

# MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

**Monday the 29<sup>th</sup> of August 2022**

To be held online via  
**MS Teams**  
Commencing at 2:00pm

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

Should you wish to address the Panel, please advise Ashwin Lata, Acting Panel Support Officer on 8711 7529 or 1300 36 2170, by 4pm, Friday 26<sup>th</sup> of August 2022

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

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>1</b>	<p>Development Application DA-790/2013/C</p> <p><b>MODIFICATION TO DEVELOPMENT CONSENT DA-790/2013 UNDER SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979, TO AMEND DA CONDITION 95 TO PERMIT THE USE OF EXCAVATED NATURAL MATERIAL (ENM) INSTEAD OF VIRGIN EXCAVATED NATURAL MATERIAL (VENM)</b></p> <p><b>LOT 5 DP 252040 41 GREENDALE ROAD, BRINGELLY</b></p>	<b>3 - 42</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>2</b>	<p>Development Application DA-532/2020/A</p> <p><b>MODIFICATION TO DEVELOPMENT CONSENT DA-532/202 UNDER SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979, AMENDMENTS TO WORDING OF CONDITIONS 22A, 65, 124, AND 143</b></p> <p><b>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</b></p> <p><b>653, 659 &amp; 661 HUME HIGHWAY &amp; 6-8 &amp; 10-12 WATTLE ROAD, CASULA</b></p>	<b>43 - 55</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>3</b>	<p>Development Application DA-606/2021</p> <p><b>DEMOLITION OF THE EXISTING DWELLING AND ASSOCIATED STRUCTURES, CONSTRUCTION OF A NEW MULTI DWELLING HOUSING DEVELOPMENT COMPRISING OF 6 X TWO STOREY DWELLINGS WITH ASSOCIATED CAR PARKING AND LANDSCAPE WORKS</b></p> <p><b>LOT 1 DP 748152</b></p> <p><b>25 BOX ROAD, CASULA</b></p>	<b>56 - 120</b>

ITEM No.	SUBJECT	PAGE No.
4	<p>Development Application DA-446/2021</p> <p><b>DEMOLITION OF EXISTING STRUCTURES, ALTERATIONS AND ADDITIONS TO THE EXISTING CENTRE BASED CHILD CARE FACILITY TO ACCOMMODATE 90 CHILDREN, AND LOT CONSOLIDATION</b></p> <p>LOT 20 AND LOT 21 DP 251671</p> <p><b>13 AND 17 RUGBY CRESCENT, CHIPPING NORTON</b></p>	121 - 199

<b>Item no:</b>	1
<b>Application Number:</b>	DA-790/2013/C
<b>Proposed Development:</b>	Modification to Development Consent DA-790/2013 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to amend DA Condition 95 to permit the use of Excavated Natural Material (ENM) instead of Virgin Excavated Natural Material (VENM)
<b>Property Address</b>	41 Greendale Road, Bringelly
<b>Legal Description:</b>	Lot 5 DP 252040
<b>Applicant:</b>	Mr C Hua
<b>Land Owner:</b>	Mr A Sadik
<b>Date Lodged:</b>	15 June 2021
<b>Cost of Works:</b>	\$4,000,000
<b>Zoning:</b>	RU4 Primary Production Small Lots under Liverpool Local Environmental Plan 2008
<b>Recommendation:</b>	Approval, subject to modified conditions of consent
<b>Assessing Officer:</b>	Greg Mottram

## 1. EXECUTIVE SUMMARY

Council has received an application, DA-790/2019/C, which seeks consent for the modification of Development Consent DA-790/2013 under Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979, to amend Condition 95 to permit the use of Excavated Natural Material (ENM) instead of Virgin Excavated Natural Material (VENM) as part of the approved development onsite.

The site is zoned as RU4 – Primary Production Small Lots, pursuant to Liverpool Local Environmental Plan (LEP) 2008 with the proposed development being permissible with consent. The proposal is generally compliant with Council’s applicable local provisions and an acceptable form of development in that regard.

The proposal was required to be notified in accordance with Liverpool Community Participation Plan 2019 between 23 August 2021 and 7 September 2021. Twenty-one (21) submissions have been received on the application which are discussed in the report.

The key issues associated with the assessment of the subject modification relate to the change in conditions that relate to utilising Excavated Natural Material (ENM) fill in place of the approved Virgin Excavated Natural Material (VENM) fill. As demonstrated in the report, the change from VENM classed fill to ENM classed fill is considered acceptable in this instance.

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

### **Continuous development**

*Development that:*

- (a) In the case of a council having an approved submissions policy- is subject of the number of submissions set by that policy, or*
- (b) In any other case – is the subject of 10 or more unique submissions by way of objection.*

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 legal description of the site is Lot 5 DP252040, and it is identified as No. 41 Greendale Road, Bringelly. It has frontage of approximately 236m to Greendale Road along its southern boundary, a depth of about 533m on its western boundary and 462m on its eastern boundary and 200m across its northern boundary – creating a total site area of 10.12 ha.

Greendale Road forms the boundary between Liverpool City Council and Camden Council at this location. Land to the west of the site is zoned R5 – Large Lot Residential while land to the north and east shares the same RU4 – Primary Production Small zone as the subject site. Land to the south (in Camden Council) is rural in character and similarly zoned.



Figure 1: Aerial view of subject site - Lot 204 in red (Source: Geocortex)

## 2.2 The locality

The site and its immediate locality is rural residential as seen in Figure 1. The proposed use represents the type of development that the established planning controls have been put in place to achieve.

NORTH	A rural residential parcel adjoins the northern boundary of the site.
SOUTH	A rural residential parcel adjoins the southern boundary of the site on the opposite side of Greendale Road in the Camden LGA.
EAST	A rural residential parcel adjoins the eastern boundary of the site.
WEST	5 residential lots in the R5 Large lot residential land

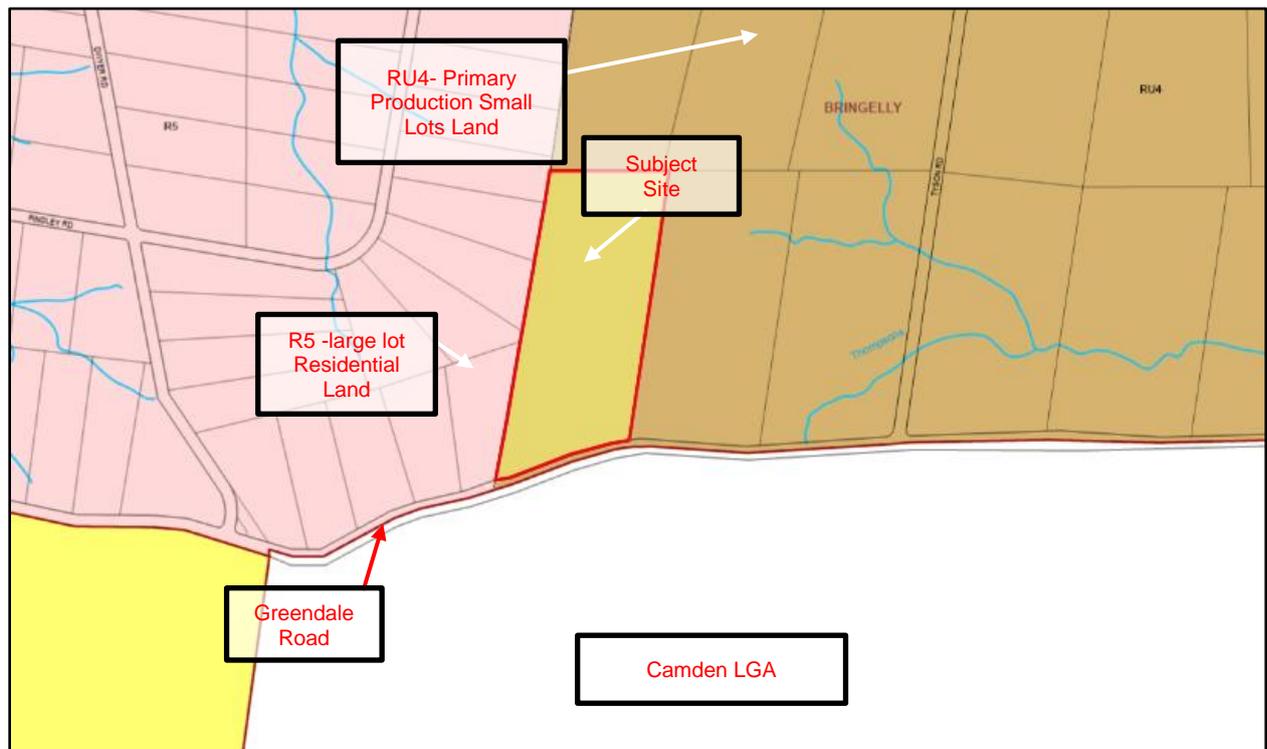


Figure 2: Zoning of surrounding area and the development site (Source: Geocortex)

## 3. BACKGROUND/HISTORY

- The subject modification application was lodged with Council on 15 June 2021.
- The application was notified between 23 August 2021 and 7 September 2021.
- 22 September 2021 - Referral response from NSW EPA received
- 12 April 2022 – Applicant advised of requirement for additional information for Environmental Health via the NSW Planning Portal.
- 3 May 2022 – Additional information received.

Development application history of the site.

DA No.	Proposed Development	Determination
DA-394/2011	<p>Stage 1</p> <p>Stage 1 approved the following:</p> <p>(a) <u>Demolition of existing structures;</u></p> <p>(b) Earthworks including the decommissioning and filling of a dam;</p>	<p>9 January 2013 (Approved by Land and Environment Court 10281 of 2012)</p>

	<p>(c) Use of the site as a cemetery (no interments in Stage 1);</p> <p>(d) <u>Construction of an internal road;</u></p> <p>(e) Construction of an internal access path;</p> <p>(f) Revegetation and weed eradication;</p> <p>(g) Stormwater management works; and</p> <p>(h) Provision of vegetation buffers and screening.</p>	
DA-790/2013	<p><b>Development Application</b> - Stage 2 development of a court approved masterplan in DA-394/2011 for a non-denominational cemetery comprising of: * Burial plots comprising 6,474 double depth burial plots (12,948 internments), 1,542 low impact burial plots in tree protection zones, 4,722 urn burials under trees, 20,000 ash internments within columbarium poles and 5,100 ash internments under roses within a walled garden (total 44,312 internments); * Erection and operation of administrative facilities comprising funeral director's office, visitors centre, all-weather covered ceremonial space and chapel, cafe and toilets; * Erection and occupation of a caretaker's lodge including garage and maintenance shed; * Erection of columbarium poles with enclosed garden; * Erection of elevated and at grade nature walks/access paths; * Provision of car parking for 161 cars comprising 137 permanent hard surface spaces (inclusive of 4 disabled parking spaces) and 24 landscaped overflow spaces; * Erection of entry gates; * Widening of Greendale Road; and * Ancillary drainage, landscaping and earthworks to facilitate water management * Signage adjacent to entry driveway. The proposed development is identified as Nominated Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979. The application is to be referred to the NSW Office of Water for General Terms of approval under the Water Management Act 2000</p>	1/12/2014 (Approved)
DA-790/2013/A	<p>Modification to DA-394/2011 and DA-790/2013 to an approved cemetery pursuant to Section 96(AA) and Section 96(1A) of the Environmental Planning &amp; Assessment Act. The modifications proposed to DA-394/2011 relate to the description of the development, updating plans and amendments to conditions. The modifications proposed to DA-790/2013 relate to staging of demolition works, modifications to the existing dwelling and minor realignment of internal access road</p>	7/5/2019 (Approved)
DA-790/2013/B	<p>Modification to Development Consent DA-790/2013 under Section 4.55 of the Environmental Planning and Assessment Act 1979, Interments (burials) in the ground, wall and rose garden are to be allowed to occur during the initial stages of the site operation and rectification of levels as per council request.</p>	5/5/2021 (Withdrawn)
DA-790/2013/C	<p>Modification to Development Consent DA-790/2013/A (1A) under Section 4.55 of the Environmental Planning and Assessment Act 1979, to amend DA Condition 95 of Consent 790/2013 to permit the use of Excavated Natural Material (ENM) instead of Virgin Excavated Natural Material (VENM)</p>	Subject Application

#### 4. DETAILS OF THE PROPOSAL

This modification application seeks the development consent for the modification of Condition 95 of the consent to amend the approved development to remove the need to rely on Virgin Excavated Natural Material (VENM) fill and to facilitate the use of Excavated Natural Material (ENM) instead.

## **Consent Validity**

Development application 790/2013 was granted on 1 December 2014 with an initial lapse date of 1 December 2016. This was subsequently extended until 1 December 2017. Evidence provided in previous modification DA-790/2013/A established that the application has commenced therefore it is appropriate to proceed with the subject modification application under section 4.55 of the *Environmental Planning and Assessment Act 1979*.

## **5. ASSESSMENT UNDER SECTION 4.55 OF THE EP & A ACT 1979**

### **5.1 Section 4.55**

The application has been lodged pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, which provides:

#### ***(1A) Modifications involving minimal environmental impact***

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

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

#### **Comment:**

The NSW Environmental Protection Authority (NSW EPA) was requested to provide comments in relation to the proposal to permit the use of ENM at the subject premises. Within their correspondence dated 2<sup>nd</sup> September 2021, the NSW EPA supported the use of ENM instead of VENM at the subject premises provided that the material complies with the excavated natural material exemption 2014 issued under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014.

In addition, the NSW EPA confirmed that the removal of waste material from Area A was completed. Contaminated material was removed from the site and disposed of at a licensed waste facility. Approximately 640m<sup>3</sup> of sandstone material that met the ENM Order 2014 was stockpiled on the sealed carpark area for potential reuse to reinstate the berm subject to Council approval. According to the NSW EPA, EI Australia Pty Ltd advised that 116m<sup>3</sup> of sandstone material from Area B was classified as ENM and will be reused to reinstate the berm around the premises. To comply with Clean-Up Notice 1597021, the NSW EPA confirmed that this process will continue until such time as natural ground levels are reached.

In response to Council's Senior Environmental Health Officer's earlier concerns, EI Australia Pty Ltd confirmed that the site surface will be finished to the approved landform elevations.

Therefore, despite the proposed amendment to condition 95 of the consent under DA-790/20213, the subject section 4.55(1A) application, is considered that the proposed change to the type of fill from VENM to ENM will have minimal environmental impact to which Council originally granted approval.

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

**Comment:** The applicant states that in considering the requested amendment, the Council can be satisfied that the development as modified will be substantially the same development. The modification is a change to the type of land fill material that can be brought to the site. The material that has been brought to the site has been extensively tested and found to be not contaminated.

The modification to alter condition 95 of the consent to accept ENM instead of VENM fill material is considered minor and does not alter the requirement of the development to be constructed in accordance with the approved plans and is therefore substantially the same development.

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

**Comment:** The section 4.55(1A) application was notified in accordance with the Liverpool Community Participation Plan 2019.

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

**Comment:**

The application was notified in accordance with the Liverpool Community Participation Plan 2019. The public exhibition period was from 23 August 2021 and 7 September 2021. Twenty-one (21) submissions were received in response to the public exhibition.

The issues raised are discussed further in Section 6.8(a) of this report.

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

**Comments:** An assessment of the development as modified against Section 4.15 of the Act is provided in this report. The assessment has found that the proposed modification remains consistent with Section 4.15 of the Act and warrants favourable consideration.

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

**Comments:** Noted. The development as modified remains substantially the same as approved under DA-790/2013.

Based on the above it is considered that the proposed section 4.55 application satisfies the relevant provisions of section 4.55(1A) of the EP&A Act 1979 and is worthy of support in this instance.

The modifications the subject of this application have been considered against the relevant Environmental Planning Instruments, Development Control Plans and other Council Codes, as follows:

## **5. STATUTORY CONSIDERATIONS**

### **5.1 Relevant matters for consideration**

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

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- Liverpool Local Environmental Plan 2008;
- Liverpool Development Control Plan 2008;
  - Part 1: General Controls for All Development

## **6. ASSESSMENT**

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

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

#### ***State Environmental Planning Policy (Resilience and Hazards) 2021***

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land, as the proposal relates to the development of land to accommodate a change of use with the potential under the former SEPP 55 guidelines to be a site that could be potentially contaminated.

The objectives of SEPP (Resilience and Hazards) 2021 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 application was referred to Council's Environmental Health officer who made the following assessment:

*The NSW EPA was requested to provide comments in relation to the proposal to permit the use of ENM at the subject premises. Within their correspondence dated 2<sup>nd</sup> September 2021, the NSW EPA supported the use of ENM instead of VENM at the subject premises provided that the material complies with the excavated natural material exemption 2014 issued under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014.*

*In addition, the NSW EPA confirmed that the removal of waste material from Area A was completed. Contaminated material was removed from the site and disposed of at a licensed waste facility. Approximately 640m<sup>3</sup> of sandstone material that met the ENM Order 2014 was stockpiled on the sealed carpark area for potential reuse to reinstate the berm subject to*

Council approval. According to the NSW EPA, EI Australia Pty Ltd advised that 116m<sup>3</sup> of sandstone material from Area B was classified as ENM and will be reused to reinstate the berm around the premises. To comply with Clean-Up, Notice 1597021, the NSW EPA confirmed that this process will continue until such time as natural ground levels are reached.

In accordance with Clause 4.6(1) of State Environmental Planning Policy (Resilience and Hazards) 2021, the consent authority is required to consider contamination and the need for remediation when determining an Application. If the land requires remediation, it must be satisfied that the land will be remediated before the land is used for that purpose. The proponent is seeking approval to modify condition 95 of DA-790/2013 to use Excavated Natural Material (ENM) instead of Virgin Excavated Natural Material (VENM) at the premises as part of clean-up action directed by the NSW EPA.

The NSW EPA issues resource recovery orders (orders) and resource recovery exemptions (exemptions) which allow some wastes to be beneficially and safely reused. Resource recovery orders and exemptions contain conditions which generators, processors and consumers must meet for reuse. Orders and exemptions are only appropriate if the reuse: is genuine, rather than a means of disposal; is beneficial or fit-for-purpose; and will not cause harm to human health or the environment. All conditions of an order and exemption must be met for the supply and reuse to be lawful.

In addition to these requirements, Clause 4.6(2) of State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to consider a report specifying the findings of a preliminary investigation of land if the proposed development involves a change of use on any land specified in subclause 4. The Application does not involve a change of use and further consideration of Clauses 4.6(2), 4.6(3) and 4.6(4) of State Environmental Planning Policy (Resilience and Hazards) 2021 is not required.

Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, Council is required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application.

<b>Clause 4.6 - Contamination and remediation to be considered in determining development application</b>	<b>Comment</b>
(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	Contamination and remediation addressed as part of the development consent issued under DA-790/2013 remain unchanged.
(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	Contamination and remediation addressed as part of the development consent issued under DA-790/2013 remain unchanged.
(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.	Contamination and remediation addressed as part of the development consent issued under DA-790/2013 remain unchanged.

The proposed modification is considered to be in accordance with SEPP (Resilience and Hazards).

***Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBG Act)***

The site is 'certified' in accordance with the South West Growth Centres Biodiversity Certification (NSW Government Gazette Number 181, 12 December 2007). Consequently, the requirements for ecological assessment under the Environmental Planning and Assessment Act 1979 are suspended for development applications in certified areas.

However, the original assessment identified that the proposed use was considered to be a controlled use under the EPBG Act and required determination by the then Department of Sustainability, Environment, Water, Population and Communities. It is now administered by the Commonwealth Department of the Environment and Energy.

The modifications proposed do not impact on the original consideration of the site.

***Environmental Planning and Assessment Act, 1979 – Integrated Development Provision (Referral under Water Management Act 2000).***

The original DA was referred to the NSW Office of Water as Integrated Development. The Office of Water issued its General Terms of Approval (GTA) which are attached to DA-790/2013.

The proposed modifications do not impact on the application of the GTA requirements or the need to obtain approvals from the Office of Water or any successor authority for any controlled activities under the Water Management Act.

The Office of Water has requested to be notified of any amendments that significantly change the proposed development. The proposed changes are not considered to fall into that category.

***State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2 - Infrastructure***

The approved traffic arrangements and existing traffic generation potential is not affected by the proposed modifications.

***State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 9 Hawkesbury- Nepean River***

As the levels of fill are to be returned to those approved, the proposed modifications do not alter the impact of the proposed cemetery as previously assessed under this SEPP.

***Liverpool Local Environmental Plan 2008***

The proposal was originally assessed and approved under LLEP 2008. The proposal does not alter the consistency of the approved development with the relevant provisions stipulated under LLEP 2008.

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

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

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

**(a) Liverpool Development Control Plan (LDCP) 2008**

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

- Part 1 of the LDCP 2008, which covers general controls relating to all types of development within the Liverpool LGA;

The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008 aside from Section 24 – Landfill - Control 1 -

*All fill applied should be Virgin Excavated Natural Material (VENM), as defined by the NSW Department of Environment and Climate Change. Any fill involving material other than VENM is subject to referral to the State Government as potential Integrated Development or contaminated land assessment.*

This control is discussed below as well as in an extract from the LDCP 2008 compliance table.

- Section 24 - Landfill
  - The application was referred to the NSW EPA and to Council's Environmental Health section who have made no objection to the modification application.
  - The variation to the type of land fill is considered to be acceptable in the circumstances.

<b>LDCP 2008 - Part 1 General Controls for all Development</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Complies</b>
<b>Section 24. Land Fill</b>	All fill applied should be Virgin Excavated Natural Material (VENM), as defined by the NSW Department of Environment and Climate Change. Any fill involving material other than VENM is subject to referral to the State Government as potential Integrated Development or contaminated land assessment.	The application was referred to the NSW EPA and to Council's Environmental Health section who are supportive of the proposed amendment of the condition of consent to permit ENM fill in place of the originally approved VENM.	Considered acceptable

All other sections of the assessment against the Liverpool Development Control Plan 2008 remain as originally assessed.

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

There are no Planning Agreements which apply to the development.

#### **6.5 The Environmental Planning and Assessment Regulation (2021) – (a)(iv)**

There are no additional items for consideration.

#### **6.6 The likely impacts of the Development – (b)**

The modification proposed by this application being the amendment of condition 95 to permit ENM fill in place of the approved VENM has been assessed by the NSW EPA and Council's Environmental Health section and has been found to be satisfactory. Additionally, the application was accompanied by a report from an environmental hydrogeologist which stated that the fill on site will be returned to be in accordance with the original approval. On this basis it considered that the proposed modification of the original consent will improve the condition of the site to that approved and that it will result in minimal impact to the surrounding uses.

#### **6.7 The Suitability of the Site for the Development – (c)**

The site was considered suitable for a cemetery as proposed in the granting of the original applications for the use. The proposed modifications do not involve changes that undermine those determinations or suggest that the site is no longer suitable for the approved use. The changes relate mainly to the nature of the fill on the site. The suitability of the site for the approved use is not changed.

## 6.8 Any Submissions made in relation to the Development – (d)

### (a) Community Consultation

The application was notified between 23 August 2021 and 7 September 2021. Twenty-one (21) submissions were received as a result of this notification. A summary of the issues raised in these submissions has been included below:

- The site has been used as a landfill site.
- There was no intention for the site to be used as a natural burial cemetery.
- Under no circumstances should fill containing toxic waste such as petroleum, asbestos and other chemicals be permitted on the site.
- The developer should be required to clean up the site as per the EPA order.
- The use of ENM instead of VENM is not in accordance with the original consent.
- The developers knew at the time that they were importing other than ENM to the site which should be grounds to reject the application.
- Only surface sampling was done at the site. Depth Sampling should be done.
- Support of the application would encourage other illegal fill in the area.
- Fill brought to the site should have been disposed of at a licenced waste facility.
- Contamination could reach nearby dams & waterways and catchments potentially impacting on residents' health and wildlife.
- Run off from the site will carry contamination to adjacent properties.
- Large quantities of unauthorised fill have been brought to the site.
- Run-off from the site has caused sediment to be deposited across neighbouring driveways and Greendale Road.
- There is no dust control as required by the consent.
- Protected trees have been built up with fill around their bases and have died.

The following discussion addresses the issue raised in the submissions, which have been grouped according to common themes.

**Issue 1:** The site has been used as a landfill site.

The development site is the subject of Clean-Up Notice Number 1597021 issued by the NSW EPA dated 28 September 2020 which is aimed at restoring the site to acceptable conditions and to reduce impacts to adjacent properties.

The application has been referred to the NSW EPA and to Council's Environmental Health section who have raised no objection to the proposed use of ENM instead of VENM on the site. All other conditions of the consent remain in place. Compliance with these other conditions can be investigated through Council's Compliance Section.

**Issue 2:** There was no intention for the site to be used as a natural burial cemetery.

Consent was issued for use of the site as a natural burial cemetery under DA-790/2013 and DA-394/2011 which was approved by the Land and Environment Court. Conditions of consent were issued for both consents which are to be complied with.

**Issue 3-** Under no circumstances should fill containing toxic waste such as petroleum, asbestos and other chemicals be permitted on the site.

Council is in support of the clean-up order imposed by NSW EPA and that toxic waste is not to be permitted on the site. The modification of the fill from VENM to ENM does not prevent the ability of the site to comply with the clean-up notice or to comply with all other conditions of consent.

**Issue 4** - The developer should be required to clean up the site as per the EPA order.

Council is in support of the clean-up order imposed by NSW EPA and that toxic waste is not to be permitted on the site. The modification of the fill from VENM to ENM does not prevent the ability of the site to comply with the clean-up notice or to comply with all other conditions of consent.

**Issue 5** - The use of ENM instead of VENM is not in accordance with the original consent.

The application has been referred to the NSW EPA and to Council's Environmental Health section who have raised no objection to the proposed use of ENM instead of VENM on the site. All other conditions of the consent remain in place.

**Issue 6** - The developers knew at the time that they were importing other than ENM to the site which should be grounds to reject the application.

The development site is the subject of Clean-Up Notice Number 1597021 issued by the NSW EPA dated 28 September 2020 which is aimed at restoring the site to acceptable conditions and to reduce impacts to adjacent properties. NSW EPA advises that the applicant is working with the EPA to address the issues identified in its clean up notice.

The application has been referred to the NSW EPA and to Council's Environmental Health section who have raised no objection to the proposed use of ENM instead of VENM on the site this modification. All other conditions of the consent remain in place.

**Issue 7** - Only surface sampling was done at the site. Depth Sampling should be done.

The testing of the site was conducted by NSW EPA in accordance with its statutory requirement which is the highest level of environmental protection applicable to the site.

**Issue 8** - Support of the application would encourage other illegal fill in the area.

The dumping of waste is not endorsed as demonstrated by the NSW EPA clean up notice which the developer is working through with the NSW EPA.

**Issue 9** - Fill brought to the site should have been disposed of at a licenced waste facility.

The site has a clean up order on it issued by NSW EPA in order to rectify and remove any non-ENM material to a suitable waste facility.

**Issue 10** - Contamination could reach nearby dams & waterways and catchments potentially impacting on residents' health and wildlife.

The proposed change use of ENM in place of VENM was referred to the NSW EPA and to Council's Environmental Health Officer who have no objection to the proposal. The NSW EPA clean up notice is aimed at minimising any environmental impacts of the fill on the site and on

adjacent properties.

**Issue 11** - Run off from the site will carry contamination to adjacent properties.

The change use of ENM in place of VENM was referred to the NSW EPA and to Council's Environmental Health Officer who have no objection to the proposal. The NSW EPA clean up notice is aimed at minimising any environmental impacts of the fill on the site and any future fill brought to the site.

Conditions of consent have been imposed under approved DA-790/2013. Conditions 109, 110, 111, 113, 116, 117, 137, 139, 140 & 141 relate to the management of the site during construction to minimise issues relating to run-off and sediment control. The issue of run-off and sediment control from activities on the site can be the subject of Council's Compliance Section if conditions of consent are not adhered to.

**Issue 12** - Large quantities of unauthorised fill have been brought to the site.

The proposed use of ENM fill in lieu of VENM fill does not alter the other conditions of consent which includes the level of fill approved for the site.

**Issue 13** - Run-off from the site has caused sediment to be deposited across neighbouring driveways and Greendale Road.

The issue of uncontrolled run-off leaving the site can be the subject of Council's Compliance Section.

**Issue 14** - There is no dust control as required by the consent.

Condition 137 of DA-790/2013 provides measures which are to be followed to prevent airborne dust transport. The issue of dust arising from activities on the site can be the subject of Council's Compliance Section if conditions of consent are not adhered to.

**Issue 15** - Protected trees have been built up with fill around their bases and have died.

The site is to be restored to the originally approved levels which should be to that which will prevent tree loss. The loss of trees not approved for removal would be a matter for Council's Compliance Section to investigate.

#### **(b) Internal Referrals**

Environmental Health – Supported.

#### **(c) External Referrals**

NSW EPA – Supported.

### **6.9 The Public Interest - (e)**

The cemetery is approved and, following the completion of clean-up works required by NSW EPA, can be developed. The proposed modifications aim to facilitate that development. The amendment of the proposed quality of the imported fill on the site and for any future fill brought to the site will improve potential impacts to surrounding development and for the future users of the site. Therefore, approval of the proposed modification is still considered to be in the public interest.

## **7. DEVELOPMENT CONTRIBUTIONS**

Section 7.11 Development Contributions are not applicable to this modification in accordance with the Liverpool Contributions Plan 2009 – Rural Areas.

## **8. CONCLUSION**

The application has been assessed having regard to the provisions of Section 4.55(1A) 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 has been assessed as unlikely to result in adverse 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**

Having regard to the provisions of Sections 4.55 & 4.15 of the *Environmental Planning and Assessment Act 1979*, the proposed modification to DA-790/2013 relating to the approved cemetery development at 41 Greendale Road, Bringelly is considered to be satisfactory. Therefore, it is recommended that the application be approved and the consent for DA-790/2013 be modified to reflect the proposed changes.

## **10. REPORT ATTACHMENTS**

- 1. NSW EPA Referral**
- 2. NSW EPA Clean-Up Notice**
- 3. CONDITIONS OF APPROVAL WITH ASSOCIATED EXTERNAL COMMENTS**

# REPORT ATTACHMENT 1: NSW EPA REFERRAL



DOC21/755713-3

Mr Patrick Curmi  
Liverpool City Council  
Locked Bag 7064  
LIVERPOOL NSW 1871

2 September 2021

Dear Mr Curmi

**CNR-27055- s45 modification application – DA394/2011/A and DA790/2031/A  
use of ENM at 41 Greendale Road Bringelly**

The Environment Protection Authority (EPA) refers to Liverpool City Council's request for comments in relation to a s45 modification application to permit the use of ENM at 41 Greendale Road Bringelly (premises).

The EPA has assessed the application to amend condition 75 of DC394/2011 and condition 95 of DC790/2013 to permit the use of Excavated Natural Material (ENM) instead of Virgin Excavated Natural Material and advises that it supports this proposal provided the material complies with *The excavated natural material exemption 2014* issued under clauses 91 and 92 of *the Protection of the Environment Operations (Waste) Regulation 2014*.

**ENM currently at the premises**

As Council is aware, the EPA issued clean-up notice No. 1597021 (and subsequent variations) to The Garden Cemetery Limited as developers of the burial cemetery approved under DC394/2011, to take specified clean-up actions in two distinct areas of the premises referred to as Area A and Area B (which includes the Berm).

The Garden Cemetery Limited engaged EI Australia Pty Limited (EI) to assess and classify the material that had been imported and land applied at the premises.

To date the removal of waste material from Area A has been completed with contaminated waste material being removed offsite for disposal and approximately 640m<sup>3</sup> of sandstone material that met the chemical and other material requirements under Table 4 of the *excavated natural material order 2014* (ENM) being stockpiled on the sealed carpark area for potential reuse to reinstate the Berm (subject to Council approval).

EI Australia have advised that 116m<sup>3</sup> of sandstone material from Area B which has been classified as ENM will also be transferred to the carpark area for potential onsite reuse. In total approximately 756m<sup>3</sup> of sandstone material which has been classified as ENM will be reused to reinstate the berm around the premises.

Phone 131 555

TTY 133 677

Locked Bag 5022

4 Parramatta Square

[info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)

Phone +61 2 9995 5555  
(from outside NSW)

ABN 43 692 285 758

Parramatta

12 Darcy St, Parramatta

[www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

NSW 2124 Australia

NSW 2150 Australia

EI continue to assess and classify the land applied material within Area B for offsite disposal and have advised that they do not anticipate any further ENM material will be set aside for onsite reuse. To comply with clean-up notice No. 1597021 this process will continue until such time that natural ground levels are reached.

If you have any questions regarding this matter, please contact Katharine Falconer on (02) 9995 6287.

Yours sincerely



**BELINDA LAKE**  
Unit Head, Major Compliance and Investigations  
Regulatory Operations Regional

# **REPORT ATTACHMENT 2: NSW EPA CLEAN-UP NOTICE**

Section 91 Protection of the Environment Operations Act 1997

## **Clean-Up Notice**

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THE GARDEN CEMETERY LIMITED  
ACN 611 122 662  
C/O TITAN PARTNERS  
LEVEL 3, 7-15 MACQUARIE PLACE  
SYDNEY NSW 2000

Attention: The Proper Officer

Notice Number 1597021  
File Number EF20/21529  
Date 28-Sep-2020

### **Clean-up Notice**

#### **Why is the EPA writing to you?**

The Environment Protection Authority (EPA) reasonably suspects that a pollution incident has occurred or is occurring on land that forms part of 41 GREENDALE ROAD, BRINGELLY, NSW, 2556 being Lot 5 DP 252040 (Premises) as a result of waste being deposited and land applied to the Premises. The EPA has issued THE GARDEN CEMETERY LIMITED (Garden Cemetery), as the occupier of the Premises, with this Clean-up Notice (the Notice). Further information is set out in the notice below.

#### **BACKGROUND**

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997* (the Act).
- B. Under Section 91(1)(a) of the Act, the EPA can in writing, direct an owner or occupier of a premises at, or from which, the authority reasonably suspects that a pollution incident has occurred or is occurring to take such clean up action specified in the notice and within the specified time period.
- C. Garden Cemetery is the lessee of the Premises under a twenty-five year lease agreement, that commenced on 5 September 2017, and has management and control of the Premises. Garden Cemetery is the occupier of the Premises for the purposes of s91(1)(a) of the Act.
- D. On 29 January 2013, the Land and Environment Court approved staged development DA-394/2011 concept plan and stage 1 works (Court Order) for construction of a natural burial cemetery and associated infrastructure on the Premises. Development is to be carried out in accordance with the

Page 1

## Clean-Up Notice

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Court Order Conditions of Consent and the list of plans (DA Approved Plans) described in, and the subject of, the Court Order.

E. Condition 75 of Court Order states *"All fill material imported on to the premises must be Virgin Excavated Natural Material (VENM). Validation certificates from a recognized and qualified consultant or geotechnical engineer verifying the material is free of contaminants, prior to transportation to and placing of VENM on the premises."*

F. The Court Order does not permit the use of the Premises for the storage or land application of asbestos waste.

G. The application to land of waste received from offsite, is declared to be a scheduled activity, under Clause 39 of Schedule 1 to the Act.

H. The EPA is the appropriate regulatory authority (ARA) for scheduled activities under the Act.

I. The EPA has not issued an environment protection licence that would permit the disposal and application of waste to the Premises.

### Site Inspection

J. On 7 May 2020, EPA Authorised Officers (EPA Officers) conducted an inspection of the Premises following reports to EPA's Environment Line alleging that the Premises was being used as a waste facility. During the inspection the EPA Officers observed:

#### **Area A** (as delineated in Image 3)

- i. A haul road (Image 6) had been constructed from waste comprising of different types of soil containing building and demolition waste through the South-Western portion of the Premises, labelled as "Haul Road" in Image 1. This haul road is located in an area containing high quality Cumberland Plain Woodland as identified in DA Approved Plan, *flora & fauna analysis plan 02b prepared by McGregor + Coxall, Revision A - April 2011* and has been marked as "Cumberland Plain Woodland" in Image 1.
- ii. Waste comprised of soil mixed with building and demolition material had been placed directly around the trees located in Area A displaying preservation numbers to a depth of several metres and protective fencing was either absent or buried under the waste (Image 7). Vegetation on the Premises falls within the Shale Hills Woodland component of the Cumberland Plain Woodland Endangered Ecological Community .

## Clean-Up Notice

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### Area B (as delineated in Image 3)

- iii. A load of waste comprised of soil mixed with pieces of bitumen being deposited on an area identified in Image 1 as the "Western batter" of the Premises. A waste classification report certifying that this material was Virgin Excavated Natural Material (VENM) was not able to be provided to the EPA officer during the inspection by the truck driver and was not provided by the owner of the waste during subsequent requests by the NSW EPA.
- iv. Two excavators were in operation at the Premises, spreading waste, comprised of soil mixed with pieces of brick and bitumen, on the western batter (Image 5).
- v. Waste comprised of soil containing; broken pieces of bricks, concrete, wood, tiles, metal, plastic and suspected bonded asbestos contaminated material (ACM), that had been deposited and spread or landscaped at the Premises in areas marked as:
  - "Western batter" (shaded as purple) and
  - "Eastern batter" (shaded as blue) and
  - "Berm" (shaded as yellow) in Image 1.

Photographs of these areas are also shown in Images 4 and 5.

- vi. Absence of, or poor maintenance of erosion control measures in the North-Eastern corner and North-Western corner and along the Haul Road resulting in sediment laden water being discharged into waterways, onsite dams and dams on adjoining properties (Image 8).
  - vii. The Berm in the North-Eastern corner was structurally compromised, resulting in sediment laden water being discharged onto adjoining property (Image 9).
  - viii. Stormwater had created erosion channels within the top surface area and face of the steeply terraced Eastern batter, compromising the integrity and stability of the batter. The Eastern batter was composed of waste including soil containing broken bricks, concrete, steel and plastic, which was visible within these erosion channels.
- K. The EPA Officers collected 23 fragments of suspected ACM from various areas in Area B (as delineated in Image 3) at the Premises for laboratory analysis. The location of the sampling points is shown in Image 2. The samples were sent for analysis at a National Association of Testing Authorities accredited testing laboratory.
- L. On 12 May 2020, the EPA received laboratory results which confirmed the presence of asbestos in twenty-two (22) of the twenty-three (23) samples collected from the Premises.
- M. The EPA understands Garden Cemetery engaged contractors, Citywide Civil Pty Ltd on the 10 January 2019 to carry out civil works at the Premises.
- N. On 18 May 2020, following the 7 May 2020 inspection of the Premises, the EPA issued Clean-up Notice No. 1594775 to Citywide Civil Pty Ltd. Clean-up Notice No. 1594775 directed Citywide Civil Pty Ltd to immediately prevent the receipt, deposition, disturbance or alteration or removal of any waste material from the Premises. The EPA will revoke Clean-up Notice No. 1594775 by a Revocation Notice on the date this Notice is issued.
- O. As part of Clean-up Notice No. 1594775 issued to Citywide Civil Pty Ltd, the EPA undertook a preliminary analysis of the amount of waste that has been applied to land at the Premises. It was

## Clean-Up Notice

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estimated that there is at least 3,500m<sup>3</sup> of waste in the Western batter, 4,000m<sup>3</sup> of waste in the Eastern batter and 1,400m<sup>3</sup> of waste in the Berm. Based on the conversion rate of 1 cubic metre to 1 tonne, the amount of soil mixed with building and demolition waste is estimated to be a minimum of 8,900 tonnes.

- P. Given the large quantities of waste deposited and applied to the Premises, and the confirmed ACM samples that were collected from the waste materials across the Premises, including from locations in the Western batter, Eastern batter and Berm, the EPA reasonably suspects that more than 10 tonnes of waste materials containing ACM has been deposited on and applied to the Premises.
- Q. Waste has also been applied to other areas of the Premises, not included in the 8,900 tonne calculation. This includes the areas surrounding the Haul Road constructed through the South-West are of the Premises and general filling across the Premises.
- R. The EPA has undertaken a review of available aerial imagery of the Premises and identified that the following works have occurred:
- i. Between 9 January 2013 and 8 July 2017: no civil works were observed;
  - ii. Between 8 July 2017 to 12 January 2019: commencement of excavation works to construct the central internal access road and carparking area (located on the South-Eastern corner of the Premises), filling of the dam on the North-Western portion and limited stockpiled of soil material;
  - iii. Between 12 January 2019 and 23 July 2019: further construction works including completion of the carparking area and earthworks including filling of the central portion of the Premises.
  - iv. Between 23 July 2019 and 7 November 2019: filling works had expanded across the entire North-Eastern portion of the Premises (including the expansion and construction of part of the eastern batter). The Berm had been constructed along the entire 200 metre northern boundary line, a 150 metre section on the eastern boundary line and a 90 metre section along the Western boundary line of the Premises.
  - v. Between 7 November 2019 and 21 March 2020: further filling works on the Eastern batter, filling works had commenced to construct the Western batter, bitumen had been laid to the central internal access road and carpark roadways, the haul road had been constructed through the South-Western portion of the Premises, the Berm had been constructed along the entire 450 metres of the Eastern boundary line and an additional 90 metres section of the Western boundary line (total distance 180 metres).
  - vi. Between 21 March 2020 and 28 May 2020: further filling works on the Eastern batter and Western batter, bitumen had been laid to the remaining central internal access road, the Berm had been expanded to the entire 530 metres of the Western boundary line
- S. On 9 July 2020, EPA Authorised Officers conducted a second inspection of the Premises. During the inspection the Officers observed:
- Area A and B** (as delineated in Image 3)
- i. Plastic fencing had been placed around trees displaying preservation numbers. Waste had not been moved from around the base of the trees which were still buried to a depth of several metres.

## Clean-Up Notice

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### **Area B** (as delineated in Image 3)

- ii. In North-Western portion of the Premises, an outlet pipe was positioned to discharge into the neighbouring premises (Image 10).
- iii. Stormwater had created erosion channels within the top surface area and face of the steeply terraced Eastern batter, compromising the integrity and stability of this batter. Building and demolition waste was visible within these erosion channels (Image 11).

### **ENVIRONMENT PROTECTION LAW**

- T. Section 91 of the Act gives power to the EPA to issue a Clean-up Notice for a pollution incident.
- U. Under s91(1)(a) the EPA may direct and owner or occupier of Premises at or from which the Authority reasonably suspects that a pollution incident has occurred or is occurring, to take such clean-up action as is specified in the Notice within the time period specified in the Notice.
- V. The Dictionary to the Act defines:
  - a. "Pollution incident" as an incident or set of circumstances or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.
  - b. "Pollution" as including land and water pollution.
  - c. "Land pollution" or "Pollution of Land" as placing in or on, or otherwise introducing into or onto, the land (whether through an act or omission) any matter, whether solid, liquid or gaseous:
    - a) that causes or is likely to cause degradation of the land, resulting in actual or potential harm to the health or safety of human beings, animals or other terrestrial life or ecosystems, or actual or potential loss or property damage, that is not trivial, or
    - b) that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter, but does not include placing in or on, or otherwise introducing into or onto, land any substance excluded from this definition by the regulations.
  - d. "water pollution" to include placing any matter (whether solid, liquid or gaseous) in a position where it falls or is likely to fall into any waters if the matter would, had it been placed in any waters, have polluted or have been likely to pollute those waters.
  - e. "waters" means the whole or any part of
    - a) any river, stream, lake, lagoon, swamp, wetlands, unconfined surface water, natural or artificial watercourse, dam or tidal waters (including the sea) or
    - b) any water stored in artificial works, any water in water mains, water pipes or water channels, or any underground or artesian water.

## Clean-Up Notice

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- f. "Waste" as:
- (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
  - (b) any discarded, rejected, unwanted, surplus or abandoned substance, or
  - (c) any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or recycling, processing, recovery or purification by a separate operation from that which produced the substance, or
  - (d) any processed, recycled, re-used or recovered substance produced wholly or partly from waste that is applied to land, or used as fuel, but only in the circumstances prescribed by the regulations, or
  - (e) any substance prescribed by the regulations to be waste.

A substance is not precluded from being waste for the purposes of this Act merely because it is or may be processed, recycled, re-used or recovered.

- g. "Asbestos Waste" as any waste that contains asbestos.
- h. "Asbestos" as having the same meaning as it has in Schedule 1 of the Act. Clause 50 of Schedule 1 to the Act defines "asbestos" to mean "the fibrous form of those mineral silicates that belong to the serpentine or amphibole groups of rock-forming minerals, including actinolite, amosite (brown asbestos) anthophyllite, chrysotile (white asbestos), crocidolite (blue asbestos) and tremolite".
- i. "Building and Demolition waste" includes materials such as bricks, concrete, paper, glass, metal and timber.
- j. "Occupier" of premises mean the person who has the management or control of the premises.
- W. Under clause 109 of the Protection of the Environment Operations (General) Regulation 2009 (Regulation) more than 10 tonnes of asbestos waste is a matter which is prescribed for the purposes of paragraph (b) of the definition of land pollution.

### POLLUTION INCIDENT

- X. In relation to **Area A** of the Premises (as delineated in Image 3), the EPA reasonably suspects, based on the observations of its officer, that:
- a. the haul road in the high value Cumberland Plain Woodland conservation area at the Premises has been constructed of waste, and
  - b. waste has been placed around the bases of trees within the Cumberland Plain Woodland conservation area, and
  - c. the deposited waste, around the base of those trees and comprising the haul road, has, or is likely, to cause degradation of the land in Area A, resulting in actual, or potential harm, to the health of the Cumberland Plain Woodland ecosystem, that is not trivial.

## Clean-Up Notice

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- Y. The EPA therefore reasonably suspects that a pollution incident, namely land pollution, has or is occurring in Area A of the Premises due to the depositing of waste in the Cumberland Plain Woodland.
- Z. In relation to **Area B** of the Premises (as delineated in Image 3), the EPA reasonably suspects, based on the observations of its officers, and the test results of samples analysed and collected from the Premises, that the waste deposited on, and applied to Area B of the Premises:
- a. contains asbestos and is 'asbestos waste' as defined in the Act.
  - b. that more than 10 tonnes of asbestos waste has been deposited and applied to the Premises, and comprises land pollution of a prescribed nature, as a result of which land pollution has occurred, is occurring or is likely to occur.
  - c. that deposit of the asbestos is likely to cause degradation of the land, resulting in actual or potential harm to the health or safety of human beings, animals or other terrestrial life or ecosystems; and
  - d. there is the potential for harm to human health on the presence of asbestos in the soil and waste material deposited on the Premises, as the asbestos is accessible and vulnerable to disturbance by people or vehicles, and the disturbance may release fibers into the air.
- AA. On 8 September 2020, the EPA provided Garden Cemetery with a draft version 1 of this Notice for comment.
- AB. On 17 September 2020, Garden Cemetery provided comments on the draft version 1 for consideration.
- AC. On 18 September 2020 the EPA provided draft version 2 to Garden Cemetery for review.
- AD. On 22 September 2020 Garden Cemetery provided comments on draft version 2 for consideration. After review the EPA is providing draft version 3 for consideration.
- AE. On 25 September 2020 Garden Cemetery provided additional comments on draft version 3 requesting an extension for direction 5, 9 & 10. The EPA agrees to this extension.
- AF. The EPA is directing you, Garden Cemetery to take clean-up action in relation to these pollution incidents because you are the occupier of the Premises.

### **DIRECTION TO TAKE CLEAN-UP ACTION**

The EPA directs THE GARDEN CEMETERY LIMITED to take the following clean-up action in relation to the Premises.

1. Immediately:
  - a. cease, receiving waste at the Premises, or permitting waste to be so received, unless prior written authorisation is provided by the EPA.
  - b. cease transporting waste to the Premises, or causing or permitting waste to be so transported, unless prior written authorisation is provided by the EPA.
  - c. prevent, and continue to prevent, unauthorised access to the Premises by ensuring security measures such as fencing are installed and maintained.
  - d. any security fencing installed at the Premises must be maintained to prevent any unauthorised access to the Premises.

## Clean-Up Notice

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- e. do not move, alter, process or disturb any asbestos or other waste fill material at the Premises until clean up occurs in accordance with this Notice or unless prior written notification has been provided by the EPA.
2. At least **seven (7) days** prior to the removing any waste from the Premises as required by Direction 4 and 5 of this Notice, provide the EPA in writing, details of the place that the waste required to be removed by Direction 4 and 5 will be lawfully disposed of.
3. You must notify the EPA at least **72 hours** prior to undertaking works associated with Direction 4 and 5 of this Notice. This notification must be given by way of Self Report made to the NSW EPA's Environment Line Telephone Service on 131 555 and quoting "Clean-Up Notice No. 1597021".
4. By no later than **5pm Monday 21 December 2020**, ensure all waste deposited in **Area A** in Image 3 is disposed of at a waste facility that can lawfully accept this waste.
5. By no later than **5pm Monday 22 February 2021**, ensure all waste, being asbestos waste, applied to **Area B** (including the Berm) in Image 3 is removed and disposed of at a landfill that can lawfully accept asbestos waste.
6. An asbestos removalist that is appropriately licensed by SafeWork NSW must be used to remove the asbestos waste from the Premises.
7. Ensure all asbestos waste transported from the Premises is entered into the EPA's *Waste Locate* tracking system.
8. By no later than **5pm Monday 18 January 2021**, provide the EPA with the following:
  - a. clear and legible copies of all invoices and receipts for the transportation of the waste material referred to in Direction 4 of this Notice;
  - b. clear and legible copies of disposal dockets to prove the lawful disposal of all waste material referred to in Direction 4 of this Notice;
  - c. the name, address and contact details of any transporter used to transport the waste material referred to in Direction 4 of this Notice.
9. By no later than **5pm Monday 8 March 2021**, provide the EPA with the following:
  - a. clear and legible copies of all invoices and receipts for the transportation of the waste material referred to in Direction 5 of this Notice;
  - b. clear and legible copies of disposal dockets to prove the lawful disposal of all waste material referred to in Direction 5 of this Notice;
  - c. the name, address and contact details of any transporter used to transport the waste material referred to in Direction 5 of this Notice.
10. By no later than **5pm Monday 8 March 2021** provide the EPA with a clearance certificate from an independent suitable person (qualified as an occupational hygienist or licensed asbestos assessor who has expertise in dealing with asbestos waste) that confirms that Area B in Image 3 is clear of asbestos waste in accordance with the requirements of the *Work Health and Safety Regulation 2017*.
11. All information and records required by Direction 2, 8, 9 and 10 of this Notice must be submitted to:

**MAIL:** Director Major Compliance & Investigation (Att: Clean-Up Notice No. 1597021)  
NSW Environment Protection Authority,

## Clean-Up Notice

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Locked Bag 5022  
PARRAMATTA NSW 2124

OR

Email [EPA.EDoperationsregional@epa.nsw.gov.au](mailto:EPA.EDoperationsregional@epa.nsw.gov.au) (Clean-Up Notice No. 1597021)

### Signage

12. If Clean Up Notice signage is provided by the EPA, erect the sign on the fence at the Premises where it is in an easily visible position from Greendale Road.
13. If Clean Up Notice signage is provided by the EPA, maintain the sign in good order to ensure it remains visible and legible from Greendale Road.
14. If Clean Up Notice signage is provided by the EPA, you must ensure that you, your employees, subcontractors or agents do not tamper or interfere with or alter the signage in any way.
15. If Clean Up Notice signage is provided by the EPA, you must ensure that you, your employees, subcontractors or agents do not remove the signage without prior written approval from the EPA.
16. If Clean Up Notice signage is provided by the EPA, notify the EPA immediately quoting "Clean-Up Notice No. 1597021" if the signage is removed.
17. If Clean Up Notice signage is provided by the EPA, and the signage is removed, immediately erect and maintain any new signs provided by the EPA in accordance with Directions 11 to 15 above.

### FEE TO BE PAID

- You are required by law to pay a fee of \$563 for the administrative costs of issuing this notice. An invoice for the fee has been attached to this notice.
- It is an offence not to pay this fee. However you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

.....  
**Belinda Lake**

**UNIT HEAD - MAJOR COMPLIANCE & INVESTIGATIONS**  
**REGULATORY OPERATIONS REGIONAL**

(by Delegation)

## Clean-Up Notice

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### WARNINGS AND INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This notice is issued under section 91 of the Act.
- It is an offence against the Act not to comply with a clean-up notice unless you have a reasonable excuse.
- Details provided in this notice will be available on the Public Register in accordance with section 308 of the Act

### Penalty for not complying with this notice

- The maximum penalty that a court may impose for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues. The maximum penalty that a court may impose for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

### When this notice begins to operate

- This notice operates from the day the notice is given, unless a later date is specified in the notice.

### Continuing obligation

- Under section 319A of the Act, your obligation to comply with the requirements of this notice continues until the notice is complied with in full, even if the due date for compliance has passed.

### Cost recovery from the person who caused the incident

- If you comply with this clean-up notice but you are not the person who caused the pollution incident to which the notice relates, you have a right to go to court to recover your costs of complying with the notice from the person who caused the incident.

### Deadline for paying the fee

- The fee must be paid by **no later than 30 days after the date of this notice**, unless the EPA extends the time to pay the fee, or waives the fee.

### How to pay the fee

- Possible methods of payment are listed on the last page of the attached invoice/statement.
- Please include the payment slip from the attached invoice/statement with your payment.

### How to apply for an extension of time to pay/waive the fee

- Any application for an extension of time to pay the fee or for the fee to be waived must be made in writing to the EPA. The application should set out clearly why you think your application should be granted.

### Other costs

- The Act allows the EPA to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters.
- If you are required to pay these other costs and expenses you will later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

## Clean-Up Notice

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### Variation of this notice

The requirements of this notice may only be varied or revoked by written notice issued by the EPA.

# Clean-Up Notice



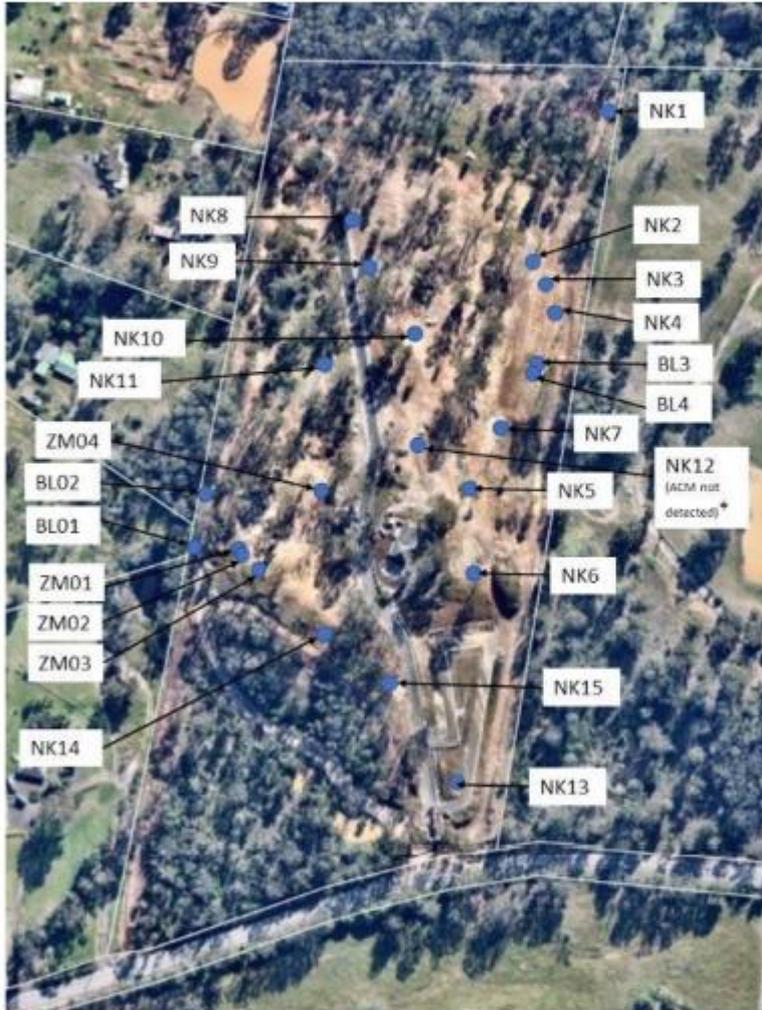
Image 1 - Map of areas of the Premises as of the 7 May 2020



# Clean-Up Notice



Image 2 - Sampling locations at the Premises on 7 May 2020



## Clean-Up Notice



**Image 3** - A map of the Premises, showing the location of land applied waste as "Area A" (the area within the green area) and "Area B" (the area within the yellow area) to which the directions in this Clean-Up Notice apply.



## Clean-Up Notice

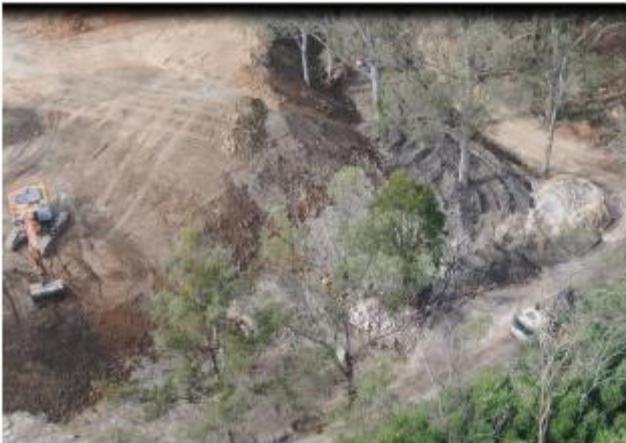
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**Image 4** - Soil material mixed with building and demolition waste in the Western batter



**Image 5** - Aerial view of excavator operating on Western batter

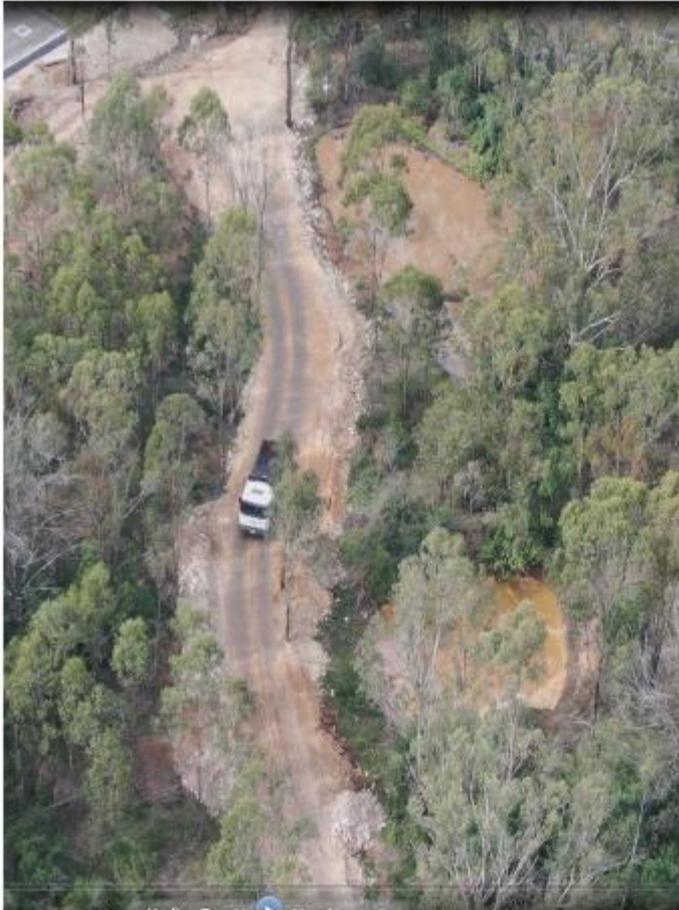


## Clean-Up Notice

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**Image 6** - Haul road constructed through the South-Western portion of the Premises which contains high quality Cumberland Plain Woodland



## Clean-Up Notice

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**Image 7** - Soil material had been placed directly around the trees displaying preservation numbers to a depth of several metres high



## Clean-Up Notice

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**Image 8** - Absence of/ or inadequate sediment control measures resulting in sediment laden water being discharged into dams on adjoining properties



## Clean-Up Notice

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**Image 9** - Compromised bunding wall in North-Eastern corner resulting in sediment laden water being discharged onto adjoining property



## Clean-Up Notice

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**Image 10** - Outlet pipe positioned to discharge into neighbouring premises adjacent to their dam



## Clean-Up Notice

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**Image 11** - Stormwater had created erosion channels within the steeply terraced Eastern batter, compromising the integrity and stability of this batter. Building and demolition waste is visible within the channels



# **REPORT ATTACHMENT 3: CONDITIONS OF CONSENT**

## **SECTION 4.55 MODIFICATION OF DEVELOPMENT CONSENT**

(In accordance with the provisions under Section 4.55 of the *EP&A Act 1979*)

**ADDRESS:** LOT 5 DP 252040  
41 GREENDALE ROAD, BRINGELLY

**DESCRIPTION:** Modification to Development Consent DA-790/2013 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to amend DA Condition 95 to permit the use of Excavated Natural Material (ENM) instead of Virgin Excavated Natural Material (VENM)

Reference is made to Modification Application DA-790/2013/C which seeks amendment to Development Consent DA-790/2013 issued for Stage 2 Development Of A Court Approved Masterplan (In DA-394/2011) For A Non-Denominational Cemetery Comprising Of:

- \* *Burial Plots Comprising 6,474 Double Depth Burial Plots (12,948 Internments), 1,542 Low Impact Burial Plots In Tree Protection Zones, 4,722 Urn Burials Under Trees, 20,000 Ash Internments Within Walls And 5,100 Ash Internments Under Roses Within A Walled Garden (Total 44,312 Internments);*
- \* *Erection And Operation Of Administrative Facilities Comprising Funeral Director's Office, Visitors Centre, All-Weather Covered Ceremonial Space And Chapel, Cafe And Toilets;*
- \* *Erection And Occupation Of A Caretaker's Lodge Including Garage And Maintenance Shed;*
- \* *Erection Of Walls With Enclosed Garden;*
- \* *Erection Of Elevated And At Grade Nature Walks/Access Paths;*
- \* *Provision Of Car Parking For 161 Cars Comprising 137 Permanent Hard Surface Spaces (Inclusive Of 4 Disabled Parking Spaces) And 24 Landscaped Overflow Spaces;*
- \* *Erection Of Entry Gates;*
- \* *Widening Of Greendale Road;*
- \* *Ancillary Drainage, Landscaping And Earthworks To Facilitate Water Management; and*
- \* *Signage Adjacent To Entry Driveway.*

*The Proposed Development Is Identified As Nominated Integrated Development Under Section 91 Of The Environmental Planning And Assessment Act 1979. The Application Is To Be Referred To The NSW Office Of Water For General Terms Of Approval Under The Water Management Act 2000*

Modification Application DA-790/2013/C seeks consent for:

Modification of condition 95 of the consent to permit Excavated Natural Material (ENM) fill in place of Virgin Excavated Natural Material (VENM).

Pursuant to Section (1A) of the *Environmental Planning and Assessment Act 1979*, Council grants approval for the modifications sought. Accordingly, Development Consent DA-790/2013/C has been amended as follows:

- 1. The following condition of Development Consent DA-790/2013 has been amended to read as follows:**

## Environmental Management

95. Fill 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 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 material must be compatible with the existing soil characteristic for site drainage purposes.

All other conditions of Development Consent DA-790/2013 and Modification Application DA-790/2013/A remain unchanged.

**Note:** This determination notice is strictly for changes sought under Modification Application DA-790/2013/C. No approval is granted or implied for any other works / changes proposed to the submitted development.

### ADVISORY NOTES:

- (a) Section 8.2 of the EP&A Act provides that an applicant may request that Council review the determination of the Modification Application (this does not relate to designated development or Crown development).

Section 244 of the EP&A Regulations provides that an application for review must be submitted within 28 days of the date of the determination, and Section 8.2 of the EP&A Act provides that an application cannot be reviewed/determined after 6 months of the date of determination.

- (a) Section 8.9 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Modification Application, may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed by the EP&A Act.
- (b) The Section 4.55 Modification Application does not extend the timeframe of the Development Consent initially granted by Council.
- (c) Modification of the Development Consent does not remove the need to obtain any other statutory consent necessary under the EP&A Act.

<b>Item no:</b>	2
<b>Application Number:</b>	DA-532/2020/A
<b>Proposed Development:</b>	Modification to Development Consent DA-532/202 under Section 4.55 of the Environmental Planning and Assessment Act 1979, Amendments to wording of conditions 22A, 65, 124, and 143.
<b>Approved Application:</b>	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.
<b>Property Address</b>	653, 659 & 661 Hume Highway & 6-8 & 10-12 Wattle Road, Casula
<b>Legal Description:</b>	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
<b>Applicant:</b>	Storcross Pty Ltd
<b>Land Owner:</b>	Storcross Pty Ltd
<b>Date Lodged:</b>	10 December 2021
<b>Zoning:</b>	B6 – Enterprise Corridor and; SP2 – Infrastructure (Classified Road) pursuant to Liverpool Local Environmental Plan (LEP) 2008
<b>Recommendation:</b>	Approval, subject to modified conditions of consent
<b>Assessing Officer:</b>	Jasmin Klaime

## 2. EXECUTIVE SUMMARY

Council has received a development application to modify Consent No. 532/2020 which approved:

*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 modification relates to amendments to wording of conditions 22A, 65, 124, and 143. The Local Planning Panel (LPP) issued approval for the development application with imposition of conditions to the development consent. The applicant proposes changes to two conditions imposed by the planning panel, namely condition 22A and 143.

The modification application DA-532/2020/A required notification in accordance with the Local Community Participation Plan 2019. The application was notified from 29 March to 13 April 2022. No submissions were received during the public consultation process

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

- *Propose amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or*

- Propose amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel.

This report summarises the key considerations in the determination of the proposal in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and Liverpool Environmental Plan 2008 (LEEP). Based on the assessment of the application, it is recommended that the application be approved, subject to modified conditions of consent.

## 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.

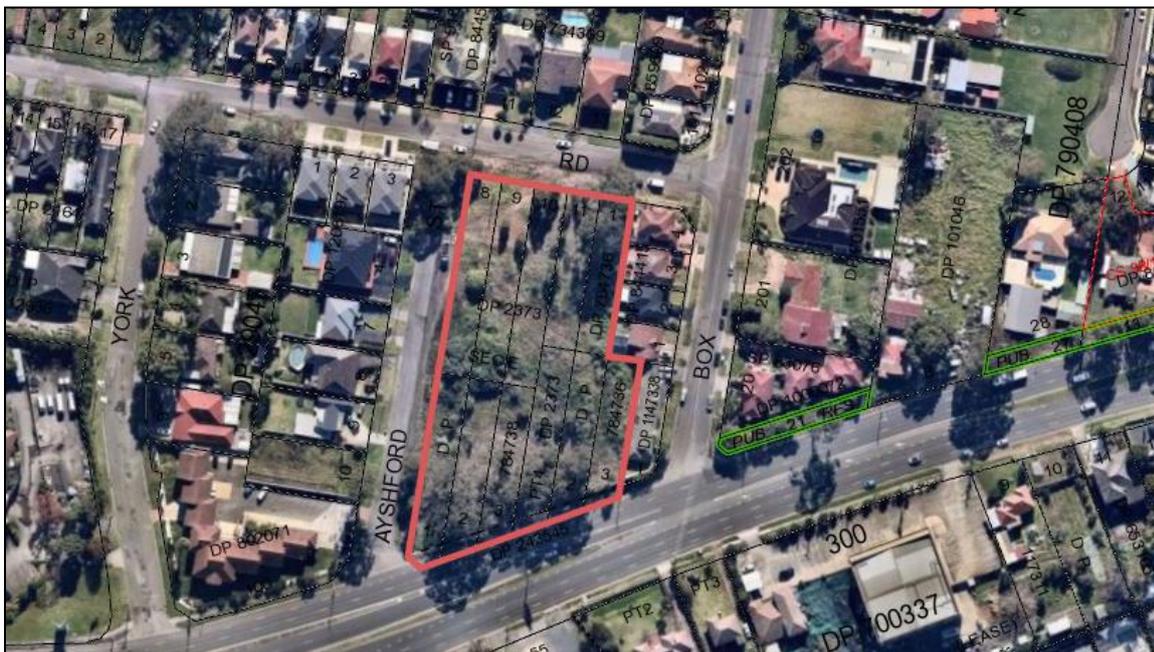


Figure 1: Aerial view of subject site (red) (Source: Geocortex)

### 2.2 The locality

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

### 3. BACKGROUND/HISTORY

#### 3.1 Site Background & History

DA No.	Proposed Development	Determination
DA-532/2020	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.	Approved by Local Planning Panel at its meeting dated 30 August 2021
DA-532/2020/A	<i>Modification to Development Consent DA-532/2020 under Section 4.55 of the Environmental Planning and Assessment Act 1979, Amendments to wording of conditions 22A, 65, 124, and 143.</i>	<i>Subject Application</i>
DA-532/2020/B	Modification to Development Consent DA-532/2020 under Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979, to:- 1. Amendment to the Finish Floor Levels due to the requirement for fire sprinklers imposed by Fire Rescue NSW 2. Removal of Internal Dividing Walls due to the requirement for fire sprinklers imposed by Fire Rescue NSW 3. Pump Room and Tank Size - Increased Pump Room and Fire Tank Size due to the sprinkler requirements and poor infrastructure that surrounds the site.	Currently Under Assessment

### 4. DETAILS OF THE PROPOSAL

The overall intent of the proposed modifications is to amend conditions to ensure the timely commencement and occupation of the development. Specifically, this modification seeks to amend the following conditions:

- Conditions 22A – Road Works
- Condition 65 – Site Remediation Works
- Condition 124 – Validation Report
- Condition 143 – Hours of Operation

This development application constitutes the first modification sought to DA-532/2020.

The proposed amendments are demonstrated in red, with deletions as a ~~strikethrough~~.

### Condition No. 22A – Roadworks – Amended Wording

#### **Proposed Amendments by Applicant**

*Roadworks prior to the issue of a whole or final occupation certificate* the proponent must construct half of the width of a new road, including kerb and gutter, in Wattle Road and Ayshford Street for the full frontage of the development site adjacent to those roads. The road construction in Ayshford Street is also to include design and construction of the full width of the cul-de-sac head.

**Council Comment-** Condition 22A was imposed by the Local Planning Panel. The application has been reviewed by both Councils Land development Engineer and Councils Traffic Engineer and supported to include all changes proposed by the applicant.

### Condition No. 65 - Site Remediation Works – Amended Wording

#### **Proposed Amendments by Applicant**

*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 ~~if required 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.*

**Council Comment-** Condition 65 was imposed by Councils Environmental Health Department. The modifications proposed to condition 65 has been reviewed by Councils Environmental Health Officer who are supportive of amended the condition in the following way:

#### **Site Remediation Works**

*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 (Resilience and Hazards) 2021;*
- 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 environmental consultant to supervise all aspects of site remediation and validation works. 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.*

*Note: 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.*

#### **Condition No. 124 - Validation Report – Deletion**

##### **Proposed Amendments by Applicant**

~~*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 proposed 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.*~~

**Council Comment-** Condition 124 was imposed by Councils Environmental Health Department. The modifications proposed to condition 124 was reviewed by Councils Environmental Health Officer who are not supportive of the deletion of the condition proposed but supported the modification of the condition to read as follows:

#### **Validation Report**

*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 **environmental 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 Detailed Site Investigation, Ayshford Street, Casula, NSW; Report No. E25050.E02\_Rev0 prepared by EI Australia Pty Ltd dated 25 March 2021.**

Note: 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.

#### **Condition No. 143 - Hours of Operation for Self-Storage Premises – Amended Wording**

##### **Proposed Amendments by Applicant**

The permanent 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

Existing customers may access the premises via security pin code entry between the hours of 6 am to 9 am and 6 pm to 9 pm Monday to Friday, **6am to 9am Saturday and Sunday, 5pm to 9pm Saturday and 3pm to 9pm Sunday** on a trial basis for a trial period of 2 years commencing on the date of issue of the occupation certificate. A modification application is to be lodged prior to the end of the trial period to extend the trial period hours

**Council Comment-** Condition 143 was imposed by The Local Planning Panel. The modifications proposed to condition 143 was reviewed by Councils Environmental Health Officer who supported the proposed modification subject to additional amendments that read as follows:

#### **Hours of Operation for Self-Storage Premises**

The permanent 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

Existing customers may access the premises via security pin code entry between the hours of **6:00 am to 9:00 am and 6:00 pm to 9:00 pm Monday to Friday, 6.00am to 9.00am Saturday and Sunday, 5.00pm to 9.00pm Saturday and 3.00pm to 9.00pm Sunday** on a trial basis for a trial period of 2 years commencing on the date of issue of the occupation certificate. A modification application is to be lodged prior to the end of the trial period to extend the trial period hours.

*No truck movements are permitted at the subject premises between 6.00pm and 7.00am.*

## **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 (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- 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

## **6. ASSESSMENT**

The application has been lodged pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, which states:

### ***4.55(1A) Modifications involving minimal environmental impact***

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

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

**Comment:** The proposed modification is considered to be of minimal environmental impact for the following reasons:

The modification is considered to be of minimal environmental impact as the proposed changes relate solely to condition wording and do not result in any physical changes to the approved development. The proposal has been reviewed by Councils Traffic Engineers, Councils Land Development Engineers and Councils Environmental health Officer who supported the proposed modifications subject to further amendments to condition wording.

The proposed amendment to operational times is considered to have minimal environmental impacts in this case. The changes to the hours of operation have been supplemented with an additional acoustic statement to demonstrate that the extended hours of operation trial period shall not pose any additional impacts to neighbouring properties. The acoustic statement was provided by the applicants acoustic consultant and reviewed by the Environmental Health department. Council's Environmental Health officer recommended additional wording to be provided for condition 143 to provide additional acoustics mitigation measure associated with the proposed amended hours.

Furthermore, the application was notified to neighbouring properties and no concerns or submissions were received with regards to any of the proposed condition changes. It is considered that the proposed amendments will be of minimal environmental impact.

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

**Comment:** The modification does not alter the character or significantly alter the appearance of the development as approved and is considered to constitute a development that is the same for which consent was originally granted. There are no additional works or structures proposed under this modification application. The development, as proposed to be modified, is substantially the same development as that originally approved in that it only relates the modification of conditions of consent and results in essentially the same environmental impacts, with the trial period for the hours of certain operation maintained.

- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

**Comment:** The section 4.55 application was notified under the Liverpool Community Participation Plan 2019 and no submissions were received.

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

**Comments:** An assessment of the development as modified against Section 4.15 of the Act is provided in this report. The assessment has found that the proposed modification remains consistent with Section 4.15 of the Act and warrants favourable consideration.

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

**Comments:** Noted. The development as modified remains substantially the same as approved under DA-532/2020.

## **7 Section 4.15 Assessment**

The matters for consideration under Section 4.15 are addressed below.

### **7.1 Any Environmental Planning Instrument - (a)(i)**

#### **(a) Biodiversity Conservation Regulation 2017**

Biodiversity Conservation Regulation 2017 was considered in the assessment of the approved development. No further matters for consideration have been identified.

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

Land contamination matters were considered in the assessment of the approved development and the associated conditions are recommended to remain subject to some changes. No further matters for consideration have been identified.

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

Impact on the Georges River Catchment were considered in the assessment of the approved development. No further matters for consideration have been identified.

**(d) State Environmental Planning Policy (Industry and Employment) 2021**

No modifications to signage or additional signage proposed.

**(e) State Environmental Planning Policy (Transport and Infrastructure) 2021**

No further matters for consideration have been identified.

**(f) Liverpool Local Environmental Plan 2008**

The modified proposal has been assessed against the LLEP 2008 and the modification does not generate any further matters for consideration.

**7.2 Any Draft Environmental Planning Instrument - (a)(ii)**

No applicable draft EPs affect the proposal.

**7.3 Any Development Control Plan - (a)(iii)**

- The original development was assessed against the Liverpool Development Control Plan (LDCP) 2008;
  - Part 1: General Controls for All Development; and
  - Part 6: Development in Business Areas

*Liverpool Development Control Plan (LDCP) 2008;*

The proposed changes to amend conditions 22A, 65, 124, and 143 do not affect compliance with the objectives and controls within the LDCP.

**7.4 Any Planning Agreement - (iia)**

No planning agreements have been entered into as part of the original or modified development.

**7.5 The EP&A Regulation - (a)(iv)**

There are no additional items for consideration.

**7.6 The Likely Impacts of the Development - (b)**

**Natural and Built Environment**

The proposed modification is unlikely to create a detrimental impact on the natural or built environment beyond the approved development onsite. The use of the subject site was envisaged as part of DA-532/2020 and taken into consideration as part of the modification

application.

As part of the assessment of this modification application, the application was referred to Council's Environmental Health Section who reviewed impacts of the extended hours, especially with regards to the surrounding residential receivers. The applicant supplied additional acoustic information which appropriately addressed the matters of concern raised by Council's Environmental Health officer who is supportive of the proposed modification of operating hours, subject to modified conditions. Accordingly, the proposed development is unlikely to have an unreasonable impact on the built environment by way of acoustic disturbance subject to a trial basis for parts of the operation.

### **Social Impacts and Economic Impacts**

The approved use and subsequent modification is considered likely to result in a positive economic impact in the locality through the provision of employment and capital investment value associated with the proposal and is unlikely to generate any identifiable detrimental social impacts.

### **7.7 The Suitability of the Site for the Development – (c)**

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.

### **7.8 Any Submissions made in relation to the Development – (d)**

#### **(a) Internal Referrals**

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

<b>DEPARTMENT</b>	<b>COMMENTS</b>
Traffic and Transport	Traffic Engineering conditions supported.
Land Development Engineering	Engineering conditions supported.
Environmental Health	Acoustic and contamination conditions supported, subject to amended wording.

#### **(b) External Referrals**

Nil.

#### **(c) Community Consultation**

The application required notification in accordance with the Local Community Participation Plan 2019. The application was notified from 29 March to 13 April 2022. No submissions were received during the public consultation process.

### **7.9 The Public Interest - (e)**

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

## **8. CONCLUSION**

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

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

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

## 9. RECOMMENDATION

Pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, the proposed modification to Consent No. 532/2020 by DA-532/2020/A be approved subject to modified conditions of consent.

## 10. REPORT ATTACHMENTS

### 4. CONDITIONS OF APPROVAL

## **REPORT ATTACHMENT 1- CONDITIONS OF APPROVAL**

### **SECTION 4.55 MODIFICATION OF DEVELOPMENT CONSENT**

(In accordance with the provisions under Section 4.55 of the *EP&A Act 1979*)

**ADDRESS:** 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 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 653 HUME HIGHWAY, CASULA NSW 2170, 10-12 WATTLE ROAD, CASULA NSW 2170, 8 WATTLE ROAD, CASULA NSW 2170, 6-8 WATTLE ROAD, CASULA NSW 2170, 659 HUME HIGHWAY, CASULA NSW 2170, 661 HUME HIGHWAY, CASULA NSW 2170

**DESCRIPTION:** Modification to Development Consent DA-532/202 under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, Amendments to wording of conditions 22A, 65, 124, and 143.

Reference is made to Modification Application DA-532/2020/A which seeks amendment to Development Consent DA-532/2020 issued 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.*

Modification Application DA-532/2020/A seeks consent to modify conditions:

- Conditions 22A – Road Works
- Condition 65 – Site Remediation Works
- Condition 124 – Validation Report
- Condition 143 – Hours of Operation

Pursuant to Section 4.55 (1A) of 4.55 of the *Environmental Planning and Assessment Act 1979*, Council grants approval for the modifications sought. Accordingly, Development Consent DA-532/2020 has been amended as follows:

**2. The following conditions of Development Consent for DA-532/2020 have been amended in *red italics* to read as follows:**

**Condition No. 22 A - Roadworks**

*Roadworks Prior to the issue of a whole or final occupation certificate* the proponent must construct half of the width of a new road, including kerb and gutter, in Wattle Road and Ayshford Street for the full frontage of the development site adjacent to those roads. The road construction in Ayshford Street is also to include design and construction of the full width of the cul-de-sac head.

#### **Condition No. 65 - Site Remediation Works**

*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 (Resilience and Hazards) 2021;*
- 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 environmental consultant to supervise all aspects of site remediation and validation works. 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.*

*Note: 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.*

#### **Condition No. 124 - Validation Report**

*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 environmental 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 Detailed Site Investigation, Ayshford Street, Casula, NSW; Report No. E25050.E02\_Rev0 prepared by EI Australia Pty Ltd dated 25 March 2021.*

*Note: 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.*

## Condition No. 143 Hours of Operation for Self-Storage Premises

*The permanent 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*

*Existing customers may access the premises via security pin code entry between the hours of 6:00 am to 9:00 am and 6:00 pm to 9:00 pm Monday to Friday, 6.00am to 9.00am Saturday and Sunday, 5.00pm to 9.00pm Saturday and 3.00pm to 9.00pm Sunday on a trial basis for a trial period of 2 years commencing on the date of issue of the occupation certificate. A modification application is to be lodged prior to the end of the trial period to extend the trial period hours.*

*No truck movements are permitted at the subject premises between 6.00pm and 7.00am.*

All other conditions of Development Consent DA-532/2020 and Modification Application DA-532/2020/A remain unchanged.

**Note:** This determination notice is strictly for changes sought under Modification Application DA-532/2020/A. No approval is granted or implied for any other works / changes proposed to the submitted development.

### ADVISORY NOTES:

- (d) Section 8.2 of the EP&A Act provides that an applicant may request that Council review the determination of the Modification Application (this does not relate to designated development or Crown development).

Section 244 of the EP&A Regulations provides that an application for review must be submitted within 28 days of the date of the determination, and Section 8.2 of the EP&A Act provides that an application cannot be reviewed/determined after 6 months of the date of determination.

- (e) Section 8.9 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Modification Application, may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed by the EP&A Act.
- (f) The Section 4.55 Modification Application does not extend the timeframe of the Development Consent initially granted by Council.
- (g) Modification of the Development Consent does not remove the need to obtain any other statutory consent necessary under the EP&A Act.

Item no:	3
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<b>Application Number:</b>	DA-606/2021
<b>Proposed Development:</b>	Demolition of the existing dwelling and associated structures, construction of a new multi dwelling housing development comprising of 6 x two storey dwellings with associated car parking and landscape works.
<b>Property Address</b>	25 Box Road, Casula
<b>Legal Description:</b>	Lot 1DP 748152
<b>Applicant:</b>	K Ahmed
<b>Land Owner:</b>	Box Road Holdings Pty Ltd
<b>Date Lodged:</b>	4 June 2021
<b>Cost of Works:</b>	\$1,400,000
<b>Zoning:</b>	R3 – Medium Density Residential under Liverpool Local Environmental Plan 2008
<b>Recommendation:</b>	Approval, subject to conditions of consent
<b>Assessing Officer:</b>	Jasmin Klaime

### 3. EXECUTIVE SUMMARY

Council has received a Development Application (DA-606/2021) seeking consent for the demolition of the existing dwelling and associated structures, construction of a new multi dwelling housing development comprising of 6 x two storey dwellings with associated car parking and landscape works, on a site legally known as Lot 1 DP 748152 and formally known as 25 Box Road, Casula.

The site is zoned R3 Medium Density Residential pursuant to Liverpool Local Environmental Plan 2008 (LLEP 2008) and the proposed development is permissible with consent. The proposed development is generally consistent with the objectives and development standards of the LLEP 2008 and the provisions of the Liverpool Development Control Plan 2008 (LDCP 2008).

The Development Application was notified between 20 September and 4 October 2021 in accordance with Liverpool Community Participation Plan 2019. Five (5) submissions were received in response to the notification period, which raised the following concerns:

- Traffic impacts and safety in the street and general area;
- Townhouses not in character with the streetscape;
- Insufficient parking within the development causing additional on-street parking, which will increase hazards to pedestrians and traffic and;
- Noise.

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

**Conflict of interest**

*Development for which the applicant or land owner is:*

- (e) *A relative (within the meaning of the Local Government Act 1993) of a person referred to in (b) to (d). (b- being a councillor).*

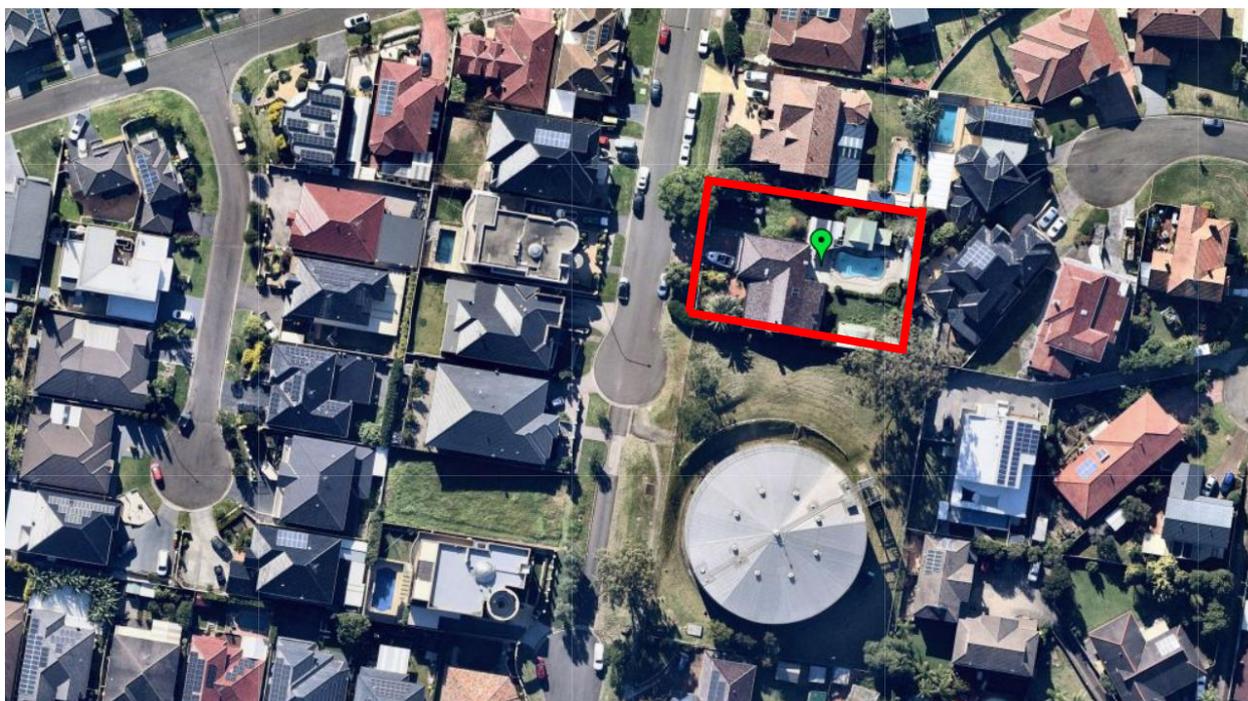
The application has been assessed pursuant to the provisions of the *Environmental Planning and Assessment (EP&A) Act 1979*. Based on the assessment of the application, it is recommended that the application be approved, subject to the imposition of conditions.

## 2. SITE DESCRIPTION AND LOCALITY

### 2.1 The site

The primary subject land for this application is known as 25 Box Road, Casula, legally described as Lot 1 DP 748152. The site currently occupies a two storey dwelling with a pool and contains 1,291sqm in area with a frontage width of 30m to Box Road and a lot depth of 43m. The subject site has a fall from the south west corner of the lot (AHD 71.64) to the north west corner (AHD 68.22). The subject site is located at the border of medium density residential area. The immediate locality is predominantly defined by large double storey residential dwellings and a scattering of multi dwelling housing developments across the locality, with the medium density zone currently undergoing a transition associated with the uplift in planning controls. The subject site adjoins a two storey residential dwelling to the north and a public reserve, containing a water reservoir, to the south.

The location of the site can be seen in the aerial view in the Figure below, outlined in red.

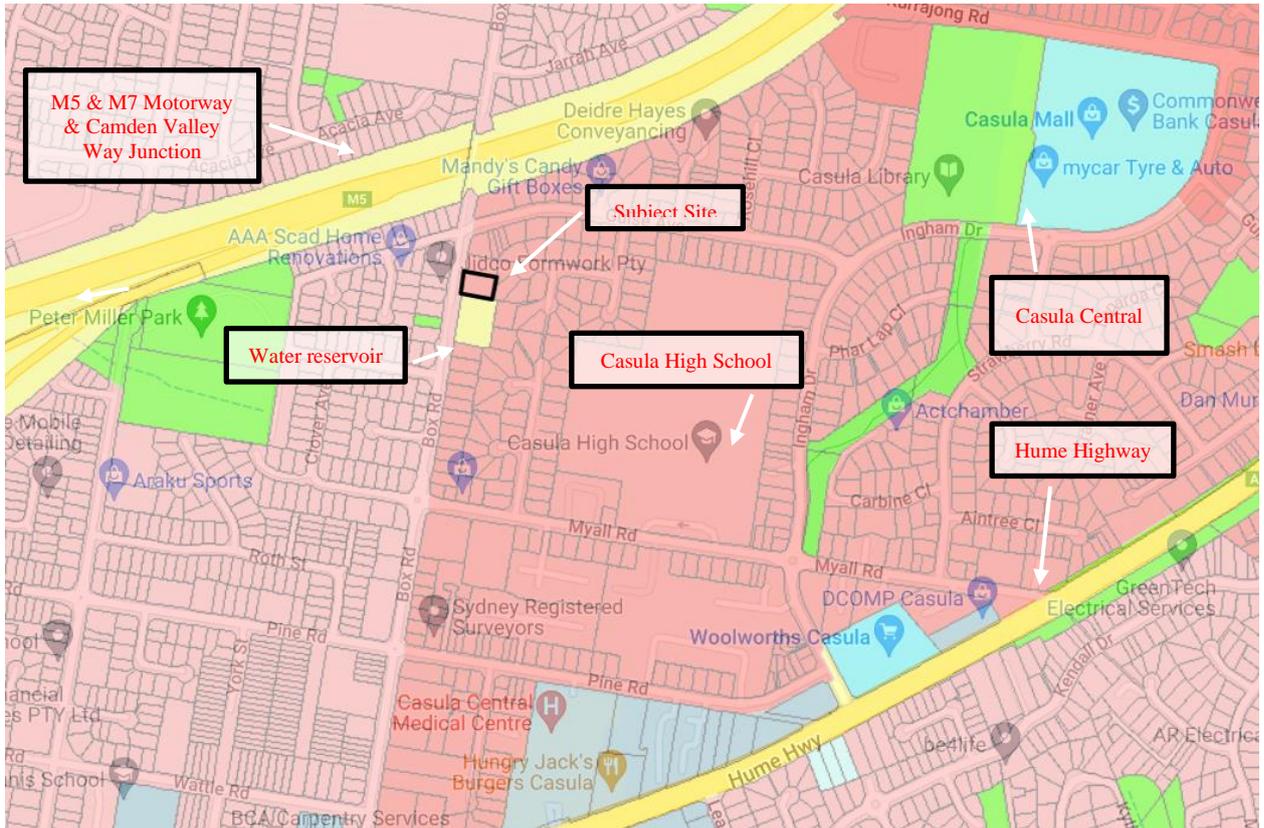


**Figure 1:** Aerial view of subject site (red) (Source: Nearmaps)

### 2.2 The locality

The area is characterised by a mix of business uses and low density and medium density residential development. The general locality is currently and predominantly characterised by residential uses, with some business uses along the Hume Highway.

The water reservoir is located directly to the left of the siter with the tank being 15m away from the proposed dwellings. Casula high school is located 220m east of the site. Casula Central is located approximately 735m to the east, with the Hume Highway 700m South. The locality of the site is demonstrated within Figure 2.



**Figure 2:** Locality Surrounding the Proposed Development (Source: Councils eplanning portal)

### 3. BACKGROUND/HISTORY

#### 3.1 Site Background & History

DA No.	Proposed Development	Determination
DA-359/2017	Demolition of brick spa/sauna, awning and pump house, two lot torrens title subdivision and construction of a new double storey dwelling	Approved (Dec 2017)
DA-191/2018	Demolition of existing structure, construction of 7 townhouses as multi dwelling development and associated site work.	Withdrawn (Dec 2018)

### 4. DETAILS OF THE PROPOSAL

#### Site Works

- Demolition of existing structures.
- Construction of a new multi dwelling housing development comprising of 6 x two storey dwellings
- Driveways and open parking areas.
- Landscaping and associated civil works.

#### Multi Dwelling Development – 9 Double Storey Units

##### Unit 1

**Ground Floor** – Kitchen, meals, lounge, laundry, wash closet, under stair storage and single garage.

**First Floor** – 4 bedrooms all with wardrobes (one with ensuite), balcony for 2 bedrooms facing box road and 1 bathroom.

### **Unit 2**

**Ground Floor** – Kitchen, meals, lounge, laundry space, wash closet, under stair storage and single garage.

**First Floor** – 4 bedrooms all with wardrobes (one with ensuite), balcony for 2 bedrooms facing box road and 1 bathroom.

### **Unit 3**

**Ground Floor** – Kitchen, meals, lounge, laundry space, wash closet, under stair storage and single garage.

**First Floor** – 4 bedrooms all with wardrobes (one with ensuite) and 1 bathroom.

### **Unit 4**

**Ground Floor** – Kitchen, meals, lounge, laundry space, wash closet, under stair storage and single garage.

**First Floor** – 3 bedrooms all with wardrobes (one with ensuite and walk in robe), balcony for bedroom 2 and 1 bathroom.

### **Unit 5**

**Ground Floor** – Kitchen, meals, lounge, laundry, under stair storage and single garage.

**First Floor** – 3 bedrooms all with wardrobes (one with ensuite and walk in robe), balcony for 2 bedrooms and 1 bathroom.

### **Unit 6**

**Ground Floor** – Kitchen, meals, lounge, laundry space, wash closet, under stair storage and single garage.

**First Floor** – 3 bedrooms all with wardrobes (one with ensuite and walk in robe), balcony for bedroom 1 and 1 bathroom.



## 6. ASSESSMENT

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

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

#### (a) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is supported by a BASIX Certificate in accordance with the provisions of the SEPP which indicates that the required targets for water, thermal comfort and energy are met by the proposal.

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

A BASIX Certificate (**Certificate number: 1190241M**) has been submitted for the proposed development. The proposal is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

#### (e) State Environmental Planning Policy (Resilience and Hazards) 2021

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land.

The objectives of SEPP (Resilience and Hazards) 2021 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.

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

Aerial images from 1991 found on Council's GIS system illustrates the presence of the existing dwellings, which suggests the site has principally been used for residential purposes for at least the past 31 years.

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

Based on the above assessment, there is no evidence to suggest that the land has been or is contaminated and a formal land contamination assessment is not considered to be necessary. It is considered that the proposal is satisfactory for the site and the relevant objectives and

provisions of SEPP (Resilience and Hazards) 2021 through the imposition of appropriate conditions of consent relating to any unexpected finds.

**(f) State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The subject land is located within the Georges River Catchments and as such, Chapter 11 – Georges River Catchment of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, formerly the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River, applies to the application.

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 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 11.5). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 11.6 and Clause 11.7), and compliance with such is provided below.

<b>Clause 11.6 General Principles</b>	<b>Comment</b>
(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 Land Development Engineer and considered satisfactory subject to conditions.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The engineering plans were submitted and reviewed by Council's Land Development Engineer. 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,	The application was not required to be referred to the Natural Resource Access Regulator (NRAR) and the proposal is consistent with the guidelines.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No. The site is located in an area nominated for residential development.
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
<b>Clause 11.7 Specific Principles</b>	<b>Comment</b>

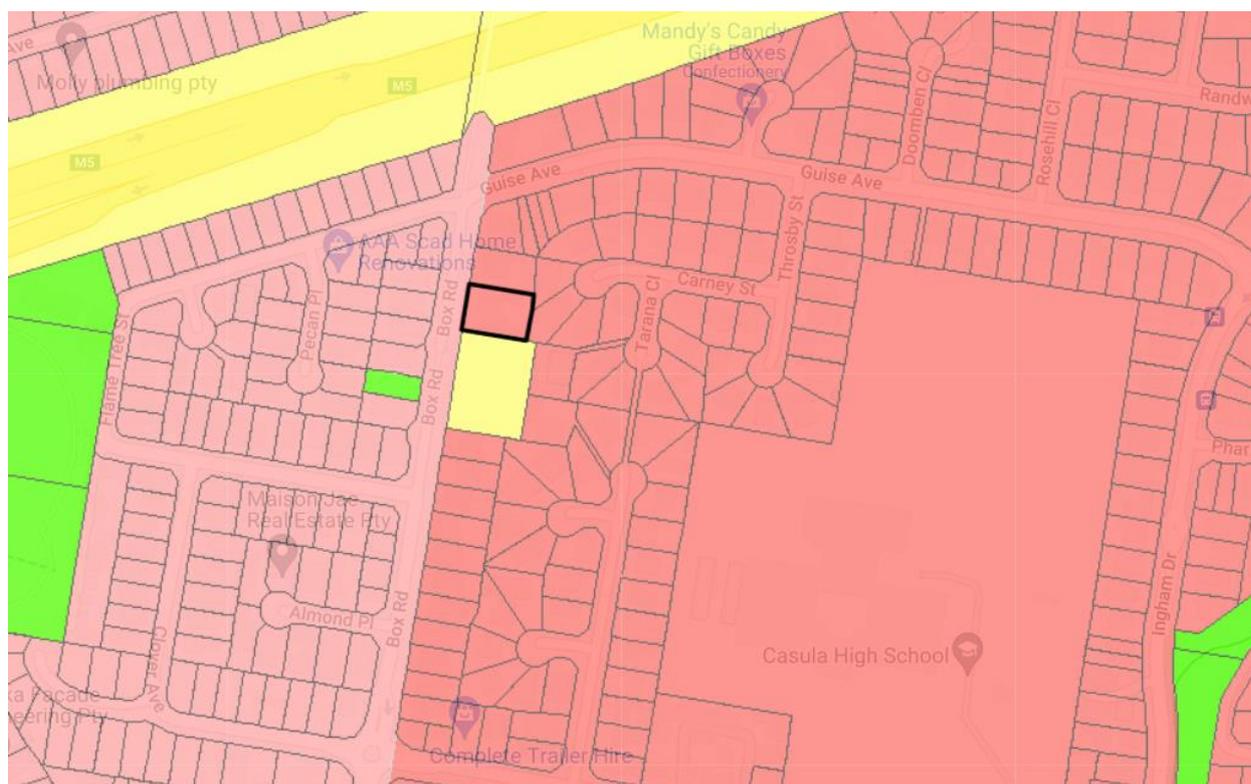
(1) Acid sulfate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No bank disturbance is proposed.
(3) Flooding	The site is not flood affected.
(4) Industrial discharges	Not applicable.
(5) Land degradation	The proposed development is unlikely to cause land degradation.
(6) On-site sewage management	The site will be connected to a reticulated sewer system.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Water management details provided in civil engineering details and approved by condition of consent by Council's Engineers.
(10) Urban development areas	The area is not within an Urban Release Area.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control and salinity measures to be implemented in construction.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies the provisions of the SEPP (Biodiversity and Conservation) 2021 subject to appropriate sedimentation and erosion controls during construction. The development will have minimal impact on the Georges River Catchment.

**(g) Liverpool Local Environmental Plan 2008**

**(i) Zoning**

The subject site is zoned R3 – Medium Density Residential in accordance with the Liverpool Local Environmental Plan 2008. An extract of the zoning map is provided below.



**Figure 4 – Extract of LLEP 2008 zoning map (site in box)**

## (ii) Permissibility

The proposed development is best described as *multi-dwelling housing*, which is defined as follows:

***multi dwelling housing*** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

This form of development is a permissible use within the R3 – Medium Density Residential zone.

## (iii) Objectives of the zone

The objectives of the R3 – Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To provide for a suitable visual transition between high density residential areas and lower density areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal is a permissible type of development within the R3 Medium Density Residential zone and is consistent with the above zone objectives. The proposal has been designed to mitigate adverse impacts on surrounding land uses and the locality by demonstrating consistency with Council's local planning provisions. As such, the development will ensure a high level of residential amenity is achieved and maintained in accordance with Council's plans and policies. The amended development will also provide an increased variety of housing types in the locality.

## (iv) 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.	<b>Complies.</b> Consent sought for demolition works onsite.
4.1 Minimum Lot Size	Minimum lot size permitted: 300m <sup>2</sup>	<b>N/A.</b> No Torrens title subdivision is proposed.
4.3 Height of Buildings	Maximum height permitted: 8.5m	<b>Complies.</b> 7.8m maximum building height proposed.

4.4 Floor Space Ratio (FSR)	Maximum FSR permitted: 0.5:1. Area 2 = 0.55:1	<b>Complies</b> The proposed FSR is 0.48:1. (630sqm)
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	<b>Approval subject to conditions</b> All required utilities are considered to be available.
7.31 Earthworks	Council to consider matters listed (a)-(g)	<b>Complies subject to conditions</b> Excavation for site levelling to occur 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.

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

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

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

### (a) Liverpool Development Control Plan (LDCP) 2008

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

- Part 1 of the LDCP 2008, which covers general controls relating to all types of development within the Liverpool LGA;.
- Part 3.6: Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones.

The proposal is considered to be consistent with the relevant provisions outlined in the Liverpool Development Control Plan 2008, except for minor variations to some development controls which include:

1. Setbacks across internal driveways
2. Cut and Fill
3. The first floor of the dwellings have areas greater than 2/3 of their respective ground floor
4. Landscape strip between driveway and property boundary

This control is discussed in an extract from the LDCP 2008 compliance table.

1. Setbacks across internal driveways	Buildings shall be setback a minimum of 8m from other buildings across a driveway.	<b>Considered acceptable on merit.</b>  Ground Floor: 7m – 8.86m  First Floor: 7m – 7.4m
	<b><u>Justification</u></b>  The separation distance between unit 1 and 2 presents a variation to building separation between a driveway by 1m. The shadow diagrams indicates that the POS and living rooms will receive a compliant level of solar access when having regard to the minimum requirements.	

	Therefore the slight variation will not result in overshadowing concerns. The proposed separation distance is considered to be acceptable noting units 1 and 2 living areas are orientated to street frontage and private open space, with side windows offset to mitigate any potential overlooking/privacy issues	
2. Cut and Fill	Maximum Cut permitted: 500mm	<b>Considered Acceptable on merit</b>  - 1.4m cut - Under 750mm Fill
	Maximum Fill permitted: 750mm	
	<p><b>Justification</b></p> <p>The proposed maximum cut is 1.4m exceeding 500mm development control under the DCP. The subject site has a fall of 3.4m from southwest corner to the northwest corner with the cross floor requiring the ground be retained central to the site to accommodate a central access driveway for the development and level floorplate to unit 1 &amp; 2. It is noted across the site as a whole the cut/fill generally complies with the control. The slight increase in cut will not result in any privacy or overshadowing concerns. The shadow diagrams submitted indicate that the 500mm exceedance to the cut requirement will not result in overshadowing or non-compliances to Councils solar access provisions. The windows have been offset to prevent overlooking which mitigates any overlooking/privacy issues. Furthermore, the proposed retaining walls have been reviewed by Councils Land Development Engineer, who had no objection, subject to conditions of consent.</p>	
3. Building Design and Appearance	The first floor of the townhouse developments must be no greater than two thirds of the ground floor area.	<b>Considered Acceptable on merit</b> See justification below. The first floor of the dwellings have areas greater than 2/3 of their respective ground floor.
	<p><b>Justification</b></p> <p>The first floor of all dwellings are greater than two-thirds of the ground floor area for their respective dwelling. Despite this non-compliance with the building design control, the variation is considered justifiable for the following reasons:</p> <ul style="list-style-type: none"> <li>- Although the upper levels are larger than that prescribed under the development control, there is considered to be sufficient articulation within each of the building's facades.</li> <li>- The development employs a good mix of building materials to help improve the fenestration and minimise the apparent bulk of the structures.</li> <li>- The proposal includes a substantially compliant building height (i.e. max. of 7.8m) which is well below the 8.5m height limit. Because of this reduced building height, the proposal does not impose undue bulk on adjoining properties or the streetscape.</li> <li>- The development is compliant with the maximum floor space ratio allowed onsite and therefore is considered unlikely to have excessive bulk at the first storey.</li> <li>- The development is generally consistent with the setback requirements and landscaping controls and therefore is not considered to be excessively bulky, especially at the first storey.</li> </ul>	

	Despite the non-compliance, the proposal does not result in any unreasonable overshadowing of adjoining properties and remains consistent with the provisions of the LDCP 2008 in this regard.	
4. Landscaping	2m wide landscaped area shall be provided between an internal driveway and a property boundary to provide privacy to the adjoining property and to soften the appearance of the internal driveway	<b>Considered acceptable on merit</b>  1.5m landscape strip proposed from internal driveway and property boundary.
	<p><b><u>Justification</u></b></p> <p>The vehicle access to unit 1 is setback 1.5m from the boundary, varying the 2m landscaping area between a driveway and property boundary. In accordance with the landscape plans prepared by Greenland Design landscape architects the 1.5m width is a suitable width for a tree and shrubs to be established. The landscaped area along the southern boundary will provide natural screening to soften the appearance of the internal driveway from the adjoining property south of the subject site. Based on the proposed landscaping including a tree and shrubs within the 1.5m width, the variation to the 2m landscaping width control is considered acceptable in this instance.</p>	

All relevant compliance tables for the LDCP 2008 can be found in Report Attachment 1.

#### **6.4 Section 4.15(1)(a)(iiia) - Planning Agreements**

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the National Construction Code. Accordingly, appropriate conditions of consent will be imposed where compliance with the NCC is required.

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

##### **(a) Natural Environment**

Impacts on the natural environment have been assessed as part of the development application. The proposal is unlikely to result in any detrimental impact on the natural environment surrounding the subject sites, or to any endangered and non-endangered species of flora and fauna and appropriate conditions of consent will apply to help minimise and mitigate any potential environmental concerns.

##### **(b) Built Environment**

The proposed development is unlikely to create an unreasonable adverse impact on the surrounding built environment. The proposed development is considered to have been designed in a way that is generally consistent with Council's requirements for development in a medium density zone and for multi-dwelling development. Furthermore, it is considered that

the proposal has been designed with sufficient regard to surrounding properties and any future occupants of the site to ensure that adverse amenity impacts have been minimised, particularly in terms of visual and acoustic privacy and overshadowing.

**(c) Social Impacts**

The proposed development is likely to have a positive social impact in the area through increasing housing choice in the locality. The development is unlikely to generate any identifiable detrimental social impacts and is consistent with the desired development type in the locality.

**(d) Economic Impacts**

The short term positive economic impacts that result from construction spending and employment opportunities generated during the construction phase are generally recognised. Furthermore, enduring impacts should come as the local population increases with the use of local shops and services.

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

The site is considered to be suitable for the proposed development. The proposal is generally compliant with the provisions of the LLEP 2008, the relevant Environmental Planning Instruments and LDCP 2008, as outlined in this report. The identified variations have been considered and are supported as they are unlikely to result in any adverse impacts to the locality. Overall, the development is considered to satisfy the relevant controls for site selection.

**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	Supported, subject to conditions of consent
Natural Environment – Landscape	Supported, subject to conditions of consent
Waste Management	Supported, subject to conditions of consent
Traffic and Transport	Supported, subject to conditions of consent
Building	Supported, subject to conditions of consent

**(b) External Referrals**

AGENCY	COMMENTS
Sydney Water	Supported, subject to conditions of consent

**(c) Community Consultation**

In accordance with the Liverpool Community Participation Plan 2019, the application was notified between 20 September and 4 October 2021 in accordance with Liverpool Community Participation Plan 2019. Five (5) submissions were received in response to the notification period. The issues raised in the submission, and a response to each, are summarised as

follows:

**ISSUE 1:      *Traffic impacts and safety in the street and general area***

The application was assessed by Councils Traffic and Transport Section and had no objection to traffic impacts from the proposal subject to conditions of consent. As such, generated traffic associated with the proposal is considered acceptable based on Council's Traffic Engineers review and for a multi-dwelling housing development of this nature in a medium density zone.

**ISSUE 2:      *Townhouses not in character with the streetscape***

The immediate locality is predominantly defined by large double storey residential dwellings and a scattering of multi dwelling housing developments across the locality, with the medium density zone currently undergoing a transition associated with the uplift in planning controls. The proposal is a permissible type of development within the R3 Medium Density Residential zone and is consistent with the above zone objectives. The proposal has been designed to mitigate adverse impacts on surrounding land uses and the locality by demonstrating consistency with Council's local planning provisions. As such, the development will ensure a high level of residential amenity is achieved and maintained in accordance with Council's plans and policies. The amended development will also provide an increased variety of housing types in the locality. The subject site is considered in character with the objectives of zone and consistent with the provisions of the LLEP 2008 and LDCP 2008.

**ISSUE 3:      *Insufficient parking within the development causing additional on-street parking, which will increase hazards to pedestrians and traffic.***

The development requires 13.5 car spaces onsite in accordance with the parking provisions of the Liverpool Development Control Plan 2008. The application proposes 14 car parking spaces which includes the provision of 2 visitors car parking spaces and two spots for each dwelling on site. The car parking spaces provided are considered to assist in reducing the demand for street parking as the development provides adequate car parking spaces that responds to the relevant local provisions.

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

**ISSUE 4:      *Noise***

While noise associated with the site is likely to increase given the intensification of the residential accommodation at the premises, it is considered to be typical with that generated by a medium density development in a medium density zone. Accordingly, without further evidence that demonstrates the proposal would unreasonably impact the acoustic amenity locality beyond what is envisaged under Council's local policies, it is difficult to address this matter further. The development has also been designed with a landscape plan that provides peripheral landscaping treatments in order to soften the development from the adjoining properties. This may also assist in mitigating acoustic transfer between the subject site and the immediate locality. Based on the assessment of the proposal, it is considered that this development will not result in unreasonable noise transference into the surrounding locality.

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

The development is consistent with the objectives of the R3 Medium Density 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 considered to be 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 2018 – Established Areas. The contribution will be imposed as a condition of consent.

## 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 adverse 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-606/2021 seeking approval for consent for the demolition of the existing dwelling and associated structures, construction of a new multi dwelling housing development comprising of 6 x two storey dwellings with associated car parking and landscape works, be approved subject to conditions of consent.

## 10. REPORT ATTACHMENTS

5. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES
6. PLANS OF THE PROPOSAL
7. CONDITIONS OF APPROVAL
8. SECTION 7.11 PAYMENT FORM
9. SYDNEY WATER COMMENTS

# **REPORT ATTACHMENT 1 – LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES**

## LDCP 2008 - Part 1 General Controls for all Development

Development Control	Provision	Comment	Complies
Section 2. Tree Preservation	Controls relating to the preservation of trees	The subject site contains a number of existing trees which one is to be retained, with 4 trees to be removed to facilitate the development. The applicant has provided an Arboricultural Impact Assessment in addition to Landscape Plans which was	Complies

<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Complies</b>
		reviewed by Council's Landscape Officer who supports the proposal.	
<b>Section 3. Landscaping and Incorporation of Existing Trees</b>	Controls relating to landscaping and the incorporation of existing trees.	A landscape plan was submitted with the application demonstrating the landscape design for the site. Conditions of consent will apply regarding landscaping as well as the inclusion of street trees to be planted along the frontage.	Complies with conditions
<b>Section 4 Bushland and Fauna Habitat Preservation</b>	Controls relating to bushland and fauna habitat preservation	The site is not mapped as containing significant vegetation.	Complies
<b>Section 5. Bush Fire Risk</b>	Controls relating to development on bushfire prone land.	The site is not mapped as bushfire prone land.	N/A
<b>Section 6. Water Cycle Management</b>	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	This aspect has been reviewed by Council's Land Development Engineer, who have raised no issues subject to conditions.	Complies with conditions
<b>Section 7. Development Near a Watercourse</b>	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	The proposal is not within 40m of a watercourse.	N/A
<b>Section 8. Erosion and Sediment Control</b>	Erosion and sediment control plan to be submitted.	Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented.	Complies with conditions
<b>Section 9. Flooding Risk</b>	Provisions relating to development on flood prone land.	The site is not identified as flood prone land.	N/A
<b>Section 10. Contaminated Land Risk</b>	Provisions relating to development on contaminated land.	As per SEPP (Resilience and Hazards) 2021 the development is considered acceptable and the site suitable for the future use of the land.	Complies
<b>Section 11. Salinity Risk</b>	Provisions relating to development on saline land.	Development to comply with the BCA requirements.	Complies with conditions
<b>Section 12. Acid Sulphate Soils</b>	Provisions relating to development on acid sulphate soils	The development site is not identified as containing acid sulphate soils.	N/A
<b>Section 13. Weeds</b>	Provisions relating to sites containing noxious weeds.	The site is not identified as containing noxious weeds.	N/A
<b>Section 14.</b>	Provisions relating to	Demolition of existing	Complies

Development Control	Provision	Comment	Complies
<b>Demolition of Existing Development</b>	demolition works	structures is proposed and conditions to be applied to ensure compliance with relevant SafeWork NSW and Australian Standards requirements.	by condition
<b>Section 15. On Site Sewage Disposal</b>	Provisions relating to OSMS.	OSMS is not proposed.	N/A
<b>Section 16. Aboriginal Archaeology</b>	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	The development site is not mapped as a potential area containing Aboriginal archaeology.	Complies
<b>Section 17. Heritage and Archaeology</b>	Provisions relating to heritage sites.	The development site is not identified as a heritage item or located within close proximity to a heritage item.	Complies
<b>Section 20. Car Parking and Access</b>	<u>Car Parking Controls Residential &amp; Business Zones</u> 1 space per small dwelling (<65sqm) or 1 bedroom 1.5 spaces per medium dwelling (65-110sqm) or 2 bedrooms 2 car spaces per large dwelling (>110sqm) or 3 or more bedrooms  1 visitor car space for every 4 dwellings or part thereof.	<ul style="list-style-type: none"> <li>- 2 spaces per large dwelling or 3 bedrooms = 12 spaces</li> <li>- 1 visitor space per 4 dwellings = 1.5 spaces (2).</li> <li>- Total: 13.5 (14) spaces required.</li> </ul> Total spaces provided = 14 spaces in the form of: <ul style="list-style-type: none"> <li>- 12 x resident spaces and;</li> <li>- 2 x visitor spaces</li> </ul>	Complies
<b>Section 21. Subdivision of Land and Buildings</b>	There must be a minimum of three buildings, spaces, or land parcels for strata subdivision.	Subdivision not proposed.	N/A
<b>Section 22 and Section 23. Water Conservation and Energy Conservation</b>	New dwellings, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	The application has been accompanied by a BASIX Certificate and conditions of consent will apply to ensure compliance with the BASIX commitments.	Complies by condition
<b>Section 25. Waste Disposal and Re-use Facilities</b>	Provisions relating to waste management during construction and on-going waste.	Waste storage areas are satisfactory for the development and are located in the private open spaces and can be accessed through widened garages where required. Councils Waste Management officer has	Complies by condition

Development Control	Provision	Comment	Complies
		reviewed the waste management plan and conditions of consent were provided.	
<b>Section 26. Outdoor Advertising and Signage</b>	Provisions relating to signage.	No signage proposed.	N/A

### Liverpool Development Control Plan 2008 – Part 3.6 Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones

The proposed development is subject to the LDCP 2008. Part 3.6 of the LDCP 2008 covers controls specifically relating multi dwelling housing in areas zoned R3 or R4. The following key controls are discussed in the following table:

<b>LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones</b>		
<b>Control</b>	<b>Requirement</b>	<b>Comment</b>
Subdivision, Frontage and Lot Size	<p>The minimum lot size for multi dwelling housing is 1,000m<sup>2</sup>. Where development pursuant to section 4 is proposed, the minimum lot size shall be 650m<sup>2</sup>.</p> <p>The minimum lot width for multi dwelling housing is 22m. Where development pursuant to section 4 is proposed, the minimum lot width shall be 18m.</p>	<p><b>Complies</b></p> <p>The total site area is 1291m<sup>2</sup> with a site width at the front of 30.12m. Therefore Section 4 of the DCP would not be required.</p>
Site Planning	<p>Site layout should consider, and as far as possible minimise overshadowing, acoustic and visual intrusion on neighbouring and on site dwellings.</p>	<p><b>Complies</b></p> <p>The proposed dwellings are considered to have been designed to minimise impacts on adjoining properties such that the development will not lead to non-compliances with the privacy, overshadowing and solar access controls.</p>
	<p>There must be a direct link from at least one living area to the principal private open space.</p>	<p><b>Complies</b></p> <p>Each dwelling of the multi- dwelling housing development will provide a direct link to the POS from the living rooms which has been demonstrated in the plans.</p>
	<p>The siting of windows of habitable rooms on the first floor shall minimise overlooking to the principal private open space of neighbouring properties.</p>	<p><b>Complies</b></p> <p>The siting of windows of habitable rooms is considered to have been designed to minimise overlooking to POS of neighbouring properties.</p>

<b>LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones</b>		
<b>Control</b>	<b>Requirement</b>	<b>Comment</b>
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate.	<b>Complies by conditions</b> The stormwater plans indicate that stormwater will be discharged via an OSD system. This aspect has been reviewed by Council's Land Development Engineer, who have raised no issues subject to conditions.
	The siting of dwellings shall be orientated to maximise solar access to both external courtyards and internal living areas.	<b>Complies</b> The shadow diagrams indicate that the POS and living rooms will receive a compliant level of solar access when having regard to the minimum requirements.
	Where possible all existing substantial vegetation on site shall be retained.	<b>Complies</b> The subject site contains a number of existing trees which two is to be retained, with 4 trees to be removed to facilitate the development. The applicant has provided an Arboricultural Impact Assessment in addition to Landscape Plans which was reviewed by Council's Landscape Officer who supports the proposal subject to conditions of consent.
	Multi Dwelling Housing is not permitted on cul-se-sac heads or streets with a carriageway width of less than 6.5m.	<b>Complies</b> The proposed development is not located on a cul-de-sac head and Box Road has a carriageway width of 10m.
Townhouse and Villa Development on an 18m Frontage Block	<u>Controls relating to 18m frontage blocks</u> Section 4 in Part 3.6 of the LDCP 2008 prescribes controls for multi-unit housing developments on allotments with a frontage of less than 22 metres.	<b>N/A</b> Site with frontage greater than 22 metres and greater than 1000m <sup>2</sup> .
Setbacks	<u>Front Setbacks</u> Ground Floor: 4.5m First Floor: 5.5m Classified Roads: 7.0m  Verandahs, balconies, eaves and other sun control devices may encroach on the minimum front and secondary setback by up to 1m.	<b>Complies</b>  Unit 1 and 2 are setback 4.5m for grounds floor and 5.5m from the first floor to Box Road.  Garages are setback 1m behind the main face of units 1 and 2.

LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones		
Control	Requirement	Comment
	Garages or Carports must be set back a minimum of 1m behind the main face of the dwelling (see Figure 2). (The main face is the first wall of a habitable room)	
	<p><u>Side Setbacks</u>            Ground floor with windows to habitable rooms: 4.0m</p> <p>Ground floor without windows to habitable rooms: 0.9m</p> <p>First floor without windows to habitable rooms: 1.2m</p> <p>First floor with windows to habitable rooms and neighbouring POS: 4.0m</p>	<p><b>Complies</b></p> <p><u>Ground Floor</u></p> <p>North:            Unit 4 (non-habitable) 1.5m            Units 2 &amp; 3 (habitable) 5.8m</p> <p>South:</p> <p>Unit 1 and 6 (non-habitable) 1.5m</p> <p><u>First Floor:</u></p> <p>North:</p> <p>Unit 4 (non-habitable) 1.5m            Unit 2 &amp; 3 (habitable) 5m</p> <p>South:            Unit 1 and 6 (non-habitable) 1.5m – 1.64m</p>
	<p><u>Rear Setbacks</u>            Ground floor without windows to habitable rooms: 4.0m            Ground floor with windows to habitable rooms: 4.0m            First floor without windows to habitable rooms: 4.5m            First floor with windows to habitable rooms and neighbouring POS: 6.0m</p>	<p><b>Complies</b></p> <p><u>Ground Floor</u></p> <p>Units 4, 5 &amp; 6 - 4m – 4.3m (habitable)</p> <p><u>First Floor</u></p> <p>Units 4, 5 &amp; 6 - 4.5m (non habitable)</p> <p>Units 4, 5 &amp; 6 - 6m (habitable)</p>
	<p><u>Setbacks across internal driveways</u>            Buildings shall be setback a minimum of 8m from other buildings across a driveway.</p>	<p><b>Considered acceptable on merit. (see justification below)</b></p> <p>Ground Floor: 7m – 8.86m</p> <p>First Floor: 7m – 7.4m</p>

LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones																							
Control	Requirement	Comment																					
	<p>Justification</p> <p>The separation distance between unit 1 and 2 presents a variation to building separation between a driveway by 1m. The proposed separation distance is considered to be acceptable noting units 1 and 2 living areas are orientated to street frontage and private open space, with side windows offset to mitigate any potential overlooking/privacy issues.</p>																						
Landscaping	A minimum of 20% of the site area shall consist of a Landscape Area, this may include lawn, deep rooted trees, garden beds and mulched areas	<b>Complies</b> Landscaped area– 31.85% (411.3sqm)																					
	A minimum unencumbered area of 4 x 5m shall be provided in rear setback to accommodate deep rooted trees.	<b>Complies</b> The rear POS areas are able to accommodate an area of 4x5m that can accommodate deep rooted trees.																					
Private Open Space	POS required for Dwelling size: Small <65m <sup>2</sup> : 30m <sup>2</sup> Medium 65m <sup>2</sup> – 100m <sup>2</sup> : 40m <sup>2</sup> Large > 100m <sup>2</sup> : 50m <sup>2</sup>	<b>Complies</b> Private Open Space areas as follows: <table border="1" data-bbox="927 1126 1425 1406"> <thead> <tr> <th>Unit</th> <th>GFA (m<sup>2</sup>)</th> <th>POS (m<sup>2</sup>)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>&gt;100</td> <td>50</td> </tr> <tr> <td>2</td> <td>&gt;100</td> <td>50</td> </tr> <tr> <td>3</td> <td>&gt;100</td> <td>50</td> </tr> <tr> <td>4</td> <td>&lt;100</td> <td>40</td> </tr> <tr> <td>5</td> <td>&gt;100</td> <td>50</td> </tr> <tr> <td>6</td> <td>&gt;100</td> <td>50</td> </tr> </tbody> </table>	Unit	GFA (m <sup>2</sup> )	POS (m <sup>2</sup> )	1	>100	50	2	>100	50	3	>100	50	4	<100	40	5	>100	50	6	>100	50
	Unit	GFA (m <sup>2</sup> )	POS (m <sup>2</sup> )																				
	1	>100	50																				
2	>100	50																					
3	>100	50																					
4	<100	40																					
5	>100	50																					
6	>100	50																					
Areas less than 1.5 m in width does not qualify as Private Open Space. Private Open Space must be directly accessible from the main living area.	<b>Complies</b> All POS have widths larger than 1.5m and are directly accessible from each dwellings main living area.																						
A minimum of 50% of the Private Open Space are must receive 3 hours of sunlight between 9:00am and 5:00pm on 21 June.	<b>Complies</b> 50% of P.O.S receives 3hrs sunlight at midwinter.																						
Cut and Fill	Maximum Cut permitted: 500mm Maximum Fill permitted: 750mm	<b>Considered Acceptable</b> - 1.4m cut - Under 750mm Fill																					
	<p>Justification</p> <p>The proposed maximum cut is 1.4m exceeding 500mm development control under the DCP. The subject site has a fall of 3.4m from southwest corner to</p>																						

LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones		
Control	Requirement	Comment
	the northwest corner with the cross floor requiring the ground be retained central to the site to accommodate a central access driveway for the development and level floorplate to unit 1 & 2. It is noted across the site as a whole the cut/fill generally complies with the control. Furthermore, the proposed retaining walls have been reviewed by Councils Land Development Engineer, who had no objection, subject to conditions of consent.	
Building Design and Appearance	Unit/s with a street frontage shall orientate the main entrance and where possible at least one living area towards the street.	<b>Complies</b> Units 1 and 2 have their entrances facing the street and incorporate living areas on the ground floor facing the street.
	Entry points shall be enhanced/emphasised to all dwellings especially those facing the street.	<b>Complies</b> The entries of each dwelling are clearly identifiable.
	The first floor of the townhouse developments must be no greater than two thirds of the ground floor area.	<b>Considered Acceptable</b> See justification below. The first floor of the dwellings have areas greater than 2/3 of their respective ground floor.
	<p><b><u>Justification</u></b></p> <p>The first floor of all dwellings are greater than two-thirds of the ground floor area for their respective dwelling. Despite this non-compliance with the building design control, the variation is considered justifiable for the following reasons:</p> <ul style="list-style-type: none"> <li>- Although the upper levels are larger than that prescribed under the development control, there is sufficient articulation within each of the building's facades.</li> <li>- The development employs a good mix of building materials to help improve the fenestration and minimise the apparent bulk of the structures.</li> <li>- The proposal includes a substantially compliant building height (i.e. max. of 7.8m) which is well below the 8.5m height limit. Because of this reduced building height, the proposal does not impose undue bulk on adjoining properties or the streetscape.</li> <li>- The development is compliant with the maximum floor space ratio allowed onsite and therefore is considered unlikely to have excessive bulk at the first storey.</li> <li>- The development is generally consistent with the setback requirements and landscaping controls and therefore is not considered to be excessively bulky, especially at the first storey.</li> </ul> <p>Despite the non-compliance, the proposal does not result in any unreasonable overshadowing of adjoining properties and remains compliant with the provisions of the LDCP 2008 in this regard.</p>	
Building facades shall be articulated and roof form is to be varied to provide visual variety.	<b>Complies</b> The building facades are well designed with good articulation and roof form through use of entry porches, façade differentiation and changes in colours and finishes.	

<b>LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones</b>		
<b>Control</b>	<b>Requirement</b>	<b>Comment</b>
	Walls shall be a mix of masonry, rendered and or bagged, and painted, lightweight clad and painted and/or flush face brick. Justification will be required for 100% face brick facades or 100% rendered and painted brick and will be assessed on merit. Facades can be articulated by: <ul style="list-style-type: none"> <li>- The use of different materials and detailing and / or</li> <li>- The inclusion of balconies, verandas, pergolas and landscaped beds.</li> </ul>	<b>Complies</b> The schedule of colours and finishes demonstrate the use of a mixture of brick, paint, cladding and render.
	A sidewall must be articulated if the wall has a continuous length of over 10 m.	<b>Complies</b> All Sidewalls do not exceed 10m in length and are articulated.
	The entrance of each dwelling shall be emphasised.	<b>Complies</b> The entrances to each dwelling are clearly identifiable.
	Units built at the rear of the allotment must take into consideration privacy of neighbouring properties. The use of windows with high sill heights should be used to avoid potential privacy issues.	<b>Complies.</b> Windows at the rear of the allotment are design sufficiently to accommodate privacy of the neighbouring property through compliant setbacks.
	Driveways should avoid a 'gun barrel' effect by curving and siting of buildings, which create a driveway form with the divided carriageway separated by soft landscaping.	<b>Complies</b> The driveways is not considered to be a gun barrel and creates articulations and landscaped areas within the site.
	Attic floor space may be used when it is contained wholly within the roof pitch and will not be counted as a storey provided that the attic space is part of the dwelling unit.	<b>N/A</b> No attic spaces proposed.
	Space used for car parking shall be included as a storey if the ceiling of the car parking level exceeds more than 1m above the natural ground level.	<b>Noted</b> No basement proposed and parking is incorporated as garages in the dwellings.
	The maximum roof pitch shall be 36 degrees.	<b>Complies</b> Maximum roof pitch would be 4 degrees.
	Townhouses built on steep or sloping blocks should be built of split-level construction.	<b>Complies</b> Dwellings are sited to the slope of the land.

<b>LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones</b>		
<b>Control</b>	<b>Requirement</b>	<b>Comment</b>
	Balconies are not permitted on the first floor of the side and / or rear portion of the dwelling. Balconies may be considered if they address public open space, communal open space and/or private driveways.	<b>Complies</b> Balconies not proposed on side or rear portion of dwellings.
	Blank walls in general that address street frontages or public open space are discouraged. Where they are unavoidable building elements or landscaping must be used to break up large expanses of walls. In some cases an anti-graffiti coating will need to be applied to the wall to a height of 2 metres.	<b>N/A</b> No blank walls facing the street frontages are proposed.
Internal Design	Multi Dwelling Housing located on street boundaries shall have habitable rooms located to the front of the dwelling for security and surveillance to the street.	<b>Complies</b> Units 1 and 2 incorporate living areas which front the street to promote surveillance.
	Living rooms should take advantage of northern aspects where possible. Access to private open space must be from at least one living room.	<b>Complies</b> Most dwellings are able to benefit from northern solar access, where compliant. Each dwelling's POS is accessible from their respective ground floor living areas.
	The internal layout of the dwelling must incorporate cross ventilation.	<b>Complies</b> Each dwelling can achieve cross ventilation.
	Bathrooms, ensuites, laundries and walk in wardrobes should be located to the side and the rear of the development.	<b>Considered acceptable</b> The proposed dwellings incorporate a bathrooms and laundry are typically oriented to sides and rears of dwellings apart from one ensuite bathroom.
	Each dwelling must provide a minimum storage area of 8m <sup>3</sup> .	<b>Complies</b> Sufficient storage is provided to each dwelling in the form of wardrobes to bedrooms and storage spaces within the dwelling including under the stairs.
	Locate active use rooms or habitable rooms with windows overlooking communal/public areas (e.g. playgrounds, gardens).	<b>N/A.</b>
Car Parking and Access	<u>Internal Driveway and Car Parking layout</u> Minimum Internal Driveway Width permitted: 3.5m	<b>Complies</b> The proposed internal driveway would be a minimum of 5.5m in width that can ensure 2 way movements.

<b>LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones</b>		
<b>Control</b>	<b>Requirement</b>	<b>Comment</b>
	The extent of paved area for driveways shall be kept to a minimum. Driveways abutting dwellings shall be kept to a minimum.	<b>Complies</b> The proposed paved area is limited to that required for the driveway and manoeuvring areas.
	Avoid large expanses of driveways, including concentrating double garages adjacent to each other.	<b>Complies</b> The proposed development has tried to reduce large expanses of driveways where possible.
	<u>Basement Car Parking</u> Basement car parking is permitted but will be included as a storey if the ceiling is located more than 1m above the natural ground level.  On sites that slope away from the street, underground car parking structures that protrude more than 1m above natural ground level toward the rear are not included as a storey where topographical features warrant and the streetscape is not adversely affected. The car parking area should be adequately obscured from visible sight by screen planting.	<b>N/A</b> No basement proposed.
	Kerbs shall be provided along the edge of all internal driveways. All traffic must be able to enter and exit the site in a forward direction.	<b>Complies</b> Kerbs are to be provided along the edge of the proposed driveway.
Landscaping and Fencing	The setback areas of development are to be utilised for canopy tree planting.	<b>Complies</b> Setback areas of the development have been utilised for canopy tree and screening planting.
	The landscape design for all development must include canopy trees that will achieve a minimum 8m height at maturity within front and rear setback areas.	<b>Complies by conditions</b> Landscaping is generally appropriate. Landscape plan reviewed and supported by Council's landscape officer.
	Landscape planting should be principally comprised of native species to maintain the character of Liverpool and provide an integrated streetscape appearance. Species selected in environmentally sensitive areas should be indigenous to the locality. However, Council will	<b>Complies.</b> The landscaping schedule submitted indicates that: - Various native species have been proposed within the landscaped area. - A mix of vegetation has been proposed within the landscaped areas.

LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones		
Control	Requirement	Comment
	consider the use of deciduous trees in small private open space areas such as courtyards for control of local microclimate and to improve solar access.	
	The landscaping shall contain an appropriate mix of canopy trees, shrubs and groundcovers. Avoid medium height shrubs (600 – 1800mm) especially along paths and close to windows and doors.	<b>Complies</b> Shrubs proposed near fronts of units are appropriately sized.
	Landscaping in the vicinity of a driveway entrance should not obstruct visibility for the safe ingress and egress of vehicles and pedestrians.	<b>Complies</b> Landscaping in the vicinity of the driveway entrance would be unlikely to obstruct visibility.
	Tree and shrub planting alongside and rear boundaries should assist in providing effective screening to adjoining properties. The minimum height of screening to be provided is 2.5 to 3m at maturity.	<b>Complies</b> Tree and shrub planting has been incorporated along the rear and side boundaries to provide effective screening to adjoining properties.
	Landscaping on any podium level or planter box shall be appropriately designed and irrigated. Landscaping on podium levels and planter boxes should be accessible from habitable areas of dwellings or elsewhere as appropriate for gardener access in other forms of development.	<b>N/A</b>
	2m wide landscaped area shall be provided between an internal driveway and a property boundary to provide privacy to the adjoining property and to soften the appearance of the internal driveway	<b>Considered acceptable on Merit</b> 1.5m landscape strip proposed from internal driveway and property boundary.
	<p><b><u>Justification</u></b></p> <p>The vehicle access to unit 1 is setback 1.5m from the boundary, varying the 2m landscaping area between a driveway and property boundary. In accordance with the landscape plans prepared by Greenland Design landscape architects the 1.5m width is a suitable width for a tree and shrubs to be established. The landscaped area along the southern boundary will provide natural screening to soften the appearance of the internal driveway from the adjoining property south of the subject site. Based on the proposed landscaping including a tree and shrubs within the 1.5m width, the variation to the 2m landscaping width control is acceptable.</p>	

LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones		
Control	Requirement	Comment
	Landscaping shall be provided along the side and rear boundaries to provide privacy for adjoining residents.	<b>Complies</b> Landscaping has been incorporated along the side and rear boundaries.
	A maximum of 30% of the front setback is to be paved or sealed, unless the area is used for direct access to a garage, carport or dwelling entry.	<b>Complies</b> The proposed front setback would be 74% landscaped with the remaining land being used for driveways the driveway and patio area.
	Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry.	<b>Complies</b> The proposed trees are likely allow for appropriate shade and sunlight. Landscape options were reviewed and accepted by Council's landscape officer.
	Any tree with a mature height over 8m should be planted a minimum distance of 3m from the building or utility services.	<b>Complies</b> Trees with mature height of 8m have been proposed to be planted at least 3m from utility services.
	Areas between a driveway and the windows of a dwelling shall be landscaped to provide privacy for dwellings.	<b>Complies</b> The areas between the driveway and the dwellings are landscaped where possible.
	<u>Primary Frontage</u> The max height of a front fence is 1.2m. The front fence may be built to a max height of 1.5m <i>if</i> the fence is setback 1m from the front boundary with suitable landscaping in front.	<b>N/A</b> No front boundary fencing is proposed.
	Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas and are to be a minimum 30% transparent.	<b>N/A</b> As above.
	Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.	<b>N/A</b> As above.
	The front fence may be built to a maximum of 1.8m <i>only if</i> : - The primary frontage is situated on a Classified Road. - The fence is articulated by 1m for 50% of its length and have landscaping in front of the articulated portion. The fence does not impede safe sight lines from the street and from vehicles entering and exiting the site.	<b>N/A.</b> As above.

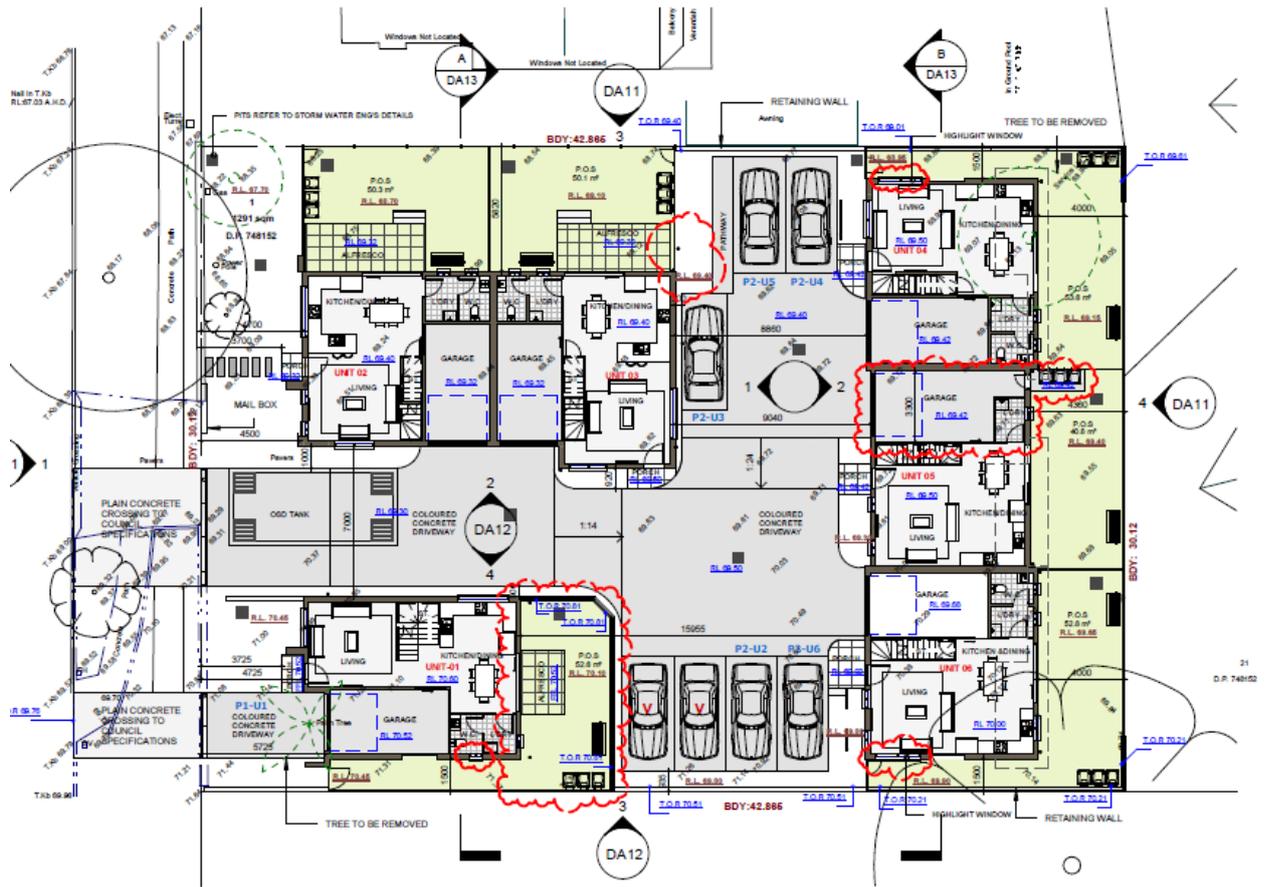
LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones		
Control	Requirement	Comment
	Front fences are to be constructed of materials compatible with the proposed design of the dwelling.	<b>Complies</b> No front fencing proposed.
	Boundary fences shall be lapped and capped timber or metal sheeting.	Noted.
Amenity and Environmental Impact	<u>Overshadowing</u> Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least; - One living, rumpus room or the like; and - 50% of the private open space.	<b>Complies</b> The shadow diagrams indicate that the adjoining properties would receive 3 hours of sunlight to 50% of the POS and living rooms between 9.00am and 5.00pm.
	<u>Privacy</u> Building siting, window location, balconies and fencing should take account of the importance of the privacy of on site and adjoining buildings and outdoor spaces.	<b>Complies</b> The dwelling design, landscaping and fencing is considered to maximise privacy to the subject site and adjoining properties.
	Windows to habitable rooms should be located so they do not overlook such windows in adjoining properties, other dwellings within the development or areas of private open space.	<b>Complies</b> Windows to habitable rooms do not overlook onto adjoining properties.
	Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties.	<b>Complies</b> Landscaping would be incorporated in the rear and side setbacks and along accessways to increase visual privacy between dwellings and adjoining properties.
Site Services	<u>Letterboxes</u> Letterboxes shall to be provided for each dwelling on site, easily accessible from the street, able to be securely locked and provided in accordance with Australia Post's requirements Freestanding letterbox structures should be designed and constructed of materials that relate to the main building. Residential numbering should be attached to the letterbox so that it is clearly visible from the street frontage. Numbers should be 75mm in height, reflective and in contrast to the backing material.	<b>Complies by conditions</b> Advisory conditions will be imposed outlining Australia Post requirements.
	<u>Waste Management</u>	<b>Complies by conditions</b>

<b>LDCP 2008 Part 3.6 – Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones</b>		
<b>Control</b>	<b>Requirement</b>	<b>Comment</b>
	<p>Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site.</p> <p>Any structure involving waste disposal facilities shall be located as follows:</p> <ul style="list-style-type: none"> <li>- Setback 1m from the front boundary to the street.</li> <li>- Landscaped between the structure and the front boundary and adjoining areas to minimise the impact on the streetscape.</li> </ul> <p>Not be located adjacent to an adjoining residential property.</p>	<p>Waste storage areas are satisfactory for the development and are located in the private open spaces and can be accessed through widened garages where required. Councils Waste Management officer has reviewed the waste management plan and conditions of consent were provided.</p>
	<p><u>Frontage works and damage to Council infrastructure</u></p> <ul style="list-style-type: none"> <li>- Where a footpath, road shoulder or new or enlarged access driveway is required to be provided this shall be provided at no cost to Council.</li> <li>- Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure.</li> <li>- Where there are no existing street trees in front of the site and contributions have not been collected for street tree planting it may be a condition of consent that street trees be provided in the footpath area immediately in front of the site.</li> </ul>	<p><b>Complies by conditions</b></p> <p>Footpath and vehicular crossing to be provided as conditions of consent and to be at no cost to Council. Additionally, dilapidation reports will occur before and after works to ensure damage is rectified. Additionally, the provision of street trees either side of the driveway in Box Road will be provided as conditions of consent.</p>

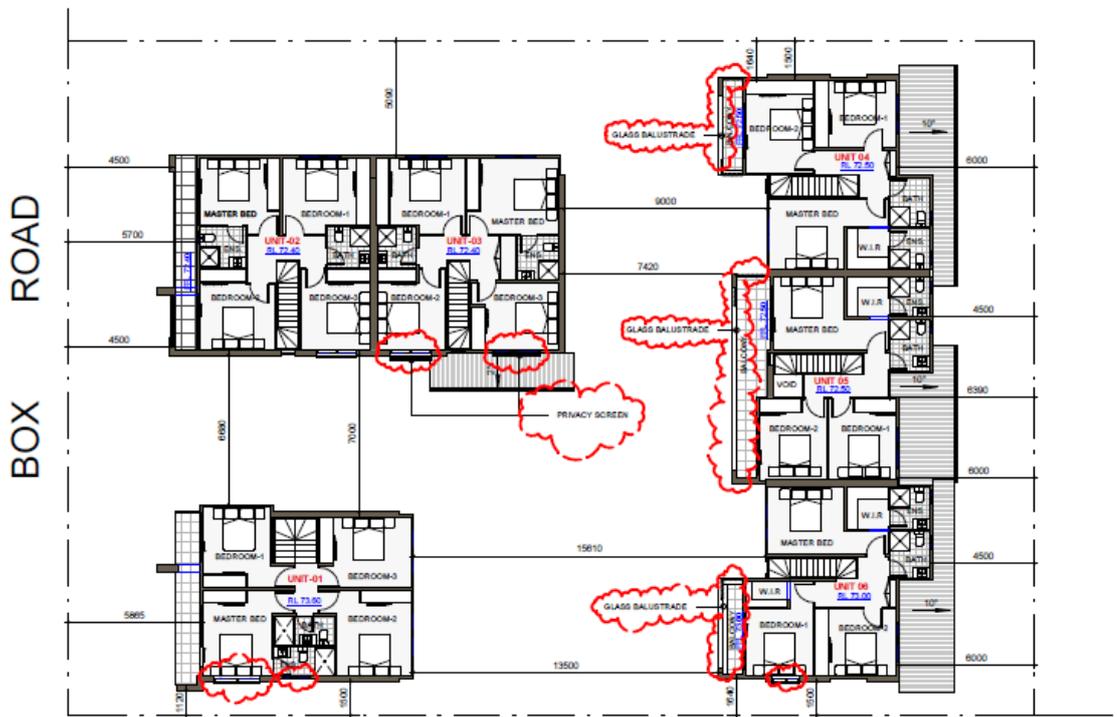
The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008.



# Site Plan



# Ground Floor Plan

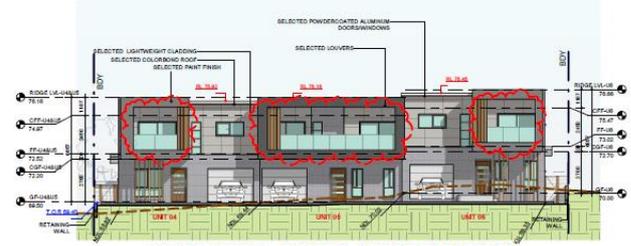


**1** FIRST FLOOR PLAN  
DA08 1 : 200

**First Floor Plan**



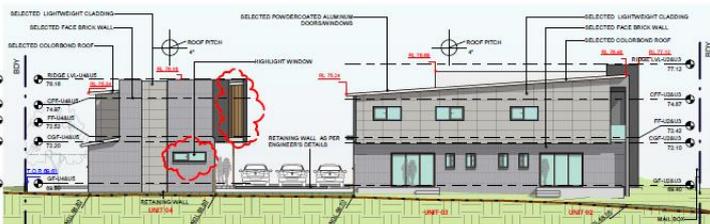
**1** 1-FRONT ELEVATION-WEST  
DA11 1 : 200



**2** 2-UNITS 4, 5 AND 6 - WEST ELEVATION  
DA11 1 : 200

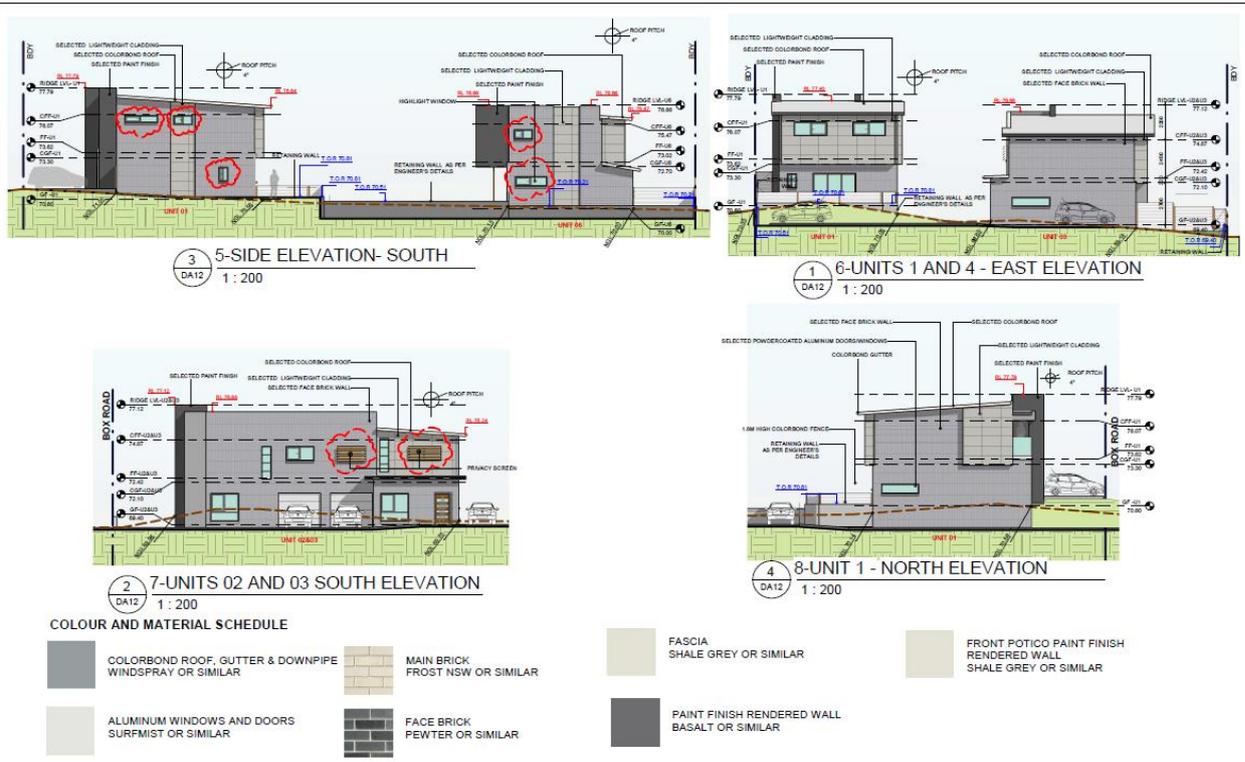


**4** 3-REAR ELEVATION-EAST  
DA11 1 : 200



**3** 4-SIDE ELEVATION-NORTH  
DA11 1 : 200

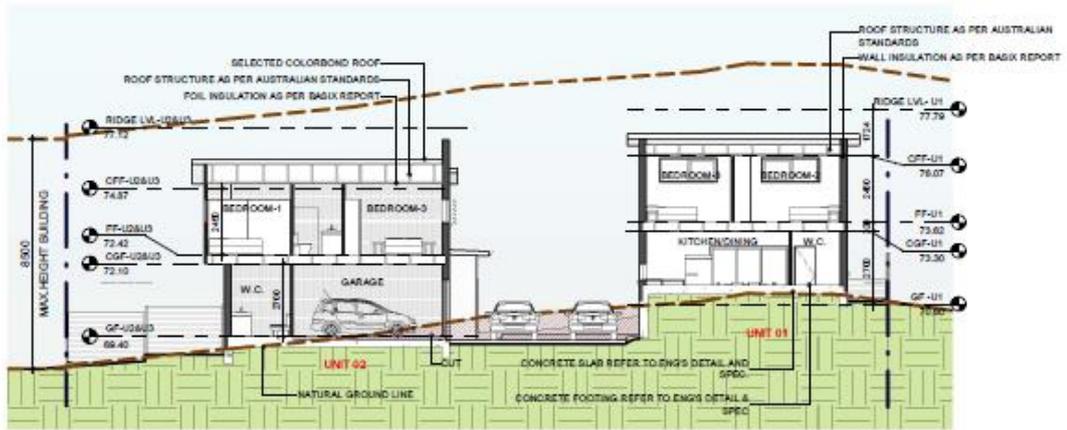
**West, East & North Elevations & Material Schedule**



**COLOUR AND MATERIAL SCHEDULE**

	COLORBOND ROOF, GUTTER & DOWNPIPE WINDSPRAY OR SIMILAR		MAIN BRICK FROST NSW OR SIMILAR		FASCIA SHALE GREY OR SIMILAR		FRONT POTICO PAINT FINISH RENDERED WALL SHALE GREY OR SIMILAR
	ALUMINUM WINDOWS AND DOORS SURFMIST OR SIMILAR		FACE BRICK PEWTER OR SIMILAR		PAINT FINISH RENDERED WALL BASALT OR SIMILAR		

**South Elevations & Material Schedule**

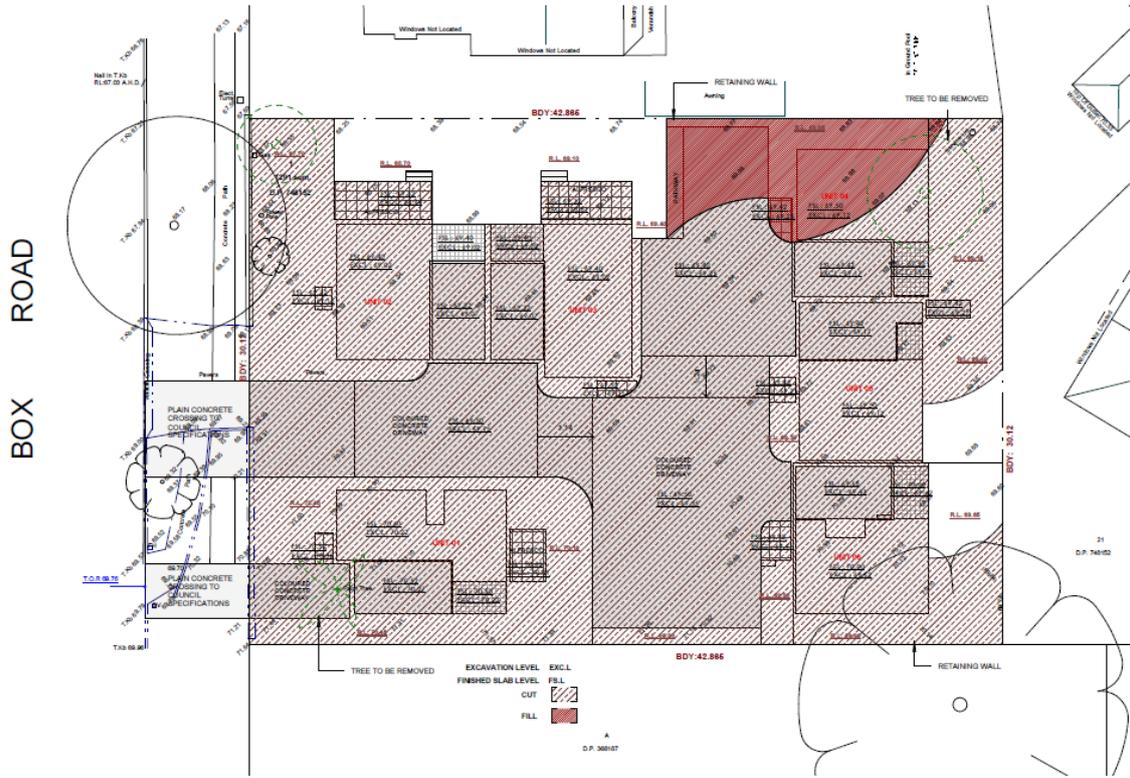


**A** SECTION AA'  
DA13 1 : 200

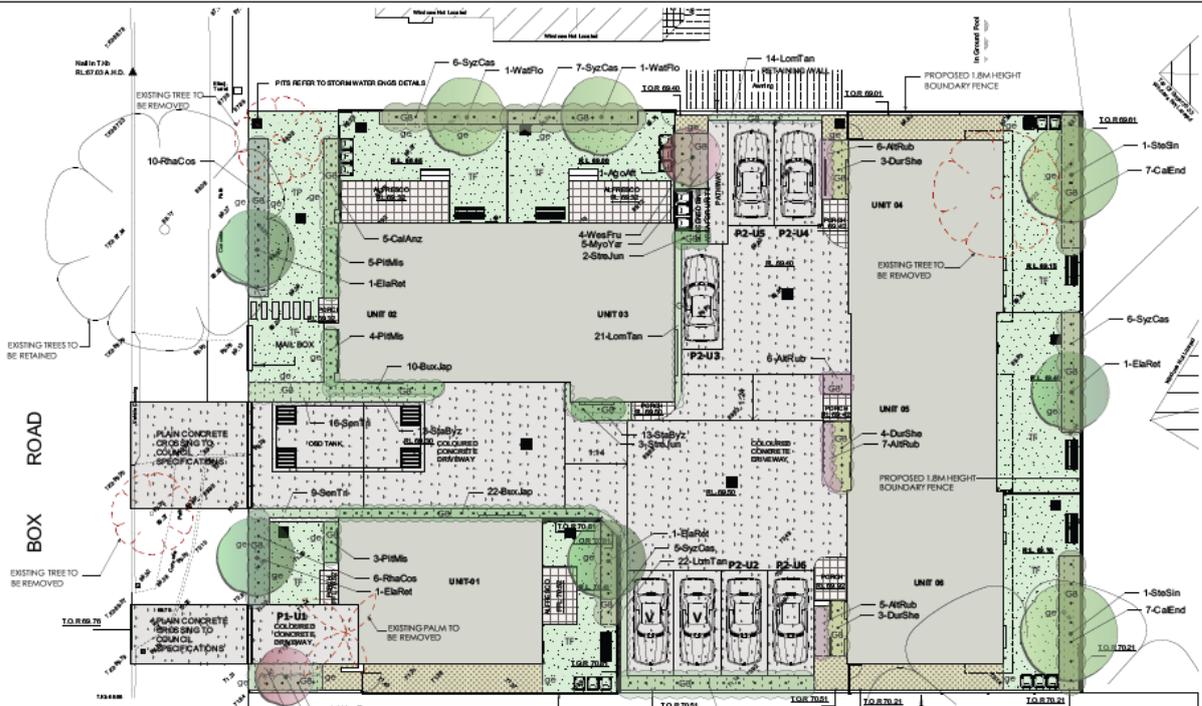


**B** SECTION BB'  
DA13 1 : 200

**Sections**



**Cut and Fill Plan**



**Landscape Plan**

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

- (a) Architectural plans, including the following;

<b>Drawing Title</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>	<b>Architect</b>
Site Plan	DA05	B	02/02/2022	Morfosis Architects Pty Ltd
Analysis/ Demolition	DP 01/01	A	14/04/2021	Morfosis Architects Pty Ltd
Ground Floor Plan	DA06	B	02/02/2022	Morfosis Architects Pty Ltd
First Floor Plan	DA08	B	02/02/2022	Morfosis Architects Pty Ltd
Elevations & Materials Schedule 1	DA11	B	02/02/2022	Morfosis Architects Pty Ltd
Elevations & Materials Schedule 2	DA12	B	02/02/2022	Morfosis Architects Pty Ltd
BASIX & Sections	DA13	B	02/02/2022	Morfosis Architects Pty Ltd
Cut & Fill Plan	DA17	B	02/02/2022	Morfosis Architects Pty Ltd
Landscape Plan	2312.GD.01	A	March 2021	Greenland Design Landscape Architects
Landscape Details & Specifications	2312.GD.02	A	March 2021	Greenland Design Landscape Architects

- (b) Waste Management Plan, prepared by Loka Consulting Engineers Pty Ltd, Job number- 17NL342-WMP1, dated 15 April 2021;
- (c) BASIX Certificate, Certificate No. 1190241M, prepared by Loka Consulting Engineers Pty Ltd, dated Thursday 15 April 2021;
- (d) Traffic Management Report, prepared by Loka Consulting Engineers Pty Ltd, Report No. 17NL342-TMR1, dated 19 March 2021; and
- (e) Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management Services, dated 06 May 2021.

**Sydney Water Concurrence**

- 2. The development is to demonstrate compliance with all relevant requirements issued by Sydney Water, dated 18 October 2021 (Attachment 3).

**Compliance with EP&A Act**

- 3. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2021, 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.

**National Construction Code**

- 4. In accordance with section 4.16(11) of the Environmental Planning & Assessment Act 1979 and clause 69 of the Environmental Planning & Assessment Regulation 2021, 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).

**Works at no cost to Council**

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

**B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to the issue of a Construction Certificate.**

**Section 7.11 Payment (Liverpool Contributions Plan 2018 - Established Areas)**

- 6. 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 2018 - Established Areas as amended.

The total contribution is **\$73,168.00** and will be adjusted at the time of payment in accordance with the contributions plan.

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

The Contributions Plan may be inspected online at [www.liverpool.nsw.gov.au](http://www.liverpool.nsw.gov.au)

Payment must be accompanied by the attached form.

### **Plan Amendments**

7. Prior to the issue of a construction certificate, the following are to be amended to the satisfaction of the Principal Certifying Authority, to demonstrate the following:
  - (a) The balconies for units 4, 5 and 6 are to be amended to incorporate fixed privacy louvres to a height of 1.6m above the first floor finished floor level. The louvres are to be oriented towards the north to enable light to pass through into the balcony areas.
  - (b) The landscape plan is to be amended to include one additional street tree in the Box Road verge. The tree is to be planted between the main driveway and the driveway for unit 01. The street tree is to have a minimum pot size of 100 litres and be chosen from one of the following species:
    - (i) *Tristaniopsis laurina* (water gum)
    - (ii) *Elaeocarpus reticulatus* (blueberry ash)
    - (iii) *Fraxinus griffithii* (evergreen ash);
    - (iv) *Lagerstroemia* species. (crepe myrtle).

### **Site Development Work**

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

### **Fee Payments**

9. 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, and
- (c) Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

These fees are reviewed annually and will be calculated accordingly.

## **Notification**

10. 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.

## **S138 Roads Act – Minor Works in the Public Road**

11. 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**

12. 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 Footpath, driveway crossings and associated verge works in Box 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.

## **Fees – Road Opening**

13. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the Principal Certifying Authority. 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.

### **On-Site Detention**

14. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by LOKA Consulting Engineers, reference number 17NL342, revision A, dated 22/3/2021.

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.

### **No loading on easements**

15. 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

### **Dilapidation Report**

16. Prior to the issue of a Construction Certificate, a dilapidation report of all infrastructure fronting the development in Box Road is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 10m either side of the development.

### **Cladding**

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

### **Products banned under the Building Products (Safety) Act 2017**

18. 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.

### **Retaining Walls on Boundary**

19. 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.

### **Access, Car Parking and Manoeuvring – General**

20. 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.
21. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that all cars can enter and exit the site in a forward direction.

### **Traffic and Parking**

22. Detailed design drawings of the proposed car parking and access arrangements including a signs and line marking scheme prepared by a traffic engineer or designer is to be submitted through Council's Transport Management Section, to the Liverpool Traffic Committee for assessment and Council's approval. It should be supported by swept path diagrams.

The design is to be certified by a qualified professional that it complies with the requirements of Council's DCP and Australian Standards.

Works within the public road reserve shall not commence until the design drawings including the associated signs and line marking scheme have been approved.

### **Construction Traffic Management Plan**

23. A construction traffic management plan (CTMP) prepared by a suitably qualified person is to be submitted to Liverpool City Council's Traffic and Transport Section for endorsement. The CTMP is to be lodged online via Council's portal accompanied by an application to be found on the Council website and the appropriate fees. A copy of the endorsed CTMP and traffic control plans are to be available on the works site for inspection at any time by an authorised Council officer.
24. Construction shall not commence until the construction traffic management plan has been endorsed. The endorsed CTMP is to be implemented during construction.

### **Design Drawings**

25. Detailed design drawings including a signs and line marking scheme prepared by a traffic engineer or designer is to be submitted to and approved by Council's Transport Management Section, via the Liverpool Traffic Committee and subsequent Council meeting approval.

### **Public Road Reserve**

26. Works within the public road reserve shall not commence until the design drawings including the associated signs and line marking scheme have been approved.

### **Waste Management**

27. Prior to the issue of a construction certificate, the waste management plan, landscaping plans and building plans are to be reviewed and amended to ensure that the details and provisions with regard to waste are consistent and homogenous, as per the following:

- All waste bins are to be shown as being stored on a hardstand area within the private open space of the dwelling to which they relate;
- The waste storage enclosure for Unit 5, that is shown and referred to in some of the documents as being located alongside the fence of Unit 3, is to be deleted, as it is not required;
- The garage of Unit 5 must be a minimum of 3.3 metres internal width, in that part of the garage where the vehicle is to be parked, to facilitate the waste bins being brought through the garage without needing to move any parked vehicle;
- All bin paths of travel are to be smooth and free of any sudden changes in level, such as steps, kerbs, garden edges etc.;

### **Street Lighting**

28. The developer shall engage an accredited service provider to assess adequacy of the existing street lights in front of the development site, and if upgrade is required, submit a Public Lighting Design Brief to Council's Traffic and Transport Section, to specify design requirements for the provision of street lighting.

The street lighting design plan prepared by an accredited service provider is to be submitted to Council for review and to the electricity service provider (currently Endeavor Endeavour) for approval, prior to construction.

The street lighting must comply with the electricity service provider Street Lighting Policy and illumination requirements and Council's Street Lighting policy.

### **Provision of Services**

29. 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](http://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.

30. 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.
31. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the 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:**

### **Commencement of Building work**

32. 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.

### **Matters to be addressed prior to commencement of Subdivision Works**

33. 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.

### **Construction Certificates**

34. 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.
35. 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.

### **Notification/Principal Certifying Authority**

36. 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.

### **Residential Building Work**

37. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

### **Demolition Works**

38. Demolition works shall be carried out in accordance with the following:
- (a) Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with the Australian Standard AS 2601- 2001 The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials,
  - (b) Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council, and
  - (c) The handling or removal of any asbestos product from the building/site must be carried out by an NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.

### **Arboricultural Impact Assessment**

39. All recommendations of the approved Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management Services, dated 06 May 2021 that are required to be implemented prior to works commencing shall be carried out to the satisfaction of the PCA.
40. Tree protection measures with reference to trees proposed to be retained are to be put into place as per the approved Arboricultural assessment.

### **Site Notice Board**

41. 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.

### **Construction Requirements**

- 42. Structural supporting elements or bracing of the building must be designed and certified by a qualified chartered structural engineer having regards to supporting ground conditions.

### **Site Facilities**

- 43. 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 Management**

- 44. Prior to any works commencing, all Council-issued domestic waste bins serving the existing house to be demolished at 25 Box Road, Casula, must be returned to Liverpool City Council. Please ring Council on 1300 36 2170 to advise that the bins are empty and ready to be removed, so their removal can be noted on the rates system.
- 45. Prior to any works commencing, any air-conditioning or refrigeration systems fitted to the dwelling or outbuildings to be demolished, must have the refrigerants present in those systems extracted into a durable, air-tight container by a licensed air-conditioning technician. This container and its contents must be sent intact, for secure destruction, to a facility licensed to destroy such refrigerants. Documentary evidence that this has been completed, if indeed these systems are fitted to the dwelling, must be sighted by the Principal Certifying Authority and included as part of the Occupation Certificate documentation.

### **Sydney Water**

- 46. Development plans must be processed and approved by Sydney Water.

### **“DIAL BEFORE YOU DIG”**

- 47. 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](http://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.

## **Waste Classification and Disposal of Contaminated Soil and Material**

48. 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.

## **Sediment & Erosion Control**

49. Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Landcom's publication "Managing Urban Stormwater – Soils and Construction (2004)" – also known as "The Blue Book".

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

## **Traffic Management**

50. No work or craning shall be undertaken within the adjoining public lands without the prior written consent of Council. In this regard Council may require a Traffic Management Plan to be submitted before giving its approval.
51. Applications must be made to Council's Traffic and Transport Section under Section 138 of the NSW Roads Act, for required Road Occupancy permit and Road Opening approval for any road occupancy within public road reserve.

The Road Occupancy permit and Road Opening approval application, is to include Traffic Control Plans including details for pedestrian management, 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.

The road occupancy permit and road opening approval with approved traffic control measures shall be implemented during construction. A copy of the road occupancy permit and road opening approval shall be available on site at all times. Note: A copy of the road occupancy permit and road opening approval shall accompany the Notice of Commencement to Liverpool City Council.

## **Traffic Control Plan**

52. 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 Work's on Road" and the Roads and Traffic Authority publication "Traffic Control at Worksites" and certified by an appropriately accredited Road 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.

### **Environmental Management**

53. 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.

## **D. DURING CONSTRUCTION**

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

### **Demolition Inspections**

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

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

### **Building Inspections**

55. The building works must be inspected by the Principal Certifying Authority, in accordance with section 6.5 of the EP&A Act 1979 and Clause 61 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

56. 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).

### **Toilet Facilities**

57. 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) be connected to 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.

### **Identification Survey Report**

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

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

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

### **Construction Requirements**

60. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:
- (a) Protect and support the building, structure or work from possible damage from the excavation, and
  - (b) where necessary, underpin the building, structure or work to prevent any such damage.
  - (c) a and b above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
  - (d) Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer.
61. 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**

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

### **Construction Noise and Vibration**

63. 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).

### **Arboricultural Impact Assessment**

64. All recommendations of the approved Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management Services, dated 06 May 2021 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.
65. Tree protection is to be supervised by an AQF Level 5 consulting Arborist.

### **Craning and Hoardings**

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

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

67. Lifting or craning materials over a public footway or roadway is not permitted unless a "B" class construction hoarding has been installed in compliance with Work Cover authority requirements.

### **Refuse Disposal**

68. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

### **Security Fence**

69. 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.

### **Removal of Dangerous and/or Hazardous Waste**

70. 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.

### **Contamination**

71. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy (Resilience and Hazards) 2021, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
72. 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**

73. 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**

74. 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.

### **Environmental Controls**

75. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
76. 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.
77. 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.
78. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.

### **Air Quality**

79. Dust screens shall be erected and maintained in good repair around the perimeter of the area being remediated for the duration of works and until such time as dust nuisance is unlikely.
80. During construction where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, the consent holder is to ensure dust is 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.
81. 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.
82. 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.

### **Earthworks**

83. 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.

### **Aboriginal Heritage**

84. 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.

85. 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.

### **Waste Management**

86. The Waste Management Plan submitted to and approved by Council and as amended by conditions of consent, 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.

87. Any asbestos materials encountered during the demolition work, must be removed, handled, wrapped and disposed of in accordance with the relevant legislation, regulations and safe work practices, of the NSW EPA and WorkCover NSW, as current at the time. If over 10m<sup>2</sup> of asbestos sheet materials are found on the site, all asbestos works must be carried out by a suitably licensed asbestos contractor. The licenced disposal facility of any asbestos found, must be advised to Council and the PCA.
88. All solid and liquid waste is to be removed from the site by a registered waste contractor.
89. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
90. All solid waste stored on site is to be covered at all times.
91. 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. No wastes other than those noted on the approved waste management plan as being re-used on site, are to be left on site after the completion of the works.
92. 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**

93. 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**

94. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
95. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

### **Ventilation**

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

### **Traffic Management**

97. The applicant is to construct the vehicular access driveway and parking facilities in accordance with the Council approved design drawings.
98. 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.
99. 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 materials, concrete pours etc.
100. Applications must be made to Council's Traffic & Transport Section for temporary 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. Applications prepared by a suitably qualified person, are to specify the date and times of proposed closures, traffic control plans, insurances and any other relevant information. This activity may require a seven (7) days advance notice to be installed near the site and/or advertisement in local newspapers and websites to Council's satisfaction.
101. Construction activities affecting adjoining road reserves require submission of a road occupancy application to Council along with traffic control plan/s and public liability insurance. The traffic control plan/s must be prepared by a qualified professional and to be in accordance with the RMS Traffic Control at Worksites Manual, the Austroads Guide to Traffic Management, the RMS Supplements for Austroads Guide to Traffic Management and Australian Standard 1742.

102. All works within the road reserve, including the approved sign and line making scheme, 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.

#### **Road Works (Laybacks)**

103. All redundant vehicular crossings shall be removed and replaced with Council's standard kerb and gutter at no cost to Council. The removal and replacement of a driveway with standard integral kerb and gutter shall be the subject of a driveway application to Council and works supervised by that driveway inspection process.

#### **Construction Environmental Management Plan (CEMP)**

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

#### **External**

105. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.
106. The mailboxes are to be consistent with the design and colours and materials for the development.
107. The windows of all bathrooms, W.C. and ensuites shall be fitted with translucent obscure glazing to the satisfaction of the PCA.

#### **Vegetation and Landscaping**

108. Premium quality organic garden soil shall be incorporated into all planting areas in sufficient quantity to achieve optimum plant growing conditions.
109. All garden/planting areas shall be mulched to a depth of not less than 75mm using weed free leaf mulch, wood chip or similar, not pine bark.

## **E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue an Occupation Certificate.**

#### **Certificates**

110. The premises must not be utilised until an Occupation Certificate is issued by the principal certifier.
111. 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.
112. The Principal Certifying Authority shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that the works as constructed comply fully with the required condition of consent being acted on by the certifier.

## **Services**

113. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.
114. 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

## **Arboricultural Assessment**

115. The PCA shall ensure that all recommendations of the approved Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management Services, dated 06 May 2021 have been satisfactorily completed.

## **Cladding**

116. Prior to issuing an occupation certificate the principal certifier 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.

## **Liverpool City Council clearance – Roads Act/ Local Government Act**

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

## **Works as executed – General**

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

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

## **Stormwater Compliance**

119. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the on-site detention system/s:
  - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.

- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

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

#### **Restriction as to User and Positive Covenant**

120. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the on-site detention system/s shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

#### **Rectification of Damage**

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

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

#### **Dilapidation Report**

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

#### **Landscape**

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

#### **Footpaths**

124. Construction of 1.5m wide by 100mm thick (with one layer of SL72 reinforcing mesh) concrete path paving is to be constructed in front of the development site.

#### **Traffic**

125. All road and traffic management works including any requirement for public street lights, are to be completed to Council's satisfaction.

#### **BASIX**

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

#### **Display of Street Numbers**

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

### **Waste Management**

128. Prior to the issue of an Occupation Certificate, the strata by-laws governing the development will be drafted in a manner that places the requirement to correctly separate and dispose of waste upon all residents, and ensures that any additional costs to the strata from incorrect waste disposal or dumping of items by residents, can be charged back to the parties responsible.

## **F. CONDITIONS RELATING TO USE**

### **Car Parking**

129. All parking areas shown on the approved plans must be used solely for this purpose.
130. A total of 14 off street parking spaces (including 2 visitors parking) must be provided on site.
131. Council's on-street assets should be protected at all times. Any damages should be rectified to Council satisfaction.

### **Landscaping**

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

### **Mail-boxes**

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

### **Lighting**

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

### **Waste Management**

136. Waste and recyclable material generated from the operations of the premises shall be managed in a satisfactory manner that does not give rise to offensive odour or encourage

pest activity. All waste material shall be regularly removed from the premises. Waste shall not be permitted to accumulate near the waste storage bins.

137. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
138. Sufficient space shall be provided within each dwelling for the storage of a minimum of one day's waste and recycling.
139. Under current collection arrangements, each unit in the development will be issued with one 140 litre general waste bin, one 240 litre recycling bin, and one 240 green (garden) waste bin. These arrangements re bin sizes and types may be subject to change in future, as FOGO waste services are brought into use.
140. Once the Occupation Certificate has been issued, but at least seven days prior to residents moving in, Council is to be contacted to arrange delivery of the domestic waste bins to these units. Please contact Council on 1300 36 2170 to arrange the delivery of waste bins.
141. Residents must present the waste bins for emptying to the kerbside of Box Road, no earlier than the afternoon before collection. After emptying, all bins must be removed from the kerbside as soon as possible by the resident, and no later than 24 hours after collection, and placed back into the private open space of their unit. No bins are to be left on common property.
142. Waste and recycling bins are to be presented for emptying with lids fully closed and no less than 400mm (40cm) apart.
143. Waste bin storage areas must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or garden areas, and must not obstruct the exits of the units.
144. The residents of each unit are responsible for ensuring that only the correct materials that are acceptable for recycling through the yellow-lid recycling bin are placed in that bin, and those materials must be loose, unbagged and not contaminated. Residents are to inform themselves as to what materials are acceptable in the recycling bin.
145. Residents must mark their own bins clearly and permanently with both their unit number and the overall property number, to ensure that each unit's bins can be identified.
146. All bulky household wastes must be kept within their residence of origin. Residents are responsible for making their own pre-booked bulky waste collection with Council for a specific date. Bulky household waste may only be placed at the kerbside the evening before the booked date of the pick-up. The amounts and types of materials that are acceptable for collection will be as per the conditions of Council at the time.

## **G. ADVISORY**

- (a) Section 4.53 of the EP&A Act provides that unless otherwise stated by a condition of this consent, this consent will lapse if development is not physically commenced within five years of the date of this notice.
- (b) Section 8.2 of the EP&A Act provides that an applicant may request, within six (6) months of the date of the determination of the Development Application, that Council review its determination (this does not relate to designated development or Crown development).

An application under Section 8.2 of the EP&A Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 Application must allow sufficient time for Council to complete its review within the prescribed timeframe, including the statutory requirement for public notification.

- (c) Section 8.7 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Development Application, may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed by the EP&A Act.
- (d) Section 8.8 of the EP&A Act provides that an objector who is dissatisfied with the determination of the consent authority to grant consent to a Development Application for Designated Development (including any State significant development that would be designed development but for Section 4.10(2) of the EP&A Act), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court, against the determination.
- (e) The Commonwealth Disability Discrimination Act 1992 may apply to this proposal. Approval of this application does not imply or infer compliance with this Act. Applicants and owners are required to satisfy themselves as to compliance and make their own enquiries to the Human Rights and Equal Opportunity Commission. Attention is also drawn to the provisions of Australian Standard 1428 – Design for Access and Mobility.
- (f) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regard 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](http://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.

- (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 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 has been made by Council. 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.

- (j) 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.
- (k) 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 letter box positioning and dimensions.
- (l) 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 Contribution Plan 2018 Established Areas**

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-606/2021

**PROPOSAL:** Demolition of the existing dwelling and associated structures, construction of a new multi dwelling housing development comprising of 6 x two storey dwellings with associated car parking and landscape works.

<b>Facilities</b>	<b>Amount (\$)</b>	<b>Job No.</b>
<b>Liverpool Contributions Plan 2018 Established Areas</b>		
Community Facilities - works		
Central	\$6,299	GL.10000001870.10099
District Sporting Fields - works		
Central	\$21,183	GL.10000001869.10211
District Passive Open Space - works		
Central	\$13,240	GL.10000001869.10093
Local Passive Open Space - works		
Casula	\$18,535	GL.10000001869.10094
Transport - Bikeways - works		
Central	\$2,785	GL.10000001865.10207
Transport - Traffic management - works		
Central	\$7,935	GL.10000001865.10213
Drainage - works		
Central	\$2,111	GL.10000001866.10209

Administration	\$1,081	GL.10000001872.10104
<b>TOTAL</b>	<b>\$73,168</b>	

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

**RECORD OF PAYMENT**

**Total Amount paid:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Receipt No.:** \_\_\_\_\_ **Cashier:** \_\_\_\_\_

# ATTACHMENT 3 – SYDNEY WATER COMMENTS



18 October 2021

**Robert Micallef**

Council Assessing Officer

Liverpool City Council

[michaelr@liverpool.nsw.gov.au](mailto:michaelr@liverpool.nsw.gov.au)

**RE: Development Application DA-606/2021 at 25 Box Road, Casula**

Thank you for notifying Sydney Water of DA-606/2021 at 25 Box Road, Casula, which proposes the demolition of the existing dwelling and associated structures; and construction of a new multi dwelling housing development comprising 6 x two storey dwellings with associated car parking and landscape works. Sydney Water has reviewed the application based on the information supplied and provides the following comments to assist in planning the servicing needs of the proposed development.

**Water Servicing**

- Potable water servicing should be available via a 375mm DICL trunk watermain (laid in 1986) on.
- Amplifications and/or extensions may be required.

**Wastewater Servicing**

- Wastewater servicing should be available via a 150mm VC wastewater main (laid in 1987) located within the property boundary.
- Amplifications, extensions, and adjustments may be required.

**Property Easements**

- Where proposed works are in close proximity to Sydney Water land or easements, the developer may be required to carry out additional works to facilitate their development in order to not encroach within the Sydney Water land parcel or easement.
- If there is a requirement to construct a new main or deviate an existing main to get a Section 73 Certificate and the mains are not in a dedicated public road or pathway, you have to pay to create or release an easement in favour of Sydney Water.
- This advice is not a formal approval of easements requirements. Formal requirements for developments will be determined as part of the Section 73 application phase.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

Further advice and requirements for this proposal are in Attachment 1. If you require any further information, please contact the Growth Planning Team at [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

Yours sincerely,



**Kristine Leitch**  
Commercial Growth Manager  
City Growth and Development, Business Development Group  
Sydney Water, 1 Smith Street, Parramatta NSW 2150

## Attachment 1

### Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

### Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

### Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
  - Wastewater pipes larger than 300mm in size
  - Pressure wastewater pipes
  - Drinking water or recycled water pipes
  - Our property boundary

- An easement in our favour
  - Stormwater infrastructure within 10m of the property boundary.
2. Where the building plan includes:
- Construction of a retaining wall over, or within the zone of influence of our assets
  - Excavation of a basement or building over, or adjacent to, one of our assets
  - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

### **Tree Planting**

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and *Diagram 5 – Planting Trees* within our [Technical guidelines – Building over and adjacent to pipe assets](#). Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

<b>Item no:</b>	4
<b>Application Number:</b>	DA-446/2021
<b>Proposed Development:</b>	Demolition of existing structures, alterations and additions to the existing centre based child care facility to accommodate 90 children, and lot consolidation.
<b>Property Address:</b>	13 and 17 Rugby Crescent, Chipping Norton
<b>Legal Description:</b>	Lot 20 and Lot 21 DP 251671
<b>Applicant:</b>	Mr E Biyik
<b>Land Owner:</b>	MR E BIYIK and MRS S BIYIK ESB HOLDINGS PTY LTD
<b>Cost of Works:</b>	\$1,522,000.00
<b>Recommendation:</b>	Approve subject to conditions of consent
<b>Assessing Officer:</b>	Melanie Smith

## 1. EXECUTIVE SUMMARY

Council is in receipt of a DA for the demolition of an existing dwelling house, alterations and additions to the existing centre based child care facility to accommodate 90 children, and lot consolidation at 13 and 17 Rugby Crescent, Chipping Norton.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, relevant environmental planning instruments, development control plans and policies.

The DA was publicly exhibited for a period of 14 days in accordance with Liverpool Community Participation Plan 2019. The public exhibition period was from 17 June to 2 July 2021. Nineteen (19) submissions were received in response to the public exhibition of this DA.

The issues raised in the submissions relate to:

- A previous DA has been refused;
- Overdevelopment of the site and no others this size in Chipping Norton in the R3 zone;
- Incorrect information in Operational Management Plan, the centre has not been awarded an Exceeding accreditation;
- Maximum centre number of 45 in a residential zone;
- Prohibited in the R2 zone;
- Inconsistent with the streetscape, particularly the commercial flat roof design;
- Bulk, scale and character impacts;
- Unreasonable acoustic impacts including impact on peoples concentration and mental Health while working from home;
- Unreasonable privacy and overshadowing impacts;
- Property devaluation;
- Lack of public notification;
- No basement car parks in Chipping Norton or Moorebank;
- Unreasonable traffic impacts and insufficient off-street car parking;
- Illegal parking from centre staff and parents on Ashfordby Street;

- Traffic risks to children;
- Hours of operation proposed from 7am to 7pm on 6 days a week;
- The current centre are not complying with their existing conditions of consent including the use of amplified music;
- The commercial garbage bins are not consistent with a residential zone;
- Inadequate landscaping;
- Inconsistency with RLs demonstrated on the plans;
- The proposed development breaches the 8.5m building height limit and the application has not been supported by a Clause 4.6;
- Insufficient information submitted;
- Swept paths and pedestrian crossings have not been demonstrated on the plans; and
- Proximity to other child care centres.

The issues raised in the submissions are discussed in greater detail in the body of this report.

The site is zoned part R2 Low Density Residential pursuant to the Liverpool Local Environmental Plan (LLEP) 2008, to which the proposed development is permitted with consent.

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

*Contentious development*

*Development that:*

- (a) *In the case of a Council having an approved submissions policy – is the subject of the number of submissions set by that policy, or*
- (b) *In any other case – is the subject of 10 or more unique submission by way of objection*

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, for the reasons as outlined in this report.

## **2. SITE DESCRIPTION AND LOCALITY**

### **2.1 The site**

The subject sites are known as 13 and 17 Rugby Crescent, Chipping Norton. 13 Rugby Crescent is a regular shaped allotment with a frontage of 31.935m, a depth of 35m, and a total site area of 1,117.7m<sup>2</sup>. The site contains an approved operating child care facility.

17 Rugby Crescent is a regular shaped allotment with a frontage of 19.2m, a depth of 35m, and a total site area of 672m<sup>2</sup>. The site currently contains a dwelling house and two sheds.

An aerial image of the sites are shown in Figure 1 below.



**Figure 1: Aerial Photo**

## 2.2 The Locality

The proposed development is predominantly surrounded by residential dwellings as seen in figure 2. The site immediately to the north, west, south and east comprise of residential dwellings.



**Figure 2: Locality of the area.**

## 3. HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
23 February	Approval of DA-356/2010 for alteration and additions to existing

2010	dwelling (including partial demolition) and change of use and fit out to be used as a childcare centre for 44 children including provision of on-site car parking, landscaping and associated signage at 13 Rugby Crescent, Chipping Norton.
10 September 2010	Approval of DA-356/2010/A modification application to: (a) alter window sizes (b) reduce roof pitch (c) alter rear fence to remove brick wall and replace with new fence

#### 4. DETAILS OF THE PROPOSAL

DA-446/2021 seeks approval for the demolition of existing structures, alterations and additions to the existing centre based child care facility to accommodate 90 children, and lot consolidation.

Specifically, the development involves:

- Demolition of the existing dwelling house and sheds at 17 Rugby Crescent;
- Alteration and additions to the existing childcare facility at 13 Rugby Crescent including:
  - Demolition of internal doors and windows to integrated to the proposed extension into the existing building;
  - Removal of six car parking spaces at ground level;
  - Construction of a new access ramp to the new basement car park;
- Construction of a two-storey childcare centre at 17 Rugby Crescent that is attached to the existing facility at 13 Rugby Crescent, including;
  - Basement car park with parking for seventeen cars including one accessible space,
  - Twelve staff spaces and four visitor spaces, a storage room, and a lift and stairs;

##### Ground Floor

- Kitchen and Laundry
- Playroom 4: 3 – 5 Years (10 Children) with bathroom and storage room;
- Playroom 5: 3 – 5 Years (14 Children) with nappy change and bathroom;
- Outdoor play areas;
- Waste and general storage;

##### First Floor

- Staff room;
  - Laundry and bathroom;
  - Playroom 6: 0-2 Years (16 children); 2 – 3 Years (5 Children) with cot room, storage, nappy change and bathroom
  - Outdoor play area.
- Use of the building as a centre-based child care facility. The facility is proposed to accommodate 90 children in the following age groups:
    - 0-2 years = 16 children;
    - 2-3 years = 15 children; and
    - 3-5 years = 59 children.

- Employment of 13 staff; and
- Operating hours of 7:00am to 7:00pm, Monday to Saturday.

## 5. STATUTORY CONSIDERATIONS

### 5.1 Relevant matters for consideration

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

- Environment and Planning Assessment Act 1979
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Liverpool Local Environmental Plan 2008
  - Part 1: General Controls for All Development; and
  - Part 3.8 - Non-Residential development in Residential zones

#### *Contributions Plans*

*Liverpool Contributions Plan 2018 (Established Areas) applies pursuant to Section 7.12 of the EPA & Act.*

## 6. ASSESSMENT

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

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:

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

The Transport and Infrastructure SEPP provides a consistent state-wide planning regime for education establishments and early education and care facilities.

Chapter 3, Part 3.3, Section 3.22 of the Transport and Infrastructure SEPP requires that concurrence from the Department of Education be obtained should the development not comply with the indoor and outdoor space requirements of the Education and Care Services National Regulations. The development complies with the indoor and outdoor space requirements of the Regulations and therefore concurrence from the Department of Education is not required.

Chapter 3, Part 3.3, Section 3.23 of the Transport and Infrastructure SEPP requires the consent authority to take into consideration any applicable provisions of the Child Care Planning Guideline ('the Guideline'). An assessment table in which the development is considered against the Guideline is provided as an attachment to this report.

Chapter 3, Part 3.3, Section 3.25 of the Transport and Infrastructure SEPP does not permit a centre-based child care facility in the R2 zone to have a floor space ratio that exceeds 0.5:1. The proposed FSR is not considered to exceed 0.5:1.

Chapter 3, Part 3.3, Section 3.26 of the Transport and Infrastructure SEPP specifies that the development may be located any distance from an existing or proposed child care facility, the site may be of any size with any frontage width and depth, and the development may be of any colour scheme.

Chapter 3, Part 3.3, Section 3.27 of the Transport and Infrastructure SEPP specifies that certain listed requirements of development control plans do not apply to centre-based child care facilities, including those matters contained within Parts 2, 3 and 4 of the Guideline. Notwithstanding, the development has been assessed against the Liverpool DCP and it is noted that its provisions are broadly consistent with the Guideline. No conditions are recommended that would render the development inconsistent with Clause 26 or the Guideline.

<b>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</b>			
<b>Part 3 Early education and care facilities – specific development controls</b>			
<b>Clause</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Comment</b>
<b>22</b> - Centre-based child care facility— concurrence of Regulatory Authority for certain development	<p>This clause applies to development for the purpose of a centre-based child care facility if:</p> <p>(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i>, or</p> <p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations</p>	<p>Regulation 107 and 108 of Educational and Care Services National Regulation specifies the following:</p> <ul style="list-style-type: none"> <li>• Indoor - 3.25m<sup>2</sup> per child</li> <li>• Outdoor - 7.0m<sup>2</sup> per child</li> </ul> <p><b>Required</b></p> <p>Indoor - (90 x 3.25) 292.5m<sup>2</sup></p> <p>Outdoor - (90 x 7) 630m<sup>2</sup></p> <p><b>Proposed</b></p> <p>Indoor – 337.73m<sup>2</sup></p> <p>Outdoor – 655.46m<sup>2</sup></p>	<b>Complies</b>
<b>23</b> - Centre-based child care facility—matters for consideration by consent authorities	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development	The assessment of the proposed is considered to be designed in accordance with Child Care Planning Guidelines (dated August 2017).	<b>Complies</b>
<b>24-</b> Centre-based child care facility in Zone IN1 or IN2— additional matters for consideration by consent	To minimise land use conflicts with existing industrial development	The site is in R2 – Low Density Residential zone and is not located in proximity to industrial development.	<b>Complies</b>

authorities			
<b>25 - Centre-based child care facility—non-discretionary development standards</b>	<p>To identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters. –</p> <p>a) the development may be located at any distance from an existing or proposed early education and care facility</p> <p>b) indoor and outdoor space complies with regulation 107 and 108 of the Education and Care Services National Regulations</p> <p>c) the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>d) the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p>	<p>Noted</p> <p><b>Required</b></p> <p>Indoor - (90 x 3.25) 292.50m<sup>2</sup></p> <p>Outdoor - (90 x 7) 630m<sup>2</sup></p> <p><b>Proposed</b></p> <p>Indoor – 337.73m<sup>2</sup></p> <p>Outdoor – 655.46m<sup>2</sup></p> <p>Noted</p> <p>The site is not listed as local heritage or state heritage</p>	<p><b>Complies</b></p> <p><b>Complies</b></p> <p><b>Complies</b></p> <p><b>Complies</b></p> <p><b>Complies</b></p> <p><b>Complies</b></p>
<b>26 - Centre-based child care facility—development control plans</b>	<p>1) A provision of a development control plan that specifies a requirement, standard or control does not apply in relation to</p> <p>a) Operational or management plans or arrangements (including hours of operation)</p> <p>b) Demonstrated need or demand for child care services</p>	<p>Noted</p> <p>Noted</p>	<p><b>Complies</b></p> <p><b>Complies</b></p>

	c) Proximity of facility to other early education and care facilities	Noted	<b>Complies</b>
	d) Any matter in relation to development for the purpose of a centre-based child care facility contained in design principles set out in Part 2 of the <i>Child Care planning Guideline</i> or matter for consideration set out in Part 3 of the requirements set out in Part 4 of Guideline other than height, side and rear setback or car parking rates	Noted	<b>Complies</b>

<b>National Quality Framework Assessment Checklist</b>		
<b>Regulation</b>	<b>Proposed</b>	<b>Comment</b>
<p><b>104 Fencing or barrier that encloses outdoor spaces</b></p> <p>Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p>	<p>Fencing has been provided around outdoor spaces used by children. The fencing will comprise the following:</p> <p>A solid 2.1m high solid acoustic wall is proposed along the perimeter of the outdoor play area.</p> <p>1.2m and 1.8m high front fence shall be provided to ensure security of the child care centre.</p>	<b>Complies</b>
<p><b>106 Laundry and hygiene facilities</b></p> <p>The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children</p>	<p>The floor plans demonstrate laundry facilities.</p>	<b>Complies</b>

<p><b>107 Unencumbered indoor space</b></p> <p>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</p> <p>Refer to regulation 107 of the Education and Care Services National Regulation for further information on calculating indoor space.</p>	<p>Unencumbered indoor play proposed is 337.73m<sup>2</sup></p>	<p><b>Complies</b></p>
<p><b>108 Unencumbered outdoor space</b></p> <p>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</p> <p>Refer to regulation 108 of the Education and Care Services National Regulation for further information on calculating outdoor space, and for different requirements for out-of-school-hours care services.</p>	<p>A total of ninety (90) children are proposed at the child care centre. Therefore 90 children x 7m<sup>2</sup> equates to 630m<sup>2</sup></p> <p>A total of 665.46m<sup>2</sup> of outdoor space is provided.</p>	<p><b>Complies</b></p>
<p><b>109 Toilet and hygiene facilities</b></p> <p>The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.</p>	<p>The proposed development provides for toilets and hygiene facilities that is located in between each activity room.</p>	<p><b>Complies</b></p>
<p><b>110 Ventilation and natural light</b></p> <p>The proposed development includes indoor spaces to be used by children that —</p> <ul style="list-style-type: none"> <li>• will be well ventilated; and</li> <li>• will have adequate natural light; and</li> <li>• can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	<p>The proposed child care centre is considered to have access to adequate natural light using windows facing different orientations. Natural cross ventilation will also be available to all play rooms through windows openings and mechanical ventilation.</p>	<p><b>Complies</b></p>
<p><b>111 Administrative space</b></p> <p>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children;</p>	<p>Administrative areas have been provided to facilitate conducting the administrative functions of the service, consulting with parents of children and conducting private conversations. Submitted floor plans illustrate proposed</p>	<p><b>Complies</b></p>

and conducting private conversations.	meeting rooms, staff room and reception to carry out administrative tasks.	
<b>112 Nappy change facilities</b>  (To be completed only if the proposed development is for a service that will care for children who wear nappies)	Nappy changing benches are provided with hand wash basins.	<b>Complies</b>
<b>113 Outdoor space – natural environment</b>  The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	The centre proposes an outdoor play area. The proposal incorporates high quality designed outdoor areas to enable a safe learning environment for children. The design complies with the minimum requirement for outdoor play space to also encourage the children to fully experience the landscaped areas.	<b>Complies</b>
<b>114 Outdoor space – shade</b>  The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The outdoor space provides adequate shade with the use of shade sails.	<b>Complies</b>
<b>115 Premises designed to facilitate supervision</b>  The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.	The internal layout of the proposed centre has been designed to allow for the supervision of children at all times when activity rooms and play spaces are in use.  Toilets are located between the rooms and are accessible.  There is no nappy change rooms proposed.	<b>Complies</b>
<b>123 Educator to child ratios— centre-based services</b>  The minimum number of educators required to educate and care for children at a centre-based service as follows;  1) Children age between 0 to 24 months- 1 educator to 4 children;	The 0-2 age group proposes 16 children with 4 educators.	<b>Complies</b>
2) Children age between 24 months to 36 months - 1 educator to 5 children;	The 2-3 age group proposes 15 children with 3 educators.	<b>Complies</b>

3) Children age between 36 months and over - 1 educator to 11 children; and	The 3-5 age group proposes 59 children with 6 educators.	<b>Complies</b>
4) Children over preschool age- 1 educator to 15 children.	No children over preschool age are proposed.	<b>N/A</b>

**(b) State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The subject land is located within the Georges River Catchments and as such, Chapter 11 – Georges River Catchment of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, formerly the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River, applies to the application.

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 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 11.5). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 11.6 and Clause 11.7), and compliance with such is provided below.

<b>Clause 11.6 General Principles</b>	<b>Comment</b>
(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 Land Development Engineer and considered satisfactory subject to conditions.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The engineering plans were submitted and reviewed by Council's Land Development Engineer. 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,	The application was not required to be referred to the Natural Resource Access Regulator (NRAR) and the proposal is consistent with the guidelines.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No. The site is located in an area nominated for residential development.

When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
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Clause 11.7 Specific Principles	Comment
(1) Acid sulfate soils	The subject site is Class 5 Acid Sulfate Soils and is within 500m of another class and the application has been supported by a geotechnical report that addresses acid sulfate soils. The subject site is approximately 12AHD at its lowest point and the works are not below 5AHD. The basement floor will be at 9.34AHD. In this regard and acid sulfate soils management plan is not necessary.
(2) Bank disturbance	No bank disturbance is proposed.
(3) Flooding	The site is not flood affected.
(4) Industrial discharges	Not applicable.
(5) Land degradation	The proposed development is unlikely to cause land degradation.
(6) On-site sewage management	The site is connected to a reticulated sewer system.
(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 condition of consent by Council's Engineers.
(10) Urban development areas	The area is not within an Urban Release Area.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control and salinity measures to be implemented in construction.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies the provisions of the SEPP (Biodiversity and Conservation) 2021 subject to appropriate sedimentation and erosion controls during construction. The development will have minimal impact on the Georges River Catchment.

**(c) State Environmental Planning Policy (Resilience and Hazards) 2021**

- The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards). The objectives of the SEPP 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 submitted contamination assessments identified soil contamination is not present on the site. The report concluded that the soil did not require remedial actions and was suitable for the

proposed use as a centre based child care facility. The assessments were reviewed by Council’s Environmental Health Officer who concurred with the findings of this report and have recommended conditions of consent. The reports have also confirmed that they have been reviewed by an accredited consultant that has the necessary qualifications under the Environment Institute of Australia and New Zealand- Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)); or Soil Science Australia- Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

Pursuant to Chapter 4 of the SEPP, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application.

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	The land is not contaminated as demonstrated in the reports submitted in support of this application.
(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	Remediation is not necessary.
(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.	N/A

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP (Resilience and Hazards) 2021. Therefore, it is considered that the subject site is suitable for the proposed development.

**(d) Liverpool Local Environmental Plan 2008**

**(i) Zoning**

The subject sites are all zoned R2 – Low Density Residential in accordance with the Liverpool Local Environmental Plan 2008. An extract of the zoning map is provided below.



**Figure 3:** Extract of LLEP 2008 zoning map.

## (ii) Permissibility

The proposed development is defined by the LLEP 2008 as “centre-based child care facility”. A centre-based child care facility is identified as a permitted land use with consent within the R2 Low Density Residential Zone under Liverpool Local Environment Plan 2008.

**“centre-based child care facility means:**

- (a) a building or place used for the education and care of children that provides any one or more of the following:
  - (i) long day care,
  - (ii) occasional child care,
  - (iii) out-of-school-hours care (including vacation care),
  - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

**Note.** An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children’s parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.”

## (iii) Objectives of the zone

The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low density residential environment;
- To enable other land uses that provide facilities or services to meet the day to day needs of residents;

- To provide a suitable low scale residential character commensurate with a low dwelling density.
- To ensure that a high level of residential amenity is achieved and maintained.

It is considered that the proposal is consistent with these zone objectives in that it provides facilities or services to meet the day to day needs of residents. The proposal will ensure that a high level of residential amenity is achieved and maintained by acoustic mitigation measures, landscaping, building setbacks and building design measures to minimise potential overlooking impacts.

#### (iv) 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.

Clause	Requirement	Assessment	Compliance
<b>2.7 Demolition</b>	Demolition requires consent	Consent is sought for demolition of the dwelling house and sheds at 17 Rugby Crescent.	Yes
<b>4.3 Height of Buildings</b>	The HoB prescribed by the LEP is 8.5m	The proposed building has a maximum height of 8.38m	Yes
<b>4.4 Floor Space Ratio</b>	The FSR prescribed by the LEP is 0.5:1	Total GFA – 697.79m <sup>2</sup> Total site area – 1,789.7m <sup>2</sup> The proposed FSR is 0.38:1	Yes
<b>7.31 Earthworks</b>	To ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The proposed development incorporates earthworks to facilitate a basement car park.  Council's Land Development Engineer has reviewed this proposal and is satisfied with the earthworks proposal subject to conditions of consent.	Yes

#### 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 2008**

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

- Part 1 of the LDCP 2008, which covers general controls relating to all types of development within the Liverpool Local Government Area;
- Part 3.8 – Non Residential development in Residential zones.

An assessment table in which the development is considered against the Liverpool DCP is provided as an attachment to this report. As discussed above, Chapter 3, Part 3.3, Section 3.27 of the Transport and Infrastructure SEPP specifies that certain listed requirements of development control plans do not apply to centre-based child care facilities, including those matters contained within Parts 2, 3 and 4 of the Guideline.

The proposal is fully compliant with the provisions of the DCP that do apply including setbacks, landscaping requirements, fencing, and car parking requirements.

#### **6.4 Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

There are no planning agreements or draft planning agreements applicable.

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

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the 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**

Impacts on the natural environment have been assessed as part of the development application. The proposal is unlikely to result in any detrimental impact on the natural environment surrounding the subject sites, or to any endangered and non-endangered species of flora and fauna.

It is considered that the proposed development will have minimal impact on the built environment given that it is compliant with the LEP and DCP controls in regard to height and FSR. Matters pertaining to potential visual and acoustic privacy impacts will be mitigated through acoustic fencing, landscape screening, windows on the first floor with raised sill heights, the design of the first floor play area to overlook the roof of the existing centre and the at grade car parking area, and limited children numbers on Saturdays.

The proposed development will have a positive social impact in the area through increasing availability of child care services which is an ever increasing demand. This will provide more opportunities for people to be employed in shift work or weekend work.

The proposal provides both short and long term positive economic impacts. The short term benefit will be the creation of jobs during construction and the long term will be employment opportunities for childcare workers.

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

The proposed development is a permissible form of development in the R2 Low Density Residential zone and the proposal satisfies the key planning controls applicable to a development of this nature in this locality. The site is generally considered to be suitable for the proposal.

## **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:

<b>DEPARTMENT</b>	<b>COMMENTS</b>
Land Development Engineering	Supported, subject to conditions of consent
Natural Environment – Landscape	Supported, subject to conditions of consent
Building	Supported, subject to conditions of consent
Environment and Health	Supported, subject to conditions of consent
Traffic and transport	Supported, subject to conditions of consent
Fire Safety	Supported, subject to conditions of consent

### **(b) External Referrals**

N/A

### **(c) Community Consultation**

The DA was publicly exhibited for a period of 14 days in accordance with the Liverpool Community Participation Plan 2019. The public exhibition period was from 17 June to 2 July 2021. Nineteen (19) submissions were received (objecting to the development).

The issues raised in the submissions relate to:

- A previous DA has been refused;
- Overdevelopment of the site and no others this size in Chipping Norton in the R3 zone;
- Incorrect information in Operational Management Plan, the centre has not been awarded an Exceeding accreditation;
- Maximum centre number of 45 in a residential zone;
- Prohibited in the R2 zone;
- Inconsistent with the streetscape, particularly the commercial flat roof design;
- Bulk, scale and character impacts;
- Unreasonable acoustic impacts including impact on peoples concentration and mental Health while working from home;
- Unreasonable privacy and overshadowing impacts;
- Property devaluation;
- Lack of public notification;
- No basement car parks in Chipping Norton or Moorebank;
- Unreasonable traffic impacts and insufficient off-street car parking;
- Illegal parking from centre staff and parents on Ashfordby Street;
- Traffic risks to children;
- Hours of operation proposed from 7am to 7pm on 6 days a week;

- The current centre are not complying with their existing conditions of consent including the use of amplified music;
- The commercial garbage bins are not consistent with a residential zone;
- Inadequate landscaping;
- Inconsistency with RLs demonstrated on the plans;
- The proposed development breaches the 8.5m building height limit and the application has not been supported by a Clause 4.6;
- Insufficient information submitted;
- Swept paths and pedestrian crossings have not been demonstrated on the plans; and
- Proximity to other child care centres.

The following discussion addresses the issues raised in the submissions, which have been grouped according to common themes.

Issue 1: A previous DA has been refused

A DA was submitted to Council on 26 March 2021 and was not accepted by Council on 14 April 2021 due to insufficient information to enable the assessment and determination of the DA.

This DA was lodged with sufficient information to enable a full assessment of the proposal and a subsequent recommendation.

Issue 2: Overdevelopment of the site

The development proposes a floor space ratio (FSR) that is within the maximum allowable FSR for the site, is compliant with the setbacks prescribed in the DCP, and is compliant with landscaping and deep soil requirements, which in turn results in a development that is considered to be of an appropriate bulk and scale for the locality.

Issue 3: Incorrect information in Operational Management Plan, the centre has not been awarded an Exceeding accreditation

This matter was identified in June 2021 and amended by the applicant by way of an updated Operational Plan of Management.

Issue 4: The maximum number of children permitted in the Liverpool DCP in a centre is 45 in a residential zone

Chapter 3, Part 3.3, Section 3.27 of the Transport and Infrastructure SEPP states that “A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility”. As such, the proposed number of children cannot be used as a reason to refuse the development.

Issue 5: The development is prohibited in the R2 zone

The proposed development is defined as a centre-based child care facility. Centre-based child care facilities are permitted with consent in the R2 zone under the LLEP 2008.

Issue 6: Inconsistent with the streetscape, particularly the commercial flat roof design

It is acknowledged that Chipping Norton is an established area however the building form, roof and materials are not considered to be dissimilar to other modern development in the area. Additionally, there are no controls in the Child Care Planning Guideline or the DCP that prevents flat roof designs.

#### Issue 7: Bulk, scale and character impacts

The proposed development presents as a part single storey, part double storey development. The building complies with the relevant LEP and DCP standards, including building height, FSR, setbacks, and landscaped area. Therefore, it is not considered that the building creates adverse bulk and scale impacts.

#### Issue 8: Unreasonable acoustic impacts

The application was accompanied by an acoustic assessment which was reviewed by Councils Environmental Health Section. The assessment was prepared in general accordance with the Association of Australian Acoustical Consultants Guideline for Child Care Centre Acoustic Assessment (2013), 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 officers 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 the inclusion of acoustic fencing, especially on the interface with existing residential receivers.

With regards to the above, the development is considered unlikely to cause unreasonable acoustic privacy impacts beyond that which is expected within a general residential zone.

#### Issue 9: Unreasonable privacy and overshadowing impacts

The proposed development is unlikely to generate any unreasonable impacts in terms of overshadowing on adjoining properties as per Council's Development Control Plan. The shadow diagrams submitted with the application indicate the proposed development will not prevent any adjoining sites from receiving the minimum required 3 hours of solar access between 9am and 5pm in mid-winter to a living room window on any adjoining property and to at least 50% of the private open space of an adjoining site. This is considered to be consistent with Council's Development Control Plan and therefore consistent with the desired amenity standards for the locality. As such solar access as a result of building height is considered to be acceptable. It should be noted that building height is consistent with Council's maximum building height standard as per the LLEP 2008.

The proposed development is unlikely to generate any unreasonable impacts in terms of overshadowing on adjoining properties as per Council's Development Control Plan. The building has been designed to incorporate windows on the first floor that have raised sill heights to protect the privacy of adjoining development. The first floor play area has been designed to overlook the roof of the existing centre and the at grade car parking area and it will not overlook adjoining residential development. Additionally, landscape screening is proposed along all boundaries.

#### Issue 10: Property devaluation

There is no evidence to support this claim, and this is not a matter for consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979.

#### Issue 11: Lack of public notification

The Development Application was notified to all properties within 75m for a period of 14 days in accordance with the Liverpool Community Participation Plan 2019.

#### Issue 12: There are no basement car parks in Chipping Norton or Moorebank

The Liverpool LEP and the Liverpool DCP do not prohibit basement car parks in residential zones. An example being DA-1174/2019 that approved a child care centre with basement

parking at 22 Harvey Avenue Moorebank.

Issue 13: Unreasonable traffic impacts and insufficient off-street car parking

The application was accompanied by traffic impact assessment which were assessed by Council's Traffic Section. Council's Traffic Engineer reviewed the submitted traffic impact assessment and had no objection subject to conditions of consent. As such, generated traffic associated with the proposal are considered acceptable based on Council's Traffic engineers review and for a centre based child care facility of this nature in a low density zone.

The development requires 22 car spaces onsite in accordance with the provisions of Part 1 Section 20 of the LDCP 2008 and the DA proposed 22 car parking spaces. Therefore, the development provides adequate car parking spaces with regards to Council's policies.

Issue 14: Illegal parking from centre staff and parents on Ashfordby Street

It is likely that any visitors to the site will be temporary and that any on-street parking associated with the development is unlikely to obstruct access to dwellings in the locality where road users adhere to road rules.

Furthermore, despite the possibility of an increase in temporary on-street visitor parking, the proposed development is highly unlikely to promote any disregard of traffic laws, which may compromise the safety of pedestrians and children in the locality. Accordingly, parking and vehicle access associated with the proposal is considered typical of a centre based child care facility.

Issue 15: Traffic risks to children

It is unlikely that an extension to the existing facility will increase traffic risks to children beyond the current situation in the locality. The children's play areas are separated from car parking areas and Rugby Crescent by child proof fencing and gates with locks. It is expected that pick up and drop offs will occur within the property boundaries in the designated parking areas.

Issue 16: Hours of operation proposed from 7am to 7pm on 6 days a week

Due to an increase in shift work and businesses operating on weekends, the child care planning guideline acknowledges that there is an increasing demand for services outside the standard Monday to Friday.

To accommodate for the community who work weekends and shift work, it is proposed allow the centre to operate on Saturdays with a limited capacity of 45 children. This will be subject to a trial period of 12 months.

Issue 17: The current centre is not complying with their existing conditions of consent including the use of amplified music

Council's records indicate that a complaint has previously been made regarding amplified music, however no records show any notices being issued. Matters regarding non-compliance with conditions of consent shall be directed to Council's Compliance department for investigation. Conditions are recommended to be imposed with regards to acoustic management of the proposal.

Issue 18: The commercial garbage bins are not consistent with a residential zone

The Statement of Environmental effects states that waste collection is to occur along Rugby Crescent, and bins will not be placed there until the evening before the collection, and to be returned no later than the evening of the day of collection.

The waste enclosure is located on the ground level and is setback from the front boundary. This enclosure will not be visible from the street.

Issue 19: Inadequate landscaping

The proposal has been amended to reduce the number of children from 98 to 90 which allowed the removal of 2 car parking spaces. The driveway ramp was also reduced from 6.3m to 5.5m and the fire stairs have been relocated. These amendments have allowed for the front setback area to achieve 198.38m<sup>2</sup> of soft landscaped area which equates to 50.7% of the front setback being landscaped.

The DCP requires a minimum of 25% of the site to be landscaped. The applicant has provided detailed landscape plans that demonstrate a total landscaped area of 447.425m<sup>2</sup> which equates to 25% of the site being landscaped. Additionally, the landscape plans demonstrate that there will be lawn, deep rooted trees, shrubs and mulched areas.

The proposal was reviewed by Council's Tree Officer who raised no objection to the proposal landscaping arrangement.

Issue 20: Inconsistency with RLs demonstrated on the plans

Revised plans have been submitted with consistent RLs.

Issue 21: The proposed development breaches the 8.5m building height limit and the application has not been supported by a Clause 4.6

Revised plans have been submitted and the building height proposed is 8.38m which complies with the maximum allowable building height of 8.5m.

Issue 22: Insufficient information submitted

Sufficient information has been submitted in support of this application to enable a thorough and complete assessment to be undertaken. This information includes a full set of architectural plans, detailed landscape plans, calculation plans, civil plans and stormwater modelling, an acoustic assessment, traffic impact assessment, contamination assessment, and an operational plan of management.

Issue 23: Swept paths and pedestrian crossings have not been demonstrated on the plans

The applicant has submitted additional information that includes swept path diagrams to demonstrate the safe movement of vehicles within the basement. In regard to pedestrian crossings, Council's Traffic Engineer has reviewed this proposal and has not expressed the requirement for crossings within the car park.

#### Issue 24: Proximity to other child care centres.

Chapter 3, Part 3.3, Section 3.26 of the Transport and Infrastructure SEPP states that "the development may be located at any distance from an existing or proposed early education and care facility". As such, the proximity of the approved centre cannot be used as a reason to refuse the development.

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

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments, development control plans and policies. Based on the above assessment, the proposed development is considered to be in the public interest.

## **7. DEVELOPMENT CONTRIBUTIONS**

Contributions have been applied to the development in accordance with Liverpool Contributions Plan 2018.

The applicable contribution is \$15,220.

## **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 adverse 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 the Panel approve DA-446/2021 for the demolition of existing structures, alterations and additions to the existing centre based child care facility to accommodate 90 children, and lot consolidation at 13 & 17 Rugby Crescent, Chipping Norton.

**10. REPORT ATTACHMENTS**

1. CHILD CARE PLANNING GUIDELINES ASSESSMENT TABLE
2. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES
3. PLANS OF THE PROPOSAL
4. CONDITIONS OF APPROVAL WITH ASSOCIATED EXTENRAL COMMENTS AND PAYMENT FORM.

## ATTACHMENT 1: CHILD CARE PLANNING GUIDELINES ASSESSMENT TABLE

Part 3 Matters for Consideration	Considerations	Assessment	Achieved?
<b>C1 Site Selection and Location</b> Proposed developments in or adjacent to a residential zone must consider:	the acoustic and privacy impacts of the proposed development on the residential properties;	An acoustic assessment has been submitted in support of this application and reviewed by Council's Environmental Health officer who is satisfied with the recommendations of the report and the proposed mitigation measures.	Yes
	the setbacks and siting of buildings within the residential context; and	The setbacks are compliant with what is required in the R2 zone.	Yes
	visual amenity impacts (e.g. additional building bulk and overshadowing, local character)	It is not considered that the extension will add additional bulk to the local character as the site currently contains a two storey dwelling. Shadow diagrams have been submitted and demonstrate that this development will not create adverse overshadowing impacts.	Yes
	traffic and parking impacts of the proposal on residential amenity.	A traffic report has been submitted in support of this application and reviewed by Council's Traffic Engineer who is satisfied that the existing road network has capacity to accommodate the projected traffic generation of the proposed development and that car parking is	Yes

		satisfactory.	
<b>C2 Site Selection and Location</b> When selecting a site, ensure that:	the location and surrounding uses are compatible with the proposed development or use.	The surrounding development is residential. Centre based child care facilities are permitted in the R2 zone therefore this location and surrounding uses are considered to be compatible.	Yes
	the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards.	The subject site is not affected by environmental risks.	Yes
	there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed.	Soil sampling was undertaken as part of a targeted assessment to confirm soil contamination is not present at the subject site. From the samples that were tested, all samples were below the relevant criteria's and therefore confirming the site is suitable for the proposed development.	Yes
	the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>• length of street frontage, lot configuration, dimensions and overall size</li> <li>• number of shared boundaries with residential properties</li> </ul>	The site will provide a 51.56m frontage when consolidated. 3 boundaries will be shared with residential developments which is currently how the existing facility operates.	Yes
	the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas.	The subject site is not within a sensitive environmental or cultural area.	N/A
	where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character	The proposal is not to retrofit or occupy existing premises.	N/A

	and conserve significant fabric, setting or layout of the item.		
	there are suitable drop off and pick up areas, and off and on street parking.	Suitable drop off and pick up areas, and parking are provided.	Yes
	the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use	Rugby Crescent is a local road with a residential speed limit.	Yes
	the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities	The subject site is located on a local residential road.	Yes
	it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.	The subject site is within a low density residential area and is not located near incompatible uses.	Yes
<b>C3 Site Selection and Location</b> A child care facility should be located:	near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship.	The site is located in a low density residential zone. Ashfordby Park is located approximately to 100m to the north of the site.	Yes
	near or within employment areas, town centres, business centres, shops.	The subject site is located approximately 180m to the north east of B1 Zoned land.	
	with access to public transport including rail, buses, ferries.	Bus services run through Chipping Norton, along Governor Macquarie Drive and Epsom Road.	Yes
	in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.	Pedestrian connectivity is achieved by footpaths that connect to the local shops situated within the B1 zone.	Yes
<b>C4 Site Selection and Location</b>	heavy or hazardous industry, waste transfer depots or landfill sites.	The subject site is not located near heavy or hazardous	Yes

A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from proximity to:		industry, waste transfer depots or landfill sites	
	LPG tanks or service stations	The subject site is not located near LPG tanks or service stations.	Yes
	water cooling and water warming systems.	The subject site is not located a water cooling and water system.	Yes
	odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses.	The subject site is not affected by odour.	Yes
	extractive industries, intensive agriculture, agricultural spraying activities.	The subject site is within a residential zone.	Yes
	any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.	The subject site is not affected by environmental hazards.	Yes
<b>C5 Local Character, Streetscape and the Public Domain Interface</b> The proposed development should:	contribute to the local area by being designed in character with the locality and existing streetscape.	The design is consistent with newer development in Chipping Norton.	Yes
	build on the valued characteristics of the neighbourhood and draw from the physical surrounds, history and culture of place	As above.	Yes
	reflect the predominant form of surrounding land uses, particularly in low density residential areas.	Colours, materials, and landscaping have been designed to blend into the streetscape and be consistent with nearby residential development.	Yes
	recognise predominant streetscape qualities, such as building form, scale, materials and colours.	The materials are natural colours which blend into the streetscape.  It is acknowledged that Chipping Norton is an established area however the building form, roof and materials are not dissimilar to other modern development in the area.	Yes

	include design and architectural treatments that respond to and integrate with the existing streetscape.	The design and roof form are similar to other nearby development at 21 Derby Crescent, 57 Childs Road, and 63 Rugby Crescent.	
	use landscaping to positively contribute to the streetscape and neighbouring amenity.	The proposed landscaping will provide a variety of plant species which include canopy trees, shrubs and ground covers. This will contribute positively towards the streetscape.	Yes
	integrate car parking into the building and site landscaping design in residential areas.	The at grade car parking is existing. The additional car parking will be provided in a basement which is integrated into the building.	Yes
	in R2 Low Density Residential zones, limit outdoor play space to the ground level to reduce impacts on amenity from acoustic fences/barriers onto adjoining residence, except when good design solutions can be achieved.	There is one first floor play area proposed. This is considered acceptable as it does not overlook the adjoining developments to the rear, it has been designed to overlook the roof of the existing facility and is setback approximately 33m from the adjoining boundary to the west.	Yes
<b>C6, C7 and C8 Local Character, Streetscape and the Public Domain Interface</b> Create a threshold with a clear transition between public and private realms, including:	fencing to ensure safety for children entering and leaving the facility.	Fencing is provided to ensure the safety of the children.	Yes
	windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community	The front façade provides windows.	Yes
	integrating existing and proposed landscaping with fencing.	The landscape design integrates with the fencing.	Yes
	On sites with multiple buildings	The site does not	N/A

	and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.	contain multiple buildings or entries.	
	Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions: <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	The proposed development does not adjoin public parks, open space or bushland.	N/A
<b>C9 and C10 Local Character, Streetscape and the Public Domain Interface</b>	Front fences and walls within the front setback should be constructed of visually permeable materials and treatments	The front fencing that is existing is visually permeable. The proposed fencing for the extension to the facility will be an extension of the existing.	Yes
	Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.	The subject site is not a listed heritage item nor is within a heritage conservation area.	N/A
	High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.	The site is not on or near a classified road.	N/A
<b>C11 Building Orientation, Envelope and Design</b> Orient a development on a site and design the building layout to:	ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> <li>• facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties.</li> </ul>	Windows and doors are proposed in locations to protect privacy. First floor windows have raised sill heights to avoid potential overlooking. The outdoor play area is existing in the	Yes

	<ul style="list-style-type: none"> <li>placing play equipment away from common boundaries with residential properties</li> <li>locating outdoor play areas away from residential dwellings and other sensitive uses.</li> </ul>	rear setback, the proposed additional outdoor space will be an extension of the existing.	
	optimise solar access to internal and external play areas.	The extension to the building has been designed to ensure a minimum of 4 hours solar access is achieved on 21 June.	Yes
	avoid overshadowing of adjoining residential properties.	Shadow diagrams have been provided to demonstrate that adjoining residential properties will receive sufficient solar access.	Yes
	minimise cut and fill.	The proposed development incorporates earthworks to facilitate a basement car park.  Council's Land Development Engineer has reviewed this proposal and is satisfied with the earthworks proposal subject to conditions of consent.	Yes
	ensure buildings along the street frontage define the street by facing it.	The building faces the street.	Yes
	ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.	There is a first floor play area that will be protected from climactic conditions through the design.	Yes
<b>C12 Building Orientation, Envelope and Design</b> The following matters may be considered to minimise the impacts of the proposal on local	building height should be consistent with other buildings in the locality.	The proposed extension is two storey and Rugby Crescent contains both single and two storey development.	Yes
	building height should respond to the scale and character of the street.	As above.	Yes
	setbacks should allow for	The setbacks	Yes

character:	adequate privacy for neighbours and children at the proposed child care facility.	proposed allow for privacy for children and neighbours	
	setbacks should provide adequate access for building maintenance.	The proposed setbacks provide access for building maintenance.	Yes
	setbacks to the street should be consistent with the existing character.	The proposed setbacks are consistent with the existing street character.	Yes
<b>C13 and C14 Building Orientation, Envelope and Design</b>	Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.	The DCP requires a 5.5m front setback. The proposed building is setback 5.5m from the front boundary.	Yes
	On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.	The side and rear setbacks are consistent with the requirements for a dwelling house.	Yes
<b>C15 Building Orientation, Envelope and Design</b> Entry to the facility should be limited to one secure point which is:	located to allow ease of access, particularly for pedestrians.	A pedestrian entry and exit are provided directly off Rugby Crescent at a 1:14 gradient.	Yes
	directly accessible from the street where possible.	The entry to the facility is accessed from the street.	Yes
	directly visible from the street frontage.	The entry is visible from the street.	Yes
	easily monitored through natural or camera surveillance.	The entry can be easily monitored from the office and reception areas.	Yes
	not accessed through an outdoor play area.	The proposed facility is not accessed through an outdoor play area.	Yes
	in a mixed-use development, clearly defined and separate from entrances to other uses in the building.	The proposal is not for a mixed use development.	N/A
<b>C16 Building Orientation, Envelope and Design</b>	providing accessibility to and within the building in accordance with all relevant legislation	Conditions of consent address the NCC and the BCA.	Yes
	linking all key areas of the site by	All areas are linked	Yes

Accessible design can be achieved by:	level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry.	via pathways/ramps at a 1:14 gradient.	
	providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible.	The proposed layout provides a continuous path of travel between the street entry and car park. Platform lifts are not proposed.	Yes
	minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.	Ramping is minimised.	Yes
<b>C17 and C18 Landscaping</b>	Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.	Landscape screening is proposed along the boundaries. This has not been included in outdoor space calculations.	Yes
	Use the existing landscape where feasible to provide a high quality landscaped area by: <ul style="list-style-type: none"> <li>reflecting and reinforcing the local context</li> <li>incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	The existing landscaping will be transplanted and reused.	Yes
	Incorporate car parking into the landscape design of the site by: <ul style="list-style-type: none"> <li>planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>using low level landscaping to soften and screen parking areas.</li> </ul>	Large shade trees are proposed near the at grade car parking area.  Landscape screening is proposed to shield the car parking and basement ramp.	Yes
<b>C19 and 20 Visual and Acoustic Privacy</b> Minimise direct overlooking of indoor rooms and outdoor play spaces	appropriate site and building layout	The site and building layout is appropriate.	Yes
	suitably locating pathways, windows and doors	Pathways, doors and windows are suitably located. All first floor windows have a raised sill height.	Yes

from public areas through	permanent screening and landscape design.	Landscape screening is proposed along common boundaries.	Yes
<b>C21 Visual and Acoustic Privacy</b> Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:	appropriate site and building layout	The site and building layout is appropriate.	Yes
	suitable location of pathways, windows and doors	Pathways, doors and windows are suitably located. All first floor windows have a raised sill height.	Yes
	landscape design and screening.	Landscape screening is proposed along common boundaries.	Yes
<b>C22 and 23 Visual and Acoustic Privacy</b> A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:	provide an acoustic fence along any boundary where the adjoining property contains a residential use.	A 2.1m high colorbond acoustic fence is proposed along the side and rear boundaries.	Yes
	ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.	A condition is recommended that mechanical plant equipment is selected in consultation with a suitably qualified acoustic consultant at detailed design stage.	Yes
	A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters: <ul style="list-style-type: none"> <li>• identify an appropriate noise level for a child care facility located in residential and other zones</li> <li>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>• determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	An acoustic assessment has been submitted in support of this application and has addressed the play areas and acoustic fencing.	Yes
<b>C24 and 25 Noise and Air Pollution</b> Adopt design solutions to minimise the impacts of noise, such as:	creating physical separation between buildings and the noise source	The site is not affected by noise sources.	N/A
	orienting the facility perpendicular to the noise source and where possible buffered by other uses	The site is not affected by noise sources.	N/A
	using landscaping to reduce the	The site is not	N/A

	perception of noise	affected by noise sources.	
	limiting the number and size of openings facing noise sources	The site is not affected by noise sources.	N/A
	using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)	The site is not affected by noise sources.	N/A
	using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits	The site is not affected by noise sources.	N/A
	locating cot rooms, sleeping areas and play areas away from external noise sources.	The site is not affected by noise sources.	N/A
	An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations: <ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise</li> </ul>	The subject site is not within any of these locations.	N/A
<b>C26 and 27 Noise and Air Pollution</b>	Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.	The subject site is not located near a major road or industrial development. An air quality assessment is not considered necessary.	N/A
	A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.	As above.	N/A
	The air quality assessment report should evaluate design considerations to minimise air	As above.	N/A

	<p>pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</li> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility.</li> </ul>		
<b>C28 and C29 Hours of Operation</b>	<p>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses</p>	<p>The child care guideline states that there is an increasing demand for services outside the standard Monday to Friday.</p> <p>This application proposes operation on Saturdays.</p> <p>In this regard, it is proposed to limit the capacity on Saturdays to 45 children and Saturday operation is subject to a 12 month trial period.</p>	Yes
	<p>Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>The subject site is not within a mixed use area.</p>	N/A
<b>C30, C31 and C32 Traffic, Parking and Pedestrian Circulation</b>	<p>Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p>	<p>The DCP requires 1 space per staff member and 1 space per 10 children. 13 staff are proposed and 90 children which requires the provision of 22 car parking spaces. 22 spaces are provided.</p>	Yes
	<p>In commercial or industrial zones</p>	<p>The subject site is</p>	N/A

	and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	not within a commercial or industrial zone.	
	A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: <ul style="list-style-type: none"> <li>the amenity of the surrounding area will not be affected</li> <li>there will be no impacts on the safe operation of the surrounding road network</li> </ul>	A traffic report has been submitted in support of this application and reviewed by Council's Traffic Engineer who is satisfied that the existing road network has capacity to accommodate the projected traffic generation of the proposed development.	Yes
<b>C33 and C34 Traffic, Parking and Pedestrian Circulation</b> Alternate vehicular access should be provided where child care facilities are on sites fronting:	a classified road	Rugby Crescent is not a classified road.	Yes
	roads which carry freight traffic or transport dangerous goods or hazardous materials.	Rugby Crescent does not carry freight traffic or transport dangerous goods or hazardous materials.	Yes
	The alternate access must have regard to: <ul style="list-style-type: none"> <li>the prevailing traffic conditions</li> <li>pedestrian and vehicle safety including bicycle movement</li> <li>the likely impact of the development on traffic</li> </ul>	Alternate access is not required.	N/A
	Child care facilities proposed within cul-de-sacs or via narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.	Rugby Crescent is not a cul-de-sac or a narrow road.	Yes
<b>C35, C36 and C37 Traffic, Parking and Pedestrian Circulation</b> The following design solutions may be incorporated into a development to help provide a safe pedestrian	separate pedestrian access from the car park to the facility.	The pedestrian access is separate from the car park.	Yes
	defined pedestrian crossings included within large car parking areas.	The car parking areas are not large enough to warrant pedestrian crossings.	N/A
	separate pedestrian and vehicle entries from the street for parents, children and visitors.	The pedestrian access is separate from the car park.	Yes

environment:	pedestrian paths that enable two prams to pass each other.	Conditions are recommended to ensure compliance with the BCA and disability access.	Yes
	delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities	Delivery and loading is located away from the main pedestrian area.	Yes
	minimise the number of locations where pedestrians and vehicles cross each other	Pedestrian pathways are provided outside the car park area.	Yes
	in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas	The subject site is not within a commercial or industrial zone.	N/A
	vehicles can enter and leave the site in a forward direction.	Vehicles will be able to enter and exit the site in a forward direction.	Yes
	clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.		
	Mixed use developments should include: <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</li> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	The proposal is not a mixed use development.	N/A
	Car parking design should: <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas</li> </ul>	The car parking area is separated by fencing.	Yes

	<p>from the building entrance and play areas</p> <ul style="list-style-type: none"> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>• include wheelchair and pram accessible parking.</li> </ul>	An accessible space is provided in the basement near the lift.	
<b>Chapter 4 National Regulations</b>	<b>Requirement</b>	<b>Assessment</b>	<b>Achieved?</b>
<b>97 Emergency and Evacuation Procedures</b>	The emergency and evacuation procedures required under regulation 168 must set out — (a) instructions for what must be done in the event of an emergency; and (b) an emergency and evacuation floor plan.	<p>An emergency and evacuation plans has been provided.</p> <p>This provides a floor plan with paths of travel, assembly areas and emergency exits.</p> <p>This plan incorporates the emergency procedures.</p>	Yes
<b>104 Fencing</b>	The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	2.1m high solid colorbond fencing is proposed along the side and rear boundaries. The architectural plans demonstrate gates that will enclose the outdoor space.	Yes
<b>106 Laundry and Hygiene Facilities</b>	The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering.	The floor plans demonstrate laundry facilities.	Yes
<b>107 Indoor Space Requirements.</b>	3.25m <sup>2</sup> of unencumbered space per child.	<p>There are 90 children proposed requiring 292.5m<sup>2</sup> of indoor space.</p> <p>This application is proposing 337.73m<sup>2</sup> of unencumbered</p>	Yes

		indoor space.	
<b>108 Outdoor Space Requirements</b>	7m <sup>2</sup> of unencumbered space per child.	There are 90 children proposed requiring 630m <sup>2</sup> of outdoor space.  This application is proposing 655.46m <sup>2</sup> of unencumbered outdoor space.	Yes
<b>109 Toilet and Hygiene Facilities</b>	The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.	Age appropriate toilet and washing facilities are proposed and are accessed off the play rooms for the safe and convenient use of the children.	Yes
<b>110 Ventilation and Natural Light</b>	The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises — (a) are well ventilated; and (b) have adequate natural light; and (c) are maintained at a temperature that ensures the safety and wellbeing of children.	Each level provides a 3m ceiling height to provide for natural ventilation.  Adequate natural light will be achieved by door and window placement.	Yes
<b>111 Administrative Space</b>	The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of— (a) conducting the administrative functions of the service; and (b) consulting with parents of children; and (c) conducting private conversations.	The floor plans demonstrate a designated administrative space that would enable conducting administrative services and private consultations.	Yes
<b>112 Nappy Change Facilities</b>	The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.	Nappy changing benches are provided with hand wash basins.	Yes

	The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.		
<b>113 Natural Environment</b>	The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment.	The landscaping plans demonstrate the use of sandpits, boulders, steppingstones, and tree stumps.	Yes
<b>114 Shade</b>	The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The outdoor space provides adequate shade with the use of shade sails.	Yes
<b>115 Premises Designed to Facilitate Supervision</b>	The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.	Appropriate toilet and washing facilities are proposed and are accessed off the play rooms for the safe and convenient use of the children. These facilities are located so that they provide supervision at all times.	Yes

## ATTACHMENT 2: LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES

<b>Liverpool DCP Part 1</b>			
<b>Clause</b>	<b>Control</b>	<b>Assessment</b>	<b>Compliance</b>
<b>2. Tree Preservation</b>	Tree removal requires consent	Consent is sought for the removal of trees.	Yes
<b>3.1 Retention of existing on-site trees</b>	Existing trees and native vegetation are to be retained, protected and incorporated into the development proposal.	2 trees are proposed to be removed as part of this application. Council's Landscape Officer has reviewed the proposal and is supportive of the tree removal and proposed landscaping.	Yes
<b>3.1 Retention of existing street trees</b>	Existing street trees should be retained	A condition is recommended to ensure the protection of existing street trees.	Yes
<b>3.4 Landscape Specifications</b>	Landscape planting should be principally comprised of native species to provide an integrated streetscape appearance.	The landscaping proposed incorporates native species	Yes
	The landscaping shall contain an appropriate mix of canopy trees, shrubs and groundcovers.	The landscape plan demonstrates the use of canopy trees, shrubs and ground covers.	Yes
	All topsoil used shall be sourced from a recognised commercial topsoil supplier.	A condition is recommended in this regard.	Yes
	All approved landscaping must be maintained to the satisfaction of Council.	A condition is recommended to ensure the ongoing maintenance of the landscaping.	Yes
	All trees are to be planted at not less than 45 litre pot size.	A condition is recommended in this regard.	Yes
	Use low water/low maintenance plant selection by selecting drought tolerant species.	The landscaping plan demonstrates the use of low water drought tolerant species.	Yes

<b>5. Bush Fire Risk</b>	All development shall comply with provisions of the Rural Fires and Assessment Act 2002 and Planning for Bushfire Protection 2006.	The subject site is not identified as being bushfire affected.	N/A
<b>6. Water Cycle Management</b>	Stormwater must be managed appropriately	A detailed stormwater plan has been submitted in support of this application and reviewed by Council's Land Development Engineer who supports this application subject to conditions of consent.	Yes
<b>8. Erosion and Sediment Control</b>	Appropriate erosion and sediment control measures must be in place.	A sediment and erosion control plan has been submitted in support of this application. Appropriate conditions have also been recommended.	Yes
<b>10. Contaminated Land Risk</b>	Previous use to be considered in assessing risk	The site has historically been used for residential and a child care facility. Conditions have been recommended to address any unexpected contamination finds.	Yes
<b>11. Salinity Risk</b>	Salinity Management Plan is required	A condition has been recommended to address salinity.	Yes
<b>13. Weeds</b>	Noxious weeds to be removed as part of development where applicable	Conditions have been recommended in regard to management of weeds.	Yes
<b>14. Demolition of Existing Developments</b>	Appropriate demolition measures must be implemented	Matters regarding demolition have been addressed by appropriate conditions.	Yes
<b>16. Aboriginal Archaeology</b>	AHIA required where items of aboriginal archaeology exist	The site is not identified as potentially containing an item of Aboriginal archaeology. Notwithstanding, a condition is recommended to address any unexpected finds during works.	Yes
<b>20. Car Parking and Access</b>	1 space per staff member and 1 space per 10 children Plus service facilities for a van	The DCP requires 1 space per staff member and 1 space per 10 children. 13 staff are proposed and 90 children which requires the	Yes

		provision of 22 car parking spaces. 22 spaces are provided.	
	Internal driveway width minimum 3.5m	At grade driveway – 6.1m Driveway to basement – 5.5m	Yes
<b>22. Energy Conservation</b>	All Class 5 to 9 non-residential developments are to comply with the Building Code of Australia energy efficiency provisions.	Conditions are recommended to ensure compliance with the BCA.	Yes
<b>23. Reflectivity</b>	Visible light reflectivity from building materials used on the facades of new buildings must not exceed 20%.	A condition is recommended in this regard.	Yes
<b>25. Waste Disposal and Re-use Facilities</b>	Development applications for all non-residential development must be accompanied by a waste management plan	A satisfactory waste management plan has been submitted in support of this application addressing, demolition, construction, and on-going use.	Yes
	Waste management facilities shall be provided for in all new buildings	The waste storage area is existing.	Yes
<b>26. Outdoor Advertising and Signage</b>	To ensure that outdoor advertising signage is complementary to and compatible with the development on which it is displayed and the character of the surrounding locality.	The Statement of Environmental Effects submitted in support of this applications states that signage doesn't form part of this application.  It is noted that the materials schedule shows a small sign on the wall where the street numbering will be located.  In this regard a condition has been recommended for separate approval for signage if the sign does not comply with the standards set out in the Codes SEPP.	N/A
<b>27. Social Impact Assessment</b>	A social impact comment is required for applications for child care centres with more than 20 places	A satisfactory social impact comment is included in the Statement of Environmental Effects.	Yes

<b>LDCP 2008 Part 3.8 –Non-Residential Development in Residential Zones: (Childcare Centres)</b>			
<b>Clause</b>	<b>Control</b>	<b>Assessment</b>	<b>Compliance</b>
<b>2.4 Setbacks</b>	Front Setback: 5.5m	5.5m	Yes
	Side Setback: 1.2m	9.546m and 1.2m	Yes
	Rear Setback: Ground – 4m First – 8m	Ground – 4m First 8m	Yes
<b>2.5 Landscaped Area and Open Space</b>	A minimum of 25% of the site area shall consist of Landscaped Area, this may include lawn, deep rooted trees, garden beds and mulched areas.	Site area – 1789.7m <sup>2</sup> Proposed landscaping – 447.43m <sup>2</sup> Total landscaped percentage – 25%	Yes
	There must be an unencumbered area of 5 x 6m in the rear setback for the opportunity to accommodate the planting of deep rooted trees.	There is sufficient 6m x 5m in the rear to accommodate deep rooted trees.	Yes
	A minimum of 50% of the front setback area shall be landscaped area.	198.38m <sup>2</sup> of landscaping is proposed in the front setback. This equates to 50.7% of the front setback being landscaped.	Yes
	There must be an unencumbered area of 3 x 5m in the front setback for the opportunity to accommodate deep rooted trees.	There is sufficient 3m x 5m in the front to accommodate deep rooted trees.	Yes
	A proposed Child Care Centre must comply with open space requirements as set out in the Children Services Regulation 2004.	Complies. Refer to assessment table under SEPP.	Yes
	Outdoor open space is to be located behind the childcare centre i.e. away from roads/streets.	Outdoor space is located at the rear of the building.	Yes
<b>2.6 Building Form, Style and Streetscape</b>	Where large glass areas cannot be avoided appropriate shade devices shall be incorporated into the design.	Shade devices have been incorporated.	Yes
	The roof design shall be compatible with surrounding properties with respect to height, pitch, building materials and colour.	The materials are natural colours which blend into the streetscape.  It is acknowledged that Chipping Norton is an established area however	Yes

		the building form, roof and materials are not dissimilar to other modern development in the area.	
	The building shall be designed so that it is in character with the surrounding residential area in terms of bulk, scale, size and height.	The proposed development presents as a part single storey, part double storey development. The building complies with the relevant LEP and DCP standards, including building height, FSR, setbacks, and landscaped area.  In this regard, the building is considered to be in character with the surrounding area.	Yes
	The front pedestrian entrance must be visible from the street.	The pedestrian entrance is visible from Rugby Crescent.	Yes
	The front building facades shall be articulated. This articulation may include front porches, entries, wall indents, changes in finishes, balconies and/or verandahs.	The front façade is staggered and incorporates a porch and varying finishes.	Yes
	Entrances to buildings should be orientated towards the front of the site facing the street.	The building entrance is orientated to Rugby Crescent.	Yes
	Blank walls addressing the street frontage and other public places must be avoided.	There are no blank walls facing the street.	Yes
<b>2.7 Landscaping and Fencing</b>	A landscape plan must be submitted to Council with the development application.	A satisfactory landscape plan has been submitted in support of this application.	Yes
	Areas of grass are to be limited to play areas. Other landscaped areas are to be planted.	Landscaping includes trees, shrubs, and ground covers.	Yes
	Trees adjacent to/or within the play area, are to provide shade and allow winter sun entry. Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry.	The play areas and rooms will receive adequate sunlight and tree planting will not impact on this.	Yes

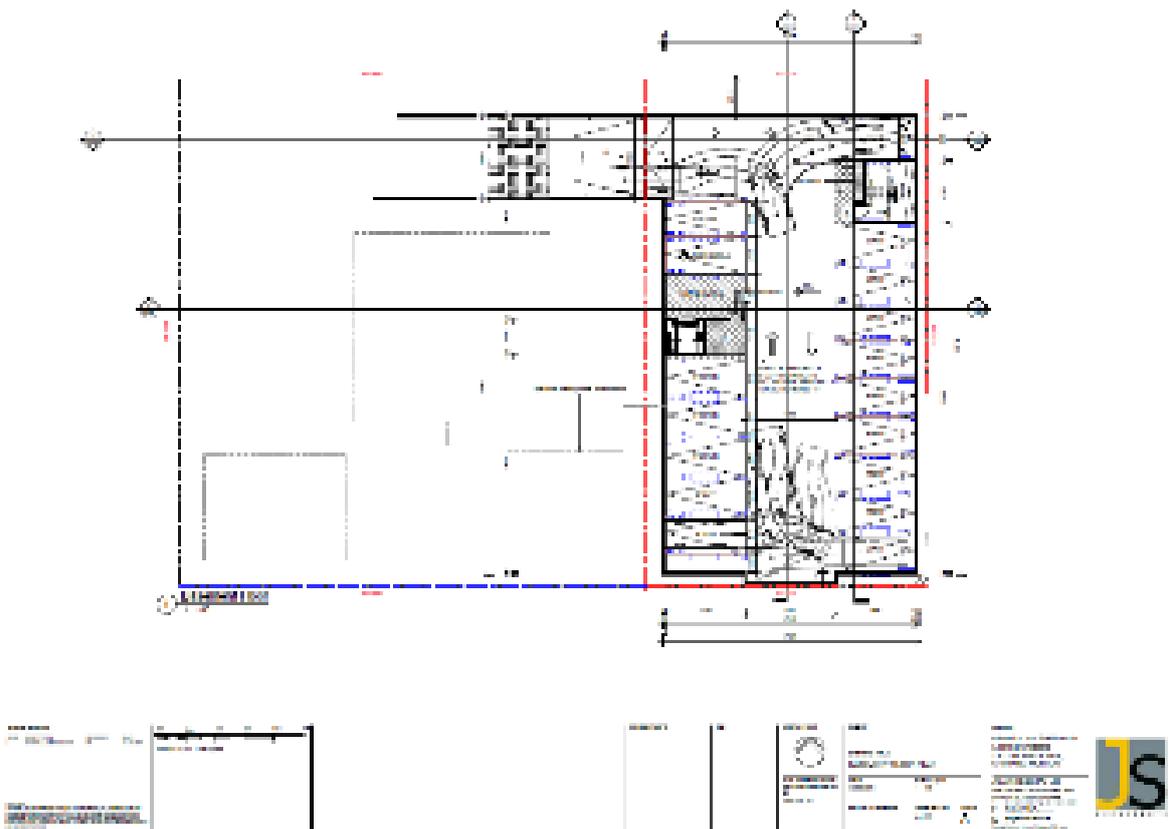
	Landscaping species must be appropriate to prevent injury to children. No toxic, spiky or other hazardous plant species.	Landscaping species are deemed appropriate.	Yes
	The setback areas of development are to be utilised for canopy tree planting. The landscape design for all development must include canopy trees that will achieve a minimum 8m height at maturity within front and rear setback areas. Any tree with a mature height over 8m should be planted a minimum distance of 3m from the building or utility services.	Canopy trees are proposed in the front and rear setback and will achieve a mature height over 8m.	Yes
	Landscape planting should principally comprise of native species.	The majority of species selected are native.	Yes
	The landscaping shall contain an appropriate mix of canopy trees, shrubs and groundcovers.	Landscaping includes trees, shrubs, and ground covers.	Yes
	Tree and shrub planting along side and rear boundaries should assist in providing effective screening to adjoining properties. The height of screening plants to be provided is 2.5 to 3m at maturity.	Shrubs and trees are proposed along the side and rear boundaries and they will reach a mature height of 3m	Yes
	Side and rear fencing shall be 1.8m in height	2.1m high solid colorbond fencing is proposed along the side and rear boundaries. This is in accordance with the recommendations of the acoustic assessment.	Merit
	Fences shall be constructed of materials compatible with the proposed building.	The fencing is compatible with the building materials. Side and rear fencing will be in accordance with the acoustic report and can include lapped and capped or colorbond.	Yes
	Fencing shall be designed to minimise opportunities for graffiti.	The fencing will not provide opportunity for graffiti. Conditions are	Yes

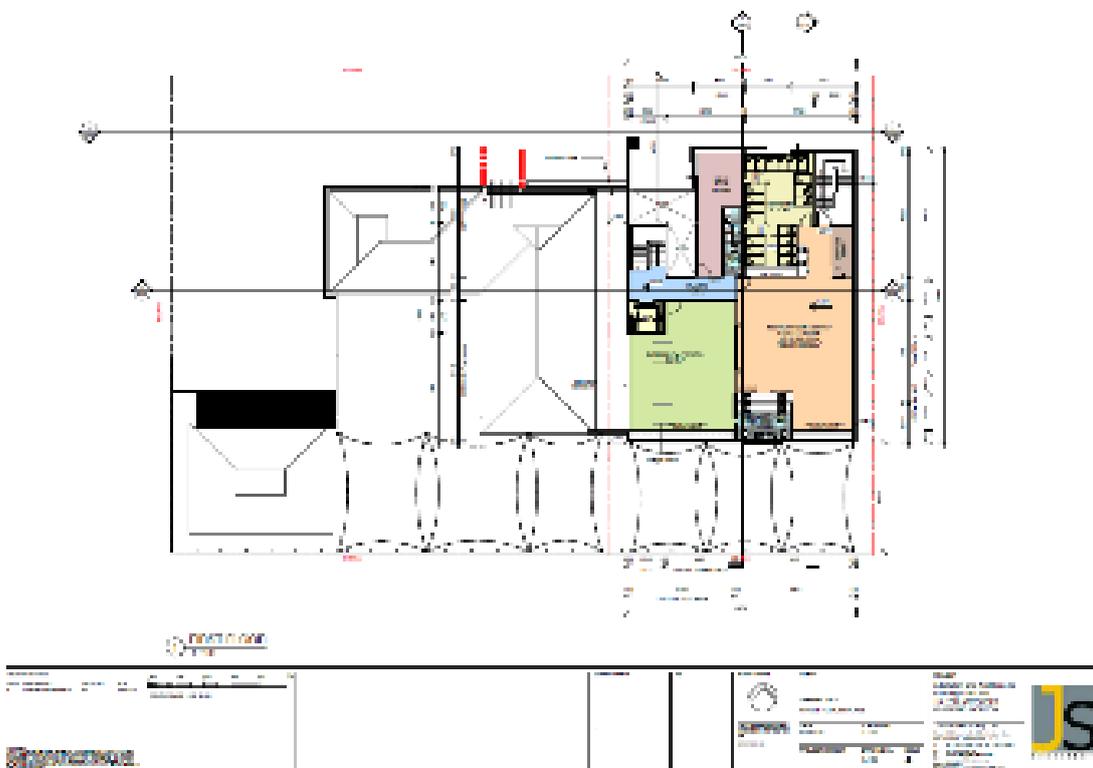
		recommended to ensure the removal of any graffiti.	
	Gates shall be the same height as the fence, self-closing and be secure and fitted with a childproof lock.	The Operational Management Plan states that gates will be childproof.	Yes
	Wall finishes must have low reflectivity.	A condition is recommended in this regard.	Yes
	Front fences are to be light coloured and low in height or open form.	The front fencing that is existing is visually permeable. The proposed fencing for the extension to the facility will be an extension of the existing.	Yes
	Fences should not prevent surveillance by the building's occupants of the main open or communal areas within the property or the street frontage.	The fencing will not prevent surveillance.	Yes
	Where noise insulation is required, consider the installation of double-glazing or other noise attenuation measures at the front of the building rather than construction of a high solid form fence.	A high solid fence is not proposed.	N/A
	Front fences shall have a maximum height of 1.2m, and constructed of masonry, timber and/or vegetation.	The proposed fencing for the extension to the facility will be an extension of the existing. Additionally, landscape screening is proposed along the front boundary.	Yes
	The front fence must be 30% transparent.	The front fencing is a minimum of 30% transparent	Yes
<b>2.8 Car Parking and Access</b>	All vehicles shall enter and leave the site in a forward direction.	The driveway will accommodate 2 way movement and vehicles will be able to enter and exit in a forward direction.	Yes
<b>2.9 Amenity and Environmental Impacts</b>	In residential zones the days/hours of operation shall be limited to 7.00 am - 7.00 pm: Monday – Saturday. No operation on Sundays or public holidays.	The child care guideline states that there is an increasing demand for services outside the standard Monday to Friday.  This application proposes	Yes

		operation on Saturdays.  In this regard, it is proposed to limit the capacity on Saturdays to 45 children and Saturday operation is subject to a 12 month trial period.	
	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 3pm on 21 June to at least: - one living, rumpus room or the like and/or - 50% of the private open space.	Shadow diagrams have been submitted in support of this application demonstrating that adjoining properties will achieve a minimum of 3 hours of solar access.	Yes
	Habitable room windows facing side boundaries are to be offset by at least 1m from any habitable room windows in an adjoining dwelling.	The proposed windows are offset by 1m	Yes
	Building siting, window location, balconies and fencing must consider the importance of the privacy of on-site and adjoining buildings and private open spaces.	The windows on the first floor have raised sill heights to protect the privacy of adjoining development.  The first floor play area has been designed to overlook the roof of the existing centre and the at grade car parking area.	Yes
	Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties.	Landscape screening is proposed along all boundaries.	Yes
	Noise attenuation measures should be incorporated into building design to ensure acoustic privacy between on-site and adjoining buildings.	Acoustic fencing is proposed around the outdoor play areas.	Yes
<b>2.10 Site Services</b>	Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site.	The waste facility is located adjacent to the driveway.	Yes
	Any structure involving waste disposal facilities shall be located as follows: - Setback 1m from the front boundary to the	The waste storage facility is existing and is setback greater than 1m from the front boundary and is	Yes

	street. - Landscaped between the structure and the front boundary and adjoining areas to minimise the impact on the streetscape. - Not be located adjacent to an adjoining residential property.	screened by landscaping.	
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# ATTACHMENT 3: PLANS OF THE PROPOSED DEVELOPMENT







① SITE PLAN 1



② SITE PLAN 2

NO.	REVISION	DATE	BY	APP.
1	ISSUED FOR PERMIT	10/10/2023	...	...

**PROJECT NAME:** ...

**PROJECT NO.:** ...

**PROJECT ADDRESS:** ...

**PROJECT CITY:** ...

**PROJECT STATE:** ...

**PROJECT ZIP:** ...

**PROJECT PHONE:** ...

**PROJECT FAX:** ...

**PROJECT EMAIL:** ...

**PROJECT WEBSITE:** ...

**PROJECT CONTACT:** ...

**PROJECT ARCHITECT:** ...

**PROJECT ENGINEER:** ...

**PROJECT LANDSCAPE ARCHITECT:** ...

**PROJECT CIVIL ENGINEER:** ...

**PROJECT MECHANICAL ENGINEER:** ...

**PROJECT ELECTRICAL ENGINEER:** ...

**PROJECT PLUMBING ENGINEER:** ...

**PROJECT FIRE ENGINEER:** ...

**PROJECT STRUCTURAL ENGINEER:** ...

**PROJECT ENVIRONMENTAL ENGINEER:** ...

**PROJECT TRANSPORTATION ENGINEER:** ...

**PROJECT HISTORIC PRESERVATION:** ...

**PROJECT ARCHITECTURAL HISTORIC:** ...

**PROJECT LANDMARK:** ...

**PROJECT HISTORIC DISTRICT:** ...

**PROJECT HISTORIC MONUMENT:** ...

**PROJECT HISTORIC SITE:** ...

**PROJECT HISTORIC STRUCTURE:** ...

**PROJECT HISTORIC LANDMARK:** ...

**PROJECT HISTORIC DISTRICT:** ...

**PROJECT HISTORIC MONUMENT:** ...

**PROJECT HISTORIC SITE:** ...

**PROJECT HISTORIC STRUCTURE:** ...



③ SITE PLAN 3



④ SITE PLAN 4

NO.	REVISION	DATE	BY	APP.
1	ISSUED FOR PERMIT	10/10/2023	...	...

**PROJECT NAME:** ...

**PROJECT NO.:** ...

**PROJECT ADDRESS:** ...

**PROJECT CITY:** ...

**PROJECT STATE:** ...

**PROJECT ZIP:** ...

**PROJECT PHONE:** ...

**PROJECT FAX:** ...

**PROJECT EMAIL:** ...

**PROJECT WEBSITE:** ...

**PROJECT CONTACT:** ...

**PROJECT ARCHITECT:** ...

**PROJECT ENGINEER:** ...

**PROJECT LANDSCAPE ARCHITECT:** ...

**PROJECT CIVIL ENGINEER:** ...

**PROJECT MECHANICAL ENGINEER:** ...

**PROJECT ELECTRICAL ENGINEER:** ...

**PROJECT PLUMBING ENGINEER:** ...

**PROJECT FIRE ENGINEER:** ...

**PROJECT STRUCTURAL ENGINEER:** ...

**PROJECT ENVIRONMENTAL ENGINEER:** ...

**PROJECT TRANSPORTATION ENGINEER:** ...

**PROJECT HISTORIC PRESERVATION:** ...

**PROJECT ARCHITECTURAL HISTORIC:** ...

**PROJECT LANDMARK:** ...

**PROJECT HISTORIC DISTRICT:** ...

**PROJECT HISTORIC MONUMENT:** ...

**PROJECT HISTORIC SITE:** ...

**PROJECT HISTORIC STRUCTURE:** ...

**PROJECT HISTORIC LANDMARK:** ...

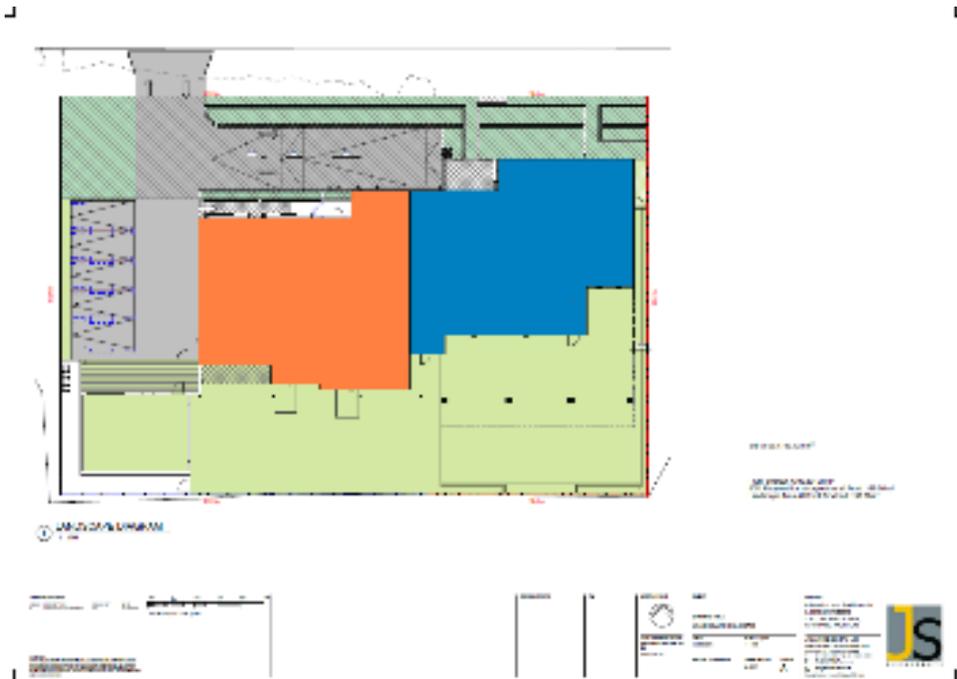
**PROJECT HISTORIC DISTRICT:** ...

**PROJECT HISTORIC MONUMENT:** ...

**PROJECT HISTORIC SITE:** ...

**PROJECT HISTORIC STRUCTURE:** ...





## **REPORT ATTACHMENT 4 – 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:

<b>Job No/ Revision / Sheet</b>	<b>Plan Name</b>	<b>Prepared By</b>	<b>Date</b>
Dwg No: A001 Issue: A	Perspective	JS Architects	16/09/2021
Dwg No: A002 Issue: A	Site Plan		
Dwg No: A100 Issue: A	Basement Floor Plan		
Dwg No: A101 Issue: A	Ground Floor Plan		
Dwg No: A102 Issue: A	First Floor Plan		
Dwg No: A103 Issue: A	Roof Floor Plan		
Dwg No: A200 Issue: A	Elevations 1		
Dwg No: A201 Issue: A	Elevations 2		
Dwg No: A300 Issue: A	Sections 1		

Dwg No: A301 Issue: A	Sections 2			
Dwg No: A500 Issue: A	Finishes & Materials Schedule			
Dwg No: A600 Issue: A	Demolition Plan			
Job No: 21872 Dwg No: C1 Rev: H	Cover Sheet & Notes	Nastasi & Associates	04/02/2022	
Job No: 21872 Dwg No: C2 Rev: H	Drainage Plan & Details			
Job No: 21872 Dwg No: C3 Rev: H	OSD System Plan & Details			
Job No: 21872 Dwg No: C4 Rev: H	Music Results & New Pipelng Longitudinal Section			
Job No: 21872 Dwg No: C5 Rev: H	Sediment Control Plan & Details			
Dwg No: 1/3	Final Ground Floor Play Space/Landscape Plan Plants			Tessa Rose Playscape and Landscape Design
Dwg No: 2/3	Final Ground Floor Play Space/Landscape Plan Surfaces			
Dwg No: 3/3	Final First Floor Play Space/Landscape Plan			
	Sample Board	20/02/2021		
	Sample Board	20/02/2021		

Document	Prepared By	Date
Operational Management Plan	n/a	January 2022
Noise Impact Assessment Report 200252R1 Revision 3	Rodney Stevens Acoustics	13 January 2022
Evacuation Sign	Elite Fire Training	n/d
Phase 2 Targeted Contamination Assessment Ref: 18821	GSL Environmental	31 May 2021
Memo – Independent Review of Phase 2 Targeted Contamination Assessment	Jonathan Coffey	27 January 2022
Waste Management Plan	EKB Holdings Pty Ltd	15 September 2020

### Works at no cost to Council

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

## **B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

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

### **Section 7.11 Payment (Liverpool Contributions Plan 2009)**

3. 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 \$15,220 and will be adjusted at the time of payment in accordance with the contributions plan.

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

The Contributions Plan may be inspected online at [www.liverpool.nsw.gov.au](http://www.liverpool.nsw.gov.au)

Payment must be accompanied by the attached form.

### **Comply with EP&A Act (General)**

4. 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.

### **Prescribed condition**

5. 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).

### **Separate Approval for Signs**

6. A separate development application for any proposed signs shall be provided to and approved by Council prior to the erection or display of those signs (unless the erection or display of those signs is exempt or complying development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008).

### **Fee Payments - Land Development**

7. 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, and
- (c) Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 6.8 of the Environmental Planning & Assessment Act 1979.

These fees are reviewed annually and will be calculated accordingly.

### **Fee Payments - Road Opening**

8. 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 Principal Certifying Authority. 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.

### **Access**

9. 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.

### **Notification**

10. 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 contact is entered into for the work to be done by a different licensee, Council must be immediately informed.

### **Cladding**

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

### **Products banned under the Building Products (Safety) Act 2017**

12. 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.

#### **S138 Roads Act – Minor Works in the public road**

13. Prior to the issue of a Construction Certificate, a Section 138 Roads Act application/s, including payment of fees, shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to:
  - (a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings),
  - (b) Road opening for utilities and stormwater (including stormwater connection to Council infrastructure), or
  - (c) Road occupancy or road closures.

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

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

#### **Retaining Walls on Boundary**

14. 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.
15. Where a retaining wall exceeds 600mm in height, the wall shall be designed by a practicing structural engineer and a construction certificate must be obtained prior to commencement of works on the retaining wall.

#### **S138 Roads Act – roadworks requiring approval of civil drawings**

16. 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 the construction of a new stormwater drainage pit and pipe and connection to an existing drainage pit in Rugby Crescent.
17. 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.

#### **On-Site Detention**

18. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Nastasi & Associates, reference number 21872, revision H, dated 04.02.2022
19. 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.
20. 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.
21. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the on-site detention system has been designed in accordance with Liverpool City Council's Design Guidelines and Liverpool City Council's On-Site Stormwater Detention policy and Technical Specification.

#### **Stormwater Discharge – Basement Car parks**

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

#### **Water Quality**

23. Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that details of a stormwater pre-treatment system have been provided on the stormwater plans and that the design meets pollutant retention criteria in accordance Council's Development Control Plan.

The Construction Certificate must be supported by:

- (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
24. A copy of the approved operation and maintenance manual/ schedule shall be submitted to Liverpool City Council with notification of the Construction Certificate issue.

#### **Access, Car Parking and Manoeuvring – General**

25. 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.

#### **Access, Car Parking and Manoeuvring – Detail**

26. The Certifying Authority shall ensure and certify that
  - (a) Off street access and parking complies with AS2890.1,
  - (b) Sight distance at the street frontage has been provided in accordance with AS 2890.1.

### **Dilapidation report**

27. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Rugby Crescent is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 20m either side of the development.

### **Engineering**

28. Supported calculations for the On-Site-Detention system are to be prepared by a qualified practising drainage engineer and shall accompany the application for the Construction Certificate

### **Recommendations of Acoustic Report**

29. The recommendations provided in the approved acoustic report titled Noise Impact Assessment Additions and alterations to Existing Child Care Centre 13-17 Rugby Crescent, Chipping Norton NSW 2170 (Ref. 200252R1, Revision 3) prepared by Rodney Stevens Acoustics Pty Ltd dated 13 January 2022 shall be implemented and incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.
30. 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 certifier 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.

### **Food Premises – Construction**

31. To ensure compliance with the relevant standards and requirements, the following details are to be submitted to the Principal Certifying Authority for approval:
  - (a) Plans, to scale, demonstrating the proposed floor layout as well as associated works is in compliance with;
    - (i) AS4674-2004 – Design, construction and fit-out of food premises,
    - (ii) Food Standards Code (Australia),
    - (iii) Building Code of Australia,
    - (iv) Proposed/altered mechanical ventilation system/s (Building Code of Australia & Australian Standard 1668 Part 1 & 2).

### **Construction Environmental Management Plan (CEMP)**

32. 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.

### **Mechanical Plant and Equipment**

33. Mechanical plant and equipment shall be selected in consultation with a suitably qualified acoustic consultant in accordance with the recommendations of the approved acoustic report titled Environmental Noise Assessment, report reference 7005-1.1R Rev C prepared by Day Design Pty. Ltd. dated 9 December 2020

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.

### **Traffic**

34. Detailed design plans for the access driveways and car park, including gradient, swept path analysis, line markings and sign posting, in accordance with the DCP and AS2890 shall be submitted to Transport Management for review.
35. The applicant is to review the adequacy of the existing street lighting in front of the property and, if required, provide upgrade to Council's and Endeavour Energy specifications.
36. If required, a public lighting design brief in accordance with Council's and Endeavour Energy specifications along the road frontage of the development site is to be submitted to Transport Management for review.
37. A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Transport Management for review and endorsement. The CTMP is to outline any need for a Road Occupancy Permit issued by Council or Road Occupancy Permit issued by the Transport Management Centre.
38. Works within the road reserve shall not commence until the construction traffic management plan has been endorsed.

## **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**

39. 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**

40. 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.

### **Construction Certificates**

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.

### **Demolition Works**

42. Demolition works shall be carried out in accordance with the following:
- (a) Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials,
  - (b) Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council, and

- (c) The handling or removal of any asbestos product from the building/site must be carried out by a SafeWork NSW 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 SafeWork NSW requirements.

### **Site Facilities**

- 43. 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.

### **Sydney Water**

- 44. Development plans must be processed and approved by Sydney Water.

### **“DIAL BEFORE YOU DIG”**

- 45. 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](http://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.

### **Environmental Management**

- 46. 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.

### **Residential Building Work**

- 47. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be commenced unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the name and licence number of the principal contractor; and the name of the insurer by which the work is insured under Part 6 of that Act,

### **Sediment & Erosion Control**

- 48. 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”.

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

#### **Prior to Works Commencing**

50. 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.
51. Works within the road reserve shall not commence until the CTMP has been endorsed.
52. The applicant 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 requested from Council’s Customer Services).

#### **Waste Classification and Disposal of Contaminated Soil and Material**

53. 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.
54. 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.
55. 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.

#### **Environmental Management**

56. 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**

57. 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.

58. 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**

59. 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 Service Centre.
60. Prior to commencement of any works a Traffic Control Plan including details for pedestrian and cyclist access management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller, and submitted to Transport Management for approval.
61. Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan.

## **D. DURING CONSTRUCTION**

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

### **Building Work**

62. 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.
63. The Principal Certifying Authority (PCA) must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the PCA, prior to proceeding to the subsequent stages of construction or finalisation of the works.
64. 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.

### **Identification Survey Report**

65. 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 principal certifier, a copy of the survey shall be provided to Council within three (3) working days.

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

### **Sign Notice Board**

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

### **Excavation**

68. In the event the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) Protect and support the building, structure or work from possible damage from the excavation, and
  - (b) where necessary, underpin the building, structure or work to prevent any such damage.
  - (c) a and b above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
  - (d) Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer.

### **Toilet 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) be connected to 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*.

### **Craning and Hoardings**

70. 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.

### **Hours of Construction Work and Deliveries**

71. 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 Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

### **Refuse Disposal**

72. Adequate refuse disposal methods and builders' storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

### **Security Fence**

73. 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.

### **Notification of Damage**

74. 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.

### **Demolition Inspections**

75. 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,
  - (b) Please note that demolition works are not permitted to commence on site until such time as a satisfactory inspection result is obtained from Council, and
  - (c) 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.

### **Erosion Control**

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

### **Drainage Connection**

77. 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.

### **Disabled Access**

78. Access, parking and facilities for persons with disabilities to be provided in accordance with the provisions of the National Construction Code.

### **Waste Management Plan**

79. 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.

### **Aboriginal Relics/Artefacts**

80. If any Aboriginal relics/artefacts are uncovered during the course of any construction works including demolition, work is to cease immediately. Government agencies shall be contacted, and no further work shall be undertaken until relevant assessments/approvals/salvage excavation has been undertaken and permission is given by the relevant authorities to re commence works.

### **External Lighting**

81. Any external lighting is to incorporate full cut-off shielding and is to be mounted so as to not cause any glare or spill over light nuisance within the development, neighbouring properties or road users.

### **Glass Reflectivity**

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

### **Air Conditioning Plant**

83. The plant associated with any air conditioning system is to be located a minimum of 3 metres from any property boundary, to the satisfaction of the PCA.

### **Unidentified Contamination**

84. 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.

### **Historic Archaeology**

85. Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.

### **Aboriginal Cultural Heritage – Unexpected Finds**

86. 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.

### **Skeletal Remains**

87. 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.

### **Imported Fill Material**

88. 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.
89. 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.

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

#### **Record Keeping of Imported Fill**

91. 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.

#### **Air Quality**

92. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
93. 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.
94. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.

#### **Water Quality**

95. 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.

#### **Erosion Control**

96. 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 is 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.

#### **Pollution Control - Site Operations**

97. 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.

#### **Pollution Control - Truck Movements**

98. 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.
99. Measures must be implemented to prevent tracking of sediment by vehicles onto roads.

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

#### **Ventilation**

101. 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.
102. 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.

#### **Construction Noise and Vibration**

103. 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).
104. 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.

#### **Food Premises – Construction**

105. The construction, fit-out and finishes of the premises shall comply with the Australian Standards 4674-2004 Design Construction and fit-out of food premises, Food Standards Code, Food Act 2003 and Regulations thereunder.

#### **Security and Safety**

106. Adequate lighting is required to be provided at the entrance and main foyer of the building, basement carpark, and mailbox area.
107. Surveillance cameras are required to be installed covering the entrance and exit and main areas of the car park.
108. All openable windows that are located two metres or more above the ground level and have a sill height less than 1.7m above the internal floor level shall be fitted with devices that lock the window opening at less than 12.5m.

#### **Traffic**

109. The endorsed CTMP is to be implemented during construction.
110. All works within the road reserve are to be at the applicant's cost and all signage is to be in accordance with the RMS Traffic Control at Worksites Manual and the RMS Delineation Guideline.

111. Applications must be made to Transport Management or 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.
112. A copy of the Traffic Control Plan shall be made available on site at all times.

## **E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

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

### **Outstanding Development Contributions**

113. Prior to the issue of **any** occupation certificate all outstanding section 7.11/7.12 contributions must be paid as required by condition 3. Evidence is to be provided to the satisfaction of the relevant certifying authority that all outstanding contributions have been paid to Council.

### **Certificate**

114. The premises must not be utilised until an Occupation Certificate is issued by the principal certifier.

### **Section 73 Sydney Water Certificate**

115. A Section 73 Compliance Certificate issued in accordance with the Sydney Water Act 1994 must be submitted to the PC.

### **Cladding**

116. Prior to issuing an occupation certificate the principal certifier 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.

### **Liverpool City Council clearance – Roads Act/ Local Government Act**

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

### **Works as executed – General**

118. 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.
119. 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.

### **Stormwater Compliance**

120. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the:

- (a) On-site detention system/s,
- (b) Stormwater pre-treatment system/s,
- (c) Basement Carpark pump-out system:

- (i) Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent,
- (ii) Have met the design intent with regard to any construction variations to the approved design, and
- (iii) Any remedial works required to be undertaken have been satisfactorily completed.

121. 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**

122. 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,
- (b) Stormwater pre-treatment system/s,
- (c) Basement Carpark pump-out system:

123. The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

#### **Rectification of Damage**

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

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

#### **Dilapidation Report**

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

#### **Notification of Food Premises**

126. The food business is required to notify Council of the food business details. The PCA is to ensure a Liverpool City Council approved registration form is completed and submitted to the Council with any relevant fee.

#### **Footpaths**

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

### **Dilapidation Report**

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

### **Lot Consolidation**

129. All separate lots shall be consolidated into one lot. The applicant shall provide evidence that the required lot consolidation has been registered with the Land Titles Office.

### **Recommendations of Acoustic Report**

130. Upon completion of works and prior to the issue of an Interim or Final Occupation Certificate, written certification prepared by a suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA). The written certification prepared by the suitably qualified acoustic consultant shall confirm that the development complies with all requirements and recommendations detailed within the approved acoustic report titled Noise Impact Assessment Additions and alterations to Existing Child Care Centre 13-17 Rugby Crescent, Chipping Norton NSW 2170 (Ref. 200252R1, Revision 3) prepared by Rodney Stevens Acoustics Pty Ltd dated 13 January 2022 and any subsequent amendments as proposed by the consultant prior to or during construction (if applicable). 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.

### **Mechanical Ventilation Certification**

131. 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.

### **Noise Management Plan**

132. A Noise Management Plan shall be prepared under the supervision of a suitably qualified acoustic consultant. The Noise Management Plan must identify and implement strategies to minimise noise from the proposed development and incorporate:

- (a) approaches for promoting noise awareness by patrons and staff;
- (b) training procedures;
- (c) a complaint lodgement procedure to ensure that members of the public and local residents are able to report noise issues;
- (d) an ongoing review process and a plan for responding to noise complaints.

133. The Noise Management Plan shall clearly specify the responsibilities of site personnel in managing noise and include a detailed list of steps taken to manage potential noise

impacts. This documentation shall be submitted to the PCA and Council for review and approval prior to issue of an Interim or Final Occupation 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.

### **Landscaping**

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

### **Clause 94 Upgrade works**

135. In accordance with clause 94 of the Environmental Planning and Assessment Regulation 2000, the levels of fire and safety within the existing building are to be upgraded and the following measures are to be implemented prior to issuing an occupation certificate for the new building or part:
- (a) Provide emergency lighting system in accordance with clause E4.2 & E4.4 of the BCA,
  - (b) Provide exit and directional signs in accordance with the relevant requirements of clause E4.5 & E4.6 of the BCA,
  - (c) Provide portable fire extinguisher/s within building in accordance with clause E1.6 of the BCA,
  - (d) Provide fire hose reel system for the building in accordance with clause E1.4 of the BCA,
  - (e) Provide fire hydrant system for the building in accordance with clause E1.3 of the BCA,
  - (f) External walls adjacent to allotment boundary to be in accordance with clause C1.1 and Specification C1.1 of the BCA for type B construction,
  - (g) The required exit door/s to be provided in accordance with clause D2.20 and D2.21 of the BCA.
136. Alternatively, the above fire safety upgrade works may be addressed with a performance-based solution by a Certifier – Fire Safety to the satisfaction of the appointed Principal Certifier.

### **Traffic**

137. The Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Liverpool City Council.
138. All roadworks, signposting and street lighting are to be completed to Council's requirements and at no cost to Council.
139. Council's on-street assets such as footpath should be protected at all times. Any damages shall be rectified to Council satisfaction.
140. An Operational Traffic Management Plan is to be submitted for review by Transport Management and implemented following endorsement.

## **G. CONDITIONS RELATING TO USE**

### **Plan of Management**

141. The applicant or person in charge of operations is to ensure the approved Plan of Management prepared by Eddie Biyik, revision 3.7, dated 13 January 2021 is complied with at all times.

### **Compliance with Acoustic Report**

142. The recommendations provided in the approved acoustic report titled Noise Impact Assessment Additions and alterations to Existing Child Care Centre 13-17 Rugby Crescent, Chipping Norton NSW 2170 (Ref. 200252R1, Revision 3) prepared by Rodney Stevens Acoustics Pty Ltd dated 13 January 2022 shall be implemented and complied with at all times.

### **Unreasonable Noise and Vibration**

143. 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.

### **Lighting**

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

### **Waste Management**

145. Waste and recyclable material generated from the operations of the premises shall be managed in a satisfactory manner that does not give rise to offensive odour or encourage pest activity. All waste material shall be regularly removed from the premises. Waste shall not be permitted to accumulate near the waste storage bins.

### **Acoustic Report**

146. An acoustic report prepared by a suitably qualified acoustic consultant shall be submitted to Council for its assessment and approval within twelve (12) months of occupation/completion of the development. The report shall include but not be limited to the following information:

- (a) Noise measurements taken during a time of peak occupation at the most affected noise sensitive locations as indicated in the approved acoustic report titled Noise Impact Assessment Additions and alterations to Existing Child Care

Centre 13-17 Rugby Crescent, Chipping Norton NSW 2170 (Ref. 200252R1, Revision 3) prepared by Rodney Stevens Acoustics Pty Ltd dated 13 January 2022;

- (b) Verification that noise levels at the most affected receivers comply with all relevant assessment criteria detailed in the abovementioned report;
- (c) All complaints received from local residents in relation to the operation of the premises/development; and
- (d) Where noise measurements required under point a) above indicate that the relevant assessment criteria are exceeded, recommendations shall be provided in relation to how noise emissions can be satisfactorily reduced to comply with the assessment criteria.

147. Following written approval from Liverpool City Council, recommendations provided under point d) above shall be implemented fully.

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.

#### **Car Park Signage**

148. Prominent notices shall be installed at the entry and exit to the car park informing people to enter and leave the car park quietly.

#### **Supervision**

149. Children shall be supervised at all times during arrival, departure and outdoor play activities to minimise noise impacts at the Centre.

#### **Food Premises Construction**

150. To ensure compliance with the relevant standards and requirements, the food preparation area is to comply with the following at all times

- (a) AS4674-2004 – Design, construction and fit-out of food premises,
- (b) Food Standards Code (Australia),
- (c) Building Code of Australia.

#### **Noise Complaints register**

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

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

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

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

#### **Noise - Silent Alarm System**

152. Any alarm installed on the site is to be “silent back to base” type.
153. Any building intruder alarm/s associated with the development shall only be permitted to operate in accordance with Clause 42 of the Protection of the Environment Operations (Noise Control) Regulation 2017.

#### **Car Parking**

154. A total of 22 off street car parking spaces must be provided in accordance with Council’s relevant development control plan. One of the spaces must be designed and signposted/marked for the specific use of persons with a disability.
155. All parking areas shown on the approved plans must be used solely for this purpose.

#### **Loading Areas**

156. All loading and unloading must take place from the designated loading dock. This area is to be clearly marked/signposted for use by delivery vehicles only.

#### **Hours of Operation**

157. The hours of operation of the premises are limited to:

7am to 7pm Monday to Friday.

No operation on weekends or Public Holidays.

#### **Extend Hours of Operation – Trial Period of Consent**

158. A trial period of 12 months is granted from the date of determination/date of commencement of operation for extended trading hours from 7am to 7pm on Saturdays. Upon the completion of the 12 month trial period the hours of operation for the centre shall be conducted in accordance with condition No.156 of this consent, being 7am to 1pm – Monday to Friday. Prior to expiry of the 12 month trial period, an application shall be lodged for continued extended hours of operation.

#### **Delivery hours and vehicles**

159. Delivery and service vehicles generated by the development are limited to:

9am to 3pm, Monday to Friday.

#### **Childcare Centres**

160. Approval is granted for a maximum of 90 children to be on the premises at one time from Monday to Friday, in accordance with the following groupings:

- 16 children 0 – 2 years;
- 15 children 2 – 3 years; and
- 59 children 3 years and over.

161. A maximum of 45 children is permitted on the premises on Saturdays.

### **Childcare Centres**

162. A maximum number of 13 permanent staff members (including administration and kitchen staff) are permitted to work at the childcare centre at any given time.

## **H. ADVISORY**

- a) Section 4.53 of the EP&A Act provides that unless otherwise stated by a condition of this consent, this consent will lapse if development is not physically commenced within five years of the date of this notice.
- b) Section 8.2 of the EP&A Act provides that an applicant may request, within six (6) months of the date of the determination of the Development Application, that Council review its determination (this does not relate to designated development or Crown development).

An application under Section 8.2 of the EP&A Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 Application must allow sufficient time for Council to complete its review within the prescribed timeframe, including the statutory requirement for public notification.

- c) Section 8.7 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Development Application, may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed by the EP&A Act.
- d) Section 8.8 of the EP&A Act provides that an objector who is dissatisfied with the determination of the consent authority to grant consent to a Development Application for Designated Development (including any State significant development that would be designated development but for Section 4.10(2) of the EP&A Act), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court, against the determination.
- e) The Commonwealth Disability Discrimination Act 1992 may apply to this proposal. Approval of this application does not imply or infer compliance with this Act. Applicants and owners are required to satisfy themselves as to compliance and make their own enquiries to the Human Rights and Equal Opportunity Commission. Attention is also drawn to the provisions of Australian Standard 1428 – Design for Access and Mobility.
- f) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regard 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](http://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.

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 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 has been made by Council. 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.
- j) 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.
- k) 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 letter box positioning and dimensions.
- l) 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 2018 Established Areas**

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-446/2021

**PROPOSAL:** Demolition of existing structures, alterations and additions to the existing centre based child care facility to accommodate 90 children, and lot consolidation.

**Liverpool Contributions Plan 2018 Established Areas**

Transport - Bikeways - works	Eastern	\$1,142	GL.10000001865.10208
Transport - Traffic management - works	Eastern	\$7,610	GL.10000001865.10214
Transport - Bus shelters - works	Eastern	\$381	GL.10000001865.10216
Drainage - works	Eastern	\$6,088	GL.10000001866.10210
<b><u>Total</u></b>		<b><u>\$15,220</u></b>	

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

**RECORD OF PAYMENT**

**Total Amount paid:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Receipt No.:** \_\_\_\_\_ **Cashier:** \_\_\_\_\_