frontage on the corners of the building so that it can be seen from both directions coming along the Hume Highway. No individual signage is proposed exceeding 50m². When combined, signage exceeds 50sqm, however is considered acceptable for</p>

<p>elevation.</p> <p>5. One flush wall sign is permitted per building elevation.</p> <p>6. Signs painted on awning blinds or window blinds are not supported.</p> <p>7. Signs in excess of a total of 50sqm in area are generally unsupported and are to be considered on their merits.</p> <p>8. Signs must not be present on walls facing adjoining residences.</p> <p>9. For development in the B6 Enterprise Corridor zone, pole signs are limited to a maximum of one pole sign per development. Applications for additional pole signs will be considered on individual merit.</p>	<p>this form of development. Although roof signs are proposed, they are not considered to be out of character with this form of development. Business identification signage is permissible in the zone and the height of the roof sign is also below the maximum height limit of the site with overshadowing from the signage considered to be minimal and where overshadowing would occur, it is not considered to cause detrimental impacts on the locality given existing site conditions such as fencing causing more shadow during the time when compliance is achieved for adjoining sites. The roof signs are consistent with the size and scale of the development and is unlikely to cause detrimental impacts on the locality by being on the roof.</p>
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Liverpool Development Control Plan 2008 – Part 6 – Development in Business Areas

The proposed development is subject to Part 6 of the LDCP 2008 which covers controls specifically relating to developments in the business zones. The following key controls are discussed in the following table:

Part 6 – Development in Business Areas	
Controls	Comment
Subdivision, Frontage and Allotment Size	
Development for new buildings (other than a maximum 10% addition to an existing structure) in the B6 zone must not leave adjacent land such that it cannot achieve either:	
<ul style="list-style-type: none"> • A site frontage of at least 30m (where the site also has a frontage to a local street that intersects with and would permit access to and from the Classified road); or • 90m otherwise 	<p>Complies. The site frontage to Hume Highway is 77.95m and 135.68m to Ayshford Street.</p>
Site Planning Neighbourhood Centres, Local Centres and Enterprise Corridor (B2, B1 & B6 zones)	
The siting of buildings and the development should:	
Provide safe pedestrian, cycle and vehicle access to and from the public street.	<p>Complies Safe pedestrian, cycle and vehicle access will be provided through a driveway accessed Ayshford Street. Pedestrian access will also be provided off Ayshford Street.</p>
Be compatible with nearby residential development in terms of appearance, overshadowing, privacy, views, setbacks and height.	<p>Complies The building is setback consistently and is compatible with the B6 zone of the site and alleviates potential privacy and overshadowing impacts on nearby residential developments as addressed previously.</p>

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Address the street and consider its presentation to the public domain.	Complies The proposed building address the streetscapes appropriately for the nature of the development.
Consider the impact on existing and potential pedestrian links.	Complies The proposed development is highly unlikely to create any detrimental impacts on pedestrian links and access in the area.
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. Refer to Water Cycle Management in Part 1.	Complies The stormwater plans have been reviewed by Council's Land Development Engineer who has posed no objections subject to conditions of consent.
Enterprise Corridor (B6 zones)	
In Enterprise Corridor the siting of buildings and the development should also be compatible with existing business development in terms of scale, bulk, setbacks, materials and visual amenity.	Complies The proposed development is considered to be compatible with existing business development near the site in terms of scale, bulk, setbacks, materials and visual amenity.
Address the street and consider its presentation to the arterial road environment.	Complies The proposed development will adequately address the street and consider its presentation to the arterial road environment.
Setbacks	
Neighbourhood Centres, Local Centres, Business Development and Enterprise Corridor	
Rear Setbacks Where there is no rear lane access and the site adjoins land that is in a residential zone, the building shall be setback from the rear boundary as follows:	
- 5m for non-residential component of building up to 10m high.	N/A
- 8m otherwise for components of building up to 15m high.	No definitive rear setback. The rear fronting Wattle Road is setback 15.86m
Side setbacks Where the side boundary of the site adjoins land that is in a residential zone, the building may be required to be setback from the side boundary or limited to one storey near the boundary. Any floors above the ground floor shall be setback equal to the height of the additional floors.	Complies In accordance with this control, the minimum side setback is to be 3.8m for the two storey element in the north and 6.9m for the three storey element. The eastern setback of the development alongside the residential properties ranges from 10m along the 2 storey element to 11.57m for the three storey element.
Front Setbacks 15m primary setback (ground floor) 10m (secondary setback)	Complies 15m front setback proposed to the Hume Highway. Considered Acceptable 9.5m proposed to Ayshford Street secondary frontage. The proposed variation of 0.5m along Ayshford Street, is negligible in terms of overshadowing and visual and acoustic privacy, with no potential for overshadowing of the fronts of the dwellings on the western side of Ayshford Street from 10am onwards. As such, the variation is acceptable in the circumstance.
Landscaped Areas and Pedestrian Areas	
Business Development and Enterprise Corridor (B5 and B6 zones)	

Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area and public footpaths.	Complies Changes in levels are minimised within pedestrian areas.
Pedestrian areas should link all major activity areas of the centre.	Complies The area within the site is a shared zone with clear pedestrian zones. Pedestrian activity along the driveway areas is unlikely to occur due to the nature of the use.
Pedestrian areas should be separate from loading areas.	Complies No specific loading areas proposed. Parking spaces along the side of the building will be where goods can be loaded from.
Separate pedestrian access should be provided to adjoining public footpaths, community facilities and open space.	Complies Pedestrian access would be via proposed footpaths linking to Ayshford Street.
Sufficient area shall be provided to permit landscaping and tree planting within pedestrian areas and car parking areas.	Complies A sufficient area would be provided for landscaping and tree planting along the boundaries.
Building Form, Streetscape and Layout	
Neighbourhood Centres, Local Centres and Enterprise Corridor Building Form	
Articulate building walls addressing the street to add visual interest.	Complies Building walls addressing street frontages are sufficiently articulated and add interest on the elevations through different colours and materials used.
Development adjoining open space shall address the open space and avoid blank walls.	Complies The building would not incorporate blank walls as walls include windows and colour changes.
Building Materials	
Highly reflective finishes are not permitted above the ground floor.	Complies by condition Highly reflective finishes are not proposed. Glazing can be conditioned regarding reflectivity.
Colour & materials of the buildings shall be consistent with the existing adjoining development.	Complies Materials and colours considered consistent with the Rent-a-Space business theme.
Entrances	
Orientate entrances to buildings towards the public street and provide clear lines of sight between entrances, foyers and the street.	Complies The proposed development is oriented towards the streets and provides clear entrance points. The layout and orientation of the building results in no confusion to where the entrances to the building is and provides clear lines of site to the streets.
The common lobby to a home unit development should face the street	N/A
Where the ground floor of a business development, mixed-use development, and shop-top housing faces the street, the ground floor must incorporate shopfront style windows with clear glazing so that pedestrians can see into the premises and vice versa.	Complies The frontage of the development, especially the main office area, incorporates glass doors and glass window panels, which address both the Hume Highway and Ayshford Street.
Street Frontage	
Ground floor uses are to be at the same general as the footpath and be accessible directly from the street.	Complies Main office is directly accessible from the ground floor.
Provide predominately glazed shop fronts to all ground floor retail areas.	N/A Not applicable to subject development, however, the main office area is a glazed front to the site.

Developments on corner sites shall address the corner and the secondary street frontage.	Complies All street frontages are addressed appropriately through both built form and landscaping.
Avoid blank or solid walls and the use of dark or obscured glass on street frontages.	Complies Building walls and treatments used address street frontages and add interest on the elevations through different colours and materials used.
Roller shutters that obscure windows are not permitted.	N/A No roller shutters proposed for the windows along the frontage.
Provide opportunities for table seating along shop frontages.	N/A
Any Automatic Teller Machine (ATM) must be located at a highly visible location at street level, and must be well lit at night and incorporate mirrors or reflective materials so that users can observe people behind them.	N/A.
The street number of a building must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.	Complies by condition The proposed building is a 'landmark' style development which is recognisable without street numbers, however standard street numbering condition will apply.
Roof Forms	
Minimise the bulk and mass of roofs and the potential for overshadowing from roofs.	Complies The development is predominantly comprised of a flat roof which is below the height limit for the site. The roof signage is the highest element, however the potential for overshadowing from this would be negligible in comparison to site features such as existing boundary fences.
Provide eaves with a minimum length of 400mm in dwellings with pitched roofs.	N/A
Where flat roofs are proposed, lift overruns and rooftop plant and machinery are to be obscured from view by parapets or designed to be incorporated within rooftop activities/features	Complies Lift overrun is designed to be underneath the parapet level of the side wall and do not protrude above the side building height.
Incorporate lift overruns and service plant etc. into the design of the roof.	Complies Lift overrun is designed to be hidden underneath the parapet level of the side wall and does not protrude above the side building height.
Wherever possible provide landscaped and shaded areas on roofs to serve as communal private open space for residents of the building.	N/A
Material and Finishes	
Avoid expanses of any single material.	Complies The proposed building provides adequate breaks and variations in material and colour and avoids expanses of single materials.
Utilise high quality and durable materials and finishes, such as face brick with / without coloured render; and plain glass windows.	Complies The proposed buildings would be designed with metal cladding, opaque and clear glazing and concrete panels.
Avoid large wall tiles, rough textured render, polished metal and curtain walls or reflective glass.	Complies. The proposed buildings would avoid the incorporation of large wall tiles, rough textured render, polished metal and curtain walls or reflective glass.

Adjoining Residential Areas	
Development should minimise impact of the privacy of adjoining and nearby dwellings.	Complies The proposed building and driveway locations with acoustic wall and landscaping treatments would minimise any overlooking and acoustic privacy concerns to the adjoining residential properties.
Development should be compatible with any adjoining and nearby dwellings.	Considered Acceptable The facility is considered to be compatible with the surrounding residential area considering it is a lower impact use compared to other uses that are permissible within the B6 Enterprise Corridor zone. Additionally, the facility proposed is built to follow the land shape and is two storeys at the rear, where it faces more residential zoned land. The building is three storeys at the front where it faces the Hume Highway, which is the common denominator for the B6 zoned corridor in the locality and the height of the structure in the front is in keeping with this characteristic.
Links to nearby Community Facilities and Open Space	
Developments should incorporate opportunities for pedestrian links to adjoining Community Facilities and Open Space.	N/A The development does not directly adjoin open space.
Landscaping and Fencing	
Neighbourhood Centres, Local Centres, Business Development and Enterprise Corridor	
Where landscaping is to be provided a detailed landscape plan shall accompany a development application. A suitably qualified Landscape architect must prepare all Landscape Plans submitted with the development application. Refer to Part 1 for requirements for Detailed Landscape Plans.	Complies by condition Landscape plan has been provided and considered satisfactory, subject to conditions of consent. The landscape plan incorporates a number of recommended species and forms of vegetation, including trees, shrubs and groundcovers, especially along the street frontages to assist in screening.
Car Parking and Access	
Business Development and Enterprise Corridor (B6 zones)	
Car parking shall generally be located toward the front of the site.	Complies The car parking is located toward the front of the site, with other spots scattered around the building to be close to the storage units.
Amenity and Environmental Impact	
Neighbourhood Centres, Local Centres and Enterprise Corridor	
Privacy Development shall be designed to minimise overlooking of adjoining and nearby residential development.	Complies The proposed building and driveway locations with acoustic wall would minimise any overlooking of adjoining residential properties.
Access to sunlight Dwellings above shops shall be designed to maximise solar access.	N/A
Acoustic privacy Where an allotment adjoins a Classified Road, dwellings must comply with AS 3671 – Acoustics – Road Traffic Noise Intrusion.	N/A
Dwellings should be located to minimise the impact of noise from car parking and loading areas.	N/A
Lighting External lighting to a development must give consideration to the impact of glare on the amenity of adjoining and nearby residents.	Complies by condition It can be conditioned that external lighting shall comply with the relevant standards and not unreasonably impact adjoining properties.

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<p>Site Services Frontage works and damage to Council assets</p> <ul style="list-style-type: none"> • Where a footpath, road shoulder, new or enlarged access driveway or is required to be provided this shall be provided at no cost to Council. • Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure. 	<p>Complies by condition</p> <p>Complies by condition</p>
<p>Electricity Sub Station In some cases it may be necessary to provide an electricity substation at the front of the development adjacent to the street frontage. This will involve dedication of the area as a public road to allow access by the electricity provider. The front boundary treatment used elsewhere on the street frontage shall be used at the side and rear of the area.</p>	<p>Considered Acceptable Substation required for the development which will be within the front corner of the site and is able to be accessed if required. Endeavour Energy/ Integral Energy requirements would need to ensure a restriction on title is made for this element. This area is also not fenced off and is screened with landscaping.</p>
<p>Waste Management Development involving dwellings shall provide at least two waste storage areas to separately cater for the dwellings and non-residential uses on an allotment.</p> <p>A development must provide a waste storage area inside every food premises, and inside any shop that is capable of accommodating a food premises.</p> <p>A development must locate a waste storage area inside the building, or adjacent to a lane where it is convenient and safe for residents, tenants, and waste collection trucks to access the waste storage area and the location and floor level are to the satisfaction of Council and Part 1.2.</p>	<p>N/A</p> <p>N/A</p> <p>Complies Waste storage area can be accommodated and waste collection in accordance with waste management plan.</p>

The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008.

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

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the NCC. Accordingly, appropriate conditions of consent will be imposed.

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

Natural and Built Environment

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

The proposed development is unlikely to create an unreasonable adverse impacts on the surrounding built environment. The proposed development, as amended, is considered to have been designed in a way that is generally consistent with Council's requirements for development in the zone considering the site surrounds.

Furthermore, it is considered that the amended proposal has been designed with sufficient regard to surrounding properties to ensure that adverse amenity impacts have been minimised, particularly in terms of visual and acoustic privacy and overshadowing.

Social Impacts and Economic Impacts

The proposal is likely to 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.

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

The proposal generally complies with the relevant planning controls and provisions that are applicable to development in the locality. It is therefore considered that the site is suitable for the proposed development, especially in comparison to other permissible uses that could occur on the site and considering the site restrictions and location.

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Land Development Engineering	Approval, subject to conditions of consent
Traffic	Approval, subject to conditions of consent
Environmental Health	Approval, subject to conditions of consent

(b) External Referrals

AGENCY	COMMENTS
NSW Roads and Maritime/ Transport for NSW	Concurrence provided, subject to conditions.
Endeavour Energy	Application acceptable subject to conditions
Jemena	No objections
APA Group	No objections

(c) Community Consultation

The proposal was notified for a period of 15 days from 12 August to 27 August 2020 in accordance with Liverpool Community Participation Plan 2019. Twenty-one (21) submissions

were received, consisting of eighteen (18) unique submissions in response to the public consultation process objecting to the proposal.

The key issues raised in the submissions relate to:

- Solar Access, Overshadowing and Privacy;
- Noise;
- Traffic;
- Location, Character and Use;
- Lighting;
- Roadworks;
- Acoustic and Boundary Fencing and Retaining Walls;
- Signage;
- Safety and Security;
- Devaluation of Surrounding Property and Insurance Premium Increases;
- Provisions of the Liverpool Local Environmental Plan and Zoning;
- Landscaping;
- Electricity Pole; and
- Notification Process and Public Meeting.

The following discussion has been provided in respect to the concerns raised by the objectors:

ISSUE 1: *Solar access, Overshadowing and Privacy*

The proposed development is unlikely to generate any unreasonable impacts in terms of overshadowing on adjoining properties within Ayshford Street and Box Road in accordance with the provisions of Council's Development Control Plan. The shadow diagrams submitted with the application indicate the proposed development will not prevent any adjoining sites from receiving the minimum required 3 hours of solar access between 9am and 5pm in mid-winter to a living room window on any adjoining property and to at least 50% of the private open space of an adjoining site. The solar access to the adjoining dwellings to the east of the site is deemed to meet the provisions of 3 hours of solar access to the private open space and a living room between the hours of 11am and 2pm, with potential for compliance from 10.30am. The overshadowing from the proposed structure is negligible up to 2pm, as the existing boundary fences casts the shadow over these properties.

The setbacks of the development are in excess of what would be required for this development, with the variation along the secondary setback to Ayshford Street causing a negligible impact towards overshadowing impacts to the front yards of properties on Ayshford Street, which would be alleviated by 10am. In this regard, the development is not considered to provide an unreasonable impact to the immediate locality by way of impacts to solar access and it is considered to be consistent with the B6 zoned area.

In regards to privacy and views, the internal driveway areas are shielded by the acoustic fences, which are a combination of solid material and Perspex to enable light to penetrate through. The barriers are of a height in which overlooking of properties on Box Road is unlikely to occur. Additionally, the driveway area and building is setback sufficiently from Wattle Road and will also incorporate vegetation to assist in overlooking to properties on the other side of Wattle Road. These impacts are considered to be minimal, as the potential for overlooking from the rear portion of the driveway considering it is setback further than what a dwelling with a first floor opposite could be built to, which could also have potential for

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overlooking.

ISSUE 2: *Noise*

The application was accompanied by an acoustic assessment, prepared by a suitably qualified acoustic consultant, which was reviewed by Councils Environmental Health Section. The assessment was prepared in accordance with the NSW EPA, Noise Policy for Industry (2017) and sections of the Road Noise Policy published by the Department of Environment, Climate Change and Water NSW.

Council's Environmental Health officer has assessed the proposal, associated plans and acoustic assessment and have raised no objections to the development, subject to conditions of consent. It should be noted that the acoustic report provides recommendations about how the proposed development can be designed and managed to assist in mitigating acoustic transfer between the subject site and the immediate locality which have been included within the conditions of consent. These measures include the inclusion of acoustic fencing as well as noise management procedures.

Additionally, the site is not accessible 24 hours 7 days a week as was included in a number of submissions. The site is accessible by existing storage holders between 6am and 9pm.

While noise associated with the site is likely to increase given the intensification of the site, it is considered to be commensurate with the B6 zoning of the site. Compared to other uses permissible in the zone, the self-storage facility is likely to cause less regular noise impacts.

With regards to the above, the development is considered unlikely to cause unreasonable acoustic privacy impacts within the locality.

ISSUE 3: *Traffic*

Based on traffic reporting supplied by the applicant and reviewed by Council's traffic engineers, the traffic generation and parking requirements of a self-storage facility is lower than permissible uses in the zone, such as commercial uses, light industry and hardware and building supplies. Accordingly, traffic associated with the proposal is less than what it expected in a B6 zone.

Further, as the site is only left in, left out from Ayshford Street to the Hume Highway, vehicles coming from the east and potentially north as well as vehicles leaving the facility in most directions would be unlikely to utilise the local road network, including Box Road, Wattle Road and York Street to access the site. The applicant's traffic consultant has modelled this outcome and if it is assumed that traffic is equal from all directions, the roads are capable of accommodating this increase in potential traffic generation.

The driveway location is also in an area where RMS/ TfNSW considers this to be acceptable in terms of queueing impacts to the Hume Hwy. Additionally, the location of the driveway is not considered to significantly impact on the residents of Ayshford Street, as the driveway is near the front of the site and vehicles would not encourage patrons to use the whole of Ayshford Street to enter the site. It also is to be noted that as part of the civil works, half road construction with kerb and gutter and footpath, as well as turning head works of the eastern side of Ayshford Street is occurring, which will improvement the streetscape.

The proposed development cannot be expected to address any abuse of traffic laws, which

may compromise the safety of pedestrians in the locality as well as other road users. Impacts on the intersections as well as merging lanes and turning lanes would be expected regardless of the type of development proposed on this site. The proposed development is highly unlikely to promote or encourage any disregard of traffic laws, which may compromise the safety of drivers and pedestrians within the locality. Non-compliance with road rules is a matter for NSW Police. Guard rails are also provided along the higher sections of the driveway to protect from cars going over the edge.

The application was accompanied by a traffic impact assessment which was assessed, reviewed and supported by Council's Traffic Engineers, who investigated parking impacts as well as impacts to the local street network and had no objection subject to conditions of consent. Inconsistencies in the traffic assessment would be considered by Council's traffic engineer during the review process. As such, generated traffic associated with the proposal is considered acceptable based on Council's Traffic engineers review.

ISSUE 4: *Location, Character and Use*

A self-storage premises is a permissible land use within the B6 zoning and the building character and scale is considered to be consistent with other enterprises along the Hume Highway. The materials, colours and signage used are consistent with the business being proposed and the future tenant's colour scheme.

Although there is a breach in floor space ratio for the proposal, the character and scale of the development is still considered to be in an appropriate bulk and scale for the locality which features a landmark business centre at Crossroads. The development proposed is under the height limit for the site and is consistent within the expected building envelope that can be developed on the site. The development is for the purpose of a self-storage facility and no other uses are proposed with the development. Any future change of use of the building would require development consent.

Concerns were also raised regarding the demand for this kind of use on the site, however as previously mentioned, the proposal would assist in facilitating employment and growth within the region. The self-storage premises would be able to facilitate the growth in the region as well as surrounding businesses in the region. With the boom in housing within the south-west growth centres and the need for more storage space becoming ever evident with the typology of housing stock being provided, this facility would be close by and assist in accommodating people moving into these areas as well as tradespeople and retail tenancies who need storage space in close proximity to their workplaces.

As demonstrated in this report, the proposal is generally consistent with Council's provisions and is therefore consistent with the desired future character of the area.

ISSUE 5: *Lighting*

Lights across the site would be required to conform to the Australian Standards and it can be conditioned to ensure that lights are on a timer system and are not to operate outside of the hours that people can access the site as well as directed away from residential properties. In regards to headlights, this would be unlikely to significantly impact on residencies across from the site as no dwellings are currently directly opposite the proposed driveway.

ISSUE 6: *Roadworks*

The development is proposing new kerb and gutter and half road construction within Wattle

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Road and Ayshford Street as well as turning head works within Ayshford Street. Kerb and gutter or road construction can only be requested where it is directly outside the site boundaries.

ISSUE 7: *Acoustic and Boundary Fencing and Retaining Walls*

The proposal has been amended to have 2.1m high palisade fencing along the street boundaries and there is no chain wire fence proposed. It will be conditioned in the consent to ensure that any retaining walls are built with masonry construction and properly engineered where relevant. The plans have also been amended to have the acoustic walls setback from the boundaries rather than on the fence lines. These walls also include a 1m section of Perspex to allow solar access to private open space as well as have effective acoustic treatment. The acoustic wall proposed is considered to be acceptable and meets the acoustic requirements. The acoustic report with recommendations regarding acoustic barriers has been reviewed by Council's Environmental Health Officer and is deemed to be acceptable.

ISSUE 8: *Signage*

The proposed signage is considered to be acceptable for the proposed development. As previously mentioned, the signage is in character with signage in a business zone and is unlikely to cause significant impacts in regards to blocking key sightlines, pedestrian and vehicle safety and overshadowing impacts. The signage is orientated to allow it to be seen from all directions along the Hume Highway to ensure it is effective for people travelling to the site. Additionally, the signage is generally in compliance with the SEPP 64 guidelines for signage and Council's DCP. Illumination is unlikely to cause unnecessary glare and is able to be adjusted if necessary.

ISSUE 9: *Safety and Security*

The proposal incorporates security measures which provide security for each unit, the office and other areas, as well as specific methods to enter the site. The development has back to base security alarm systems as well as CCTV cameras for external and internal areas of the site, with back to base monitoring. A condition on the consent can be provided to ensure CCTV cameras are directed away from residential properties, as with the lighting. Additionally, the site is not accessible 24/7 as discussed in a number of submissions. The site is only accessible by storage unit holders from 6am to 9pm.

In regards to crime occurring on the site, any matters are to be reported to NSW Police. Crime can occur with any use and there is no evidence to suggest that the proposed use would be used for criminal activity. Any complaints regarding people throwing items over fences, littering or other complaints are to be taken up with the management of the development or Council's compliance section to investigate. The self-storage agreement for the use of the space is to be adhered to and conditions of consent are to be added to ensure the lease agreement states that no dangerous or hazardous goods are stored in the building.

The development will be conditioned to meet the provisions of the National Construction Code, in which fire safety systems and appropriate building separations and treatments would be met. In the event of an emergency, the driveways are capable of accommodating the turning paths of a 12.5m long heavy vehicle (HR class), which is the maximum size of a specialist fire appliance according to NSW Fire and Rescue, with a general fire appliance being 10m long (MR class).

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ISSUE 10: *Devaluation of Surrounding Property and Insurance Premium Increases*

The development is a permitted form of development for the B6 zoning and the locality. In respect to depreciation of property value, there is no evidence to suggest that the proposed development will result in the depreciation of the value and increase in insurance premiums of any neighbouring properties.

ISSUE 11: *Provisions of the Liverpool Local Environmental Plan and Zoning*

The development proposed a floor space ratio (FSR) that is in excess of the development standard. As such, a request to vary the development standard is proposed under Clause 4.6 of the Liverpool Local Environmental Plan 2008 (LEP) as specified previously and is considered to be acceptable in the circumstances.

The height of the building does not breach the height limit on the site of 15m. The development is consistent with the height of a 2-storey building for the majority of the site with the front area fronting Hume Highway being three storeys, due to the development addressing the natural ground levels.

The area was re-zoned to be B6 – Enterprise Corridor during the establishment of the Liverpool Local Environmental Plan 2008 and has been in place for the past 12 years.

A self-storage premises is not defined as a retail premises and as such, Clause 7.22(5) and 7.23 of the LEP do not apply to this application.

ISSUE 12: *Landscaping*

Additional trees and vegetation within the site as well as street trees have been proposed since the application was notified. The proposed landscaping between the boundaries and the driveways will be monitored by staff and a landscape maintenance company will be employed to undertake regular maintenance. A condition of consent will be added to ensure that access to landscaping is able to be provided and sufficient gates are provided across the site for maintenance purposes. The proposed landscaped setbacks are considered to be acceptable for the proposed development and are capable of maintaining deep rooted trees.

ISSUE 13: *Electricity Pole*

The relocation of the power pole in the north west of the site is to be relocated in accordance with Endeavour Energy's requirements. The application was referred to Endeavour Energy and the proposal is considered acceptable subject to compliance with their requirements. The relocation of the pole is to be at the developer's cost and is to also be wholly within their site and not be relocated into the empty space at the north of the proposed turning head, which will be reinforced with a condition of consent.

ISSUE 14: *Notification Process and Public Meeting*

The proposal was notified consistently with the Liverpool Community Participation Plan 2019, in which a self-storage premises is to be notified to properties adjoining and opposite the development site. Notification letters were sent out in the mail as is the usual process. Although the 4.6 variation required the need for determination by the Liverpool Local Planning Panel (LLPP) the number of submissions received has also triggered the LPP. Residents will have an opportunity to speak and attend the LLPP meeting when held.

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

The development is consistent with the objectives of the B6 zone and is generally compliant with the relevant planning provisions and controls contained under the LLEP 2008 and LDCP 2008. Where non-compliances have been identified, these have either been considered justifiable in the circumstances, or addressed by way of consent conditions. As such the proposal is within the public interest.

7. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contributions is applicable to the proposed development in accordance with the Liverpool Contributions Plan 2009 – Hoxton Park, Carnes Hill & Prestons Release Areas as amended and will be imposed as a condition of consent of any approval for the proposed development.

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 unreasonable impacts 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-532/2020 seeking approval for the construction of a part two-storey and part three-storey self storage facility with consolidation of all existing lots into one lot and associated civil works, landscaping and signage, be approved subject to conditions of consent.

10. REPORT ATTACHMENTS

- 1. PLANS OF THE PROPOSAL**
- 2. APPLICANT'S SECTION 4.6 VARIATION JUSTIFICATION**
- 3. CONDITIONS OF APPROVAL WITH ASSOCIATED EXTERNAL COMMENTS AND 7.11. PAYMENT FORM**

REPORT ATTACHMENT 1: PLANS OF THE PROPOSAL

**NEW SELF STORAGE FACILITY
 653, 659, 661 HUME HIGHWAY, 8 - 14 WATTLE ROAD, CASULA**



PERSPECTIVE FROM HUME HIGHWAY

DRAWING LIST

- PREL1-102
- DA100 Site Context Plan
- DA101 Aerial Photograph
- DA102 Existing Site Plan
- DA103 Site Photographs
- DA104 Site Color Plan
- DA105 Existing Wall Sections
- DA200 Proposed Site Plan
- DA301 Lower Floor Plan
- DA302 First Floor Plan
- DA303 Roof Plan
- DA304 Proposed Section Plan
- DA305 Proposed Section Plan
- DA306 Proposed Section Plan
- DA307 Detailed Section Plan
- DA308 Detailed Section Plan
- DA309 Elevations
- DA301 Sections
- DA302 Access Eases Details
- DA303 Site Details
- DA400 Signage

The only use and access to this site for the purpose of the following Title:
 Lot 1, 2 & 3 of DP70736
 Part of Lot 1 of DP2020
 Lot 1, 2 & 3 of DP2020
 Lot 1, 2 & 3 of DP2020



1. 11/2021
 1. 11/2021
 1. 11/2021

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HANWING ARCHITECTS PTY LTD
 11/11/2021
 11/11/2021
 11/11/2021

NEW STORAGE FACILITY
 653, 659, 661 Hume Highway
 8 - 14 Wattle Road, Casula

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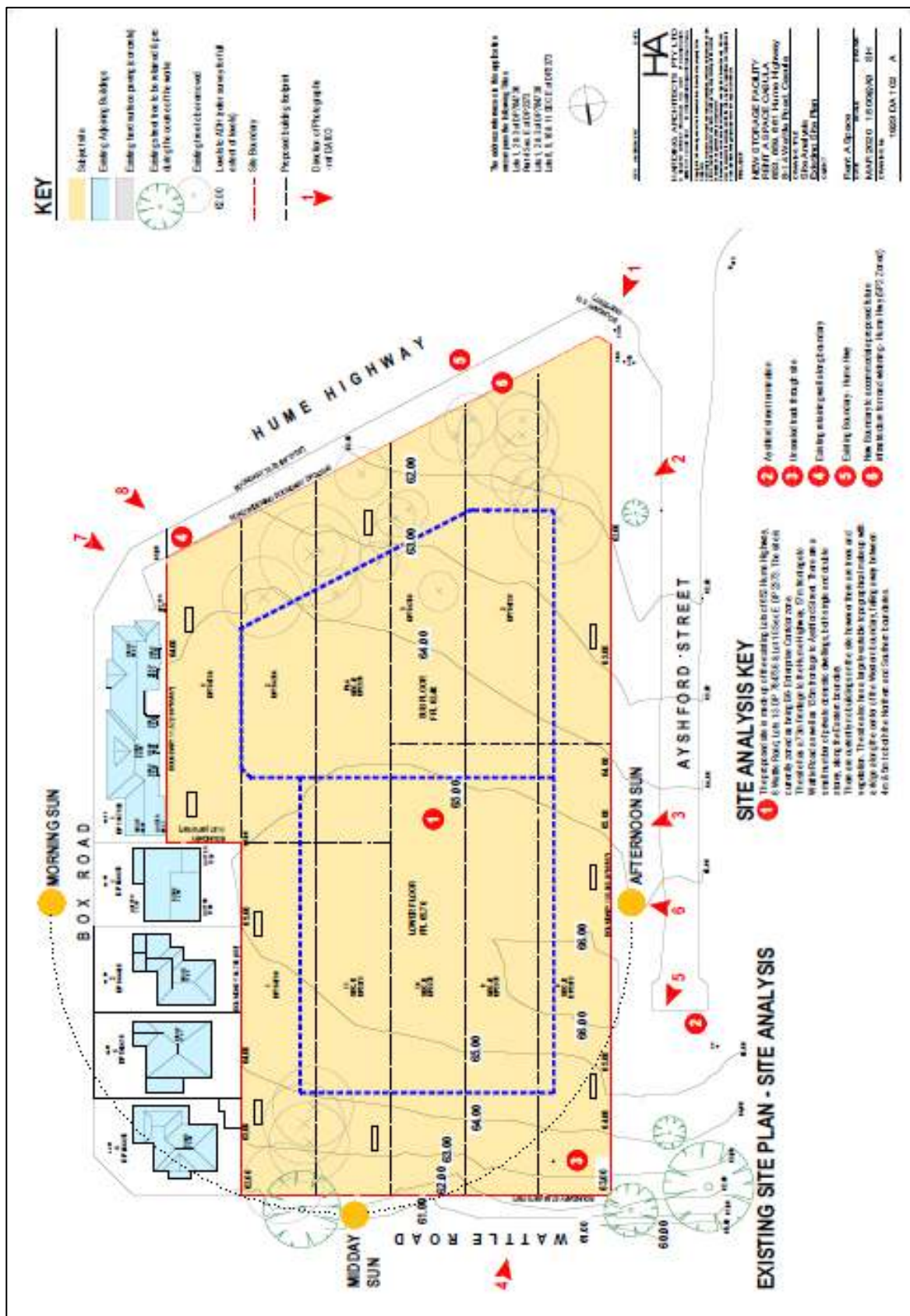
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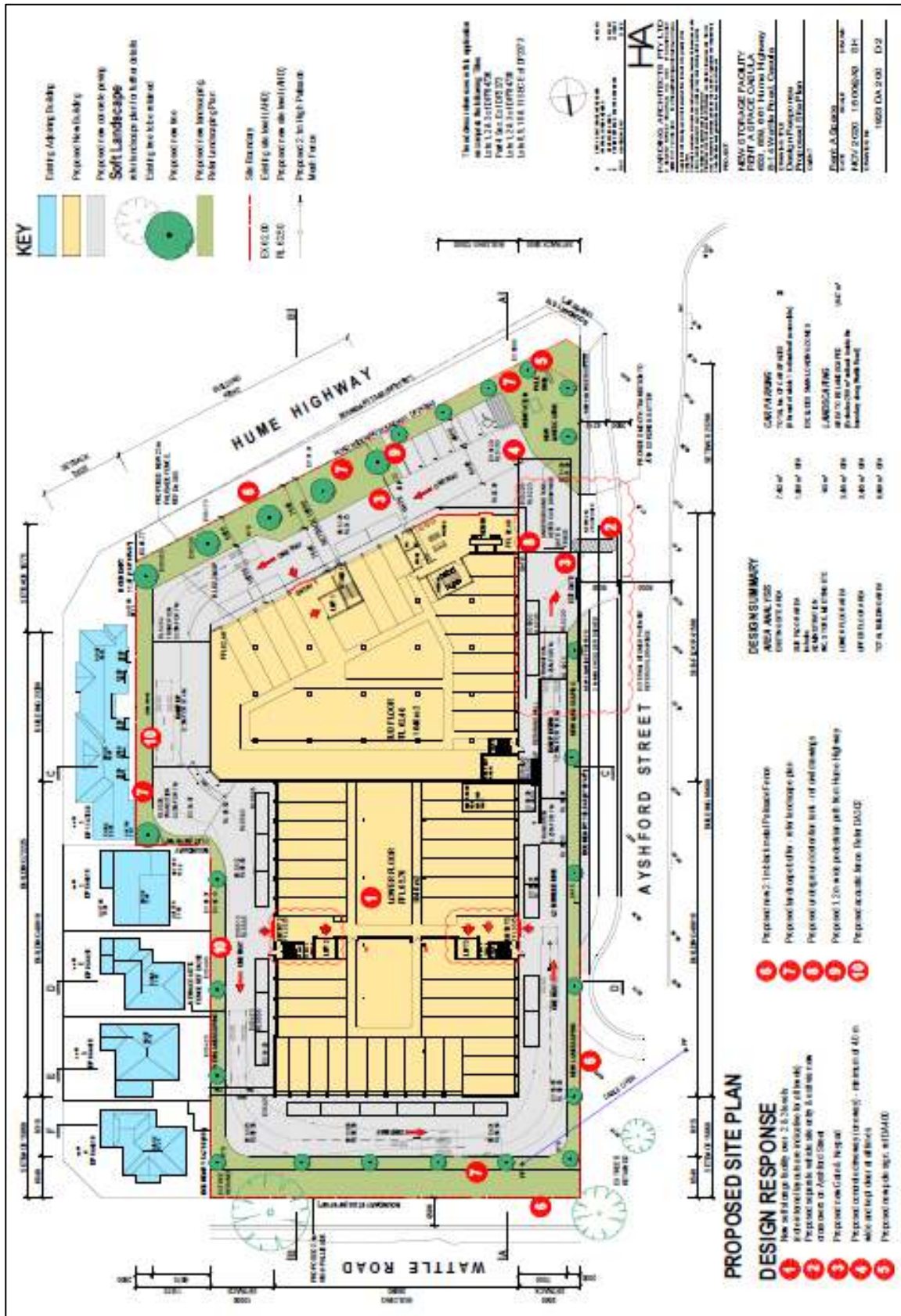
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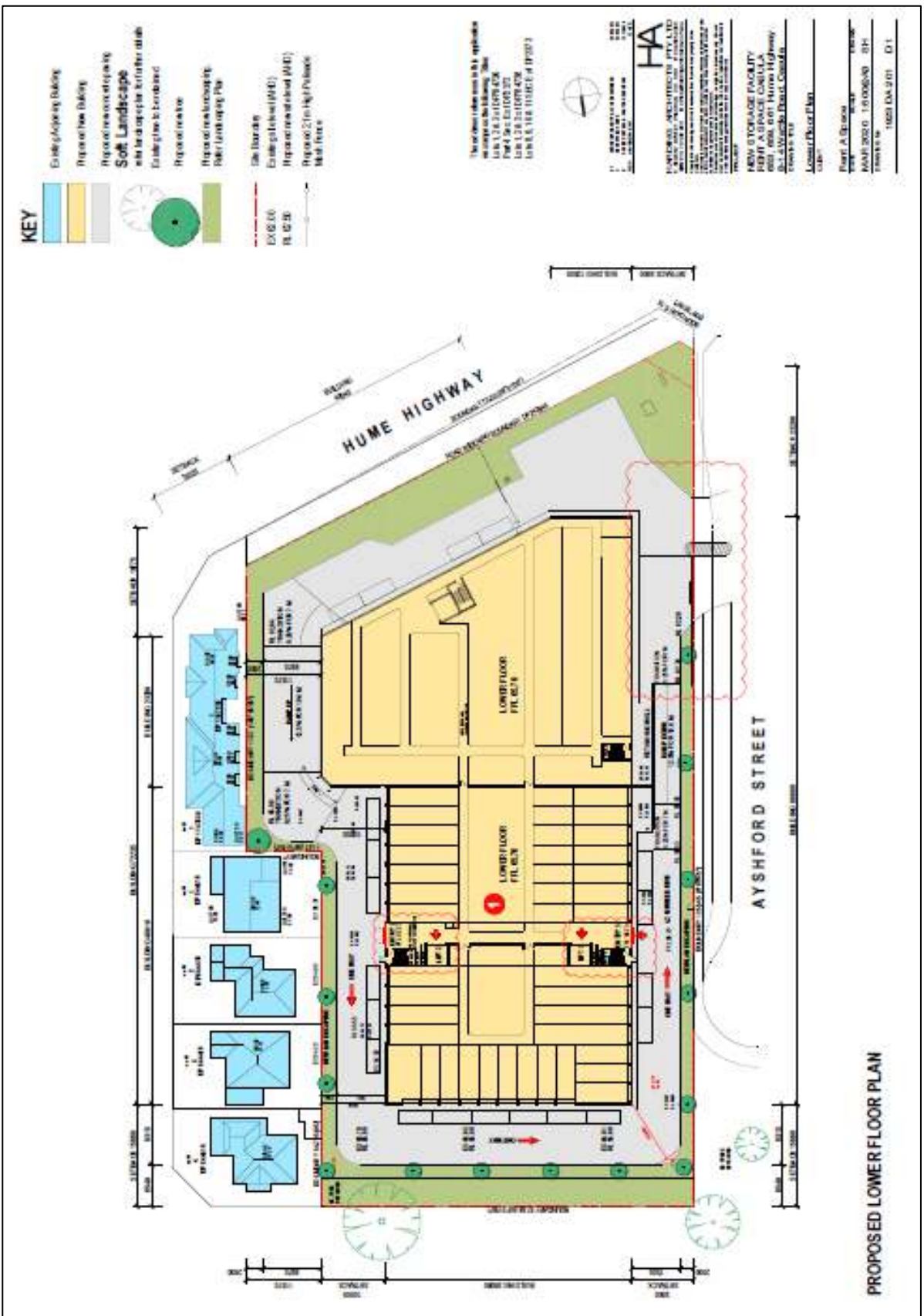
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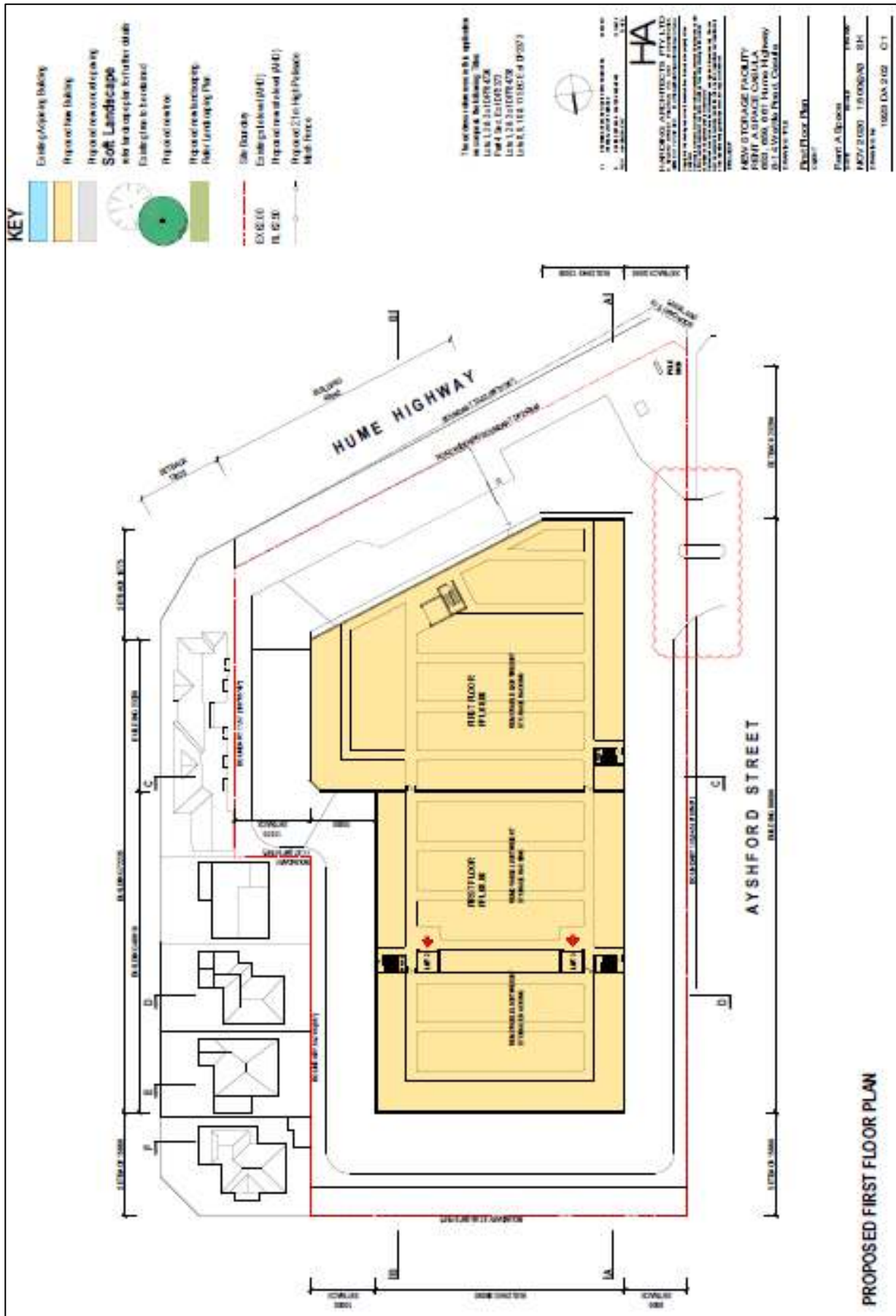
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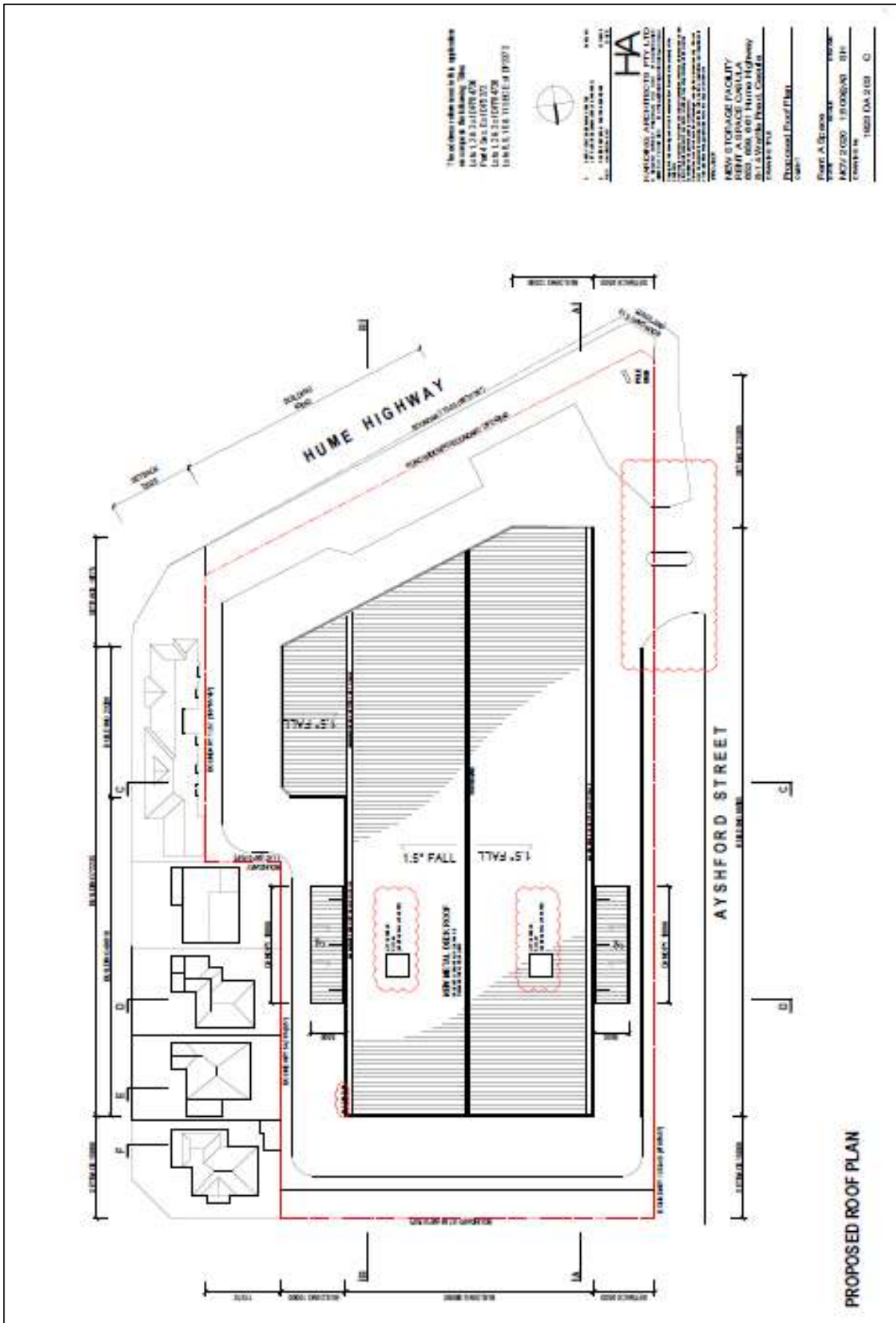
30th August 2021

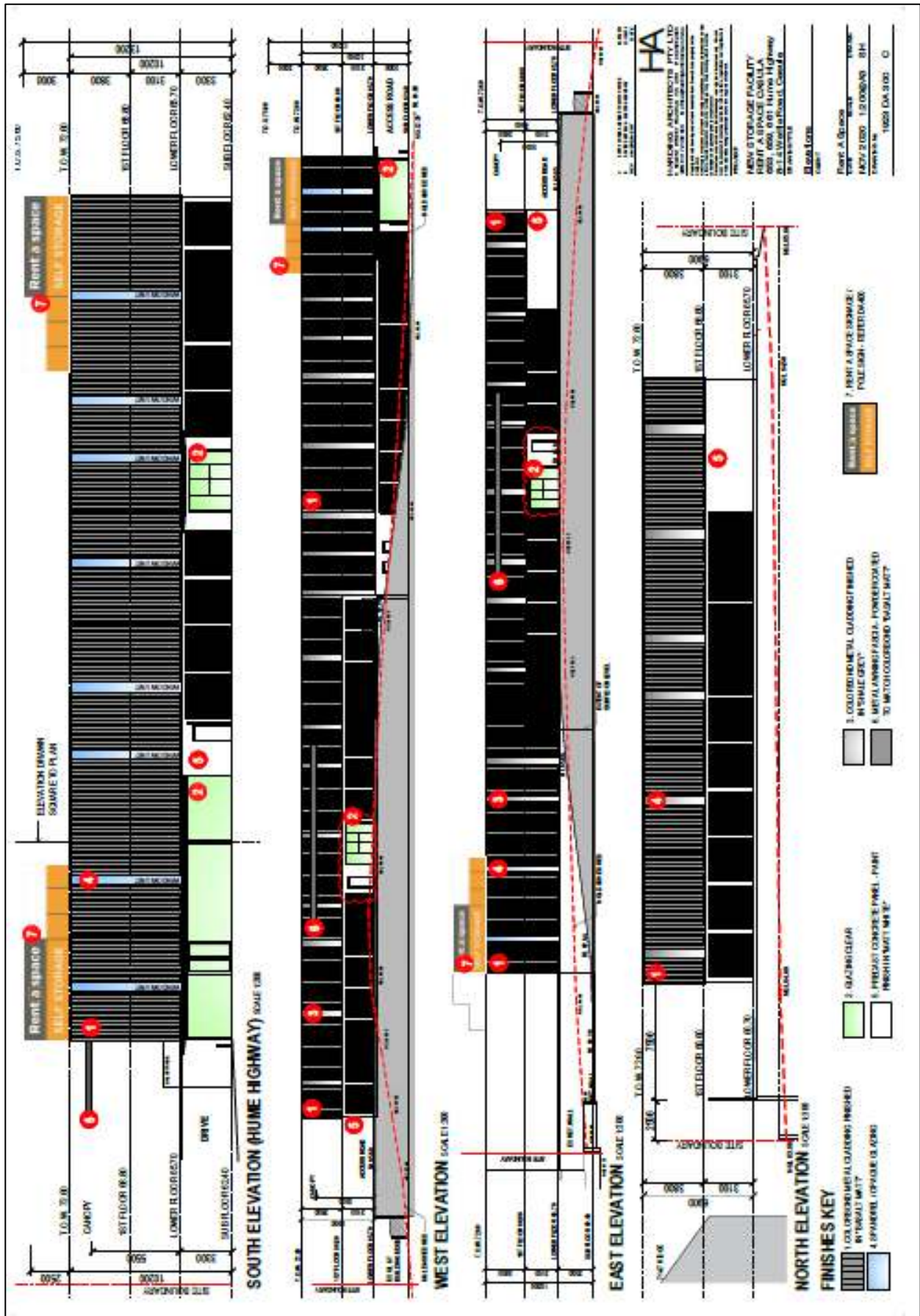


PROPOSED FIRST FLOOR PLAN

LIVERPOOL CITY COUNCIL
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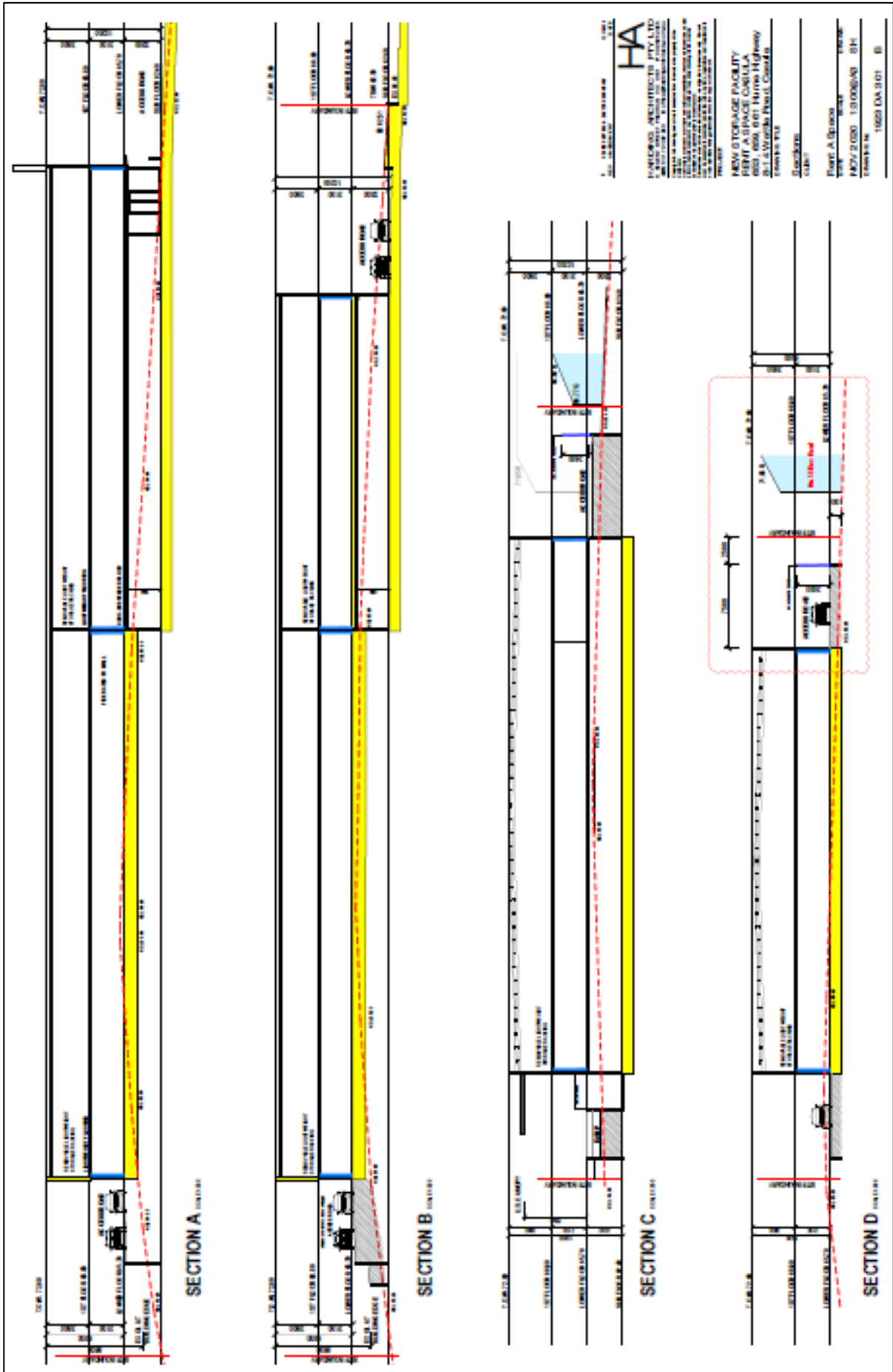
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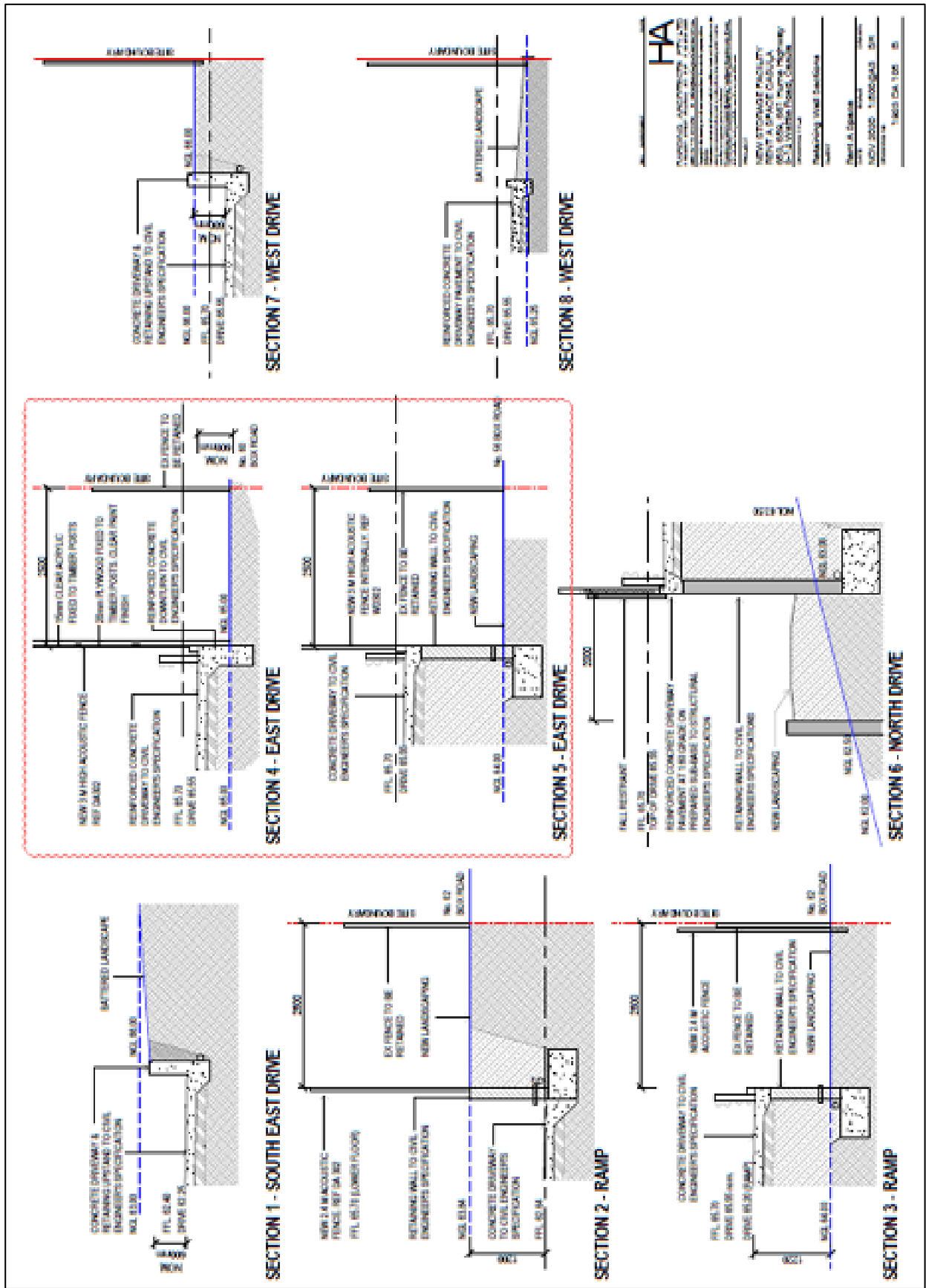
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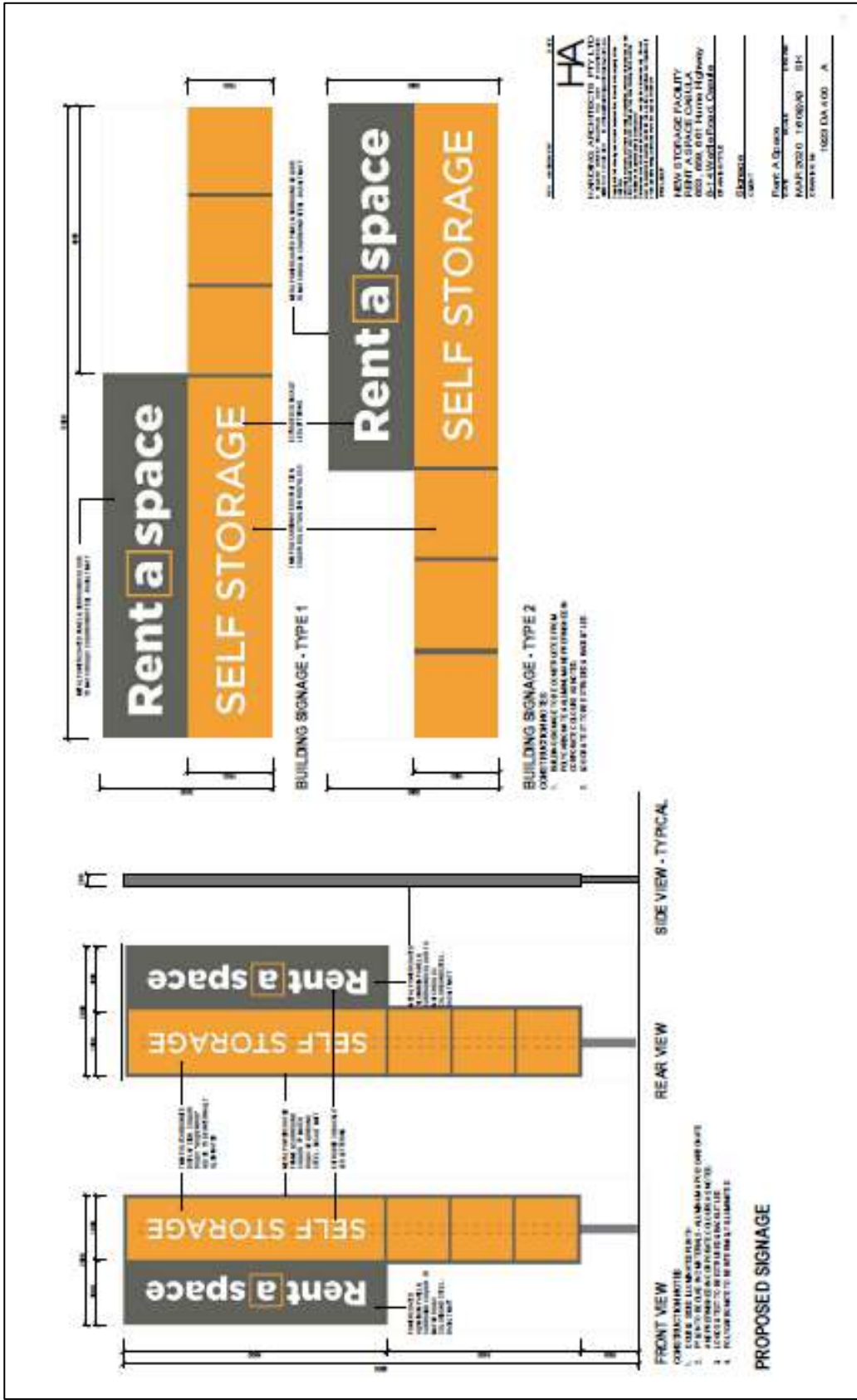
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NEW STORAGE FACILITY
 RENT A SPACE CARULA
 601, 603, 605, 607 Hume Highway
 B11 Warialla Road, Condamine
 Condamine QLD
 Project: A Storage
 Date: NOV 2020 13:00:00 (H)
 Drawing No: 1002 DA 2.01 - B





REPORT ATTACHMENT 2 – APPLICANT’S SECTION 4.6

VARIATION JUSTIFICATION

Clause 4.6 Variation – Floor Space Ratio

Proposed Storage Premises (Self-Storage Facility)

653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

PART A PRELIMINARY

1.1 INTRODUCTION

This Clause 4.6 Variation request has been prepared in support of a Development Application (DA) for the **construction of a storage premises in the form of self-storage units** within the property located at 653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula (the Site). The Site includes the following lots, legally described as:

- 8 SEC. E DP2373
- 9 SEC. E DP2373
- 10 SEC. E DP2373
- 11 SEC. E DP2373
- Lot 1 DP784736
- Lot 1 DP784738
- Lot 2 DP784738
- Lot 3 DP784738
- Pt. 4 SEC. E DP2373
- Lot 2 DP784736
- Lot 3 DP784736

The proposed development provides a positive response to the strategic objectives of the locality and zone in ensuring that industrial and employment lands meet Liverpool's future needs. The proposed storage premises forms part of the collection of industries that enable businesses and residents to operate.

This Clause 4.6 Variation request has been prepared due to the proposal exhibiting a non-compliance with **Clause 4.4 (Floor Space Ratio (FSR))** under *the Liverpool Local Environmental Plan 2008* (LLEP2008). However, this departure from the FSR standard is unique in that it is a result of the type of land use proposed and type of construction required to facilitate this as opposed to being representative of the bulk and scale of the development itself. In this respect, it is important to acknowledge the different elements of the building which contribute to gross floor area (GFA) and how these are unique to the proposed land use and operations.

The proposed storage facility includes the removal storage racking floors purely for storage purposes on the upper levels which will be made of removable lightweight construction materials. In this respect, a greater amount of internal GFA is provided for storage purposes across the three levels compared to a typical industrial or commercial facility which would otherwise not require internal storage levels such as these, whilst still delivering a similar building envelope. This additional floor space above the maximum FSR development standard would not result in any additional bulk or scale to the building, or an intensification of the land use given this floor space is used nearly entirely for self-storage purposes.

The proposed development could easily be converted into a warehouse, industrial or commercial facility in the future and should this occur, it is likely that the removal storage racking, which make up a large portion of GFA, would be removed. In such a scenario, the removal of the upper floor level, making up approximately 40% of the total proposed GFA, would reduce the overall FSR so that it would subsequently be compliant with the FSR development standard under Clause 4.4 of the LLEP2008 (**0.75:1**).

This variation request has been prepared in accordance with the requirements of Clause 4.6 of LLEP2008, which includes the following objectives:

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

Clause 4.6 Variation – Floor Space Ratio
 Proposed Storage Premises (Self-Storage Facility)
 653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

1.2 PROPOSED NON-COMPLIANCE

Under the provisions of Clause 4.4 in LLEP2008, the Site is subject to a maximum permissible floor space ratio (FSR) of **0.75:1**.

The proposed development comprises a gross floor area (GFA) of **8,720m²**, equating to an FSR of **1.17:1**. This exceeds the maximum GFA (**5,581.5m²**) by **3,138.5m²**, which represents a departure from the maximum FSR/GFA of **56%**, as summarised in **Table 1** below. However, in the event the upper level removal storage racking (3,535m²) were to be removed to allow another land use to operate at the facility, the total GFA to a total GFA of 5,185m² and result in an FSR of **0.59:1**.

Table 1. Variation Summary

LLEP2008	Development Standard	Proposed FSR	Proposed FSR excluding removable storage racking	Proposed Non-Compliance
Clause 4.4 - Floor Space Ratio	Maximum Floor Space Ratio of 0.75:1	1.17:1	0.59:1 (compliant)	3,138.5m² (56%) above maximum FSR

1.3 PLANNING JUSTIFICATION

This Clause 4.6 Variation request has been prepared in accordance with Clause 4.6 of LLEP2008. It considers the various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes the proposed floor space ratio non-compliance is the best means of achieving the objective of encouraging orderly and economic use and development of land under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

As discussed in **Section 4.5** and **Section 4.6** of this report, the proposed development provides a direct and positive response to both the *Western City District Plan* and the *Draft Local Strategic Planning Statement - Connected Liverpool 2050* (draft LSPS) to ensure that industrial and employment lands meet Liverpool's future needs. The proposed storage premises forms part of the collection of industries that enable businesses and residents to operate. Further, the proposal will introduce a development that complements the range of surrounding land uses along the Hume Highway and integrates appropriately with the variety of built forms in the surrounding area.

When considering the proposed departure from Clause 4.4 (Floor Space Ratio) of the LLEP2008, it is important to acknowledge that the proposed departure from this development standard is a direct result of the proposed land use as a storage facility and the provision of removable storage racking floors for storage purposes on the upper levels which will be made of removable lightweight construction materials (refer to **Figure 1** below). In this respect, a greater amount of internal floor space (GFA) is provided for storage purposes across the three levels compared to a typical industrial or commercial facility which would otherwise not require internal storage levels such as these, whilst still delivering a similar building envelope. **The additional floor space above the maximum FSR development standard under LLEP2008 makes up approximately 3,138.5m² of GFA**, which does not result in any additional bulk or scale to the building, or an intensification of the land use given this floor space is used nearly entirely for self-storage purposes.

In the event the proposed building were to be converted into another use in the future (such as warehouse, industry, commercial), it is likely that these lightweight storage structures which make up a large portion of GFA would be removed. In such a scenario, the **removal of the upper floor level, being 3,535m² would subsequently reduce the total GFA to a total GFA of 5,185m²** (including only the sub floor area of 1,650m² and lower floor of 3,535m²). This would result in an FSR of **0.59:1**, and thus be compliant with the maximum FSR specified under Clause 4.4 of the LLEP2008 (0.75:1).

Clause 4.6 Variation – Floor Space Ratio
Proposed Storage Premises (Self-Storage Facility)
653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

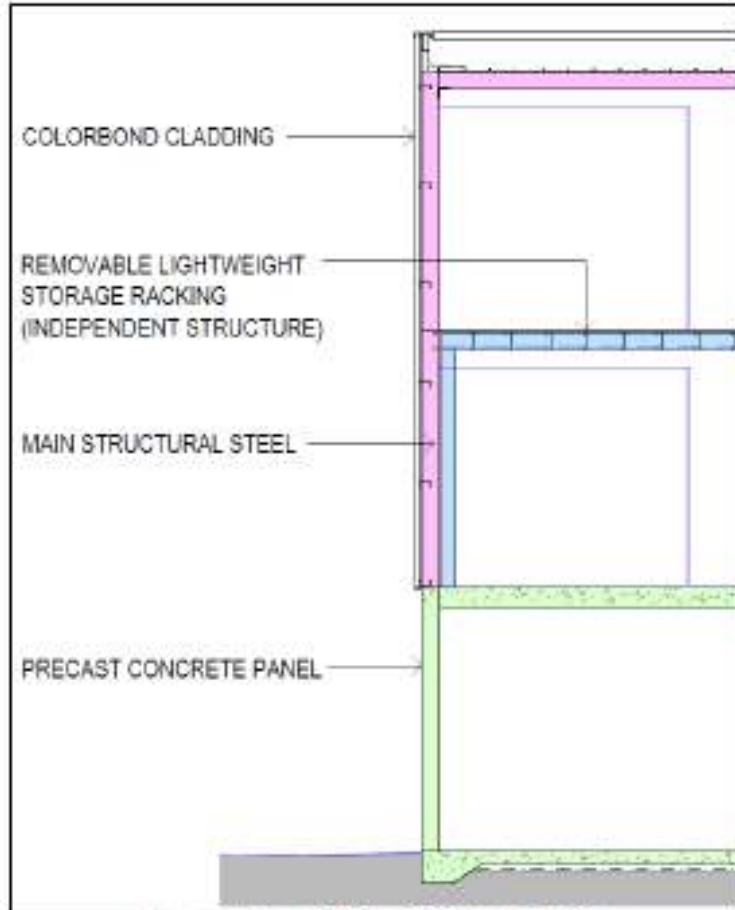


Figure 1. Removal lightweight Storage Racking

Clause 4.6 Variation – Floor Space Ratio
Proposed Storage Premises (Self-Storage Facility)
653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

PART B THRESHOLDS THAT MUST BE MET

2.1 CLAUSE 4.6 OF THE LLEP2008

In accordance with Clause 4.6 of LLEP2008 Council is required to consider the following subclauses:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

These matters are responded to in **Part D** of this Clause 4.6 Variation.

2.2 CASE LAW

Relevant case law on the application of the standard Local Environmental Plan Clause 4.6 provisions has established the following principles:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, which emphasised that the proponent must address the following:
 - Compliance with the development standard is unreasonable and unnecessary in the circumstances;
 - There are sufficient environmental planning grounds to justify contravening the development standard;
 - The development is in the public interest;
 - The development is consistent with the objectives of the particular standard; and
 - The development is consistent with the objectives for development within the zone;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, which held that the degree of satisfaction required under Subclause 4.6(4) is a matter of discretion for the consent authority;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827, which emphasized the need to demonstrate that the objectives of the relevant development standard are nevertheless achieved, despite the numerical standard being exceeded. Justification is then to be provided on environmental planning grounds. Wehbe sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:
 - The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
 - The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

LIVERPOOL CITY COUNCIL
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Clause 4.6 Variation – Floor Space Ratio

Proposed Storage Premises (Self-Storage Facility)

653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

- o The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
 - o The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
 - o The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.
- *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112, which highlighted that there is no maximum number or percentage by which a development standard may be varied, and no such numerical limitation on the size of a variation to a development standard such as height or FSR exists under the Standard Instrument Clause 4.6 wording.
 - *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191, acknowledged that 'compatibility' is different from 'sameness', as it allows for many different features to coexist together harmoniously.

These matters are responded to in **Part D** of this Clause 4.6 Variation.

Clause 4.6 Variation – Floor Space Ratio
 Proposed Storage Premises (Self-Storage Facility)
 653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

PART C STANDARD BEING OBJECTED TO

3.1 CLAUSE 4.4 FLOOR SPACE RATIO DEVELOPMENT STANDARD

The development standard being requested to be varied is Clause 4.4 Floor Space Ratio.

Table 2 outlines the proposed Clause 4.6 Variation to the floor space ratio development standard under Clause 4.4.

Table 2. Variation Summary			
LLEP2008	LLEP2008 Development Standard	Proposed Floor Space Ratio	Proposed Development Non-Compliance
Clause 4.4 - Floor Space Ratio	Maximum Floor Space Ratio of 0.75:1	1.17:1	3,138.5m² (56%) above maximum FSR

The proposed development seeks approval for the construction of a storage premises in the form of self-storage units including an ancillary office/meeting room and car parking spaces. The proposed development would result in a maximum floor space ratio of **1.17:1**, representing a **56%** departure from development standard under Clause 4.4 of LLEP2008.

As demonstrated within this report, the proposed floor space ratio variation will have a negligible impact on surrounding properties. Visual amenity will be retained in terms of overshadowing, solar access and visual and acoustic privacy as demonstrated in the ensuing sections of this report.

The proposed built form and massing of the building is the result of detailed analysis of the context of the Site and its surrounds with a desire to deliver a positive urban design outcome. The proposed building delivers a built form which generates a high level of visual interest whilst appropriately responding to the surrounding residential and commercial character, interface with Hume Highway and public open space areas.

As aforementioned, the proposed departure from the FSR standard is due to the additional removable storage racking floors for storage purposes on the upper levels which will be made of removable lightweight construction materials which are essential for the proposed land use as a storage facility

The additional floor space above the maximum FSR development standard under LLEP2008 makes up approximately **3,138.5m²** of GFA, which does not result in any additional bulk or scale to the building, or an intensification of the land use given this floor space is used nearly entirely for storage purposes.

In the event the proposed building were to be converted into another use in the future, it is likely that these lightweight storage structures would be removed and subsequently the total GFA would be reduced to accommodate that use. As such, the **removal of the upper floor level, being 3,535m²**, would result in a total GFA of 5,185m² (including only the sub floor area of 1,650m² and lower floor of 3,535m²). The development would subsequently be compliant with the maximum FSR specified under Clause 4.4 of the LLEP2008 (0.75:1), resulting in an FSR of **0.59:1**.

Clause 4.6 Variation – Floor Space Ratio
 Proposed Storage Premises (Self-Storage Facility)
 653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

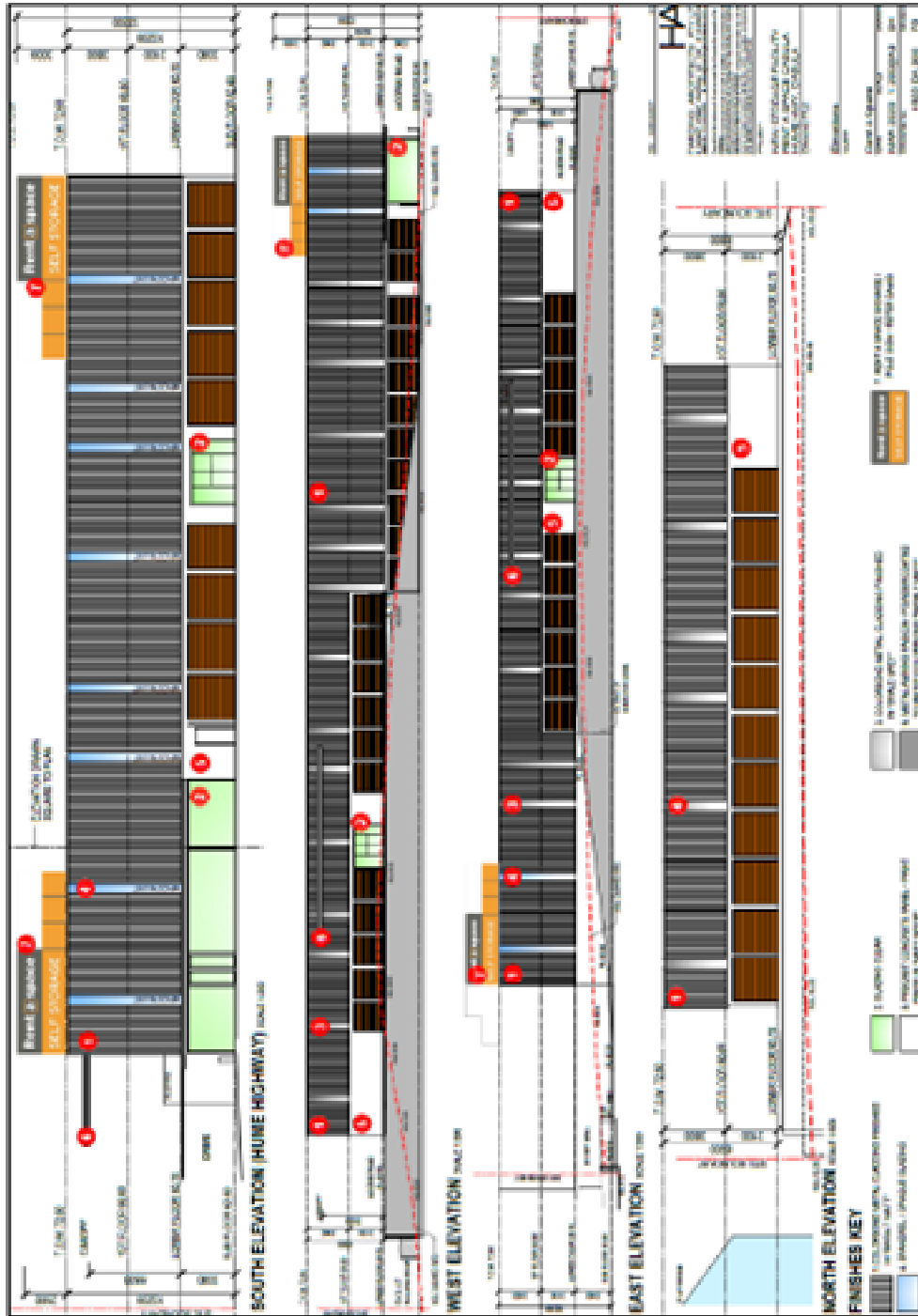


Figure 2. Elevation Plans (Source: Harding Architects, 2020)

Clause 4.6 Variation – Floor Space Ratio

Proposed Storage Premises (Self-Storage Facility)
653, 659 and 661 Hume Highway, 8-10 and 12-14 Wattle Road, Casula

PART D PROPOSED VARIATION TO CLAUSE 4.4 FLOOR SPACE RATIO

4.1 OBJECTIVES OF CLAUSE 4.4 FLOOR SPACE RATIO UNDER LLEP2008

A key determination of the appropriateness of a Clause 4.6 Variation to a development standard is the proposed development's compliance with the underlying objectives and purpose of that development standard. Indeed, *Wehbe v Pittwater Council* recognised this as one of the ways in which a variation to development standards might be justified (refer to **Section 2.2**). In *Four2Five Pty Ltd v Ashfield Council*, it was found that the proponent must demonstrate compliance with these objectives (refer to **Section 2.2**).

Therefore, while the Site is subject to relevant numerical standards for floor space ratio, the objectives and underlying purpose behind these development standards are basic issues for consideration in the development assessment process. The proposed development is consistent with the relevant objectives of the control for the reasons outlined below.

Consistency of the Proposed Development with the Floor Space Ratio Objectives:

(a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic

The proposed development is predominantly visible from the public domain at the Site's southern Hume Highway frontage. The Hume Highway reserve adjoins the Site's southern boundary which forms part of the public domain. Pedestrian footpaths form part of this road reserve and extend along both sides of Hume Highway.

The proposed development is for self-storage units which is a low-intensive land use, being occupied by up to 2-3 employees at any one time during the hours of 8am - 6pm, 7 days per week.

It is noted that although the upper floor level of the proposed development comprises removable lightweight construction materials (purpose built for storage purposes) and would likely be deconstructed in the future should the building be converted to another use.

Whilst it is acknowledged that this upper level still satisfies the definition of 'gross floor area' under LLEP2008, if the upper level of the proposed development (3,535m²) were to be removed in the future, the overall FSR would reduce to 0.59:1 (compliant with Clause 4.4 of LLEP2018) without any visual changes to the building envelope itself. Accordingly, it is considered reasonable to conclude that a similar building envelope and density is achievable for the Site which complies with the FSR standard and is appropriate for the Site. It is purely the upper level which comprises GFA and is used purely for storage purposes which results in the proposal departing from the FSR standard.

The Site is provided with access to services, infrastructure, and the greater road network. The proposed low-intensive land use would have a negligible impact on traffic and pedestrian generation.

The proposed development is consistent with the objective as it comprises a low-intensive land use that is appropriate to the availability of infrastructure and will have a negligible impact on traffic and pedestrian generation. The off-street car parking requirements applicable to the development proposal are provided by reference to the updated *SSAA Supplementary Australian Traffic and parking Study (2016)* undertaken by Aurecon Australia. This is appropriate given the excessive amount of off-street parking which would otherwise be required under the warehouse parking rates of the LLEP2008.

Accordingly, the proposed self-storage comprising 8,720m² GFA generates a minimum car parking requirement of 13 spaces, comprising 2 office space, 8 storage area parking spaces, 2 staff parking spaces and 1 trailer/ute space. The proposed development makes provision for a total of 29 car parking spaces (6 formal of which 1 is disabled / accessible), thereby satisfying those minimum car parking recommendations set out by the updated *SSAA Supplementary Australian Traffic and parking Study (2016)* document.

Clause 4.6 Variation – Floor Space Ratio

Proposed Storage Premises (Self-Storage Facility)
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As confirmed in the submitted Traffic and Parking Assessment, the proposed number of car parking spaces is considered appropriate, given the low-intensive land use proposed in the form of a self-storage premises, and requiring 2-3 employees on-site at any one time.

As demonstrated above, the proposed GFA does not represent the density or scale of the building. Similar to this, the amount of car parking required at the Site would be lower than typically calculated under the current LDCP controls for other land uses. In this respect, a total of 13 parking spaces are required (based on Aurecon Australia Pty Ltd 2016 Traffic and Parking Study) and a total of 29 spaces are proposed.

In light of the above, it is considered reasonable to conclude that although the FSR development standard is proposed to be exceeded, the proposed density and intensity of the development would achieve an acceptable outcome, thus satisfying this objective.

(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations

The proposal is appropriate in terms of its bulk and scale when compared to other existing and potential future development in the area. The surrounding area comprises primarily low density residential development.

The proposed development complies with the maximum building height outlined under the LLEP2008 and the required setbacks outlined in the LDCP2008. As discussed above, if the upper level of the proposed development is removed in the future, the overall FSR would reduce without any visual changes to the built form.

Overall, the design outcome will respect the surrounding scale in terms of height, bulk and density whilst providing a self-storage premises which is compatible with the surrounding character. The proposed FSR does not represent the density and bulk of the building as a large portion of the GFA is contributed to by the upper level which is made of a lightweight flooring structure purposefully made for self-storage facilities. If the upper level is removed, the building would be compliant with the maximum FSR development standard under Clause 4.4 of the LLEP2008 within the proposed building envelope which itself is compatible with the desired character of the area.

In light of the above, the height, density and scale of the development is considered to be appropriate for the Site and provides a form of storage premises and thus satisfies objective (b).

(c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain

The proposed development will not have any environmental effects on the use or enjoyment of adjoining properties and the public domain.

As discussed above, the proposed low-intensive land use would have a negligible impact on traffic and pedestrian generation. The proposal will not exhibit any significant environmental impacts and the built form has been designed to not adversely impact on the amenity of any adjoining sites. The proposed development comprises a low-intensive land use, resulting in minimal impact on surrounding residents' privacy, amenity, and noises impact (refer to **Appendix 18**). Some minor overshadowing will occur at 3pm on 21 June across some parts of the neighbouring dwellings adjoining the Site to the east as described below:

- 62 Box Road, Casula - part of the south eastern corner.
- 60 Box Road, Casula - part of the western open area.
- 58 Box Road, Casula - part of the western area.
- 55 Box Road, Casula - part of the south western corner.

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At 3pm on 22 March and 22 September, 62 Box Road, Casula, is partially affected by overshadowing along part of its western boundary.

The shadow diagrams in **Appendix 18** show that during mid-summer, these dwellings are not overshadowed by the proposed development, and the shadows are within the Site or within the public domain. Therefore, the proposed building height is considered to result in an acceptable amenity outcome for the surrounding land uses.

The proposed development is consistent with the objective as it will not adversely impact the surrounding environments.

(d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation

The Site is not located within any important views to natural or topographical features and there are no view sharing or solar amenity issues relevant to the Site and its adjacent uses. The proposed development is an appropriate low-intensive land use within the B6 zone, being surrounded by low-density residential development. The surrounding area is not identified as being an area for which substantial transformation is planned.

The Site is located at the interface of a residential zone, located to the north, east and partially west. The development has therefore been designed to ensure a suitable visual transition is achieved between these residential areas and the Site, being land zoned for land uses such as commercial, light industrial and warehousing. This is achieved through compliance with the building height development standard as well as the other relevant DCP built form controls applicable to the Site and development.

Accordingly, the proposed development is considered to deliver an appropriate relationship and interface between the two land zonings to mitigate any potential visual impact and therefore is consistent with this objective.

(e) to provide an appropriate correlation between the size of a site and the extent of any development on that site

The proposed development complies with the setback requirements specified under the LDCP2008 and provides perimeter landscaping. The proposed development comprises a compliant building height under the LLEP2008.

As discussed above, the additional floor space above the maximum FSR development standard under LLEP2008 makes up approximately 3,138.5m² of GFA, which does not result additional bulk and scale to the building, or an intensification of the land use given this floor space is used nearly entirely for storage purposes. In the event the proposed building were to be converted into another use in the future, it is likely that the total GFA would need to be decreased to accommodate that use. As such, the removal of the upper floor level, being 3,535m², would result in a total GFA of 5,185m² (including only the sub floor area of 1,650m² and lower floor of 3,535m²). The development would therefore be compliant with the maximum FSR specified under Clause 4.4 of the LLEP2008, being 0.59:1.

Accordingly, it is respectfully submitted that the FSR development standard applicable to the Site is not entirely reflective of the extent of development appropriate for the Site when applied to a land use and development such as the one proposed.

In light of the above, the proposed development is appropriate in the context of the Site area. The proposed development is consistent with this objective.

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(f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design

The proposed development is not located within Liverpool City Centre.

This objective is not affected by the variation sought.

As demonstrated above, the proposed development still achieves the underlying objectives of the development standard and therefore strict compliance with that development would be unreasonable and unnecessary given the circumstances of the case.

4.2 OBJECTIVES OF THE ZONE

The Site is currently zoned B6 Enterprise Corridor under LLEP2008. The proposed development is consistent with the following B6 zone objectives.

Consistency of the Proposed Development with the Zone Objectives:

To promote businesses along main roads and to encourage a mix of compatible uses.

The Site adjoins Hume Highway which is a main road. The proposed development is for a storage premises which expressly is permitted with consent under the LLEP2008 and within an area zoned for a variety of businesses. The proposed storage premises is compatible with other surrounding land uses in the area, including businesses that would likely benefit from this self-storage facility. The proposed self-storage premises would likely benefit the operational aspects of these surrounding businesses, positively contributing to the local economy. As such, the proposed development supports this objective by contributing to the mix of compatible land uses in the area.

To provide a range of employment uses (including business, office, retail and light industrial uses).

The proposed development would provide a storage premises within an area zoned for a variety of commercial land uses. The proposed development is for a different type of land use, thereby increasing the variety of land uses in the area that would ultimately provide a service likely benefitting surrounding businesses.

To maintain the economic strength of centres by limiting the retailing activity.

The proposed development does not comprise a retail premises. The proposed storage premises will require 2-3 employees to operate at the Site. Surrounding local businesses would likely utilise the proposed storage premises to support operational aspects, resulting in cumulative economic benefits.

To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.

The proposed development is located within the B6 Enterprise Corridor along Hume Highway, which is a corridor that does not directly enter Liverpool City Centre, major local centres or retail centres. The nearest B2 Local Centre zone to the north east is not classified as a major local centre.

The proposed development is for a new storage premises that would operate in an area comprising other businesses along Hume Highway. Nevertheless, the proposal provides for a new business along this part of the Hume Highway enterprise corridor.

To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.

This objective is not affected by the variation sought.

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To provide for residential uses, but only as part of a mixed use development.

This objective is not affected by the variation sought.

4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

In *Wehbe v Pittwater Council [2007] NSWLEC 827*, Preston CJ set out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

1. Establish that compliance with the development standard is **unreasonable or unnecessary** because **the objectives of the development standard are achieved notwithstanding non-compliance with the standard**.
2. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
4. Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary".

In applying the tests of *Wehbe v Pittwater Council [2007] NSWLEC 827*, only one of the above rationales is required to be established. Notwithstanding the proposed variation, the development is consistent with the underlying objectives of the standard for Floor Space Ratio and the relevant Zoning prescribed under LLEP2008.

In view of the particular circumstances of this case, strict compliance with Clause 4.4 of LLEP2008 is considered to be both unnecessary and unreasonable. The proposed development does not conflict with the intent of Clause 4.4 as demonstrated above and satisfies the objectives, notwithstanding the proposed numeric variation.

The proposed development is justified on the following environmental outcomes:

- It represents logical and co-ordinated development of the Site for a storage premises;
- It will result in improvements to the functionality and operations of the Site through a carefully designed built form that is responsive to the Site context and its desired character;
- The architectural design provides a superior built form outcome for the Site and is functional for the proposed outcomes;
- Development will be compatible with the desired and future character of the immediate locality;
- The proposed variation to the floor space ratio will not give rise to any environmental or amenity impacts to surrounding development in relation to views, overshadowing, solar access, noise and visual privacy;
- Compliance may be achieved by reducing the scale of the development, but this would undermine the visual quality and functionality of the design, and the requirements of the storage premises would not be achieved;
- A similar building envelope (density and scale) would be able to be achieved still with a compliant FSR (i.e. removal of upper level for storage purposes); and

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- Reducing the building height to achieve a compliant floor space ratio would not deliver any measurable environmental or amenity benefits.

A different Site configuration would have likely resulted in a less efficient use of the Site. Use of a different Site would have meant that suitably zoned, unused enterprise corridor zoned land would remain under-utilised and therefore not developed to its full planning potential.

As aforementioned the non-compliance with the FSR development standard is largely a result of the type of land use (self-storage facility) being proposed and upper floor level comprising a large amount of GFA for storage purposes. This additional floor is made of a lightweight removable structure suitable only for self-storage purposes. As such, in the event the building was not used for self-storage purposes and was converted into another use, this level would likely need to be removed, resulting in a compliant FSR. Accordingly, in this circumstance, the application of the FSR development standard to its full extent is considered to be unreasonable and unnecessary.

In light of the above, the abovementioned justifications are considered valid and, in this instance, the proposed Clause 4.6 Variation is considered to be acceptable. The proposed development represents a more efficient use of the Site when compared to a compliant floor space ratio scenario. The objectives of Clause 4.4 as well as the B6 Enterprise Corridor zone would be upheld as a result of the proposed development. Therefore, **the application of the floor space ratio standard is therefore unreasonable and unnecessary in response to the proposed development.**

4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

The variation to the development standard for Floor Space Ratio is considered well founded because, notwithstanding the proposed non-compliance with the standard:

- The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated;
- The scale of the proposal is appropriate for the Site and the proposed use;
- The breach in floor space ratio is primarily due to the additional 'light weight' upper floor level, as discussed in **Section 4.1** above, which may be removed in the future without any visual changes to the built form;
- A greater amount of internal floor space is provided for the storage premises across the 3 levels compared to a typical industrial or commercial facility of this nature;
- The proposal provides a design outcome that responds to the Site area and considers the context as well as the anticipated built form;
- The proposed development would not create a significant visual or overshadowing impact for surrounding land users. Limiting the floor space ratio to a strict 0.75:1 compliance would have a negligible impact on any such impacts to surrounding land users;
- The proposed development will not give rise any unreasonable amenity impacts to adjoining properties;
- Strict compliance with the building controls would unreasonably restrict the potential to develop the Site to its full potential as a self-storage premises;
- The proposed development is consistent with the desired and future character of the Site and will not result in measurable or unreasonable environmental or amenity impacts;
- The proposed development is a low-intensive land use that would comply with Clause 4.4 should the land use conversion and removal of the upper level occur in the future, and thus the proposed additional GFA does not contribute to the intensification of the Site; and
- Reducing the building height to achieve a compliant floor space ratio would not deliver any measurable environmental or amenity benefits.

In *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 (SJD DB2), Acting Commissioner Philip Clay handed down his judgement, approving the proposed six-storey shop top housing development, having a height of 21.21m where the control was 14.7m – representing a maximum variation of approximately **44%** (or 6.51m) – and a floor space ratio (FSR) of 3.54:1 where the control

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was 2.5:1 – representing a variation of approximately 41%. The Court accepted that the Clause 4.6 variations were well-justified, and ultimately better than a compliant (smaller) scheme on the subject site. The Court referred to the proposed development as “an excellent response to its context” and a “high quality architectural design”.

SJD DB2 emphasised that there is no maximum number or percentage by which a development standard may be varied, and no such numerical limitation on the size of a variation to a development standard such as height or FSR exists under the Standard Instrument Clause 4.6 wording.

4.5 PUBLIC INTEREST

As outlined in **Section 2.2**, *Four2Five Pty Ltd v Ashfield Council* emphasised that it is for the proponent to demonstrate that the proposed non-compliance with the development standard is in the public interest. Subclause 4.6(4)(a)(ii) requires the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Sections 4.1 and **4.2** have already demonstrated how the proposed development is consistent with the objectives of Clause 4.4 as well as the objectives of the B6 Enterprise Corridor zone under the LLEP2008.

In *Lane Cove Council v Orca Partners Management Pty Ltd (No 2)* [2015] NSWLEC 52, Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development.

The public advantages of the proposed development are:

- Contributes to the revitalisation of the Site;
- Provides opportunities for greater industrial land use diversity in the Liverpool LGA and assists in *managing and retaining industrial and urban services land* as outlined in the Western City District Plan;
- Contributes to pedestrian amenity;
- Results in a significant improvement to the development across the Site, from under-utilised land, commensurate of the surrounding locality;
- The proposed architectural design significantly improves the streetscape interface with the public domain, improving the southern frontage towards Hume Highway;
- No adverse impact on the surrounding road network;
- Provides additional employment opportunities and economic benefits to local businesses within the area;
- Is supported by transport infrastructure in proximity and will benefit from the proximity to and amenity of Crossroads Homemaker Centre to the south;
- The proposed storage premises would contribute to diversity within the surrounding enterprise corridor, supporting growth and increasing supply;
- The proposed development will deliver self-storage units to meet the needs of a growing population, which is compounded by a rise in apartment living and downsizing throughout Sydney; and
- Provides a development outcome that is compatible with the existing enterprise corridor, being a permissible land use and consistent with the land use zone objectives.

There are no significant public disadvantages which would result from the proposed development. Accordingly, the public advantages of the proposed development are therefore considered to far outweigh any identifiable public disadvantages. The proposed development is therefore considered to be justified on public interest grounds.

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4.6 MATTERS OF STATE AND REGIONAL SIGNIFICANCE

The proposed non-compliances with Clause 4.4 would not raise any matters of significance for State or regional environmental planning. It would also not conflict with any State Environmental Planning Policies or Ministerial Directives under Section 9.1 of the *Environmental Planning and Assessment Act* (EP&A Act).

NSW Department of Planning requires that all development applications including a variation to a standard of more than 10% be considered by the Sydney Western City Local Planning Panel for determination. The proposed development would result in exceedance of the development standard by **56%**.

Furthermore, by including this non-compliance with Clause 4.4, the proposed development would be better able to meet the objectives of the *Draft Local Strategic Planning Statement - Towards 2040* (draft LSPS) and the Western City District Plan by:

- Providing jobs that match the skills and needs of the community;
- The proposed development will provide a built form consistent with the objectives of the Local Environmental Plan;
- The proposed development is appropriate for the Site and context, and achieves a high level of amenity for staff and patrons within and surrounding the Site; and
- Providing a direct and positive response to the draft LSPS *Planning Priority 12* which seeks to ensure that industrial and employment lands meet Liverpool's future needs, as it would provide employment opportunities at the Site during construction and operational hours.

4.7 PUBLIC BENEFIT IN MAINTAINING THE STANDARD

Strict compliance with Clause 4.4 would result in:

- Greater impacts to the functional operation of the proposed use of the Site; and
- Potentially rendering the proposed development unviable due to the removal of an entire level of self-storage units within the development which are paramount for a self-storage facility.

Further to the above, in the event the development standards were maintained, the resulting benefits to the adjoining properties and wider public would be nominal. As such, there is no genuine public benefit in maintaining this strict floor space ratio control at the Site.

4.8 SUMMARY

For the reasons outlined above, it is considered that the objections to Clause 4.4 of the LLEP2008 are well-founded in this instance and the granting of Clause 4.6 Variation to this development standard is appropriate in the circumstances. Furthermore, the objection is considered to be well founded for the following reasons as outlined in Clause 4.6 of the LLEP2008, *Four2Five Pty Ltd v Ashfield Council* and *Wehbe v Pittwater Council*.

- Compliance with the development standard is unreasonable and unnecessary in the circumstances;
- There are sufficient environmental planning grounds to justify contravening the development standard;
- The development is in the public interest;
- The development is consistent with the objectives for development within the zone;
- The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
- The development does not negatively impact on any matters of State or regional significance; and
- The public benefit in maintaining strict compliance with the development standard would be negligible.

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It is furthermore submitted that:

- Strict compliance with the standards would hinder the achievement of the objects of the EP&A Act;
- The proposed development is consistent with the surrounding locality;
- There is no maximum number or percentage by which a development standard may be varied, as demonstrated in S3D DB2; and
- No unreasonable impacts are associated with the proposed development.

Overall, it is considered that the proposed Clause 4.6 Variation to the existing and maximum floor space ratio control is entirely appropriate and can be clearly justified having regard to the matters listed within Clause 4.6 of the LLEP2008.

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PART E CONCLUSION

For the reasons outlined in this Clause 4.6 Variation request, it is requested that the consent authority exercise its discretion and find that this Clause 4.6 Variation request adequately addresses the relevant heads of consideration under Subclause 4.6(3) of the LLEP2008.

This is particularly the case given the relatively minor nature of the proposed exceedance, as well as the proposal being otherwise compliant with the LLEP2008, consideration and satisfaction of the objectives of the LDCP2008, and the strategic suitability of the proposed development at both a Local and State Government Level.

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Table 1. Response Matrix

Council Additional Information Request

Clause 4.6 Exception to Development Standard for Floor Space Ratio

1. The Clause 4.6 exception to the floor space ratio development standard is not currently supported for the proposed development. Further detail is required to be submitted that ensures that the objectives of Clause 4.4 Floor Space Ratio, sub-clause 1(c), is met by the proposed development. Sub-Clause 1(c) states:

(1)(c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

The current information provided to Council does not adequately demonstrate how the proposed development will minimize adverse environmental effects on the use and enjoyment of the adjoining properties, especially in terms of solar access, visual and acoustic amenity to the neighbouring dwellings fronting Box Road and their private open space and living areas. In regards to solar access, these properties will require a minimum of 3 hours of solar access to at least 50% of their private open space and a living room between 9am and 5pm in mid-winter on June 21.

To help assist in this matter, the applicant is to explore the possibility of amending the development setbacks, which may in turn lead to a decrease in acoustic treatments required for these adjoining properties.

The proposed location, height and style of the acoustic fencing may also require amending, especially where the acoustic fence proposed is 3m in height and has potential to cause overshadowing impacts on the adjoining properties. Further, the acoustic fencing may be able to be located abutting the driveway and ramp areas, as opposed to on the existing fencing.

Concern is also raised as to the impacts of the development along Avshford Street and to the existing residents fronting this roadway. It is requested that the applicant provide an updated traffic report that depicts traffic impacts to Avshford Street in two scenarios. One scenario being an FSR compliant development at the site and the other with the proposed FSR variation. This is required so that Council may assess the impact of the additional FSR to the locality by way of vehicle movements and traffic impacts to the local street network.

Items raised within the other planning matters and amended architectural plan requirements and amendments will also assist in supporting the justification for the Clause 4.6 variation to the Floor Space Ratio development standard.

Applicants Response

Council's comments in respect of the Clause 4.6 Variation Request raised matters in relation to amenity and traffic generation. A response to the matters raised has been carried out below:

Amenity

Solar Access

Parts 3.2 and 3.5 of the LDCP2008 prescribes development controls for dwelling houses which specify the following requirements in relation to overshadowing:

Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least:

- *One living room, rumpus room or the like.*
- *50% of the private open space.*

Whilst the abovementioned control is not specifically applicable to the proposed development type itself, the proposal will not result in unreasonable overshadowing to adjoining properties between 9am and 5pm on 21 June.

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As identified on the Proposed Shadow Plan (Ref. 1923 DA 204) provided at **Appendix 1**, the proposal does not result in any additional overshadowing to the neighbouring dwellings fronting Box Road between 9am to 1pm.

It is noted that the rear private open space areas of the existing dwellings along Box Road will receive at least 50% solar access to the rear private open space area between 11am and 1pm. At 2pm, the majority of overshadowing to the rear of the properties along Box Road is a result of the existing fencing along the eastern side boundary (see **Figure 1**). The proposal will result in very minor additional overshadowing to the south western portion of No. 54 Box Road and to the rear of No. 60 Box Road. Accordingly, the extent of additional overshadowing in these locations is not considered to result in unreasonable amenity impact to the rear private open space areas of Nos. 54 and 60 Box Road given the extent to which these areas are already impacted.

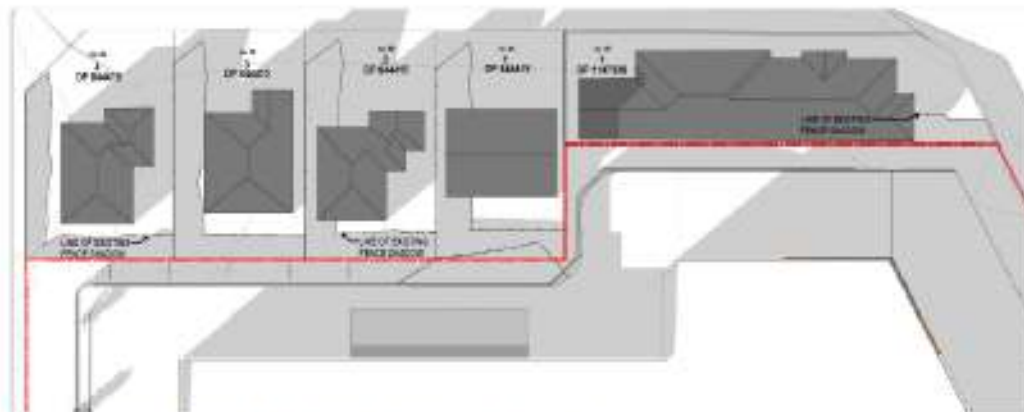


Figure 1: Extract of Shadow Diagram (2pm), (Harding Architects, 2019)

Visual and Acoustic Privacy

As aforementioned, the proposed development has been revised to reduce the overall scale of the development at the western interface of the dwellings located along Box Road (see **Figure 2**). In particular, the proposed acoustic fencing has relocated 2.5m from the eastern side boundary and altered to improve visual and acoustic privacy to the neighbouring properties along Box Road.

The proposed built form is commensurate with the surrounding built environment and compliant in terms of building height. This is reflected in the building height being largely equivalent to a two-storey dwelling. This is particularly the case along the eastern boundary of the Site which, as illustrated below in **Figure 2**, comprises a comparative building height (approximately 6.9m) with the adjoining residential development.

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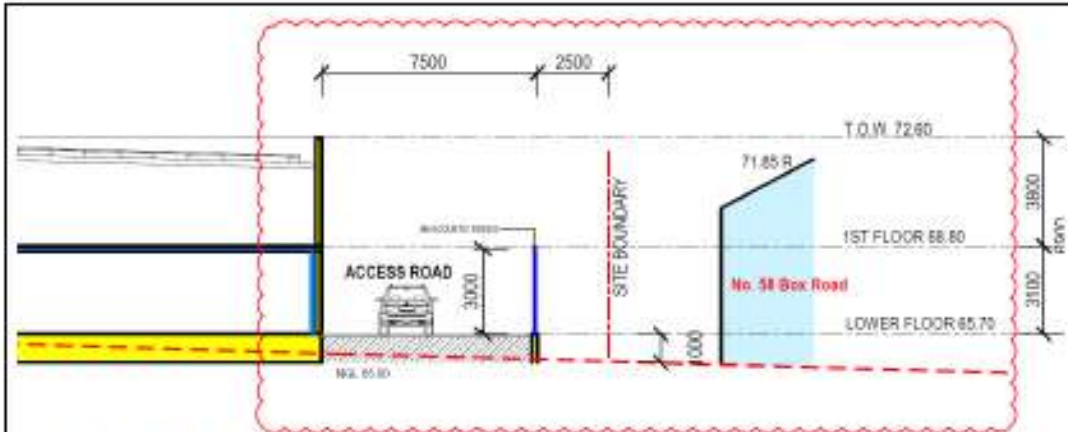


Figure 2: Section Plan (Harding Architects, 2019)

While the proposal represents a departure from the FSR standard, this does not contribute to the bulk and scale of the building as the additional internal 'light weight' upper floor level may be removed in the future without any visual changes to the built form and subsequently result in a compliant FSR.

The properties at No. 56 - 60 Box Road (to the east of the Site) comprise two storey dwellings that are only likely to obtain outlook from the rear of the dwelling via the second floor windows across the Site. This is due to the likely obstruction created by the existing boundary fencing located along the eastern Side boundary. No. 62 Box Road comprises a single storey dwelling that is sited in close proximity to the rear boundary. As such, the outlook from the rear of the dwelling would be obstructed by the existing boundary fencing located along the eastern boundary of the Site.

As aforementioned, the proposal will comprise a generous setback (between 10m and 11.57m) from the eastern side boundary behind landscaping and vehicular access paving. Additionally, No. 56 – 62 Box Road will have a separation distance of approximately between 12.5m to 15m from the eastern façade of the proposed development. Notwithstanding, the proposal will comprise a comparative building height with the existing dwellings located along Box Road which is of appropriate bulk and scale and is conducive to the built form of the adjoining residential dwellings.

In consideration of the above, whilst increasing the setback of the development from the eastern side boundary will result in an overall reduction in GFA, it will not result in any measurable benefit in respect of visual amenity to the rear of the neighbouring dwellings located along Box Road.

In light of the above, the proposed development is not considered to result adverse visual impact to neighbouring properties and has been designed to remain commensurate with surrounding development

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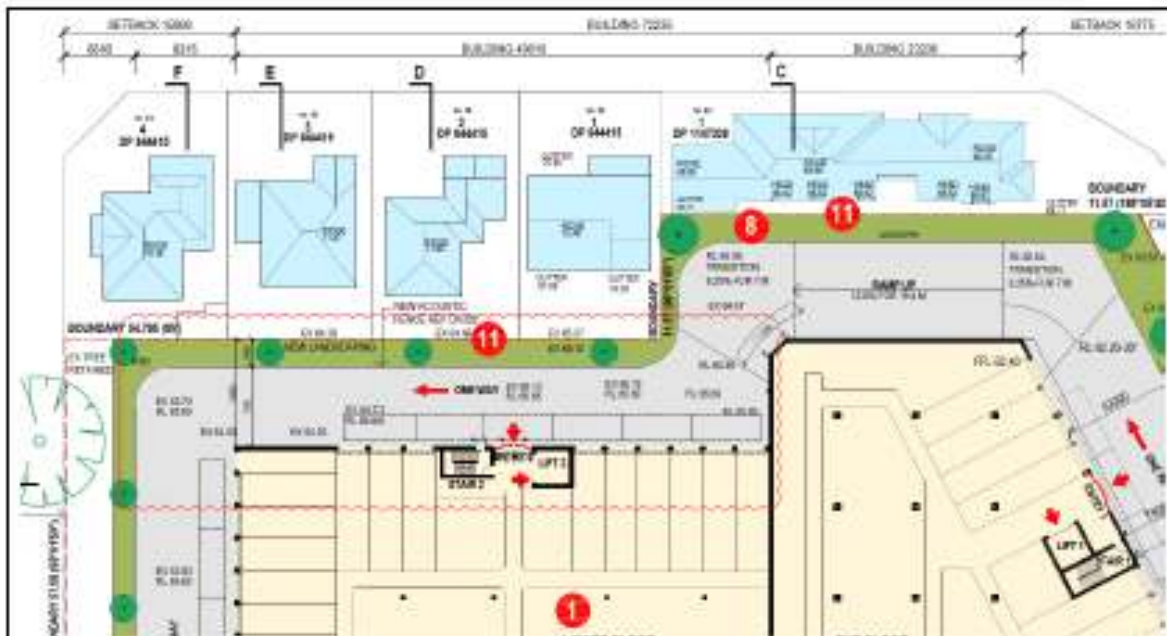


Figure 3: Proposed Site Plan (East) (Harding Architects, 2019)

Traffic

A supplementary traffic letter has been prepared by Varga Traffic Planning Pty Ltd and provided at **Appendix 2**. As noted in the letter, the proposed development is expected to generate 27 vehicle trips during the weekday morning and afternoon peak hour which includes 13 trips to the Site and 14 trips from the Site.

It is assumed that customers will be split evenly north/south/east/west, then of the 13 trips to the site, just 3-4 of them would be approaching from the east. Those 3-4 vehicles will have an absolutely negligible impact to the environmental capacity of Box Road, Wattle Road or York Street.

This letter has been prepared on behalf of Storcross Pty Ltd (the Applicant) in response to Council's additional information request on 11 May 2021.

Following review of Council's additional information request, the matters raised have been taken into consideration and are addressed accordingly in this response.

Council Comment: *The traffic response has failed to address the concern within point 1 of the RFI relating to FSR. It was requested that the traffic report be amended to address the traffic impacts in two scenarios. One scenario being an FSR compliant development at the site and the other with the proposed FSR variation. This is required so that Council can assess the impact of the additional FSR to the locality by way of vehicle movements and traffic impacts to the local street network.*

Response:

The current proposal with an increased FSR results in traffic generation rates of 27 trips in the AM and PM peaks and requirement of 13 car parking spaces (as shown in **Table 1**). A compliant FSR for a self storage premises with 5,600m² GFA would result in 18 trips in the AM and PM peaks and 10 car parking spaces. While

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the traffic generation and parking requirements would less, there is not a substantial difference in the trips generated in the peak hours that would cause considerable impacts to the surrounding uses.

Traffic generation and car parking rates for other permissible uses in the B6 Enterprise Corridor zone have been considered and tabled below (refer to **Table 1**).

Table 1 Permissible Use Comparison		
Use	Trip Generation	Parking
Self Storage premises – additional FSR (8,720sqm)	27 trips in AM and PM peaks	13 spaces
Self storage premises – compliant FSR (5,600sqm)	18 trips in AM and PM peaks	10 spaces
Commercial use (5,600sqm)	112 trips in AM and PM peaks	140 spaces
Hardware and building supplies (5,600sqm)	235 trips in AM and PM peaks	133 spaces
Light Industrial (5,600sqm) – (business park and industrial estates)	28 trips in AM and PM peaks	75 spaces

The proposed self-storage premises generates significantly less trips and requires less parking than other permissible uses in this zone. Even a very low impact industrial use would still generate on average one additional peak trip than the proposed self-storage development and require a larger number of parking spaces. It is considered that while the proposal exceeds the FSR on site, the overall impacts of the development are minimal in terms of traffic generation. The limited traffic generation of the proposal compared to other permissible uses on the site supports the Clause 4.6 variation request.

Furthermore, self storage is mainly used for personal storage with up to 93% of storers indicating personal use with only 14% for business use (*State of the Industry Report 2020 – Self Storage Association of Australasia*). The method of transportation for customers moving in and out of storage is generally small commercial vans or small 3.5-tonne pantech trucks, followed by use of private vehicles for the duration of the stay. Truck movements of heavy rigid vehicles can occur, however the applicant has indicated that this is the exception rather than the norm. Other permissible uses would generate greater truck movements than the proposed GFA for self storage.

The location of the driveway near the Hume Highway on Ayshford Street has been designed in response to concerns raised by Transport for NSW. The location of the entry/exit minimises impacts on the surrounding local streets, as an alternative entry location further North along Ayshford Street would be in closer proximity to residential development. Wattle Road bounds the site to the North, and entry from this location would see a far greater impact on the local street network with vehicles using either Ayshford Street or Box Road. The proposed entry/ exit driveway has considered the surrounding locality and street network and is the most sympathetic outcome to the surrounding area.

REPORT ATTACHMENT 3 – CONDITIONS OF APPROVAL

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 must be carried out in accordance with the following approved plans/reports marked as follows, except where modified by the undermentioned conditions.

- (a) Architectural Plans; prepared by Harding Architects Pty Ltd; including the following:

Plan Name	Drawing Number	Revision	Date
Cover Sheet	1923 DA 000	B	NOV 2020
Cut & Fill Plan Proposed Site Excavation Plan	1923 DA 104	A	JUN 2020
Retaining Wall Sections	1923 DA 105	B	NOV 2020
Design Response Proposed Site Plan	1923 DA 200	D2	20.05.2021
Lower Floor Plan	1923 DA 201	D1	20.05.2021
First Floor Plan	1923 DA 202	C1	20.05.2021
Proposed Roof Plan	1923 DA 203	C	20.05.2021
Elevations	1923 DA 300	C	20.05.2021
Sections	1923 DA 301	B	12.11.2020
Acoustic Fence Details	1923 DA 302	B	12.11.2020
Site Details	1923 DA 303	B	12.11.2020
Signage	1923 DA 400	A	MAR 2020

- (b) Landscape Plans; prepared by Site Image Landscape Architects; Job No. SS20-4341; including the following;

Plan Name	Drawing Number	Issue	Date
Landscape Coversheet	000	D	12.05.2021
Landscape Plan	101	D	12.05.2021
Landscape Details	501	C	13.11.2020

- (c) Plan of Consolidation of Lots 8-11 Sec E DP2373, Lots 1-3 DP784736 and Lots 1-4 DP784738; prepared by LandPartners Pty Ltd; Reference No. SY074898.000.2; Survey Date 17/06/2020;
- (d) Waste Management Plan; prepared by Loka Consulting Engineers Pty Ltd; Job No. 20NL027-WMP2; dated 21 May 2020;
- (e) Operations Management Plan; submitted to Council on 30 November 2020;
- (f) Revised Traffic and Parking Assessment Report; Reference No. 19370; prepared by Varga Traffic Planning Pty Ltd; dated 1 July 2021;
- (g) Acoustic Assessment; prepared by Blackett Acoustics; Report No. BA191109; Version A; dated December 2019;

- (h) Re: 653-661 Hume Highway Casula – Response to Submission by Liverpool City Council; prepared by Blackett Acoustics; Project No. BA191109A; dated 26 November 2020;
- (i) Arboricultural Assessment Report; prepared by TreeTalk Arboricultural Consulting; Project No. 5314/A; dated February 2020;
- (j) Detailed Site Investigation, Ayshford Street, Casula, NSW; Report No. E25050.E02_Rev0; prepared by EI Australia Pty Ltd; dated 25 March 2021;
- (k) Geotechnical Investigation; prepared by JK Geotechnics; Reference No. 33165SCrpt; dated 12 June 2020;
- (l) BCA Assessment Report; prepared by Concise Certification; Project No. 200193; Revision 01; dated 18 June 2020; and
- (m) Essential Services Report; prepared by Marline Building Services Engineers; Project No. MN11622; Revision 1; dated 26 May 2020.

Transport for NSW Concurrence

- 2. All comments provided by Transport for NSW in their correspondence dated 6 May 2021, shall be complied with prior, during, and at the completion of construction. A copy of these comments are attached to this decision notice in Attachment No.3.

Endeavour Energy Comments

- 3. All comments provided by in their correspondence provided to Council on 27 April 2021, shall be complied with prior, during, and at the completion of construction. A copy of these comments are attached to this decision notice in Attachment No.4.

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.

Comply with EP&A Act

- 5. 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.

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.

Site Development Work

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

Prescribed Condition

-
7. 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).

Fee Payments

8. 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.

9. 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.

SECTION 7.11 PAYMENT (Liverpool Contributions Plan 2009)

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

The total contribution is **\$279,494** and will be adjusted at the time of payment in accordance with the contributions plan.

50% of the total amount is **\$139,747** and is to be paid prior to the release of any CC (amount to be adjusted at the time of payment in accordance with the contribution plan).

A breakdown of the contributions payable is provided in the attached payment form.

The Contributions Plan may be inspected online at www.liverpool.nsw.gov.au

Payment must be accompanied by the attached form (Attachment 2).

Note: In response to the Covid-19 Pandemic, Council is providing for deferred payment options, for applications lodged or approved between 16 April 2020 and 31 December 2020. A deferral of 50% of the total contribution amount to be paid prior to any Occupation Certificate.

Provision of Services

11. 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.

12. 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
13. 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:
 - 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.

14. The relocation of the power pole on the site is to be carried out at the full cost of the developer. The power pole is to also be located wholly within the development site.

Disability 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.

Fire Safety – 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

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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.

Products banned under the Building Products (Safety) Act 2017

17. 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

18. 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.

Construction Environmental Management Plan (CEMP)

19. Prior to issue of a construction certificate, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Principal Certifying Authority for approval. The environmental site management measures must remain in place and be maintained throughout the period of the development. The CEMP must address all environmental aspects of the development's construction phases, and include (where relevant), but not be limited to, the following:
- (a) Asbestos Management Plan;
 - (b) Project Contact Information;
 - (c) Site Security Details;
 - (d) Timing and Sequencing Information;
 - (e) Site Soil and Water Management Plan;
 - (f) Noise and Vibration Control Plan;
 - (g) Dust Control Plan;
 - (h) Air Monitoring;
 - (i) Odour Control Plan;
 - (j) Health and Safety Plan;
 - (k) Waste Management Plan;
 - (l) Incident management Contingency; and
 - (m) Unexpected Finds Protocol.

The CEMP must be kept on site for the duration of the works and must be made available to Council Officers upon request.

Construction Noise, Vibration Assessment and Management Plan

20. A site-specific Construction Noise, Vibration Assessment and Management Plan prepared by a suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate. The Construction Noise, Vibration Assessment and Management Plan must include an

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assessment of expected noise impacts and detail feasible work practices to be adopted to avoid, remedy or mitigate construction noise and vibration impacts.

The Construction Noise, Vibration Assessment and Management Plan shall be consistent with the 'Interim Construction Noise Guideline' published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009 and include, but not necessarily be limited to the following information:

- Identification of nearby residences and other noise sensitive land uses;
- Assessment of expected noise impacts;
- Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts;
- Strategies to promptly deal with and address noise complaints;
- Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment);
- Methods for receiving and responding to complaints about construction noise;
- Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts; and
- Reference to relevant licence and consent conditions.

The Construction Noise, Vibration Assessment and Management Plan must be made available for inspection when requested by the PCA or Liverpool City Council.

Retaining Walls

21. 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 – Works in the public road

22. 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.

S138 Roads Act – roadworks requiring approval of civil drawings

23. 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 road works within Ayshford Street & Wattle 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.

24. Connection of the proposed new pavement construction within both Wattle Road and Ayshford Street must be keyed into existing full depth pavement and the final AC layer must be placed in a continuous straight line to the satisfaction of the Council. Details must be included with any application for a Section 138 permit (RR).

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.

Stormwater Concept Plan

26. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by TONKIN, reference number 20200172, revision C dated 28.05.2020.

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.

Water Quality

27. Prior to the issue of the relevant Construction Certificate, the Certifying Authority shall ensure that details of a stormwater pre-treatment system have been provided on the

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stormwater plans and that the design meets pollutant retention criteria in accordance Council's Development Control Plan.

The relevant Construction Certificate must be supported by:

- (a) Specification & installation details of the stormwater pre-treatment system
- (b) 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 relevant Construction Certificate issue.

Dilapidation report

- 28. A dilapidation report of all infrastructure fronting the development in Hume Highway, Wattle Road and Ayshford Street is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath/shared paths, services and street trees and is to extend 10m either side of the development.

Dilapidation Report Private Property (Excavations)

- 29. 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.

Access, Car Parking and Manoeuvring

- 30. 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.

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Traffic

31. Detailed design plan for the proposed car parking, driveway, turning head, footpath, line markings and sign posting prepared in accordance with the DCP and AS2890 should be submitted for review. The proposed turning head at the end of Ayshford Street needs to comply with Australian Standards requirements for heavy rigid vehicle (HRV).
32. A construction traffic management plan (CTMP) prepared by an accredited practitioner is to be submitted to Council's Traffic and Transport Section for endorsement. The CTMP is to outline the need for a Road Occupancy Permit issued by Council or Road Occupancy Permit issued by the Transport Management Centre.
33. Works within the road reserve shall not commence until the construction traffic management plan has been endorsed.

Driveway/Services – Location

34. Driveways entry points must be located clear of all utility services. It is recommended that discussion be held with the relevant authorities before construction works commence. Council does not accept any responsibility towards these services.

Recommendations of Acoustic Report

35. The recommendations provided in the approved acoustic reports titled Acoustic Assessment; prepared by Blackett Acoustics; Report No. BA191109; Version A; dated December 2019; and Re: 653-661 Hume Highway Casula – Response to Submission by Liverpool City Council; prepared by Blackett Acoustics; Project No. BA191109A; dated 26 November 2020 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.

Crime Prevention through Environmental Design

36. The following Crime Prevention through Environmental Design (CPTED) principles are to be incorporated into the building:
 - (a) back to base alarm system,
 - (b) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building. All CCTV cameras are not to be directed at residential properties,

- (c) 'way finding' signage should be utilised at all major interchanges such as lifts and stair wells,
- (d) 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 in a way that shall not unreasonably impact on any adjoining premises. The lighting should be vandal resistant, especially external lighting. The PCA must be satisfied that external lighting will not impact unreasonably on neighbouring residential properties and lights can be operated on a timer basis to reduce light spill into the surrounding locality,
- (e) glazed tiling, patterned, porous and non-solid surfaces reduce the reward for graffiti offenders, and
- (f) any external approved palisade or pool style fencing shall be black in colour, unless otherwise noted on the approved plans/details.

Where necessary, plans shall be amended to reflect incorporation of the principles and/or details of such to be submitted to the PCA.

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

- 37. 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 certificates

- 38. 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 6.6 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 certifier must be appointed to carry out the necessary building inspections and to issue an occupation certificate; and
 - (e) The principal certifier 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.

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39. Detailed Civil engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act, and a copy registered with Council.
40. Detailed engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.141A of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
41. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

Notification/Principal Certifying Authority

42. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.18 of the Act.
43. The PCA must advise Council of the intended date to commence work which is the subject of the consent, by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum notice period of two (2) working days must be given.
44. 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.
45. 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.

Sydney Water

46. The approved development must be approved through the 'Sydney Water Tap in' service to determine whether the development will affect any Sydney Water infrastructure and if any requirements need to be met. Please refer to the website www.sydneywater.com.au for more information.

Site Notice Board

47. A sign must be erected in a prominent position on the premises on which work, including the approved removal of trees/vegetation from the site, is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
 - (a) The name, address and telephone number of the Principal Certifying Authority for

- the work; and
- (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Unauthorised entry to the premises is prohibited.

Site Facilities

48. 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.

“DIAL BEFORE YOU DIG”

49. 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.

Toilet Facilities

50. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
- (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

Erosion and Sediment Control Measures

51. Prior to commencement of works including the approved removal of trees/vegetation from the site, 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

52. The developer shall seek road occupancy, road opening permits, and works zone approval from Council if required prior to 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.
53. 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.

Arboricultural Impact Assessment

54. All recommendations of the approved Arboricultural Assessment Report; prepared by TreeTalk Arboricultural Consulting; Project No. 5314/A; dated February 2020 that are required to be implemented prior to works commencing shall be carried out to the satisfaction of the PCA.

Waste Classification and Disposal of Contaminated Soil and Material

55. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and certified consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, in particular the NSW EPA Waste Classification Guidelines, prior to off-site disposal.

All Waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to the Principal Certifying Authority within 30 days of the waste being disposed of.

All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

D. DURING CONSTRUCTION

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

Hours of Demolition Work and Deliveries

56. Demolition work and the approved removal of trees/vegetation from the site, 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.

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Building Work

57. 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.
58. 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 proceeding to the subsequent stages of construction or finalisation of the works.
59. 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.

60. 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.
61. 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) 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 practicing structural engineer.
62. 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 or road reserve area, a separate Road Occupancy Certificate and/or Hoarding approval must be obtained from Liverpool City Council prior to undertaking the works.
63. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

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64. 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.

Site Remediation Works

65. The site must be remediated in accordance with;
- a) Detailed Site Investigation, Ayshford Street, Casula, NSW; Report No. E25050.E02_Rev0; prepared by EI Australia Pty Ltd; dated 25 March 2021;
 - b) *State Environmental planning Policy No. 55 – Remediation of Land*;
 - c) National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and
 - d) The guidelines in force under the *Contaminated Land Management Act 1997*.

The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation works in accordance with the approved Remedial Action Plan.

Council must be informed in writing of any proposed variation to the remediation works. Council must approve these variations in writing prior to commencement/recommencement of works.

Contamination

66. 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).
67. 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

68. 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.

Unidentified Contamination

69. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation 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.

Construction Environmental Management Plan (CEMP)

70. The CEMP requirements must remain in place, adhered to and be maintained throughout the period of the development.

Removal of Dangerous and/or Hazardous Waste

71. 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.

Arboricultural Impact Assessment

72. All recommendations of the approved Arboricultural Assessment Report; prepared by TreeTalk Arboricultural Consulting; Project No. 5314/A; dated February 2020 that are required to be implemented during works shall be carried out to the satisfaction of the PCA. This includes, but is not limited to, the works being supervised by an appropriately qualified site Arborist.

Environmental Controls

73. Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.
74. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
75. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
76. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.

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77. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways it shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.
78. 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.
79. 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.
80. No known environmental or noxious weeds or known invasive plant species shall be included in any landscaping/revegetation.
81. 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.
82. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
83. 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.

Air Quality

84. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
85. 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 Principal Certifying Authority may direct that such work is not to proceed.
86. 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.
87. Measures must be implemented to prevent tracking of sediment by vehicles onto roads.
88. Vehicle loads must be covered when entering and exiting the site with material.

Drainage Connection

89. 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 Fill / Earthworks

90. 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

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

Street Lighting

91. 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.

Glass Reflectivity

92. The Reflectivity index of glass used in the external facade of the building is not to exceed 20%.

Aboriginal Heritage

93. All relevant on-site staff and contractors should be made aware of their statutory obligations for heritage under NSW National Parks and Wildlife Act 1974 and the NSW Heritage Act 1977. They are to be informed of what the potential heritage on the site will be and its significance. The site supervisor is to maintain a record of who has completed the heritage induction and this is to be provided to Council prior to Issue of Occupation Certificate.
94. As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

95. In the event that skeletal remains are uncovered, work must cease immediately in that area and the area secured. NSW Police must be contacted and no further action taken until written advice has been provided by the NSW Police. If the remains are determined to be of Aboriginal origin, the Office of Environment and Heritage must be notified by ringing the Enviroline 131 555 and a management plan prior to works re-commencing must be developed in consultation with relevant Aboriginal stakeholders.

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Waste Management Plan

96. 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.

Waste

97. All solid and liquid waste is to be removed from the site by a registered waste contractor.
98. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
99. All solid waste stored on site is to be covered at all times.
100. All demolition, excavation and construction wastes must be separated as they are generated and kept in separate spoil piles, bays, builder's site bins and/or skips.
101. All lightweight or granular demolition, excavation or construction waste, e.g. wrapping, packaging materials, bags, insulation, sand, soil etc., must be kept fully enclosed at all times to prevent it from becoming displaced by the wind in strong wind conditions or from washing into sewers, storm drains or creeks, or onto adjacent properties or public land during wet weather.

Water Quality

102. 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

103. 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 water pollution.
104. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

Ventilation

105. To ensure that adequate provision is made for ventilation of the building, the design, construction, installation and commissioning of the mechanical ventilation systems(s) shall be carried out in accordance with Australian Standard 1668 Parts 1 & 2.
106. The mechanical exhaust discharge point shall be designed and installed by an appropriately qualified person and shall be positioned to comply with AS 1668 Part 2, Section 3.7.

Stockpiles

107. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water, must be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

Construction Noise and Vibration

108. Noise and vibration associated with excavation, demolition and construction activities shall comply with the management levels detailed within the 'Interim Construction Noise Guideline' published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009 and acceptable vibration values prescribed within the Environmental Noise Management Assessing Vibration: A Technical Guideline (Department of Environment and Conservation, 2006).
109. All feasible and reasonable noise and vibration mitigation measures shall be implemented and any activities which may exceed the construction noise management levels and vibration criteria shall be identified and managed in accordance with the approved Construction Noise, Vibration Assessment and Management Plan.

Traffic Management

110. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RMS Traffic Control at Worksites Manual and the RMS Guide to Signs and Markings.
111. If a works zone is required, an application must be made to Council's Traffic and Transport 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.
112. Notice must be given to Council's Traffic and Transport 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.
113. 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.
114. The endorsed Construction Traffic Management Plan is to be implemented during the construction.

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 Certifying Authority:

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Land Consolidation

115. Prior to the issue of any occupation certificate, the proposed plan of consolidation must be registered with NSW Land Registry Services.

Certification

116. 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.
117. 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.
118. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.
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 the 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 conduits to accommodate the future connection of optic fibre technology telecommunications

120. 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*.
121. 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.

Section 7.11 Payment

122. Prior to the issue of any occupation certificate all outstanding section 7.11 contributions must be paid as required by Condition 10 of this consent. Evidence is to be provided to the satisfaction of the relevant certifying authority that all outstanding contributions have been paid to Council.

Liverpool City Council Clearance – Roads Act / Local Government Act

123. 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

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Government Act approval have been inspected and signed off by Liverpool City Council.

Validation Report

124. Prior to issue of the occupation certificate a detailed Validation report must be submitted to Council and the Principal Certifying Authority. The Report must be prepared in accordance with:
- a) *NSW Contaminated Land Planning Guidelines (1998)*;
 - b) Relevant EPA guidelines. In particular the *Contaminated Land Guidelines – Consultants Reporting on Contaminated Land (NSW EPA 2020)*; and
 - c) *National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013)*.

The Validation Report must be prepared or reviewed and approved by a suitably qualified and experienced contaminated land consultant.

The report's cover or title page of the document shall include a personalised electronic seal for either the CEnvP(SC) or CPSS CSAM scheme.

The Validation report must verify that the land is suitable for the purposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the approved Remedial Action Plan.

Note: 'Suitably qualified and experienced contaminated land consultant' means someone who is certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) Scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) Scheme.

Mechanical Ventilation Certification

125. Upon completion of works and prior to the issue of an Interim or Final Occupation Certificate, a Mechanical Ventilation Certificate of Completion and Performance prepared by a professional engineer or other suitably qualified person shall be submitted to the Principal Certifying Authority (PCA) for their review and approval. The certification shall be accompanied by details of the tests carried out in relation to ventilation and acoustics and confirm that the systems comply with the approved plans, specifications, Building Code of Australia and Australian Standard AS 1668 Parts 1 and 2.

Works as Executed – General

126. 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 copies 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.

Dilapidation Report

127. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer prior to Issue of Occupation Certificate.

Rectification Works

128. Prior to the issue of the 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 Ayshford Street and Wattle Road will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

Stormwater Compliance

129. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the on-site detention system/s and stormwater pre-treatment system/s;
- (a) Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent,
 - (b) Have met the design intent with regard to any construction variations to the approved design, and,
 - (c) 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

130. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the following shall be registered on the title of the property:
- (a) On-site detention system/s; and
 - (b) Stormwater pre-treatment system/s;

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.

Restriction as to User

131. Prior to the issue of any occupation certificate, a restriction as to user over the proposed consolidated site is to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

The removable lightweight storage racking system making up the first floor of the proposed self-storage premises, approved under DA-532/2020, is to only remain within the proposed building as long as the use is for the purpose of a self-storage facility. Any change of use on the site will require a Development Application to be lodged with Liverpool City Council, which is likely to require the removal of the

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lightweight storage racking system which makes up the first floor of the premises.

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

Note: The final wording of the recital of the Restriction as to User is to be to Council's satisfaction.

Maintenance Bond

132. A maintenance bond in the form of a bank guarantee or cash bond, shall be lodged with Council. 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's acceptance of final works.

The value of the bond shall be determined in accordance with Liverpool City Council's Bond Policy. The bond will be administered in accordance with this policy.

Recommendations of Acoustic Report

133. Upon completion of works and prior to the issue of any 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 reports titled Acoustic Assessment; prepared by Blackett Acoustics; Report No. BA191109; Version A; dated December 2019; and Re: 653-661 Hume Highway Casula – Response to Submission by Liverpool City Council; prepared by Blackett Acoustics; Project No. BA191109A; dated 26 November 2020 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 qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Street Numbers

134. Street numbers must be prominently displayed at the front of the development in a contrasting colour to the building materials. The number should be a minimum height of 120mm and be visible at night.

Landscaping

135. 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

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the approved landscape plan. The report is to be prepared by a suitably qualified person.

Arboricultural Assessment

136. The PCA shall ensure that all recommendations of the approved Arboricultural Assessment Report; prepared by TreeTalk Arboricultural Consulting; Project No. 5314/A; dated February 2020 have been satisfactorily completed.

Traffic

137. All roadworks and signposting is to be completed to Liverpool Council requirements, at no expense to Liverpool Council or Roads and Maritime Services.
138. Prior to the issue of an Occupation Certificate and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Liverpool City Council and approved by the Local Traffic Committee.

Note: Allow eight (8) weeks for approval by the Local Traffic Committee.

Footpaths

139. All concrete paths and kerb and gutter shall be constructed in accordance with Council's standard specifications.

F. CONDITIONS RELATING TO USE

Car Parking/Loading

140. A total of six formal (6) car parking spaces, inclusive of one (1) accessible space as well as 22 informal parking spaces, shall be provided onsite at all times. All parking areas shown on the approved plans must be used solely for this purpose.
141. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve. 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.
142. Driveways and car parking spaces must not be used for manufacture, storage or display of goods, materials or equipment. The spaces must be available at all times for all vehicles associated with the development.

Hours of Operation for Self-Storage Premises

143. The hours of operation of the premises are to be as follows:
- Monday to Friday – 9am to 6pm
 - Saturday – 9am to 5pm
 - Sunday – 9am to 3pm
 - Access Hours for existing customers via security pin code entry to the facility - 6am to 9pm

Council's Assets

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144. Council's on-street assets should be protected at all times. Any damages shall be rectified to Council satisfaction.

Waste Management

145. The tenants of the completed development must engage and keep engaged at all times while they are carrying on commercial operations, the services of a private waste contractor(s), to provide all aspects of waste removal for the business.
146. All waste bins must be collected and emptied within the private property, waste bins must not be placed on, or emptied from, the road or the kerbside.
147. All drainage points within 20 metres of a location where waste bins are to be collected must be fitted with a fine grade drain cover, to prevent the entry of gross pollutants into the drainage system.
148. If at any time during the operation of the development, the volumes of waste generated by the tenancy exceeds the capacity of the bins provided to accommodate those wastes, then either the size of the bins or the frequency of waste collection must be increased accordingly.

Advertising

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

Illumination of Signage

150. The proposed signage is to be constructed and erected in accordance with Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting.
151. The illumination of signage must not cause unnecessary glare so as not to impact upon the amenity of the occupants of adjoining and nearby residencies and the safety of the adjoining roadways, motorists and pedestrians.

Lighting & Security

152. Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282 1997 so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.
153. Lighting and CCTV security cameras are to face away from residential properties in the locality.

Noise

154. 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 minute)) that exceeds the L_{A90} (15 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.

155. Any alarm installed on the site is to be "silent back to base" type.

Unreasonable Noise and Vibration

156. The proposed use of the premises and/or machinery equipment installed must not give rise to offensive noise so as to interfere with the amenity of the neighbouring properties.

Should an offensive noise complaint be received and verified by Council, an acoustic assessment is to be undertaken by a suitably qualified acoustic consultant and an acoustic report is to be submitted to Council for review. Any noise attenuation recommendations approved by Council must be implemented.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses Australian Acoustical Society membership or are employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Complaints Handling Register

157. A Complaints Handling Register shall be prepared and maintained for the operation of the development. The Complaints Register must be kept by the occupier, person carrying on the activity or other suitable staff members and include the following:

- 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 in response to the complaint, including any follow-up contact with the complainant;
- f) if no action was taken in relation to the complaint, the reason(s) why no action was taken; and

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g) allocate an individual “complaint number” to each complaint received.

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

Landscaping

158. 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.

159. Appropriate unobstructed access is to be provided for the landscaped areas between the driveways and the property boundaries in order to carry out inspection and maintenance works.

Storage of Hazardous or Dangerous Goods

160. The storage of dangerous or hazardous goods within the self-storage units is not permitted, unless prior approval is sought from Liverpool City Council. This is to be clearly stated within the lease agreement between the operator and the leaseholder of the storage unit.

G. ADVISORY

- a) Section 8.2, 8.3, 8.4 & 8.5 allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- b) Under Section 8.7 & 8.10 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.
- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.

- e) In accordance with Sections 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.
- f) 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.
- 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.

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- 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.

ATTACHMENT 2 – SECTION 7.11 PAYMENT FORM

CONTRIBUTIONS PURSUANT TO SECTION 7.11 OF THE
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
Liverpool Contributions Plan 2009

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 CPI Quarter and will be adjusted at the time of payment in accordance with the conditions of consent.

APPLICATION NO: DA-532/2020

PROPOSAL: The construction of a part two-storey and part three-storey self storage facility with consolidation of all existing lots into one lot and associated civil works, landscaping and signage.

<u>Facilities</u>	<u>Amount (\$)</u>	<u>Job No.</u>
Central Library Extensions	\$0	GL.10000001870.10112
Powerhouse	\$0	GL.10000001870.10114

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Whitlam Centre Extensions	\$0	GL.10000001869.10110
District Community Facilities - Land	\$0	GL.10000001870.10070
District Community Facilities - Works	\$0	GL.10000001870.10070
Local Community Facilities - Works	\$0	GL.10000001870.10065
District Recreation - Land	\$0	GL.10000001869.10064
District Recreation - Works	\$0	GL.10000001869.10064
Local Recreation - Land	\$0	GL.10000001869.10063
Local Recreation - Works	\$0	GL.10000001869.10063
District Transport Facilities - Land	\$0	GL.10000001865.10055
District Transport Facilities - Works	\$0	GL.10000001865.10055
Local Transport Facilities		
East of Bernera Road - Land	\$0	GL.10000001865.10057
East of Bernera Road - Works	\$0	GL.10000001865.10057
District Drainage - Land	\$114,198	GL.10000001866.10042
District Drainage - Works	\$16,320	GL.10000001866.10042
Local Trunk Drainage		
Prestons Central - Land	\$68,466	GL.10000001866.10045
Prestons Central - Works	\$57,054	GL.10000001866.10045
Streetscape - Land	\$10,146	GL.10000001871.10074
Streetscape - Works	\$2,413	GL.10000001871.10074
Administration	\$5,747	GL.10000001872.10073
Professional and Legal Fees	\$5,148	GL.10000001872.10072
TOTAL	\$279,494	

-----OFFICE USE ONLY -----

RECORD OF PAYMENT

Total Amount paid: _____

Date: _____

Receipt No.: _____ Cashier: _____

ATTACHMENT 3 – TRANSPORT FOR NSW CONCURRENCE



Transport
for NSW

8 May 2021

TfNSW Reference: SYD20/00939/04
Council Reference: CNR-11077 - DA-532/2020

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

Attention: **Robert Micallef**

AMENDED PLANS FOR SELF STORAGE FACILITY - 653 HUME HIGHWAY CASULA

Dear Sir/Madam,

Reference is made to Council's correspondence dated 27 April 2021, regarding the abovementioned Application which was referred to Transport for NSW (TfNSW) for comment in accordance with *State Environmental Planning Policy (Infrastructure) 2007*.

TfNSW has reviewed the submitted information and notes that the amended driveway plans (Drawing no. 1923 DA 200 DA dated 19 April 2021) provide a vehicular access that is at least 20m from the Hume Highway intersection. TfNSW does not raise any objections to this application, subject to Council's approval and the following requirements being included in any consent:

1. Transport for NSW has previously acquired a strip of land for road along the Hume Highway frontage of the subject property, as shown by blue colour on the attached Aerial – "X". The subject property is also affected by a road proposal as shown by pink colour on the attached Aerial – "X" and defined by DP 243545. Any new building or structures, together with any improvements integral to the future use of the site, are erected clear of the land required for road (unlimited in height or depth).
2. 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. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
3. All vehicles are to be wholly contained on site before being required to stop.
4. All demolition and construction 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 the Hume Highway.

Transport for NSW
27 Argyle Street, Parramatta NSW 2150 | Locked Bag 5085, Parramatta NSW 2124
P (02) 8649 2666 | W transport.nsw.gov.au | ABN 18 804 239 602

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5. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on the Hume Highway during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
6. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site via the proposed vehicle crossing simultaneously, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

If you have any further questions, Mr. Felix Liu would be pleased to take your call on 8849 2113 or email development.sydney@rms.nsw.gov.au. I hope this has been of assistance.

Yours sincerely,



Malgy Coman
Senior Land Use Planner

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Chief Executive Officer
Liverpool City Council

27 April 2021

ATTENTION: Robert Micallef

Dear Sir or Madam

I refer to the referral of 27 April 2021 from NSW Planning, Industry & Environment regarding NSW Government concurrence and referral request CNR-11077 for Liverpool City Council Development Application DA-532/2020 at 653, 659 AND 661 HUME HIGHWAY, 8-10 AND 12-14 WATTLE ROAD, CASULA 2170 (Lots Pt. 4, 8, 9, 10 & 11 Sec E DP 2373, Lots 1, 2 & 3 DP 784736, Lots 2 & 3 DP 784736) for 'The construction of a three storey self storage facility with consolidation of all existing lots into one lot'. Submissions need to be made to Council by 18 May 2021.

As shown in the below site plans from Endeavour Energy's G/Net master facility model (and extracts from Google Maps Street View) there are:

- No easements benefitting Endeavour Energy (active easements are indicated by red hatching).
- Low voltage overhead power lines and a pole to the north western corner of the site between the Wattle Road and Ayshford Street road frontages which are not held under easement.
- 11,000 volt / 11 kilovolt (kV) high voltage underground cables to the Wattle Road road verge / roadway.
- Low voltage overhead power lines for streetlighting to the Hume Highway road verge / roadway.

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model. 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 customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the Electricity Supply Act 1995 (NSW).

In regard to the low voltage overhead power lines traversing the site which are not held under easement, these are protected assets and deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the Electricity Supply Act 1995 (NSW). Essentially this means the owner or occupier of the land cannot take any action in relation to the presence in, on or over the land of electricity works ie. the electricity infrastructure cannot be removed to rectify the encroachment. These protected assets are managed as if an easement is in place. Please refer to the below point 'Easement Management / Network Access'.

In accordance with Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights', as shown in the following extracts of Table 1 – 'Minimum easement widths', the low voltage overhead power lines require a 9 metre minimum easement width ie. 4.5 metres to both sides of the centre line of the poles / conductors.

51 Huntingwood Drive, Huntingwood, NSW 2148
PO Box 811, Seven Hills, NSW 1730
T: 133 718

endeavourenergy.com.au

ABN 11 247 365 823

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Table 1 - Minimum easement widths

	Voltage	Asset Type	Construction	Minimum Easement (m)
Overhead Assets	400V-22kV	Bare Construction	All	9
		ABC		
		CCT		

ABC = Aerial Bundled Cables CCT = Covered Conductor Thick

The applicant should note the following requirements of Endeavour Energy's 'Property Tenure Guidelines, Provision of Network Connection Services':

7.0 SUBDIVISIONS

Endeavour Energy will require the developer to create all necessary easements, restrictions, rights of access, and positive covenants.

The creation of property tenure is not required for any network asset located within a public road (unless it is a temporary road).

7.2 Urban property tenure requirements

Endeavour Energy will require the creation of property tenure for:

- all new transmission, high voltage and low voltage assets; and
- all existing transmission, high voltage and low voltage assets located within the developer's land.

Alternatively an asset relocation may be required – please refer to the below point 'Network Capacity / Connection'.

Subject to the satisfactory resolution of the foregoing and the following recommendations and comments, Endeavour Energy will have no further objection to the Development Application.

- **Network Capacity / Connection**

Endeavour Energy has noted that the Statement of Environmental Effects refers to APPENDIX 19 Essential Services Report. The report is not included in the documents available in the NSW Planning Portal or on the Council's eplanning portal on its website and has not been viewed by Endeavour Energy.

However as shown in the following extract of the Design Response Proposed Site Plan from the Amended Architectural Plans provision has been made for a substation to the south western corner of the site to Hume Highway and Ayshford Street road frontages.



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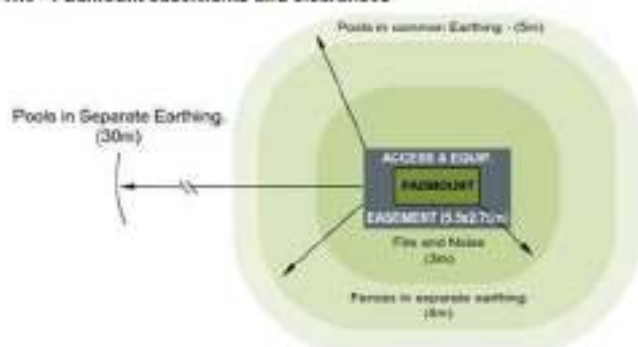
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From Endeavour Energy's perspective the fact that provision is being made for a padmount substation is a positive. Endeavour Energy's general requirements is for a padmount substation to be at ground level and have direct access from a public street (unless provided with appropriate easements for the associated underground cables and right of access).

As shown in the following extract of Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights', Figure A4.3 'Padmount easements and clearances', padmount substations require:

- o Easement with a minimum size of 2.75 x 5.5 metres (single transformer).
- o Restriction for fire rating which usually extends 3 metres horizontally from the base of the substation footing / plinth and 6 metres vertically from the same point.
- o Restriction for swimming pools which extends 5 metres from the easement (which in this instance being non-residential use may not be required).

A4.3 - Padmount easements and clearances



The easement should not cross property boundaries but the restriction/s may affect any adjoining property provided they are able to be registered on the title to that property. In addition the following matters also need to be considered in regard to the fire restriction:

- o Personnel access doors and fire exit doors to a building are not permitted within the fire restriction area.
- o Gas mains/pipes shall not pass through the fire restriction area.
- o A 10 metre clearance distance shall be maintained between substation and fire hydrants, booster valves, and the like in accordance with AS2419.1 'Fire hydrant installations System design, installation and commissioning' as updated from time to time.
- o Consideration should be provided to the appropriateness of the landscaping relative to the fire restriction for the substation. Any landscaping that potentially could transfer / provide connectivity for flame or radiant heat from a fire in the substation to a dwelling or building should be avoided.
- o The storage of and / or use of flammable, combustible, corrosive or explosive material within the fire restriction should be avoided.

As well as the capacity of distribution substations, other factors such as the size and rating / load on the conductors and voltage drop (which can affect the quality of supply particularly with long conductor runs) etc. need to be assessed. In this instance the 11 kV high voltage required to supply the padmount substation will need to be extended to the site.

In due course the applicant for the proposed development of the site will need to submit an appropriate application based on the maximum demand for electricity for connection of load via Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined. Straightforward applications can be completed online and permission to connect may be provided immediately if submitting a complying application.

Depending on the outcome of the assessment, any required padmount substation will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy. Please refer to Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'.

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For more complex connections, advice on the electricity infrastructure required to facilitate the proposed development (including asset relocations) can be obtained by submitting a Technical Review Request to Endeavour Energy's Network Connections Branch, the form for which FPJ6007 is attached. The response to these enquiries is based upon a desktop review of corporate information systems, and as such does not involve the engagement of various internal stakeholders in order to develop a 'Connection Offer'. It does provide details of preliminary connection requirements which can be considered by the applicant prior to lodging a formal application for connection of load.

Further details are available by contacting Endeavour Energy's Network Connections Branch via Head Office enquiries on business days from 9am - 4:30pm on telephone: 133 718 or (02) 9853 6666 or on Endeavour Energy's website under 'Home > Residential and business > Connecting to our network' via the following link:

<http://www.endeavourenergy.com.au/> .

Alternatively the applicant may need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development. The ASP scheme is administered by Energy NSW and details are available on their website via the following link or telephone 13 77 88:

<https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/asp-scheme-and-contestable-works> .

Endeavour Energy is urging applicants /customers to engage with an Electrical Consultant prior to finalising plans in order to assess and incorporate any required electricity infrastructure. In so doing the consideration can also be given to its impact on the other aspects of the proposed development. This can assist in avoiding the making of amendments to the plan or possibly the need to later seek modification of an approved development application.

- **Network Asset Design**

Endeavour Energy's Company Policy 9.2.5 'Network Asset Design', includes the following requirements for electricity connections to new urban subdivision / development.

5.11 Reticulation policy

5.11.1 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. Notwithstanding this strategy, bare wire overhead construction is appropriate and permitted in some situations as detailed 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 treed² 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 (NMSHVABC) must be used in areas which are heavily treed and where it is not practicable to maintain a tree clearing envelope around the conductors.

² A "treed" area is one with a substantial number of trees adjacent to the line, in each span. In these situations CCT is used to provide increased reliability as it is less susceptible to outages from wind-blown

5.11.1.1 Urban areas

Reticulation of new residential subdivisions will be underground. In areas of low bushfire consequence, new lines within existing overhead areas can be overhead, unless underground lines are cost justified or required by either 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 load 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 treed areas where CCT or NMSHVABC 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.

- **Earthing**

The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. It applies to all electrical installations including temporary builder's supply / connections.

Inadequate connection to the earth to allow a leaking / fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury. The earthing system is usually in the form of an earth electrode consisting of earth rods or mats buried in the ground. It should be designed by a suitably qualified electrical engineer / Accredited Service Provider (ASP) following a site-specific risk assessment having regard to the potential number of people could be simultaneously exposed, ground resistivity etc.

For details of the ASP scheme please refer to the above point 'Network Capacity / Connection'.

- **Prudent Avoidance**

The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise which generally increase the higher the voltage ie. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).

In practical terms this means that when designing new transmission and distribution facilities, consideration is given to reducing exposure and increasing separation distances to more sensitive uses such as residential or schools, pre-schools, day care centres or where potentially a greater number of people are regularly exposed for extended periods of time.

These emissions are usually not an issue but with Council's permitting or encouraging development with higher density, reduced setbacks and increased building heights, but as the electricity network operates 24/7/365 (all day, every day of the year), the level of exposure can increase.

Endeavour Energy believes that irrespective of the zoning or land use, applicants (and Council) should also adopt a policy of prudent avoidance by the siting of more sensitive uses eg. the office component of an industrial building, away from and less susceptible uses such as garages, non-habitable or rooms not regularly occupied eg. storage areas in a commercial building, towards any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Where development is proposed near electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development.

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Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at <https://www.energynetworks.com.au/electric-and-magnetic-fields> and provides the following advice:

Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.

The level of a magnetic field depends on the amount of the current (measured in amps), and decreases rapidly once we move away from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.

- **Vegetation Management**

The planting of large trees near electricity infrastructure is not supported by Endeavour Energy. Particularly for overhead power lines, ongoing vegetation management / tree trimming is a significant network cost and falling trees and branches during storms are a major cause of power outages.

Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Larger trees should be planted well away from electricity infrastructure (at least the same distance from overhead power lines as their potential full grown height) and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure may become a potential safety risk, cause of bush fire, restrict access, reduce light levels from streetlights or result in the interruption of supply. Such landscaping may be subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

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

Endeavour Energy has noted that as shown in the following extract of the revised Landscape Plans the proposed planting of a trees near the overhead power lines which is opposed by Endeavour Energy. The landscape designer will need to reconsider if the proposed plantings achieve the foregoing requirements.



Symbol	Botanic Name	Common Name	Metre Size (H x W) (M)	Pot size	Spacing	Quantity
Trees						
Or	Corymbia maculata	Spotted Gum	30 x 8	100L	As shown	8
Os	Callistemon salignus	Willow Bottle Brush	5 x 4	100L	As shown	8
Es	Eucalyptus gregersonii	Eucalyptus (Snow Gum)	5 x 3	75L	As Shown	8
Es	Eucalyptus polybractea	Blue-leaved mallee	5 x 5	75L	As Shown	8
W	Trichostema laevis 'Lambton'	Water Gum	8 x 5	75L	As shown	10
W	Trachymene striatocarpa	Woolly Ash	8 x 3	75L	As Shown	8

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- 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 and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Site Remediation

Endeavour Energy has noted that the Preliminary (Stage 1) Site Investigation does not appear to identify the electricity infrastructure on or in vicinity of the site which may become redundant assets as a result of the proposed development as potential areas of environmental concern (AEC) and associated contaminants of potential concern (COPC).

Endeavour Energy's Environmental Business Partner Team have advised that the remediation of soils or surfaces impacted by various forms of electricity infrastructure is not uncommon but is usually not significant eg. transformer oil associated with leaking substations, pole treatment chemicals at the base of timber poles etc. The method of remediation is generally the removal of the electricity infrastructure, removal of any stained surfaces or excavation of any contaminated soils and their disposal at a licensed land fill. The decommissioning and removal of the redundant electricity infrastructure will be dealt with by Endeavour Energy's Network Connections Branch as part of the application for the connection of load for the new development – please refer to the above point 'Network Capacity / Connection'.

If the applicant has any concerns over the remediation works related to redundant electricity infrastructure they should contact Environmental Business Partner Team via Head Office enquiries on business days from 9am - 4:30pm on telephone: 133 718 or (02) 9853 6666.

- Public Safety

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. Please find attached copies of Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw-homepage/communitynav/safety/safety+brochures>.

If the applicant has any concerns over the proposed works in proximity of the Endeavour Energy's electricity infrastructure to the road verge / roadway, as part of a public safety initiative Endeavour Energy has set up an email account that is accessible by a range of multiple stakeholders across the company in order to provide more effective lines of communication with the general public who may be undertaking construction activities in proximity of electricity infrastructure such as builders, construction industry workers etc. The email address is Construction.Works@endeavourenergy.com.au.

- Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours / 7 days. Endeavour Energy's contact details should be included in any relevant risk and safety management plan.

I appreciate that not all the foregoing issues may be directly relevant or significant to the Development Application eg. if the low voltage overhead power lines traversing the site are not relocated / undergrounded. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and / or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

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Please note that Endeavour Energy can only assess the development application based on the information provided by the applicant and Council. Due to time and resource constraints it is not possible to refer all development application notifications to the relevant internal stakeholders for review and advice or to request additional information from the applicant or Council. Applicants should be providing proper detailed plans of the electricity infrastructure / easements on or near the site and address the potential impacts of the proposed development thereon in the Statement of Environmental Effects. The provision of inadequate detail may result in Endeavour Energy objecting to the Development Application.

Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

With the current easing of the COVID-19 health risk, whilst a significant number of Endeavour Energy staff are returning to the office, they are at times still working from home. Although working from home, access to emails and other internal stakeholders can still be somewhat limited and as a result it may take longer than usual to respond to enquiries. Thank you for your ongoing understanding during this time.

Yours faithfully

Cornelis Duba

Development Application Specialist
Network Environment & Assessment

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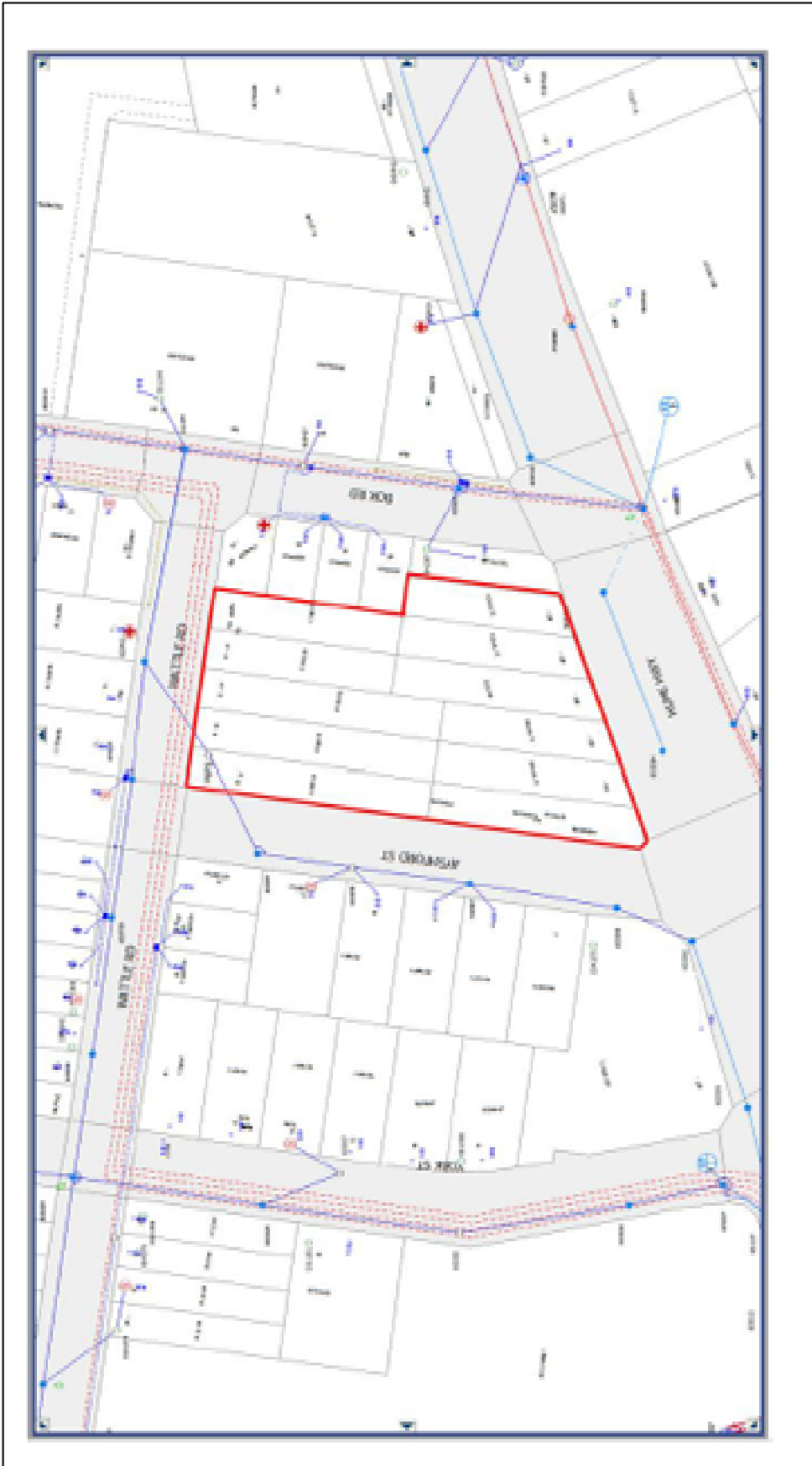
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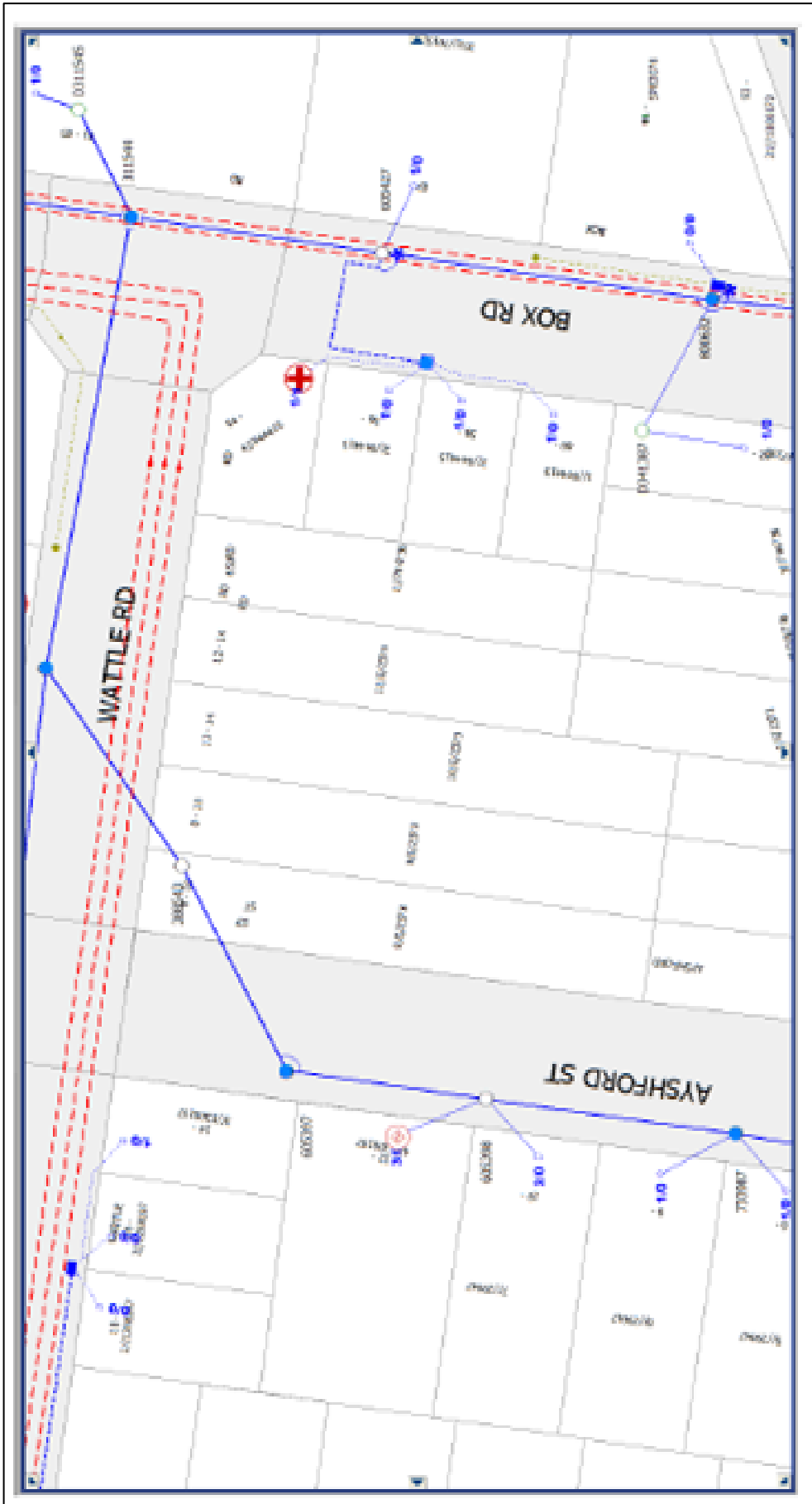
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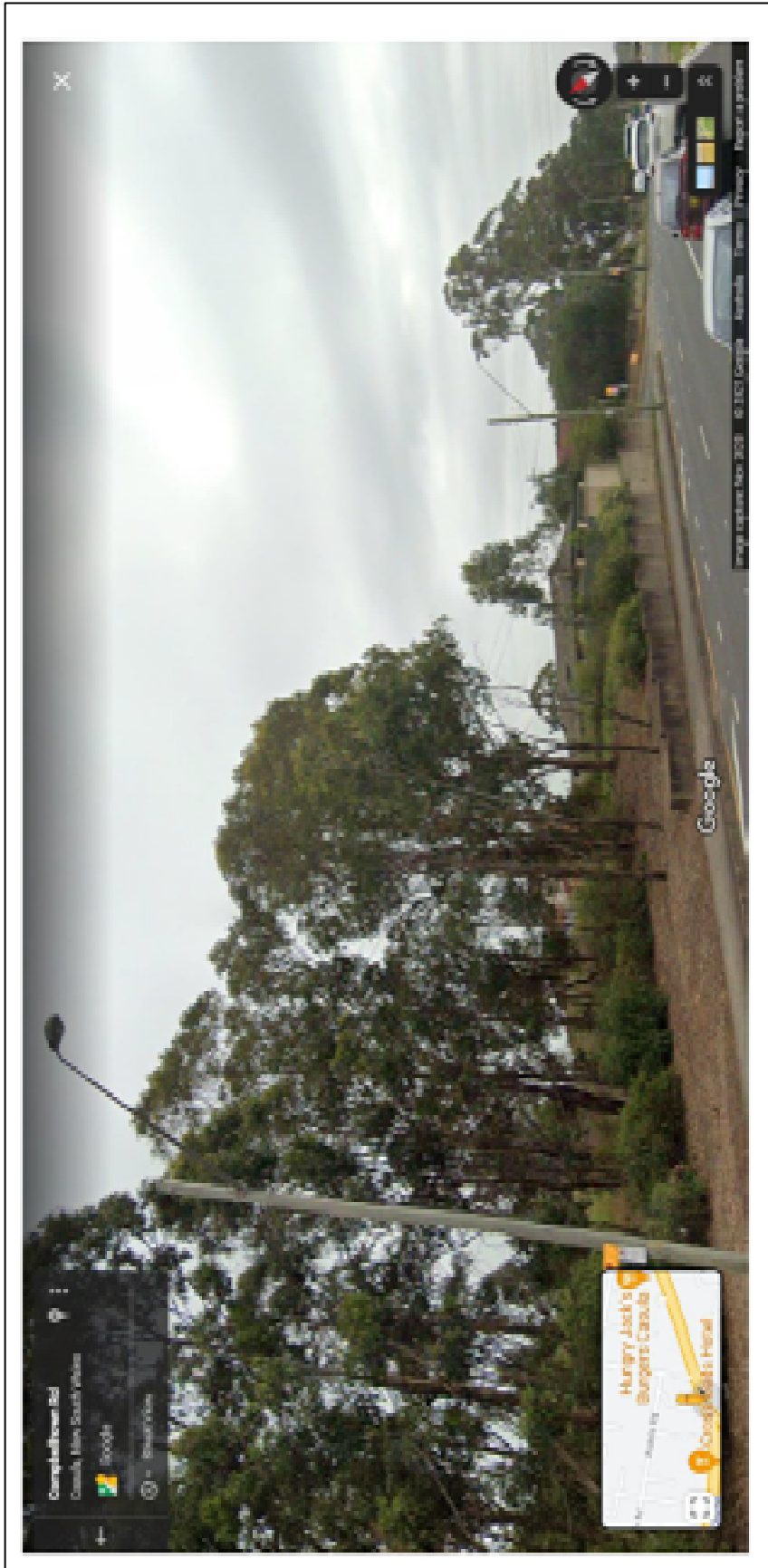
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Item no:	2
Application Number:	DA-215/2021
Proposed Development:	Demolition of existing structures, remediation, Torrens Title subdivision to create twelve (12) residential lots, associated road construction and civil works over two (2) stages. The application is identified as Integrated Development pursuant to the Rural Fires Act 1997 requiring General Terms of Approval from the NSW Rural Fire Service.
Property Address	22 Eighteenth Avenue, Austral
Legal Description:	Lot 2, DP 512264
Zoning	R2 Low Density Residential under Appendix 8 of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006
Applicant:	SIMPLIFYDE GROUP PTY LTD
Cost of Works:	\$500,000.00
Recommendation:	Approve subject to conditions of consent
Assessing Officer:	Mairead Hawes – The Planning Hub - Consultant Town Planner

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA) seeking consent for demolition of existing structures, site remediation, Torrens Title subdivision to create 12 residential lots, associated road construction and civil works at 22 Eighteenth Avenue, Austral. The application is also identified as Integrated Development pursuant to the Rural Fires Act 1997 required General Terms of Approval from the NSW Rural Fire Service.

The development site is legally described as Lot 2 DP 512264 and is known as 22 Eighteenth Avenue, Austral.

The site is zoned R2 Low Density Residential pursuant to Appendix 8 of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The proposed residential subdivision and associated works is permissible with consent in the R2 zone. The application is also compliant with the applicable planning provisions and is consistent with the objectives and future desired character of the low density residential zone.

The development application was placed on public notification from 21 April 2021 to 6 May 2021. No submissions were received during the public notification period.

The key issues associated with the proposal relate to:

- Compliance with the minimum lot frontage control of the Liverpool Growth Centres Development Control Plan (DCP);
- Remediation of Contaminated Land; and
- Vehicular Access.

The application proposes a minor variation to the minimum lot frontage control of 9m in the Liverpool Growth Centres DCP with all lots proposing a frontage of 8.94m. An assessment of the proposed minor variation to the minimum lot frontage control has been undertaken and is deemed to be reasonable based on the following:

- The minor variation allows for the provision of four additional lots that achieve the minimum residential density target of the area and are considered appropriate in the context of the surrounding area;
- The lots have been designed to integrate with the adjoining approvals and will deliver an appropriate residential neighbourhood consistent with the desired future character of the area within Austral; and
- Building Envelope Plans have been provided that demonstrate that the lots can accommodate suitable dwellings despite the minor variation that will provide for the housing needs of the existing and future community of Austral in an appropriate low density residential environment; and
- The minor variation will not result in any adverse impacts on surrounding development.

The proposed development is reliant on the construction of the approved roads to the south (DA-558/2017), to the east (DA-114/2019) and to the west (DA-942/2019) for access. A condition has been included that details the proposed lots cannot be registered until such time the relevant roads are constructed and dedicated to Council.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements, as the development falls into the category of conflict of interest as the landowner is a current Councillor.

1.1 RECOMMENDATION

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 conditions detailed in this report.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is located at 22 Eighteenth Avenue, Austral and is legally identified as Lot 2 in DP 512264.

An aerial photograph of the subject site is provided in **Figure 1** below.

The site is rectangular in shape with the following site area and dimensions:

SITE AREA	4,028m ²
SITE WIDTH	Frontage to Eighteenth Avenue (North) = 26.82m
STRUCTURES ON SITE	The site currently contains a single storey brick dwelling, a carport and two associated outbuildings.

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Figure 1: Aerial view of the site (Source: Nearmap)

The site is relatively flat and with an overall fall of approximately 3.27m from the south-east corner of the site (RL80.31) to the north-west (RL77.04) as shown in **Figure 2** below.

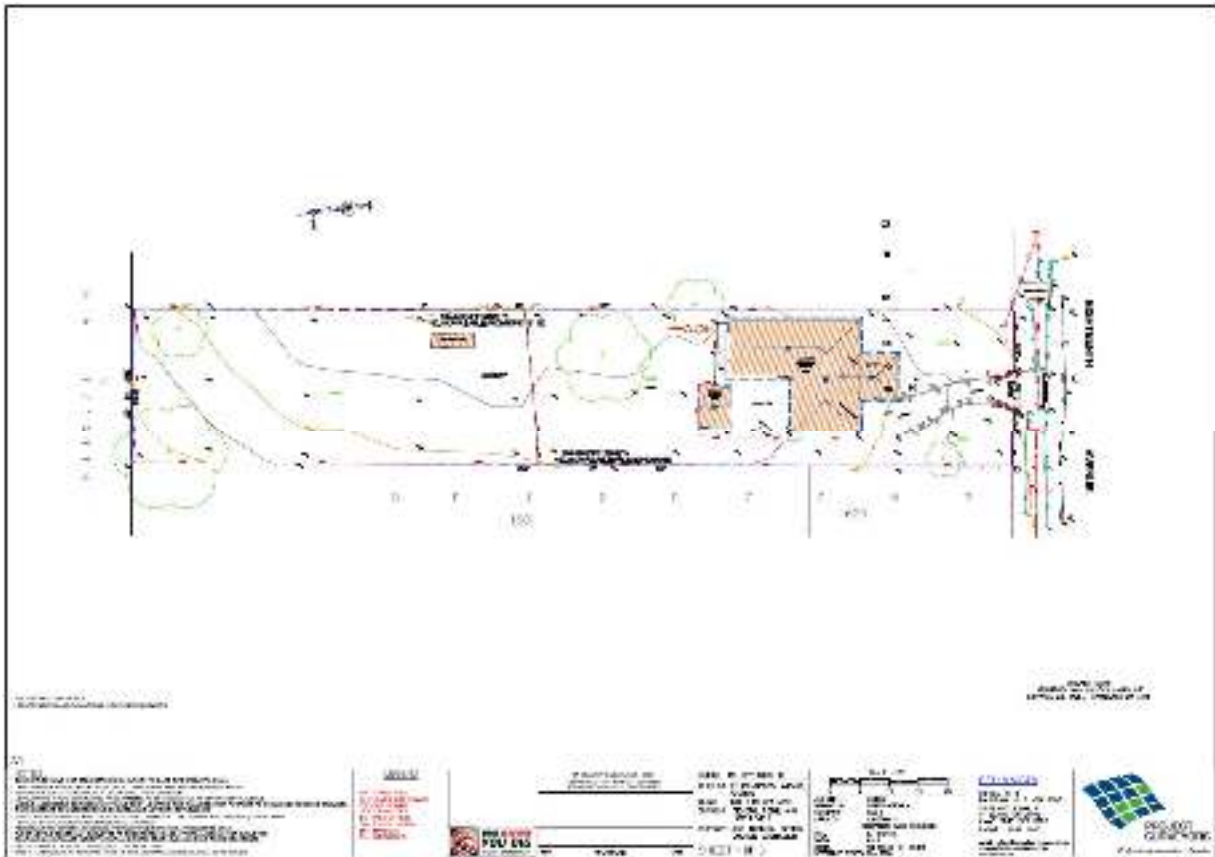


Figure 2: Site Survey (Source: Project Surveyors)

The primary frontage of the site is Eighteenth Avenue, which is identified as a local road.

The subject site is largely cleared of any vegetation or trees as depicted in **Figure 1** above.

The site is identified as medium to high saline risk, moderate to high potential for archaeological (aboriginal) sensitivity, and bushfire prone land.

2.2 The Locality

The area characterised by newly development low density residential development and is within the established rural residential area of Austral as indicated in **Figure 3**.

The adjoining properties to the development site are detailed in the following table.

ORIENTATION	DESCRIPTION OF SITE
North (front)	Rural residential properties across Eighteenth Avenue.
South (rear)	The neighbouring property on the Southern boundary has an approved application (DA-558/2017) for ‘Subdivision into fifty-two (52) Torrens title lots and one residue lot, new roads, earthworks, tree removals and demolition of existing structures.’ On 10th July 2019, a Construction Certificate (CCE-20/2018) was approved for the site for ‘Road & Drainage works including earthworks, tree removals and demolition of existing structures.’

East (side)	The neighbouring property on the Eastern boundary (5 & 15 Twenty Eight Avenue, Austral) has an approved application (DA-114/2019) for the subdivision of one (1) lot into eleven (11) Torrens title residential allotments, and associated construction and civil works including demolition of existing structures and site remediation. The proposed development includes the construction of drainage infrastructure on the adjoining part Lot 1600 DP 1207053 within a registered easement.
West (side)	The neighbouring property on the Western boundary (30 Eighteenth Avenue, Austral) has an approved application (DA-942/2019) for the demolition of existing structures, dam-dewatering, site remediation, road construction, civil works and the Torrens title subdivision of two (2) lots into forty-four (44) residential lots over two (2) stages.



Figure 3: Locality view (Source: Nearmap)

The site is located in the South West Growth Centre Precinct of Austral. The subject site is identified as low density residential land in the Indicative Layout Plan, extract provided in **Figure 4**.



Figure 4: Indicative Layout Plan (Source: Growth Centres DCP, Schedule 1)

3. BACKGROUND/HISTORY

- The subject DA was lodged with Council on 2 March 2021.
- The development application was placed on public notification from 21 April 2021 to 6 May 2021. No submissions were received during the public notification period.
- Additional information was requested from the Applicant on 16 June 2021.
- A response to Council's request for addition information was received on 1 July 2021.

4. DETAILS OF THE PROPOSAL

The application seeks development consent for the demolition of existing structures, Torrens Title subdivision to create 12 residential lots, associated road construction, remediation of contaminated lands and civil works at 22 Eighteenth Avenue, Austral.

The development is proposed to be staged as follows:

Stage 1

- Demolition of the existing outbuilding and removal of three trees on the southern portion of the site.
- Earthworks to accommodate 6 proposed lots on the southern portion of the site comprising:
 - Lot 7 – with an area of 296.8m²;
 - Lot 8 – with an area of 296.7m²;
 - Lot 9 – with an area of 296.7m²;
 - Lot 10 – with an area of 296.8m²;
 - Lot 11 – with an area of 296.8m²;
 - Lot 12 – with an area of 296.8m².
- Construction of the section of the local road running west to east through the site.

Stage 2

- Demolition of single storey brick dwelling, attached carport and barbecue area and removal of two trees on the northern portion of the site.
- Earthworks to accommodate 6 proposed lots on the northern portion of the site comprising:
 - Lot 1 – with an area of 302.9m²;
 - Lot 2 – with an area of 302.9m²;
 - Lot 3 – with an area of 302.9m²;
 - Lot 4 – with an area of 302.9m²;
 - Lot 5 – with an area of 302.9m²;
 - Lot 6 – with an area of 302.9m².
- Half width reconstruction of Eighteenth Avenue to the north of the site.

The proposed development is reliant on the construction of the approved roads to the south (DA-558/2017), to the east (DA-114/2019) and to the west (DA-942/2019) for access. A condition has been included that details the proposed lots cannot be registered until such time the relevant roads are constructed and dedicated to Council.

An extract of the proposed subdivision layout is provided below:

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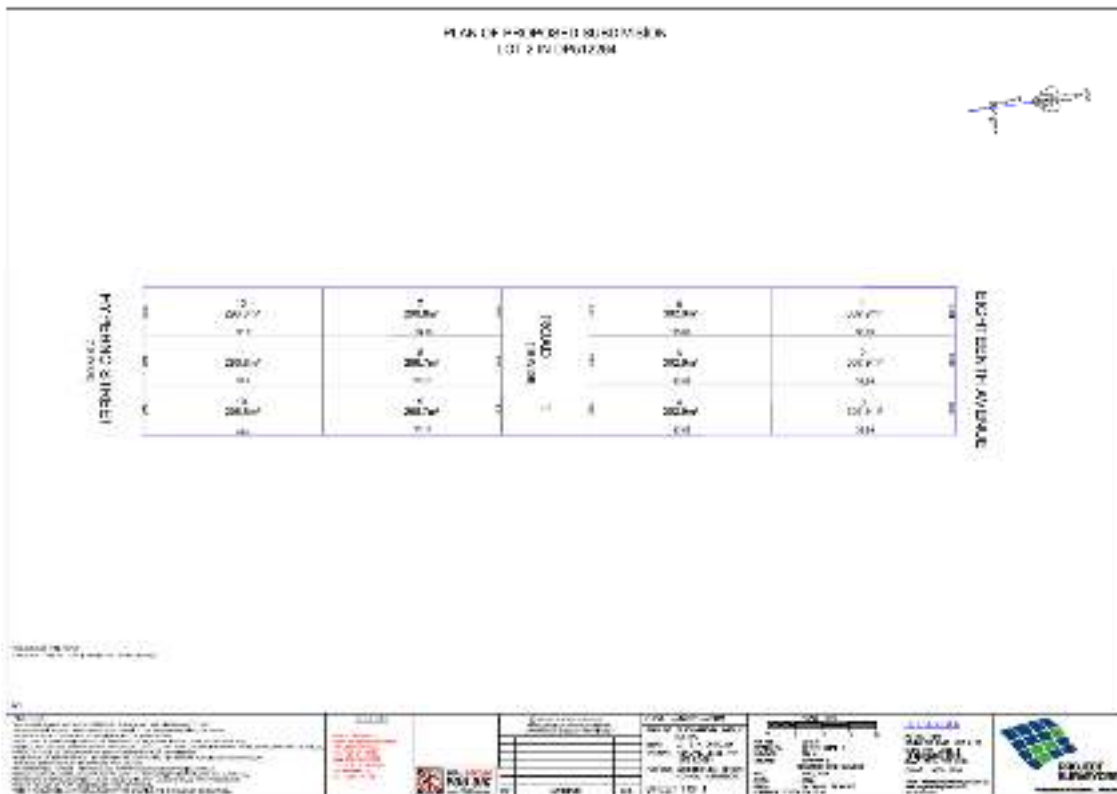


Figure 5: Proposed Subdivision Layout (Source: Project Surveyors)

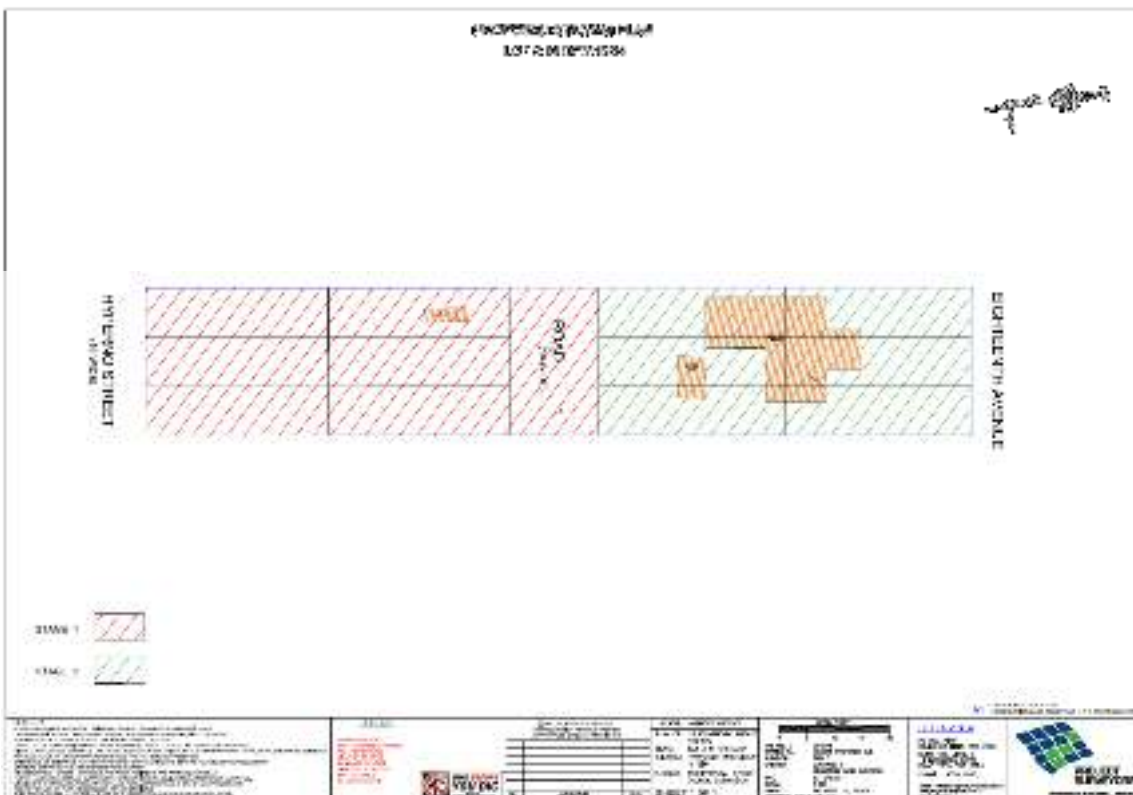


Figure 6: Proposed Staging Plan (Source: Project Surveyors)

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 (Sydney Region Growth Centres) 2006;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (No. 2 - 1997) (Deemed SEPP); and
- Liverpool Growth Centre Precincts Development Control Plan (DCP) 2013.

Other Plans

- Liverpool Community Participation Plan 2019.
- Section 7.11 Contributions will apply in accordance with the Liverpool Contributions Plan 2014 Austral and Leppington North.

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, as follows:

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

(a) State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Pursuant to Clause 7 of the Growth Centres SEPP, the development site is subject to the controls located in Appendix 8 of the SEPP being the Liverpool Growth Centre Precincts Plan, 2013. The Precinct Plan prevails to the extent of any inconsistencies with any other environmental planning instrument, including the Liverpool Local Environmental Plan, 2008. The Precinct Plan contains the principal development standards as detailed below:

(i) Zoning

The subject site is zoned R2 Low Density Residential under the provisions of Appendix 8 of the Growth Centres SEPP.

An extract of the zoning map is provided in **Figure 7** below.

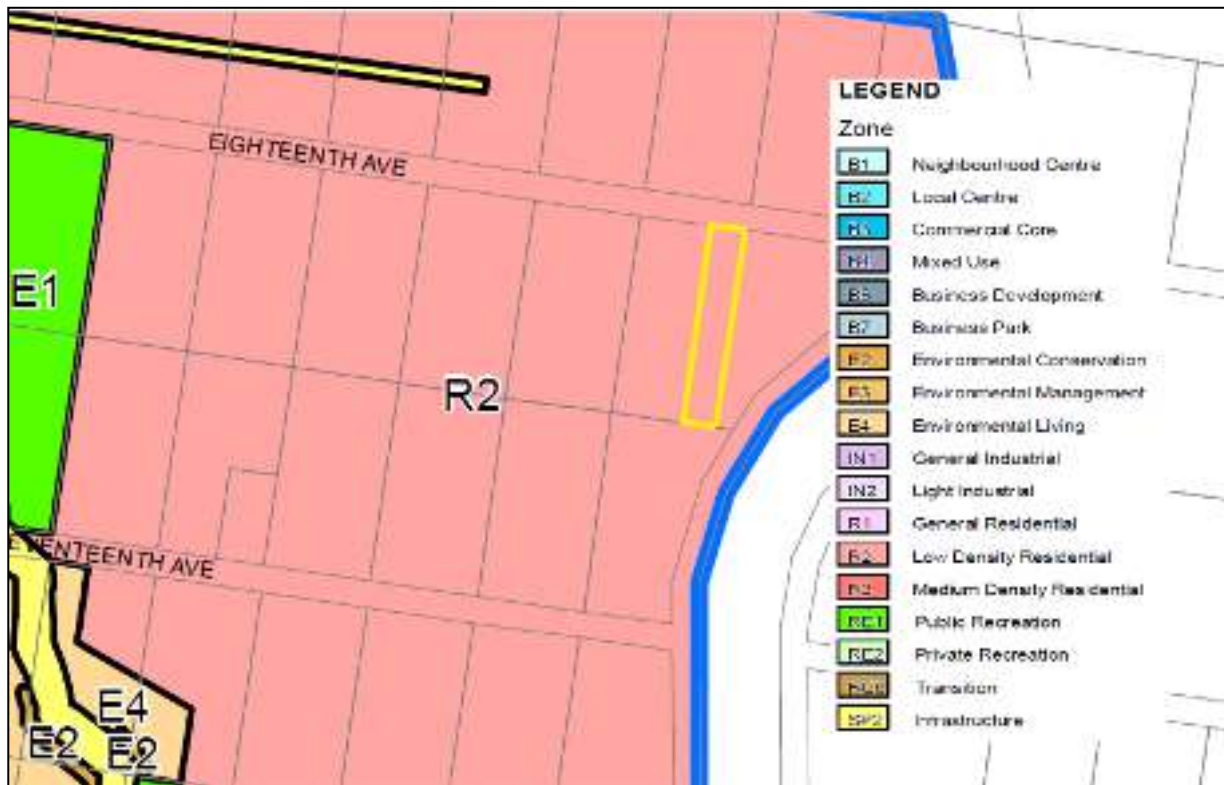


Figure 7: Zoning Map (source: NSW Legislation)

(ii) Permissibility

The proposed development is defined as residential subdivision which is permitted with consent in the R2 Low Density Residential zone under the provisions of Appendix 8 of the Growth Centres SEPP.

(iv) Objectives of the zone

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

- a) To provide for the housing needs of the community within a low density residential environment.
- b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- c) To allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours.
- d) To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a low density residential environment.

The proposal is considered to be consistent with the objectives of the zone in that it will provide residential lots that will provide for the housing needs of the community in an appropriate low density residential environment envisaged for the area.

(v) Principal Development Standards

The application has also been considered against the relevant provisions and principal development standards of Appendix 8 of the Growth Centres SEPP, which are listed in the

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table below.

Development Provision	Requirement	Proposed	Complies
Part 4 Principal Development Standards			
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	The application seeks approval for the demolition of the existing dwelling and associated structures.	Yes
4.1AA Subdivision resulting in lots between 225–300m ²	<p>(1) This clause applies to land in the following zones—</p> <p>(a) Zone R2 Low Density Residential,</p> <p>(b) Zone R3 Medium Density Residential.</p> <p>(2) Development consent maybe granted to the subdivision of land to which this clause applies resulting in the creation of a lot that has an area of less than 300m² (but not less than 225m²) if the consent authority is satisfied that the lot will contain a sufficient building envelope to enable the erection of a dwelling house on the lot.</p> <p>(3) This clause does not apply to a subdivision that is the subject of a development application under clause 4.1AD(2)(b), 4.1AE(2)(b) or 4.1AF.</p>	The applications seeks approval for Torrens title subdivision to create twelve (12) lots of which six (6) have an area between 225-300m ² . Building Envelope Plans have been provided for the proposed lots that demonstrate compliance with the applicable controls of the SEPP and the Liverpool Growth Centres Development Control Plan (DCP). An assessment of the Building Envelope Plans against the DCP is provided Attachment 2 of this report.	Yes
4.1AB Minimum lot sizes for residential development in Zone R2 Low Density Residential	The minimum lot size for a dwelling house is 300m ² if the dwelling density (per hectare) as shown on the Residential Density Map in relation to the and is 15.	The minimum lot size applicable to the site under Clause 4.1AB is 300m ² . Six (6) of the proposed lots comply with the minimum lot size of 300m ² with the	Yes

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		remaining six (6) proposed in accordance with Clause 4.1AA of the SEPP as above.	
4.1B Residential density	The site is subject to a dwelling density of 15 dwellings per hectare. On this basis, the “net developable area” of the site is 4,028m ² . Therefore, the minimum density requirement is equivalent to 6.04 dwellings.	The proposed development will provide 12 residential lots capable of accommodating detached dwellings and therefore satisfies the minimum residential density.	Yes
5.9 Preservation of trees or vegetation	The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.	The application seeks approval for the removal of five existing trees to accommodate the subdivision. The site is not mapped containing existing native vegetation or within a native vegetation protection area. Notwithstanding, the subject site is identified as ‘certified’ pursuant to the Sydney Region Growth Centres 2006 Biodiversity Certification Order. As such in accordance with Part 5 of the order a Flora and Fauna assessment is not required, and the trees are to be removed to accommodate the development.	Yes
6.1 Public Utility Infrastructure	Public utility infrastructure must be available.	Comments have been received from Endeavour Energy and Sydney Water, which confirm that arrangements will be made to make public utility infrastructure	Yes

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		available when required. The requirements of these utility providers will be made as conditions of consent of any approval.	
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(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.

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.*

The following documents were submitted for this development in relation to contamination of the land:

- Detailed Site Investigation, prepared by GeoEnviro Consultancy Pty Ltd, dated February 2021; and
- Remediation Action Plan (RAP) prepared by GeoEnviro Consultancy Pty Ltd, dated February 2021.

The reports were submitted to Council for review, and are supported subject to the implementation of preferred removal strategies for the unsuitable materials at the site as per conditions of consent in order to make the site suitable for residential purposes.

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	A Detailed Site Investigation, prepared by GeoEnviro Consultancy Pty Ltd, dated February 2021, was submitted with this application. The results of the investigation found that the site has contamination issues associated with buried rubbish and asbestos impacted topsoil/fill and fill. Three Areas of Environmental Concern were identified and it was recommended that a Remediation Action Plan be prepared outlining a remediation strategy to clean up the site to a suitable level for the proposed residential

	development.
(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	A Remediation Action Plan (RAP) prepared by GeoEnviro Consultancy Pty Ltd, dated February 2021, was submitted with this application. The RAP recommends that the site be remediated as outlined and once completed, it will be suitable for the proposed residential subdivision development.
(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.	Conditions of any consent shall require the remediation of the land as per recommendations in the included Remedial Action Plan. This report has been reviewed and is deemed to be acceptable by utilising a preferred method of site remediation.

The application proposes the staging of the demolition of the existing structures on the site across two stages. Based on the remediation required to accommodate the proposed residential subdivision, the staging of demolition is not considered to be appropriate and therefore an additional stage is proposed to be conditioned that includes the demolition of all existing structures and remediation of the site prior to the creation of the residential lots and civil works in the subsequent stages.

A condition reflecting the revised staging is provided in the recommended conditions of consent in **Attachment 3**.

Based on the above assessment and subject to the imposition of conditions addressing the recommendations in the Remediation Action plan, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55, and can be made suitable for the proposed residential use, subject to appropriate remediation methods.

(e) Greater Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River (No 2 –1997)

The subject land is located within the Hawkesbury Catchment and as such the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) applies to the application.

The Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) generally aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

When a consent authority determines a development application, planning principles are to be applied (Clause 4). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 5 and Clause 6), and compliance with such is provided below.

Clause 5 General Principles	Comment
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(a) the aims of this plan,	The plan aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.
(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy	The strategies are applied to this planning assessment in the table under Clause 6.
(c) whether there are any feasible alternatives to the development or other proposal concerned	The proposed subdivision, road construction, stormwater works and demolition are appropriate and no alternatives need be considered.
(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored	A Stormwater concept plan submitted and reviewed by Council's development engineers. Conditions of consent applied aim to improve the quality of expected stormwater discharge from the site.
Clause 6 Specific Planning Policies and Recommended Strategies	Comment
(1) Total catchment management	Environmental Planning consideration through SEPP (Sydney Region Growth Centre) 2006 has considered the impact of the residentially zoned land within the catchment.
(2) Environmentally sensitive areas	The site is not part of an Environmentally Sensitive area.
(3) Water quality	Council's land development engineers and floodplain engineers have provided conditions of consent aimed to maintain the quality of expected stormwater discharge from the site.
(4) Water quantity	Council's land development engineers and floodplain engineers have provided conditions of consent aimed to control the impact from the expected stormwater runoff and flow characteristics through the site, on downstream aquatic ecosystems.
(5) Cultural heritage	The site is not identified as being of or containing Aboriginal / cultural heritage.
(6) Flora and fauna	The site is identified as bio-certified and otherwise not containing threatened species of flora and fauna.
(7) Riverine scenic quality	Not applicable.
(8) Agriculture/aquaculture and fishing	Not applicable.
(9) Rural residential development	Not applicable.
(10) Urban development	The site has been rezoned to residential and the subdivision proposal provides variable lot sizes. Further, Council's Engineers have provided conditions for any consent, to manage erosion and sediment erosion and loss, and to improve the quality of expected stormwater discharge from the site.
(11) Recreation and tourism	Not applicable.

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(12) Metropolitan strategy	The proposal is consistent with the Metropolitan Strategy by contributing to greenfield development in the South West Growth Centre.
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It is considered that the proposal satisfies the provisions of the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997), subject to appropriate sedimentation and erosion controls being implemented during construction.

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

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

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

(a) Liverpool Growth Centres Development Control Plan

The application has been considered against the controls contained in the Liverpool Growth Centres DCP in particular:

- Part 2: Precinct Planning Outcomes;
- Part 3: Neighbourhood and Subdivision Design;
- Part 4: Residential Development; and
- Schedule 1: Austral and Leppington North Precincts

The development is found to be generally consistent with the key controls as detailed within the tables in **Attachment 2** of this report.

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

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 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.

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

Natural Environment

Impacts on the natural environment have been assessed as part of the development application. It was found that the proposal is unlikely to create a detrimental impact on the natural environment surrounding the subject site, or to any endangered and non-endangered species of flora and fauna, due to the Sydney Region Growth Centres 2006 Biodiversity Certification Order.

Council's Flood Engineer has reviewed the application and deemed it to be supportable subject to the inclusion of conditions of consent which are provided in **Attachment 3**.

In addition, application was referred to the NSW Rural Fire Service who issued their General Terms of Approval.

Built Environment

The proposed development is unlikely to create any adverse impacts on the surrounding built environment, subject to conditions of approval. The proposed development is considered to be of an appropriate scale and unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate residential development consistent with the desired future built character of the locality, and by following the ILP, will enable adjoining landowners to link up their sites in accordance with the road layout plan.

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.

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

The proposed development is generally considered to be suitable for the site. The development is generally compliant with the relevant provisions of the SEPP (Sydney Region Growth Centre) 2006 and Liverpool Growth Centre Precincts DCP 2014, and will facilitate the future residential development of the land consistent with the desired future built character of the locality.

The application proposes a minor variation to the minimum lot frontage control of 9m in the Liverpool Growth Centres DCP with all lots proposing a frontage of 8.94m. An assessment of the proposed minor variation to the minimum lot frontage control has been undertaken and is deemed to be reasonable based on the following:

- The minor variation allows for the provision of four additional lots that achieve the minimum residential density target of the area and are considered appropriate in the context of the surrounding area;
- The lots have been designed to integrate with the adjoining approvals and will deliver an appropriate residential neighbourhood consistent with the desired future character of the area within Austral; and
- Building Envelope Plans have been provided that demonstrate that the lots can accommodate suitable dwellings despite the minor variation that will provide for the housing needs of the existing and future community of Austral in an appropriate low density residential environment; and
- The minor variation will not result in any adverse impacts on surrounding development.

Therefore, the subject site is considered to be suitable for the proposed development.

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
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Heritage Officer	Approval subject to conditions of consent.
Development Engineer	Approval subject to conditions of consent.
Flood Engineer	Approval subject to conditions of consent.
Traffic	Approval subject to conditions of consent

(b) External Referrals

The following comments have been received from external Agencies:

DEPARTMENT	COMMENTS
Sydney Water	Approval, subject to Sydney Water requirements.
Endeavor Energy	Approval subject to Endeavour Energy requirements.
NSW Rural Fire Service	Approval subject to General Terms of Approval.
Jemena	No objections.

(c) Community Consultation

In accordance with Council's Notification Policy within the Liverpool Community Participation Plan 2019, the proposal was notified between 21 April 2021 and 6 May 2021. No submissions have been received with regards to the subject application.

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

Approval of the proposed development is considered to be in the public interest. The development is consistent with the objectives of the zonings and generally complies with the relevant provisions of the SEPP (Sydney Region Growth Centre) 2006 and Liverpool Growth Centre Precincts DCP.

7. Developer Contributions

Section 7.11 Contributions will be imposed in accordance with the Liverpool Contributions Plan 2014 Austral and Leppington North. The total contribution amount for this development would be \$330,000.

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 Growth Centres DCP, and the relevant codes and policies of Council.

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

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

8. RECOMMENDATION

That Development Application DA No 215/2021 seeking approval for the demolition of existing structures, site remediation, Torrens Title subdivision to create twelve (12) residential lots, associated road construction and civil works, be approved subject to conditions of

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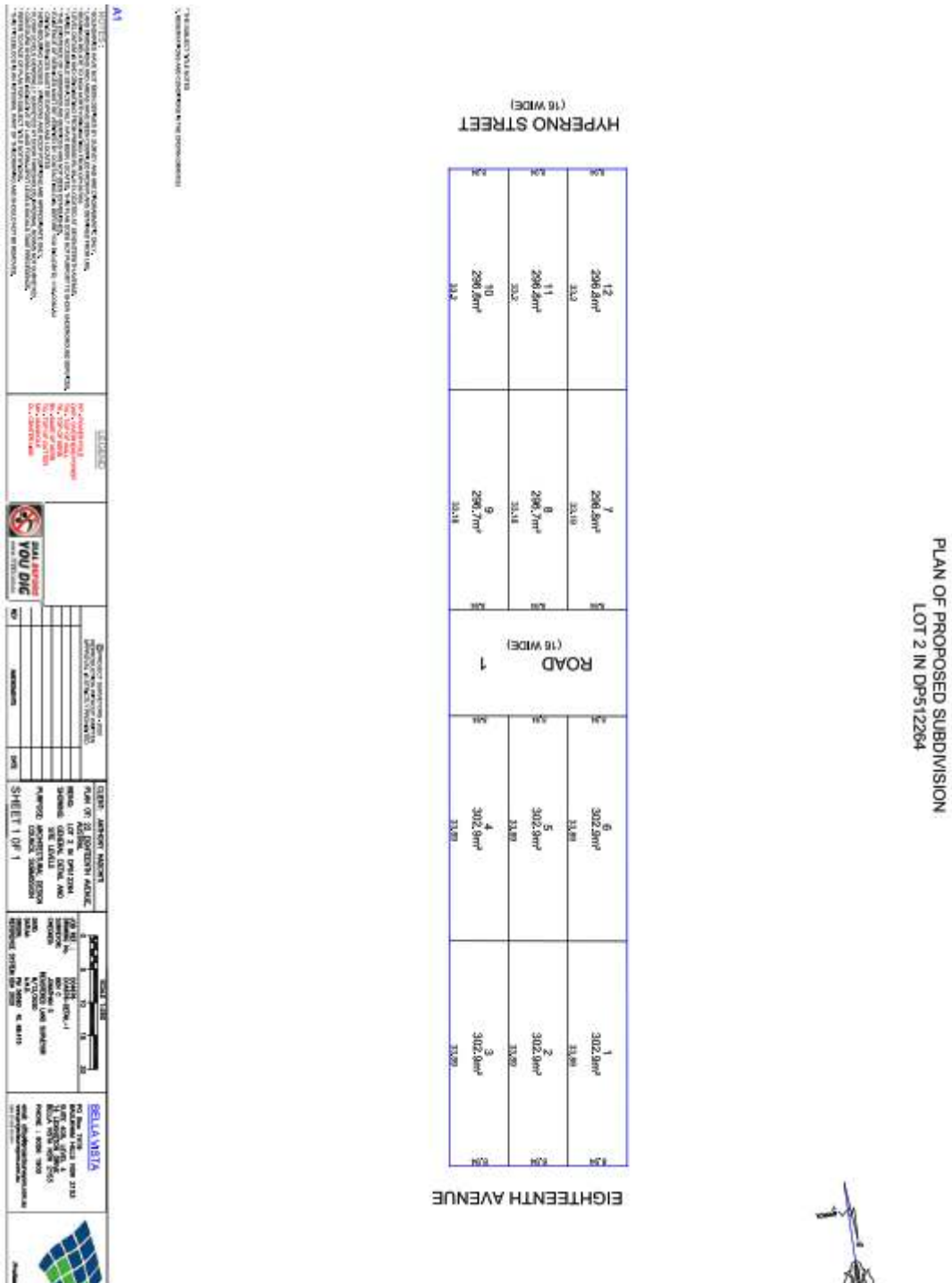
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consent.

9. ATTACHMENTS

1. PLANS OF THE PROPOSAL
2. LIVERPOOL GROWTH CENTRES DCP COMPLIANCE TABLE
3. RECOMMENDED CONDITIONS OF APPROVAL

ATTACHMENT 1: PLANS OF THE PROPOSAL



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ATTACHMENT 2 – LIVERPOOL GROWTH CENTRES DCP COMPLIANCE TABLE

Part 2 Precinct Planning Outcomes		
Development Control	Provision	Comment
2.2 The Indicative Layout Plan	All development applications are to be generally in accordance with the Indicative Layout Plan.	Complies. The proposed development has indicated a road layout consistent with the indicative layout plan and street network precinct outcomes, and as such does not affect the development of adjoining land.
	When assessing development applications, Council will consider the extent to which the proposed development is consistent with the	
	Any proposed variations to the general arrangement of the Indicative Layout Plan must be demonstrated by the applicant, to Council's satisfaction, to be consistent with the Precinct Planning Vision in the relevant Precinct schedule.	
2.3.1 Flooding	This section contains controls relating to development on flood prone land.	Complies by condition.
2.3.2 Water Cycle Management	This section contains controls relating to stormwater management.	Complies by condition. The application was accompanied by Stormwater Engineering Concept Plans. Council's Land Development Engineers have reviewed the proposed development and raised no issues subject to conditions.
2.3.3 Salinity and Soil Management	This section contains controls relating to salinity and soil management.	Complies by condition. The site is potentially affected by high to moderate saline soils. Salinity has been assessed and Council's Land Development Engineers have reviewed the proposed development and raised no issues subject to conditions.
2.3.4 Aboriginal and European Heritage	This section contains controls relating to the management of Aboriginal heritage values and to ensure areas identified as European cultural heritage sites or archaeological sites are managed.	Complies by condition. Council's Heritage Officer has reviewed the Aboriginal Due Diligence Assessment and considered it unlikely that the site contains any significant heritage. Due to the scope of works required for the subdivision, it is considered pertinent that conditions of consent apply to this DA to provide direction around the unlikely event that any

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		remains or artefacts are uncovered during works.
2.3.5 Native Vegetation and Ecology	This section contains controls relating to the conservation and rehabilitation of native vegetation.	Complies The subject site is identified as 'certified' pursuant to the Sydney Region Growth Centres 2006 Biodiversity Certification Order. As such in accordance with Part 5 of the order a Flora and Fauna assessment is not required.
2.3.6 Bushfire Hazard Management	This section contains controls relating to development on bushfire prone land.	Complies The site is identified as bushfire prone. The application has been referred to the NSW Rural Fire Service, who have provided General Terms of Approval (GTAs).
2.3.7 Site contamination	This section controls relating to development on potentially contaminated land.	Complies See SEPP 55 discussion in main report.
2.3.8 Development on and adjacent to electricity and gas easements	This section contains controls relating to development on and adjacent to electricity and gas easements.	Complies The site is located within the measurement length (impact zone) of the Jemena gas pipeline. The application was referred to Jemena, who have no objections.
2.3.9 Noise	This section contains controls relating to ensuring acoustic privacy is achieved for future residential development.	Complies The site is not located in an acoustic sensitive area. No further comments are required in this regard.
2.3.10 Odour Assessment	This section relates to land deemed by Council to be affected by an odour source.	N/A The proposal is not affected by any odours(i.e. poultry farms).
2.3.11 Air Quality	This section contains controls relating to preserving air quality in relation to industrial and/or employment development.	N/A The DA does not propose industrial or employment development.
2.4 Demolition	This section contains controls relating to demolition of buildings.	Complies Demolition is deemed to be acceptable for the proposal, subject to conditions including the introduction of an additional stage that requires the demolition of all existing structures and remediation of the site prior to the creation of the residential lots and associated civil works in the subsequent stages.
2.6 Earthworks	This section contains controls relating to earthworks.	Complies This aspect has been reviewed by Council's Land Development Engineers, who have raised no

		issues to the earthworks, subject to conditions.
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Part 3 Neighbourhood and Subdivision Design		
Development Control	Provision	Comment
3.1.1 Residential Density	All applications for residential subdivision and the construction of residential buildings are to demonstrate that the proposal meets the minimum residential density requirements of the relevant Precinct Plan and contributes to meeting the overall dwelling target in the relevant Precinct.	<p>Complies The site is subject to a dwelling density of 15 dwellings per hectare.</p> <p>On this basis, the “net developable area” of the site is 4,028m². Therefore, the minimum density requirement is equivalent to 6.04 dwellings.</p> <p>The proposed development will provide 12 residential lots capable of accommodating detached dwellings.</p>
	Residential development is to be generally consistent with the residential structure as set out in the Residential Structure Figure in the relevant Precinct Schedule, the typical characteristics of the corresponding Density Band in Table 3-1.	<p>Complies The subdivision will facilitate development for detached dwellings, which is a typical development within the 15 dwelling/ha band.</p>
3.1.2 Block and Lot Layout	Minimum lot size of 300sqm without a Building Envelope Plan	<p>Complies Six of the proposed lots have an area of at least 300m².</p>
	With BEP in 15 dw/ha minimum lot size is 250m ² .	<p>Complies The applications seeks approval for Torrens title subdivision to create twelve (12) lots of which six (6) have an area between 250-300m². Building Envelope Plans have been provided for the proposed lots that demonstrate compliance with the applicable controls of the SEPP and the Liverpool Growth Centres Development Control Plan (DCP). An assessment of the Building Envelope Plans has been provided in the below table.</p>

	<p>Minimum frontage width of 9m for front loaded in 15 dw/ha.</p>	<p>Merit Assessed</p> <p>The application proposes a minor variation to the minimum lot frontage control of 9m in the Liverpool Growth Centres DCP with all lots proposing a frontage of 8.94m. An assessment of the proposed minor variation to the minimum lot frontage control has been undertaken and is deemed to be reasonable based on the following:</p> <ul style="list-style-type: none"> • The minor variation allows for the provision of four additional lots that achieve the minimum residential density target of the area and are considered appropriate in the context of the surrounding area; • The lots have been designed to integrate with the adjoining approvals and will deliver an appropriate residential neighbourhood consistent with the desired future character of the area within Austral; and • Building Envelope Plans have been provided that demonstrate that the lots can accommodate suitable dwellings despite the minor variation that will provide for the housing needs of the existing and future community of Austral in an appropriate low density residential environment; and • The minor variation will not result in any adverse impacts on surrounding development.
	<p>A range of residential lot types (area, frontage, depth, zero lot and access) must be provided to ensure a mix of housing types and dwelling sizes and to create coherent streetscapes with distinctive garden suburban, suburban and urban characters across a neighbourhood.</p>	<p>Complies</p> <p>A range of lot sizes have been proposed will ensure a mix of housing types and dwelling sizes can be provided in the wider area and streetscape once developed.</p>

	In areas with a minimum residential density of $\leq 20dw/ha$ no more than 40% of the total residential lots proposed in any one street block may have a frontage of less than 10m wide.	Complies The proposed lots will only form a small portion of the street blocks and will not result in more than 40% of the total residential lots proposed in any one street block having a frontage of less than 10m wide based on the approved subdivision layout on the adjoining sites.
	In density bands $\leq 25dw/Ha$, total lot frontage for front accessed lots greater than or equal to 7m and less than 9m should not exceed 20% of any block length due to garage dominance and on-street parking impacts.	Complies The proposed lots will only form a small portion of the street blocks and will not result in more than 20% of the total residential lots having a frontage equal to 7m and less than 9m based on the approved subdivision layout on the adjoining sites.
	Lots should be rectangular. Where lots are an irregular shape, they are to be large enough and oriented appropriately to enable dwellings to meet the controls in this DCP.	Complies All lots, are rectangular in shape and are oriented in accordance with the road layout plan.
3.2 Subdivision Approval Process	<p>Subdivision applications that create lots smaller than 300m² and larger than or equal to 225m² must be accompanied by a Building Envelope Plan (BEP).</p> <p>The BEP should be at a legible scale (suggested 1:500) and include the following elements:</p> <ul style="list-style-type: none"> • Lot numbers, north point, scale, drawing title and site labels such as street names • Maximum permissible building envelope (setbacks, storeys, articulation zones) • Preferred principal private open space • Garage size (single or double) and location • Zero lot line boundaries 	Complies The applications seeks approval for Torrens title subdivision to create twelve (12) lots of which six (6) have an area between 250-300m ² . Building Envelope Plans have been provided for the proposed lots that demonstrate compliance with the applicable controls of the SEPP and the Liverpool Growth Centres Development Control Plan (DCP). An assessment of the Building Envelope Plans has been provided in the below table.

	Applications for subdivision using approval pathways A2, B1 and B2 require a Public Domain Plan (PDP) to be submitted as part of the application. The purpose of the PDP is to demonstrate how the public domain will be developed as a result of future development on the proposed lots.	Complies Public Domain Plans have been submitted in support of the application demonstrate how the public domain will be developed as a result of future development on the proposed lots.
3.3.1 Street Network Layout and Design	This section contains controls relating to street network layout design. This section also has controls relating to street trees.	Complies The development is proposed to be generally in accordance with the Indicative Layout Plan for streets. See discussion in Control 2.2 The Indicative Layout Plan. The public domain plan also indicates street trees that are in a suitable location and can be of a nominated species for the area, which will be conditioned to ensure they are planted.
3.3.5 Pedestrian and Cycle Network	This section contains controls relating to the implementation of pedestrian and cycle networks.	Complies Future cycleways are not located on the proposed and existing roads in the subdivision. Footpaths will be provided for streets within the network.
3.3.6 Temporary Vehicular Access	Provides controls for Temporary Vehicular Access.	Complies No temporary vehicular access is required for this proposal.
3.4 Construction Environmental Management	This section contains controls relating to the implementation of a construction environmental management plan.	Complies Conditions of consent will be imposed ensuring the implementation of a construction environmental management plan.

Part 4 Residential Development

Development Control	Provision	Comment
4.1.1 Site analysis	This section contains requirements for a site analysis plan.	Complies. The siting of the works have considered the site conditions and surrounding context.
4.1.2 Cut and fill	The section contains controls relating to the amount of cut and type of fill to be imported.	Complies. The extent of earthworks has been reviewed by Council's Land Development Engineers, who have raised no issues to the earthworks

		associated with the development, subject to conditions.
4.1.4 Salinity, sodicity and aggressivity	This section includes controls to manage and mitigate the impacts of, and on, salinity.	Complies by condition. The site is potentially affected by high to moderate saline soils. Salinity has been assessed and Council's Land Development Engineers have reviewed the proposed development and raised no issues subject to conditions.
4.2 Dwelling design controls (Assessment of Building Envelope Plans) Lots with frontage width 7>9m for front accessed dwellings		
4.2.3 Front setbacks	4.5m to building façade line 3.0m to articulation zone 5.5m to garage line and 1.0m behind the building line	Complies The BEPs provided detail a compliant front setback for each lot.
4.2.4 Side and rear setbacks	Zero lot: Ground Floor – 0m Upper Floor – 0m Detached boundary – 0.9m If lot burdened by zero lot boundary, side setback must be within easement: 0.9m (single storey zero lot wall) 1.2m (double storey zero lot wall)	Complies The BEPs provided detail compliant side setbacks for each lot.
	Ground floor rear: 4m Upper Floor rear: 6m	Complies The BEPs provided detail a compliant rear setback for each lot.
	Upper level no more than 50% of lot area	Complies Future dwellings will be restricted to a site coverage for the upper level to be no more than 50% of lot area in with the DCP.
4.2.6 Landscaped area	Minimum 15% lot area. The first 1m of the lot measured from the street boundary (excluding paths) is to be soft landscaped.	Complies The BEPs provided indicate landscaping of over 15% with the first 1m of the lot measured from the street boundary being landscaped.
4.2.7	Minimum 16m ² with minimum	Complies

Private open space	dimension 3m 50% of the area of the required principal private open space should receive at least 3 hours of sunlight between 9am and 3pm at the winter solstice.	The BEPs indicate a PPOS of 20m ² with a minimum dimension of over 3m.
4.2.8 Garages, storage, site access and parking	<p>Single width garage or car space only. Carport and garage minimum internal dimensions: 3m x 5.5m.</p> <p>1-2 bedroom dwellings will provide at least 1 car space.</p> <p>3 bedroom or more dwellings will provide at least 2 car spaces.</p> <p>The garage must be less than 40% of the total area of the front façade.</p> <p>Driveway locations must be paired to preserve on-street parking spaces in front of lots.</p> <p>In density bands ≤ 25 dw/Ha, total lot frontage of this lot type not to exceed 20% of the block length due to garage dominance and on-street parking impacts.</p>	<p>Complies</p> <p>The BEPs indicate single garages with driveways paired where possible.</p>

ATTACHMENT 3 – RECOMMENDED CONDITIONS OF APPROVAL

A. THE DEVELOPMENT

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
Plan of Proposed Subdivision	D04676-Detail-1	01	08.12.2020	Project Surveyors
Proposed Staging Plan	D04676-Proposed Sub	01	08.12.2020	Project Surveyors
Building Envelope Plans	D04676-Proposed Sub	01	12.07.2021	Project Surveyors
Title Sheet,	20000456-	01	01.07.21	SEEC

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Locality Plan & Drawing Schedule	P01-C000			
Overall Site Plan	20000456-P01-C100	01	01.07.21	SEEC
Eighteenth Ave & Bellaroi Street Longitudinal Sections & Typical Detail	20000456-P01-C101	01	01.07.21	SEEC
Eighteenth Ave & Bellaroi Street Cross Sections	20000456-P01-C102	01	01.07.21	SEEC
Catchment Plan & On Site Detention Notes	20000456-P01-C103	01	01.07.21	SEEC
Drains Model Layout & Detention Basin Typical Detail	20000456-P01-C104	01	01.07.21	SEEC
Demolition Plan	20000456-P01-C201	01	01.07.21	SEEC
Cut-Fill Plan	20000456-P01-C202	01	01.07.21	SEEC
Concept Landscape Plan	20000456-P01-C203	01	01.07.21	SEEC
Soil & Water Management Plan	20000456-P01-C300	01	01.07.21	SEEC
Soil & Water Management Plan – Typical Details	20000456-P01-C301	01	01.07.21	SEEC

Reports

Title	Project No.	Revision	Dated	Prepared by
Statement of Environmental Effects	D04676	D	10.03.2021	Project Surveyors
Detailed Site Investigation	JE20723A-r2	2	February 2021	GeoEnviro Consultancy Pty Ltd
Remediation Action Plan	JE20723A-r3	3	February 2021	GeoEnviro Consultancy Pty Ltd
Salinity Assessment Report	JE20723A-r1	1	February 2021	GeoEnviro Consultancy Pty Ltd
Concept Stormwater and Water Quality Management Plan	20000456-SWM-01	Issue A	01.07.2021	SEEC
Bushfire Hazard Assessment		1	20.01.2021	Firstfield Environmental

Report						
Aboriginal Diligence Assessment	Due	SYD20 17797	-	V1	15.12.2020	Ecological Australia
Demolition Statement		D04676		B	23.02.2021	Project Surveyors
Traffic and Parking Assessment Report		Ref 21064			19.02.2021	Varga Traffic Planning Pty Ltd

Staging of the Development

2. The development is to be undertaken in accordance with the following stages:

- Stage 1 – Demolition of all existing structures and remediation of site.
- Stage 2 - Earthworks to accommodate 6 proposed lots on the southern portion of the site comprising:
 - Lot 7 – with an area of 296.8m²;
 - Lot 8 – with an area of 296.7m²;
 - Lot 9 – with an area of 296.7m²;
 - Lot 10 – with an area of 296.8m²;
 - Lot 11 – with an area of 296.8m²;
 - Lot 12 – with an area of 296.8m².

Construction of the section of Bellaroi Street running west to east through the site.

- Stage 3 - Earthworks to accommodate 6 proposed lots on the northern portion of the site comprising:
 - Lot 1 – with an area of 302.9m²;
 - Lot 2 – with an area of 302.9m²;
 - Lot 3 – with an area of 302.9m²;
 - Lot 4 – with an area of 302.9m²;
 - Lot 5 – with an area of 302.9m²;
 - Lot 6 – with an area of 302.9m².

Half width reconstruction of Eighteenth Avenue to the north of the site.

General Terms of Approval – NSW Rural Fire Service

3. The development is to demonstrate compliance with all relevant General Terms of Approval issued by the NSW Rural Fire Service, dated 20 June 2021 2020 provided as an attachment to this consent.

Jemena Requirements

4. The development is to demonstrate compliance with all relevant requirements issued by Jemena, dated 26 May 2021 provided as an attachment to this consent.

Endeavour Energy Requirements

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5. The development is to demonstrate compliance with all relevant requirements issued by Endeavour Energy, dated 22 April 2021 provided as an attachment to this consent.

Sydney Water Requirements

6. The development is to demonstrate compliance with all relevant requirements issued by Sydney Water, dated 28 April 2021 provided as an attachment to this consent.

Council Waste-Water Requirements

7. The development must provide for a physical sewerage connection to each created allotment to enable the method of sewage disposal by gravity reticulation mains to either, Sydney Water branch and trunk sewers or Sydney Water point of treatment. Liverpool City Council will not accept any temporary facilities to service the site, including pump-out wet-wells.

Works at no Cost to Council

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

Excavation Works

9. All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration.

In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, is not permitted.

Stages of Consent

10. The registration of the proposed lots in Stage 2 is only to occur once the adjoining developments to the south (DA-558/2017) and to the east (DA-114/2019) are completed and registered, including the construction of Hyperno Street, Chara Road and Bellaroi Street to ensure appropriate access is provided.

Demolition Works

11. All proposed demolition works shall be completed prior to issue of any Construction Certificate.

Comply with EP&A Act & Regulations

12. 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.

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:

Site Development Work

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

Fee Payments

14. 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.

15. 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.

Notification

16. The Principal 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.

Construction Certificate for Subdivision Works

17. Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that engineering plans are consistent with the following engineering plans prepared by SEEC, reference number 20000456, Revision 01, dated 01/07/2021, and that all subdivision 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 subdivision 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;
- All existing overhead services fronting the development are to be relocated underground as part of the road works.

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

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

Stormwater Concept Plan

18. A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by SEEC, reference number 20000456, Revision 01, dated 01/07/2021.
 - (a) 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.
 - (b) Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and shall accompany the application for a Construction Certificate. The plan shall indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finish surface levels and sizes of all pipes.
 - (c) Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

S138 Roads Act – Minor Works in the Public Road

19. 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 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.

S138 Roads Act – roadworks requiring approval of civil drawings.

20. 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 half width road construction in Eighteenth 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, 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.

Road design criteria table

21. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Liverpool City Council’s Design Guidelines and Construction Specification for Civil Works and the following criteria:

Road No.	Road Reserve Width	Carriageway Width	Verge	Footpath (1.5m wide)	ESA
Bellaroi Street	16.0m	9.0m	3.5m	1.5m	3 x 10 ⁵
Eighteenth Avenue	10m (Half Road)	9.0m	5.5m	1.5m	3 x 10 ⁵

Eighteenth Avenue half road construction

22. The Construction Certificate drawings are to detail road pavement improvement on the northern side of the centreline Eighteenth Avenue. Pavement improvement works are to be completed before half road construction.

On-Site Detention

23. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by SEEC, reference number 20000456, Revision 01, dated 01/07/2021.

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 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.

Water Quality

24. 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:

1. Specification & installation details of the stormwater pre-treatment system
2. 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.

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.

Retaining Walls

26. All retaining walls, if proposed, shall be of masonry construction and must be wholly within the property boundaries, 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.

27. All retaining wall heights across the development are to be limited to a maximum of 1.0m.

Inter-allotment drainage

28. Inter-allotment drainage shall be provided for all lots that are unable to be drained by gravity to the street system. Inter-allotment drainage is to be constructed with a pit located immediately within the lot boundary of each lot created by the subdivision at the lowest point in the line or a maximum pit spacing of 40m.

Floodplain Engineer Conditions of Consent

29. Proposed stormwater drainage work shall be in accordance with following DA documents:

- Concept Stormwater and Water Quality Management Report dated 1st July 2021, SEEC
- Set of Engineering plans/drawings Rev.1 dwg: C100 to 301 dated 1st July 2021, SEEC

30. There shall be no adverse overland flooding impact on adjoining upstream & downstream properties due to the proposed work. Existing overland flows through the site from adjoining sites on the east shall not be disturbed and be accommodated into the proposed major/minor system of the development for range of storm events up the 1%AEP event.

31. Design & sizing of major/minor system of the stormwater system shall consider full developed external upstream catchment flows through the site for range of storm events up to and including the 1%AEP flows. Future connection to downstream drainage work in the adjoining development shall be in place.

32. Major System (roads) shall consider overland flows through the site up to the 1%AEP event with flood depth not exceeding 0.2m and shall comply velocityxdepth safety criteria.

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33. Proposed temporary OSD shall control post development storm flow discharges from the development to no greater than the pre-development flow discharges for range of storm events up to the 1%AEP storm event.
34. Temporary water quality treatment measures, as proposed, shall be provided to treat stormflows from the development before discharging to receiving waters and shall achieve Council's stormwater treatment targets.
35. Temporary OSD & water quality treatment measures to remain and not to be decommissioned until regional flood detention & water quality basins of the precinct are constructed.
36. Detailed design plans & drawings of proposed drainage work shall be submitted at CC stage for review and approval.

Access, Car Parking and Manoeuvring – General

37. 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.

Traffic

38. Detailed design drawings of the proposed local roads, showing the following criteria in accordance with RMS Guidelines, DCP and AS: 2890, are to be submitted to Traffic and Transport Planning Section for review.
 - (a) intersection treatments and pram ramps,
 - (b) entry thresholds,
 - (c) street lighting,
 - (d) swept path analysis,
 - (e) 1.5 m wide footpath, kerb and gutter on local roads,
 - (f) signs and line markings scheme,
 - (g) a minimum of 9.0m carriageway,
 - (h) temporary turning head,
 - (i) driveway locations.
39. The design of street lighting in accordance with Council's and Endeavour Energy specifications along all the roads fronting the development site shall be submitted to Council Traffic and Transport Section for review.
40. A construction traffic management plan prepared by an accredited practitioner is to be submitted to Council's Traffic and Transport Section for endorsement. The CTMP is to outline the need for a Road Occupancy Permit issued by Council or Road Occupancy Permit issued by the Transport Management Centre.

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41. Works within the road reserve shall not commence until the construction traffic management plan has been endorsed.

Provision of Services – Sydney Water

42. Prior to the issue of a Construction Certificate, an application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, is to 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, prior to the issue of a Construction Certificate.

Provision of Services – Endeavour Energy

43. 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, prior to the issue of a Construction Certificate.

Provision of Services – Telecommunications

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

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 Certificates

45. 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.
46. Detailed Civil engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14, of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
47. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.
48. Where this consent requires both engineering and building works to be undertaken, a separate construction certificate shall be issued for each category of works i.e., a separate Civil Engineering CC and a separate Building CC.

Demolition Works

49. 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 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 WorkCover 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 Principal Certifying Authority / Commencement of Works

50. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
51. The PCA must advise Council of the intended date to commence work which is the subject of the 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.

52. 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.
53. 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.

Dilapidation Report

54. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Eighteenth Avenue and Bellaroi Street is to be submitted to Liverpool City Council. The report is to include, but be 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)

55. 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 commencement of works. 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.

Construction Environmental Management Plan (CEMP)

56. Prior to the commencement of works, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Principal Certifying Authority for approval. The environmental site management measures must remain in place and be maintained throughout the period of the development. The CEMP must address all environmental aspects of the development's construction phases, and include, where relevant, but not be limited to, the following:

- (a) Asbestos Management Plan;
- (b) Project Contact Information;
- (c) Site Security Details;
- (d) Timing and Sequencing Information;
- (e) Site Soil and Water Management Plan;
- (f) Noise and Vibration Control Plan;
- (g) Dust Control Plan;
- (h) Air Monitoring;
- (i) Odour Control Plan;
- (j) Health and Safety Plan;
- (k) Waste Management Plan;
- (l) Incident management Contingency; and
- (m) Unexpected Finds Protocol.

57. The CEMP must be kept on site for the duration of the works and must be made available to Council Officers upon request.

58. Prior to the commencement of works, a detailed asbestos management plan is to be prepared and submitted in writing, along with the name, address, contact and licence details of the contractor who will carry out the asbestos works. This must also confirm the name and address of the licensed waste facility to which those materials will be taken.

Construction Noise

59. Noise and vibration associated with excavation, demolition and construction activities shall comply with the management levels detailed within the 'Interim Construction Noise Guideline' published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009 and acceptable vibration values prescribed within the Environmental Noise Management Assessing Vibration: A Technical Guideline (Department of Environment and Conservation, 2006).

Site Notice Board

60. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:

- (a) The name, address and telephone number of the principal certifying authority for the work; and
- (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- (c) Unauthorised entry to the premises is prohibited.

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Matters to be addressed prior to commencement of Subdivision Works

61. Work on the subdivision shall not commence until:

- (a) a Construction Certificate (if required) has been issued,
- (b) a Principal Certifying Authority has been appointed for the project, and
- (c) 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.

Environmental Management

62. 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.

Traffic Control Plan

63. 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.

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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.

Traffic

64. The developer shall seek road occupancy, road opening permits and works zone approval from Council if required prior to the undertaking of any works within the public road reserve. The application forms are available on Council's website or can be requested from Council's Customer Services.

Site Facilities

65. 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.

Waste Management

66. Prior to any work commencing, including demolition or site clearing, all domestic waste bins that are present on the subject property, 22 Eighteenth Avenue Austral, must be returned to Liverpool Council. Please call Council on 1300 36 2170 to arrange for the removal of the waste bins, and so their removal can be noted.

67. If there are any air-conditioning or refrigeration system(s) that must be decommissioned and dismantled as part of the works, then the refrigerants present in those air-conditioning or refrigeration systems must be extracted into a durable, air-tight container by a licensed air-conditioning technician prior to that stage of the works commencing. That container and its contents must be sent to a facility licensed to destroy such compounds, for secure destruction. Documentary evidence that this has been completed (if such systems are present), must be sighted by the Principal Certifying Authority and included as part of the Occupation/Completion Certificate documentation for that stage of the works.

Sediment & Erosion Control

68. 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.

Facilities

69. 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*.

Waste Classification

70. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and certified consultant, in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* and related guidelines, in particular the *NSW EPA Waste Classification Guidelines*, prior to off-site disposal.

All Waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to the Principal Certifying Authority within 30 days of the waste being disposed of.

All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage, and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

71. 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 *NSW EPA Waste Classification Guidelines*.

Street Lighting

72. 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.

73. The design of street lighting in accordance with Council's and Endeavour Energy specifications along all the roads fronting the development site shall be submitted to Council Traffic and Transport Section for review.

D. DURING CONSTRUCTION

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

Building Inspections

74. The building works must be inspected by the Principal Certifying Authority, in accordance with sections 109E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.
75. 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).

Demolition Inspections

76. 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.

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.

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Demolition of Septic Tank and Effluent Disposal Area

78. Any existing effluent disposal area is to be demolished and back filled with Virgin Excavated Natural Material (VENM).

Any septic tank, collection well or aerated waste water treatment system is to be removed or reused in accordance with NSW Advisory Note 3 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems and other Sewage Management Facility Vessels available from the NSW Health website (www.health.nsw.gov.au).

Construction Requirements

79. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.

Hours of Construction Work and Deliveries

80. 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.

Site Remediation Works

81. The site must be remediated in accordance with Remediation Action Plan (Document No. JE20723A-r3) prepared by GeoEnviro Consultancy Pty Ltd dated 16 February 2021.

Unidentified Contamination

82. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be immediately notified to Council and the Principal Certifying Authority in writing.

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.

Contamination

83. 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

84. 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 (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.

Record Keeping of Imported Fill

85. 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.

Removal of Dangerous and/or Hazardous Waste

86. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW. The removal of such material shall be carried out in accordance with the requirements of SafeWork NSW and the material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

Major Filling / Earthworks

87. 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.

Soil testing – Subdivisions

88. Soil Testing is to be carried out to enable each lot to be classified according to AS2870 “Residential Slabs and Footings”.

Traffic Management

89. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RMS Traffic Control at Worksites Manual and the RMS Interim Guide to Signs and Markings.

90. 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.
91. Notice must be given to Council's Traffic and Transport 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 prior to implementation. This includes temporary closures for delivery of material, concrete pours etc.
92. 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.
93. The endorsed Construction Traffic Management Plan is to be implemented during the entire construction phase.

Refuse Disposal

94. 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.

General Site Works

95. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
96. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
97. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
98. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
99. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
100. 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.
101. 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.

102. 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 water pollution.
103. 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.
104. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways it shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.
105. 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.
106. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

Waste Management Plan

107. 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.

Waste

108. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
109. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water, to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.
110. All demolition, excavation and construction waste must be separated as it is generated and kept in separate spoil piles, bays, builder's site bins and/or skips.
111. All lightweight or granular excavation or construction wastes such as wrapping, packaging materials, bags, insulation, sand, soil etc. must be kept fully enclosed at all times 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.

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Vegetation

112. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
113. 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.
114. 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.

Construction Noise and Vibration

115. The approved site-specific Construction Noise, Vibration Assessment and Management Plan prepared in accordance with condition 59 shall be implemented, adhered to and maintained at all times during the construction period.
116. Noise and vibration associated with excavation, demolition and construction activities shall comply with the management levels detailed within the 'Interim Construction Noise Guideline' published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009 and acceptable vibration values prescribed within the Environmental Noise Management Assessing Vibration: A Technical Guideline (Department of Environment and Conservation, 2006).

All feasible and reasonable noise and vibration mitigation measures shall be implemented and any activities which may exceed the construction noise management levels and vibration criteria shall be identified and managed in accordance with the approved Construction Noise, Vibration Assessment and Management Plan.

Complaints Handling Register

117. A Complaints Handling Register shall be maintained for the duration of construction works at the subject premises. The Complaints Register is to be kept by the Site Manager or other suitable staff members and is to include the following:
- (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 in response to the complaint, including any follow-up contact with the complainant;
 - (f) if no action was taken in relation to the complaint, the reason(s) why no action was taken; and
 - (g) allocate an individual "complaint number" to each complaint received

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

Aboriginal Cultural Heritage – Staff and Contractors

118. All relevant on-site staff and contractors should be made aware of their statutory obligations for heritage under NSW National Parks and Wildlife Act 1974 and the NSW Heritage Act 1977. They are to be informed of what the potential heritage on the site will be and its significance. The site supervisor is to maintain a record of who has completed the heritage induction and this is to be provided to Council prior to Issue of Occupation Certificate.

Aboriginal Cultural Heritage – Unexpected Finds

119. As required by the National Parks and Wildlife Service Act 1974 in the event that Aboriginal cultural heritage objects or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Office of Environment and Heritage (OEH) must be notified of the discovery.

120. In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the National Parks and Wildlife Service Act 1974 to obtain the necessary approvals/permits from the OEH.

Note: The National Parks and Wildlife Service Act 1974 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Skeletal Remains

121. In the event that skeletal remains are uncovered, work must cease immediately in that area and the area secured. NSW Police must be contacted and no further action taken until written advice has been provided by the NSW Police. If the remains are determined to be of Aboriginal origin, the Office of Environment and Heritage must be notified by ringing the Enviroline 131 555 and a management plan prior to works re-commencing must be developed in consultation with relevant Aboriginal stakeholders.

E. PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

SPECIAL INFRASTRUCTURE CONTRIBUTION

122. A special infrastructure contribution is to be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011, as in force when this consent becomes operative. Information about this special infrastructure contribution can be found on the Department of Planning and Environment regarding arrangements for the making of a payment.

SECTION 7.11 PAYMENT

Liverpool Contributions Plan 2014 Austral & Leppington North

123. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with above Liverpool Contributions Plan 2014 Austral & Leppington North as amended.

The total contribution is **\$330,000.00** and will be adjusted at the time of payment in accordance with the contributions plan and required to be paid prior to the issue of the Subdivision Certificate per stage as follows:

Stage 1 - \$150,000.

Stage 2 - \$180,000.

A breakdown of the contributions payable is provided in the attached payment form. The Contributions Plan may be inspected online at www.liverpool.nsw.gov.au. Payment must be accompanied by the attached form.

Completion of subdivision works

124. Prior to the issue of a Subdivision Certificate for each stage, the Principal Certifying Authority shall ensure that all relevant 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.

Stormwater Compliance

125. Prior to the issue of an Subdivision Certificate the Principal Certifying Authority shall ensure that the:

1. On-site detention system/s
 2. Stormwater pre-treatment system/s
 3. Overland flow path works
 4. Flood control works
 5. Basement Carpark pump-out system
- 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.

126. Prior to the issue of a Subdivision Certificate a restriction as to user and positive covenant relating to the:

1. On-site detention system/s
2. Stormwater pre-treatment system/s
3. Overland flow path works
4. Flood control works
5. Basement carpark pump-out system

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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.

Liverpool City Council clearance – Roads Act/ Local Government Act

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

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Decommissioning of On-Site Sewage Management System/s

128. Following the decommissioning of the on-site sewage management system, a certificate certifying that the system was decommissioned in accordance with NSW Health Advisory Note 3 – Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS) and other Sewage Management Facilities (SMF), shall be submitted to Council. A template decommissioning certificate can be found on Council's website www.liverpool.nsw.gov.au.

Site Contamination Validation Report

129. After completion of the remedial works, a copy of the Validation Report prepared or reviewed and approved by a suitably qualified environmental consultant shall be submitted to Council and the Principal Certifying Authority. This Report shall be prepared in accordance with guidelines made and approved by the NSW EPA under the *Contaminated Land Management Act 1997* and must:

- (a) describe and document all works performed,
- (b) include results of validation testing and monitoring,
- (c) include validation results of any fill imported on to the site,
- (d) outline how all agreed clean-up criteria and relevant Regulations have been complied with, and
- (e) include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

The suitably qualified environmental consultant shall be certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme. The report's cover or title page shall include a personalised electronic seal for either the CEnvP(SC) or CPSS CSAM scheme.

Remediation Work - Notice of Completion

130. Within thirty (30) days of completion of remediation work, a notice of completion as required to be provided to Council under Clause 17 of *State Environmental Planning Policy No 55 – Remediation of Land* to confirm that the remediation has been carried out in accordance with the Remedial Action Plan, requirement(s) of this consent, and SEPP 55.

The notice of completion of remediation work shall be in writing and prepared in accordance with Clause 18 of *State Environmental Planning Policy No 55 – Remediation of Land*.

Note: A site audit statement (within the meaning of Part 4 of the *Contaminated Land Management Act 1997*) may be given in partial compliance with this requirement.

Occupational Hygienist Report for Asbestos removal

131. On completion of the asbestos removal works, an Occupational hygienist shall provide documentation in the form of an asbestos clearance certificate to the Principal Certifying Authority.

Subdivision Compliance documentation

132. 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; and
- (g) Structural Engineer's construction certification of all structures.
- (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:
 - Compaction reports for road pavement construction,
 - Compaction reports for bulk earthworks and lot regrading,
 - Soil classification for all residential lots, and
 - Statement of Compliance.

Linen Plans & 88B

133. 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.
134. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.
135. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Councils standards, codes and policies. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.
136. 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).
137. 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.
138. An 88B restriction is to be imposed on all lots stipulating that any future dwellings must be constructed in accordance with the approved building envelope plans that form part of this consent.

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139. The final plan of subdivision must be supported by an 88B Instrument. This instrument must burden each corner lot (Lots 301, 317, 328 332, 402), with a restriction as to user that driveway crossings must not be located closer than 6m to the kerb and gutter tangent point, at each corner intersection in the subdivision.

Zero Lot Easements

140. For any “zero lot” development, the applicant shall create an easement for maintenance and access 900mm wide for single storey development and 1200mm wide for two storey development, and in accordance with the requirement of Liverpool City Council Growth Centre DCP. The benefitted and burdened lots are identified on the approved plans.

Traffic, Linemarking & Signage

141. Prior to the issue of a Subdivision Certificate, and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Liverpool City Council and approved by the Local Traffic Committee.

Allow eight (8) weeks for approval by the Local Traffic Committee.

142. All roadworks and signposting are to be completed to Liverpool City Council requirements, at no expense to Liverpool City Council.

Service Providers

143. 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.

- (a) Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.
- (b) Written certification from the relevant service providers that the telecommunications infrastructure is installed in accordance 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.

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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.

Dilapidation Report

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

145. All disturbed areas must be turfed and all sediment controls must remain in place until the turf is established well enough to avoid any sediment loss.

Civil Works Data

146. The applicant shall provide a collation of attribute data of all civil works. The data shall be completed in accordance with Council's 'WAE submission standard' and the excel template 'Inclusion of Attribute Data'. This standard and excel template can be obtained by contacting either Council's Land Development Engineering Department or Asset Planning Department

Rectification of Damage

147. 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 Eighteenth Avenue, Chara Road and Hyperno Street will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

Street Naming

148. Prior to the issue of a Subdivision Certificate, an application for proposed street names must be lodged with and approved by Liverpool City Council and the signs erected on-site.

The proposed names must be in accordance with Council's Street Naming Policy.

Notes: Allow eight (8) weeks for notification, advertising and approval

Street Trees

149. The street trees to be used can be any or all of the following:

- (a) *Eleocarpus reticulatus* (Blue Berry Ash)
- (b) *Fraxinus griffithii* (Evergreen Ash)
- (c) *Tristanopsis Laurina* (Luscious Water Gum) (a) *Acmena smithii* var. *minor* (Dwarf Lilly Pilly)

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Footpaths

150. 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, collector and distributor roads.

Bonds

151. 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 6 months from the date of Council acceptance of final works.

Maintenance Bond

152. Prior to the issue of a Subdivision Certificate a maintenance bond is to be lodged with Liverpool City Council for all new road reserve works.

The value of the bond shall be determined in accordance with Liverpool City Council's Bond Policy. The bond will be administered in accordance with this policy.

Outstanding Works Bond for Stormwater Pre-Treatment Systems

153. Prior to the issue of the Subdivision Certificate, an Outstanding Works Bond for the construction, landscaping and implementation of the bio-retention system is to be lodged with Liverpool City Council.

The Outstanding Works bond will be refunded once the stormwater pre-treatment treatment system works have been completed to Council's satisfaction and a separate Maintenance Bond has been lodged with Liverpool City Council.

The value of the bonds shall be determined in accordance with Liverpool City Council's Bond Policy. The bond will be administered in accordance with this policy.

Outstanding Works Bond for Temporary OSD/Stormwater Pre-Treatment Systems

154. Prior to the issue of the Subdivision Certificate an Outstanding Works Bond for the decommissioning of the temporary OSD/Water Quality systems including pipe removal, basin filling and works to existing pit structures shall be lodged with Liverpool City Council.

The Outstanding Works bond will be refunded once the OSD/stormwater pre-treatment treatment system works have been decommissioned to Council's satisfaction and a separate Maintenance Bond has been lodged with Liverpool City Council.

The value of the bonds shall be determined in accordance with Liverpool City Council's Bond Policy. The bond will be administered in accordance with this policy.

F. CONDITIONS RELATING TO USE

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155. All roadworks and signposting is to be completed to Liverpool Council requirements, at no expense to Liverpool Council.
156. Council's on-street assets should be protected at all times. Any damages are to be rectified to Council satisfaction.
157. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.

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G. ADVISORY CONDITIONS

- a) Sections 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979 allow 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 Sections 8.7 & 8.10 of the 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 twelve (12) 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 Environmental Planning and Assessment Act 1979. 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 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.

- g) "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

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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.

- h) 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.

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