

# MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

**Monday the 31<sup>st</sup> October 2022**

To be held 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 Amanda Merchant, Panel Support Officer on 8711 7712 or 1300 36 2170, by 4pm, Friday, 28<sup>th</sup> October.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 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>	<b>DEVELOPMENT APPLICATION DA-1305/2021</b>  <b>DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A FOUR-STOREY RESIDENTIAL FLAT BUILDING COMPRISING 16 FLATS, WITH ONE LEVEL OF BASEMENT CAR PARKING, AND ASSOCIATED LANDSCAPING.</b>  <b>LOT 82 DP 244786, LOT 83 DP 244786 2 WILGA CLOSE, CASULA NSW 2170 3 WILGA CLOSE, CASULA NSW 2170</b>	<b>3 - 165</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>2</b>	<b>DEVELOPMENT APPLICATION DA-1240/2021</b>  <b>FITOUT AND USE OF AN EXISTING STRUCTURE AS A KIOSK WITH ASSOCIATED SIGNAGE</b>  <b>LOT 701 DP 1056246, LOT 702 DP 1056246 BIGGE PARK, 124 BIGGE STREET, LIVERPOOL NSW 2170</b>	<b>166 - 212</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>3</b>	<b>DEVELOPMENT APPLICATION DA-52/2022</b>  <b>CONSTRUCTION OF A 2 STOREY SEMI-DETACHED DWELLING AND TORRENS TITLE SUBDIVISION</b>  <b>LOT 1 DP 1257865 LOT 1 NARRAMI ROAD, AUSTRAL NSW 2179</b>	<b>213 - 269</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>4</b>	<b>DEVELOPMENT APPLICATION DA-1379/2021</b>  <b>DECOMMISSION AND REMOVAL OF THE EXISTING NETWORK INFRASTRUCTURE AND THE INSTALLATION OF A 30M HIGH TELSTRA TELECOMMUNICATIONS FACILITY AND SUPPORTING ANCILLARY EQUIPMENT</b>  <b>LOT 101 DP 747318 560 HUME HIGHWAY, CASULA NSW 2170</b>	<b>270 - 316</b>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

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ITEM No.	SUBJECT	PAGE No.
5	<p>DEVELOPMENT APPLICATION DA-14/2021</p> <p>(RE-ADVERTISED) DEMOLITION OF ALL EXISTING STRUCTURES AND IMPROVEMENTS. PROPOSED CONSTRUCTION OF A NEW SERVICE STATION DEVELOPMENT INCLUDING SALES &amp; FAST-FOOD BUILDING, SEPARATE RESTAURANT FACILITY, FUEL DISPENSING CANOPY, 9M HIGH PYLON SIGN, UNDERGROUND TANKS, SIGNAGE, ALTERATION OF EXISTING DRIVEWAY CROSSOVERS &amp; ASSOCIATED SITE WORKS AND TRADING TIME OF 24/7.</p> <p>LOT 1 DP 523597, LOT 55 DP 567062 226 NEWBRIDGE ROAD, MOOREBANK NSW 2170 228 NEWBRIDGE ROAD, MOOREBANK NSW 2170</p>	317 - 408

<b>Item no:</b>	1
<b>Application Number:</b>	DA-1305/2021
<b>Proposed Development:</b>	Demolition of existing structures and construction of a four-storey residential flat building comprising 16 flats, with one level of basement car parking, and associated landscaping.
<b>Property Address</b>	2-3 Wilga Close, Casula
<b>Legal Description:</b>	Lots 82 & 83 DP 244786
<b>Applicant:</b>	Casula NSW Developments Pty Ltd
<b>Land Owner:</b>	Casula NSW Developments Pty Ltd
<b>Date Lodged:</b>	11 November 2021
<b>Cost of Works:</b>	\$5,053,845
<b>Zoning:</b>	R4 – High Density Residential under Liverpool Local Environmental Plan 2008
<b>Recommendation:</b>	Approval, subject to conditions of consent
<b>Assessing Officer:</b>	Robert Micallef

## 1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-1305/2021) seeking consent for the demolition of existing structures and construction of a four-storey residential flat building comprising 16 flats, with one level of basement car parking, and associated landscaping, on a site legally known as Lots 82 & 83 DP 244786, and known as 2-3 Wilga Close, Casula.

The site is zoned R4 High 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 proposal is also consistent with the provisions of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the design requirements of the Apartment Design Guide (ADG).

The key issues associated with the proposal relate to the Clause 4.6 Variations for Clause 4.3 - Height of Buildings and Clause 7.14 Minimum Building Street Frontage under the LLEP 2008 as well as building separation, building depth and mitigation of visual privacy under the ADG. These matters have been addressed through the assessment of the application and the proposal is considered to be acceptable.

The Development Application was initially notified between 19 January and 1 February 2022 in accordance with Liverpool Community Participation Plan 2019. Six submissions were received inclusive of one petition during this notification period. A community information session was held on 28 April 2022. Upon the submission of amended documentation, a second notification period was held between 24 May and 8 June 2022. Four submissions were received in response to the second exhibition period. The concerns raised by the submissions include the following:

- Privacy and overlooking,
- Solar access and overshadowing,
- Lack of consultation prior to lodgement,
- Traffic and parking safety impacts in locality,
- Noise during works and ongoing,

- Plans and traffic report incorrect and lacking information,
- Bin collection and waste impacts,
- Devaluation of property and property damage,
- Inconsistent with the character of the area,
- Reduced residential amenity,
- Power pole located where driveway will be,
- Lack of access to adjoining site to the north from Wilga Close,
- Wind and rain changes due to building,
- Insufficient lot width,
- Maintenance of gardens and drainage,
- Lighting from development,
- Inconvenience from anti-social behaviour,
- Affordable Housing/ Build to Rent Housing, and
- Strain on existing services and infrastructure.

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

***Sensitive Development***

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

***Contentious Development***

*Development that:*

*(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 subject land for this application consists of two parcels of land which are known as 2 and 3 Wilga Close, Casula, legally described as Lots 82 & 83 DP 244786. The site is 1210sqm in area with a primary frontage to the cul-de-sac head of 21.865m to Wilga Close. The rear boundary is 59.205m wide and has side boundaries of 44.4m in the north and 39.24m in the south. The site has a maximum fall of 2m from the rear to the front.

The sites are currently utilised for residential purposes with dwelling houses and associated structures over the lots. The location of the site can be seen in the aerial view in the Figure below.

### **2.2 The locality**

The site and its immediate locality is within an urban residential area. The proposed development represents the type of development that the established planning controls have been put in place to achieve a high density residential setting. In the immediate vicinity to the site, there has been a recently approved (June 2022) residential flat building 50m to the south

of the site at 35-37 Simone Crescent, Casula.

The site is located approximately 250m north-east of Casula Mall, a key retail and shopping area in the locality along with the Casula Library which is next door to the mall. The site is also located 380m west of the Hume Highway and 560m east of the M5 Motorway. Jardine Park is also situated 50m to the east of the subject site and the locality is also within the Georges River Catchment area. The locality of the subject site can be found in Figure 2 below.



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



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

### 3. BACKGROUND/HISTORY

#### 3.1 Design Excellence Panel

The application was presented to the Liverpool Design Excellence Panel on 10 March 2022 and 9 June 2022 where the panel supported the proposal at the later meeting and minutes of that meeting were provided to the applicant to address and incorporate into the design of the development subject to Council approval. The key issues raised by the DEP were as follows:

- Design excellence to be maintained
- Fire exit requirements for basement and provision of additional landscaping
- Kitchen designs/ layout
- Fire exit on rooftop design
- Glazing design for windows
- Location of servicing in foyer/ corridor areas
- Use of photovoltaic panels
- Ceiling Fans in habitable rooms
- Landscaping species and design across site
- OSD location

The applicant responded to the issues raised by the DEP and supplied amended architectural plans, which have been reviewed by Council and are considered acceptable. A summary of the Design Excellence Panel's comments from the June meeting with a comment to each are provided below.

#### Context

- *The Panel commends the applicant for incorporating several recommendations previously made by the DEP. The Panel notes that the overall design has improved from the earlier iteration and encourages the applicant to strive for design excellence as part of detailed design for the project.*

**Council Comment:** The applicant has provided amended plans which demonstrate better

compliance with the DEP comments and design excellence provisions.

**Built Form + Scale**

- *The Panel notes that the basement car park proposes two fire egresses as part of the design. The Panel recommends the applicant to explore an engineered solution to reduce the number of fire exits being proposed for the basement level. Consider using the driveway ramp as one of the fire exits and consider removing the northern fire egress exiting out into the landscape.*

**Council Comment:** One of the fire exits has been removed from the basement (northern one) and additional landscaping provided along northern boundary.

- *The Panel recommends the applicant to explore an island kitchen layout for the units that do not impede on the amenity for the dining space (at least for two-bedroom units). See Apartment kitchen island design references attached to these minutes.*

**Council Comment:** Kitchen islands have been provided to the 2-bedroom apartments.

- *The Panel recommends the applicant to explore if the kitchen can be relocated on the other side for the eastern apartments to improve the internal layout for the unit.*

**Council Comment:** Applicant has advised that kitchen of eastern units are unable to be relocated, however, island has been provided.

- *The Panel recommends the applicant to consider a tapered form for the fire exit structure to achieve additional amenity for future developments in the area.*

**Council Comment:** Tapered treatment provided to fire exit structure.

- *The Panel requires the applicant to detail out the apartment windows / glazing to achieve adequate insulation and noise attenuation. Consider using high performance glazing to ensure efficiency for the indoor environment.*

**Council Comment:** Applicant has advised that high performance glazing to windows can be provided.

- *The Panel notes that the proposed electrical / NBN cabinet (i.e., next to Unit 05) can be resized / relocated to allow positioning the door in a better location and provide a more generous entry space for these units.*

**Council Comment:** NBN cabinet on Levels 1-3 has been relocated and resized giving better entry spaces.

**Density**

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

**Council Comment:** Noted

**Sustainability**

- *The Panel recommends the applicant to consider Photovoltaic (PV) Panels to offset the energy requirements for the communal areas.*



**Council Comment:** Photovoltaic Panels have been indicated on the rooftop.

- *The Panel recommend that all habitable rooms indicate ceiling fans in addition to air conditioning.*

**Council Comment:** Plans indicate that ceiling fans will be provided.

- *The Panel recommends performance glazing to better help balance energy flows.*

**Council Comment:** Performance glazing can be used in the design.

### **Landscape**

- *The Panel notes that the landscape plan proposes Angophora species trees along the eastern boundary fence. The Panel requires the applicant to distribute the trees within the grassed area and provide additional tree canopy with a mix of tree species including Eucalypts and other endemic species at ground level so as not to cause an issue with retaining walls as shown and away from boundaries.*

**Council Comment:** The applicant has onboarded the landscaping comments and has incorporated them into the landscape plans. Additional tree canopy cover has been provided and mix of trees amended.

- *The Panel recommends the applicant to consider removing one the fire stairs exiting on to the landscaped area to achieve a better design outcome.*

**Council Comment:** Where the fire exit was removed, the passageway has been landscaped.

- *The Panel requires the applicant to have a closer look at the relationship of communal open space (COS) with the private open spaces (POS) and the community garden areas. Panel requires the applicant to consider the actual functioning of the communal areas and its impact to the POS and living areas for ground floor units. Panel recommends the applicant to consider converting some of the communal areas into POS to minimise potential competition / conflict within these spaces.*

**Council Comment:** The applicant has onboarded the landscaping comments and has incorporated them into the landscape plans. Greater POS areas have been provided for ground floor units. A condition of consent will be applied as the landscape plan indicates a significant amount of hard paved area on the ground floor, which will be conditioned and marked up to be landscaped such as turfing.

- *The Panel supports the overall amenity being provided as part of the rooftop communal open space (COS).*

**Council Comment:** Noted.

- *The Panel notes that the landscape plan indicates retaining walls for the ground floor units which can be avoided. The Panel recommends the applicant to minimise the extents of retaining walls and grade the soil to achieve the required levels.*

**Council Comment:** Retaining walls have been removed.

- *The Panel requires the applicant to ensure adequate soil volume for the trees to sustain a long-term health and growing environment for the trees.*

**Council Comment:** Planter box details provided and are sufficiently sized for trees.

- *The Panel noted that if one less fire exit is required the applicant should explore more screen planting on the Northern Boundary.*

**Council Comment:** Screen planting hedging provided along Northern boundary with the removal of the fire exit.

### **Amenity**

- *The Panel requires the applicant to ensure overall amenity and solar access for the units.*

**Council Comment:** Amenity and solar access for the units is acceptable and compliant with the ADG provisions. Amendments made to address concerns raised by Panel and amenity is considered acceptable for the development.

### **Safety**

- *The Panel notes that the applicant has undertaken a CPTED assessment of the site. The Panel requires the applicant to incorporate the recommendations made in the CPTED as part of detailed design.*

**Council Comment:** CPTED provisions will be provided into the building construction and the recommendations of this report can be conditioned.

### **Housing Diversity + Social Interaction**

- *The Panel supports the overall mix being proposed as part of the development.*

**Council Comment:** Noted.

### **Aesthetics**

- *The Panel supports the overall materiality being proposed as part of the design.*

**Council Comment:** Noted.

### **OUTCOME**

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

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

**Council Comment:** Based on the amended plans provided, it is considered that the proposal provides a development that adequately addresses the concerns raised by the panel and has design excellence.

## **3.2 Assessment and Site Background & History**

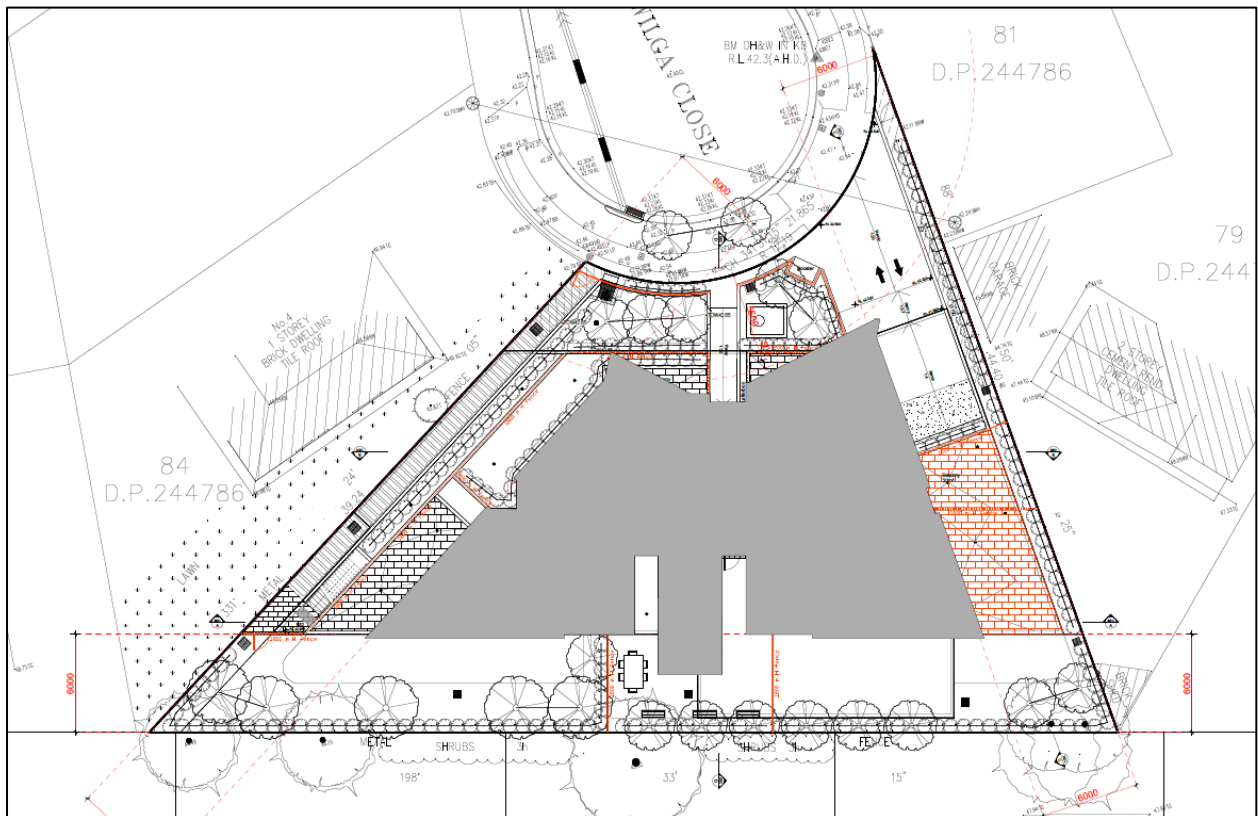
- Pre-DA held with applicant on 25 August 2021 for a residential flat building.
- The subject DA was lodged with Council on 5 November 2021.
- Application notified from 19 January 2022 to 1 February 2022.
- Design Excellence Panel meeting held on 10 March 2022.
- 24 March 2022 – Request for Information sent to applicant in regards to DEP comments, planning matters, urban design and public domain and engineering matters.
- 28 April 2022 – Information session held with community and objectors.
- 30 April 2022 – Additional Information received.
- 24 May 2022 to 8 June 2022 – Amended documents renotified.
- 9 June 2022 – Second Design Excellence Panel meeting held.
- 5 July 2022 – Request for information sent to applicant based on DEP comments and engineering matters.
- 16 July 2022 – Additional information submitted.

Application No.	Proposed Development	Determination
PL-82/2021	Multi unit development (RFB) including 16 units and basement parking	Pre-DA meeting held 25 August 2021
DA-1305/2021	<i>Demolition of existing structures and construction of a four-storey residential flat building comprising 16 flats, with one level of basement car parking, and associated landscaping.</i>	<i>Subject Application</i>

#### 4. DETAILS OF THE PROPOSAL

This development application seeks the development consent for:

- Demolition of existing structures and associated tree removal;
- Consolidation of two lots;
- Construction of a 4-storey residential flat building containing 16 units (5x1 bed and 11x2 bed);
- 1 level of basement parking with 26 car spaces;
- Common open space predominantly on the rooftop and some portions on the ground floor;
- Associated site works and landscaping.



**Figure 3:** Proposed site plan

## 5. STATUTORY CONSIDERATIONS

### 5.1 Relevant matters for consideration

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

#### Environmental Planning Instruments (EPI's)

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

#### Development Control Plan

- Liverpool Development Control Plan 2008;
  - Part 1: General Controls for All Development; and
  - Part 3.7: Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre).

#### Contributions Plans

- Liverpool Contributions Plan 2018 - Established Areas applies pursuant to Section 7.11 of the EPA & Act.

**6. ASSESSMENT**

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

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

**(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guidelines (ADG)**

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

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

Design Quality Principle	Comment
<b>Principle One – Context and Neighbourhood Character</b>	
<p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>The area has been rezoned to R4 High Density Residential, however no sites in the vicinity of the subject site are yet to be redeveloped from the existing low-density residential uses. Nonetheless, it is anticipated that sites in the Zone will eventually be redeveloped in line with the higher density controls.</p> <p>The site is well-serviced by public transport, being within close proximity to bus services travelling to and from Sydney along major thoroughfares such as the Cumberland Highway &amp; Hume Highway.</p> <p>The development proposes rendered brick retaining walls and planters to the street boundaries which will contribute to Wilga close streetscape. The generous amount of soft landscaping behind the retaining walls and fences serves to provide a buffer zone between the development and its neighbours.</p> <p>A balanced palette of materials and a well-proportioned building form will ensure a sophisticated integration of the proposed building into the existing context.</p>
<b>Design Principle 2 – Built form and scale</b>	
<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the</i></p>	<p>The proposed development adopts built form and scale in response to its immediate context, adopting a highly sculptural building form to create visual interest within the immediate context.</p> <p>The scale and bulk of the built form is deigned to effectively moderate the scale of the building when</p>

Design Quality Principle	Comment
<p><i>building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>perceived from the street and surrounding locations, it includes facades with face brick walls and rendered balconies and the use of various architectural elements such as dynamic recesses within the façade giving the building a distinct form.</p> <p>Pedestrian entry is accessed directly off the street to provide a clear sense of address articulated by rendered brick retaining walls and planter boxes allowing the proposal to integrate with the streetscape. Accordingly, the proposal responds well to the topography and greater urban context of the neighbourhood and the desired future character of the locality.</p>
<b>Design Principle 3 – Density</b>	
<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>There is a total of 16 apartments in the development, comprising of no 3-bedroom apartments, 11 x 2-bedroom apartments and 5 x 1-bedroom apartments. The apartments layout is functional, well organised and provides a high standard of amenity.</p> <p>The density of the development is considered sustainable within the existing and future availability of infrastructure, public transport, community and culturally significant facilities and environmental qualities on the site. As such the proposal provides an appropriate density for a residential development in the immediate context.</p>
<b>Design Principle 4 – Sustainability</b>	
<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</i></p>	<p>A comprehensive analysis of the building has been undertaken as part of the BASIX Assessment however the applicant notes the following general inclusions as part of the proposal:</p> <ul style="list-style-type: none"> <li>• Five and a half metre setback from Wilga Close provided to allow for deep soil vegetation</li> <li>• Six metre setback to the rear to allow for deep soil vegetation</li> <li>• Natural cross ventilation to all apartment is achieved and all habitable rooms are naturally ventilated</li> <li>• Habitable areas and balconies of all apartments have been designed to face north and west to maximise the solar access to all apartments.</li> <li>• A number of bathrooms are naturally ventilated and all others will be mechanically exhausted to the façade or roof</li> <li>• Appropriate overhang depths and recessed balconies provide shade in summer and promote thermal heat gain during winter months</li> <li>• Energy efficient appliances and fixtures provided</li> <li>• Communal recycling and waste management facilities provided</li> </ul>

Design Quality Principle	Comment
	<ul style="list-style-type: none"> <li>• Low maintenance, long lifecycle and reusable materials proposed such as bricks and concrete</li> </ul>
<b>Design Principle 5 – Landscape</b>	
<p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p> <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<p>With a general focus on low maintenance, the proposal will provide selective planting of various heights and density with an overall desire to blend into the characteristic landscaping of the area</p> <p>In addition to generous amount of deep soil area to the western &amp; Eastern edge of the site, the proposal takes advantage of every opportunity for landscaping such as creating landscape buffer along the front setbacks and take the advantage of the rear setback of the site in respect the surrounding context. The landscape along the boundary provides a pleasant transition and visual outlook for occupants and neighbouring properties.</p>
<b>Design Principle 6 – Amenity</b>	
<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<ul style="list-style-type: none"> <li>• The apartments layout is functional, well organised and provides a high standard of amenity.</li> <li>• Appropriate connections and subtle separation of spaces within the apartments to capture northern light</li> <li>• 81% of apartments receive minimum of three-hour sunlight</li> <li>• 100% of apartments are naturally cross ventilated</li> <li>• Some of bathrooms have windows achieving natural ventilation and kitchens are within 8 metre of a window or an opening</li> <li>• All bedrooms have appropriate rectangular and square shapes and appropriate dimensions</li> <li>• All balconies are facing north and west maximising the solar access</li> <li>• All balconies are facing the street or facing building structures to increase privacy and avoid overlooking into the adjoining properties private open space</li> <li>• Accessibility is provided throughout the site and across all levels.</li> </ul>

Design Quality Principle	Comment
<b>Design Principle 7 – Safety</b>	
<p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>Safety and security will be provided for future occupants and the public domain through the following design measures:</p> <ul style="list-style-type: none"> <li>• Identifiable main building entrances off Wilga Close and generous open entry areas allow for adequate surveillance. The entrance will be clearly visible from the street with a glass security door installed, a security camera and intercom to identify visitors to the building complex</li> <li>• All apartments are with a keyed system incorporating a high level of occupant security.</li> <li>• Residential apartments have been designed in such a way as to have the main living areas and balconies facing the street and communal space area</li> <li>• Secure basement car parking provided with keyed access. Clear circulation paths in the basement allow safe pedestrian movement, in particular when waiting at the lift and access to individual parking space and storage area</li> <li>• A clear definition between public and private spaces with clear, safe access points and adequate lighting of entrances and pedestrian areas including a separate access way for pedestrian and for vehicles with a clear visibility.</li> </ul>
<b>Design Principle 8 – Housing Diversity and Social Interaction</b>	
<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<ul style="list-style-type: none"> <li>• The elevations are varied in expression and designed primarily to respond to sun, setbacks and the site. The building has a classic, clean aesthetic, tempered by environmental control, site response and landscape elements.</li> <li>• The size, configuration and mix of the apartments associated with the development provides an appropriate response to the market demand of future occupants</li> <li>• The development has provided generous width of lobbies for ease of accessibility and analysis has been conducted to ensure the development complies with the accessibility requirements.</li> <li>• As set out in DCP, a minimum of 10% of the units are designed to be adaptable with minimum retrofit at a later stage. The development has also provided generous width of lobbies for ease of accessibility and analysis has been conducted to ensure the development complies with the accessibility requirements.</li> <li>• General access for people with disabilities has also been addressed in the design of the building and common areas.</li> </ul>



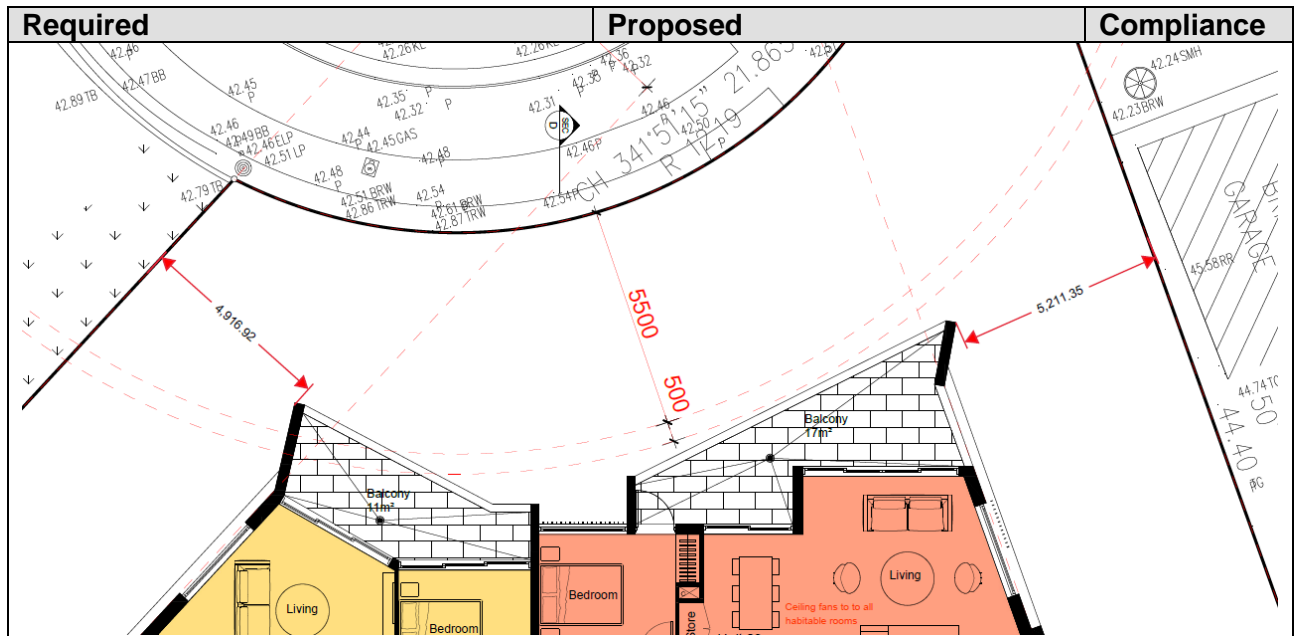
Design Quality Principle	Comment
	<ul style="list-style-type: none"> <li>The site is located within close proximity to necessary facilities including public transport, shops, educational and leisure facilities as well as schools.</li> </ul>
<b>Design Principle 9 – Aesthetics</b>	
<p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<ul style="list-style-type: none"> <li>Built form and scale façade respond to existing context and also desired future character.</li> <li>The proposal includes the use of common materials such as brick and render which responds well to the existing context and also desired future character.</li> <li>The elevations are varied in expression and designed primarily to respond to sun, setbacks and the site. The building has a modern and clean aesthetic, tempered by environmental control, site response and landscape elements</li> <li>Colours and material selections have been made to create transitions between inside and outside and allowing the development to add value to its surrounding neighbourhood.</li> <li>All materials selected will be durable and hard wearing so the development does not prematurely age. This will enhance the long-term image of the building with its careful composition of building elements, textures, materials, colours, internal design and structure contributing positively to the desired future character of the vicinity.</li> </ul>

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

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

Required	Proposed	Compliance
<b>2E Building depth</b>		
<p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation</p>	<p>Although the development has a maximum building depth of 19.4m, it varies between 15.1m and 19.4m, with the majority of the building below 18m in depth. The proposal responds to the general principals of building depth design in ensuring the minimum requirements for solar access and natural ventilation for the development are met. Walls are also articulated along each frontage and the choice of materials creates interest in the facades. Additionally,</p>	<p>Considered Acceptable</p>

Required	Proposed	Compliance												
	adverse privacy and overshadowing on adjoining sites are mitigated by the development.													
<b>2F Building separation</b>														
<p>Minimum separation distances for buildings are:</p> <p><u>Up to four storeys (approximately 12m):</u></p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies (<b>6m to boundary</b>)</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <p><u>Five to eight storeys (12m to 25m)</u></p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies (<b>9m to boundary</b>)</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> <p><b>Note:</b> It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance.</p>	<p>The proposal provides the following:</p> <p><u>Up to four storeys (Ground to Level 3)</u></p> <table border="1" data-bbox="799 611 1259 1424"> <thead> <tr> <th data-bbox="799 611 911 645">Setback to boundary</th> <th colspan="2" data-bbox="1118 611 1259 645">Variance</th> </tr> </thead> <tbody> <tr> <td data-bbox="799 647 911 882">South</td> <td data-bbox="917 647 1102 882">Mostly 6m apart from splay corner of balcony on South-West Units (8, 12, 16)</td> <td data-bbox="1118 647 1259 882">Max. 1.084m 18%</td> </tr> <tr> <td data-bbox="799 884 911 1120">North</td> <td data-bbox="917 884 1102 1120">Mostly 6m apart from splay corner of balcony on North-West Units (5, 9, 13)</td> <td data-bbox="1118 884 1259 1120">Max. 0.789m 13.1%</td> </tr> <tr> <td data-bbox="799 1122 911 1424">East</td> <td data-bbox="917 1122 1102 1424">6m to habitable rooms and balconies 3.55m to stair structure (non-habitable)</td> <td data-bbox="1118 1122 1259 1424">Nil</td> </tr> </tbody> </table> <p><b>See discussion below on building separation/setbacks:</b></p>	Setback to boundary	Variance		South	Mostly 6m apart from splay corner of balcony on South-West Units (8, 12, 16)	Max. 1.084m 18%	North	Mostly 6m apart from splay corner of balcony on North-West Units (5, 9, 13)	Max. 0.789m 13.1%	East	6m to habitable rooms and balconies 3.55m to stair structure (non-habitable)	Nil	<p>Considered Acceptable</p>
Setback to boundary	Variance													
South	Mostly 6m apart from splay corner of balcony on South-West Units (8, 12, 16)	Max. 1.084m 18%												
North	Mostly 6m apart from splay corner of balcony on North-West Units (5, 9, 13)	Max. 0.789m 13.1%												
East	6m to habitable rooms and balconies 3.55m to stair structure (non-habitable)	Nil												
<b>Discussion on building separation</b>														
<p>The relevant discussion in terms of building separation is the boundaries to north and south where potential RFB's may be constructed in the future.</p>														
<p>The side setbacks provided to the northern and southern boundaries for Levels 1-3 is predominantly the required 6m or greater. However, as shown in the figure below, the setback of the corner splays of the front balconies addressing Wilga Close for the north-west and south-west units are slightly encroaching within the building separation requirement of the ADG. The non-compliance accounts for 1.38m of the northern façade, which equates to 6.7% of the building length and 2.24m of the southern façade, which equates to 9.7% of the building length. The prescribed setback is 6m to achieve a building separation of 12m prescribed in the ADG.</p>														



The above breach allows for a unique design to front Wilga Close and also opens up the balcony and living rooms to allow for a slight increase in solar access during the afternoons and thus an overall increase in residential amenity for future occupants. It is apparent from the assessment of building separation that the non-compliance would potentially occur when the neighbouring site to the west is to be redeveloped. To address this, visual privacy measures to mitigate any potential overlooking impacts to future occupants' have been proposed by the applicant as the splay walls where the encroachment take place are solid. No undue overshadowing or overlooking into neighbouring sites comes as a result of the design of the balcony walls for this development.

It should be noted that the proposal complies with FSR and largely complies with maximum building height development standard is considered acceptable in the circumstance, and the proposal is not considered to be an over development of the site with regards to the LLEP 2008.

Accordingly, the proposed variation to building separation is considered acceptable in this instance, and for the reasons detailed above the development is considered acceptable with regards to SEPP 65 and the ADG.

3F Visual Privacy			
Minimum separation distances from buildings to the side and rear boundaries are as follows:		6m separation to south and north between habitable rooms/balconies from ground level to level 3.	Considered Acceptable
Building Height	Habitable Rooms and Balconies	Areas with splay which goes within 6m separation are blank walls and it is deemed that visual privacy to adjoining sites to the north and south is not impacted by this area of the development.	
Up to 12m (4 storeys)	6m		
12m to 25m (5-8 storeys)	9m		

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

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: 1245933M**) has been submitted for the proposed development. The proposal is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

**(c) 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.

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. A Phase 1 Preliminary Site Investigation was also carried out by the applicant which concluded that no further investigation was necessary and the site is deemed suitable for the proposed use.

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.

**(d) 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 Engineering Section 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 Engineering Section. 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 Department of Planning and Environment - Water 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 Land Development 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 (Resilience and Hazards) 2021 subject to appropriate sedimentation and erosion controls during construction. The development will have minimal impact on the Georges River Catchment.

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

**(i) Zoning**

The subject sites are all zoned R4 – High Density Residential in accordance with the Liverpool Local Environmental Plan 2008. An extract of the zoning map is provided in Figure 4 below.

**(ii) Permissibility**

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

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

The proposed development satisfies the definition of a *residential flat building* as it is a building which contains more than 3 dwellings. This form of development is a permissible use within the R4 – High Density Residential zone.

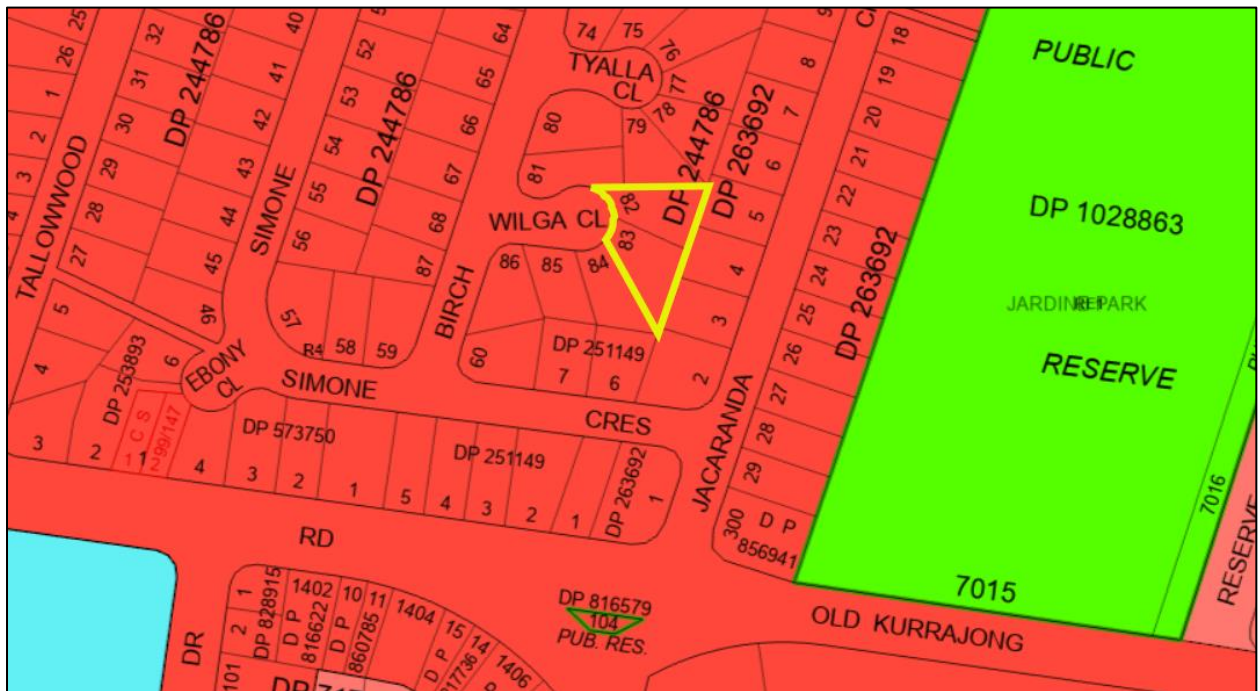


Figure 4 – Extract of LLEP 2008 zoning map (site in yellow box)

**(iii) Objectives of the zone**

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

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

The proposed development would meet and satisfy the above stated objectives. Specifically, the building will provide a total of 16 dwellings and the site is located in an area identified for urban renewal and transformation, in close proximity to transport, retail and commercial facilities.

**(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	Provision	Compliance
<b>Clause 2.7 Demolition</b>	The demolition of a building or work may be carried out only with development consent	<b>Complies</b> Development consent is sought for the demolition of the existing structures on site. A demolition plan has been submitted.
<b>Clause 4.1</b>	The size of any lot resulting	<b>Complies</b>

<b>Minimum Subdivision Lot Size</b>	from a subdivision of land is not to be less than 1000m <sup>2</sup> .	The amalgamated site would have a site area over 1000sqm being 1210sqm.
<b>Clause 4.3 Height of Buildings</b>	Maximum height of 15m	<b>Considered acceptable – see Clause 4.6 - Variation assessment below.</b> A building height of 15.6m is proposed.
<b>Clause 4.4 Floor Space Ratio</b>	Maximum FSR of 1:1	<b>Complies</b> The development provides an FSR of 0.994:1 (1202.8sqm/1210sqm)
<b>Clause 4.6 Exceptions to development standards</b>	Provisions relating to exceptions to development standards	<b>See Clause 4.6 Discussions Below</b> Clause 4.6 request to vary Clause 4.3 Height of Buildings and Clause 7.14 – Minimum Building Street Frontage considered as part of this application.
<b>6.5 Public Utility Infrastructure</b>	Public utility infrastructure must be available	<b>Complies</b> The area is an existing residential area and will utilise existing Public Utility Infrastructure.
<b>Clause 7.14 Minimum Building Street Frontage</b>	Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres: - any residential flat building.	<b>Considered acceptable – see Clause 4.6 - Variation assessment below.</b> The site has a front boundary measuring 21.865m to Wilga Close.
<b>Clause 7.31 Earthworks</b>	Provisions relating to bulk earthworks	<b>Complies</b> No bulk earthworks proposed other than those ancillary to the development being excavation for the proposed basement.

### **Clause 4.6 - Exceptions to development standards**

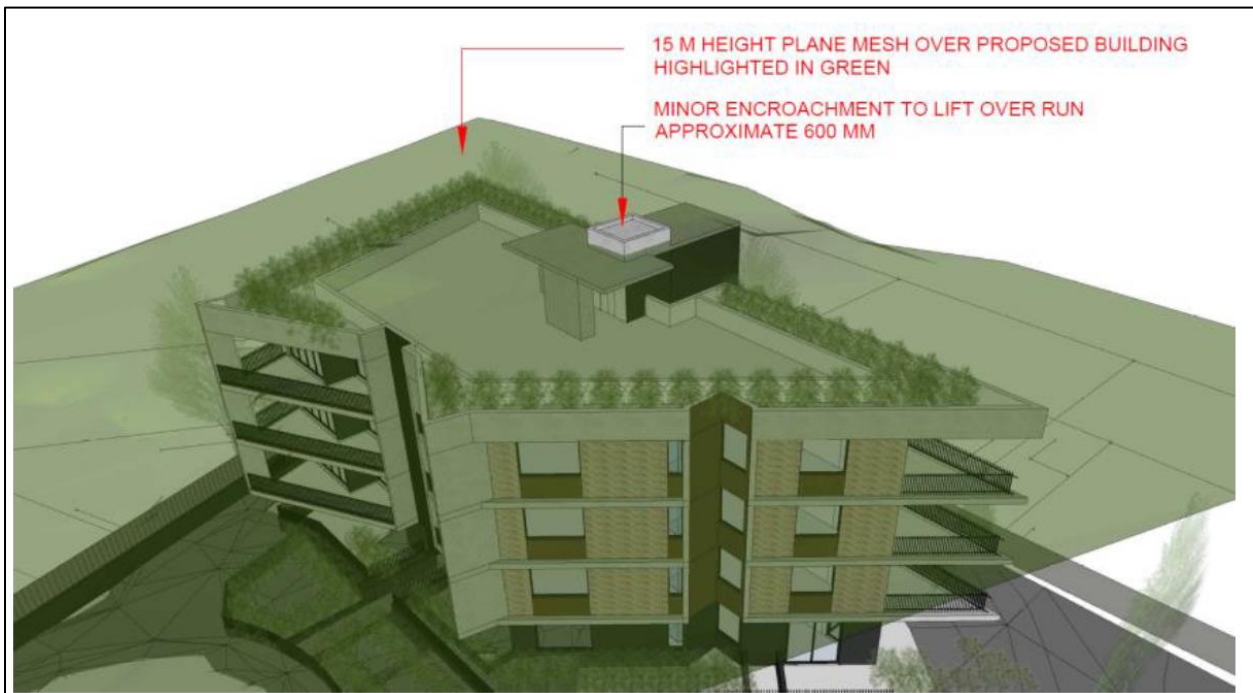
#### **(Variation to Clause 4.3 - Height of Buildings)**

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

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

The subject proposal seeks a variation to the maximum height of buildings contained in LLEP 2008. The maximum height of buildings is to be 15m. The subject development is applying for an exceedance of building height. The maximum height proposed as part of this application is 15.6m to the lift overrun. This equates to a variation of 0.6m which is expressed in a percentage as 4% to the development standard. The extent of the variation can be found in the Figure below.





**Figure 5** – Height Plane of the development showing extent of the building height encroachment

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

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

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

The applicant submitted a Clause 4.6 Variation Statement to the Height of Buildings

Development Standard, dated 29 April 2022, in order to justify the variation described above. This document provides the following justifications based on the merits of the proposal:

Variation to Height of Buildings, Clause 4.3:

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

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

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

**Applicant Comment**

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard”*

The judgement goes on to state that:

*“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)”*

Preston CJ in the judgement then expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purpose of this Clause 4.6 variation [our underline]):

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

*That is, the particular parcel of land should not have been included in the particular zone.*

Relevantly, in *Initial Action Pty Ltd V Woollahra Municipal Council [2018] NSW LEC* (paragraph 16), Preston CJ, refers to *Wehbe* and states:

*“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl. 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary”.*

Compliance with the maximum Height of Buildings development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this Statement. The proposed development provides a built form that is of a scale, density, landscaped setting and external appearance that is compatible with the future desired character for the local area that is anticipated by *Liverpool Local Environmental Plan 2008*. The building will comply with the maximum height limit with the exception of a small 0.6m non-compliance arising from a lift overrun that is the result of providing communal open space on the roof level of the building.

### **Council Comment**

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

- The extent of the height exceedance occurs at the lift overrun of the building. The lift overrun is located further towards the centre on the roof of the building and is not readily visible when viewed from the street and does not generate additional overshadowing on adjoining properties.
- The extent of the variation is 4%, which is considered minor in this instance and will not contribute to additional visual bulk and scale of the development.
- The development provides a consistent floor to floor height of 3.1m, which exceeds the minimum in the ADG. The additional height provides added amenity for the units by enabling better solar access and cross-ventilation and enables a better urban design outcome. The floor-floor height may be reduced to achieve a height compliance, however, will result in a less the ideal design outcome.
- The variation to building height is a direct result from the recommendations of the first Design Excellence Panel, in which it was recommended to incorporate a rooftop communal open space for the development. The applicant subsequently met this recommendation, resulting in the non-compliance with the height development standard for the lift overrun portion of the building only, due to the need to service the rooftop open space, but still providing compliance with the development standard with all other aspects of the rooftop.
- Notwithstanding the height exceedance the proposed development does not create any detrimental overshadowing or privacy impacts on the adjoining developments.
- The proposed development is considered to be of an appropriate bulk and scale and is consistent with the design principles and relevant standards and objectives of the ADG.

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

Based on the applicant's comments and investigation into the 4.6 variation to the building height, and the review of the potential impact of the height extrusion it is considered that strict compliance is unlikely to reduce any impact and that it is argued that the height variation for the purpose of lift overruns provides improved amenity for future residents and does not negatively impact on the local area in terms of additional overshadowing or determinantal impact to the design of the building. Further, the additional height is not contributing to any detrimental increases in bulk and scale over the site including compliance with the floor space ratio provisions for the development. Compliance with the standard is unreasonable in this case as a development can be constructed on the site that generally adheres with the planning controls and provisions for a form of development that is consistent with the future anticipated high density residential character. Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 4.3 – Height of Buildings in this instance.

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

### **Applicant Comment**

Having regard to Clause 4.6 (3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd V Woollahra Municipal Council [2018] NSW LEC 118* (paragraph 24) states:

*“The environmental planning grounds relied on in the written request under cl. 4.6 must be “sufficient”. There are two respects in which the written request need to be “sufficient”. First the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248* at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under clause 4.6(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 90* at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 90* and *Four2Five Pty Ltd v Ashfield Council [2015] NSW CA 248* whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify the variation to the maximum Height of Buildings development standard:

1. The height non-compliance is associated only with the proposed lift overrun which

provides for access to a high quality and amenity area of communal open space for the benefit and enjoyment of residents and their visitors.

2. The relocated communal open space from ground level to the roof is a direct response to recommendations of the Design Excellence Panel and will satisfy the objectives and design criteria of the Apartment Design Guide.

3. The variation to the Height of Buildings development standard does not result in any other non-compliances. The proposal is compliant with all other development standards under the Liverpool Local Environmental Plan and Liverpool Development Control Plan 2008.

4. The location of the non-compliance being located in the centre of the building will have no greater overshadowing impact on adjoining properties compared to a compliant proposed.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development such as a scheme which would be unable to provide for a high-quality area of communal open space that will be provided with year round solar access and amenity. There are sufficient environmental planning grounds to justify contravening the development standard.

### **Council Comment**

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

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

### **Consistency with objectives of the development standard Clause 4.3 Height of Buildings**

The objectives of Clause 4.3 and assessment are as follows:

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

The Clause 4.6 application provides response as to the consistency of the development with the objectives of Clause 4.3 as follows:

- (a) *to establish the maximum height limit in which buildings can be designed and floor space can be achieved.*

**Applicant Comment:** Objective (a) is satisfied and the proposal is fully compliant with the FSR development standard and only involves a minor variation to the Height of Buildings development standard.

**Council Comment:** The breach in building height does not result in a breach in floor space ratio and is consistent with this objective.

(b) to permit building heights that encourage high quality urban form,

**Applicant Comment:** The proposed residential apartment building has been designed to be consistent with the R4 High Density Residential zoning of the site and the future desired character of the local area that is undergoing transition. The design of the development has been informed by the objectives and design criteria set out in SEPP 65 and the ADG.

**Council Comment:** The building demonstrates design excellence and the breach in building height is unlikely to impact on the urban form. The height will also assist in providing a higher quality design and also providing better residential amenity for future occupants of the units.

(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,

**Applicant Comment:** Objective (c) seeks to avoid adverse environmental impacts on adjoining properties and the public domain. Having regard to its design and scale, the proposal creates no additional overshadowing to nearby properties when compared to a compliant building envelope. Given the site orientation and topography, the proposal does not result in any additional privacy impacts and does not result in any adverse traffic or parking impacts above those arising from the existing building.

**Council Comment:** The variation to building height will not cause unsatisfactory issues on adjoining sites as they will still be able to receive adequate solar access to their living rooms and private open spaces in their low density residential form as well as in the future as a developed site with appropriate building separation. The increase in roof form for the lift overrun element will not exacerbate shadowing from that of a complaint building.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity”.

**Applicant Comment:** All of the land surrounding the subject site is zoned R4 High Density Residential and has comparable density and building height controls under Liverpool Local Environmental Plan 2008. Therefore, there is no requirement to transition the height of the building down to that of a lesser zone and height limit.

**Council Comment:** The breach in building height would provide an appropriate built form in the locality, which has the same zoning and height limits. The variation is unlikely to cause noticeable visual issues when viewed from the streetscape and the building footprint and floor space ratio is consistent with the ADG, provisions of the LEP and the desired future character of the locality.

**Overall Council Comments:** It is considered that the proposed development is consistent with the objectives of Clause 4.3 in that the proposed development encourages high quality urban form. Despite the minor non-compliance, the proposed development achieves the required solar access to living areas and POS as required by the ADG. The exceedance does not add any additional FSR, density or bulk and scale with the proposed development providing an appropriate density outcome for the site.

**Consistency with objectives of the zone – R4 High Density Residential**

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

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

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

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

*The proposed development will contribute to the supply of housing in an appropriate location and at an appropriate density.*

- To provide a variety of housing types within a high density residential environment.

*The proposal will contribute towards the diversity of housing types in the Liverpool LGA at a density that is commensurate with the planning controls applying to the site.*

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

*Not applicable.*

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

*The proposed development will contribute to the supply of housing at an appropriate density that is located close to transport, retail and professional services and community facilities.*

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

*The proposed development is one of the first high density developments in the local area and will not fragment adjacent land so as to prevent the LEP's objectives being achieved.*

**Council Comments**

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

**Consistency with Clause 4.6 objectives**

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

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

**Recommendation**

With considerations to the discussion above, the proposed variation to Clause 4.3 – Height of Buildings, adequately addresses the provisions of Clause 4.6 including the objectives of the development standard and the zoning. The proposal is also considered to be in the public interest and is therefore supported in this instance.

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**(Variation to Clause 7.14 Minimum Building Street Frontage)**

Clause 7.14 of the Liverpool Local Environmental Plan (LLEP) 2008 states;

*“Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres—*

- (a) any building on land in Zone B3 Commercial Core or B4 Mixed Use, or*
- (b) any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or*
- (c) any residential flat building..”*

The subject proposal seeks a variation to the minimum building street frontage contained in Clause 7.14 of the LLEP 2008. The minimum building street frontage is to be 24m for the residential flat building. The subject development is applying for a variation to the minimum building street frontage, in which the front boundary to Wilga Close for the subject development is 21.865m. This equates to a variation of 2.135m, which is expressed in a percentage as 8.9% to the development standard. The extent of the variation can be found in the Figure below.



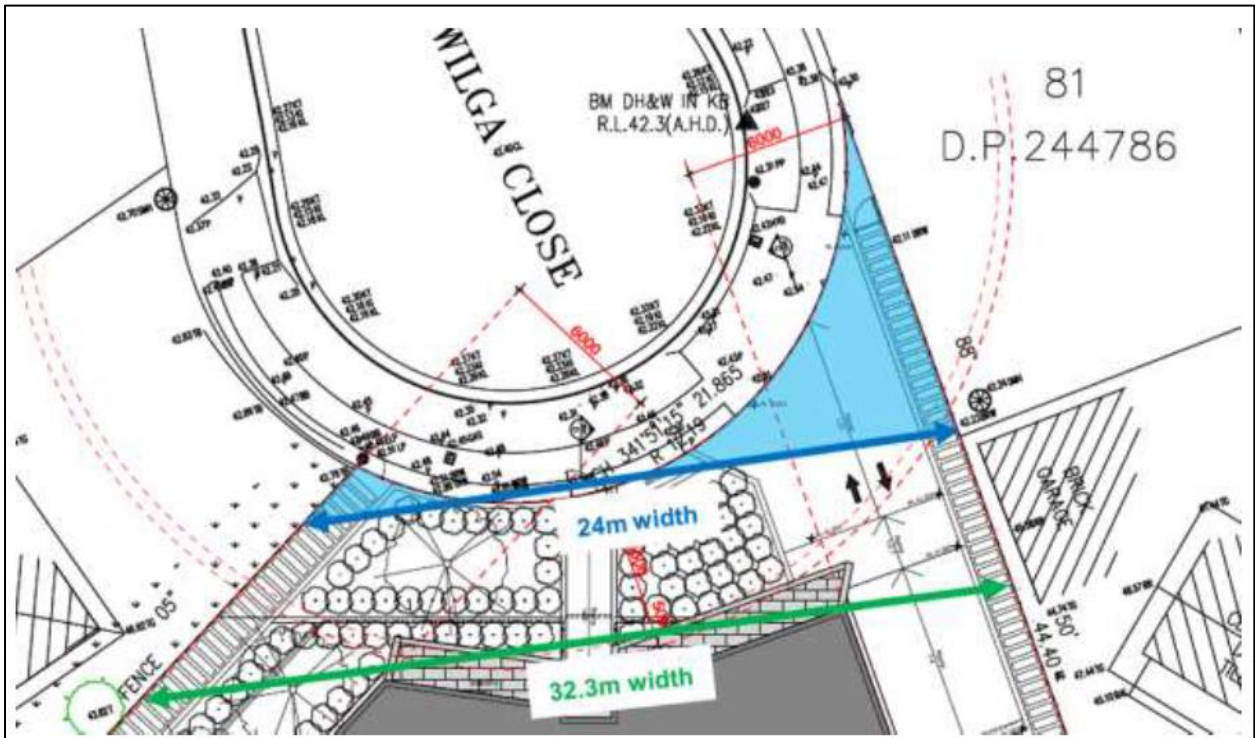


Figure 6 – Frontage dimensions showing where a 24m width is as well as the width at the building line.

Consequently, pursuant to Clause 4.6 of the LLEP 2008, the applicant has submitted a written request seeking a variation to the minimum building street frontage as prescribed by Clause 7.14.

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

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

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

The applicant submitted a Clause 4.6 Variation Statement to the minimum building street frontage development standard at the time of lodgement, in order to justify the variation described above. This document provides the following justifications based on the merits of the proposal:

Variation to Minimum Building Street Frontage, Clause 7.14:

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

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

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

**Applicant Comment**

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard”*

The judgement goes on to state that:

*“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)”*.

Preston CJ in the judgement then expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purpose of this Clause 4.6 variation [our underline]):.

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;**
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence*

*compliance with the standard is unnecessary and unreasonable.*

*5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as it applies to the land and compliance with the standard that would be unreasonable. That is, the particular parcel of land should not have been included in the particular zone.*

Relevantly, in *Initial Action Pty Ltd V Woollahra Municipal Council [2018] NSW LEC* (paragraph 16), Preston CJ, refers to *Wehbe* and states:

*“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl. 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary”.*

**Objective (a): to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,**

As outlined in Section 1 of this variation request, the subject site is generally in excess of 24m in width, with only a small portion of the front of the site being less than 24m wide. Accordingly, the area of the site where the building is proposed to be located is in excess of 24m wide, with the width of the site at the front building line being 32.3m. This enables a building to be proposed on site that achieves a high level of compliance with the applicable planning controls under the Apartment Design Guide, LLEP and LDCP 2008. The high level of compliance results in a building envelope that is generally anticipated by the controls and consistent with the desired future character of the site.

In particular, the development complies with the applicable maximum height and FSR under LLEP, and building setbacks prescribed under LDCP 2008. Furthermore, the development achieves excellent levels of amenity for future occupants, and complies with the majority of requirements under the ADG, including in relation too deep soil and communal open space.

In respect of the scale and form of the development, the Proposal is achieves a sensible and well-considered balance between vertical and horizontal proportions, despite the minimum building street frontage variation. The proposed building will be 4 storeys and is compliant with the maximum height prescribed under LLEP. The uppermost storey utilises a change in materiality to provide additional vertical expression. This is balanced out by vertical banding incorporated into the design and articulation of the building, including the form of the front balconies. Compliant setbacks, including 6m side setbacks and a large landscaped front setback enable the Proposal to achieve a landscaped setting, with screen planting provided to further soften the appearance of the development.

Overall, the scale and form of the development is in keeping with the size and shape of the subject site and compatible with the desired future character of the locality. As illustrated in Figure 12 below, the proposed development provides a well-balanced building form that has an appropriate horizontal proportion compared to its vertical proportions. Thus, it will provide a high quality development that is not visually jarring and will enhance the appearance of the site and streetscape, and will set a strong precedent for future high density residential development in the locality. The Proposal therefore achieves Objective (a).



Figure 12 Perspective of the proposed development as viewed from Wilga Close

**Objective (b): to ensure that vehicular access is reasonably spaced and separated along roads and lanes,**

The site currently contains two lots, each of which contains a detached dwelling house with off-street parking accessed via a driveway directly from Wilga Close. These driveways dominate the frontage of the site (as illustrated in **Figure 13** below). The proposal includes one vehicle access from Wilga Close on the northern side of the site, in a similar location to the existing driveway to No. 2 Wilga Close. In addition, the proposal will reinstate the footway, nature strip, kerb and gutter along the rest of the frontage of the site. This will have obvious benefits in enhancing the visual appearance of the streetscape, reducing the visual clutter of additional driveways, and increasing on-street parking capacity.

Furthermore, the proposed driveway will be set away from existing driveways accessing adjoining neighbouring properties, including Nos. 4 and 5 Wilga Close to the south and No. 10 Birch Avenue to the north. This will ensure that vehicle accesses on the street include reasonable visual separation from one another. Accordingly, despite the minimum building street frontage variation, the Proposal achieves Objective (b).



Figure 13 Existing driveways accessing the site

**Objective (c): to provide appropriate dimensions for the design of car parking levels,**

The proposed development includes a basement level for car parking, which is typical of modern residential flat building development throughout Liverpool LGA and the wider Sydney Region. The car park has been designed to accord with the relevant requirements of Section 8 in Part 3.7 of Liverpool DCP 2008. Furthermore, the geometric design layout of the car park is capable of complying with *AS2890.1:2004 Parking facilities: Part 1 - Off-street car parking* and *AS2890.6:2009 Parking facilities: Part 6 - Off-street car parking for People with Disabilities*. This is confirmed in the Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd.

Therefore, despite the minimum building street frontage variation, the Proposal provides a car parking area that will allow for safe and efficient access, parking and manoeuvring for future occupants and complies with the parking rates outlined in the DCP. The Proposal therefore satisfies Objective (c).

**Objective (d): to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.**

The subject site is located in a part of Casula that has recently been rezoned to R4 High Density Residential, with an expectation that existing low density residential built form (as exists on the site) will be replaced with 4 and 5 storey residential flat buildings (as proposed). As discussed in Section 1 above, the subject site is generally in excess of 24m wide, with the non-compliant (less than 24m wide) parts being confined to the very front of the site. The point of the site where the front building line is proposed is some 32.3m wide; 8.3m wider than the minimum requirement under Clause 7.14 of LLEP.

As a result, the subject site is capable of accommodating the proposed development, which provides a scale and form that is compatible with the desired future character of the locality, being for high density residential development. As outlined throughout this Statement of Environmental Effects, the proposed development achieves a high level of compliance with the applicable planning controls, including the Apartment Design Guide, LLEP and LDCP 2008.

Despite the minimum building street frontage variation, the Proposal therefore achieves Objective (d) by enabling a high density residential development on the site that is consistent with the objectives of the R4 zone (as outlined in Section 5 below) and will set a precedent for high quality development in the locality.

**Summary**

The above adequately demonstrates that compliance with the Minimum building street frontage is unreasonable or unnecessary in the circumstances in this case where the Proposal achieves the objectives of the standard, notwithstanding the Variation.

Compliance with the minimum building street frontage development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out above. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. The objectives of the zone are addressed in Section 5 below.

**Council Comment**

In response to the comments raised above, Council has provided the following justification as to why the imposition of the applicable minimum building street frontage is unreasonable and unnecessary in this instance:

- The extent of the variation is 8.9%, which is considered minor in this instance given the unique shape of the lot and is only a non-compliant element for approximately the first 1.8m along the southern boundary and 14.8m along the northern boundary.
- The site is in excess of 24m where the building line is situated, being 32.3m wide, which is also wider than a number of residential flat building applications in the LGA.
- The frontage width does not impact on the ability for the proposed development to provide a high quality of residential amenity to the future occupants of the building. The development application is still able to provide a building which portrays design excellence and the reduced frontage perimeter does not impact on the built form that can be produced.
- The reduced lot frontage is a direct correlation with being on a cul-de-sac head, with a narrower street frontage and a wider rear.
- The development is able to meet the objectives of the development standard.
- The proposed development does not create any detrimental overshadowing or privacy impacts on the adjoining developments.
- The proposed development is considered to be of an appropriate bulk and scale and is consistent with the design principles and relevant standards and objectives of the ADG.
- The applicant is also proposing to amalgamate two sites to gain a greater frontage width and the width of the site at the rear boundary is almost 2.5 times larger than the minimum frontage requirement of 24m.
- The reduced lot frontage to the street does not limit the operations of the development including waste collection and access arrangements.

Compliance with the standard is unreasonable in this case as the development can be sited with adherence to local provisions and any future development on the allotments would still be able to provide housing suitable for the area and provide for the housing needs for the community.

Based on the applicant's comments and investigation into the 4.6 variation, it is considered that strict compliance is unlikely to reduce any impacts and that it is argued that the variation to the minimum requirement for lot frontage would not cause any detrimental impacts on the amenity of future occupants as well as those currently on adjoining sites and the desired locational character in the future. Compliance with the standard is unreasonable in this case as a development can be constructed on the site that generally adheres with the planning controls and provisions for a form of development that is consistent with the future anticipated high density residential character. Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 7.14 – Minimum Building Street Frontage in this instance.

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

standard

### **Applicant Comment**

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite non-compliance with the Minimum building street frontage, the proposed scale and form of the development is compatible with the desired future character of the locality and fits well within the streetscape.

It is important to reiterate here that the Variation (or contravention) is 2.135m or 8.9%.

It has been held in *Eather v Randwick City Council* [2021] NSWLEC 1075 that a particularly small departure from the actual numerical standard which lacks any material impacts consequential of the departure will be a sufficient environmental planning ground to justify contravening the development standard.

It is considered that the Variation is particularly small. This particularly small departure is also considered not to have any material impact, which arises as a consequence of the Variation, on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:

- Despite the Variation, the Proposal provides a building that has a scale, form and design that achieves a high degree of compliance with the ADG, LLEP (including maximum height and FSR), and relevant building envelope controls in the LDCP 2008. Accordingly, the Proposal provides a building envelope that is anticipated by the applicable controls and responds well to the site context. It will enhance the visual appearance of the site and streetscape and will set a high quality precedent for future development in the locality.
- The Variation is a result of the irregular shape of the subject site and only applies to a small portion of the front of the site. The vast majority of the site exceeds 24m in width, including the area where the building is proposed to be located (as illustrated in Section 1 of this variation request), where the site is 32.3m wide at the proposed front building line. As a result, the Variation does not result in development that is not able to achieve compliant setbacks, landscaping, or vehicle access.
- The Proposal will not result in any isolated sites on adjoining lots, despite the Variation. Adjoining sites to the north, east and south either already have at least a 24m minimum building street frontage or are capable of amalgamating with other adjoining lots in order to achieve a 24m minimum building street frontage. Accordingly, each of these adjoining lots are capable of being redeveloped for high density residential uses, consistent with the applicable R4 zoning and planning controls. This will not be affected by the proposed Variation on the subject site.
- The Proposal provides compliant car parking, safe and efficient vehicle and pedestrian access, and is capable of being serviced, including for waste collections, despite the Variation. This is confirmed in Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd and submitted under a separate cover.
- Despite the Variation, the Proposal will provide high levels of internal and external residential amenity to future occupants of the subject development, in particular:
  - The Proposal complies with the communal open space and deep soil requirements in accordance with Parts 3D and 3E of the ADG;
  - The proposed building complies with the building separation requirements in accordance with Part 3F of the ADG, with the exception of angled side windows and the POS of Unit 03, which do not give rise to any opportunities for adverse cross-views towards neighbouring properties.

- Accordingly, all of the proposed apartments will achieve a high level of visual privacy, consistent with Objective 3F-1 of the ADG; 13 out of 16 (81%) of proposed apartments will receive at least 2 hours of direct sunlight to private open space and main living rooms between 9am and 3pm on 21 June, in accordance with Part 4A of the ADG;
- All 16 (100%) of proposed apartments will achieve natural cross ventilation in accordance with Part 4B of the ADG; and
- All of the apartments complies or exceeds the internal and private open space size requirements in the ADG.
- Despite the Variation, the Proposal will not unduly impact neighbouring residential amenity, as follows:
  - The Proposal does not give rise to any adverse overshadowing of neighbouring properties, compared to a development on a site with a compliant minimum building street frontage. Shadow diagrams submitted with the application illustrate that the Proposal does give rise to some overshadowing of neighbouring properties to the south and west between 9am and 3pm on 21 June. However, these neighbouring properties will still achieve compliant levels of winter sunlight and therefore, the level of overshadowing is entirely reasonable in light of the applicable planning controls;
  - As outlined above, the Proposal does not result in any adverse cross-views towards neighbouring properties, given that generally compliant building setbacks are provided and windows and balconies are generally orientated to the front or rear of the site. Furthermore, the proposal will not give rise to any adverse acoustic impacts on neighbouring properties, with COS located in the rear setback at ground level;
  - The Variation will not result in any significant or unreasonable view loss. The proposed development will not result in any material loss of views or outlook when compared to a building with a compliant minimum building street frontage. No important views are obtained over the site and the proposed building scale and form is consistent with the applicable building envelope controls. Therefore, any impacts on neighbouring views and outlook are entirely reasonable.

Accordingly, the Variation is justifiable.

Further the following discussion provides that not only does the Variation advance the objects of the *Environmental Planning and Assessment Act 1979*, but also advances an environmental and planning benefit:

- The Proposal replaces two dated dwelling houses with a high quality residential flat building that is consistent with the R4 zoning of the site and the applicable planning controls, which seeks high density residential development in the locality. As outlined above, the Proposal achieves a high level of compliance with the applicable building envelope controls and will enhance the visual appearance of the site and the streetscape. Accordingly, the Proposal is consistent with the desired future character of the locality and will set a strong precedent for future high density developments in the area.
- The existing buildings on the Site include two driveways that dominate the site frontage and minimise the level of landscaping that can be provided within the front setback of the Site. In contrast, the Proposal will provide a single driveway access from Wilga Close, with the remained for the site frontage reinstated with footway, nature strip, kerb and gutter. This will enhance the visual appearance of the streetscape and allow for street tree planting. In addition, the rest of the front setback within the Site, other than for pedestrian access, is dedicated to soft landscaped area to allow for dense vegetation planting, including canopy trees. This will soften the overall appearance of the Site and provide a landscaped setting for the Proposal.
- The Variation advances the objects in Section 1.3 of the EPA Act, specifically:



- The redevelopment of the site, which is enabled through the Variation, promotes the orderly and economic use and development of land by replacing dated low density housing with a high quality residential flat building that is compatible with the desired future character of the locality. The redevelopment for high density residential purposes is consistent with the objectives of the R4 zone and the Proposal will set a strong precedent for future development of neighbouring sites in the locality (1.3(c));
- The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context, and the desired future character of the locality (1.3(g)).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly the fact that the vast majority of the Site has a width in excess of 24m. The proposed Variation does not materially impact the amenity of the neighbouring properties (when compared to a compliant development) and has the Proposal has designed in such a way to ensure that the development achieves high levels of amenity for future occupants and is of a scale and form that is compatible with the streetscape and is not visually jarring from the public domain.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

*"86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the noncompliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*

*87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard."*

As outlined above, it is considered that in many respects, the Variation will provide for a better or similar planning outcome than a Minimum building street frontage compliant development.

Accordingly the Variation is justifiable.

### **Council Comment**

As a result of the assessment above, it is also considered that compliance with the Minimum Building Street Frontage development standard is unreasonable or unnecessary due to the

circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard. The narrower street frontage in this case due to the cul-de-sac head does not cause detrimental impacts on the design of the building and ensures that a high quality building with a high level of residential amenity can be achieved. It is also noted that this development has a wider site internally and the non-compliant element is present for approximately the first 1.8m along the southern boundary and 14.8m along the northern boundaries and the site is a unique shape in which the development is able to meet the design principles and relevant standards and objectives of the ADG. The objectives of the Minimum Building Street Frontage clause, as per the Liverpool LEP 2008, have also been addressed, as well as the objectives of the zone.

Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 7.14 – Minimum Building Street Frontage in this instance.

**Consistency with objectives of the development standard Clause 7.14 – Minimum Building Street Frontage**

The objectives of Clause 7.14 and assessment are as follows:

- (a) *to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,*
- (b) *to ensure that vehicular access is reasonably spaced and separated along roads and lanes,*
- (c) *to provide appropriate dimensions for the design of car parking levels,*
- (d) *to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.*

The applicant has provided the following response to how the development is consistent with these objectives:

***Objective (a): to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,***

As outlined in Section 1 of this variation request, the subject site is generally in excess of 24m in width, with only a small portion of the front of the site being less than 24m wide. Accordingly, the area of the site where the building is proposed to be located is in excess of 24m wide, with the width of the site at the front building line being 32.3m. This enables a building to be proposed on site that achieves a high level of compliance with the applicable planning controls under the Apartment Design Guide, LLEP and LDGP 2008. The high level of compliance results in a building envelope that is generally anticipated by the controls and consistent with the desired future character of the site.

In particular, the development complies with the applicable maximum height and FSR under LLEP, and building setbacks prescribed under LDGP 2008. Furthermore, the development achieves excellent levels of amenity for future occupants, and complies with the majority of requirements under the ADG, including in relation to deep soil and communal open space.

In respect of the scale and form of the development, the Proposal achieves a sensible and well-considered balance between vertical and horizontal proportions, despite the minimum building street frontage variation. The proposed building will be 4 storeys and is compliant with the maximum height prescribed under LLEP. The uppermost storey utilises a change in materiality to provide additional vertical expression. This is balanced out by vertical banding incorporated into the design and articulation of the building, including the form of the front balconies. Compliant setbacks, including 6m side setbacks and a large landscaped front

setback enable the Proposal to achieve a landscaped setting, with screen planting provided to further soften the appearance of the development.

Overall, the scale and form of the development is in keeping with the size and shape of the subject site and compatible with the desired future character of the locality. As illustrated in Figure 12 below, the proposed development provides a well-balanced building form that has an appropriate horizontal proportion compared to its vertical proportions. Thus, it will provide a high quality development that is not visually jarring and will enhance the appearance of the site and streetscape, and will set a strong precedent for future high density residential development in the locality. The Proposal therefore achieves Objective (a).



Figure 12 Perspective of the proposed development as viewed from Wilga Close

**Objective (b): to ensure that vehicular access is reasonably spaced and separated along roads and lanes,**

The site currently contains two lots, each of which contains a detached dwelling house with off-street parking accessed via a driveway directly from Wilga Close. These driveways dominate the frontage of the site (as illustrated in **Figure 13** below). The proposal includes one vehicle access from Wilga Close on the northern side of the site, in a similar location to the existing driveway to No. 2 Wilga Close. In addition, the proposal will reinstate the footway, nature strip, kerb and gutter along the rest of the frontage of the site. This will have obvious benefits in enhancing the visual appearance of the streetscape, reducing the visual clutter of additional driveways, and increasing on-street parking capacity.

Furthermore, the proposed driveway will be set away from existing driveways accessing adjoining neighbouring properties, including Nos. 4 and 5 Wilga Close to the south and No. 10 Birch Avenue to the north. This will ensure that vehicle accesses on the street include reasonable visual separation from one another. Accordingly, despite the minimum building street frontage variation, the Proposal achieves Objective (b).



Figure 13 Existing driveways accessing the site

**Objective (c): to provide appropriate dimensions for the design of car parking levels,**

The proposed development includes a basement level for car parking, which is typical of modern residential flat building development throughout Liverpool LGA and the wider Sydney Region. The car park has been designed to accord with the relevant requirements of Section 8 in Part 3.7 of Liverpool DCP 2008. Furthermore, the geometric design layout of the car park is capable of complying with *AS2890.1:2004 Parking facilities: Part 1 - Off-street car parking* and *AS2890.6:2009 Parking facilities: Part 6 - Off-street car parking for People with Disabilities*. This is confirmed in the Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd.

Therefore, despite the minimum building street frontage variation, the Proposal provides a car parking area that will allow for safe and efficient access, parking and manoeuvring for future occupants and complies with the parking rates outlined in the DCP. The Proposal therefore satisfies Objective (c).

**Objective (d): to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.**

The subject site is located in a part of Casula that has recently been rezoned to R4 High Density Residential, with an expectation that existing low density residential built form (as exists on the site) will be replaced with 4 and 5 storey residential flat buildings (as proposed). As discussed in Section 1 above, the subject site is generally in excess of 24m wide, with the non-compliant (less than 24m wide) parts being confined to the very front of the site. The point of the site where the front building line is proposed is some 32.3m wide; 8.3m wider than the minimum requirement under Clause 7.14 of LLEP.

As a result, the subject site is capable of accommodating the proposed development, which provides a scale and form that is compatible with the desired future character of the locality, being for high density residential development. As outlined throughout this Statement of Environmental Effects, the proposed development achieves a high level of compliance with the applicable planning controls, including the Apartment Design Guide, LLEP and LDCP 2008.

Despite the minimum building street frontage variation, the Proposal therefore achieves Objective (d) by enabling a high density residential development on the site that is consistent with the objectives of the R4 zone (as outlined in Section 5 below) and will set a precedent for high quality development in the locality.

**Summary**

The above adequately demonstrates that compliance with the Minimum building street frontage is unreasonable or unnecessary in the circumstances in this case where the Proposal achieves the objectives of the standard, notwithstanding the Variation.

Compliance with the minimum building street frontage development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out above. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. The objectives of the zone are addressed in Section 5 below.

**Overall Council Comments:** It is considered that the proposed development is consistent with the objectives of Clause 7.14 in that the proposed development encourages high quality urban form and development is able to meet the design principles and relevant standards and objectives of the ADG and SEPP 65. Despite the minor non-compliance, the proposed development achieves a high quality of residential amenity and portrays design excellence. The exceedance does not add any additional FSR, density or bulk and scale with the proposed development providing an appropriate density outcome for the site. The development provides a visually appropriate scale that is proportionate horizontally and vertically given the site is much wider at the building line. Additionally, vehicular access to the site is considered to be acceptable and car parking in the basement is adequate for this style of development.

**Consistency with objectives of the zone – R4 High Density Residential**

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

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

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

- Provides a high density residential building that contains 16 apartments, which achieve excellent levels of residential amenity. This includes a range of apartment types and sizes, including adaptable apartments that will add to housing choice in the locality and will provide for the housing needs to the local community.
- Includes 16 apartments (5 x 1-beds and 11 x 2-beds) in a range of sizes and includes 2 x adaptable apartments that will add to the variety of housing types in the locality within a suitable high density residential environment.
- Will not affect any other land uses that provide facilities or services to meet the day to day needs of residents.

- Is located in an accessible within 300m of bus stops on Kurrajong Road that provide frequent bus services to a number of suburbs, centres and transport nodes in Southwest Sydney. The Site also has convenient access to Casula Mall, providing a number of shops and services, as well as nearby employment, education and recreational facilities. The Site is therefore well-suited for a high density residential development such as the Proposal.
- As outlined throughout this variation request, the Proposal provides a highly compliant development despite the proposed Variation. The vast majority of the site exceeds 24m in width and is thus capable of supporting a high quality residential flat building. Furthermore, the Proposal does not result in the isolation of any neighbouring sites, all of which are capable of being redeveloped for high density residual uses, either on their own or as part of larger amalgamated sites. Therefore, the development does not result in the fragmentation of land that would prevent the achievement of high density residential development on neighbouring sites or in the wider locality.

For these reasons the Proposal is consistent the relevant objectives for development in Zone R4.

Accordingly, the consent authority can be satisfied that the Proposal is in the public interest, because it is consistent with the objectives of both the development standard and the zone.

### **Council Comments**

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

### **Consistency with Clause 4.6 objectives**

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

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

### **Recommendation**

With considerations to the discussion above, the proposed variation to Clause 7.14– Minimum Building Street Frontage, adequately addresses the provisions of Clause 4.6 including the objectives of the development standard and the zoning. The proposal is also considered to be in the public interest and is therefore supported in this instance.

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

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

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

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

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

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

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

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

There are no Planning Agreements which apply to the development.

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

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

**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.

**(b) Built Environment**

It is considered that the proposed development will have minimal impact on the built environment given that it is located within the R4 Zone which is zoned for high density residential development. Therefore, it is considered to be consistent with the current and future character of the locality, especially as the building has been designed to comply, in the most part, with the ADG.

The design has been able to mitigate potential impacts with adjoining properties while at the same time ensuring that internal amenity for future residents is prioritised and provided to a high standard. As such, the proposed bulk and scale of the development represents a desirable and meritorious planning outcome for the site.

**(c) Social Impacts**

The proposed development will have a positive social impact in the area through increasing housing choice in the locality. It will assist in promoting lifestyle choice which is close to retail services and public transport options as well as local community facilities. It is considered that the proposal is unlikely to generate any unreasonable social impacts on the surrounding area.

**(d) Economic Impacts**

The short term positive economic impacts development that result from construction spending and employment opportunities generated during the construction phase are generally recognised. Other, more enduring impacts should come as the local population increases and use local shopping 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, the Apartment Design Guidelines and LDCP 2008, as outlined in this report. The identified variations have been considered and are supported as they do not result in any adverse impacts to the locality and are within the public interest. 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
Building	Supported, subject to conditions of consent
Waste Management	Supported, subject to conditions of consent
Traffic	Supported, subject to conditions of consent
Urban Design and Public Domain	Supported subject to conditions of consent

**(b) External Referrals**

AGENCY	COMMENTS
Endeavour Energy	No objection subject to comments
Sydney Water	No objection subject to comments

**(c) Community Consultation**

The Development Application was initially notified between 19 January and 1 February 2022 in accordance with Liverpool Community Participation Plan 2019. Six submissions were received inclusive of one petition during this notification period. A community information session was held on 28 April 2022. Upon the submission of amended documentation, a second notification period was held between 24 May and 8 June 2022. Four submissions were received in response to the second exhibition period. The concerns raised by the submissions include the following:

- Privacy and overlooking,
- Solar access and overshadowing,
- Lack of consultation prior to lodgement,
- Traffic and parking safety impacts in locality,
- Noise during works and ongoing,
- Plans and traffic report incorrect and lacking information,
- Bin collection and waste impacts,
- Devaluation of property and property damage,
- Inconsistent with the character of the area,
- Reduced residential amenity,



- Power pole located where driveway will be,
- Lack of access to adjoining site to the north from Wilga Close,
- Wind and rain changes due to building,
- Insufficient lot width,
- Maintenance of gardens and drainage,
- Lighting from development,
- Inconvenience from anti-social behaviour,
- Affordable Housing/ Build to Rent Housing, and
- Strain on existing services and infrastructure.

**ISSUE 1: *Privacy and overlooking***

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

**ISSUE 2: *Solar access and overshadowing***

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

**ISSUE 3: *Lack of consultation prior to lodgement***

A residential flat building development is a land use that is permissible within the zone and the immediate locality. There is no requirement for a developer to consult with the community prior to lodging a development application. Notification was carried out in accordance with the Liverpool Community Participation Plan 2019 and this also occurred on a second occasion on the submission of amended plans.

**ISSUE 4: *Traffic and parking safety impacts in locality***

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

The development requires 26 car spaces onsite in accordance with the parking provisions of the Liverpool Development Control Plan 2008. The application proposes 26 car parking spaces. Therefore, the development provides adequate car parking spaces with regards to the relevant

plans and policies.

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

**ISSUE 5:      *Noise during works and ongoing***

Council's standard conditions of consent will be incorporated into any approval granted, reflecting standardised hours of construction and construction management procedures to reduce impacts to the locality during works. Any breaches of conditions of consent will be handled by Council's compliance section. The contact details of the PCA must be displayed during works so that they can be contacted regarding any issues during construction. The application was accompanied by an acoustic assessment, reviewed by a suitably qualified acoustic consultant, which was reviewed by Councils Environmental Health Section during clearing house stage and raised no objections subject to standard conditions.

It should be noted that the acoustic report provides recommendations about how the proposed development and associated construction works 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.

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

**ISSUE 6:      *Plans and traffic report incorrect and lacking information***

The proposed plans and technical reports are considered sufficient for the development and demonstrate adjoining properties and structures. Additionally, the technical reports have been reviewed by internal Council departments and any inconsistencies in the information within the technical reports has been considered by those departments.

**ISSUE 7:      *Bin collection and waste impacts***

The proposal was referred to Council's Waste Management department. Council's Waste Management officer has reviewed the submitted plans and waste management plan and has no objections to the proposal, subject to conditions of consent. Additionally, the proposal will not have a set of bins for each unit as per surrounding dwellings and the site requires 3x660 litre general waste and 3x660 litre recycling bins. Bins will be presented to the kerbside by the building manager/ caretaker and taken to the street by a bin tug/ trailer.

**ISSUE 8:      *Devaluation of property and property damage***

The development of the residential flat building is a permitted form of development for the locality, having regard to the R4 zoning of the site. In respect to depreciation of property value, there is no evidence to suggest that the proposed development will result in the depreciation of the value of any neighbouring properties. Furthermore, conditions of consent will be applied to ensure that dilapidation reports of adjoining structures within the zone of influence of the construction works are carried out.

**ISSUE 9:      *Inconsistent with the character of the area***

A residential flat building development is a land use that is permissible within the zone and the

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

**ISSUE 10: *Reduced residential amenity***

The proposed development involves acceptable impacts in terms of residential amenity including overshadowing, privacy and noise impacts in accordance with the relevant plans and provisions relating to RFB's. There is no evidence to suggest that the proposed development will result in a reduced quality of life in the area. Consideration has also been given to the requirements of the ADG and the Liverpool DCP in terms of the proposal's likely impact on residential amenity.

**ISSUE 11: *Power pole located where driveway will be***

The location of the power pole in Wilga Close is not impacted by the location of the driveway crossover as shown on the site plans and the power pole will be able to remain.

**ISSUE 12: *Lack of access to adjoining site to the north from Wilga Close***

The development is not proposing any works on adjoining properties and any current access arrangements to adjoining properties will be unchanged. Further, the deposited plan in the area does not have any right of carriageways over adjoining properties in Wilga Close into the property to the north in Tyalla Close.

**ISSUE 13: *Wind and rain changes due to building***

The development of a residential flat building is permitted form of development for the locality, having regard to the R4 zoning of the site and the immediate locality. Residential flat buildings are part of the desired future character of the area, considering the zoning and height limits in the locality. There is no evidence to suggest that the proposed development will result in a change to the microclimate of the area.

**ISSUE 14: *Insufficient lot width***

As per the Clause 4.6 discussion earlier in this report, the lot width at the frontage of the development is considered to be acceptable for the proposed development and the proposal is able to accommodate a development type that is generally consistent with the controls and development standards for the site. As such, the lot width at the street is not deemed to be insufficient in this case.

**ISSUE 15: *Maintenance of gardens and drainage***

The management of the building will be responsible for ensuring sufficient maintenance is provided for the development and associated landscaping and on-site detention areas.

**ISSUE 16: *Lighting from development***

Lights across the site would be required to conform to the Australian Standards and it can be conditioned in the consent.

**ISSUE 17: *Inconvenience from anti-social behaviour***

In regards to anti-social behaviour occurring on the site, any matters are to be reported to NSW Police. Anti-social behaviour can occur with any use and there is no evidence to suggest that the proposed use would increase anti-social or criminal activity. Any complaints regarding people throwing items over fences, littering or other complaints are to be taken up with the management of the development or Council's compliance section to investigate.

**ISSUE 18: *Affordable Housing/ Build to Rent Housing***

The development application is not proposed to be affordable or social housing or build to rent housing. The Applicant's Statement of Environmental Effects does not mention the reliance on these provisions and the application is for a residential flat building by a private developer.

**ISSUE 19: *Strain on existing services and infrastructure***

The notion that this development will have an adverse impact on the area's infrastructure cannot be substantiated at this stage. The application was referred to Endeavour Energy and Sydney Water and these essential services of water, sewer and electricity are considered to be sufficient.

The apparent lack of road infrastructure and the capacity of transport services is considered to be beyond the scope of this application. Additionally, development contributions will be applicable to this development and will assist in the provision of local and district community facilities.

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

The proposed development is consistent with the zoning of the land and would represent a high quality development for the locality. The development provides additional housing opportunities within close proximity to employment opportunities, services and public transport. Given the assessment undertaken, the proposal is considered to be in 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-1305/2021 seeking approval for the demolition of existing structures and construction of a four-storey residential flat building comprising 16 flats, with one level of basement car parking, and associated landscaping, be approved subject to conditions of consent.

**10. REPORT ATTACHMENTS**

1. APARTMENT DESIGN GUIDE COMPLIANCE TABLE
2. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES
3. PLANS OF THE PROPOSAL
4. CLAUSE 4.6 VARIATION APPLICATION FOR HEIGHT
5. CLAUSE 4.6 VARIATION APPLICATION FOR MINIMUM BUILDING STREET FRONTAGE
6. DESIGN EXCELLENCE PANEL MINUTES
7. CONDITIONS OF APPROVAL WITH ASSOCIATED EXTERNAL COMMENTS AND 7.11. PAYMENT FORM

**REPORT ATTACHMENT 1 – APARTMENT DESIGN GUIDE COMPLIANCE TABLE**

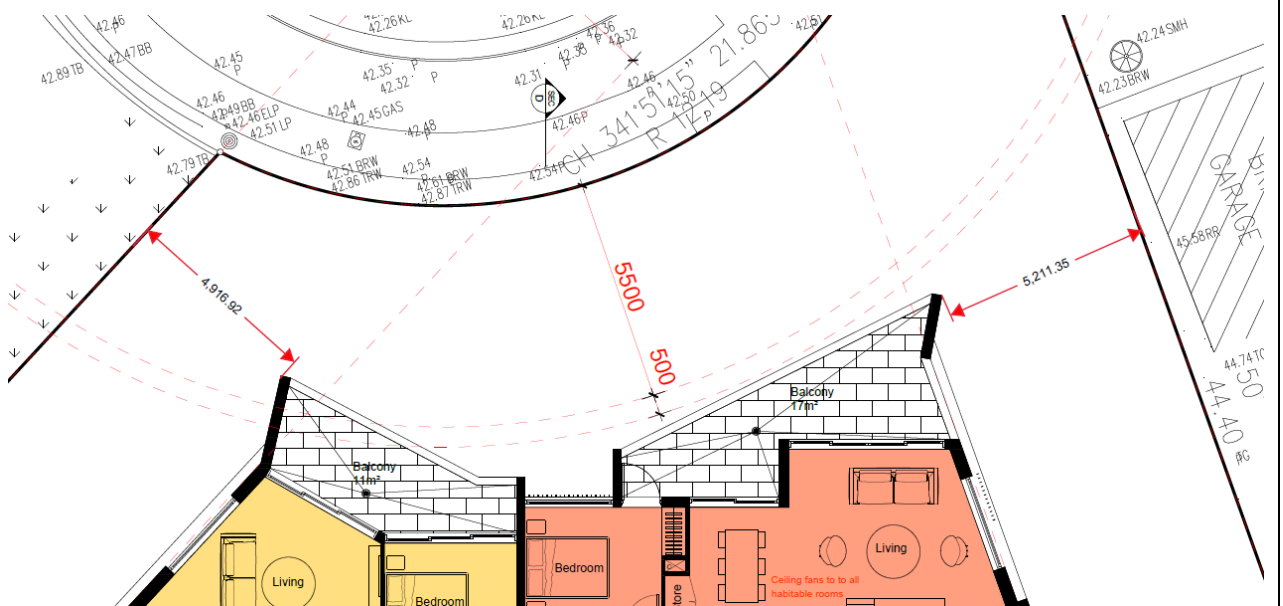
Required	Proposed	Compliance						
<b>2E Building depth</b>								
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation	Although the development has a maximum building depth of 19.4m, it varies between 15.1m and 19.4m, with the majority of the building below 18m in depth. The proposal responds to the general principals of building depth design in ensuring the minimum requirements for solar access and natural ventilation for the development are met. Walls are also articulated along each frontage and the choice of materials creates interest in the facades. Additionally, adverse privacy and overshadowing on adjoining sites are mitigated by the development.	Considered Acceptable						
<b>2F Building separation</b>								
Minimum separation distances for buildings are: <u>Up to four storeys (approximately 12m):</u> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies (<b>6m to boundary</b>)</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <u>Five to eight storeys (12m to 25m)</u>	The proposal provides the following: <u>Up to four storeys (Ground to Level 3)</u> <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Setback to boundary</th> <th>Variance</th> </tr> </thead> <tbody> <tr> <td>South</td> <td>Mostly 6m apart from splay corner of balcony on South-</td> </tr> <tr> <td></td> <td>Max. 1.084m 18%</td> </tr> </tbody> </table>	Setback to boundary	Variance	South	Mostly 6m apart from splay corner of balcony on South-		Max. 1.084m 18%	Considered Acceptable
Setback to boundary	Variance							
South	Mostly 6m apart from splay corner of balcony on South-							
	Max. 1.084m 18%							

Required	Proposed		Compliance
<ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies <b>(9m to boundary)</b></li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> <p><b>Note:</b> It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance.</p>		West Units (8, 12, 16)	
	North	Mostly 6m apart from splay corner of balcony on North-West Units (5, 9, 13)	Max. 0.789m 13.1%
	East	6m to habitable rooms and balconies 3.55m to stair structure (non-habitable)	Nil
<p><b>See discussion below on building separation/setbacks:</b></p>			

**Discussion on building separation**

The relevant discussion in terms of building separation is the boundaries to north and south where potential RFB's may be constructed in the future.

The side setbacks provided to the northern and southern boundaries for Levels 1-3 is predominantly the required 6m or greater. However, as shown in the figure below, the setback of the corner splays of the front balconies addressing Wilga Close for the north-west and south-west units are slightly encroaching within the building separation requirement of the ADG. The non-compliance accounts for 1.38m of the northern façade, which equates to 6.7% of the building length and 2.24m of the southern façade, which equates to 9.7% of the building length.



The prescribed setback is 6m to achieve a building separation of 12m prescribed in the ADG.

Required	Proposed	Compliance
<p>The above breach allows for a unique design to front Wilga Close and also opens up the balcony and living rooms to allow for a slight increase in solar access during the afternoons and thus an overall increase in residential amenity for future occupants. It is apparent from the assessment of building separation that the non-compliance would potentially occur when the neighbouring site to the west is to be redeveloped. To address this, visual privacy measures to mitigate any potential overlooking impacts to future occupants' have been proposed by the applicant as the splay walls where the encroachment take place are solid. No undue overshadowing or overlooking into neighbouring sites comes as a result of the design of the balcony walls for this development.</p> <p>It should be noted that the proposal complies with FSR and largely complies with maximum building height development standard is considered acceptable in the circumstance, and the proposal is not considered to be an over development of the site with regards to the LLEP 2008.</p> <p>Accordingly, the proposed variation to building separation is considered acceptable in this instance, and for the reasons detailed above the development is considered acceptable with regards to SEPP 65 and the ADG.</p>		
<b>3A Site analysis</b>		
<p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p>	<p>A detailed site analysis plan has been provided.</p>	<p>Complies</p>
<b>3B Orientation</b>		
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter.</p> <p>Solar Access to living rooms, balconies and private open spaces of neighbours should be considered.</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond the minimums contained in section 3F Visual Privacy</p> <p>Overshadowing should be minimised to the south or downhill by increased upper level setbacks.</p> <p>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</p>	<p>The building type is appropriate for the streetscape. Overshadowing of neighbouring properties is minimised during mid-winter. 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.</p>	<p>Complies</p>
<b>3C Public Domain Interface</b>		
<p>Transition between private and public domain is achieved without compromising safety and security.</p>	<p>The transition from the public to private domain is made in a way which achieves a safe design with security for the future residents,</p>	<p>Complies</p>

Required	Proposed	Compliance												
Amenity of the public domain is retained and, enhanced.	without compromising on the amenity of the public and private domains.													
<b>3D Communal and public open space</b>														
<p>Communal open space has a minimum area equal to 25% of the site</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p> <p>Communal open space should be co-located with deep soil areas.</p> <p>Where communal open space cannot be provided at ground level, it should be provided on a podium or roof</p>	<p>The communal open space is provided predominantly on the rooftop with a small area on ground floor. The rooftop COS is 364sqm and the ground floor portion is 64sqm for a total COS area of 428sqm. The COS is provided with planter boxes, communal facilities, BBQ and sitting areas.</p> <p>The COS will be able to achieve the solar access requirements. The total of 428sqm COS or 35.4% is provided and exceeds the 25% requirement.</p>	Complies												
<b>3E Deep soil zones</b>														
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="204 1182 762 1626"> <thead> <tr> <th data-bbox="213 1196 416 1279">Site Area</th> <th data-bbox="426 1196 587 1279">Minimum Dimension</th> <th data-bbox="596 1196 756 1279">Deep Soil Zone (% site area)</th> </tr> </thead> <tbody> <tr> <td data-bbox="213 1285 416 1352">Less than 650m<sup>2</sup></td> <td data-bbox="426 1285 587 1352">-</td> <td data-bbox="596 1285 756 1352" rowspan="4">7%</td> </tr> <tr> <td data-bbox="213 1359 416 1426">650m<sup>2</sup> to 1500m<sup>2</sup></td> <td data-bbox="426 1359 587 1426">3m</td> </tr> <tr> <td data-bbox="213 1433 416 1500">Greater than 1500m<sup>2</sup></td> <td data-bbox="426 1433 587 1500">6m</td> </tr> <tr> <td data-bbox="213 1507 416 1619">Greater than 1500m<sup>2</sup> with significant tree cover</td> <td data-bbox="426 1507 587 1619">6m</td> </tr> </tbody> </table>	Site Area	Minimum Dimension	Deep Soil Zone (% site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> to 1500m <sup>2</sup>	3m	Greater than 1500m <sup>2</sup>	6m	Greater than 1500m <sup>2</sup> with significant tree cover	6m	<p>Proposal provides 305m<sup>2</sup> of deep soil zone, which is 25.2% of the site area and exceeds the 7% requirement</p> <p>The deep soil zones have minimum dimensions of 3m.</p>	Complies
Site Area	Minimum Dimension	Deep Soil Zone (% site area)												
Less than 650m <sup>2</sup>	-	7%												
650m <sup>2</sup> to 1500m <sup>2</sup>	3m													
Greater than 1500m <sup>2</sup>	6m													
Greater than 1500m <sup>2</sup> with significant tree cover	6m													
<b>3F Visual Privacy</b>														
<p>Minimum separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="204 1798 762 2067"> <thead> <tr> <th data-bbox="213 1812 395 1895">Building Height</th> <th data-bbox="405 1812 587 1895">Habitable Rooms and Balconies</th> <th data-bbox="596 1812 756 1895">Non Habitable Rooms</th> </tr> </thead> <tbody> <tr> <td data-bbox="213 1901 395 1968">Up to 12m (4 storeys)</td> <td data-bbox="405 1901 587 1968">6m</td> <td data-bbox="596 1901 756 1968">3m</td> </tr> <tr> <td data-bbox="213 1975 395 2065">12m to 25m (5-8 storeys)</td> <td data-bbox="405 1975 587 2065">9m</td> <td data-bbox="596 1975 756 2065">4.5m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 storeys)	6m	3m	12m to 25m (5-8 storeys)	9m	4.5m	<p>6m separation to south and north between habitable rooms/balconies from ground level to level 3.</p> <p>Areas with splay which goes within 6m separation are blank walls and it is deemed that visual privacy to adjoining sites to the north and south is not impacted by this area of the development.</p>	Considered Acceptable			
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms												
Up to 12m (4 storeys)	6m	3m												
12m to 25m (5-8 storeys)	9m	4.5m												



Required	Proposed	Compliance
<b>3G Pedestrian Access and Entries</b>		
Building entries and pedestrian access connects to and addresses the public domain	The development site has a clear and defined pedestrian entry to Wilga Close and is easily identifiable.	Complies
Access, entries and pathways are accessible and easy to identify		
Large sites provide pedestrian links for access to streets and connection to destinations		
<b>3H Vehicle Access</b>		
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Vehicle access point is considered to be in a satisfactory location.	Complies
<b>3J Bicycle and Car Parking</b>		
For development in the following locations: <ul style="list-style-type: none"> <li>- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p>	Bicycle and car parking is provided in accordance with the requirements of Part 1 - Section 20 of the LDCP 2008.  All parking is provided within the one basement level.	Complies
Parking and facilities are provided for other modes of transport		
Car park design and access is safe and secure		
Visual and environmental impacts of underground car parking are minimised		
Visual and environmental impacts of on-grade car parking are minimised		
Visual and environmental impacts of above ground enclosed car parking are minimised		
<b>4A Solar and Daylight Access</b>		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	A total of 16 units are proposed. There are 12 units that receive at least 2 hours sunlight between 9am and 3pm during mid-winter to living rooms and private open spaces. This equates to 75% of the units.	Complies
A maximum of 15% of apartments in a	All units are considered to achieve	Complies

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Required	Proposed	Compliance		
building receive no direct sunlight between 9 am and 3 pm at mid-winter	some form of direct sunlight between 9am and 3pm.			
Courtyards, skylights and high-level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms	Noted	Noted		
<b>4B Natural Ventilation</b>				
All habitable rooms are naturally ventilated	All units (100%) are corner units with two aspects and are naturally cross ventilated.	Complies		
The layout and design of single aspect apartments maximises natural ventilation				
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed				
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line				
<b>4C Ceiling Heights</b>				
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	A minimum 3.1m floor to floor height is proposed which allows for the minimum floor to ceiling heights to be achieved as well as space for services between floors.	Complies		
Minimum ceiling height				
Habitable rooms			2.7m	
Non-habitable			2.4m	
For 2 storey apartments			2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	
Attic spaces			1.8m at edge of room with a 30 degree minimum ceiling slope	
If located in mixed use areas			3.3m from ground and first floor to promote future flexibility of use	
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms				
Ceiling heights contribute to the flexibility of building use over the life of the building				
<b>4D Apartment Size and Layout</b>				
Apartments are required to have the following minimum internal areas:	<ul style="list-style-type: none"> <li>All 1-bedroom units are <math>\geq 50m^2</math></li> <li>All 2-bedroom units are <math>\geq 70m^2</math></li> <li>No 3-bedroom units are proposed.</li> </ul>	Complies		
<table border="1"> <thead> <tr> <th>Apartment</th> <th>Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>			Apartment	Minimum Internal Area
Apartment	Minimum Internal Area			

Required		Proposed	Compliance	
Type				
Studio	35m <sup>2</sup>			
1 bedroom	50m <sup>2</sup>			
2 bedroom	70m <sup>2</sup>			
3 bedroom	90m <sup>2</sup>			
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each				
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		Habitable rooms are provided with windows of sufficient glass areas.	Complies	
Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Habitable rooms are generally limited to 2.5 x the ceiling height.	Complies	
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Kitchens of all units are less than 8m from a window.	Complies	
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)		All Bedrooms are of sufficient size.	Complies	
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Bedrooms of all units have a minimum dimension of 3m.	Complies	
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>- 3.6m for studio and 1 bedroom apartments</li> <li>- 4m for 2 and 3 bedroom apartments</li> </ul>		Sufficient widths are provided to living rooms/dining rooms.	Complies	
<b>4E Private Open Space and Balconies</b>				
All apartments are required to have primary balconies as follows:		All apartments provide the minimum required balcony areas and depths.	Complies	
Dwelling Type	Minimum Area			Minimum Depth
Studio	4m <sup>2</sup>			-
1 bedroom	8m <sup>2</sup>			2m
2 bedroom	10m <sup>2</sup>			2m
3 bedroom	12m <sup>2</sup>			2.4
The minimum balcony depth to be counted as contributing to the balcony area is 1m				
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It		All ground floor units provide a courtyard private open space of greater than 15sqm and a depth of	Complies	

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Required	Proposed	Compliance										
must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m	3m.											
<b>4F Common Circulation and Spaces</b>												
The maximum number of apartments off a circulation core on a single level is eight	Single lift core provided. Maximum 4 units per level are proposed off one lift.	Complies										
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Not applicable.	N/A										
Daylight and natural ventilation should be provided to all common circulation spaces that are above ground. Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors	The lift lobby area has windows in external walls for sunlight and ventilation.	Complies										
<b>4G Storage</b>												
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Adequate storage has been provided for all units as indicated on the individual unit floor plans and basement plans.	Complies										
<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage Size Volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m<sup>3</sup></td> </tr> <tr> <td>1 bedroom</td> <td>6m<sup>3</sup></td> </tr> <tr> <td>2 bedroom</td> <td>8m<sup>3</sup></td> </tr> <tr> <td>3 bedroom</td> <td>10m<sup>3</sup></td> </tr> </tbody> </table>	Dwelling Type	Storage Size Volume	Studio	4m <sup>3</sup>	1 bedroom	6m <sup>3</sup>	2 bedroom	8m <sup>3</sup>	3 bedroom	10m <sup>3</sup>		
Dwelling Type	Storage Size Volume											
Studio	4m <sup>3</sup>											
1 bedroom	6m <sup>3</sup>											
2 bedroom	8m <sup>3</sup>											
3 bedroom	10m <sup>3</sup>											
At least 50% of the required storage is to be located within the apartment.												
<b>4H Acoustic Privacy</b>												
Noise transfer is minimised through the siting of buildings and building layout	The assessment shows that the development is feasible while keeping an appropriate acoustic amenity and controlled noise impact onto the local community.	Complies										
Noise impacts are mitigated within apartments through layout and acoustic treatments												
<b>4K Apartment Mix</b>												
A range of apartment types and sizes is provided to cater for different household types now and into the future	5x1 bed and 11x2 bed	Complies										
The apartment mix is distributed to suitable locations within the building	It is noted that there is no requirement for apartment mix outside of the Liverpool City Centre and the DEP deemed the mix to be acceptable.											
<b>4L Ground Floor Apartments</b>												
Street frontage activity is maximised where ground floor apartments are located	All ground floor units have direct access to a courtyard as well as access from the foyer. The ground floor treatment to the building, including landscaping, fencing and level changes will assist in providing	Complies										
Design of ground floor apartments delivers amenity and safety for residents												

Required	Proposed	Compliance
	an active environment to the street.	
<b>4M Facades</b>		
Building facades provide visual interest along the street while respecting the character of the local area	Building façades are articulated and modulated through the use of balconies, varying windows and recessed elements. Ground floor building entries are clearly defined and articulated by the façades.	Complies
Building functions are expressed by the facade		
<b>4N Roof Design</b>		
Roof treatments are integrated into the building design and positively respond to the street	The roof is not the dominant feature, but has the rooftop communal open space integrated with the building and is designed to positively respond to the streetscape. Landscaping will also be provided on the roof as well as photovoltaic panels.	Complies
Opportunities to use roof space for residential accommodation and open space are maximised		
Roof design incorporates sustainability features		
<b>4O Landscape Design</b>		
Landscape design is viable and sustainable	An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Landscape Officer and the Design Excellence Panel who has raised no objections to the landscape design.	Complies
Landscape design contributes to the streetscape and amenity		
<b>4P Planting on Structures</b>		
Appropriate soil profiles are provided	As above. Planting on the rooftop communal open space will have sufficient soil depths in planter boxes and perimeters.	Complies
Plant growth is optimised with appropriate selection and maintenance		
Planting on structures contributes to the quality and amenity of communal and public open spaces		
<b>4Q Universal Design</b>		
Universal design features are included in apartment design to promote flexible housing for all community members	The development provides Unit 4 and 8 as potential to be an adaptable unit in accordance with the Australian Standard AS 4299-1995 <i>Adaptable Housing</i> . Additionally, access to the foyer areas and each unit is possible as there is a ramp provided in the front of the site as well as a lift to access each floor.	Complies
A variety of apartments with adaptable designs are provided		
Apartment layouts are flexible and accommodate a range of lifestyle needs		
<b>4R Adaptive Reuse</b>		
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	The DA is for the development of a new building and not the adaptive reuse of an existing building.	N/A
Adapted buildings provide residential		

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Required	Proposed	Compliance
amenity while not precluding future adaptive reuse		
<b>4S Mixed Use</b>		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The DA does not propose a mixed use development.	N/A
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents		
<b>4T Awnings and Signage</b>		
Awnings are well located and complement and integrate with the building design	Awnings on the common open space would complement the built form.	Complies
Signage responds to the context and desired streetscape character	Building address signage will be integrated into the building design.	
<b>4U Energy Efficiency</b>		
Development incorporates passive environmental design.	The proposal is accompanied by a BASIX Certificate. Additionally, photovoltaic panels are indicated to be provided on the rooftop.	Complies
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer		
Adequate natural ventilation minimises the need for mechanical ventilation		
<b>4V Water Management and Conservation</b>		
Potable water use is minimised	The proposal is accompanied by a BASIX Certificate. The proposal has been reviewed by Council engineer who raised no issues in regard to stormwater subject to conditions.	Complies with conditions
Urban stormwater is treated on site before being discharged to receiving waters		
Flood management systems are integrated into site design		
<b>4W Waste Management</b>		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Waste storage facilities are provided and will be maintained by the caretaker/ building manager. The application was referred to Council's Waste Management Section who have indicated that the waste management of the development is considered to be acceptable subject to conditions of consent.	Complies with conditions
Domestic waste is minimized by providing safe and convenient source separation and recycling		
<b>4X Building Maintenance</b>		
Building design detail provides protection from weathering	The development is in accordance with these objectives.	Complies
Systems and access enable ease of maintenance		
Material selection reduces ongoing maintenance costs		

**REPORT ATTACHMENT 2 – LIVERPOOL DEVELOPMENT**

**CONTROL PLAN 2008 COMPLIANCE TABLES****LDCP 2008 - Part 1 General Controls for all Development**

<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Complies</b>
<b>Section 2. Tree Preservation</b>	Controls relating to the preservation of trees	The subject site does not contain any prescribed trees that are to be retained.	Complies
<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 rectification of the landscape plan to indicate turf/ landscaped area in the rear of the site shown as hard paved area.	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

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment	Complies
Section 11. Salinity Risk	Provisions relating to development on saline land.	Development to comply with the BCA requirements.	Complies with conditions
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	The development site is not identified as containing acid sulphate soils.	N/A
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	The site is not identified as containing noxious weeds.	N/A
Section 14. Demolition of Existing Development	Provisions relating to demolition works	Demolition of existing structures is proposed and conditions to be applied to ensure compliance with relevant SafeWork NSW and Australian Standards requirements.	Complies by condition
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	OSMS is not proposed.	N/A
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	The development site is not mapped as a potential area containing Aboriginal archaeology.	Complies
Section 17. Heritage and Archaeology	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
Section 20. Car Parking and Access	<p><u>Car Parking Controls Residential &amp; Business Zones</u></p> <p>1 space per small dwelling (&lt;65sqm) or 1 bedroom 1.5 spaces per medium dwelling (65-110sqm) or 2 bedrooms 2 car spaces per large dwelling (&gt;110sqm) or 3 or more bedrooms</p> <p>1 visitor car space for every 4 dwellings or part thereof.</p>	<p><b>Required</b></p> <ul style="list-style-type: none"> <li>- 1 bedroom (1x5) = 5 spaces</li> <li>- 2 bedroom (1.5x11) = (16.5) 17 spaces</li> <li>- 3 bedroom (2x0) = Nil</li> <li>- Visitors = (16/4) = 4 spaces</li> <li>- Total = 22 spaces for residents and 4 visitor spaces = 26 spaces total</li> </ul> <p><b>Proposed</b></p> <p>26 spaces (22 spaces for residents, 4 visitor spaces).</p>	Complies
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	No subdivision proposed but amalgamation of 2 sites occurring resulting in a size of >1000sqm.	Complies
Section 22 and Section 23. Water Conservation and Energy	New dwellings, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index	The application has been accompanied by a BASIX Certificate and conditions of consent will apply to ensure compliance with the BASIX	Complies by condition



LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment	Complies
<b>Conservation</b>	(BASIX).	commitments.	
<b>Section 25. Waste Disposal and Re-use Facilities</b>	Provisions relating to waste management during construction and on-going waste.	Waste storage facilities are provided and will be maintained by the building manager/caretaker. Councils Waste Management officer has reviewed the waste management plan and conditions of consent were provided.	Complies by condition
<b>Section 26. Outdoor Advertising and Signage</b>	Provisions relating to signage.	No signage proposed.	N/A
<b>Section 27. Social Impact Assessment</b>	Provisions relating to social impact.	Social impact comment is not required.	N/A

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

Development Control	Provision	Comment
<b>2. Frontage and Site Area</b>	The minimum lot width is 24m	<b>Considered Acceptable</b> The site has a frontage of 21.865m to Wilga Close. See Clause 4.6 Variation above.
<b>3. Site Planning</b>	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	<b>Complies</b> The building has been designed to address the topography of the site as well as the frontage to Wilga Close.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design.	<b>Complies</b> Where possible, ground level private open space, upper level balconies and windows have been orientated to the north to maximise solar access and improve energy efficiency of the building.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	<b>Complies</b> Safe access is provided to the building and parking.
	Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	<b>Complies</b> Whilst the surrounding development is still low density housing in scale, the site is zoned R4, which allows for residential flat buildings, and in this location up to a height of 15m.  As such, the proposed development generally complies with these requirements and is considered to be in accordance with the desired future character of the area. Furthermore, the

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
		matter of character and context of the site and proposed building has also been considered by the Design Excellence Panel in which they are supportive of the proposal.
	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</b> Stormwater discharge is proposed to be drained via on-site detention systems to the street. Council's Land and Development Engineer has reviewed the application and has no objections to the proposal subject to the imposition of conditions of consent.
	The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	<b>Complies</b> As demonstrated within this report, the development generally demonstrates compliance with SEPP 65.
<b>4. Setbacks</b>	Front and Secondary setback: 5.5m	<b>Complies</b> Front setback of the main building line is greater than 5.5m.
	Verandahs, eaves, etc, may encroach on the setback by 1m	<b>Complies</b> A small portion of the south-western apartments encroach within the 5.5m front setback requirement and due to the shape of the street, the balcony is 4.75m from the front boundary
	Side and rear setback: < 10m – Side 3m; Rear 8m > 10m – Side 8m; Rear 8m	<b>Complies</b> Side and rear setbacks are in accordance with the building separation provisions of the ADG.
<b>5. Landscaped Area and Private Open Space</b>	A minimum of 25% of the site area shall be landscaped area.	<b>Complies</b> Site area of 1210sqm, requires a minimum landscaped area of 302.5sqm.  The proposed development provides approximately 548sqm of landscaping area which equates to 45% of the site.
	A minimum of 50% of the front setback area shall be landscaped area.	<b>Complies</b> In excess of 50% of the front setback is landscaped.
	Optimise the provision of consolidated landscaped area within a site by: - Design of basement and sub-basement car parking, so as not to fully cover the site.	<b>Complies</b> Landscaped areas are generally consolidated within the front, sides and rear setback areas.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<ul style="list-style-type: none"> <li>- Use of front and side setbacks.</li> <li>- Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.</li> </ul>	
	Promote landscape health by supporting for a rich variety of vegetation type and size.	<p><b>Complies</b> The proposed landscape plans have been considered acceptable by the Design Excellence Panel and Urban Design Section and the planting selections and use of species is considered acceptable.</p>
	Increase the permeability of paved areas by limiting the area of paving and/or using pervious paving materials.	<p><b>Complies</b> Paving across the landscaped areas is minimised.</p>
	Provide communal open space, which is appropriate and relevant to the context and the building's setting.	<p><b>Complies</b> Communal open space would be appropriate and relevant to the context and the building's setting.</p>
	<p>Where communal open space is provided, facilitate its use for the desired range of activities by:</p> <ul style="list-style-type: none"> <li>- Locating it in relation to buildings to optimise solar access to dwellings.</li> <li>- Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape.</li> <li>- Designing its size and dimensions to allow for the range of uses it will contain.</li> <li>- Minimising overshadowing.</li> <li>- Carefully locating ventilation duct outlets from basement car parking.</li> </ul>	<p><b>Complies</b> The communal open space on the rooftop is orientated to receive sun throughout the day and is of a size to allow for a range of uses. The communal open space achieved compliance with the ADG in terms of size, location, solar access and functionality.</p>
	Locate open space to increase the potential for residential amenity.	<p><b>Complies</b> The communal open space helps to provide good residential amenity.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>Private open space shall be provided for each dwelling. Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor. Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like. Private open space should be clearly defined for private use</p>	<p><b>Complies</b> Private open space is provided to each unit in accordance with the ADG, including courtyards at ground floor, and balconies on the upper floors.</p>
	<p>Clothes drying facilities must be provided at a rate of 5 lineal m of line per unit. Clothes drying areas should not be visible from a public place and should have solar access.</p>	<p><b>Complies</b> Internal drying areas are proposed.</p>
<p><b>6. Building Design, Streetscape and Layout</b></p>	<p>Building Height: 15m</p>	<p><b>Considered Acceptable</b> A maximum height of 15.6m is proposed. See Clause 4.6 Variation above.</p>
<p><b>Building Appearance and Streetscape</b></p>	<p>Residential Flat Buildings shall comply with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, and should consider the Residential Flat Design Code.</p>	<p><b>Complies</b> The proposal meets the requirements of SEPP 65 and the ADG.</p>
	<p>Building facades shall be articulated and roof form is to be varied to provide visual variety.</p>	<p><b>Complies</b> Articulation and interest are provided to all elevations.</p>
	<p>The pedestrian entrance to the building shall be emphasised.</p>	<p><b>Complies</b> Entry points to the building are visible and emphasised.</p>
	<p>A sidewall must be articulated if the wall has a continuous length of over 14m.</p>	<p><b>Complies</b> Side walls are all articulated.</p>
	<p>Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street</p>	<p><b>Complies</b> The basement driveway is in a suitable location.</p>
	<p>Driveway walls adjacent to the entrance of a basement car park are to be treated so that their appearance is consistent with the basement or podium walls.</p>	<p><b>Complies</b> The entrance to the basement is of the same design and materials as the main building.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>Sensitive design of basement car parking areas can assist in ensuring that podiums and vehicle entry areas do not dominate the overall design of the building or the streetscape and optimise areas for deep soil planting.</p>	<p><b>Complies</b> The basement entry is minimal and does not dominate the front elevation.</p>
	<p>The integration of podium design should be an integral part of the design of the development, and as far as possible should not visibly encroach beyond the building footprint.</p>	<p><b>Not applicable</b> No podium proposed.</p>
	<p>A master antenna shall be provided for any development of more than three dwellings and be located so that it is not visible from the street or any public open space.</p>	<p><b>Complies with conditions</b></p>
	<p>Consider the relationship between the whole building form and the facade and / or building elements. The number and distribution of elements across a façade determine simplicity or complexity. Columns, beams, floor slabs, balconies, window openings and fenestrations, doors, balustrades, roof forms and parapets are elements, which can be revealed or concealed and organised into simple or complex patterns.</p>	<p><b>Complies</b> The building has been designed with attention to detail, and has been reviewed by the Design Excellence Panel, who support the design and features of the building. The applicant has amended the design of the proposal in accordance with the comments provided by the Panel and the amendments are deemed to satisfy the Panel's comments.</p>
	<p>Compose facades with an appropriate scale, rhythm and proportion, which respond to the building's use and the desired contextual character. This may include but are not limited to:</p> <ul style="list-style-type: none"> <li>- Defining a base, middle and top related to the overall proportion of the building.</li> <li>- Expressing key datum lines in the context using cornices, a change in materials or building set back.</li> <li>- Expressing the internal layout of the building, for example, vertical bays or its structure, such as party wall-divisions.</li> <li>- Expressing the variation in floor-to-floor height, particularly at the lower levels.</li> <li>- Articulating building entries with</li> </ul>	

Development Control	Provision	Comment
	<p>awnings, porticos, recesses, blade walls and projecting bays.</p> <ul style="list-style-type: none"> <li>- Selecting balcony types which respond to the street context, building orientation and residential amenity.</li> <li>- Cantilevered, partially recessed, wholly recessed, or Juliet balconies will all create different facade profiles.</li> <li>- Detailing balustrades to reflect the type and location of the balcony and its relationship to the façade detail and materials</li> </ul> <p>Design facades to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls, depending on the facade orientation.</p> <p>Express important corners by giving visual prominence to parts of the facade, for example, a change in building articulation, material or colour, roof expression or increased height.</p> <p>Co-ordinate and integrate building services, such as drainage pipes, with overall facade and balcony design.</p> <p>Co-ordinate security grills/screens, ventilation louvres and car park entry doors with the overall facade design</p>	
<b>Roof Design</b>	<p>Relate roof design to the desired built form. This may include:</p> <ul style="list-style-type: none"> <li>- Articulating the roof, or breaking down its massing on large buildings, to minimise the apparent bulk or to relate to a context of smaller building forms.</li> <li>- Using a similar roof pitch or material to adjacent buildings, particularly in existing special character areas or heritage conservation areas.</li> <li>- Minimising the expression of roof forms gives prominence to a strong horizontal datum in the adjacent context, such as an existing parapet line.</li> </ul>	<p><b>Complies</b></p> <p>The roof consists of the communal open space and is bordered by large planters and landscaping along the edges so as to minimise potential overlooking into adjoining properties. According to the roof plan, there are to be photovoltaic panels on the roof.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>- Using special roof features, which relate to the desired character of an area, to express important corners.</p> <p>Design the roof to relate to the size and scale of the building, the building elevations and three-dimensional building form. This includes the design of any parapet or terminating elements and the selection of roof materials.</p> <p>Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to sun access.</p> <p>Minimise the visual intrusiveness of service elements by integrating them into the design of the roof. These elements include lift over-runs, service plants, chimneys, vent stacks, telecommunication infrastructures, gutters, downpipes and signage.</p> <p>Where habitable space is provided within the roof optimise residential amenity in the form of attics or penthouse dwellings.</p>	
<b>Building Entry</b>	<p>Improve the presentation of the development to the street by:</p> <ul style="list-style-type: none"> <li>- Locating entries so that they relate to the existing street and subdivision pattern, street tree planting and pedestrian access network.</li> <li>- Designing the entry as a clearly identifiable element of the building in the street.</li> <li>- Utilising multiple entries-main entry plus private ground floor dwelling entries-where it is desirable to activate the street edge or reinforce a rhythm of entries along a street.</li> </ul> <p>Provide as direct a physical and visual connection as possible between the street and the entry</p> <p>Achieve clear lines of transition between the public street, the shared private, circulation spaces and the dwelling unit.</p> <p>Ensure equal access for all</p>	<p><b>Complies</b></p> <p>All entrances are accessible and in a clearly identifiable location. The applicant has also allowed for the building to be entered from the street frontage and visual interest is provided with the entry and landscaping.</p> <p><b>Complies</b></p> <p>A ramp provides access to the building</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
		from Wilga Close and a lift provides access within the building.
	Provide safe and secure access by: <ul style="list-style-type: none"> <li>- Avoiding ambiguous and publicly accessible small spaces in entry areas.</li> <li>- Providing a clear line of sight between one circulation space and the next.</li> <li>- Providing sheltered well-lit and highly visible spaces to enter the building, meet and collect mail.</li> </ul>	<b>Complies</b> Safe and secure access is provided to the buildings, with clear entry points to the development for pedestrians and vehicles. A CPTED Report has been provided and recommendation are to be adopted.
	Generally provide separate entries from the street for: <ul style="list-style-type: none"> <li>- Pedestrians and cars.</li> <li>- Different uses, for example, for residential and commercial users in a mixed-use development.</li> <li>- Ground floor dwellings, where applicable.</li> </ul>	<b>Complies</b> The proposal provides separate vehicle and pedestrian access points.
	Provide and design letterboxes to be convenient for residents and not to clutter the appearance of the development from the street by: <ul style="list-style-type: none"> <li>- Locating them adjacent to the major entrance and integrated into a wall, where possible.</li> <li>- Setting them at 90 degrees to the street, rather than along the front boundary.</li> </ul>	<b>Complies</b> Letterboxes will be located adjacent to the main entry at 90 degrees to the street.
<b>Balconies</b>	Balconies may project up to 1m from the façade of a building.	<b>Considered Acceptable</b> Compliance with the ADG is provided for balconies in which minimum depths are required to be achieved. Balconies project more than 1m from the building façade in some instances, however, building separation and setbacks are still maintained and overshadowing and privacy is not exacerbated by this design.
	Balustrades must be compatible with the façade of the building.	<b>Complies</b> Balustrades compatible with the façade of the building.
	Ensure balconies are not so deep that they prevent sunlight entering the dwelling below.	<b>Complies</b> Balconies of a depth to allow solar access.
	Design balustrades to allow views and casual surveillance of the street.	<b>Complies</b> Balconies provide views and surveillance to the street.



LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	Balustrades on balconies at lower levels shall be of solid construction. Solid or semi solid louvres are permitted.	<b>Considered Acceptable</b> The privacy measures implemented for balconies are of a construction and material which is compatible with the development and allow for privacy and solar access compliance to be achieved.
	Noise attenuation measures on balconies facing a Classified Road should be considered.	<b>Not applicable</b> Site does not front a classified road.
	Balconies should be located on the street frontage, boundaries with views and onto a substantial communal open space.	<b>Complies</b> The majority of balconies are all on the external facades of the building, there are some internal balconies, however, these are setback in accordance with the separation requirements.
	Primary balconies should be: - Located adjacent to the main living areas, such as living room, dining room or kitchen to extend the dwelling living space; - Sufficiently large and well proportioned to be functional and promote indoor/outdoor living. A dining table and two chairs (smaller dwelling) and four chairs (larger dwelling) should fit on the majority of balconies in any development.	<b>Complies</b> Balconies are located off main living spaces and are of good sizes and dimensions to be fit for purpose.
	Consider secondary balconies, including Juliet balconies or operable walls with balustrades, for additional amenity and choice in larger dwellings, adjacent to bedrooms or for clothes drying, site balconies off laundries or bathrooms.	<b>Not Applicable</b> Not Applicable
	Design and detail balconies in response to the local climate and context thereby increasing the usefulness of balconies. This may be achieved by: - Locating balconies facing predominantly north, east or west to provide solar access. - Utilising sunscreens, pergolas, shutters and operable walls to control sunlight and wind. - Providing balconies with operable screens, Juliet balconies or operable walls/sliding doors with a balustrade in special locations where noise or high	<b>Complies</b> Balconies designed in accordance with climate and context requirements.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	winds prohibit other solutions - along rail corridors, on busy roads or in tower buildings - choose cantilevered balconies, partially cantilevered balconies and/or recessed balconies in response to daylight, wind, acoustic privacy and visual privacy.	
	Provide primary balconies for all dwellings with a minimum depth of 2m.	<b>Complies</b> All main balconies have minimum width of 2m.
	Ensuring balconies are not so deep that they prevent sunlight entering the dwelling below.	<b>Complies</b> All balconies allow for adequate solar access.
	Design balustrades to allow views and casual surveillance of the street while providing for safety and visual privacy. Design considerations may include: - Detailing balustrades using a proportion of solid to transparent materials to address site lines from the street, public domain or adjacent development. Full glass balustrades do not provide privacy for the balcony or the dwelling's interior, especially at night. - Detailing balustrades and providing screening from the public, for example, for a person seated looking at a view, clothes drying areas, bicycle storage or air conditioning units	<b>Complies</b> Western balconies provide views and surveillance to the street.
	Operable screens increase the usefulness of balconies by providing weather protection, daylight control and privacy screening.	<b>Complies</b> Balconies are consistent with the ADG requirements.
<b>Daylight Access</b>	Plan the site so that new residential flat development is oriented to optimise northern aspect.	<b>Complies</b> The building maximises the northern aspect where possible.
	Ensure direct daylight access to communal open space between March and September and provide appropriate shading in summer.	<b>Complies</b> The communal open spaces receive adequate daylight, with the opportunity for shading.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>Optimise the number of dwellings receiving daylight access to habitable rooms and principal windows.</p> <p>Ensure daylight access to habitable rooms and private open space, particularly in winter - use skylights, clerestory windows and fanlights to supplement daylight access.</p>	<p><b>Complies</b> Main rooms and windows receive daylight in accordance with the ADG requirements.</p>
	<p>Promote two-storey and mezzanine, ground floor dwellings or locations where daylight is limited to facilitate daylight access to living rooms and private open spaces.</p>	<p><b>Not applicable</b></p>
	<p>Ensure single aspect, single-storey dwellings have a northerly or easterly aspect - locate living areas to the north and service areas to the south and west of the development.</p> <p>Avoid south facing dwellings.</p>	<p><b>Complies</b> The number of units receiving direct daylight and sunlight is accordance with the ADG requirements. Additionally, all units have two aspects and are able to receive some sunlight during the day.</p>
	<p>Design for shading and glare control, particularly in summer:</p> <ul style="list-style-type: none"> <li>- Using shading devices, such as eaves, awnings, colonnades, balconies, pergolas, external louvres and planting.</li> <li>- Optimising the number of north-facing living spaces.</li> <li>- Providing external horizontal shading to north-facing windows.</li> <li>- Providing vertical shading to east or west windows.</li> </ul>	<p><b>Complies</b> Balconies are covered by the roof and balcony structure above it allowing for some shading.</p>
	<p>Consider higher ceilings and higher window heads to allow deeper sunlight penetration.</p>	<p><b>Complies</b> Ceilings are in line with the minimum requirements of the ADG.</p>
	<p>On west facing windows, vertical louvre panels or sliding screens protect from glare and low afternoon sun.</p>	<p><b>Complies</b> Balconies are consistent with the ADG requirements.</p>
	<p>On north facing windows, projecting horizontal louvres admit winter sun while shading summer sun.</p>	<p><b>Complies</b> Balconies are consistent with the ADG requirements.</p>
<p><b>Internal Design</b></p>	<p>All staircases should be internal.</p>	<p><b>Complies</b> Stairways are internal.</p>
	<p>Minimise the length of common walls between dwellings.</p>	<p><b>Complies</b> Common walls are minimised through the development.</p>
	<p>Basement car parking shall be</p>	<p><b>Considered Acceptable</b></p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	located beneath the building footprint.	Basement car parking is located below the building and provides enough room for the site to comply with deep soil requirements and ensure compliance with parking and manoeuvring.
	Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings	<b>Complies</b> The building has been designed generally in accordance with the ADG building separation requirements.
	Minimise the location of noise sensitive rooms such as bedrooms adjoining noisier rooms such as bathrooms or kitchens or common corridors and stairwells.	<b>Complies</b> Noise generating rooms are clustered where possible.
	Where a site has frontage to a Classified Road, locate bedrooms away from the front of the site.	<b>Not applicable</b>
	Where common walls are provided they must be carried to the underside of the roof and be constructed in accordance with Part F5 of the Building Code of Australia.	<b>Complies</b>
	Locate active use rooms or habitable rooms with windows overlooking communal/public areas.	<b>Complies</b> Habitable rooms overlook open space where possible.
<b>Ground Floor Dwellings</b>	Design front gardens or terraces, which contribute to the spatial and visual structure of the street while maintaining adequate privacy for dwelling occupants. This can be achieved by animating the street edge, for example, by promoting individual entries for ground floor dwellings.	<b>Complies</b> The landscaping to the front of the site will provide an attractive frontage to the street.
	Create more pedestrian activity along the street and articulate the street edge by: - Balancing privacy requirements and pedestrian accessibility. - Providing appropriate fencing, lighting and/ or landscaping to meet privacy and safety requirements of occupants while contributing to a pleasant streetscape. - Utilising a change in level from the street to the private garden or terrace to minimise site lines from the streets into the dwelling for some dwellings.	<b>Complies</b> The ground floor treatment to the building, including will assist in providing an active environment to the street.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>- Increasing street surveillance with doors and windows facing onto the street.</p> <p>Ground floor dwellings are special because they offer the potential for direct access from the street and on-grade private landscape areas. They also provide opportunities for the dwelling building and its landscape to respond to the streetscape and the public domain at the pedestrian scale. Ground floor dwellings also support housing choice by providing accessibility to the elderly and/or disabled and support families with small children.</p> <p>Optimise the number of ground floor dwellings with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p> <p>Provide ground floor dwellings with access to private open space, preferably as a courtyard.</p>	<p><b>Complies</b> Ground floor apartments are design to be consistent with the provisions of the ADG.</p>
<p><b>Security</b></p>	<p>Entrances to buildings should be orientated towards the front of the site and facing the street. The main entrance to dwellings or other premises should not be from rear lanes and should be designed with clear directions and signage.</p>	<p><b>Complies</b> The entrance to the street is oriented appropriately and designed to be clear and visible.</p>
	<p>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.</p>	<p><b>Complies</b> No blank walls are proposed.</p>
	<p>Minimise the number of entry points to buildings.</p>	<p><b>Complies</b> One main entry point to the building is made through the front entrance to Wilga Close.</p>
	<p>Reinforce the development boundary to strengthen the distinction between public and private space by:</p>	<p><b>Complies</b> The building steps up from the street to provide a distinction from the street/footpath.</p>

Development Control	Provision	Comment
	<ul style="list-style-type: none"> <li>- Employing a level change at the site and/or building threshold (subject to accessibility requirements).</li> <li>- Signage.</li> <li>- Entry awnings.</li> <li>- Fences, walls and gates.</li> <li>- Change of material in paving between the street and the development</li> </ul>	
	<p>Optimise the visibility, functionality and safety of building entrances by:</p> <ul style="list-style-type: none"> <li>- Orienting entrances towards the public street.</li> <li>- Providing clear lines of sight between entrances, foyers and the street.</li> <li>- Providing direct entry to ground level dwellings from the street rather than through a common foyer.</li> <li>- Direct and well-lit access between car parks and dwellings, between car parks and lift lobbies and to all unit entrances.</li> </ul>	<p><b>Complies</b> Entrances are noticeable and the access ways are prominent to the streets.</p>
	<p>Improve the opportunities for casual surveillance by:</p> <ul style="list-style-type: none"> <li>- Orienting living areas with views over public or communal open spaces, where possible.</li> <li>- Using bay windows and balconies, which protrude beyond the main facade and enable a wider angle of vision to the street.</li> <li>- Using corner windows, which provide oblique views of the street.</li> <li>- Providing casual views of common internal areas, such as lobbies and foyers, hallways, recreation areas and car parks.</li> </ul>	<p><b>Complies</b> The upper floor balconies will provide for casual surveillance.</p>
	<p>Minimise opportunities for concealment by:</p> <ul style="list-style-type: none"> <li>- Avoiding blind or dark alcoves near lifts and stairwells, at the entrance and within indoor car parks, along corridors and walkways.</li> <li>- Providing well-lit routes throughout the development.</li> <li>- Providing appropriate levels of illumination for all common areas.</li> </ul>	<p><b>Complies</b> The access points are well laid out and are to be well lit, and do not provide opportunities for concealment.</p>

Development Control	Provision	Comment
	<p>- Providing graded illumination to car parks and illuminating entrances higher than the minimum acceptable standard.</p> <p>Control access to the development by:</p> <ul style="list-style-type: none"> <li>- Making dwellings inaccessible from the balconies, roofs and windows of neighbouring buildings.</li> <li>- Separating the residential component of a development's car parking from any other building use and controlling car park access from public and common areas.</li> <li>- Providing direct access from car parks to dwelling lobbies for residents.</li> </ul>	<p><b>Complies</b> Dwellings would be inaccessible from neighbouring buildings. The car park is also to be a secure basement and there is to be direct access from the car park to the lobbies via the lift.</p>
<b>Natural Ventilation</b>	<p>Utilise the building layout and section to increase the potential for natural ventilation. Design solutions may include:</p> <ul style="list-style-type: none"> <li>- Facilitating cross ventilation by designing narrow building depths and providing dual aspect dwellings, for example, cross through dwellings and corner dwellings.</li> <li>- Facilitating convective currents by designing units, which draw cool air in at lower levels and allow warm air to escape at higher levels, for example, maisonette and two-storey dwellings.</li> </ul>	<p><b>Complies</b> Cross ventilation and natural ventilation is in accordance with the ADG requirements.</p>
	Provide narrow building depths to support cross ventilation.	<p><b>Considered Acceptable</b> Refer to ADG discussion for building depths. Additionally, all units are dual aspect and are cross ventilated.</p>
	Avoid single-aspect dwellings with a southerly aspect.	<p><b>Complies</b> All units are dual aspect.</p>
<b>Building Layout</b>	The layout of dwellings within a residential flat building should minimise the extent of common walls.	<p><b>Complies</b> Common walls are minimised through the development.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
<b>Storage Areas</b>	A secure storage space is to be provided for each dwelling with a minimum volume 8 m <sup>3</sup> (minimum dimension 1m <sup>2</sup> ). This must be set aside exclusively for storage as part of the basement or garage. Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	<b>Complies</b> Storage is provided in accordance with ADG requirements.
<b>7. Landscaping and Fencing</b>	The setback areas are to be utilised for canopy tree planting. The landscape design for all development must include canopy trees that will achieve a minimum 8 m height at maturity within front and rear setback areas.	<b>Complies</b> Canopy trees are proposed in the front and rear setbacks.
	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 consider the use of deciduous trees	<b>Complies</b> The landscape plan is made up of predominantly native species.
	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> A mixture of plant types and sizes is proposed.
	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> Minimal landscaping is proposed in the vicinity of the driveway.
	Tree and shrub planting along side and rear boundaries should assist in providing effective screening to adjoining properties.	<b>Complies</b> Planting is proposed along the side and rear boundaries.
	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	<b>Complies</b> Landscaping on the rooftop and planter boxes have been appropriately designed.



LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	other forms of development.	
	The development must be designed around significant vegetation on the site. It is important to retain significant vegetation to maintain an existing streetscape and enhance the visual appearance of new dwellings.	<b>Complies</b> The subject site does not contain any prescribed trees that are to be retained.
	Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry.	<b>Complies</b> Canopy trees will provide shade.
	Where landscaping is used to control overlooking, species selected are to be a kind able to achieve privacy within 3 years.	<b>Not applicable</b>
	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 over 3m from building.
	Contribute to streetscape character and the amenity of the public domain by: - Relating landscape design to the desired proportions and character of the streetscape. - Using planting and landscape elements appropriate to the scale of the development. - Mediating between and visually softening the bulk of large development for the person on the street. Planting design solutions include: - Trees for shading low-angle sun on the eastern and western sides of a dwelling. - Trees that do not cast a shadow over solar collectors at any time of the year. - Deciduous trees for shading of windows and open space areas in summer. methods. - Providing appropriate drainage. - Design planters to support the appropriate soil depth and plant selection by: - Ensuring planter proportions accommodate the largest volume of soil possible. Minimum soil	<b>Complies</b> An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>depths will vary depending on the size of the plant. However, soil depths greater than 1.5 m are unlikely to have any benefits for tree growth.</p> <ul style="list-style-type: none"> <li>- Providing square or rectangular planting areas rather than long narrow linear areas.</li> </ul>	
	<p>Design landscape which contributes to the site's particular and positive characteristics, for example by:</p> <ul style="list-style-type: none"> <li>- Enhancing habitat and ecology.</li> <li>- Retaining and incorporating trees, shrubs and ground covers endemic to the area, where appropriate.</li> <li>- Retaining and incorporating changes of level, visual markers, views and any significant site elements</li> </ul> <p>Design for optimum conditions for plant growth by:</p> <ul style="list-style-type: none"> <li>- Providing soil depth, soil volume and soil area appropriate to the size of the plants to be established.</li> <li>- Providing appropriate soil conditions and irrigation</li> </ul>	<p><b>Complies.</b> An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Urban Design and Public Domain Section who has raised no objections to the landscape design.</p>
<p><b>Fencing</b></p>	<p>The maximum height of a front fence is 1.2m. The maximum height of side boundary fencing within the setback to the street is 1.2m</p>	<p><b>Complies</b> 1.2m front fence is proposed on the western boundary of the site.</p>
	<p>Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas, be 30% transparent and shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.</p>	<p><b>Complies</b> The front fence is of masonry and metal pickets and is at least 30% transparent to allow for casual surveillance.</p>
	<p>For side walls or fences along the secondary frontage, a maximum height of 1.2m is required for the first 9m measured from the front boundary, the remaining fence / wall may then be raised to a maximum of 1.8m. The secondary</p>	<p><b>Complies</b> No secondary frontage</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	setback is the longest length boundary.	
<b>8. Car parking and access</b>	Visitor car parking shall be clearly identified and may not be stacked car parking. Visitor car parking shall be located between any roller shutter door and the front boundary.	<b>Complies</b> Visitor car parking provided in accordance with Part 1 of the LDCP 2008
	Pedestrian and driveways shall be separated.	<b>Complies</b> Separate access points are provided.
	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.	<b>Complies</b> Vehicle access from the western boundary of the site.
	Give preference to underground parking, whenever possible by: - Retaining and optimising the consolidated areas of deep soil zones. - Facilitating natural ventilation to basement and sub-basement car parking areas, where possible. - Integrating ventilation grills or screening devices of car park openings into the facade design and landscape design. - Providing safe and secure access for building users, including direct access to residential dwellings, where possible. - Providing a logical and efficient structural grid. There may be a larger floor area for basement car parking than for upper floors above ground. Upper floors, particularly in slender residential buildings, do not have to replicate basement car parking widths.	<b>Complies</b> Basement parking proposed.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>Where above ground enclosed parking cannot be avoided, ensure the design of the development mitigates any negative impact on streetscape and street amenity by:</p> <ul style="list-style-type: none"> <li>- Avoid exposed parking on the street frontage.</li> <li>- Hiding car parking behind the building facade. Where wall openings (windows, fenestrations) occur, ensure they are integrated into the overall facade scale, proportions and detail.</li> </ul>	<p><b>Not applicable</b> No above ground parking proposed.</p>
	<p>Promote equity by:</p> <ul style="list-style-type: none"> <li>- Ensuring the main building entrance is accessible for all from the street and from car parking areas.</li> <li>- Integrating ramps into the overall building and landscape design.</li> <li>- Design ground floor dwellings to be accessible from the street, where applicable, and to their associated private open space.</li> </ul>	<p><b>Complies</b> Ramp provided to access building.</p>
	<p>Maximise the number of accessible and adaptable dwellings in a building by:</p> <ul style="list-style-type: none"> <li>- Providing more than one accessible entrance where a development contains clusters of buildings.</li> <li>- Separating and clearly distinguish between pedestrian accessways and vehicle accessways.</li> <li>- Locating vehicle entries away from main pedestrian entries and on secondary frontages.</li> </ul>	<p><b>Complies</b> Units 4 and 8 are capable of being adaptable units.</p>
<p><b>9. Amenity and Environmental Impact</b></p>	<p>Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least:</p> <ul style="list-style-type: none"> <li>- One living, rumpus room or the like; and</li> <li>- 50% of the private open space.</li> </ul>	<p><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.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<p>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. 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.</p>	<p><b>Complies</b> The building generally complies with the ADG separation requirements.</p>
	<p>Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties.</p>	<p><b>Complies</b> Appropriate shrubs and tree planting is proposed along the site boundaries.</p>
	<p>Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings by:</p> <ul style="list-style-type: none"> <li>- Balconies to screen other balconies and any ground level private open space.</li> <li>- Separating communal open space, common areas and access routes through the development from the windows of rooms, particularly habitable rooms.</li> <li>- Changing the level between ground floor dwellings with their associated private open space, and the public domain or communal open space.</li> </ul> <p>Use detailed site and building design elements to increase privacy without compromising access to light and air by:</p> <ul style="list-style-type: none"> <li>- Offsetting windows of dwellings in new development and adjacent development windows.</li> <li>- Recessed balconies and/or vertical fins between adjacent balconies.</li> <li>- Solid or semi-solid balustrades to balconies - louvres or screen panels to windows and/or balconies.</li> </ul>	<p><b>Complies</b> The building generally complies with the ADG separation requirements.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<ul style="list-style-type: none"> <li>- Fencing.</li> <li>- Vegetation as a screen between spaces.</li> <li>- Incorporating planter boxes into walls or balustrades to increase the visual separation between areas.</li> <li>- Utilising pergolas or shading devices to limit overlooking of lower dwellings or private open space.</li> </ul>	
	<p>Noise attenuation measures should be incorporated into building design to ensure acoustic privacy between on-site and adjoining buildings.</p>	<p><b>Complies</b> An acoustic assessment has been provided which recommends how the proposed development can be designed and managed to assist in mitigating acoustic issues for the proposal. The acoustic report was reviewed by Councils Environmental Health department in the clearing house process and raised no objection to the acoustic report, subject to conditions.</p>
	<p>Buildings having frontage to a Classified Road or a railway and impacted upon by rail or traffic related noises must incorporate the appropriate noise and vibration mitigation measures into the design in terms of the site layout, building materials and design, orientation of the buildings and location of sleeping and recreation areas.</p>	<p><b>Complies</b> The site is not mapped as within proximity to a classified road or railway.</p>
	<p>The proposed buildings must comply with the Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance.</p>	<p><b>Complies with conditions</b></p>
	<p>Arrange dwellings within a development to minimise noise transition between dwellings by:</p> <ul style="list-style-type: none"> <li>- Locating busy, noisy areas next to each other and quieter areas next to other quiet areas, for example, living rooms with living rooms, bedrooms with bedrooms</li> <li>- Using storage or circulation zones within an dwelling to buffer noise from adjacent dwellings, mechanical services or corridors and lobby areas</li> </ul>	<p><b>Complies</b> An acoustic assessment has been provided which recommends how the proposed development can be designed and managed to assist in mitigating acoustic issues for the proposal. The acoustic report was reviewed by Councils Environmental Health department in the clearing house process and raised no objection to the acoustic report, subject to conditions.</p>

LIVERPOOL CITY COUNCIL

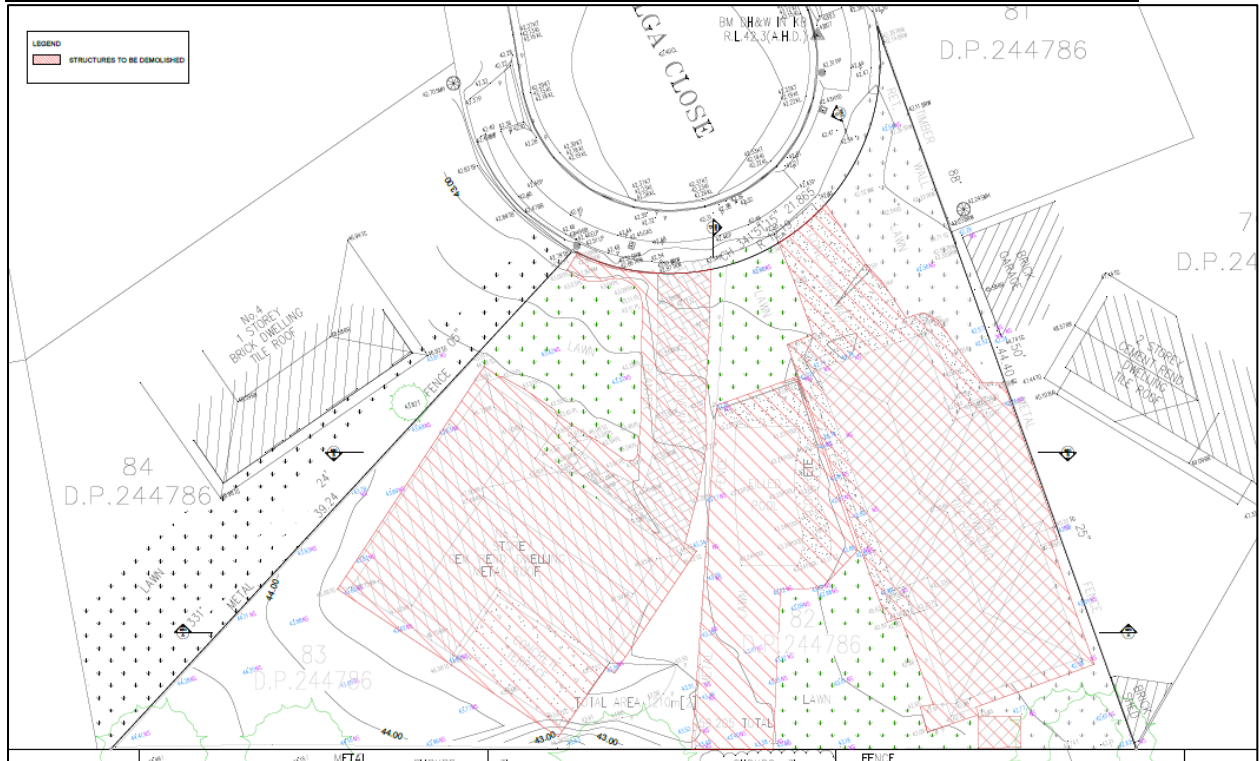
LOCAL PLANNING PANEL REPORT

31 October 2022

Development Control	Provision	Comment
	<ul style="list-style-type: none"> <li>- Minimising the amount of common walls with other dwellings.</li> <li>- Design the internal dwelling layout to separate noisier spaces from quieter spaces by grouping uses within a dwelling - bedrooms with bedrooms and service areas like kitchen, bathroom, and laundry together.</li> </ul>	
<p><b>10. Site Services</b></p>	<p>Letterboxes shall 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.</p>	<p><b>Complies with conditions</b> Letterboxes will be located adjacent to the main entry at 90 degrees to the street. Advisory conditions to apply regarding compliance with Australia Post requirements.</p>
	<p>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.</p>	<p><b>Complies with condition</b></p>
	<p>Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site.</p>	<p><b>Complies</b> Waste storage facilities are provided and will be maintained by the caretaker. Councils Waste Management officer has reviewed the waste management plan and conditions of consent have been provided.</p>
	<p>Any structure involving waste disposal facilities shall be located as follows: Setback 1 m from the front boundary to the 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.</p>	
	<p>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.</p>	<p><b>Complies with condition</b></p>
	<p>Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure.</p>	<p><b>Complies with condition</b></p>
	<p>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</p>	<p><b>Complies</b> Street tree planting is proposed as part of the landscape design for Wilga Close and is satisfactory.</p>

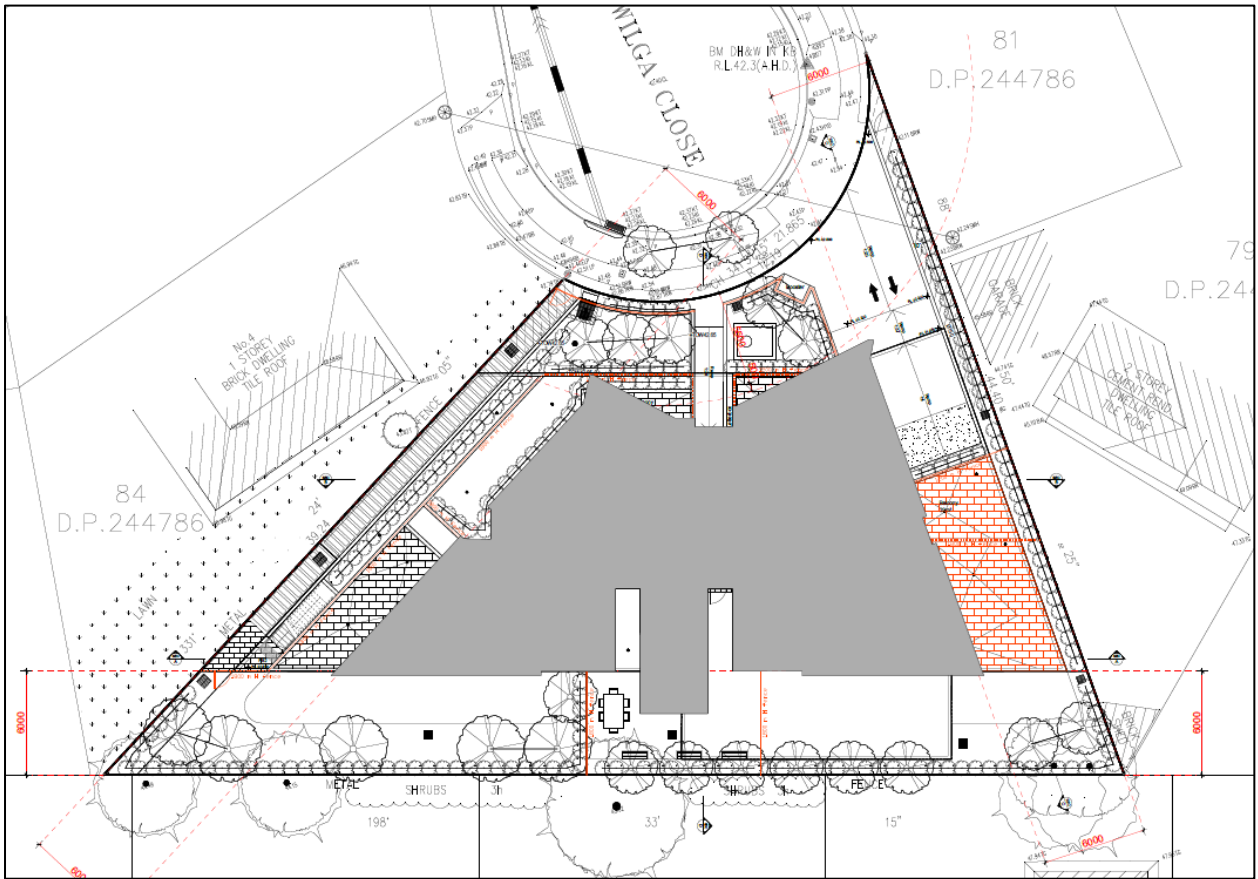
Development Control	Provision	Comment
	street trees be provided in the footpath area immediately in front of the site.	

**REPORT ATTACHMENT 3 – PLANS OF THE PROPOSAL**

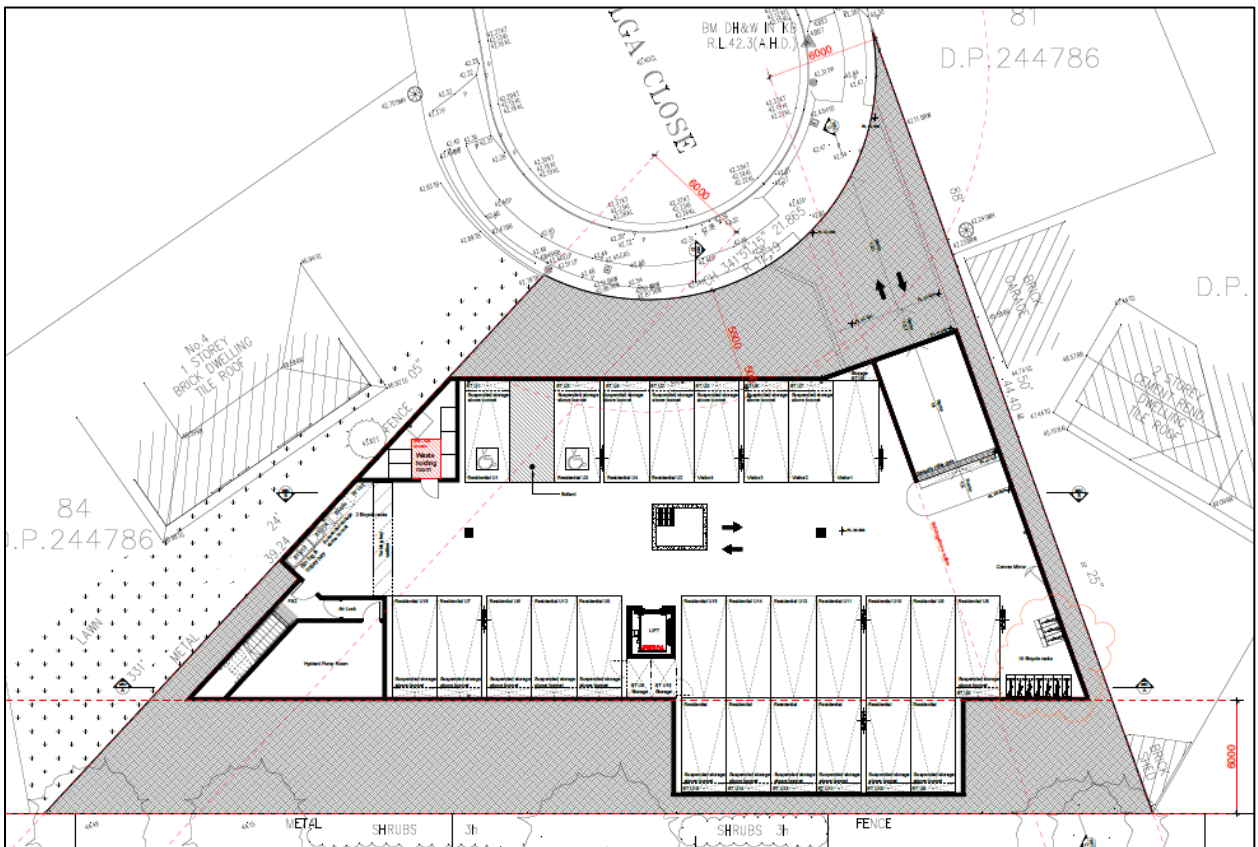


**Demolition Plan**

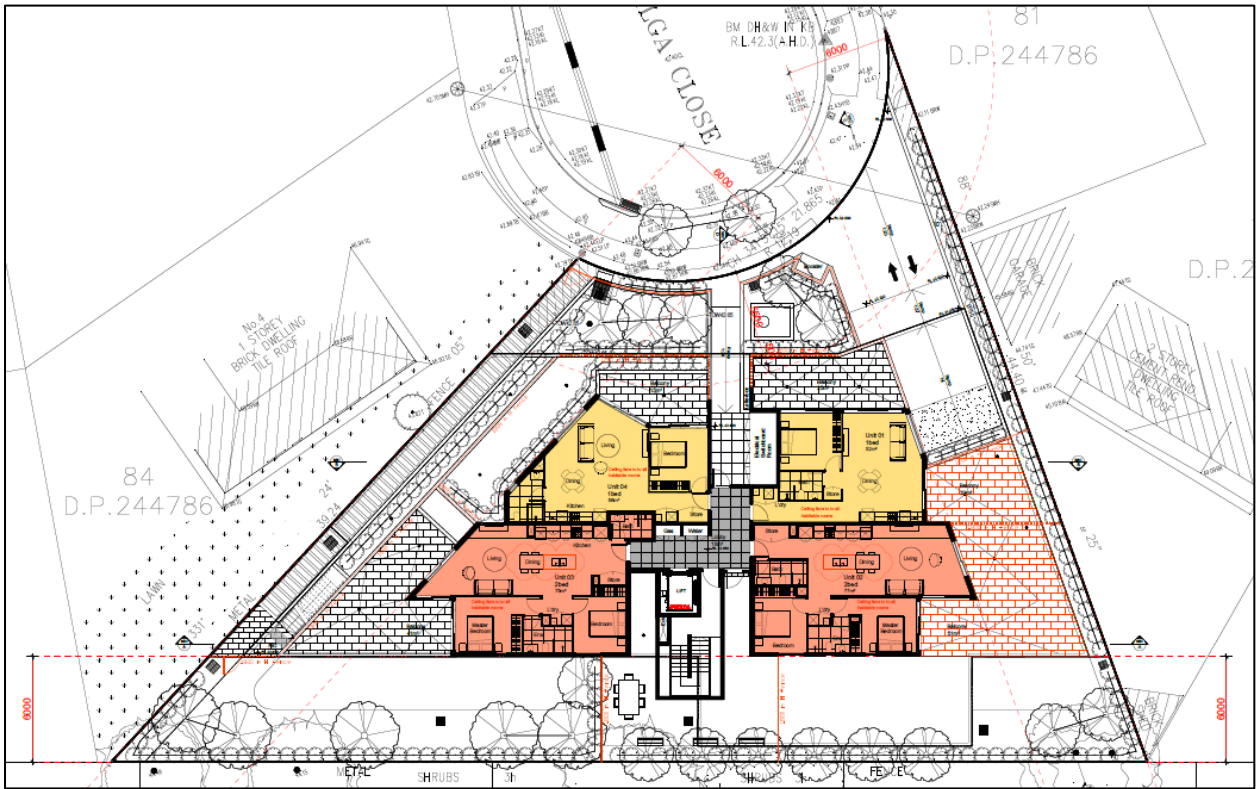




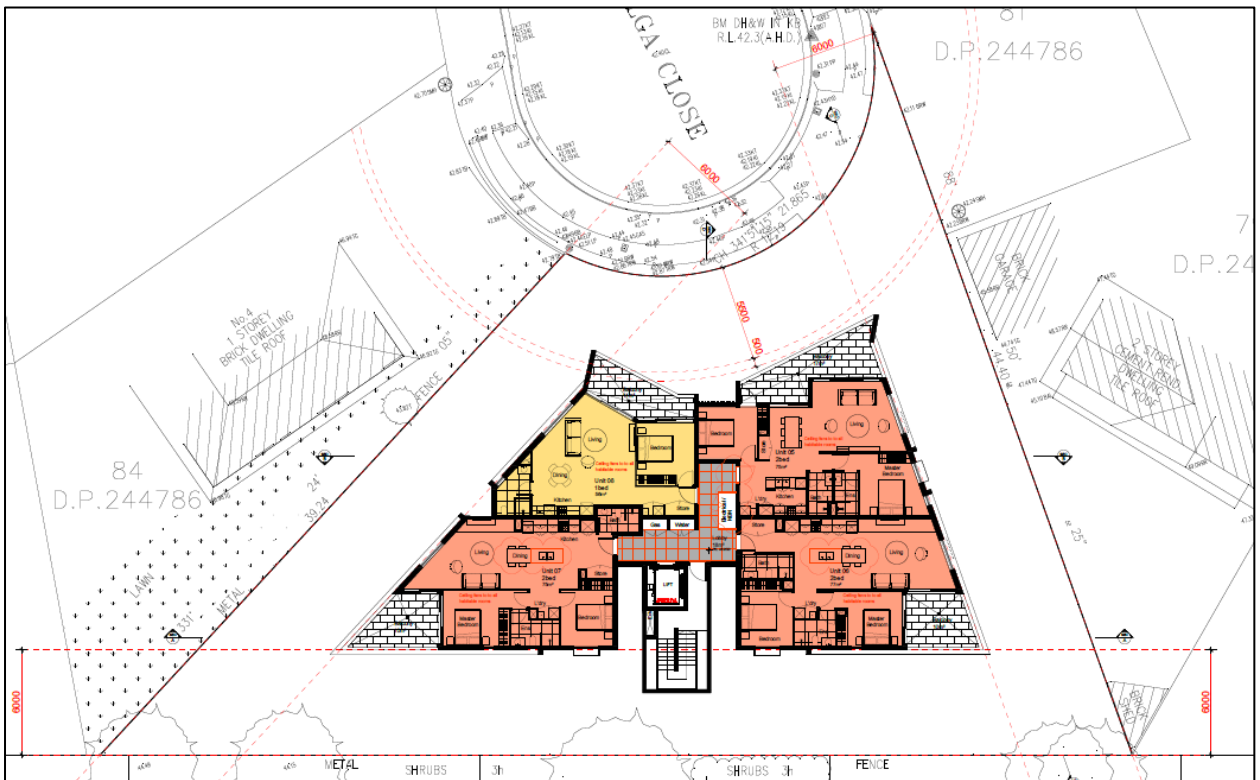
Site Plan



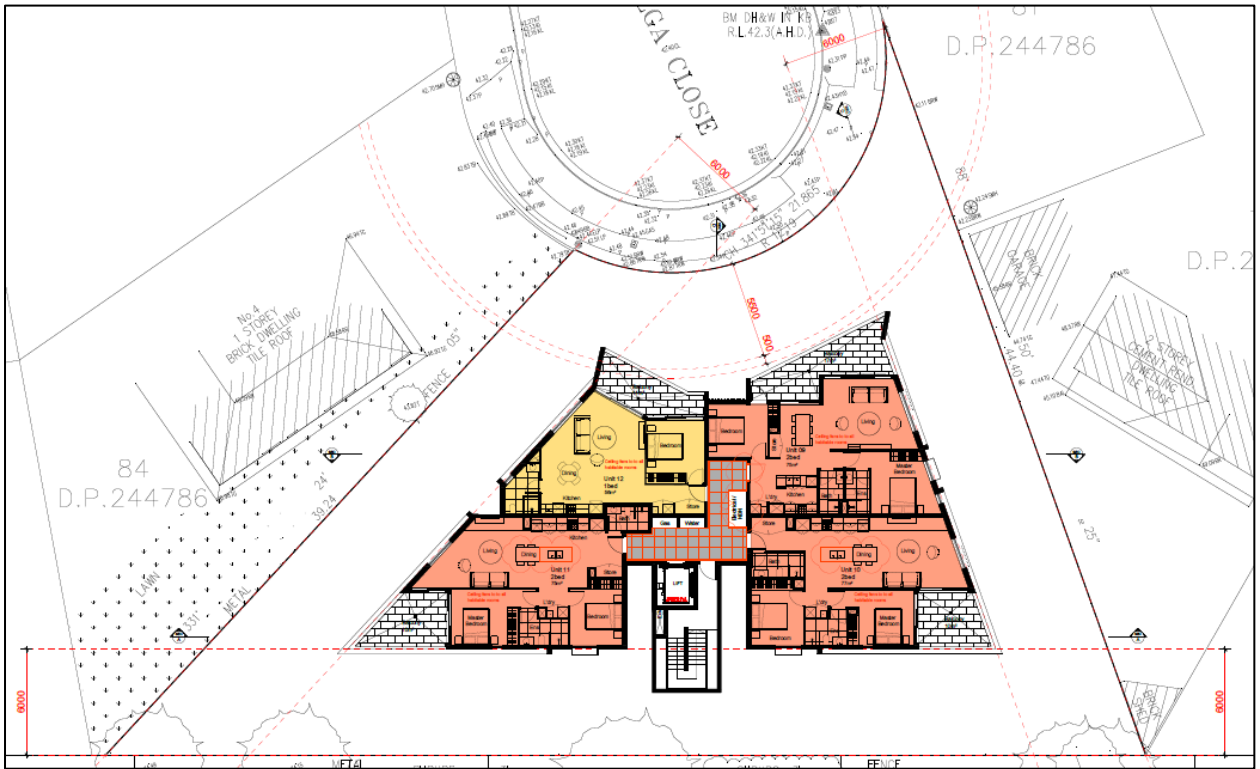
Basement Plan



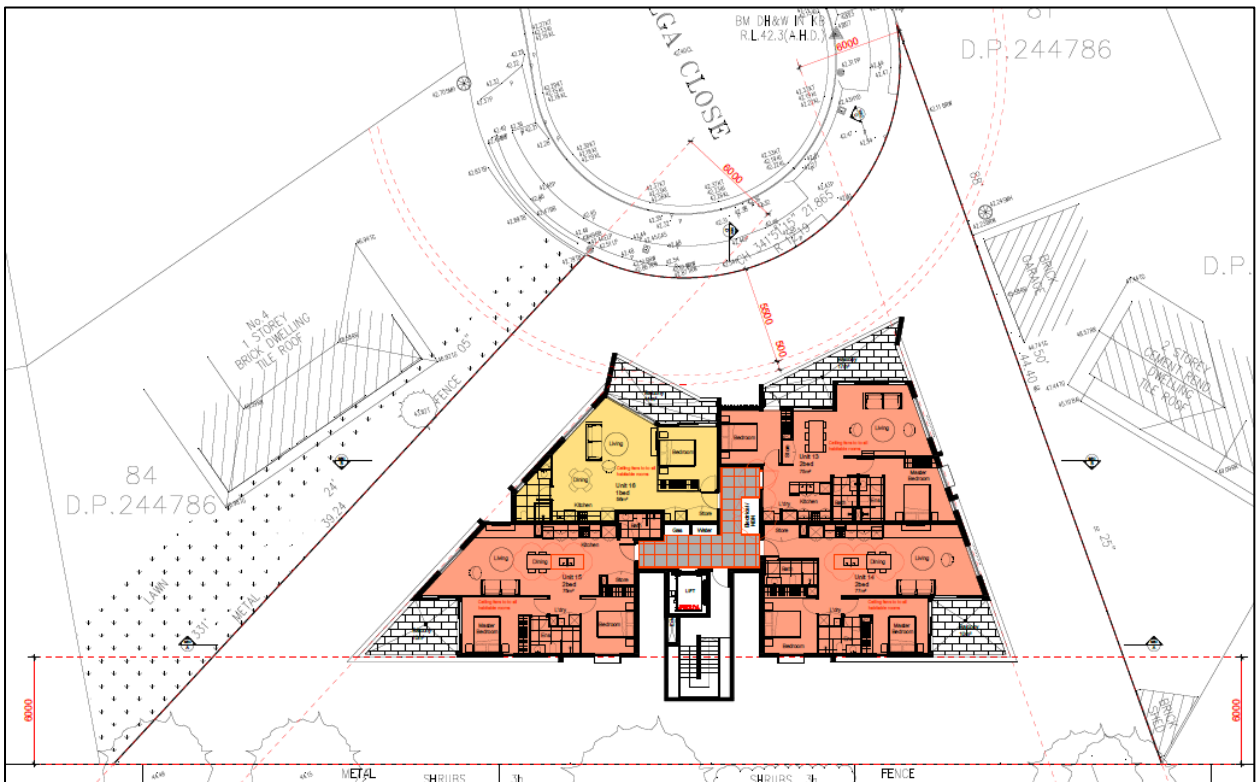
Ground Floor Plan



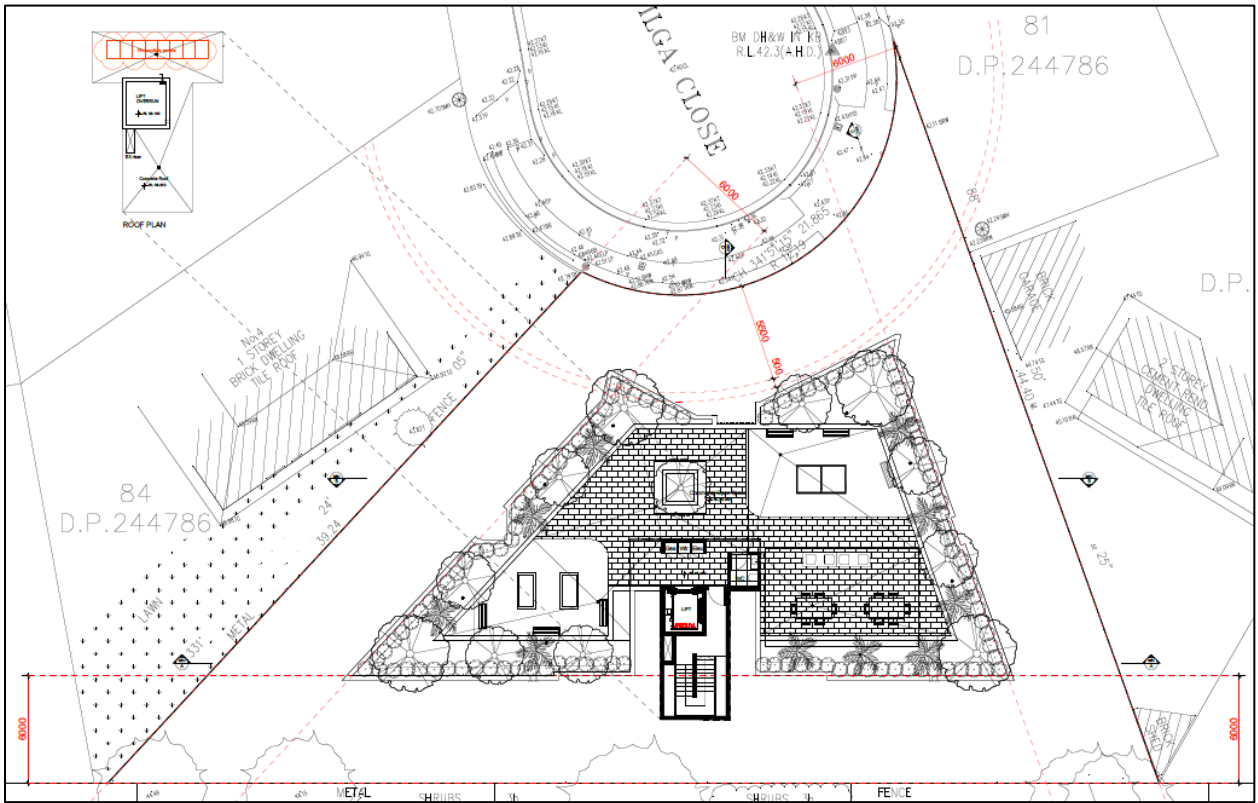
Level 1



Level 2



Level 3



Roof Plan



North Elevation



LIVERPOOL CITY COUNCIL  
 LOCAL PLANNING PANEL REPORT

31 October 2022

East Elevation



South Elevation



West Elevation

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022



### Sections



### Sections

LIVERPOOL CITY COUNCIL  
 LOCAL PLANNING PANEL REPORT

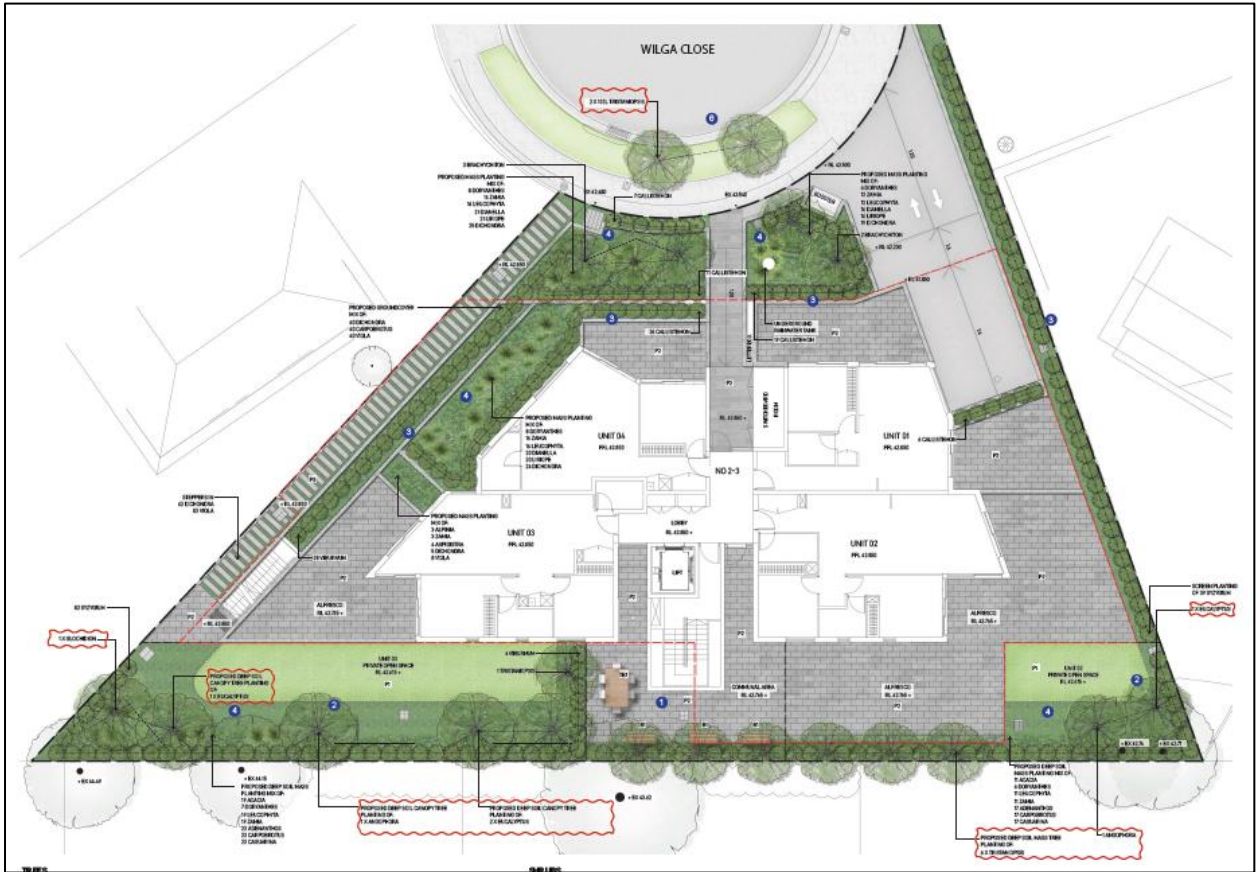
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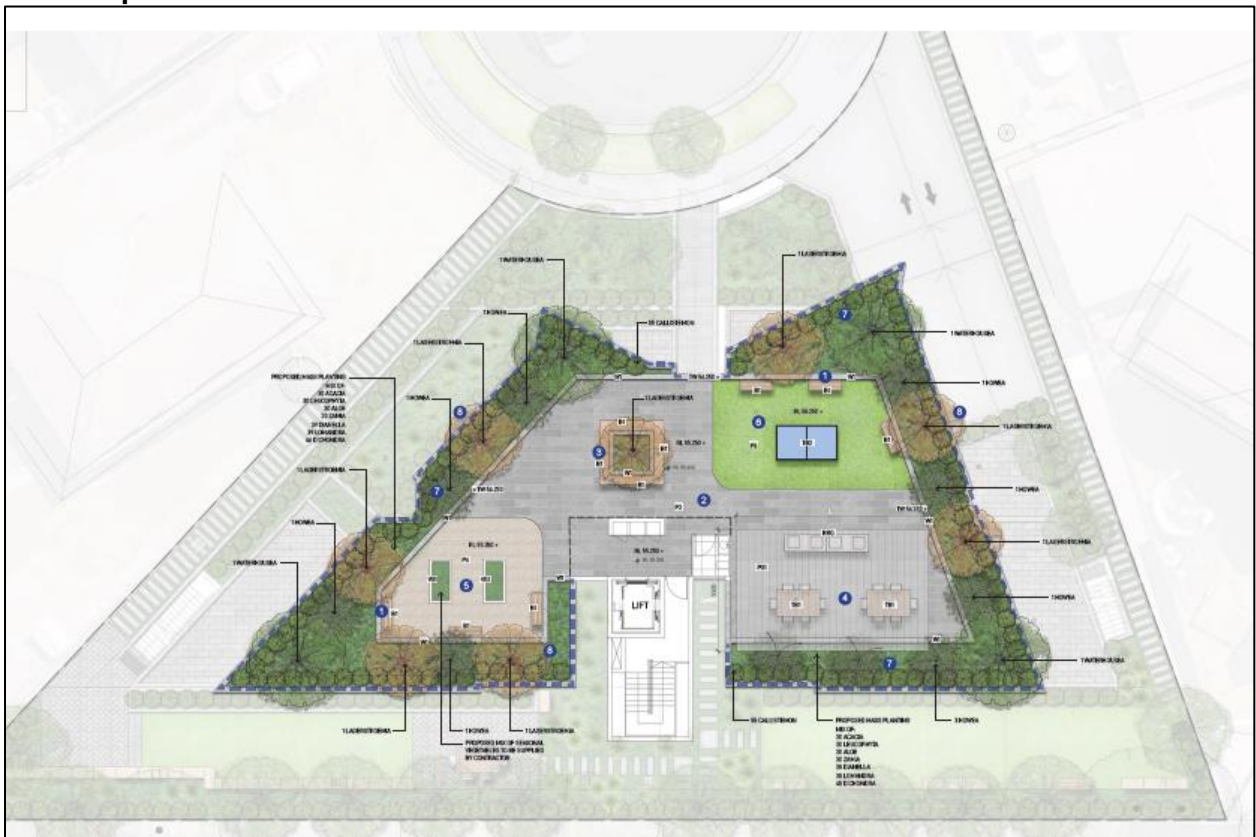
Colours and Finishes



Streetscape Perspective



Landscape Plan Ground Floor



Landscape Plan Rooftop



**REPORT ATTACHMENT 4 – CLAUSE 4.6 VARIATION APPLICATION FOR HEIGHT**

**CLAUSE 4.6 VARIATION STATEMENT – HEIGHT OF BUILDINGS (CLAUSE 4.3)**

**1. HEIGHT OF BUILDINGS STANDARD**

Clause 4.3(2) of *Liverpool Local Environmental Plan 2008* applies to the site. The Clause states as follows:

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

**2. PROPOSED VARIATION TO HEIGHT OF BUILDINGS DEVELOPMENT STANDARD**

The maximum Height of Buildings applying to the site is 15m. The revised proposal involves a maximum height of 15.6m above existing ground level. The extent of the variation is 0.6m, representing a 4% variation, and is indicated below in Figure 1.



Figure 1 Diagram Indicating the 15m height plane over the proposed development and extent of proposed height variation.

**3. CLAUSE 4.6 to LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008**

The objectives and provisions of clause 4.6 are as follows:

**4.6 Exceptions to development standards**

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

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



(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

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

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

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

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

(a) the consent authority is satisfied that—

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

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

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

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

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

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

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

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—



When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5,

(ca) clause 6.4, 6.5, 6.6, 7.5A, 7.22, 7.23, 7.24, 7.25, 7.26, 7.26A, 7.27, 7.28, 7.29 or 7.30.

The development standard in Clause 4.4(2) are not "expressly excluded" from the operation of clause 4.6.

This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate to Council that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, subclause 4.6(6).

It is hereby requested that a 0.6m (or 4%) variation to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum building height of 15.6m.

4. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(A)).

In *Wehbe v Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard"*

The judgement goes on to state that:

*"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)".*

Preston CJ in the judgement then expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purpose of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as it applies to the land and compliance with the standard that would be unreasonable. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd V Woollahra Municipal Council [2018] NSW LEC* (paragraph 16), Preston CJ, refers to *Wehbe* and states:

*"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl. 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary".*

Compliance with the maximum Height of Buildings development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this Statement.

The proposed development provides a built form that is of a scale, density, landscaped setting and external appearance that is compatible with the future desired character for the local area that is anticipated by *Liverpool Local Environmental Plan 2008*. The building will comply with the maximum height limit with the exception of a small 0.6m non-compliance arising from a lift overrun that is the result of providing communal open space on the roof level of the building.

#### 5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6 (3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd V Woollahra Municipal Council [2018] NSW LEC 118* (paragraph 24) states:

*"The environmental planning grounds relied on in the written request under cl. 4.6 must be "sufficient". There are two respects in which the written request need to be "sufficient". First the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard,*

*not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under clause 4.6(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 90 at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSW CA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify the variation to the maximum Height of Buildings development standard:

1. The height non-compliance is associated only with the proposed lift overrun which provides for access to a high quality and amenity area of communal open space for the benefit and enjoyment of residents and their visitors.
2. The relocated communal open space from ground level to the roof is a direct response to recommendations of the Design Excellence Panel and will satisfy the objectives and design criteria of the Apartment Design Guide.
3. The variation to the Height of Buildings development standard does not result in any other non-compliances. The proposal is compliant with all other development standards under the Liverpool Local Environmental Plan and Liverpool Development Control Plan 2008.
4. The location of the non-compliance being located in the centre of the building will have no greater overshadowing impact on adjoining properties compared to a compliant proposed.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development such as a scheme which would be unable to provide for a high-quality area of communal open space that will be provided with year round solar access and amenity. There are sufficient environmental planning grounds to justify contravening the development standard.

6. **The Applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). (Clause 4.6(a)(i))**

Preston CJ in *Initial Action Pty Ltd v Woolahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 5 above (and furthermore in terms of meeting the objectives of the development standard this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out (clause 4.6(4)(a)(ii))

Objectives of the Height of Buildings Development Standard in Clause 4.3

The objectives of clause 4.3 for a maximum Height of Buildings are as follows:

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

In order to address the requirements of subclause 4.6(4)(a)(ii), the objectives of clause 4.3 are addressed below:

- a) To establish the maximum height limit in which buildings can be designed and floor space can be achieved.

Objective (a) is satisfied and the proposal is fully compliant with the FSR development standard and only involves a minor variation to the Height of Buildings development standard.

- b) To permit building heights that encourage high quality urban form.

The proposed residential apartment building has been designed to be consistent with the R4 High Density Residential zoning of the site and the future desired character of the local area that is undergoing transition. The design of the development has been informed by the objectives and design criteria set out in SEPP 65 and the ADG.

- c) To ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight.

Objective (c) seeks to avoid adverse environmental impacts on adjoining properties and the public domain. Having regard to its design and scale, the proposal creates no additional overshadowing to nearby properties when compared to a compliant building envelope. Given the site orientation and topography, the proposal does not result in any additional privacy impacts and does not result in any adverse traffic or parking impacts above those arising from the existing building.

*d) To nominate heights that will provide an appropriate transition in built form and land use intensity.*

All of the land surrounding the subject site is zoned R4 High Density Residential and has comparable density and building height controls under Liverpool Local Environmental Plan 2008. Therefore, there is no requirement to transition the height of the building down to that of a lesser zone and height limit.

Objectives for Development in Zone R4 High Density Residential

The objectives for all development in Zone R4 High Density Residential are set out in Liverpool LEP 2008 and are listed below along with comments demonstrating the ways in which the proposal is consistent with the relevant objectives:

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

The proposed development will contribute to the supply of housing in an appropriate location and at an appropriate density.

*Objective "To provide for a variety of housing types within a high density residential environment"*

The proposal will contribute towards the diversity of housing types in the Liverpool LGA at a density that is commensurate with the planning controls applying to the site.

*Objective: "To enable other land uses that provide facilities or services to meet the day to day needs of residents"*

Not applicable.

*Objective: "To provide for a high concentration of housing with good access to transport, services and facilities"*

The proposed development will contribute to the supply of housing at an appropriate density that is located close to transport, retail and professional services and community facilities.

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

The proposed development is one of the first high density developments in the local area and will not fragment adjacent land so as to prevent the LEP's objectives being achieved.

#### 8. Secretary's Concurrence

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)).

Under clause 55 of the *Environmental Planning and Assessment Regulation 2021*, the Secretary has given written notice, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.



**9. State or regional environmental planning (Clause 4.6(5)(a))**

There is no identified outcome which would be deleterious to planning matters of State or regional significance that would result because of varying the development standard as proposed under the subject application.

**10. The public benefit of maintaining the development standard (Clause 4.6(5)(b))**

As detailed in this request there are no unreasonable impacts that will result from the proposed variation to the maximum Height of Buildings development standard. As such, there is no public benefit in maintaining strict compliance with the development standard.

The proposal seeks a 0.6m variation on the 15m Height of Buildings development standard under Clause 4.3(2) of *Liverpool Local Environmental Plan 2008*. The variation is as a consequence of the relocation of the communal open space from ground level to the roof of the building. This has necessitated provision of lift access to the roof level and a lift overrun that exceeds the 15m height limit by 0.6m or 4% of the development standard.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

**11. Any other matters to be taken into consideration by the Planning Secretary (Clause 4.6(5)(c))**

There are no other relevant matters to be taken into consideration by the Planning Secretary before granting concurrence.

**12. Conclusion**

Having regard to all of the above, it is our opinion that compliance with the maximum Height of Buildings development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied.





## REPORT ATTACHMENT 5 – CLAUSE 4.6 VARIATION APPLICATION FOR MINIMUM BUILDING STREET FRONTAGE

### Clause 4.6 Variation Statement – Minimum building street frontage (Clause 7.14)

#### 1. INTRODUCTION

This Variation Statement has been prepared in support of a development application for Amalgamation of lots, demolition of existing structures, excavation and construction of a four storey residential flat building over basement car parking (Proposal) at Nos. 2 & 3 Wilga Close, Casula (Site).

Clause 7.14(2) of Liverpool Local Environmental Plan 2008 (LLEP) is a development standard that relates to the minimum building street frontage requirements for the Site and provides that the minimum building street frontage to a public street on any land where a residential flat building is proposed is not to be less than 24 metres (Development Standard).

The full clause is provided below:

*“(2) Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres—*

*(a) any building on land in Zone B3 Commercial Core or B4 Mixed Use, or*

*(b) any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or*

*(c) any residential flat building.”*

The Proposal will contravene Clause 7.14. Clause 4.6 of LLEP provides that development consent may, be granted for development even though the development would contravene a development standard, upon consideration of a written request that seeks to justify the contravention of the development standard.

#### 2. PROPOSED VARIATION

The site is located in the R4 High Density Residential zone and proposes a four storey residential flat building. As such, Clause 7.14 is applicable to the proposal, pursuant to subclauses (2)(b) and (2)(c).

Due to the irregular shape of the site, the vast majority of the site is in excess of 24m wide, with the rear (eastern) boundary being 59.205m in width. As outlined in Figure 11 below, the point of the site where the front building line is proposed (delineated by the green line) is 32.3m wide.

However, the very front part of the site (highlighted blue) has a width of less than 24m in width, with the minimum street frontage to Wilga Close being 21.885m. As such, the site contravenes the minimum building street frontage development standard by 2.135m or 8.9% (Variation).

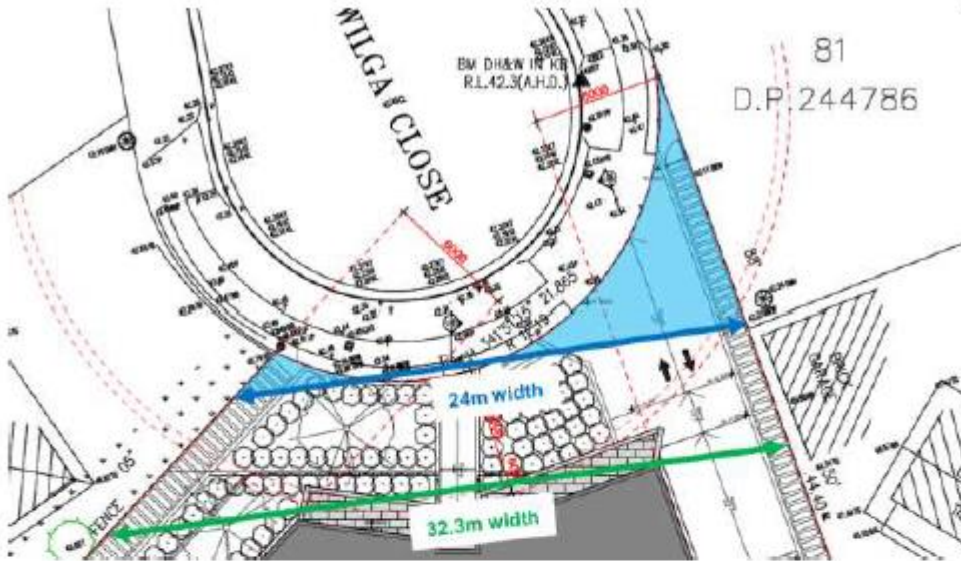


Figure 11 Extract from proposed site plan illustrating the parts of the site that are less than 24m wide

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 of LLEP are relevantly as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

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

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

- (a) the consent authority is satisfied that—

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

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

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

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

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

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

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

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living If—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 6.4, 6.5, 6.6, 7.5A, 7.22, 7.23, 7.24, 7.25, 7.26, 7.26A, 7.27, 7.28, 7.29 or 7.30.

Clause 7.14 of LLEP is not excluded from the application of Clause 4.6.

The focus for the consent authority's satisfaction is cl.4.6(4).

Preston CJ in *Initial Action Pty Ltd v Woolfahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the

circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4.1 below. Clause 4.6(3)(b) is addressed in Section 4.2 below.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(i). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 5 .

#### 4. MATTERS REQUIRED BY CL.4.6(3) ARE REQUIRED TO BE ADEQUATELY DEMONSTRATED – CLAUSE 4.6(4)(a)(i)

##### 4.1. THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."*

The Judgment goes on to state that:

*"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."*

Preston CJ in the Judgment then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

*"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."*

Clause 7.14(1) provides:

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

- (a) to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,*
- (b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,*
- (c) to provide appropriate dimensions for the design of car parking levels,*
- (d) to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.*

These objectives are addressed in turn below.

**Objective (a): to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions.**

As outlined in Section 1 of this variation request, the subject site is generally in excess of 24m in width, with only a small portion of the front of the site being less than 24m wide. Accordingly, the area of the site where the building is proposed to be located is in excess of 24m wide, with the width of the site at the front building line being 32.3m. This enables a building to be proposed on site that achieves a high level of compliance with the applicable planning controls under the Apartment Design Guide, LLEP and LDCP 2008. The high level of compliance results in a building envelope that is generally anticipated by the controls and consistent with the desired future character of the site.

In particular, the development complies with the applicable maximum height and FSR under LLEP, and building setbacks prescribed under LDCP 2008. Furthermore, the development achieves excellent levels of amenity for future occupants, and complies with the majority of requirements under the ADG, including in relation to deep soil and communal open space.

In respect of the scale and form of the development, the Proposal achieves a sensible and well-considered balance between vertical and horizontal proportions, despite the minimum building street frontage variation. The proposed building will be 4 storeys and is compliant with the maximum height prescribed under LLEP. The uppermost storey utilises a change in materiality to provide additional vertical expression. This is balanced out by vertical banding incorporated into the design and articulation of the building, including the form of the front balconies. Compliant setbacks, including 6m side setbacks and a large landscaped front setback enable the Proposal to achieve a landscaped setting, with screen planting provided to further soften the appearance of the development.

Overall, the scale and form of the development is in keeping with the size and shape of the subject site and compatible with the desired future character of the locality. As illustrated in Figure 12 below, the proposed development provides a well-balanced building form that has an appropriate horizontal proportion compared to its vertical proportions. Thus, it will provide a high quality development that is not visually jarring and will enhance the appearance of the site and streetscape, and will set a strong precedent for future high density residential development in the locality. The Proposal therefore achieves Objective (a).



Figure 12 Perspective of the proposed development as viewed from Wilga Close

**Objective (b): to ensure that vehicular access is reasonably spaced and separated along roads and lanes.**

The site currently contains two lots, each of which contains a detached dwelling house with off-street parking accessed via a driveway directly from Wilga Close. These driveways dominate the frontage of the site (as illustrated in Figure 13 below). The proposal includes one vehicle access from Wilga Close on the northern side of the site, in a similar location to the existing driveway to No. 2 Wilga Close. In addition, the proposal will reinstate the footway, nature strip, kerb and gutter along the rest of the frontage of the site. This will have obvious benefits in enhancing the visual appearance of the streetscape, reducing the visual clutter of additional driveways, and increasing on-street parking capacity.

Furthermore, the proposed driveway will be set away from existing driveways accessing adjoining neighbouring properties, including Nos. 4 and 5 Wilga Close to the south and No. 10 Birch Avenue to the north. This will ensure that vehicle accesses on the street include reasonable visual separation from one another.

Accordingly, despite the minimum building street frontage variation, the Proposal achieves Objective (b).



Figure 13 Existing driveways accessing the site

**Objective (c): to provide appropriate dimensions for the design of car parking levels.**

The proposed development includes a basement level for car parking, which is typical of modern residential flat building development throughout Liverpool LGA and the wider Sydney Region. The car park has been designed to accord with the relevant requirements of Section 8 in Part 3.7 of Liverpool DCP 2008. Furthermore, the geometric design layout of the car park is capable of complying with AS2890.1:2004 *Parking facilities: Part 1 - Off-street car parking* and AS2890.6:2009 *Parking facilities: Part 6 - Off-street car parking for People with Disabilities*. This is confirmed in the Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd.

Therefore, despite the minimum building street frontage variation, the Proposal provides a car parking area that will allow for safe and efficient access, parking and manoeuvring for future occupants and complies with the parking rates outlined in the DCP. The Proposal therefore satisfies Objective (c).

**Objective (d): to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.**

The subject site is located in a part of Casula that has recently been rezoned to R4 High Density Residential, with an expectation that existing low density residential built form (as exists on the site) will be replaced with 4 and 5 storey residential flat buildings (as proposed). As discussed in Section 1 above, the subject site is generally in excess of 24m wide, with the non-compliant (less than 24m wide) parts being confined to the very front of the site. The point of the site where the front building line is proposed is some 32.3m wide; 8.3m wider than the minimum requirement under Clause 7.14 of LLEP.

As a result, the subject site is capable of accommodating the proposed development, which provides a scale and form that is compatible with the desired future character of the locality, being for high density residential development. As outlined throughout this Statement of Environmental Effects, the proposed development achieves a high level of compliance with the applicable planning controls, including the Apartment Design Guide, LLEP and LDCP 2008.

Despite the minimum building street frontage variation, the Proposal therefore achieves Objective (d) by enabling a high density residential development on the site that is consistent with the objectives of the R4 zone (as outlined in Section 5 below) and will set a precedent for high quality development in the locality.

**Summary**

The above adequately demonstrates that compliance with the Minimum building street frontage is unreasonable or unnecessary in the circumstances in this case where the Proposal achieves the objectives of the standard, notwithstanding the Variation.

Compliance with the minimum building street frontage development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out above. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. The objectives of the zone are addressed in Section 5 below.

**4.2. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD (CLAUSE 4.6(3)(b))**

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that, despite non-compliance with the Minimum building street frontage, the proposed scale and form of the development is compatible with the desired future character of the locality and fits well within the streetscape.

It is important to reiterate here that the Variation (or contravention) is 2.135m or 8.9%.

It has been held in *Eather v Randwick City Council* [2021] NSWLEC 1075 that a particularly small departure from the actual numerical standard which lacks any material impacts consequential of the departure will be a sufficient environmental planning ground to justify contravening the development standard.

It is considered that the Variation is particularly small. This particularly small departure is also considered not to have any material impact, which arises as a consequence of the Variation, on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:

- Despite the Variation, the Proposal provides a building that has a scale, form and design that achieves a high degree of compliance with the ADG, LLEP (including maximum height and FSR), and relevant building envelope controls in the LDCP 2008. Accordingly, the Proposal provides a building envelope that is anticipated by the applicable controls and responds well to the site context. It will enhance the visual appearance of the site and streetscape and will set a high quality precedent for future development in the locality.
- The Variation is a result of the irregular shape of the subject site and only applies to a small portion of the front of the site. The vast majority of the site exceeds 24m in width, including the area where the building is proposed to be located (as illustrated in Section 1 of this variation request), where the site is 32.3m wide at the proposed front building line. As a result, the Variation does not result in development that is not able to achieve compliant setbacks, landscaping, or vehicle access.
- The Proposal will not result in any isolated sites on adjoining lots, despite the Variation. Adjoining sites to the north, east and south either already have at least a 24m minimum building street frontage or are capable of amalgamating with other adjoining lots in order to achieve a 24m minimum building street frontage. Accordingly, each of these adjoining lots are capable of being redeveloped for high density residential uses, consistent with the applicable R4 zoning and planning controls. This will not be affected by the proposed Variation on the subject site.
- The Proposal provides compliant car parking, safe and efficient vehicle and pedestrian access, and is capable of being serviced, including for waste collections, despite the Variation. This is confirmed in Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd and submitted under a separate cover.
- Despite the Variation, the Proposal will provide high levels of internal and external residential amenity to future occupants of the subject development, in particular:
  - o The Proposal complies with the communal open space and deep soil requirements in accordance with Parts 3D and 3E of the ADG;
  - o The proposed building complies with the building separation requirements in accordance with Part 3F of the ADG, with the exception of angled side windows and the POS of Unit 03, which do not give rise to any opportunities for adverse cross-views towards neighbouring properties. Accordingly, all of the proposed apartments will achieve a high level of visual privacy, consistent with Objective 3F-1 of the ADG;
  - o 13 out of 16 (81%) of proposed apartments will receive at least 2 hours of direct sunlight to private open space and main living rooms between 9am and 3pm on 21 June, in accordance with Part 4A of the ADG;
  - o All 16 (100%) of proposed apartments will achieve natural cross ventilation in accordance with Part 4B of the ADG; and
  - o All of the apartments complies or exceeds the internal and private open space size requirements in the ADG.





- Despite the Variation, the Proposal will not unduly impact neighbouring residential amenity, as follows:
  - o The Proposal does not give rise to any adverse overshadowing of neighbouring properties, compared to a development on a site with a compliant minimum building street frontage. Shadow diagrams submitted with the application illustrate that the Proposal does give rise to some overshadowing of neighbouring properties to the south and west between 9am and 3pm on 21 June. However, these neighbouring properties will still achieve compliant levels of winter sunlight and therefore, the level of overshadowing is entirely reasonable in light of the applicable planning controls;
  - o As outlined above, the Proposal does not result in any adverse cross-views towards neighbouring properties, given that generally compliant building setbacks are provided and windows and balconies are generally orientated to the front or rear of the site. Furthermore, the Proposal will not give rise to any adverse acoustic impacts on neighbouring properties, with COS located in the rear setback at ground level;
  - o The Variation will not result in any significant or unreasonable view loss. The proposed development will not result in any material loss of views or outlook when compared to a building with a compliant minimum building street frontage. No important views are obtained over the site and the proposed building scale and form is consistent with the applicable building envelope controls. Therefore, any impacts on neighbouring views and outlook are entirely reasonable.

Accordingly, the Variation is justifiable.

Further the following discussion provides that not only does the Variation advance the objects of the *Environmental Planning and Assessment Act 1979*, but also advances an environmental and planning benefit:

- The Proposal replaces two dated dwelling houses with a high quality residential flat building that is consistent with the R4 zoning of the site and the applicable planning controls, which seeks high density residential development in the locality. As outlined above, the Proposal achieves a high level of compliance with the applicable building envelope controls and will enhance the visual appearance of the site and the streetscape. Accordingly, the Proposal is consistent with the desired future character of the locality and will set a strong precedent for future high density developments in the area.
- The existing buildings on the Site include two driveways that dominate the site frontage and minimise the level of landscaping that can be provided within the front setback of the Site. In contrast, the Proposal will provide a single driveway access from Wilga Close, with the remained for the site frontage reinstated with footway, nature strip, kerb and gutter. This will enhance the visual appearance of the streetscape and allow for street tree planting. In addition, the rest of the front setback within the Site, other than for pedestrian access, is dedicated to soft landscaped area to allow for dense vegetation planting, including canopy trees. This will soften the overall appearance of the Site and provide a landscaped setting for the Proposal.
- The Variation advances the objects in Section 1.3 of the EPA Act, specifically:
  - o The redevelopment of the site, which is enabled through the Variation, promotes the orderly and economic use and development of land by replacing dated low density housing with a high quality residential flat building that is compatible with the desired future character of the locality. The redevelopment for high density residential purposes is consistent with the objectives of the R4 zone and the Proposal will set a strong precedent for future development of neighbouring sites in the locality (1.3(c));
  - o The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context, and the desired future character of the locality (1.3(g)).



The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly the fact that the vast majority of the Site has a width in excess of 24m. The proposed Variation does not materially impact the amenity of the neighbouring properties (when compared to a compliant development) and has the Proposal has designed in such a way to ensure that the development achieves high levels of amenity for future occupants and is of a scale and form that is compatible with the streetscape and is not visually jarring from the public domain.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

*"86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*

*87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard."*

As outlined above, it is considered that in many respects, the Variation will provide for a better or similar planning outcome than a Minimum building street frontage compliant development. Accordingly the Variation is justifiable.

**5. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD, AND THE OBJECTIVES OF THE ZONE (CLAUSE 4.6(4)(a)(ii))**

It is considered that in demonstrating that compliance with the Minimum building street frontage is unreasonable or unnecessary because the Proposal otherwise achieves the objectives of the standard, it follows that the Proposal is also consistent with those objectives.

Clause 4.6(4)(a)(ii) however also requires consideration of the relevant R4 High Density Residential zone objectives which are provided below:

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

Notwithstanding the Variation, the Proposal is consistent with the objectives of the Zone because the Proposal:

- Provides a high density residential building that contains 16 apartments, which achieve excellent levels of residential amenity. This includes a range of apartment types and sizes, including adaptable apartments that will add to housing choice in the locality and will provide for the housing needs to the local community.
- Includes 16 apartments (5 x 1-beds and 11 x 2-beds) in a range of sizes and includes 2 x adaptable apartments that will add to the variety of housing types in the locality within a suitable high density residential environment.
- Will not affect any other land uses that provide facilities or services to meet the day to day needs of residents.
- Is located in an accessible within 300m of bus stops on Kurrajong Road that provide frequent bus services to a number of suburbs, centres and transport nodes in Southwest Sydney. The Site also has convenient access to Casula Mall, providing a number of shops and services, as well as nearby employment, education and recreational facilities. The Site is therefore well-suited for a high density residential development such as the Proposal.
- As outlined throughout this variation request, the Proposal provides a highly compliant development despite the proposed Variation. The vast majority of the site exceeds 24m in width and is thus capable of supporting a high quality residential flat building. Furthermore, the Proposal does not result in the isolation of any neighbouring sites, all of which are capable of being redeveloped for high density residual uses, either on their own or as part of larger amalgamated sites. Therefore, the development does not result in the fragmentation of land that would prevent the achievement of high density residential development on neighbouring sites or in the wider locality.

For these reasons the Proposal is consistent the relevant objectives for development in Zone R4.

Accordingly, the consent authority can be satisfied that the Proposal is in the public interest, because it is consistent with the objectives of both the development standard and the zone.

#### 6. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The issue of the concurrence of the Secretary of the Department of Planning and Environment is dealt with by Planning Circular PS 20-002 'Variations to development standards', dated 5 May 2020. This circular is a notice under 64(1) of the Environmental Planning and Assessment Regulation 2000. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

The circular provides for assumed concurrence.

Concurrence cannot be assumed for a request for a variation to a numerical standard by more than 10 per cent if the function is to be exercised by a delegate of the consent authority. This restriction does not apply to decisions made by local planning panels, who exercise consent authority functions on behalf of councils but are not legally delegates of the council. As such, it is anticipated that the development application will be determined by the local planning panel.

The Secretary can be assumed to have given concurrence to the variation.

#### 7. CONCLUSION

The Proposal requests a variation to the minimum building street frontage standard to ensure that the subject site accommodates an appropriate high density residential development that achieves a scale and form that enhances the visual appearance of Wilga Close and is compatible with the desired future character of the locality. The proposed development achieves a high level of compliance with the applicable building envelope controls and will achieve excellent levels of amenity for future occupants and without having any unreasonable adverse impact on the amenity of adjoining properties.

The Proposal is entirely compatible with the desired high density character of the locality and will set a strong precedent for future development within the locality, as the area transitions from low density to high density residential development, consistent with the R4 zoning and applicable planning controls. Furthermore, the Proposal will not inhibit the future redevelopment of neighbouring sites.

LIVERPOOL CITY COUNCIL  
LOCAL PLANNING PANEL REPORT

31 October 2022



The site is located within an accessible area and the Proposal provides compliant levels of car parking on site, as well as safe and efficient vehicle and pedestrian access to the Site.

Therefore, insistence upon strict compliance with that standard would be unreasonable or unnecessary. On this basis, the requirements of Clause 4.6(3) are satisfied and the Variation supported.



## **REPORT ATTACHMENT 6 – DESIGN EXCELLENCE PANEL MINUTES**



### **Minutes**

#### **MINUTES OF DESIGN EXCELLENCE PANEL MEETING Thursday the 9<sup>th</sup> of June 2022**

##### **DEP PANEL MEMBERS PRESENT:**

Shaun Carter	Chair	Carter Williamson Architects
Garth Paterson	Panel Member	Paterson Design Studio
Matthew Taylor	Panel Member	Taylor Brammer Landscape Architects

##### **APPLICANT REPRESENTATIVES:**

Dany Chalabi                      Arch and Co.

##### **OBSERVERS:**

Brenton Toms	Panel Support Officer	Liverpool City Council
Robert Micallef	Planner	Liverpool City Council
Ariz Ashraf	Convenor / Senior Urban Designer	Liverpool City Council

##### **ITEM DETAILS:**

Item Number: 3

Application Reference Number: DA-1305/2021

Property Address: 2 Wilga Close, Casula

Council's Planning Officer: Robert Micallef

Applicant: CASULA NSW DEVELOPMENTS PTY LTD

Proposal: Demolition of existing structures and construction of a four-storey residential flat building comprising 16 flats, with one level of basement car parking, and associated landscaping.

##### **1.0 WELCOME, ATTENDANCE, APOLOGIES AND OPENING**

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

Attendees signed the Attendance Registration Sheet.

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

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

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

## 2.0 DECLARATIONS OF INTEREST

NIL

## 3.0 PRESENTATION

The applicant presented their proposal for DA-1305/2021 at 2 Wilga Close, Casula.

## 4.0 DEP PANEL RECOMMENDATIONS

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

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

<i>Previous DEP Recommendations (DEP Meeting held on 10 Mar 2022)</i>	<i>Latest DEP Recommendations (DEP Meeting held on 09 June 2022)</i>
<p><b>4.1. Context</b></p> <ul style="list-style-type: none"> <li><i>The Panel notes that the proposed design scheme includes multiple design issues which need to be addressed and resolved. The Panel recommends the applicant thoroughly reviews the proposed scheme and addresses the design principles and functional criteria in accordance with the SEPP 65 Apartment Design Guide (ADG).</i></li> <li><i>The Panel requires the applicant to achieve full compliance with the minimum requirements of the ADG and prepare a SEPP 65 ADG Compliance table to demonstrate how the design parameters have been met / addressed.</i></li> <li><i>The Panel notes the subject site has considerable potential to provide a high level of amenity, cross ventilation and visual interest in the built form. The Panel encourages the applicant to develop the proposed design by embracing the fundamental principles of good design to ensure that the site / built form provides a quality design outcome. The Panel recommends the applicant visualise living in each apartment to understand the spatial quality of the design. Refer to attached design sketches for guidance in the design refinement process (The design refinement process should also secure full compliance</i></li> </ul>	<p><b>4.1. Context</b></p> <ul style="list-style-type: none"> <li><i>The Panel commends the applicant for incorporating several recommendations previously made by the DEP. The Panel notes that the overall design has improved from the earlier iteration and encourages the applicant to strive for design excellence as part of detailed design for the project.</i></li> </ul>

<i>Previous DEP Recommendations (DEP Meeting held on 10 Mar 2022)</i>	<i>Latest DEP Recommendations (DEP Meeting held on 09 June 2022)</i>
<i>with all SEPP's, standards, codes and regulations).</i>	
<p><b>4.2. Built Form + Scale</b></p> <ul style="list-style-type: none"> <li>The Panel notes that the proposed lift lobby does not allow for natural light and ventilation as required by the ADG. The Panel requires the applicant to fully comply with the requirement as per SEPP 65 and provide light and ventilation to the lift lobbies at all levels.</li> <li>The Panel notes that the entrance lobby at ground floor is relatively narrow and uninviting (e.g. the entry for Unit 1 is immediately near the door for the lobby). The Panel recommends the applicant reworks the design of the building core to achieve a quality design outcome for the lobby areas. The Panel recommends the applicant considers relocation of the fire-stair to achieve the desired compliant outcome.</li> <li>The Panel notes that the narrow slot windows being proposed as part of the design will achieve little light and ventilation for the units. The Panel noted that the slot windows are not required to achieve the ADG setback requirements for privacy (i.e., 6m setback from boundary).</li> <li>The Panel notes that the car park exhaust riser is located on the external south-western wall, which limits the opportunity to allow light into the Apartments. The Panel recommends the applicant relocates the car park riser internally to free up the external face of the building and maximise natural light opportunities on the facades. The Panel recommends the applicant internalise all vertical stacks, and if required, bathrooms and laundry spaces, to free up the building envelope for habitable spaces.</li> <li>The Panel suggests the applicant rework / review the internal configurations and spatial planning of the units to ensure maximum amenity and better quality spaces for residents and increased value for the client. Refer to notes below and sketches attached, for additional guidance on Amenity and minimum distances from the external face of the building.</li> </ul>	<p><b>4.2. Built Form + Scale</b></p> <ul style="list-style-type: none"> <li>The Panel notes that the basement car park proposes two fire egresses as part of the design. The Panel recommends the applicant to explore an engineered solution to reduce the number of fire exits being proposed for the basement level. Consider using the driveway ramp as one of the fire exits and consider removing the northern fire egress exiting out into the landscape.</li> <li>The Panel recommends the applicant to explore an island kitchen layout for the units that do not impede on the amenity for the dining space (at least for two-bedroom units). See Apartment kitchen island design references attached to these minutes.</li> <li>The Panel recommends the applicant to explore if the kitchen can be relocated on the other side for the eastern apartments to improve the internal layout for the unit.</li> <li>The Panel recommends the applicant to consider a tapered form for the fire exit structure to achieve additional amenity for future developments in the area.</li> <li>The Panel requires the applicant to detail out the apartment windows / glazing to achieve adequate insulation and noise attenuation. Consider using high performance glazing to ensure efficiency for the indoor environment.</li> <li>The Panel notes that the proposed electrical / NBN cabinet (i.e., next to Unit 05) can be resized / relocated to allow positioning the door in a better location and provide a more generous entry space for these units.</li> </ul>

<i>Previous DEP Recommendations (DEP Meeting held on 10 Mar 2022)</i>	<i>Latest DEP Recommendations (DEP Meeting held on 09 June 2022)</i>
<ul style="list-style-type: none"> <li>The Panel notes that the extent of blade walls proposed between the western units will impact the overall solar amenity of the units. The Panel recommends the applicant review the extent of blade walls being provided for privacy. The use of sun-eye diagrams for Winter Solstice (June 21), Equinox (March, Sept 21) and Summer Solstice states for hourly time intervals from 9am to 3pm, will assist in developing a more accurate understanding of solar access to the building.</li> </ul>	
<p><b>4.3. Density</b></p> <ul style="list-style-type: none"> <li>The Density proposed for the site appears achievable with a quality design that fully complies with SEPP65 &amp; the ADG.</li> <li>The Panel is cognisant of multiple SEPP65/ADG non-compliances in the present design scheme. The Panel requires the applicant address concerns raised in terms of built form / building design.</li> </ul>	<p><b>4.3. Density</b></p> <ul style="list-style-type: none"> <li>The Panel supports the overall density being proposed on site.</li> </ul>
<p><b>4.4. Sustainability</b></p> <ul style="list-style-type: none"> <li>The Panel requires the applicant to consider adequate sustainability initiatives as part the development (e.g., Photovoltaic Panel, rainwater harvesting for irrigation, adequate treatments for thermal comfort, etc.).</li> <li>The applicant is to provide an ESD report as part of the re-submission that identifies all ESD opportunities that have been examined and those that have been included in the revised design.</li> </ul>	<p><b>4.4. Sustainability</b></p> <ul style="list-style-type: none"> <li>The Panel recommends the applicant to consider Photovoltaic (PV) Panels to offset the energy requirements for the communal areas.</li> <li>The Panel recommend that all habitable rooms indicate ceiling fans in addition to air conditioning.</li> <li>The panel recommends performance glazing to better help balance energy flows.</li> </ul>
<p><b>4.5. Landscape</b></p> <ul style="list-style-type: none"> <li>The Panel notes the architectural drawings indicate the landscape intent for the site, however, minimal landscape details have been provided. The Panel recommends the applicant engage an AILA registered landscape architect to develop the landscape scheme for the site and prepare detailed landscape drawings for the next DEP meeting. All relevant design principles from the ADG should be adopted in the design drawings.</li> <li>The Panel notes that the current landscape scheme proposes communal open space at ground level. The Panel recommends the</li> </ul>	<p><b>4.5. Landscape</b></p> <ul style="list-style-type: none"> <li>The Panel notes that the landscape plan proposes <i>Angophora</i> species trees along the eastern boundary fence. The Panel requires the applicant to distribute the trees within the grassed area and provide additional tree canopy with a mix of tree species including Eucalypts and other endemic species at ground level so as not to cause an issue with retaining walls as shown and away from boundaries.</li> <li>The Panel recommends the applicant to consider removing one the fire stairs exiting</li> </ul>



<b>Previous DEP Recommendations (DEP Meeting held on 10 Mar 2022)</b>	<b>Latest DEP Recommendations (DEP Meeting held on 09 June 2022)</b>
<p>applicant considers relocating the communal open space at the roof level with lift access, an accessible toilet, barbeque and associated landscape works (see indicative sketch). This would provide improved amenity for the communal space and a better facility for residents.</p> <ul style="list-style-type: none"> <li>The Panel recommends the applicant re-designs the ground floor apartments as garden facing units once the communal open space has been relocated to the roof level. The Panel advises that some communal space can be retained at ground level.</li> <li>The Panel supports the location and extent of Deep Soil Zone (DSZ) being provided as part of the design. The Panel recommends the applicant includes large canopy trees within the planting palette to ensure adequate canopy cover for the site.</li> <li>The Panel requires the applicant detail maintenance access for the planter boxes proposed on the western elevation (i.e., between the blade walls above the entry).</li> </ul>	<p>on to the landscaped area to achieve a better design outcome.</p> <ul style="list-style-type: none"> <li>The Panel recommends the applicant to consider relocating the OSD to the basement driveway or to one corner of the site. This will provide more usable space within the POS for the ground floor unit.</li> <li>The Panel supports the overall amenity being provided as part of the rooftop communal open space (COS).</li> <li>The Panel notes that the landscape plan indicates retaining walls for the ground floor units which can be avoided. The Panel recommends the applicant to minimise the extents of retaining walls and grade the soil to achieve the required levels.</li> <li>The Panel requires the applicant to ensure adequate soil volume for the trees to sustain a long-term health and growing environment for the trees.</li> <li>The Panel noted that if one less fire exit is required the applicant should explore more screen planting on the Northern Boundary.</li> </ul>
<p><b>4.6. Amenity</b></p> <ul style="list-style-type: none"> <li>The Panel notes that the solar amenity for the proposed development needs to improve. The applicant needs to ensure that living rooms are provided with a minimum of two hours of sunshine on at least 1 sq. m. of living room glazed surfaces (i.e., vertical faces of living rooms) on 21 June between 9am to 3pm.</li> <li>The Panel notes that the extensive balconies proposed will cast shadow on the windows and impact on solar amenity for the units. The Panel recommends the applicant thoroughly reviews solar access to demonstrate the required level of compliance has been achieved.</li> <li>The Panel notes that the location of kitchen areas within multiple units do not comply with the maximum distances permissible in the ADG (i.e., a maximum of 8m to the face of the cupboard). The Panel requires the applicant to</li> </ul>	<p><b>4.6. Amenity</b></p> <ul style="list-style-type: none"> <li>The Panel requires the applicant to ensure overall amenity and solar access for the units.</li> </ul>

<i>Previous DEP Recommendations (DEP Meeting held on 10 Mar 2022)</i>	<i>Latest DEP Recommendations (DEP Meeting held on 09 June 2022)</i>
<i>ensure full compliance with the minimum requirements of SEPP65 &amp; the ADG.</i>	
<b>4.7. Safety</b> <ul style="list-style-type: none"> <li>The applicant is to provide documentation demonstrating how CPTED principles have been addressed.</li> </ul>	<b>4.7. Safety</b> <ul style="list-style-type: none"> <li>The Panel notes that the applicant has undertaken a CPTED assessment of the site. The Panel requires the applicant to incorporate the recommendations made in the CPTED as part of detailed design.</li> </ul>
<b>4.8. Housing Diversity + Social Interaction</b> <ul style="list-style-type: none"> <li>The Panel notes that a well-designed apartment building increases housing diversity and the potential for social interaction.</li> </ul>	<b>4.8. Housing Diversity + Social Interaction</b> <ul style="list-style-type: none"> <li>The Panel supports the overall mix being proposed as part of the development.</li> </ul>
<b>4.9. Aesthetics</b> <ul style="list-style-type: none"> <li>This site provides an opportunity for a well-designed architectural response and a well-resolved, proportioned and composed design.</li> <li>The Applicant should prepare a 1:20 section of the proposed façade detailing all junctions, materials, windows and doors, and any architectural features. The section will be from the basement to the roof.</li> <li>The Panel requires the applicant to provide further details on the proposed materials, including three CGI renders of the external façade at different locations.</li> </ul>	<b>4.9. Aesthetics</b> <ul style="list-style-type: none"> <li>The Panel supports the overall materiality being proposed as part of the design.</li> </ul>
<b>5.0. Outcome</b> <p>The panel have determined the outcome of the DEP review and have provided final direction to the applicant as follows:</p> <p>The proposal is not supported by the DEP and must return to the panel, with all feedback incorporated or addressed.</p>	<b>5.0. Outcome</b> <p>See below.</p>

**5.0 OUTCOME**

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

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

**REPORT ATTACHMENT 7 – 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, prepared by Arch & Co. Architects, Job No. 11220, including the following;

Plan Name	Drawing Number	Revision	Date
Cover Sheet	DA-100	C	15-07-2022
Site Plan	DA-102	C	15-07-2022
Basement Level Plan	DA-103	C	15-07-2022
Ground Level Plan	DA-104	C	15-07-2022
First Level Plan	DA-105	C	15-07-2022
Second Level Plan	DA-106	C	15-07-2022
Third Level Plan	DA-107	C	15-07-2022
Roof Plan	DA-108	C	15-07-2022
East & West Elevations	DA-109	C	15-07-2022
North & South Elevations	DA-110	C	15-07-2022
Section A-A Section B-B	DA-111	C	15-07-2022
Section C-C Section D-D	DA-112	C	15-07-2022
Finishes Schedule	DA-113	C	15-07-2022
Demolition Plan	DA-122	B	07-04-2022
Adaptable Unit Layout	DA-132	B	07-04-2022
Typical Façade Details	DA-134	B	15-07-2022

- (b) Landscape plans, prepared by Ground Ink, Job No. 20210904, including the following;

Plan Name	Drawing No.	Revision/ Issue	Date
Landscape Cover Sheet	LDA-001	F	15.07.22
Landscape Masterplan	LDA-101	F	15.07.22
Landscape Rooftop Plan	LDA-102	F	15.07.22
Landscape Details	LDA-201	F	15.07.22

- (c) Documents

Report Name	Date	Reference	Prepared by
Waste Management Plan	3 October 2021	21208	Dickens Solutions
BASIX Certificate	28 October 2021	Certificate No. 1245933M	Building Sustainability Assessments

Preliminary Site Investigation	7 October 2021	E25336.E01_Rev0	EI Australia
Review of Preliminary Site Investigation (PSI)	21 December 2021	E25336.E09.Rev0	EI Australia
Traffic and Parking Assessment Report	30 September 2021	21564	Varga Traffic Planning Pty Ltd
Construction Noise & Vibration Management Plan	21 December, 2021	20211221	Michael Phillips Acoustics
SEPP 65 Design Verification Statement	(Submitted via Planning Portal on 28.10.21)	-	Arch & Co. Architects
Ecologically Sustainable Development (ESD) Report	27.04.2022	22-3056H Issue B	Efficient Living
Crime Prevention Through Environmental Design	(Submitted via Planning Portal on 30.4.22)	-	-
Access 2019 A1 & Adaptable Housing Indicative Compliance Report For DA Lodgement	26/10/2021	PRO-06888-P6H2 Issue v1.2	Building Innovations Australia
BCA 2019 A1 Indicative Compliance Report For DA Lodgement	26/10/2021	PRO-06887-B1S6 Issue v1.2	Building Innovations Australia

### Endeavour Energy Requirements

- The development is to demonstrate compliance with all relevant requirements issued by Endeavour Energy, issued 20 January 2022 (Attachment 3).

### Sydney Water Requirements

- The development is to demonstrate compliance with all relevant requirements issued by Sydney Water, issued 23 February 2022 (Attachment 4).

### Works at no cost to Council

- 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.

### Comply with EP&A Act

- 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.

**Prescribed Condition**

6. 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).

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

7. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2018 - Established Areas as amended.

The total contribution is **\$132,532** 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 (Attachment 2).

**Plan Amendments**

8. Prior to the issue of a construction certificate, the approved Landscape Masterplan prepared by Ground Ink, Job No. 20210904, Drawing No. LDA-101, Revision F, dated 15.07.2022 is to be amended to the satisfaction of the Principal Certifying Authority, to demonstrate the following:
  - (a) The paved alfresco private open space area on the eastern side of Unit 2, between the communal open space and grassed area of private open space, is to be amended to be a grassed/turfed.

**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.

**Site Development Work**

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

**Fee Payments**

11. 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**

12. 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.

**S138 Roads Act – roadworks requiring approval of civil drawings**

13. Prior to the issue of a Construction Certificate for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with Liverpool City Council (being the Roads Authority under the Roads Act), for provision of stormwater drainage and vehicular crossing construction, with reinstatement of redundant vehicular crossings with kerb in Wilga Close.

The water hydrant cover adjacent to the footpath area currently within the grass verge shall be shown satisfactorily incorporated within the proposed vehicular crossing to the satisfaction of Sydney Water and the vehicular crossing shall be located a minimum 0.5m from any adjacent electrical power pole

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.

**S138 Roads Act – Minor Works in the public road**

14. 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.

**Fees – Road Opening**

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

16. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Horizon Engineers P/L, reference number 156-W21, Drawing Nos. W-01, W-02, W-02A, W-03, W-04, W-05, W-06, W-07, W-08 (revision D); W-03A & W-03B (revision C), dated 15/07/2022.

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

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

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



**Stormwater Discharge – Basement Car parks**

17. 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.

**No loading on easements**

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

**Dilapidation Report**

19. Prior to the issue of a Construction Certificate, a dilapidation report of all infrastructure fronting the development in Wilga Close 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 to all of the road reserve for the full length of Wilga Close.

**Dilapidation Report Private Property (Excavations)**

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

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

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

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

- (a) Undertake as much as possible the survey from the development site, public areas and/or adjoining private property, and
- (b) Demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

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

### **Basement Construction**

21. All basement walls must be situated wholly within the boundary of consolidated lots comprising the site, including footings and subsoil drainage lines. Construction of basement walls or associated drainage works along common boundaries shall not compromise the structural integrity of any existing structures. Basement walls shall be designed by a practising structural engineer.

Where it is proposed to provide shoring to support an adjoining property, which involves encroachment of ancillary structural elements onto adjoining land to provide structural support of the shoring via rock anchors or the like, owner's consent for the encroachment from the affected property owner shall be provided with the engineering drawings of the basement wall(s) and any ancillary structural elements, and submitted to the Certifying Authority prior to the issue of a Construction Certificate for commencement of works on the basement walls.

### **Performance Bond**

22. Prior to the issue of any Construction Certificate, a performance bond is to be lodged with Liverpool City Council for construction of stormwater drainage in Wilga Close.

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

Note: Contact Council's Land Development Section for further information relating to bond requirements.

### **Cladding**

23. 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**

24. 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**

25. 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**

26. 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.
27. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that:
  - (a) Off street access and parking complies with AS2890.1,
  - (b) Vehicular access and internal manoeuvring have been designed for the longest vehicle expected to service the development site, in accordance with AS2890,
  - (c) Sight distance at the street frontage has been provided in accordance with AS 2890.1, and
  - (d) All vehicles can enter and exit the site in a forward direction.

**Traffic and Parking**

28. Detailed design drawings of the proposed parking spaces and associated driveway and aisle including signs and line marking scheme are to be prepared by a suitably qualified person in accordance with the DCP and AS2890 requirements are to be submitted to and approved by Council's Transport Management Section, via the Liverpool Traffic Committee and subsequent Council Meeting.
29. 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**

30. A construction traffic management plan (CTMP) prepared by a suitably qualified person is to be submitted to and endorsed by Liverpool City Council's Transport Management Section for endorsement. The CTMP is to be submitted via an application form available on Council's website.

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.

Construction shall not commence until the construction traffic management plan has been endorsed. The endorsed CTMP is to be implemented during construction.

**Garbage Services**

31. On site collection of waste and recycling must be provided and integrated with the design of high density residential development (RFBs and MUDs). This must comply with the specifications detailed in the *Fact Sheet: Waste Management Services for Residential Flat Buildings and Multi Dwelling Housing*.

**Waste Storage Area – Construction**

32. All waste management facilities shall comply with the Liverpool Development Control Plan 2008. Prior to the issue of a Construction Certificate, detailed floor and section plans shall be submitted to and approved by the Principal Certifying Authority for the waste storage area/s. The plans shall identify the location of the waste storage area/s and incorporate the following requirements:

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

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

#### **Waste Storage Area**

33. Any bin bays must be:

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

#### **Waste Management**

- 34. Prior to issue of a Construction Certificate, the basement plans are to be amended to show that the area where the mobile bin towing device and trailer are to be stored, is to be kept secure from access by the residents. If the bin towing device is to be battery powered, a charge point is to be placed in this location.
- 35. Prior to issue of a Construction Certificate, the wording at the top of page 20 of the WMP is to be re-worded from, "Residents have convenient and accessible access to the Waste Storage Area, on each floor level", to, "Residents have convenient and accessible access to the Basement Waste Storage Area from each floor level." This removes any possible misconception as to whether waste facilities are provided on the individual residential floors.

#### **Recommendations of Acoustic Report**

- 36. The recommendations provided in the approved Construction Noise & Vibration Management Plan, prepared by Michael Phillips Acoustics, reference no. 20211221, dated 21 December, 2021, shall be implemented and incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.

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

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

### **Street Lighting**

37. The applicant/developer shall engage the services of an Endeavour Energy accredited ASP Level 3 service provider to assess adequacy of street Lighting along Wilga Close and submit a report on whether the existing street lighting needs to be upgraded.

If upgrade is required, the ASP Level 3 service provider is to submit a Public Lighting Design Brief to Council's Transport Management Section, to specify design requirements for the required upgrade.

A street Lighting design plan prepared by the accredited service provider is to be submitted to and approved by Council's Transport Management Section and the electricity service provider (currently Endeavor Energy), 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**

38. 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.

39. 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.

40. 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.

**Design Verification Statement**

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

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

**Site works**

42. 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.

**Crime Prevention Through Environmental Design**

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

**Security Access to car park**

45. Secure access is to be provided to the basement car park to prevent any unauthorised entry. Details are to be provided with the construction certificate to the satisfaction of the PCA.

**C. PRIOR TO WORKS COMMENCING**

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

**Commencement of Building work**

46. 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.
47. 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**

48. 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.
49. 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**

50. 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**

51. 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**

52. 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 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.

**Cladding**

53. For all buildings of Type A and B construction having finishes or claddings other than concrete or masonry, a fire safety report prepared by an accredited C10 fire engineer, must be submitted to the PCA prior to issue of a construction certificate, demonstrating that the proposed external wall cladding material and system for the building complies with the NCC and relevant Australian Standards. The fire safety report is to include evidence of suitability of all proposed external wall cladding materials as per clause A2.2 of the NCC.

**Fire Safety Measures**

54. A schedule specifying all of the essential fire safety services, which are required for the building, shall be attached to the CC and submitted to Council, in compliance with the provisions of the EP&A Regulation.

**Site Notice Board**

55. 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**

- 56. 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**

- 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) 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**

- 58. Prior to any works commencing, all Council-issued domestic waste bins serving the existing houses to be demolished at 2 and 3 Wilga Close 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.
- 59. Prior to any works commencing, any air-conditioning or refrigeration systems fitted to the dwellings 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 dwellings, must be sighted by the Principal Certifying Authority and included as part of the Occupation Certificate documentation.

**Sydney Water**

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

**“DIAL BEFORE YOU DIG”**

- 61. 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**

62. 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**

63. 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**

64. 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.
65. Applications must be submitted to and approved by Council's Transport Management Section, under Section 138 of the NSW Roads Act, for any works within or occurring from the public road reserve. Approval is issued via a Road Occupancy Permit and/or Road Opening Approval, which can be located on Council's Website.

The Road Occupancy Permit and Road Opening Approval applications are to include Traffic Control Plans, also detailing pedestrian management, prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Transport for NSW publication "Traffic Control at Worksites" and must be certified by a suitably qualified person.

The Road Occupancy Permit and Road Opening Approval, with approved traffic control measures, shall be implemented during the associated construction activities. A copy of the Road Occupancy Permit and Road Opening Approval shall be available on site at all times.

It is the responsibility of the applicant to ensure adequate time is allowed for Council to assess and issue approval for any permits. All minimum assessment periods are included

on the applicable forms.

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**

66. 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**

67. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:
- (a) Measures to control noise emissions from the site;
  - (b) Measures to suppress odours and dust emissions;
  - (c) Selection of traffic routes to minimise residential noise intrusions;
  - (d) Soil and sediment control measures;
  - (e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
  - (f) Community consultation.
68. 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**

69. 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 SafeWork 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**

- 70. 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.
- 71. The Principal Certifying Authority must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceedings to the subsequent stages of construction or finalisation of the works (as applicable).

### **Identification Survey Report**

- 72. 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.

- 73. 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**

- 74. 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.

75. 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**

76. 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.

#### **Craning and Hoardings**

77. 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.

78. 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**

79. 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**

80. 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**

81. 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**

82. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy (Resilience and Hazards) 2021, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
83. 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**

84. 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**

85. 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**

86. 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.

87. 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.
88. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.

**Air Quality**

89. 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.
90. 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.
91. The loading and unloading of all vehicles associated with the development must be undertaken within the property boundary of the premises subject to this consent.

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

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

**Major Fill / Earthworks**

92. 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.

**Drainage Connection**

93. 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.

**Aboriginal Heritage**

94. As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

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

**Note:** The *National Parks and Wildlife Service Act 1974* and the *Heritage Act*

1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

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

#### **Protection of Adjoining Sites**

96. In the event that proposed works damages any adjoining land or building on adjoining land, any rectification works are the responsibility of the developer.

#### **Waste Management**

97. 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.

98. 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 SafeWork NSW, in force at the time. The licenced disposal facility for any asbestos that is found, must be advised to both Council and the PCA.
99. All solid and liquid waste is to be removed from the site by a registered waste contractor.
100. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
101. All solid waste stored on site is to be covered at all times.
102. 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.
103. 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**

104. 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**

105. 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.
106. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

**Ventilation**

107. The premises shall be ventilated in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 & 2)
108. The design, construction, installation and commissioning of the mechanical ventilation systems(s) serving the premises shall be carried out in accordance with Australian Standard 1668 Parts 1 & 2.

The mechanical exhaust discharge point shall be designed and installed by an appropriately qualified person and shall be positioned to comply with Section 3.7 of Australian Standard 1668 Part 2 – 1991.

**Traffic Management**

109. Where a work zone is required, an application must be submitted to and approved by Council's Transport Management 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 temporarily altered will need to be submitted to and approved by Council's Liverpool Local Traffic Committee.
110. Notice must be given to Council's Transport Management 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.
111. Applications must be made to Council's Transport Management 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.
112. 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.

113. All works within the road reserve, including the approved sign and line making scheme, are to be carried out by the applicant, at no cost to Council, in accordance with the TfNSW 'Traffic Control at Worksites Manual' and 'Delineation Guidelines'.
114. Directional signage indicating the location of customer parking, "in" and "out", crossings and directional arrows are to be provided in accordance with the Council approved stamped plans.

### **Street Lighting**

115. The approved street lighting designs are to be implemented along all new and existing streets within the proposed development in accordance with Liverpool City Council standards and to the satisfaction of Council.

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

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

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

116. 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.

### **Car Parking Areas**

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

All car parking areas to be appropriately line marked and sign posted in accordance with the approved plans. All customer/visitor/staff parking areas are to be clearly signposted limiting car parking for customers/visitors/staff only. The applicant is to cover the costs of installation and maintenance of the signage.

The on-site parking spaces shown in the approved plans must be identified in accordance with A.S.2890.1 Parking Facilities – Off-Street Car Parking.

### **Termite Protection**

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

- Registration Authority label;
- (d) The need to maintain and inspect the system on a regular basis

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

**Construction Environmental Management Plan (CEMP)**

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

**External**

120. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.
121. The mailboxes are to be consistent with the design and colours and materials for the development.
122. Photovoltaic panels are to be installed on the roof of the proposed building and in accordance with the manufacturers specifications.
123. All pedestrian gateways are to open internally within the property boundary as to not create a potential hazard within the public domain.

**Windows**

124. The reflectivity index of glass used in the external facade of the building is not to exceed 20%.
125. The windows of all bathrooms, W.C. and ensuites shall be fitted with translucent obscure glazing to the satisfaction of the PCA.

**Graffiti**

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

**Security and Safety**

127. Adequate lighting is required at the entrances and main foyers or the building, basement carpark, and mailbox area.
128. Surveillance cameras are required to be installed covering the entrance and exit and main areas of the car park.
129. The underground car park is required to be locked with access to be provided to residents only.

**Vegetation and Landscaping**

130. Premium quality organic garden soil shall be incorporated into all planting areas in sufficient quantity to achieve optimum plant growing conditions.

131. 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.**

### **Occupation Certificates**

132. The premises must not be utilised until an Occupation Certificate (OC) is issued by the principal certifier.

### **Fire Safety Certificate**

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

### **Inspections**

134. Details of *critical stage* inspections carried out by the principal certifier together with any other certification relied upon must be provided to Council with the occupation certificate.

### **Certificates**

135. The Principal Certifying Authority (Building) and/or the Accredited Certifier (Subdivision) 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.
136. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.
137. 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

### **Land Consolidation**

138. All separate lots must be consolidated and the new lot must be registered. The applicant shall provide evidence that the linen plan, for the required lot consolidation, endorsed by

Council, has been registered with the NSW Land Registry Services prior to the issue of any OC.

**Cladding**

139. 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**

140. 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**

141. 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**

142. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the on-site detention system/s and basement carpark pump-out system:
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
  - Have met the design intent with regard to any construction variations to the approved design.
  - Any remedial works required to been undertaken have been satisfactorily completed.

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

**Restriction as to User and Positive Covenant**

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

**Bonds**

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

**Rectification of Damage**

145. 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 Wilga Close 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**

146. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.
147. At completion of works a survey and report must be undertaken and submitted to the Principal Certifier and affected adjoining property owner/s, commenting on the risk of latent damage (if any) to the existing building caused by the excavation and construction activities.

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

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

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

- (a) Undertake as much as possible the survey from the development site, public areas and/or adjoining private property.
- (b) Demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

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

**Landscape**

148. 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.

**Traffic**

149. All road and traffic management works, including required public street lights, are to be completed to Council's satisfaction.

**Footpaths**

150. Prior to the issue of an occupation certificate, construction of 1.5m wide by 100mm thick (with one layer of SL72 reinforcing mesh) is to be constructed along the site frontage along Wilga Close.

**Recommendations of Acoustic Report**

151. 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 Construction Noise & Vibration Management Plan, prepared by Michael Phillips Acoustics, reference no. 20211221, dated 21 December, 2021. 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.

**Access Report**

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

**Design Verification Statement**

153. In accordance with the Environmental Planning and Assessment Regulation 2021 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Apartment Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA assessing the development, upon completion of all works subject of this consent and its accompanying CC. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
- (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
- (b) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the CC, having regard to the design principles set out in Part 2 of SEPP 65.

**BASIX**

154. 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**

155. 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**

156. All waste management facilities, equipment (including the bin-lifter, but excluding the waste bins themselves), waste room features and permanent fixed signage will be installed and operational prior to the issue of an Occupation Certificate.
157. Prior to issue of an Occupation Certificate, all permanent waste signage necessary for the identification of the various waste rooms, and the correct separation and disposal of waste items by residents, is to be installed.
158. Prior to issue of an Occupation Certificate, both the PCA and Council are to be provided with records of all waste transport and disposal dockets, demonstrating that waste materials from the project, have been disposed of at the waste facilities nominated in the approved waste management plan.
159. Prior to issue of an Occupation Certificate, the strata by-laws will be drafted in a manner that places the requirement to correctly separate and dispose of waste correctly upon all residents, and ensures that any additional costs incurred by the strata as a result of a failure to do so, can be recovered from the parties responsible.

**G. CONDITIONS RELATING TO USE**

**Car Parking and Basement**

160. All parking areas shown on the approved plans must be used solely for this purpose.
161. A total of 26 off street parking spaces including 22 residential car parking spaces and 4 visitor car parking spaces.
162. All line marking and sign posting is to be maintained in good condition at all times, to the satisfaction of Council.
163. Council's on-street assets should be protected at all times. Any damages should be rectified to Council satisfaction.
164. Visitor parking spaces must not be allocated, sold or leased to an owner, occupier or any other person or entity. In any strata subdivision, visitor parking spaces must be retained within the common property.
165. The operation of the pump system shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).



**Landscaping**

166. 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.

**Use of air conditioner/s on residential premises**

167. Any air conditioner/s used on the residential premises shall comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017 and shall not:
- (a) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
    - i. before 8:00am or after 10:00pm on any Saturday, Sunday or public holiday; or
    - ii. before 7:00am or after 10:00pm on any other day; or
  - (b) cause “offensive noise” as defined by the Protection of the Environment Operations Act 1997; or
  - (c) emit a sound pressure level as measured over a 15-minute period (LAeq (15 minute)) at the boundary of any other residential property, at a time other than those specified in (i) and (ii) above, which exceeds the background (LA90 (15 minute)) by more than 5 dB(A).

**Mail-boxes**

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

**Washing on Balconies**

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

**Lighting**

171. 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**

172. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
173. All solid waste stored on site is to be covered at all times. Furthermore, all solid and liquid waste is to be removed from the site by a registered waste contractor.

174. 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.
175. Under current collection arrangements, the property will be issued by Council with 3 x 660L general waste bins and 3 x 660L recycling bins. No green waste bins or services will be supplied. These arrangements re bin sizes and types may be subject to change in future, as FOGO waste services are adopted. All other bins, including waste separation bins to the units themselves, are to be supplied by the developer.
176. All green (garden) waste from the common area gardens must be removed from site as it is generated, by the garden maintenance contractor appointed by the strata, and disposed of legally. No garden waste is to be disposed of in the building's bins.
177. 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 bulk waste bins to this property. Please contact Council on 1300 36 2170 to arrange the delivery of bins.
178. Agents of the strata must present the waste bins for emptying to the kerbside of Wilga Close, no earlier than the afternoon before collection. After emptying, all bins must be removed from the kerbside as soon as possible, and no later than 24 hours after collection, and placed back into the basement bin storage room.
179. Waste and recycling bulk bins are to be presented on the kerbside nature strip ready for emptying with wheel locks engaged.
180. Signage is to be prominently displayed in each waste storage area, or waste service room, as appropriate, indicating that:
- Waste is to be placed wholly within the waste bins provided,
  - Only recyclable materials accepted by Council are to be placed, loose and unbagged within the recycling bins,
  - The area is to be kept tidy,
  - Graphic illustrative content is to be at least 50%
181. The powered bin towing device and trailer provided by the developer are to be used on all occasions that bins are required to be moved up and down the driveway ramp. It must be of a sufficient power/rating to move a full 660 litre general waste bin up the maximum slope of the driveway ramp. These pieces of equipment must be maintained according to the manufacturer's instructions and be available in an operable condition when needed. If this equipment breaks down, it must either be repaired promptly, or replaced as needed.
182. The powered bin mover and trailer must be operated by persons who are trained and insured to use them.
183. Residents must ensure that all materials placed in the yellow-lid recycling bins are acceptable for recycling through that means, and all materials placed in recycling bins must be loose, unbagged and easily separable.
184. Maximum limits for bulky household waste collections apply, and the types of materials accepted will be as per the council conditions at the time. Household materials may be put out for collection at the kerbside no earlier than 24 hours before a booked clean-up is due.

185. The building manager/strata manager is responsible for providing monitoring and feedback to residents on correct waste performance, including contamination of recycling bins, and instituting corrective actions to address non-conformance where necessary.
186. Sufficient space shall be provided within each dwelling for the storage of a minimum of the one day's waste and recycling.

## 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 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-1305/2021

**PROPOSAL:** Demolition of existing structures and construction of a four-storey residential flat building comprising 16 flats, with one level of basement car parking, and associated landscaping.

<b>Facilities</b>	<b>Amount (\$)</b>	<b>Job No.</b>
<b>Liverpool Contributions Plan 2018 Established Areas</b>		
Community Facilities - works		
Central	\$11,411	GL.10000001870.10099
District Sporting Fields - works		
Central	\$38,377	GL.10000001869.10211
District Passive Open Space - works		
Central	\$23,986	GL.10000001869.10093
Local Passive Open Space - works		
Casula	\$33,580	GL.10000001869.10094
Transport - Bikeways - works		
Central	\$4,476	GL.10000001865.10207
Transport - Traffic management - works		
Central	\$12,755	GL.10000001865.10213
Drainage - works		
Central	\$5,988	GL.10000001866.10209
Administration	\$1,959	GL.10000001872.10104
<b>TOTAL</b>	<b>\$132,532</b>	

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



**RECORD OF PAYMENT**

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

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

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

## ATTACHMENT 3 – ENDEAVOUR ENERGY REQUIREMENTS

Development Application and Planning Proposal Review NSW Planning Portal Concurrence and Referral						
Authority	Authority's Reference	Agency Concurrence and Referral	Authority Contact	Authority Notification	Submission Due	Submission Made
Liverpool City Council	DA-1305/2021	CNR-34240	Robert Micallef	19/01/2022	9/02/2022	20/01/2022
Address					Land Title	
2 & 3 WILGA CLOSE CASULA 2170					Lots 82 & 83 DP 244786	
Scope of Development Application or Planning Proposal						
Demolition of existing structures and construction of residential flat building comprising 16 apartments and basement parking.						
As shown in the below site plan from Endeavour Energy's G/Net master facility model:						
There are:						
<ul style="list-style-type: none"> <li>• No easements benefitting Endeavour Energy (active easements are indicated by red hatching).</li> <li>• Low voltage underground cables including a streetlight column and low voltage pillar to the road verge / roadway.</li> <li>• Low voltage underground service conductors coming from the low voltage pillar on the road verge going to customer connection points for the existing dwellings.</li> </ul>						
 <p>51 Huntingwood Drive, Huntingwood, NSW 2148 PO Box 811, Seven Hills, NSW 1730 T: 133 718</p>				<p>endeavourenergy.com.au ABN 11 247 365 823</p>		

Relevant / applicable clause numbers from Endeavour Energy's standard conditions for Development Application and Planning Proposal Review indicated by .

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	1	Adjoining Sites	Adjoining or nearby development / use should be compatible with the use of Endeavour Energy's sites.
<input type="checkbox"/>	<input type="checkbox"/>	2	Asbestos	Area identified or suspected of having asbestos or asbestos containing materials (ACM) present in the electricity network.
<input type="checkbox"/>	<input type="checkbox"/>	3	Asset Planning	Applicants should not assume adequate supply is immediately available to facilitate their proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	4	Asset Relocation	Application must be made for an asset relocation / removal to determine possible solutions to the developer's requirements.
<input type="checkbox"/>	<input type="checkbox"/>	5	Bushfire	Risk needs to be managed to maintain the safety of customers and the communities served by the network.
<input type="checkbox"/>	<input type="checkbox"/>	6	Construction Management	Integrity of electricity infrastructure must be maintained and not impacted by vehicle / plant operation, excessive loads, vibration, dust or moisture penetration.
<input type="checkbox"/>	<input type="checkbox"/>	7	Contamination	Remediation may be required of soils or surfaces impacted by various forms of electricity infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	8	Demolition	All electricity infrastructure shall be regarded as live and care must be taken to not interfere with any part of the electricity network.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9	Dial Before You Dig	Before commencing any underground activity the applicant must obtain advice from the Dial Before You Dig 1100 service.
<input type="checkbox"/>	<input type="checkbox"/>	10	Dispensation	If a proposal is not compliant with Endeavour Energy's engineering documents or standards, the applicant must request a dispensation.
<input type="checkbox"/>	<input type="checkbox"/>	11	Driveways	For public / road safety and to reduce the risk of vehicle impact, the distance of driveways from electricity infrastructure should be maximised.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	12	Earthing	The construction of any building or structure connected to or in close proximity to the electrical network must be properly earthed.
<input type="checkbox"/>	<input type="checkbox"/>	13	Easement Management	Preference is for no activities to occur in easements and they must adhere to minimum safety requirements.
<input type="checkbox"/>	<input type="checkbox"/>	14	Easement Release	No easement is redundant or obsolete until it is released having regard to risks to its network, commercial and community interests.
<input type="checkbox"/>	<input type="checkbox"/>	15	Easement Subdivision	The incorporation of easements into to multiple / privately owned lots is generally not supported.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16	Emergency Contact	Endeavour Energy's emergency contact number 131 003 should be included in any relevant risk and safety management plan.
<input type="checkbox"/>	<input type="checkbox"/>	17	Excavation	The integrity of the nearby electricity infrastructure shall not be placed at risk by the carrying out of excavation work.
<input type="checkbox"/>	<input type="checkbox"/>	18	Flooding	Electricity infrastructure should not be subject to flood inundation or stormwater runoff.

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022

Condition	Advice	Clause No.	Issue	Detail
<input type="checkbox"/>	<input type="checkbox"/>	19	Hazardous Environment	Electricity infrastructure can be susceptible to hazard sources or in some situations be regarded as a hazardous source.
<input type="checkbox"/>	<input type="checkbox"/>	20	Modifications	Amendments can impact on electricity load and the contestable works required to facilitate the proposed development.
<input type="checkbox"/>	<input type="checkbox"/>	21	Network Access	Access to the electricity infrastructure may be required at any time particularly in the event of an emergency.
<input type="checkbox"/>	<input type="checkbox"/>	22	Network Asset Design	Design electricity infrastructure for safety and environmental compliance consistent with safe design lifecycle principles.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	23	Network Connection	Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.
<input type="checkbox"/>	<input type="checkbox"/>	24	Protected Works	Electricity infrastructure without an easement is deemed to be lawful for all purposes under Section 53 'Protection of certain electricity works' of the <i>Electricity Supply Act 1995 (NSW)</i> .
<input type="checkbox"/>	<input type="checkbox"/>	25	Prudent Avoidance	Development should avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	26	Public Safety	Public safety training resources are available to help general public / workers understand the risk and how to work safely near electricity infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	27	Removal of Electricity	Permission is required to remove service / metering and must be performed by an Accredited Service Provider.
<input type="checkbox"/>	<input type="checkbox"/>	28	Safety Clearances	Any building or structure must comply with the minimum safe distances / clearances for the applicable voltage/s of the overhead power lines.
<input type="checkbox"/>	<input type="checkbox"/>	29	Security / Climb Points	Minimum buffers need to be provided to avoid the creation of climb point appropriate to the electricity infrastructure being protected.
<input type="checkbox"/>	<input type="checkbox"/>	30	Service Conductors	Low voltage service conductors and customer connection points must comply with the 'Service and Installation Rules of NSW'
<input type="checkbox"/>	<input type="checkbox"/>	31	Solar / Generation	Need to assess the performance of the generation system and its effects on the network and other connected customers.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	32	Streetlighting	Streetlighting should be reviewed and if necessary upgraded to suit any increase in both vehicular and pedestrian traffic.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	33	Sustainability	Reducing greenhouse gas emissions and helping customers save on their energy consumption and costs through new initiatives and projects to adopt sustainable energy technologies.
<input type="checkbox"/>	<input type="checkbox"/>	34	Swimming Pools	Whenever water and electricity are in close proximity, extra care and awareness is required.
<input type="checkbox"/>	<input type="checkbox"/>	35	Telecommunications	Address the risks associated with poor communications services to support the vital electricity supply network Infrastructure.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	36	Vegetation Management	Landscaping that interferes with electricity infrastructure is a potential safety risk and result in the interruption of supply.

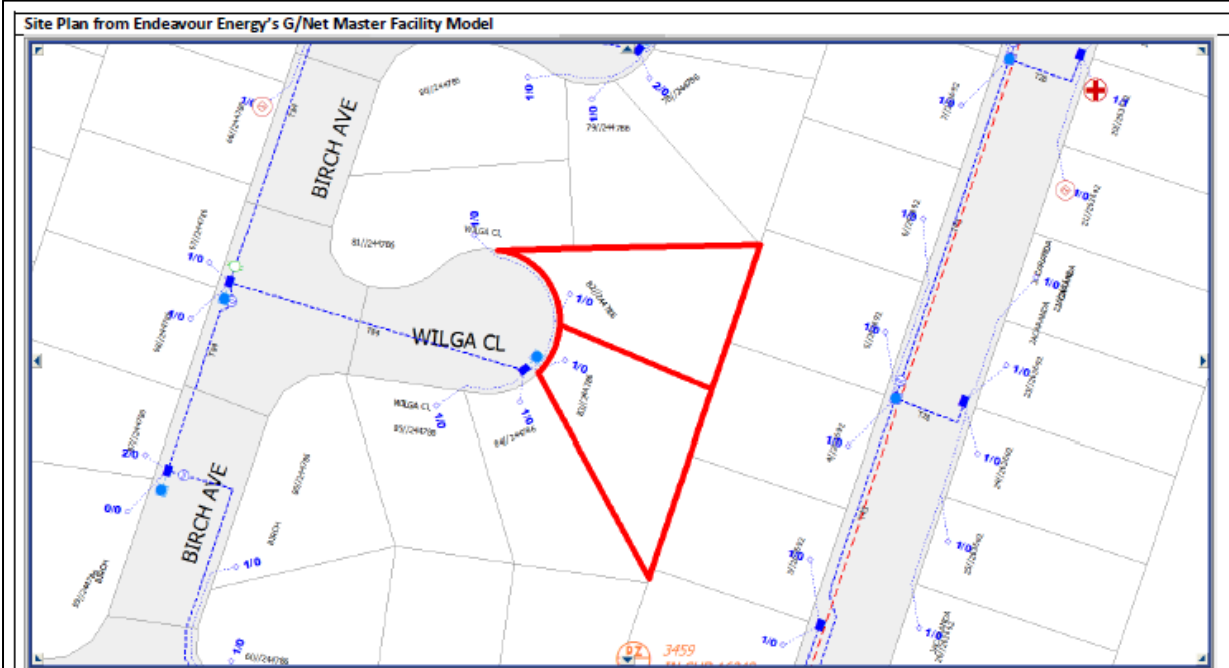


Con- d- i- t- i- o- n	Advice	Clause No.	Issue	Detail
			Other	

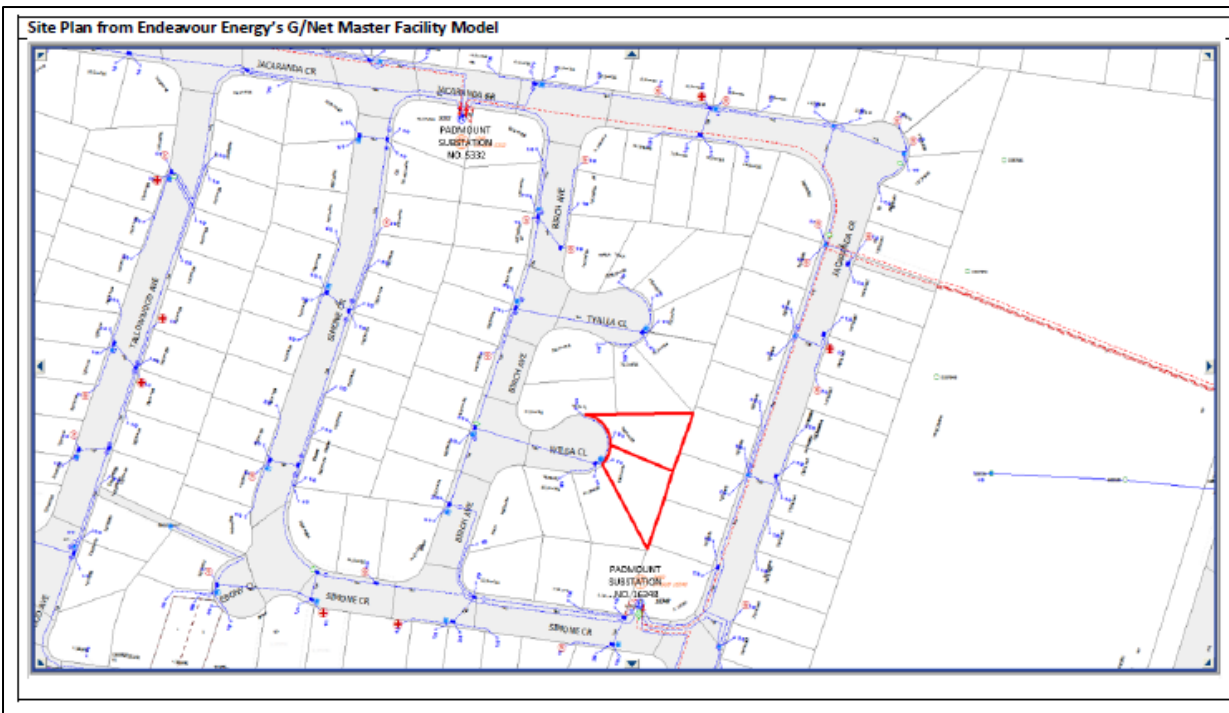
<b>Endeavour Energy</b>	
Completed by:	Decision
Cornelis Duba	Advice
Reason(s) for Conditions / Objection (If applicable)	
<ul style="list-style-type: none"> <li>The Development Application is supported by a Connection of Load (Endeavour Energy Ref. UML10190 dated 5 October 2021) and includes the following. <p style="margin-left: 40px;">We have determined that your requested load can be supplied from our low voltage network in accordance with the Terms and Conditions of the published Model Standing Offer for a LV Basic Connection Service.</p> <p style="margin-left: 40px;">The offer is valid for 3 months from the date of the letter (unless extended by further application) and electricity supply is not reserved for proposed developments.</p> </li> <li>The applicant will need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to construct, test and commission the Premises Connection Assets required for the provision of electricity to the proposed development.</li> <li>Not all the conditions / advice marked may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.</li> </ul>	

Yours faithfully  
 Cornelis Duba  
 Development Application Specialist  
 Sustainability & Environment  
 M: 0455 250 981  
 E: [cornelis.duba@endeavourenergy.com.au](mailto:cornelis.duba@endeavourenergy.com.au)  
 51 Huntingwood Drive, Huntingwood NSW 2148  
[www.endeavourenergy.com.au](http://www.endeavourenergy.com.au)





Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model. Easements benefitting Endeavour Energy are indicated by red hatching. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the of Part 5E 'Protection of underground electricity power lines' of the Electricity Supply Act 1995 (NSW).



LEGEND	
	Padmount substation
	Indoor substation
	Ground substation
	Kiosk substation
	Cottage substation
	Pole mounted substation
	High voltage customer substation
	Metering unit
	Switch station
	Indoor switch station
	Customer connection point
	Low voltage pillar
	Streetlight column
	Life support customer
	Tower
	Pole
	Pole with streetlight
	Customer owned / private pole
	Cable pit
	Subject site



**ATTACHMENT 4 – SYDNEY WATER REQUIREMENTS**

23 February 2022

Robert Micallef  
Liverpool City Council  
micallefr@liverpool.nsw.gov.au

RE: Development Application DA-1305/2021 at 2 Wilga Close, Casula

Thank you for notifying Sydney Water of DA-1305/2021 at 2 Wilga Close, Casula, which proposes the demolition of existing structures and construction of a residential flat comprising 16 apartments and basement parking. 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 DN100 CICL watermain (laid in 1973) on Wilga Close.
- Amplifications, adjustments, and/or minor extensions may be required.

**Wastewater Servicing**

- Wastewater servicing should be available via a DN1500 VC wastewater main (laid in 1973) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.

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,

A handwritten signature in black ink, appearing to read "K. Leitch", written over a horizontal line.

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



#### Attachment 1

##### Section 73 Compliance Certificate

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>	2
<b>Application Number:</b>	DA-1240/2021
<b>Proposed Development:</b>	Fitout and use of an existing structure as a kiosk with associated signage
<b>Property Address</b>	Bigge Park, 124 Bigge Street, Liverpool
<b>Legal Description:</b>	Lot 702 DP 1056246
<b>Applicant:</b>	Chloe Lorimer
<b>Land Owner:</b>	The State of New South Wales – Crown Land
<b>Date Lodged:</b>	21 October 2021
<b>Cost of Works:</b>	\$173,000.00
<b>Zoning:</b>	RE1 – Public Recreation Under Liverpool LEP 2008
<b>Recommendation:</b>	Approval, subject to conditions of consent
<b>Assessing Officer:</b>	Glen Hanchard

## 2. EXECUTIVE SUMMARY

Council has received a Development Application (DA-1240/2021) seeking consent for the fitout and use of an existing structure as a kiosk with associated signage at Bigge Park, 124 Bigge Street, Liverpool also known as Lot 702 in DP 1056246.

The site is zoned RE1 – Public Recreation pursuant to Liverpool Local Environmental Plan 2008 and the proposed development is 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 not required to be notified in accordance with Liverpool Community Participation Plan 2019. Notwithstanding, no submissions have been received on the application.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 30 June 2020, as the development falls in the category of conflict of interest as Liverpool City Council are the manager of the land. Council's property team have confirmed that under the Crown Land Management Act 2016, Council is the 'Crown Land Manager' for the site, on which basis Council has Care, Control and Management of the land. The Liverpool Local Planning Panel confirmed that the panel is the determining authority for the application.

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

## 2. SITE DESCRIPTION AND LOCALITY

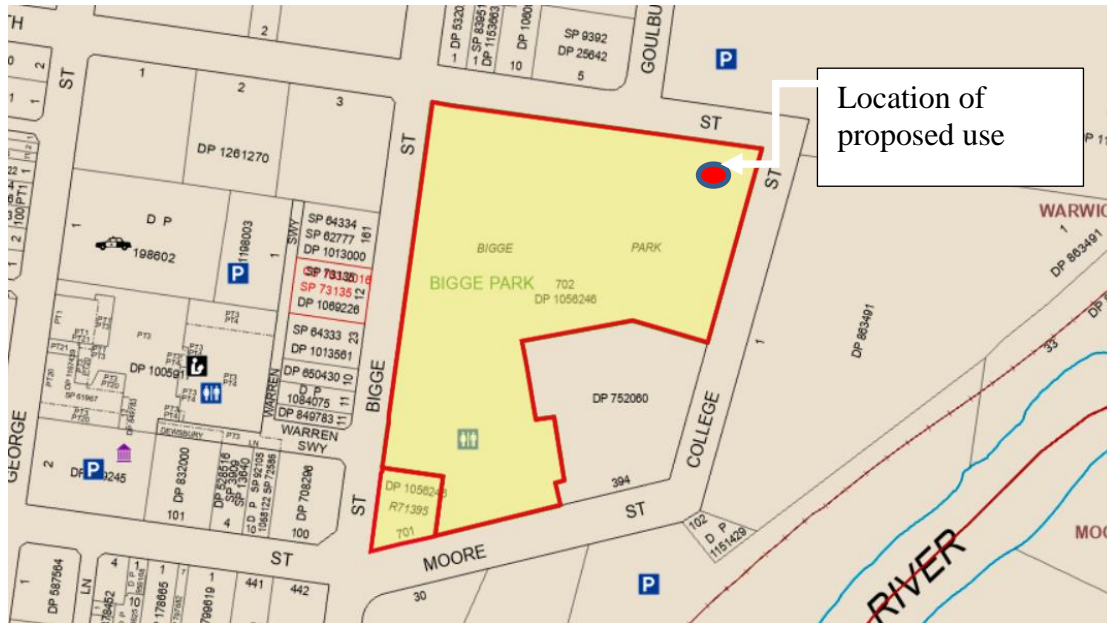
### 2.1 The site

The subject land for this application consists of Bigge Park, and is located at 124 Bigge Street, Liverpool. The subject allotment is legally known as Lot 702 DP 1056246. The site (Bigge Park) has an area of 27,880sqm.

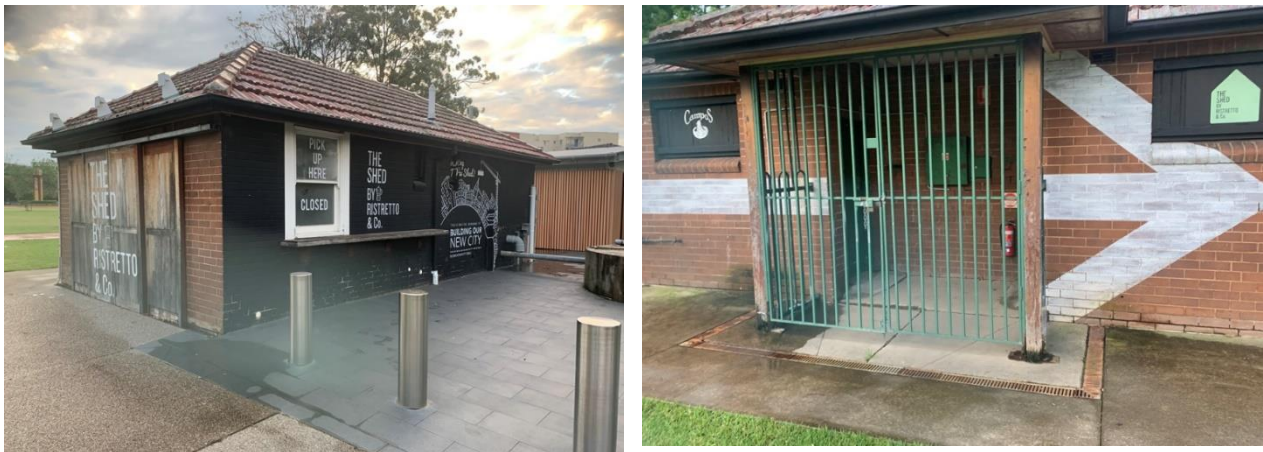
**LIVERPOOL CITY COUNCIL**  
**LOCAL PLANNING PANEL REPORT**

**31 October 2022**

The surrounding locality is characterised as the Liverpool Central Business District comprising of a mixture of uses including Liverpool Hospital and surrounding health precinct, Liverpool Train Station, Liverpool library and Council Offices.



**Figure 1: Location of the development site, (Source: Geocortex September 2022).**



**Figure 2: Site Inspection Photographs (October 2022)**

**2.2 The locality**

The site and the immediate locality is characterised by dense urban development as seen in figure 2. The proposal would provide a kiosk for use by park patrons and those visiting the surrounding urban land uses such as Liverpool Hospital and Liverpool TAFE.

NORTH	Liverpool Hospital
SOUTH	Bigge Park, followed by Liverpool Bus Interchange and Train Station
EAST	Liverpool TAFE
WEST	Bigge Park, followed by further urban development including a large residential development under construction, a church and a Shopping Centre





**Figure 3: Closer aerial view of proposed location (Source: Geocortex, September, 2022).**

**3. BACKGROUND/HISTORY**

- A history of applications relevant are listed following:

DA No.	Proposed Development	Determination
DA-815/2015	Continued use and associated fit out of the existing building identified as 'The Pump House' in Bigge Park for the purpose of a kiosk.	Approved 11/11/2015
DA-744/2018	Internal fit-out to existing food and takeaway kiosk, and external works including new external finishes, signage and graphics, planter box and external seating	Withdrawn
<a href="#">DA-1155/2021</a>	Refit of existing cafe kiosk tenancy, with the addition of an external structure (designed as per heritage guidelines) with additional outdoor seating.	Rejected
DA-1240/2021	Fitout and use of an existing structure as a kiosk with associated signage	<i>Subject Application</i>

**4. DETAILS OF THE PROPOSAL**

The Development Application seeks consent for the fitout and use of an existing structure as a kiosk with associated signage. The proposal specifically consists of the following:

- Operational Details
  - Hours of Operation:

The proposed hours of operation would be Monday to Sunday: 5am to 5pm (7 Days a week).

- Staffing:  
A maximum of four (4) Staff are proposed to be at the premises during operation.

• Fitout

The proposed internal fitout includes the following areas:

- Service Area, Preparation Area, Washing and Storage Area and Loading Zone.

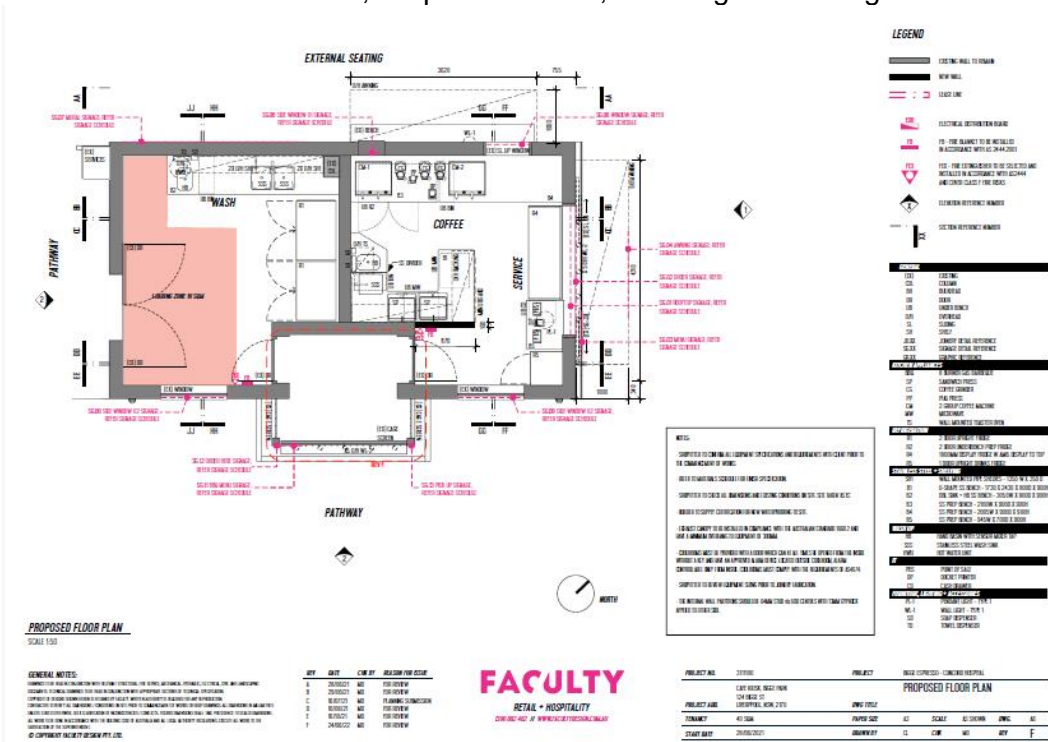


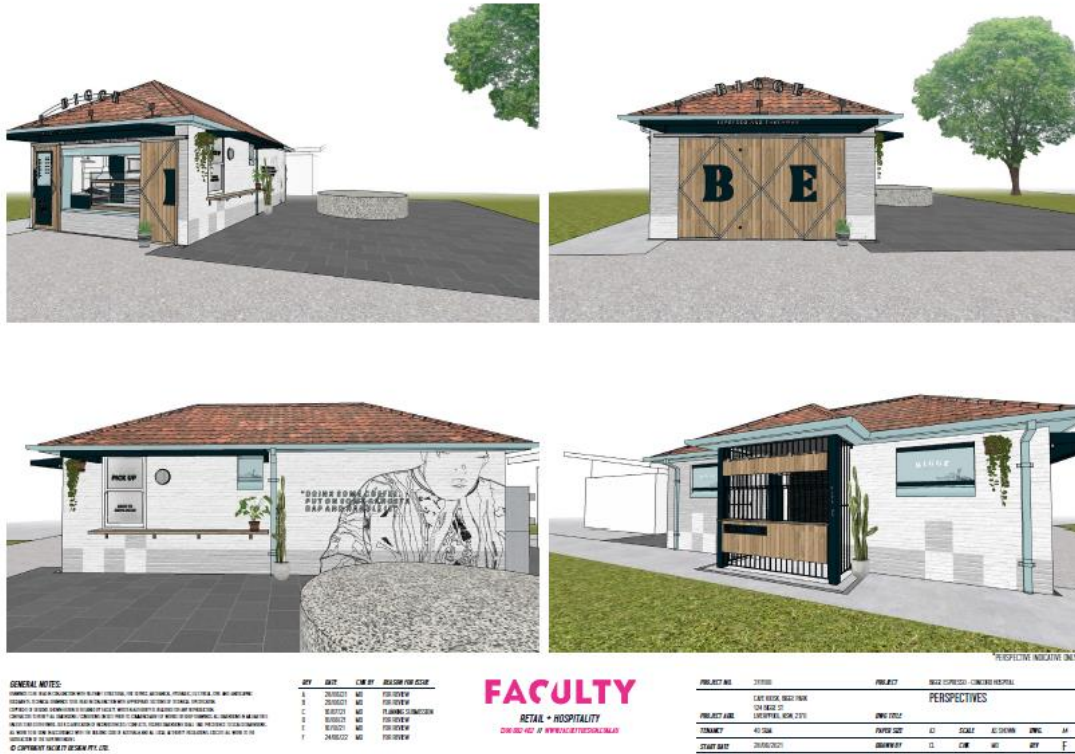
Figure 4: Floor Plan

**LIVERPOOL CITY COUNCIL**  
**LOCAL PLANNING PANEL REPORT**

**31 October 2022**

- Facade upgrade

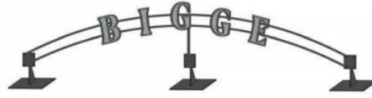






Façade upgrade as seen below.



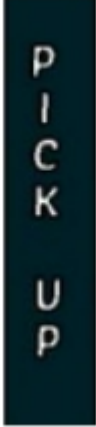



**Figure 5: Perspectives**

**Signage**

Signage Details as follows:

<u>Signage Type</u>	<u>Location</u>	<u>Measurements</u>	<u>Example</u>
Rooftop Signage	Rooftop	3500 W x 580 H	
Order Signage	Ordering Window	730 W x 120 H	
Menu Signage	Ordering Window	1905 H x 610 W	
Awning Signage	Awning	1465 W x 65 H	
Stencilled Hand Painted Window Signage	Window's	Pick Up Dim: 510 W x 105 H Back Soon Dim: 440 W x 140 H	
Mural Signage	Side Wall	Dim: 4030 W x 2500 H	
Side Window Signage	Side Window	Dims: 520 W x 415 H	

Side Window Signage 2	Side Window	1305 W x 570 H	
Order Here Signage	Order Area	40 W x 655 H	
Pick Up Signage	Pick area Up	40 W x 520 H	
Food Menu Signage	Order Area	1095 W x 150 H	

**5. STATUTORY CONSIDERATIONS**

**5.1 Relevant matters for consideration**

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

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

- Part 4: Development in the Liverpool City Centre;

Contributions Plans

- No contributions are applicable to this development under any applicable contributions plan.

**6. ASSESSMENT**

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

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

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

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

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	The site has previously been used a kiosk. Historical consideration of use considers it is not contaminated.
(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	Site is not considered to be contaminated.

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The site is not required to be further remediated.
--	--

The proposal has provided satisfactory information to demonstrate that the site is suitable for the proposed use and is in accordance with SEPP (Resilience and Hazards).

**(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.

Clause 11.6 General Principles	Comment
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and not impede 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,	Development will be located within an existing premises and thus no further cumulative impact on the George’s River is considered to occur.
(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 DPI Water 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 has previously been used as a kiosk.
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 identified as containing Class 5 acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping however no further ground work is proposed for this application.
(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	Development to use existing arrangement.
(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 not required as building is already existing.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies the provisions of the SEPP (Resilience and Hazards) 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 – Industry and Employment (2021);**

State Environmental Planning Policy – Industry and Employment (2021) applies to the site due to the visibility of the proposed signage from a public area.

The proposed signage is compatible within the locality, is positioned in an appropriate position and is of a suitable quality design. In this regard, the proposed signage is consistent with the objectives of the requirements of SEPP – Industry and Employment (2021).

Compliance with the assessment criteria of Schedule 1 is outlined in the table below:

Requirement	Yes	No	N/A	Comments
<b>Schedule 1 – Assessment Criteria</b>				
<b>1. Character of the area</b>				



<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed signs will provide suitable business identification for the business.
<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The type of signage proposed is consistent with the locality. Similar signage is already existing on the kiosk. The style and size of the signage proposed is not likely to detract from the amenity or visual quality of the area which is important to maintain the amenity of Bigge Park.
<b>2. Special areas</b>				
<i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed signage will unlikely cause amenity impacts or reduce visual quality from nearby areas or Bigge Park. The application was reviewed by Council's Heritage officer who had no objection to the proposal in relation to this item. The signage is considered acceptable and will focus on business identification and will not detract from the open space recreation zone of Bigge Park. It is not located in a residential area.
<b>3. Views and vistas</b>				
<i>Does the proposal obscure or compromise important views?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed sign does not compromise important views.
<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The sign does not dominate the skyline or reduce the quality of any vistas.
<i>Does the proposal respect the viewing rights of other advertisers?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed sign is positioned in a way that respects the viewing rights of other advertisers.
<b>4. Streetscape, setting or landscape</b>				
<i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed signage is considered consistent with the desired character of the area and is appropriately sized for the streetscape and setting.
<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The signage directly addresses the use of the site. It is considered to complement the proposed façade of the development and is in keeping with the locality.
<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed signage is appropriately located as to not create clutter with other signage on site.
<i>Does the proposal screen unsightliness?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A

<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No protrusion over buildings, structures or tree canopies in the area or locality.
<i>Does the proposal require ongoing vegetation management?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No vegetation involved.
<b>5. Site and building</b>				
<i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which proposed signage is to be located?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed signage is compatible with the scale, proportion and other characteristics of both the site and building.
<i>Does the proposal respect important features of the site or building, or both?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed signage does respect important features of the site and building. The signage respects the historical nature of the building, and has been reviewed by Council's Heritage Officer and deemed to be suitable.
<i>Does the proposal show innovation and imagination in its relationship to the site or building or both?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The design of the sign is imaginative and an appropriate use of the site. It is located to be those utilising Bigge Park and surrounding areas.
<b>6. Associated devices and logos with advertisements and advertising structures</b>				
<i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is displayed?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are no ancillary structures.
<b>7. Illumination</b>				
<i>Would illumination result in unacceptable glare?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Illumination will be conditioned to be at acceptable levels to not cause unacceptable glare.
<i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Illumination will be conditioned to be at acceptable to not cause any safety issues for pedestrians. Illumination is for general signage, commonly seen around retail developments of this nature.
<i>Would illumination detract from the amenity of any residence or other form of accommodation?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Illumination would not detract from the amenity of any residence. It will be conditioned to only operate during operating hours.
<i>Can the intensity of the illumination be adjusted, if necessary?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This will be conditioned on the consent.
<i>Is the illumination subject to a curfew?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Illumination would not detract from the amenity of any residence. It will be conditioned to only operate during operating hours.

<b>8. Safety</b>				
Would the proposal reduce the safety for any public road?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	It is considered that the proposed signage is unlikely to result in adverse physical safety impacts.
Would the proposal reduce the safety for pedestrians or bicyclists?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sight lines from public areas?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed signage is not placed in a location that would obscure sight lines from public areas.

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

**(i) Zoning**

The subject site is zoned RE1 – Public Recreation Zone in accordance with the Liverpool Local Environmental Plan 2008. An extract of the zoning map is provided below.



Figure 6 – Extract of LLEP 2008 zoning map (Source: Geocortex, 2022)

**(ii) Permissibility**

The development is categorised as a kiosk, which is permissible in the RE1 Public Recreation Zone pursuant to the Liverpool Local Environmental Plan 2008.

A kiosk is defined as:

*A premises that are used for the purposes of selling food, light refreshments and other small*

*convenience items.*

**Note—**

See clause 5.4 for controls relating to the gross floor area of a kiosk.

The proposal would satisfy the definition of a Kiosk as its principal operation would be offering food and drinks as well as convenience items such as newspapers.

**(iii) Objectives of the zone**

The objectives of the RE1 – Public Recreation Zone under the LLEP are as follows:

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

It is considered that the proposal is a permissible type of development within the RE1 Public Recreation zone and is generally consistent with the above zone objectives.

**(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.

Development Provision	Requirement	Proposed	Comment
4.3 Height of Buildings	Nil.	No changes to building height.	N/A
4.4 Floor Space Ratio (FSR)	Nil.	No changes to gross floor area.	N/A.
4.6 Exceptions to Development Standards	Provisions relating to exceptions to development standards	No variations are sought.	N/A
5.4 Controls relating to miscellaneous permissible uses	(6) Kiosks If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 30 square metres.	The gross floor area proposed for the Kiosk is 28.05m <sup>2</sup>	Complies

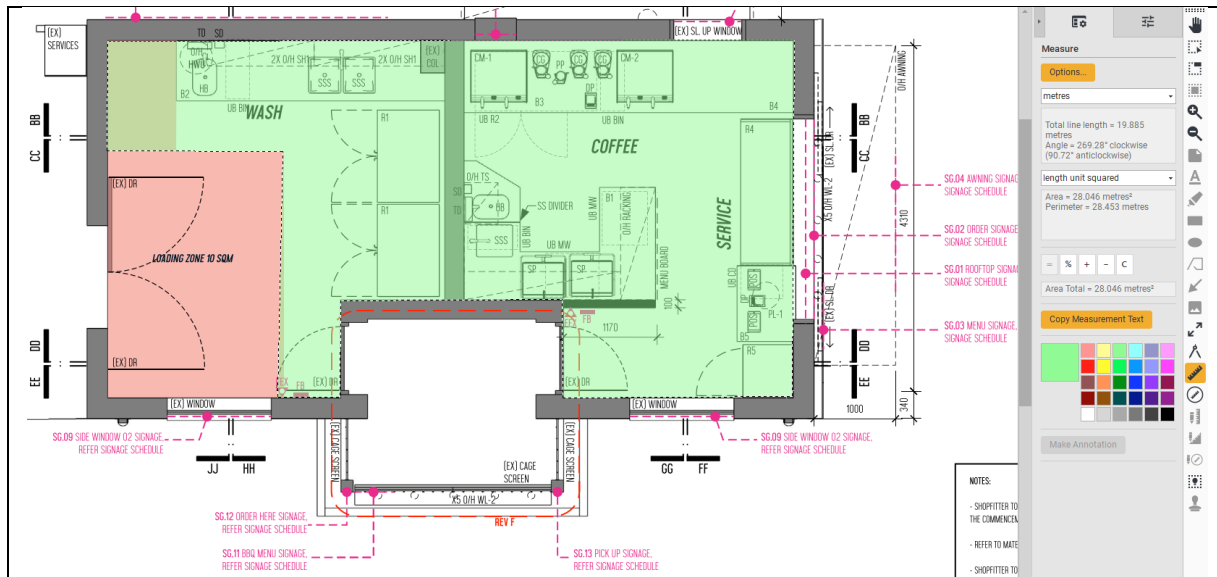


Figure 7 – Gross Floor Area Diagram of Kiosk

<p>5.10 Heritage Conservation</p>	<p>(5) Council may, before granting consent to any development on land within the vicinity of land upon which a heritage item is situated, or a conservation area may require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>The subject site is mapped as containing local heritage item: Bigge Park Group, including the Captain Cook Obelisk, T.G. Scott Memorial Gateway, Rotary Clocktower, Liverpool Regional War Memorial, Liverpool Foundation Commemorative Obelisk and Thomas Moore Memorial Drinking Fountain. The proposal was referred to Council's Heritage officer who reviewed the submitted Heritage Assessment/Statement of Heritage Impacts and plans. The Council's Heritage officer has no objections to the proposal, subject to conditions of consent. Based upon Council's Heritage officer review and recommended conditions of consent it is considered the proposed development would protect and conserve existing items containing heritage value.</p>	<p>Complies.</p>
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7.7 Acid Sulphate Soils	Class 1, 2, 3, 4 or 5	The site is mapped as containing class 5 acid sulfate soils, however is highly unlikely to lower the watertable below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Complies.
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Having regard to the above, the proposal is permitted in the zone and is consistent with the relevant development standards in 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 development has been assessed under the following Parts of the LDCP 2008:

- Part 1 of the LDCP 2008 covers general controls relating to all types of development within the Liverpool LGA.
- Part 4 of the LDCP 2008 - Development in Liverpool City Centre

The proposal has been found to be generally compliant with the controls of the DCP. 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 the NCC is relevant to the proposed works.

**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.

**(b) Built Environment**

The proposed development is unlikely to create any adverse impacts on the surrounding built

environment. The proposed development is within an existing building which is considered to be of an appropriate scale and unlikely to create any detrimental impacts to Bigge Park or adjoining properties or the locality as a whole.

**(c) Social Impacts and Economic Impacts**

The proposed subdivision would result in a positive economic impact in the locality through the capital investment value of the development and is unlikely to generate any identifiable detrimental social impacts.

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

The proposal generally complies with the relevant planning controls and provisions that are applicable to development in the locality. It is therefore considered that the site is suitable for the proposed development.

**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
Environmental Health	Supported, subject to conditions of consent
Heritage	Supported, subject to conditions of consent

**(b) External Referrals**

Nil

**(c) Community Consultation**

The proposal was not required to be notified in accordance with Liverpool Community Participation Plan 2019. No submissions have been received on the application.

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

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

**7. DEVELOPMENT CONTRIBUTIONS**

Development Contributions or Levies are not applicable to the proposed development.

**8. CONCLUSION**

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

The proposed development is unlikely to result in 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-1240/2021 seeking approval for the fitout and use of an existing structure as a kiosk with associated signage be approved subject to conditions of consent.

**10. REPORT ATTACHMENTS**

1. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES
2. PLANS OF THE PROPOSAL
3. CONDITIONS OF APPROVAL

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

<b>Part 1 General Controls for all Development</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Comment</b>
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	The proposed development does not propose removal of trees.	Not applicable
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	The proposal mostly includes internal alterations and additions. Therefore, existing landscaping does not change.	Complies
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	Minimal to no impact on bushland and habitats considering the location of the development.	Not applicable
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	Land is not identified as bushfire affected.	Not applicable
Section 6 – Water Cycle Management	Consideration of stormwater and drainage	Council's Land and Development Engineer has reviewed the application at clearing house and has no objections to the proposal.	Complies.
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	Development is located within an existing building and confined to the existing building. No impact on watercourses is likely to occur.	Complies.
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	No excavation to occur that will cause erosion or disturb sediment.	Complies.



LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Section 9 – Flooding Risk	Flood affectation of property to considered	The site is not affected by flooding	Not applicable
Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk.	The proposal would not require further investigation in relation to the contamination in this instance.	Complies.
Section 11 – Salinity Risk	Salinity Management response required for affected properties	Fit-Out to comply with BCA requirements of consent.	Complies.
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils.	The site is mapped as containing class 5 acid sulfate soils, however is highly unlikely to lower the watertable below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Complies.
Section 13 – Weeds	Noxious weeds to be removed as part of development where applicable	No weeds identified on the subject site.	Complies with condition.
Section 14 – Demolition of Existing Development	Appropriate measures proposed	Demolition work would need to comply with AS 2601-2001 standards.	Comply with the condition
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	No changes to the existing arrangement in place. The application was reviewed by Council’s Environmental Health Team and considered satisfactory.	Complies
Section 16 & 17 – Aboriginal Archaeology & Heritage	AHIA required where items of aboriginal archaeology exist.	No known items of aboriginal archaeology are present on the subject property. However, the subject site is mapped as containing local heritage item: Bigge Park Group, including the Captain Cook Obelisk, T.G. Scott Memorial Gateway, Rotary Clocktower, Liverpool Regional War Memorial, Liverpool Foundation Commemorative Obelisk and Thomas Moore Memorial Drinking Fountain. The proposal was referred to Council’s Heritage officer who reviewed the submitted Heritage	Complies.

		Assessment/Statement of Heritage Impacts and plans. The Council's Heritage officer has no objections to the proposal, subject to conditions of consent. Based upon Council's Heritage officer review and recommended conditions of consent it is considered the proposed development would protect and conserve existing items containing heritage value.	
Section 20 – Car parking and access	The DCP does not identify parking requirements for a kiosk.	Parking requirements not required as the kiosk is to serve foot traffic in the vicinity.	Complies.
Section 22 – Water Conservation	This section applies to all development involving the use of water.	Conditions will be imposed requiring the proposed development to comply with the BCA, which includes standards for water conservation for non-residential development.	Complies
Section 23 – Energy Conservation	This section applies to development involving the use of energy.	Conditions will be imposed requiring the proposed development to comply with the BCA, which includes standards for energy conservation for non-residential development.	Complies.
Section 24 – Landfill	Minimise any adverse impact of land cut and filling on adjoining or nearby lands.	Cut and fill is not proposed.	Not applicable
Section 25 – Waste Disposal & re-use Facilities	Waste management plan WMP to be submitted and implemented.	A waste management plan has been provided with the application.	Complies

Part 4 – Development in Liverpool City Centre			
Control	Requirement	Proposed	Comment
4.2 Controls for Building Form	N/A	No alterations to the building footprint are proposed	N/A
Section 4.3.8 – Building Design	1. Contribute positively to the streetscape and public domain by	Robust selection of materials and finishes proposed.	Complies

and Public Domain Interface	means of high quality architecture and robust selection of materials and finishes.		
Section 4.3.10 – Public Artworks	<p>1. Design public art to respond to the particular site of the development as well as the city as Liverpool Development Control Plan 2008 Part 4 39 a whole. 2. Provide well designed and visually interesting public art created by artists or organisations that are competent in the selected field and committed to best practice. 3. Construct Public Art of materials that are durable, resistant to vandalism, safe for the public and constructed to ensure minimal maintenance. 4. Develop clear and concise agreements with artists/organisations in relation to expectations and deaccession (the process used to permanently remove an object, artwork or assemblage).</p>	The development is not proposing public art, however the facades promote visual interest.	Complies
<b>Traffic and Access</b>			
Section 4.4.1 – Vehicular Access and Maneuvering Areas	This section contains controls regarding vehicular access and maneuvering areas.	Building existing and will provide a kiosk for foot traffic travelling through the Bigge Park area.	Complies
Section 4.4.2 – On Site Parking	This section contains controls regarding parking requirements.	No on-site parking required to be provided. Building existing and will provide a kiosk for foot traffic travelling through the Bigge Park area.	Complies
<b>Environmental Management</b>			
Section 4.6 – Controls for	1. Submit a Conservation Management Plan	N/A	N/A

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

<p>specific areas – Heritage Items</p>	<p>prior to the submission of any development application for the following sites: a) St Luke’s Church; b) Liverpool Railway Station; and c) Liverpool College of TAFE (Francis Greenway Building).</p> <p>2. Ensure that all development in the Bigge Park Conservation Area addresses any potential impact on the heritage significance of the area as a whole.</p> <p>3. Retain and enhance the significance of heritage items and their setting in any new development within Liverpool city centre. Liverpool Development Control Plan 2008 Controls for Special Areas Part 4 45 .</p> <p>4. Undertake an assessment for sites in the vicinity of heritage items or heritage conservation areas, of the impact of the proposal on the setting of nearby heritage items or heritage conservation areas.</p> <p>5. Establish the relevant criteria for each proposal depending on the nature of development, the proximity of the development to surrounding heritage items and conservation areas in addition to any other factors considered in the design of the subject building.</p>	<p>Development is located within an existing building in Bigge Park and the Bigge Park Conservation Area. The proposal was referred to Council’s Heritage officer who reviewed the submitted Heritage Assessment/Statement of Heritage Impacts and plans. The Council’s Heritage officer has no objections to the proposal, subject to conditions of consent. Based upon Council’s Heritage officer review and recommended conditions of consent it is considered the proposed development would protect and conserve existing items containing heritage value.</p> <p>Complies</p> <p>Complies</p> <p>Complies</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p>
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	<p>6. Infill building must not precisely imitate its neighbour but use recognisable tools such as spatial organisation, massing, scale, alignment, detailing, materials, roof forms and coursing lines to complement adjacent heritage items.</p> <p>7. New buildings must not obstruct important views and vistas of a heritage item.</p>	<p>N/A</p> <p>N/A</p>	<p>N/A</p>
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# REPORT ATTACHMENT 2: PLANS OF THE PROPOSAL

## BIGGE ESPRESSO

KIOSK, BIGGE PARK  
124 BIGGE STREET,  
LIVERPOOL, NSW 2170

- A01 DRAWING INDEX
- A02 SITE - EXISTING SECTION PLANS
- A03 SECTION PLAN
- A04 PROJECTIONS
- A05 KEY PLAN
- A06 PROPOSED SECTION PLAN
- A07 SECTION PLAN
- A08 REFLECTED CLEARING PLAN
- A09 FINISHED SCHEDULE
- A10 LIFTING - DECKING SCHEDULE
- A11 CHANGE SCHEDULE
- A12 CHANGE SCHEDULE
- A13 SECTION 1
- A14 SECTION 2
- A15 SECTION 3
- A16 SECTION 4A
- A17 SECTION 4B - CC
- A18 SECTION 4B - F/C
- A19 SECTION 4B - 2/1
- A20 CHANGE OF THE 4/10 - DECKING SCHEDULE
- A21 CHANGE OF THE 4/10 - WALL SCHEDULE



**GENERAL NOTES:**

CONTRACTOR TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM ALL RELEVANT AUTHORITIES PRIOR TO COMMENCEMENT OF WORK.  
 ALL WORK TO BE DONE IN ACCORDANCE WITH THE RELEVANT CODES OF PRACTICE AND STANDARDS.  
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REV	DATE	CHG BY	REASON FOR ISSUE
A	21/09/21	MD	FOR REVIEW
B	21/09/21	MD	FOR REVIEW
C	05/10/21	MD	PLANNING CONSULTATION
D	16/09/21	MD	FOR REVIEW
E	16/09/21	MD	FOR REVIEW
F	24/09/22	MD	FOR REVIEW

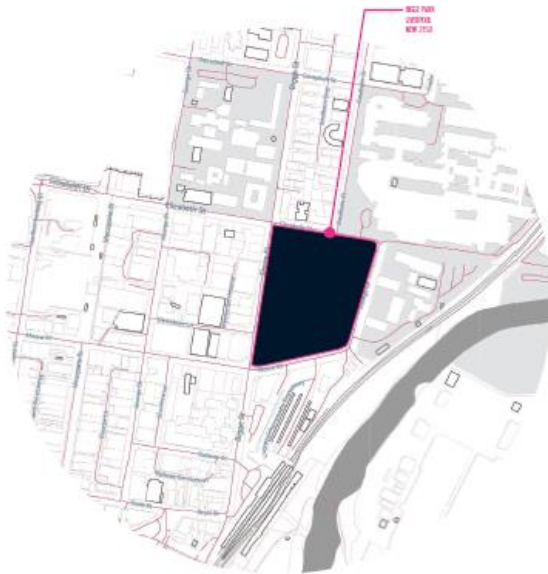
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PROJECT NO.	31990	PROJECT	BIGGE ESPRESSO - CHANGE REPORT
CITY OF LIVERPOOL		DRAWING REGISTER	
PROJECT ADDR	124 BIGGE ST LIVERPOOL, NSW 2170	DWG TITLE	
TOWN	401004	PAPER SIZE	A3
START DATE	26/08/2021	DRAWING	CC
		CHK	MD
		REV	F

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022



**SITE LOCATION PLAN**

NET TO SCALE

**GENERAL NOTES:**

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0	23/08/22	MS	FOR REVIEW
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2	25/08/22	MS	FOR REVIEW
3	26/08/22	MS	FOR REVIEW
4	27/08/22	MS	FOR REVIEW
5	28/08/22	MS	FOR REVIEW
6	29/08/22	MS	FOR REVIEW

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**TENANCY LOCATION PLAN**

NET TO SCALE

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PROJECT NO.	22003	PROJECT	DECK EXPRESS - CHEMBURG HOSPITAL
PROJECT AREA	CHEMBURG, LIVERPOOL, MERseyside, L24 9EJ	PROJECT TITLE	SITE + TENANCY LOCATION PLANS
TENANCY	RESIDENTIAL	PAPER SIZE	A3
START DATE	20/08/2022	DRAWN BY	C. CHW



**3D FLOOR PLAN**

NET TO SCALE

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4	27/08/22	MS	FOR REVIEW
5	28/08/22	MS	FOR REVIEW
6	29/08/22	MS	FOR REVIEW

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PROJECT NO.	22003	PROJECT	DECK EXPRESS - CHEMBURG HOSPITAL
PROJECT AREA	CHEMBURG, LIVERPOOL, MERseyside, L24 9EJ	PROJECT TITLE	3D FLOOR PLAN
TENANCY	RESIDENTIAL	PAPER SIZE	A3
START DATE	20/08/2022	DRAWN BY	C. CHW

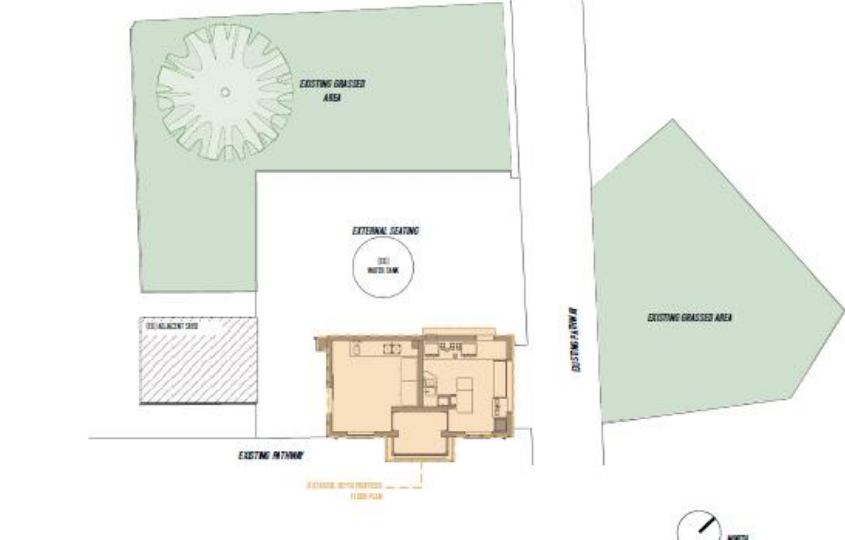


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A	23/05/22	MS	FOR REVIEW
B	23/05/22	MS	FOR REVIEW
C	09/07/22	MS	PLANNING SUBMISSION
D	09/07/22	MS	FOR REVIEW
E	09/07/22	MS	FOR REVIEW
F	24/08/22	MS	FOR REVIEW

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PROJECT NO.	07000	PROJECT	DECK EXPRESS - CHELSEA HOSPITAL
PROJECT AREA	CITY NODE, BEECH PARK, CHELSEA CT	JUNO TITLE	PERSPECTIVES
CONTRACT	401004	PAPER SIZE	A3 SCALE: A5 DRAWN: JUNE: JH
START DATE	20/06/2021	DRAWN BY	CS CMT ML JRY F



**LEGEND**

	EXISTING WALL TO REMAIN
	NEW WALL
	GLAZING
	FOUNDATION EXISTENCE NUMBER
	SECTION EXISTENCE NUMBER

**SYMBOLS**

COL	COLUMN
BE	BELTWAY
BO	BOOK
UR	URINARY SPACE
CO	COPYING
SL	SLIDING
SR	STREET
JE	JANETRY EXISTENCE NUMBER
SE	SEWER AT THE EXISTENCE
GR	GRASS EXISTENCE

**NOTES**  
 1. APPROVED TO REMAIN ALL EXISTING SPECIFICATIONS AND REQUIREMENTS WITH REFERENCE TO THE CONSTRUCTION OF WORK. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.  
 2. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
 3. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
 4. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
 5. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
 6. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
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 8. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
 9. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.  
 10. APPROVED TO ALTER ALL EXISTING MATERIALS/CONCRETE TO 100% NEW CONSTRUCTION.

**KEY PLAN**  
 SCALE: 1:500

**GENERAL NOTES:**  
 DRAWING IS FOR INFORMATION ONLY TO BE TAKEN FROM THE OFFICE OF THE ARCHITECTURAL AND BUILDING CONTROL OFFICER. IT IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE ARCHITECT. ANY ALTERATIONS TO THIS DRAWING MUST BE APPROVED BY THE ARCHITECT. THIS DRAWING IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION OR THE ACTION TAKEN THEREON.  
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REV	DATE	CON BY	REASON FOR CODE
A	23/05/22	MS	FOR REVIEW
B	23/05/22	MS	FOR REVIEW
C	09/07/22	MS	PLANNING SUBMISSION
D	09/07/22	MS	FOR REVIEW
E	09/07/22	MS	FOR REVIEW
F	24/08/22	MS	FOR REVIEW

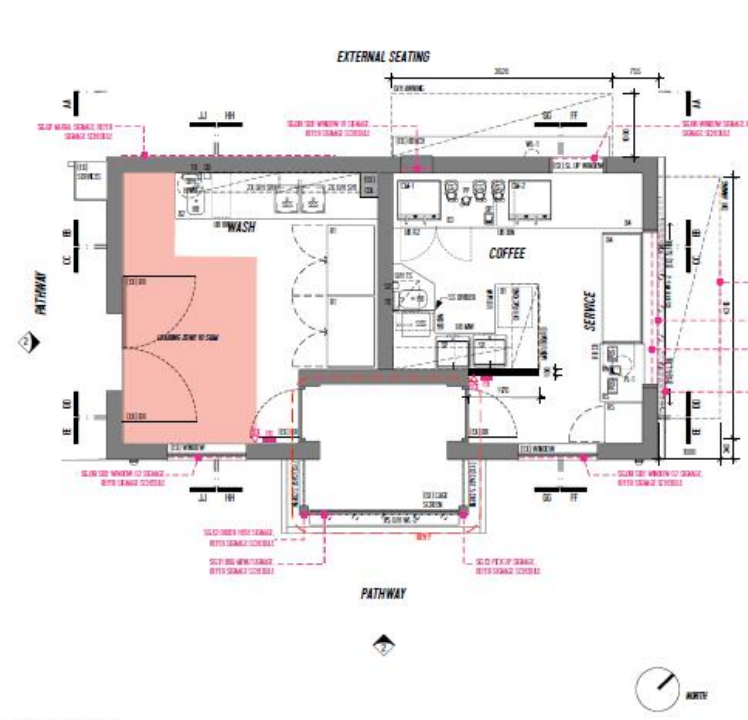
**FACULTY**  
 RETAIL + HOSPITALITY  
 CHECK OUT AT WWW.FACULTYDESIGN.COM

PROJECT NO.	07000	PROJECT	DECK EXPRESS - CHELSEA HOSPITAL
PROJECT AREA	CITY NODE, BEECH PARK, CHELSEA CT	JUNO TITLE	KEY PLAN
CONTRACT	401004	PAPER SIZE	A3 SCALE: A5 DRAWN: JUNE: JH
START DATE	20/06/2021	DRAWN BY	CS CMT ML JRY F



# LIVERPOOL CITY COUNCIL LOCAL PLANNING PANEL REPORT

31 October 2022



### LEGEND

- EXISTING WALL TO REMAIN
- NEW WALL
- LOAD LINE
- ELECTRICAL DISTRIBUTION POINT
- 15-150 PRE-INSTALLED TO BE INSTALLED IN ACCORDANCE WITH BS 7444:2002
- 15-150 PRE-INSTALLED TO BE COLLECTED AND INSTALLED IN ACCORDANCE WITH BS 7444:2002 AND OTHER CASES 3 FOR WIRING
- EXISTING REFERENCE MARKER
- SECTION REFERENCE MARKER

FINISH	
01	TILE
02	COLOR
03	BLISTERED
04	WOOD
05	GRAPE SKIN
06	WOODEN
07	WOOD
08	WOODEN
09	WOODEN
10	WOODEN
11	WOODEN
12	WOODEN
13	WOODEN
14	WOODEN
15	WOODEN
16	WOODEN
17	WOODEN
18	WOODEN
19	WOODEN

FURNITURE	
01	2 SEAT TABLE
02	4 SEAT TABLE
03	2 SEAT CHAIRS
04	4 SEAT CHAIRS
05	2 SEAT CHAIRS
06	4 SEAT CHAIRS
07	2 SEAT CHAIRS
08	4 SEAT CHAIRS
09	2 SEAT CHAIRS
10	4 SEAT CHAIRS
11	2 SEAT CHAIRS
12	4 SEAT CHAIRS
13	2 SEAT CHAIRS
14	4 SEAT CHAIRS
15	2 SEAT CHAIRS
16	4 SEAT CHAIRS
17	2 SEAT CHAIRS
18	4 SEAT CHAIRS
19	2 SEAT CHAIRS

NOTES

- 1. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 2. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 3. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 4. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 5. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 6. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 7. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 8. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 9. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.
- 10. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.

**PROPOSED FLOOR PLAN**  
SCALE 1/50

### GENERAL NOTES:

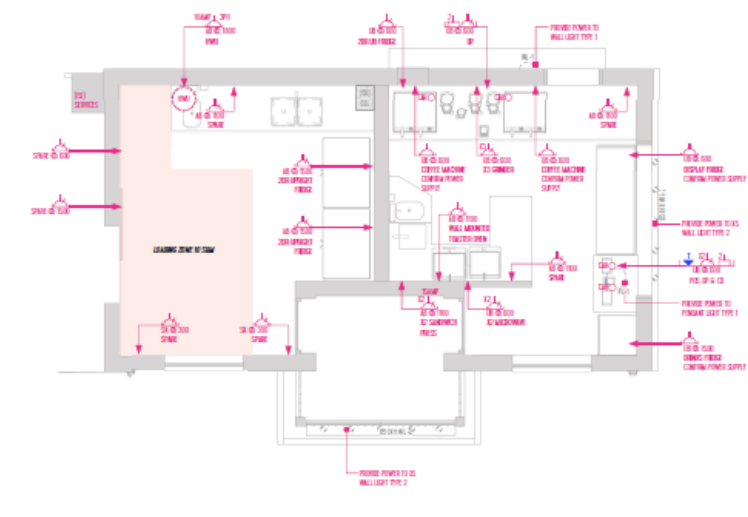
1. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.

REV	DATE	CHNG BY	REASON FOR CHNG
A	23/06/22	MS	FOR REVIEW
B	23/06/22	MS	FOR REVIEW
C	16/07/21	MS	PLANNING SUBMISSION
D	16/07/21	MS	FOR REVIEW
E	16/07/21	MS	FOR REVIEW
F	24/05/22	MS	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY  
DRINK AND EAT AT WWW.FACULTYRESTAURANT.CO.UK

PROJECT NO.	21030	PROJECT	REAR EXPRESS - CONCRETE HOSPITAL
PROJECT NAME	CITY VEGAN RESTAURANT 129 BRICK ST	PROJECT TITLE	PROPOSED FLOOR PLAN
TOWNSCAPE	4/1/20A	PURPOSE	AS SCALE AS SHOWN DRWG AS
START DATE	20/06/2022	DRAWN BY	CL CMR MS RTF F



### ELECTRICAL LEGEND

- 15-150 PRE-INSTALLED TO BE INSTALLED IN ACCORDANCE WITH BS 7444:2002
- 15-150 PRE-INSTALLED TO BE COLLECTED AND INSTALLED IN ACCORDANCE WITH BS 7444:2002 AND OTHER CASES 3 FOR WIRING
- EXISTING REFERENCE MARKER
- SECTION REFERENCE MARKER

POWER	
01	15-150 PRE-INSTALLED TO BE INSTALLED IN ACCORDANCE WITH BS 7444:2002
02	15-150 PRE-INSTALLED TO BE COLLECTED AND INSTALLED IN ACCORDANCE WITH BS 7444:2002 AND OTHER CASES 3 FOR WIRING
03	EXISTING REFERENCE MARKER
04	SECTION REFERENCE MARKER

COMMUNICATIONS	
01	TELEPHONE POINT
02	DATA POINT

**ELECTRICAL PLAN**  
SCALE 1/50

### GENERAL NOTES:

1. VERIFY CONTRACTOR TO VERIFY EXISTING AND PROPOSED WITH CLIENT FROM THE COMMENCEMENT OF WORK.

REV	DATE	CHNG BY	REASON FOR CHNG
A	23/06/22	MS	FOR REVIEW
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## FACULTY

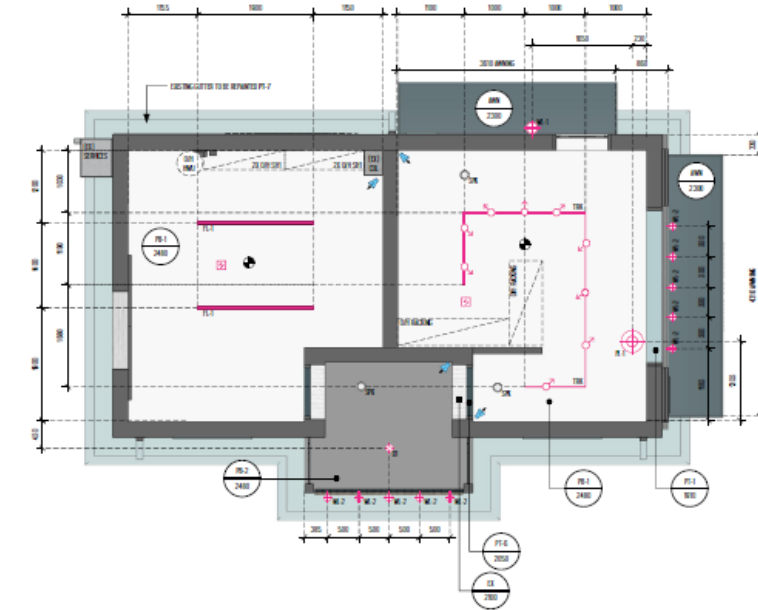
RETAIL + HOSPITALITY  
DRINK AND EAT AT WWW.FACULTYRESTAURANT.CO.UK

PROJECT NO.	21030	PROJECT	REAR EXPRESS - CONCRETE HOSPITAL
PROJECT NAME	CITY VEGAN RESTAURANT 129 BRICK ST	PROJECT TITLE	ELECTRICAL PLAN
TOWNSCAPE	4/1/20A	PURPOSE	AS SCALE AS SHOWN DRWG AS
START DATE	20/06/2022	DRAWN BY	CL CMR MS RTF F

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022



- LEGEND**
- MATERIAL AS DETAIL BELOW
  - FINISH
  - PAINT
  - CEILING PANEL
  - SUPPLY AIR GRILLE (REFER TO MATCH COLOUR)
  - EMERGENCY EXIT (REFER TO COUNTY FIRE AUTHORITY SYMBOL)
  - SERVICE WINDOW (REFER TO COUNTY FIRE AUTHORITY SYMBOL)
  - BLACK AND BEAM TYPE
  - HANGING SPEAKER (REFER TO MATCH COLOUR)
  - SWITCH PANEL LOCATION
  - FIRE ALARM (REFER TO MATCH COLOUR)
  - WALL LIGHT - TYPE 1 REFER TO LIGHTING SCHEDULE FOR DETAILS
  - WALL LIGHT - TYPE 2 REFER TO LIGHTING SCHEDULE FOR DETAILS
  - DOWNLIGHT - REFER TO LIGHTING SCHEDULE FOR DETAILS
  - TRACK LIGHT REFER TO LIGHTING SCHEDULE FOR DETAILS
  - FACTORY FLOOR (BLACK, 30 WALT, 4000K - BLACK)
  - CONCRETE STRIP (SEE DETAIL)

### REFLECTED CEILING PLAN

SCALE: 1/50

**GENERAL NOTES:**

1. CHECK WITH ARCHITECT FOR ANY CHANGES TO THE REFLECTED CEILING PLAN.
2. CHECK WITH ARCHITECT FOR ANY CHANGES TO THE REFLECTED CEILING PLAN.
3. CHECK WITH ARCHITECT FOR ANY CHANGES TO THE REFLECTED CEILING PLAN.
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REV	DATE	BY	REASON FOR REV
A	20/10/22	MD	FOR REVIEW
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D	20/10/22	MD	FOR REVIEW
E	20/10/22	MD	FOR REVIEW
F	20/10/22	MD	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY

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PROJECT NO.	31910	PROJECT	WALK EXPRESS - CONCRETE HOSPITAL
PROJECT NAME	CAPT KATEA BRIDGE PARK, CHURCHILL, NEW 2170	DRWG TITLE	REFLECTED CEILING PLAN
TOWN/CT	40130A	PAPER SIZE	A3
START DATE	20/10/2022	DRAWN BY	CS
		CHECK	MD
		APP	F

<p><b>CODE: TM-1</b> ITEM: SOLID TIMBER SPEC: SOLID TASMANIAN OAK FINISH: SUSTAINABLE OUTDOOR SEALER SOURCE: SP-FULLER</p>	<p><b>CODE: TM-2</b> ITEM: SOLID TIMBER SPEC: YELLOW SHIP 150 X 100MM SOLID TIMBER PLANKS WITH GRAYS BECK &amp; EXTERIOR WATER BASED STAIN FINISH: 3 COATS OF TASMANIAN OAK STAIN TIMBER SOURCE: CLEAR GRAYS (FOR SM/LMT) STAIN SOURCE: GRAYS <b>SM/LMT TO BE PROVIDED TO DESIGNER</b></p>	<p><b>CODE: TM-3</b> ITEM: RECLAIMED TIMBER SPEC: RECYCLED BARKWOOD TIMBER LIFT/WRAPE (MATERIAL DARK STAINING ON IN COLORING WITH RUSTIC WEATHERED FINISH (AS PICTURED ABOVE) SOURCE: HESTIA BUILDING CENTRE (FOR SM/LMT) <b>SM/LMT TO BE PROVIDED TO DESIGNER</b></p>	<p><b>CODE: MT-1</b> ITEM: GALVANIZED STEEL SPEC: 3MM THICK GALVANIZED SHEET METAL SOURCE: SENTINEL STEEL SUPPLIES (FOR SM/LMT)</p>	<p><b>CODE: MT-2</b> ITEM: MILD STEEL SPEC: 1.6 - 3MM MILD STEEL FINISHING AND SHEETING WHERE SHOWN SOURCE: BY BULLER</p>	<p><b>CODE: MT-3</b> ITEM: POWDERCOATED ALUMINIUM SPEC: DULUX QUALITY COLORS TO MATCH PP-8 FINISH: SATIN SOURCE: DULUX</p>	<p><b>CODE: MT-4</b> ITEM: CORRUGATED METAL SHEETING SPEC: C22 CORRUGATED ROOFING COLORS GALVANIZED SOURCE: STANTON (FOR SM/LMT) PH: 01203 955 955</p>	<p><b>CODE: MT-5</b> ITEM: POWDERCOATED ALUMINIUM SPEC: DULUX QUALITY COLORS TO MATCH PP-1 FINISH: SATIN SOURCE: DULUX</p>
<p><b>CODE: PP-1</b> ITEM: TYPICAL PAINT - TYPE 1 SPEC: DULUX WASH &amp; WEAR, KITCHEN &amp; BATHROOM COLORS: SALT SPRAY FINISH: SEMI GLOSS SOURCE: DULUX</p>	<p><b>CODE: PP-2</b> ITEM: TYPICAL PAINT - TYPE 2 SPEC: DULUX WASH &amp; WEAR, KITCHEN &amp; BATHROOM COLORS: BLACK CHAM FINISH: SEMI GLOSS SOURCE: DULUX</p>	<p><b>CODE: PP-3</b> ITEM: TYPICAL PAINT - TYPE 3 SPEC: DULUX WASH &amp; WEAR, KITCHEN &amp; BATHROOM COLORS: WHISPER WHITE FINISH: SEMI GLOSS SOURCE: DULUX</p>	<p><b>CODE: PP-4</b> ITEM: EXTERIOR PAINT - TYPE 1 SPEC: DULUX WASH &amp; WEAR SUNFAST COLORS: WHISPER WHITE FINISH: LOW SHEEN SOURCE: DULUX</p>	<p><b>CODE: PP-5</b> ITEM: EXTERIOR PAINT - TYPE 2 SPEC: DULUX WASH &amp; WEAR SUNFAST COLORS: MARIAN FINISH: LOW SHEEN SOURCE: DULUX</p>	<p><b>CODE: PP-6</b> ITEM: TYPICAL PAINT - TYPE 4 SPEC: DULUX WASH &amp; WEAR SUNFAST COLORS: BARKS BLUE, P3480 FINISH: SEMI GLOSS SOURCE: DULUX</p>	<p><b>CODE: PP-7</b> ITEM: EXTERIOR PAINT - TYPE 3 SPEC: DULUX WASH &amp; WEAR SUNFAST COLORS: SALT SPRAY FINISH: LOW SHEEN SOURCE: DULUX</p>	<p><b>CODE: PP-8</b> ITEM: INTERIOR PAINT SPEC: DULUX WASH &amp; WEAR, KITCHEN &amp; BATHROOM COLORS: WHISPER WHITE FINISH: LOW SHEEN SOURCE: DULUX</p>
<p><b>CODE: PP-9</b> ITEM: CEILING PAINT - TYPE 1 SPEC: DULUX WASH &amp; WEAR, FLAT COLORS: WHISPER WHITE FINISH: FLAT SOURCE: DULUX</p>	<p><b>CODE: PP-10</b> ITEM: EXTERIOR PAINT - TYPE 4 SPEC: DULUX WASH &amp; WEAR SUNFAST COLORS: BARKS BLUE, P3480 FINISH: LOW SHEEN SOURCE: DULUX</p>	<p><b>CODE: PP-11</b> ITEM: CEILING PAINT - TYPE 2 SPEC: DULUX WASH &amp; WEAR, FLAT COLORS: MARIAN FINISH: FLAT SOURCE: DULUX</p>	<p><b>CODE: CHN</b> ITEM: GALVANIZED CHAIN SPEC: ANCHOR CHAIN 8MM GALVANIZED CODE: HCSL SOURCE: CHAIN DIRECT PH: 0300 737 500</p>	<p><b>CODE: IS</b> ITEM: STAINLESS STEEL SPEC: 304 #4 GRAB STAINLESS STEEL SOURCE: BY BULLER</p>	<p><b>CODE: FB-1</b> ITEM: FINISHING FABRIC SPEC: SANCER OUTDOOR (LITESTRELL) MAKING VINYL FABRIC FOR OUTDOOR FINISHING FABRIC TO STRETCH OVER FINISHING FABRIC COLORS: NAVY SOURCE: NAVTEX PH: 0300 737 888</p>		

### FINISHES SCHEDULE

NOT TO SCALE

**GENERAL NOTES:**

1. CHECK WITH ARCHITECT FOR ANY CHANGES TO THE FINISHES SCHEDULE.
2. CHECK WITH ARCHITECT FOR ANY CHANGES TO THE FINISHES SCHEDULE.
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REV	DATE	BY	REASON FOR REV
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C	20/10/22	MD	PLANNING SUBMISSION
D	20/10/22	MD	FOR REVIEW
E	20/10/22	MD	FOR REVIEW
F	20/10/22	MD	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY

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PROJECT NO.	31910	PROJECT	WALK EXPRESS - CONCRETE HOSPITAL
PROJECT NAME	CAPT KATEA BRIDGE PARK, CHURCHILL, NEW 2170	DRWG TITLE	FINISHES SCHEDULE
TOWN/CT	40130A	PAPER SIZE	A3
START DATE	20/10/2022	DRAWN BY	CS
		CHECK	MD
		APP	F

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022



CODE: PL-1  
ITEM: WALL LIGHT - TYPE 1  
SPEC: PRISMATION OUTDOOR METAL  
G GLASS BUNKER WALL LIGHT  
DIM: 200MM DIA X 100MM H  
FINISH: ANTIQUE SILVER  
SOURCE: LING STYLES  
PH: 020 897 651  
QTY: 1

### LIGHTING SCHEDULE

NOT TO SCALE



CODE: W-2  
ITEM: WALL LIGHT - TYPE 2  
SPEC: 3 FREELY LED FLOOD LIGHTS  
OUTDOOR CONE WITH ROUND WINDMILL  
CONES, 24W, 15 W LED  
SLICES ON 150MM SPACINGS  
SOURCE: FROST LIGHTING  
PH: (0) 2054 4332



CODE: PL-1  
ITEM: PENDANT LIGHT - TYPE 1  
SPEC: DANISH CONE PENDANT LIGHT  
DIM: 200MM DIA X 225MM H  
FINISH: GREY SHADE  
SOURCE: CREATIVE LIGHTING SOLUTIONS  
PH: (0) 6930 7307  
QTY: 1



CODE: R1  
ITEM: DOWNLIGHT - TYPE 1  
SPEC: ECOLITE WITH HALO  
ADJUSTABLE DIMING, MINIM WHITE  
4300K, 10W  
FINISH: WHITE  
DIM: 120MM DIA X 25.5MM H  
SOURCE: FLEX ON LIGHTING  
PH: YANICK SCHULZ - 0420 672 612  
QTY: 1



CODE: TRK  
ITEM: TRACK LIGHT  
SPEC: FLEX TRACK LIGHT, 15W, 4300K, WHITE  
COLOUR: WHITE  
DIM: REFER TO REF FOR DIMENSIONS  
SOURCE: FLEX ON LIGHTING  
PH: YANICK SCHULZ - 0420 672 612  
QTY: 1 TRACK, 6 LIGHTS



CODE: FL-1  
ITEM: FLUORESCENT LIGHT  
SPEC: LUCENT LIGHT, 20W, 4300K, WHITE, 0.8 SIMBAE  
COLOUR: WHITE  
DIM: 1000MM L  
SOURCE: FLEX ON LIGHTING  
PH: YANICK SCHULZ - 0420 672 612  
QTY: 2



CODE: PP1  
ITEM: POTTED PLANT - TYPE 1  
POT SPEC: GARDEN PLANTER - ELEMENT GREY  
PLANT SPEC: 150MM H CACTUS OR SIMILAR, SOURCED FROM LOCAL NURSERY  
DIM: 240MM DIA X 200MM H  
SOURCE: THE PLANT SOCIETY  
PH: 0430 282 400  
QTY: 2  
NOTE: CONFIRM PLANT IS CORRECT SIZE AND FILLS POT TO BE WEATHER TREATED PRIOR TO USE.



CODE: PP2  
ITEM: POTTED PLANT - TYPE 2  
POT SPEC: LASSO BUCKET, CONC. BUCKET XL  
PLANT SPEC: LORNA LIME DRINE OR SIMILAR SOURCED FROM LOCAL NURSERY  
DIM: 280MM DIA X 250MM H  
SOURCE: BOSTEXX  
PH: 1800 280 888  
QTY: 1  
NOTE: CONFIRM PLANT IS CORRECT SIZE AND FILLS POT TO BE WEATHER TREATED PRIOR TO USE.



CODE: PP3  
ITEM: POTTED PLANT - TYPE 3  
POT SPEC: SECOND HAND HANGING PLANTER  
PLANT SPEC: HANGING POTUS OR SIMILAR SOURCED FROM LOCAL NURSERY  
DIM: 200MM DIA X 150MM H OR CLOSE TO  
SOURCE: BY BUILDER FROM SALVAGE 42 OR ANY LOCAL SALVAGE STORE  
QTY: 5  
NOTE: CONFIRM PLANT IS CORRECT SIZE AND FILLS POT



CODE: PP4  
ITEM: POTTED PLANT - TYPE 4  
POT SPEC: SECOND HAND HANGING PLANTER  
PLANT SPEC: SELECTION OF SIMILAR SOURCED FROM LOCAL NURSERY  
DIM: 200MM DIA X 150MM H OR CLOSE TO  
SOURCE: BY BUILDER FROM SALVAGE 42 OR ANY LOCAL SALVAGE STORE  
QTY: 7  
NOTE: CONFIRM PLANT IS CORRECT SIZE AND FILLS POT



CODE: PP5  
ITEM: POTTED PLANT - TYPE 5  
POT SPEC: SECOND HAND SMALL POT  
PLANT SPEC: MINORIA OR SIMILAR SOURCED FROM LOCAL NURSERY  
DIM: 200MM DIA X 100MM H OR CLOSE TO  
SOURCE: BY BUILDER FROM SALVAGE 42 OR ANY LOCAL SALVAGE STORE  
QTY: 1  
NOTE: CONFIRM PLANT IS CORRECT SIZE AND FILLS POT



CODE: PP6  
ITEM: POTTED PLANT - TYPE 6  
POT SPEC: SECOND HAND HANGING PLANTER  
PLANT SPEC: SELECTION OF SIMILAR SOURCED FROM LOCAL NURSERY  
DIM: 200MM DIA X 150MM H OR CLOSE TO  
SOURCE: BY BUILDER FROM SALVAGE 42 OR ANY LOCAL SALVAGE STORE  
QTY: 5  
NOTE: CONFIRM PLANT IS CORRECT SIZE AND FILLS POT

### DECORATION SCHEDULE

NOT TO SCALE

**GENERAL NOTES:**  
DRAWING TO BE IN CONJUNCTION WITH EXISTING STRUCTURE, STRUCTURAL, MECHANICAL, ELECTRICAL, AND MECHANICAL SYSTEMS. CHECK DRAWING FOR ANY CONFLICTS WITH EXISTING STRUCTURE OR SERVICES.  
CONSTRUCTION OF SIGN SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROVISIONS.  
CONTRACTOR TO NOTIFY ALL NEIGHBOURS AND OTHERS OF THE WORK TO BE CARRIED OUT AT LEAST 14 DAYS PRIOR TO THE COMMENCEMENT OF WORK.  
ALL WORK TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROVISIONS AND THE REQUIREMENTS OF THE CONTRACTOR'S OBLIGATIONS.  
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REV	DATE	CHG BY	REASON FOR CHG
1	24/05/22	MD	FOR REVIEW
2	24/05/22	MD	FOR REVIEW
3	10/06/22	MD	PLANNING SUBMISSION
4	10/06/22	MD	FOR REVIEW
5	10/06/22	MD	FOR REVIEW
6	24/05/22	MD	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY  
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PROJECT NO.	37080	PROJECT	WELLS EXPRESS - CHELSEA HOSPITAL
PROJECT ADR	101 WELLS ROAD PARK LN WELLS CT LIVERPOOL, MER 210	DATE ISSUED	
TOWNSHIP	WELLS	PAPER SIZE	A3
START DATE	20/06/2021	DRAWN BY	CL
		CHECKED BY	MD
		DATE	05/10/22

CODE: SIG1  
ITEM: ROOFTOP SIGNAGE  
SPEC: 2MM THICK 100 X 100MM LETTERING (FIXED TO 200MM DIA MT-2 CURVED FRAMING, FOLDED OFF EXISTING BRACKETS)  
DIM: 2500 W X 500 H  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES

CODE: SIG2  
ITEM: MENU SIGNAGE  
SPEC: STENCILED HANDPRINTED PT-3 "ORDER HERE" + "BRIEZE" LETTERING  
DIM: 750 W X 125 H  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES

CODE: SIG4  
ITEM: MENU SIGNAGE  
SPEC: 10MM THICK PANEL, PAINTED PT-4 WITH 2MM MT-4 LOGO, HAND PAINTED WITH PT-1 MENU BOARDING, LUGER CUT WHITE VINYL MENU LETTERING, STENCILED HAND PAINTED PT-3 "TODAY'S GOOD VIBES AT BIGGE'S" LETTERING TO FACE OF PANEL. ALLOW FOR MACHINE TONGS BETWEEN SIG4 AND TM-2 SIGDES  
DIM: 1025 H X 810 W  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES

CODE: SIG5  
ITEM: WINDOW SIGNAGE  
SPEC: STENCILED HANDPRINTED PT-4 "PICK UP" LETTERING + PT-1 "BACK TO SERVING SIGN" LETTERING (ONTO EXISTING WINDOW)  
DIM: 1000MM W X 1000MM H  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES

CODE: SIG6  
ITEM: MENU SIGNAGE  
SPEC: 2MM THICK FOLDED MT-3 BOX SIGN WITH STENCILED HANDPRINTED PT-3 "DRINK BOTTLED" LETTERING TO TM-2 FRAMING  
DIM: 1000 W X 810 H  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES, CLIENT TO CONFIRM GRAPHICS

CODE: SIG8  
ITEM: SIDE WINDOW SIGNAGE  
SPEC: LASER CUT BLACK VINYL LETTERING MARKETING GRAPHIC APPLIED TO PAINTED PT-4 FACE OF EXISTING WINDOW  
DIM: 1200 W X 415 H (CONFIRM DIMENSIONS ON SITE PRIOR TO ORDER)  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES

CODE: SIG9  
ITEM: SIDE WINDOW SIGNAGE  
SPEC: LASER CUT BLACK VINYL LETTERING MARKETING GRAPHIC APPLIED TO PAINTED PT-4 FACE OF EXISTING WINDOW  
DIM: 1200 W X 415 H (CONFIRM DIMENSIONS ON SITE PRIOR TO ORDER)  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES

CODE: SIG11  
ITEM: MENU SIGNAGE  
SPEC: 2MM THICK FOLDED MT-3 BOX SIGN WITH STENCILED HANDPRINTED PT-3 "DRINK OF MEAT + FRESH DELI"  
DIM: 1000 W X 1000 H  
GRAPHIC DESIGNER TO PROVIDE GRAPHICS FILES, CLIENT TO CONFIRM GRAPHICS

### SIGNAGE SCHEDULE

NOT TO SCALE

**GENERAL NOTES:**  
DRAWING TO BE IN CONJUNCTION WITH EXISTING STRUCTURE, STRUCTURAL, MECHANICAL, ELECTRICAL, AND MECHANICAL SYSTEMS. CHECK DRAWING FOR ANY CONFLICTS WITH EXISTING STRUCTURE OR SERVICES.  
CONSTRUCTION OF SIGN SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROVISIONS.  
CONTRACTOR TO NOTIFY ALL NEIGHBOURS AND OTHERS OF THE WORK TO BE CARRIED OUT AT LEAST 14 DAYS PRIOR TO THE COMMENCEMENT OF WORK.  
ALL WORK TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROVISIONS AND THE REQUIREMENTS OF THE CONTRACTOR'S OBLIGATIONS.  
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REV	DATE	CHG BY	REASON FOR CHG
1	24/05/22	MD	FOR REVIEW
2	24/05/22	MD	FOR REVIEW
3	10/06/22	MD	PLANNING SUBMISSION
4	10/06/22	MD	FOR REVIEW
5	10/06/22	MD	FOR REVIEW
6	24/05/22	MD	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY  
020 862 462 | WWW.FACULTYDESIGN.CO.UK

PROJECT NO.	37080	PROJECT	WELLS EXPRESS - CHELSEA HOSPITAL
PROJECT ADR	101 WELLS ROAD PARK LN WELLS CT LIVERPOOL, MER 210	DATE ISSUED	
TOWNSHIP	WELLS	PAPER SIZE	A3
START DATE	20/06/2021	DRAWN BY	CL
		CHECKED BY	MD
		DATE	05/10/22

31 October 2022

**PICK UP**

CODE: SE17  
 ITEM: PICK UP SIGNAGE  
 SPEC: STENCILLED HAND PAINTED  
 PT-3 'PICK UP HERE' LETTERING TO  
 EXISTING EXTERNAL COLUMN  
 DIMS: 40 W X 655 H  
 GRAPHIC DESIGNER TO PROVIDE  
 GRAPHICS FILES

~~DELETED~~

CODE: SE18  
 ITEM: PICK UP SIGNAGE  
 SPEC: STENCILLED HAND PAINTED  
 PT-3 'PICK UP' LETTERING TO  
 EXISTING EXTERNAL COLUMN  
 DIMS: 40 W X 520 H  
 GRAPHIC DESIGNER TO PROVIDE  
 GRAPHICS FILES

~~DELETED~~

CODE: SE19  
 ITEM: PICK UP SIGNAGE  
 SPEC: STENCILLED HAND PAINTED  
 WITH CLAW FEET BETWEEN SIGN  
 + DRY VERANDA STENCILLED HAND  
 PAINTED BRICK ESPRESSO LINED TO  
 THE FINES  
 DIMS: 340 W X 240 H X 30 D  
 GRAPHIC DESIGNER TO PROVIDE  
 GRAPHICS FILES

~~DELETED~~

CODE: SE20  
 ITEM: PICK UP SIGNAGE  
 SPEC: STENCILLED HAND PAINTED  
 WITH CLAW FEET BETWEEN SIGN  
 + DRY VERANDA STENCILLED HAND  
 PAINTED BRICK ESPRESSO LINED TO  
 THE FINES  
 DIMS: 340 W X 240 H X 30 D  
 GRAPHIC DESIGNER TO PROVIDE  
 GRAPHICS FILES

~~DELETED~~

CODE: SE21  
 ITEM: PICK UP SIGNAGE  
 SPEC: STENCILLED HAND PAINTED  
 WITH CLAW FEET BETWEEN SIGN  
 + DRY VERANDA STENCILLED HAND  
 PAINTED BRICK ESPRESSO LINED TO  
 THE FINES  
 DIMS: 340 W X 240 H X 30 D  
 GRAPHIC DESIGNER TO PROVIDE  
 GRAPHICS FILES

### SIGNAGE SCHEDULE

NOT TO SCALE

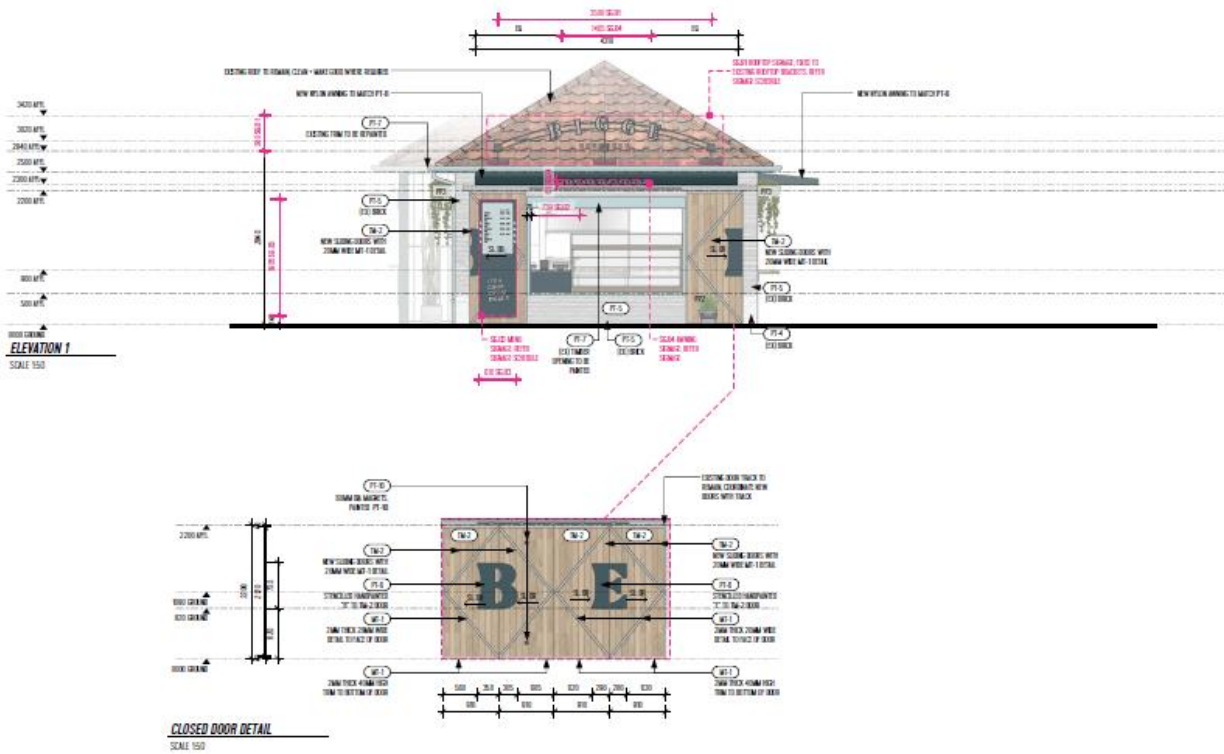
**GENERAL NOTES:**  
 1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING REGULATIONS AND THE BUILDING CONTROL OFFICE REQUIREMENTS.  
 2. ALL WORK TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY REQUIREMENTS.  
 3. ALL WORK TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY REQUIREMENTS.  
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 10. ALL WORK TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY REQUIREMENTS.

REV	DATE	CHK BY	REASON FOR ISSUE
A	24/05/22	MD	FOR REVIEW
B	24/05/22	MD	FOR REVIEW
C	06/07/21	MD	PLANNING PERMISSION
D	06/07/21	MD	FOR REVIEW
E	06/07/21	MD	FOR REVIEW
F	24/05/22	MD	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY  
ORANGE HED AT WWW.LIVERPOOLCITYCOUNCIL.GOV.UK

PROJECT NO.	37830	PROJECT	0622 EXPRESS - CHELSEA HOSPITAL
<b>SIGNAGE SCHEDULE</b>			
PROJECT NAME	CITY HUB, 0622 PARK, CHELSEA ST, LIVERPOOL, MER 27HS	PROJECT TITLE	0622 EXPRESS
TOWNPLAN	A01304	PAPER SIZE	A3 SCALE: AS SHOWN DIMS: A3
START DATE	26/06/2021	DRAWN BY	CS, CM, ME, REV: F



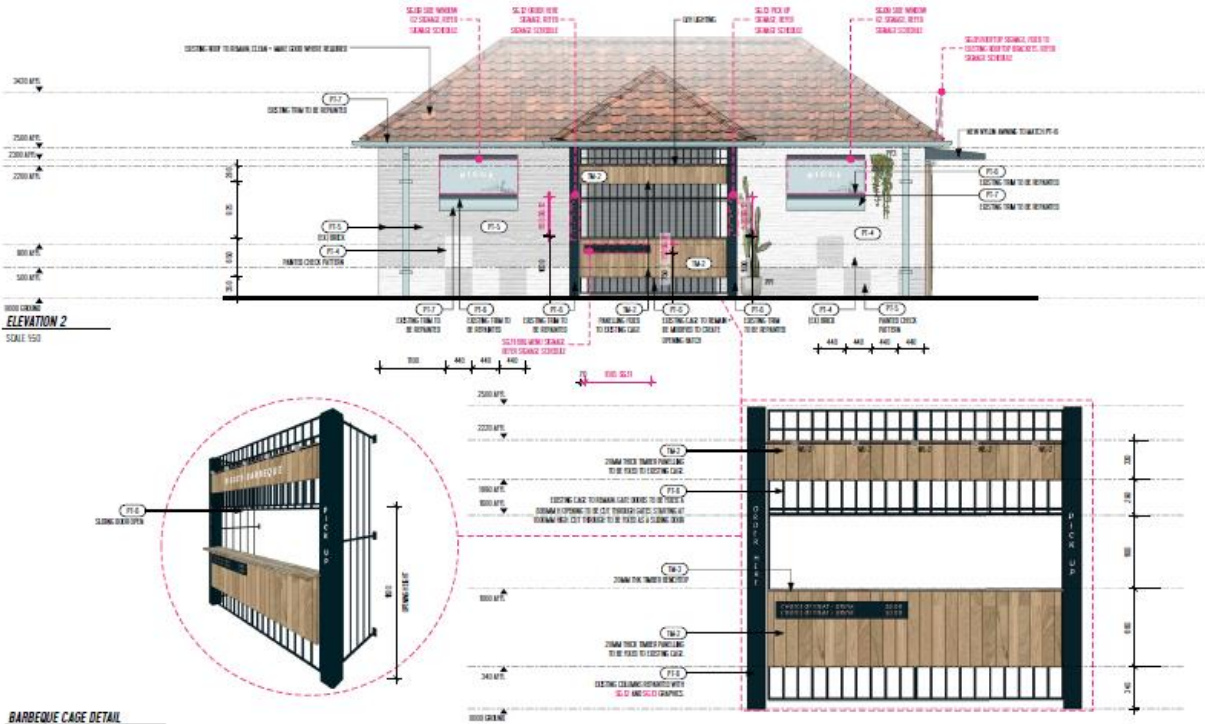
**GENERAL NOTES:**  
 1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING REGULATIONS AND THE BUILDING CONTROL OFFICE REQUIREMENTS.  
 2. ALL WORK TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY REQUIREMENTS.  
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 10. ALL WORK TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY REQUIREMENTS.

REV	DATE	CHK BY	REASON FOR ISSUE
A	24/05/22	MD	FOR REVIEW
B	24/05/22	MD	FOR REVIEW
C	06/07/21	MD	PLANNING PERMISSION
D	06/07/21	MD	FOR REVIEW
E	06/07/21	MD	FOR REVIEW
F	24/05/22	MD	FOR REVIEW

## FACULTY

RETAIL + HOSPITALITY  
ORANGE HED AT WWW.LIVERPOOLCITYCOUNCIL.GOV.UK

PROJECT NO.	37830	PROJECT	0622 EXPRESS - CHELSEA HOSPITAL
<b>ELEVATION 1</b>			
PROJECT NAME	CITY HUB, 0622 PARK, CHELSEA ST, LIVERPOOL, MER 27HS	PROJECT TITLE	0622 EXPRESS
TOWNPLAN	A01304	PAPER SIZE	A3 SCALE: AS SHOWN DIMS: A3
START DATE	26/06/2021	DRAWN BY	CS, CM, ME, REV: F



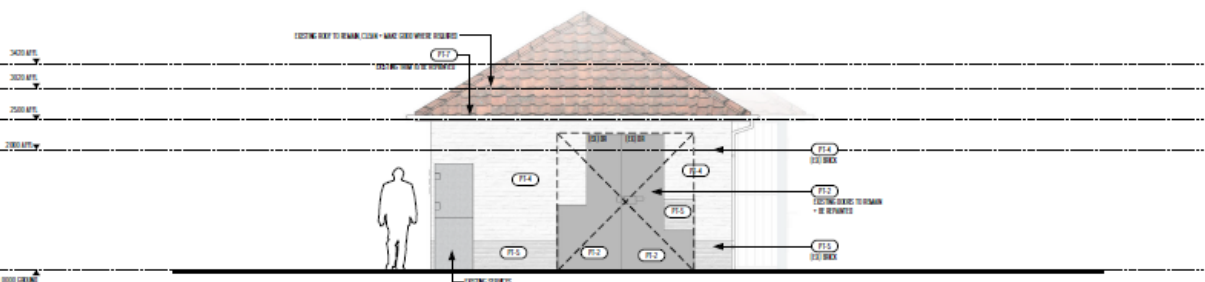
**BARBEQUE CASE DETAIL**  
SCALE 1/25

**GENERAL NOTES:**  
 1. DRAWING TO BE USED FOR PERMIT APPLICATION ONLY. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.  
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 9. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.  
 10. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.

REV	DATE	CHG BY	REASON FOR ISSUE
A	23/05/22	MB	FOR REVIEW
B	23/05/22	MB	FOR REVIEW
C	26/07/22	MB	PLANNING SUBMISSION
D	28/08/22	MB	FOR REVIEW
E	19/09/22	MB	FOR REVIEW
F	24/09/22	MB	FOR REVIEW



PROJECT NO.	22080	PROJECT	NEW EXPRESS - CONCRETE RESTAURANT
<b>ELEVATION 2</b>			
PROJECT ADDR.	CAPT WEST, 6822 PARK, CAN BESS CT, LIVERPOOL, MER 2129	DWG TITLE	
TOWNPLAN	401364	PAPER SIZE	A3
START DATE	23/05/2021	ISSUED BY	CM
		SCALE	A3 (ENH)
		DATE	JUN 18
		REV	F



**ELEVATION 3**  
SCALE 1/50

**GENERAL NOTES:**  
 1. DRAWING TO BE USED FOR PERMIT APPLICATION ONLY. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE CLIENT ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.  
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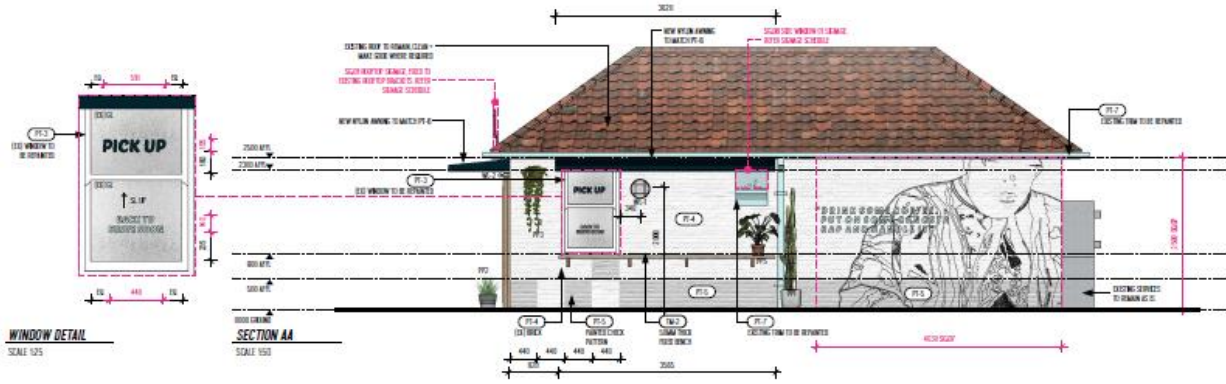
REV	DATE	CHG BY	REASON FOR ISSUE
A	23/05/22	MB	FOR REVIEW
B	23/05/22	MB	FOR REVIEW
C	26/07/22	MB	PLANNING SUBMISSION
D	28/08/22	MB	FOR REVIEW
E	19/09/22	MB	FOR REVIEW
F	24/09/22	MB	FOR REVIEW



PROJECT NO.	22080	PROJECT	NEW EXPRESS - CONCRETE RESTAURANT
<b>ELEVATION 3</b>			
PROJECT ADDR.	CAPT WEST, 6822 PARK, CAN BESS CT, LIVERPOOL, MER 2129	DWG TITLE	
TOWNPLAN	401364	PAPER SIZE	A3
START DATE	23/05/2021	ISSUED BY	CM
		SCALE	A3 (ENH)
		DATE	JUN 18
		REV	F

LIVERPOOL CITY COUNCIL  
LOCAL PLANNING PANEL REPORT

31 October 2022



**GENERAL NOTES:**  
CONSULT THE B.M. OR CHAIRMAN WITH YOUR CONTRACTOR FOR EXACT MEASUREMENTS, PARTICULARLY WITH REGARD TO THE BUILDING'S ELEVATION TO BE MAINTAINED WITH APPROVED SIGNAGE POSITION.  
CONSIDER THE SEASON OF THE YEAR WHEN THE SIGNAGE IS TO BE POSITIONED TO AVOID SHADOWS OR REFLECTIONS.  
CONSIDER THE IMPACT OF SIGNAGE ON THE BUILDING'S CURB APPEAL AND THE SURROUNDING AREA.  
CONSIDER THE IMPACT OF SIGNAGE ON THE BUILDING'S CHARACTER AND THE SURROUNDING AREA.  
ALL WORK IS TO BE ACCORDING WITH THE LATEST ISSUE OF BS 5400 PART 1 AND 6, INCLUDING THE USE OF STEEL TO BE ACCORDING TO BS 5950.  
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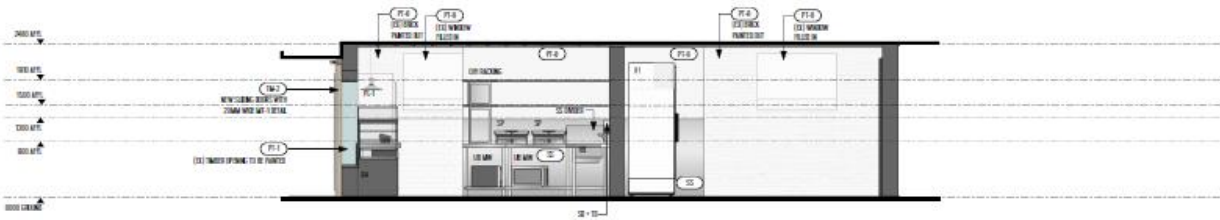
REV	DATE	CHK BY	REASON FOR ISSUE
A	23/03/22	NOI	FOR REVIEW
B	24/03/22	NOI	FOR REVIEW
C	16/03/22	NOI	PLANNING CONSULTATION
D	16/03/22	NOI	FOR REVIEW
E	16/03/22	NOI	FOR REVIEW
F	24/03/22	NOI	FOR REVIEW

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PROJECT NO.	PROJECT	SECTION AA			
23100	52/17 WOOD ROAD, 52/17 WOOD ROAD, WOOD ROAD, WOOD ROAD				
PROJECT ADR	52/17 WOOD ROAD, 52/17 WOOD ROAD, WOOD ROAD, WOOD ROAD				
TOWNARY	48/1004				
START DATE	23/03/2021				



**SECTION BB**  
SCALE 1/50



**SECTION CC**  
SCALE 1/50

**GENERAL NOTES:**  
CONSULT THE B.M. OR CHAIRMAN WITH YOUR CONTRACTOR FOR EXACT MEASUREMENTS, PARTICULARLY WITH REGARD TO THE BUILDING'S ELEVATION TO BE MAINTAINED WITH APPROVED SIGNAGE POSITION.  
CONSIDER THE SEASON OF THE YEAR WHEN THE SIGNAGE IS TO BE POSITIONED TO AVOID SHADOWS OR REFLECTIONS.  
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ALL WORK IS TO BE ACCORDING WITH THE LATEST ISSUE OF BS 5400 PART 1 AND 6, INCLUDING THE USE OF STEEL TO BE ACCORDING TO BS 5950.  
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REV	DATE	CHK BY	REASON FOR ISSUE
A	23/03/22	NOI	FOR REVIEW
B	24/03/22	NOI	FOR REVIEW
C	16/03/22	NOI	PLANNING CONSULTATION
D	16/03/22	NOI	FOR REVIEW
E	16/03/22	NOI	FOR REVIEW
F	24/03/22	NOI	FOR REVIEW

**FACULTY**  
RETAIL • HOSPITALITY  
CONSULT US AT WWW.FACULTYDESIGN.CO.UK

PROJECT NO.	PROJECT	SECTION BB + CC			
23100	52/17 WOOD ROAD, 52/17 WOOD ROAD, WOOD ROAD, WOOD ROAD				
PROJECT ADR	52/17 WOOD ROAD, 52/17 WOOD ROAD, WOOD ROAD, WOOD ROAD				
TOWNARY	48/1004				
START DATE	23/03/2021				







**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.

Plan No.	Plan Name	Date	Revision	Prepared by
A1	Drawing Register	24.06.22	F	Faculty Design
A2	Site + Tenancy Location Plans	24.06.22	F	Faculty Design
A3	3D Floor Plans	24.06.22	F	Faculty Design
A4	Perspectives	24.06.22	F	Faculty Design
A5	Key Plan	24.06.22	F	Faculty Design
A6	Proposed Floor Plan	24.06.22	F	Faculty Design
A7	Electrical Plan	24.06.22	F	Faculty Design
A8	Reflected Ceiling Plan	24.06.22	F	Faculty Design
A9	Finishes Schedule	24.06.22	F	Faculty Design
A10	Lighting + Decoration Schedule	24.06.22	F	Faculty Design
A11	Signage Schedule	24.06.22	F	Faculty Design
A12	Signage Schedule	24.06.22	F	Faculty Design
A13	Elevation 1	24.06.22	F	Faculty Design
A14	Elevation 2	24.06.22	F	Faculty Design
A15	Elevation 3	24.06.22	F	Faculty Design
A16	Section AA	24.06.22	F	Faculty Design
A17	Section BB + CC	24.06.22	F	Faculty Design
A18	Section DD + EE	24.06.22	F	Faculty Design
A19	Section FF + GG + HH + JJ	24.06.22	F	Faculty Design
A20	Signage Detail	24.06.22	F	Faculty Design
A21	Signage Detail	24.06.22	F	Faculty Design

Report Name	Completed By	Date
Waste Management Plan	Applicant	Supplied with application
Heritage Impact Statement	Outlook Planning	Supplied with application

2. As shown in red on the Proposed Floor Plan, Prepared by Faculty Design, Plan no. A6, Revision F, Dated 24.06.22, no consent is expressed or implied for the caged area to be used for the purposes of a Kiosk.

**Comply 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.

**Prescribed condition**

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).

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

5. 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.

**Works at no cost to Council**

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

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

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

**Fee Payments – 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.

#### **Cladding**

8. 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.

#### **Site Development Work**

9. 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.

#### **Food Premises – Construction**

10. 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,
  - b) Proposed/altered mechanical ventilation system/s (Building Code of Australia & Australian Standard 1668 Part 1 & 2).

### **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**

11. Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 1.4 of the EP&A Act means any physical activity involved in the erection of a building and includes but is not limited to, the placement of any site shed/s or builders facilities, site grading, retaining walls, excavation, cutting trenches, installing formwork and steel reinforcement or, placing of plumbing lines.

#### **Construction certificates**

12. 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.
- 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.

#### **Sediment & Erosion Control**

- 13. 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".

#### **Notification**

- 14. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
  - a) Any excavation, below the base of the footings of a building on an adjoining allotment of land, and
  - b) The notice shall be given seven (7) days prior to the commencement of work.

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

- 15. 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.

#### **Environmental Management**

- 16. 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: Siltation fencing; Protection of the public stormwater system; and Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

### Painting

17. Prior to commencement of works the PCA shall ensure the following:
- a) Where paint is to be removed, it is to be removed using a chemical-based remover including Heritage One or Peel Away. No mechanical or pressurised paint removal processes are to be used;
  - b) All external paint to brick work is to be water or lime based and not an external acrylic or oil based;
  - c) All unpainted bricks are to remain unpainted;
  - d) Painting or other external modifications must not inhibit subfloor or weep holes.

## D. DURING CONSTRUCTION

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

### Building Work

18. 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.

### Sign Notice Board

19. 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'.

### Toilet Facilities

20. 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*.

### Hours of Construction Work and Deliveries

21. 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.

**Security Fence**

22. 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.

**Waste Management Plan**

23. 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.

**Ventilation**

24. 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.

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.

**Food Premises**

25. The construction, fitout and finishes of the premises shall comply with the Australian Standards 4674-2004, Food Act 2003 and Regulations thereunder. Construction is to include, but not be limited to the following:
- a) All walls (including partition walls) within the kitchen, food preparation, storage and display areas shall be of solid construction (eg., bricks, cement or other approved material). These walls are to be finished with glazed tiles, stainless steel or other approved material adhered directly to the wall to a height of 2 metres above floor level;
  - b) Walls within the kitchen, food preparation, storage and display areas which are not of solid construction (eg. stud walls) shall be finished in tiles or other approved material from the floor level to the underside of the ceiling;
  - c) The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is non-slip, durable, resistant to corrosion, non-toxic, non-absorbent and impervious to moisture. The floor is to be graded and drain to an appropriate floor waste fitted with a basket arrestor;
  - d) If the floor in the food preparation and storage areas is constructed of tiles, the joints between the tiles shall be of a material that is non-absorbent and impervious to moisture;
  - e) The intersection of walls with floors and exposed plinths in the kitchen, food preparation, storage and display areas are to be coved to a minimum radius of 25mm;
  - f) All plinths are to be constructed of a material which is of solid construction and impervious to moisture. The plinths shall be:
    - (i) at least 75mm high;
    - (ii) finished level to a smooth even surface;

- (iii) recessed under fittings to provide a toe space of not more than 50mm;
  - (iv) rounded at exposed edges; and
  - (v) coved at the intersection of the floor and wall to a minimum radius of 25mm.
- g) The ceiling is to be constructed of a material that is rigid, smooth faced and impervious to moisture. The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The surface finish is to be free of open joints, cracks, crevices or openings (drop ceiling panel is not permitted). The intersections of walls and the ceiling are to be tight jointed, sealed and dust-proof;
- h) All service pipes and electrical conduits shall be either:
- (i) concealed in floors, walls, ceiling or concrete plinths, or
  - (ii) fixed with brackets so as to provide at least:
    - 25mm clearance between the wall and the pipe/conduit; &
    - 100mm between the floor and the pipe/conduit
    - pipes so installed are not to run underneath fittings.
- i) All architraves, skirting boards, picture rails and the like are not permitted within the kitchen, food preparation and storage areas;
- j) All openings in the walls, floors and ceilings through which service pipes and electrical conduits pass through are to be designed and constructed so as to prevent the access of vermin;
- k) The internal and external surfaces, including exposed edges to all benches, counters and shelving in the food preparation, storage, display and serving areas are to be finished with a rigid, smooth faced and non-absorbent material (eg laminate, stainless steel or other approved material) that is capable of being easily cleaned;
- l) All shelving shall be located at least 25mm off the wall or alternatively, the intersection of the shelf and the wall is to be completely sealed. NOTE: The lowest shelf shall be a minimum of at least 150mm above the floor level;
- m) The hot water service unit shall be positioned a minimum of 75mm clear of the adjacent wall surface and mounted a minimum of 150mm above the floor level on a stand of non-corrosive metal construction;
- n) Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage of vermin are not permitted to be formed in the construction of the premises or in the installation of fixtures, fittings and equipment;
- o) Discharge of commercial trade wastewater is to be approved by Sydney Water. Before selecting or installing trade wastewater pre-treatment devices at a retail food business, refer to Plumbing for retail food businesses produced by Sydney Water.
- p) A cleaners sink shall be provided. The sink is NOT to be within an area where open food is handled.

### **Refuse Disposal**

26. 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.

### **Contamination**

27. 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).

## **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): Certificate**

28. The premises must not be utilised until an Occupation Certificate is issued by the principal certifier.
29. 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.
30. The Principal Certifying Authority (Building) 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.
31. A single and complete Fire Safety Certificate, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate.

### **Works as executed**

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

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

### **Notification of Food Premises**

33. 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.

### **Food Premises - Commencement of trade**

34. Trading shall not commence until an Occupation Certificate has been issued by the PCA.

### **Mechanical Ventilation Certification**

35. 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.



## F. CONDITIONS RELATING TO USE

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

### Hours of Operation

36. The hours of operation of the premises are limited to:

Monday to Sunday: 5:00am to 5:00pm

The premises may operate on Public Holidays between the hours specified for Sundays.

### Staff Numbers

37. The approved use shall operate with a maximum of three (3) employees on-site at any one time.

### Unreasonable Noise and Vibration

38. The industry, including but not limited to the operation of vehicles, mechanical plant and equipment, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance, particularly from machinery, plant, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by a suitably qualified acoustic consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the consultant's recommendations and any additional requirements to the satisfaction of Liverpool City Council.

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

### Waste Collection

39. All solid waste stored on site is to be covered at all times. Furthermore, all solid and liquid waste is to be removed from the site by a registered waste contractor.

### Waste

40. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.

### Waste Storage Area

41. Waste bins must be stored in designated garbage/ trade refuse areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of the building, and must not leave the site

onto neighbouring public or private properties.

**Storage of Flammable and Combustible Liquids**

42. Flammable and combustible liquids shall be stored in accordance with AS 1940:2017–The Storage and Handling of Flammable and Combustible Liquids.

**Noise - Spruiking**

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

**Food Premises - Use of Charcoal**

44. The use of charcoal for the purposes of heating, cooking or smoking food on the premises is strictly prohibited.

**Waste Management**

45. 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.

**Complaints register**

46. 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 - General**

47. Noise associated with the use of the premises, including mechanical plant and equipment, shall not give rise to any one or more of the following:
- a) The use of the premises including the cumulative operation of any mechanical plant, equipment, public address system or other amplified sound equipment shall not give

- rise to the emission of 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.
- b) The operation of any mechanical plant, equipment, public address system or other amplified sound equipment installed on the premises shall not cause:
- i. The emission of noise as measured over a 15 minute period (LAeq (15 minute)) that exceeds the LA90 (15 minute) background noise level by more than 5 dB(A) when measured at the most affected residential boundary. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the NSW Environment Protection Authority's 'Noise Policy for Industry' (2017);
  - ii. An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2016 Acoustics – Recommended design sound levels and reverberation times for building interiors;
  - iii. 'offensive noise' as defined by the Protection of the Environment Operations Act 1997; and
  - iv. Transmission of vibration to any place of different occupancy greater than specified in AS 2670.

#### **Environment**

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

#### **Smoke-free Environment Act and Smoke-free Environment Regulation**

49. The Applicant and Occupier of the premises are alerted to the requirements of the Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2016. Nothing in this consent is to be taken to imply that the development meets the requirements of the aforementioned legislation. In the event that the Applicant and/or Occupier wishes to facilitate smoking within the premises, they must ensure that the design and construction of the area proposed to facilitate smoking fully complies with the requirements of the Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2016.

#### **Goods in Building**

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

#### **Lighting**

51. Illumination of the site is to be arranged in accordance with the requirements and specifications of AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby premises.

#### **Use of Kiosk**

52. The use of the building must remain in association with the use as a 'Kiosk', as defined in the Liverpool Local Environmental Plan 2008.

**Use of Caged Area**

53. As shown in red on the Proposed Floor Plan, Prepared by Faculty Design, Plan no. A6, Revision F, Dated 24.06.22, the caged area is not to be used as part of the approved kiosk.

**Loading Areas**

54. All loading and unloading must take place from the designated loading bay. This area is to be clearly marked/signposted for loading and must not be used for any other purpose.

**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.

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022

<b>Item no:</b>	3
<b>Application Number:</b>	DA-52/2022
<b>Proposed Development:</b>	Torrens title subdivision and construction of two semi-detached dwellings and associated works.
<b>Property Address</b>	Lot 1 Narrami Road, Austral
<b>Legal Description:</b>	Lot 1, DP 1257865
<b>Zoning</b>	R2 Low Density Residential under the State Environmental Planning Policy (Sydney Growth Centres) 2006
<b>Applicant:</b>	Mr M R Afzal
<b>Land Owner:</b>	Mr M R Afzal
<b>Cost of Works:</b>	\$640,000
<b>Recommendation:</b>	Approval subject to conditions of consent
<b>Assessing Officer:</b>	The Planning Hub - Consultant Town Planner

### EXECUTIVE SUMMARY

Council has received a Development Application (DA-52/2022) seeking consent for Torrens title subdivision and construction of two semi-detached dwellings and associated works at Lot 1, DP 1257865, 1 Narrami Road, Austral.

The site is zoned R2 Low Density Residential under the provisions of Appendix 8 of the State Environmental Planning Policy (Sydney Growth Centres) 2006. The proposed development is permissible with consent in the applicable zone.

As of the 1st of March 2022, the State Environment Planning Policy (Precincts-Western Parkland City) 2021 consolidated areas of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The subject site sits within the Liverpool Growth Centres being an area consolidated within the new SEPP. Pursuant Clause 1.8A of Appendix 4, the application was lodged prior to the commencement of the SEPP Precincts-Western Parkland City 2021. As such, Sydney Growth Centres SEPP continues to apply to the proposed development.

The development application was notified for a period of 14 days from 21 March 2022 to 5 April 2022 in accordance with Liverpool Development Control Plan. 0 submissions were received during the public consultation period.

The proposed development is consistent with the Indicative Layout Plan (ILP) for the Austral and Leppington North Precinct. More specifically, the proposed semi-detached dwelling are consistent with the low-density residential character envisaged for the site and the proposed subdivision layout does not result in any variations to the ILP.

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

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 Locality**

The area is characterised by existing low-density residential development and is within an area under transition from rural-residential to low and medium density residential development as indicated in **Figure 1**. The site is approximately 12.7km south west of Liverpool CBD and 2.3km north of Leppington Train Station.

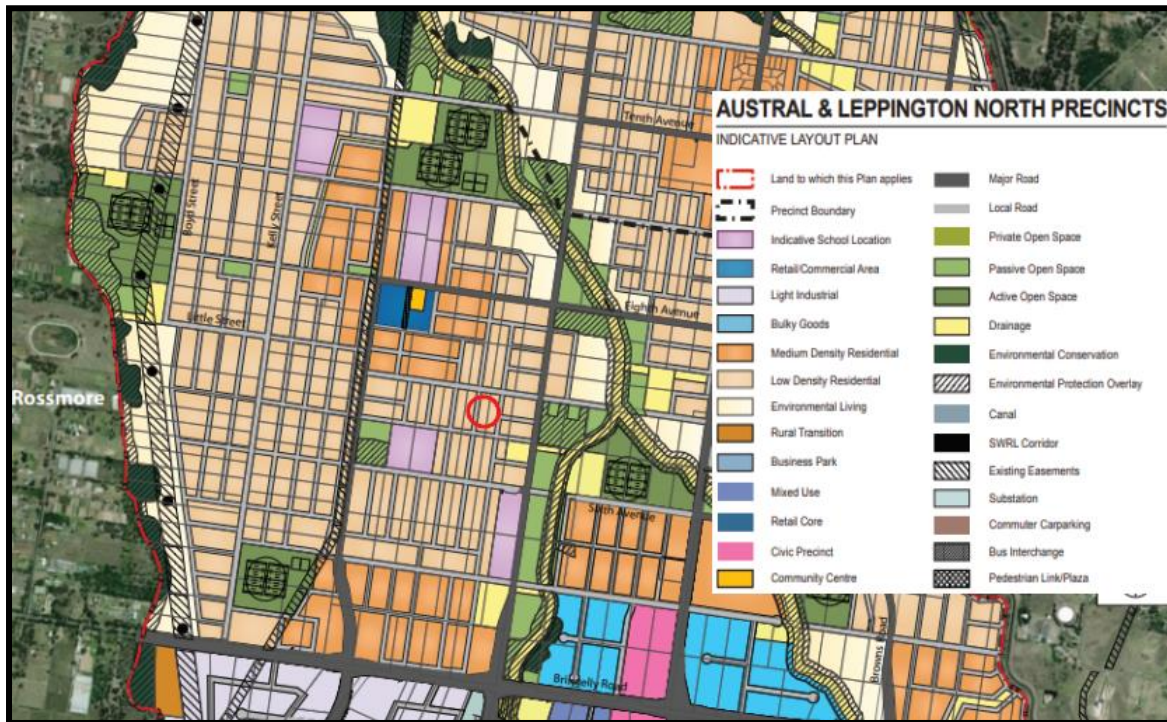
The adjoining properties to the development site are detailed in the following table.

ORIENTATION	DESCRIPTION OF SITE
North (Side)	Existing single storey dwelling and ancillary structures.
South (Side)	Currently vacant, however contains development consent for the construction of a two-storey dwelling with an inground pool under DA-1428/2021.
East (Rear)	Single Storey Dwelling house approved under DA-37/2019.
West (Front)	DA-35/2022 approved the construction two storey dwelling house. The site is currently vacant, and works are yet to be commenced.



Figure 1: Locality view (Source: Six map)

The site is located in the Austral and Leppington North Precinct of the Liverpool Growth Centre Precinct Plan and is approximately 750m west of the Edmondson Avenue and 70m south of Seventh Avenue. The subject site is identified as low density residential in accordance with the Indicative Layout Plan, an extract provided in **Figure 2**.



**Figure 2:** Indicative Layout Plan (Source: Growth Centres SEPP, Appendix 8, Schedule 1)

**2.2 The site**

The subject site is located at 1 Narrami Road, Austral and is legally identified as Lot 1, DP 1257865. It is regular in shape with a frontage of 14m to Narrami Road and a total area of 451.1m<sup>2</sup>. An aerial photograph of the subject site is provided in **Figure 3** below. The subject site has a slope of approximately 2 meters from the west to the east of the site.





Figure 3: Indicative aerial view of the site (Source: Nearmap)

### 3. BACKGROUND/HISTORY

- DA-804/2017 – approved on 25 September 2018 for staged subdivision of one lot into seventeen lots and associated site works at 210 Seventh Avenue, Austral. The subject site was created under this development application.
- This DA was then lodged with Council on 21 January 2022.
- The application was referred to The Planning Hub for Assessment on 11 April 2022 due to pecuniary interests identified in the development application form.
- Additional information was requested from the applicant on 17 May 2022 in relation to an amended cost summary report, amended Statement of Environmental Effects, lot frontage variations, retaining wall structures, materials and finishes, garage widths, privacy and amended stormwater drainage plans.
- A response to Council's request for additional information was received on 19 May 2022 and 20 June 2022.
- A further request for additional information was requested on 7 July 2022 in relation to materials and finishes and lot frontage variations.
- A response to Council's request for additional information was received on 5 August 2022.

### 4. DETAILS OF THE PROPOSAL

The application seeks development consent for Torren's title subdivision and the construction of two semi-detached dwellings at Lot 1, DP 1257865, 1 Narrami Road, Austral.

Torrens title subdivision

The proposal includes the Torrens title subdivision of 1 lot into 2. The subdivision layout is as follows:

- Lot 1 with an area of 225.5m<sup>2</sup>
- Lot 2 with an area of 225.5m<sup>2</sup>

Construction of a tow 2-storey semi-detached dwellings

This development application proposes the construction of a two-storey semi-detached development involving the construction of two dwellings on an individual lots and attached via a common wall. The proposed dwellings comprise of the following:

**Ground Floor –**

- Single Car Garage;
- Home Office Room;
- Bathroom;
- Laundry;
- Pantry;
- Living Room and kitchen area;
- Deck area with a 1.8m high privacy screen; and
- Main open plan kitchen and living space.

**First Floor –**

- Master bedroom with walk in robe and Ensuite;
- Two (2) bedrooms with built-in robes;
- Bathroom; and
- Balcony.

Associated Works

- Two new hardstand driveway providing access to Narrami Road.
- Provisions of stormwater infrastructure including the provision of a rainwater tank at the rear of each dwelling;
- Construction of a retaining wall to the north, west and southern boundaries;
- Provision of cloth drying facilities;
- Earthworks facilitating the proposed development;
- Landscaping works which includes the provision ground cover, the planting of one Grey Boss Tree (lot 1) and a Forest Red Gum (Lot 2); and
- Provision of a 1.8m high boundary fence dividing the POS of the proposed lots.

Subdivision plans and Architectural plans of the new dwellings including a schedule of materials and finishes can be found in **Attachment 3** of this report.

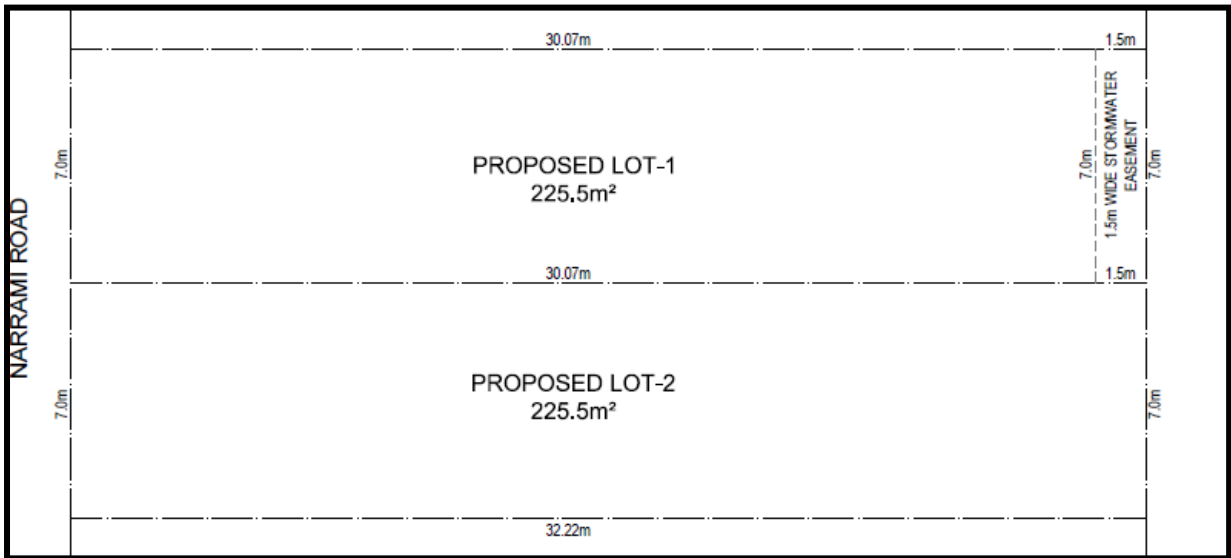


Figure 4: Subdivision Plan (Source: Riz Afzal)

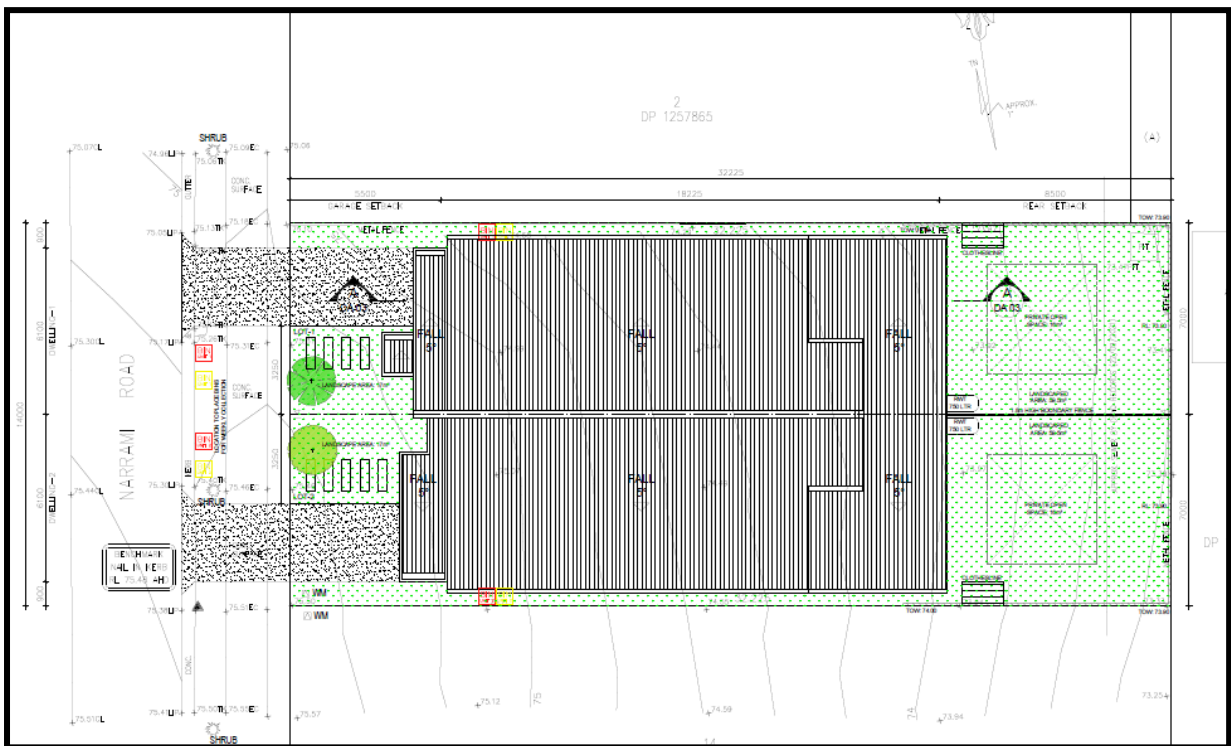
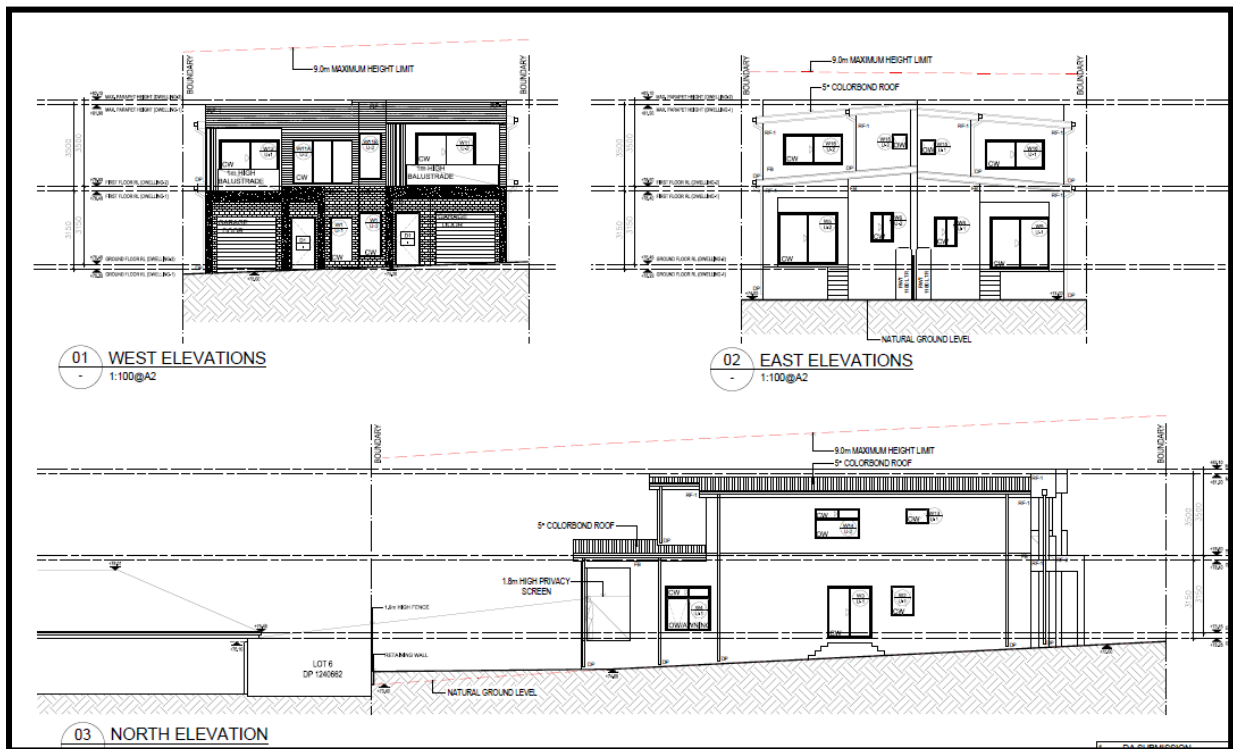


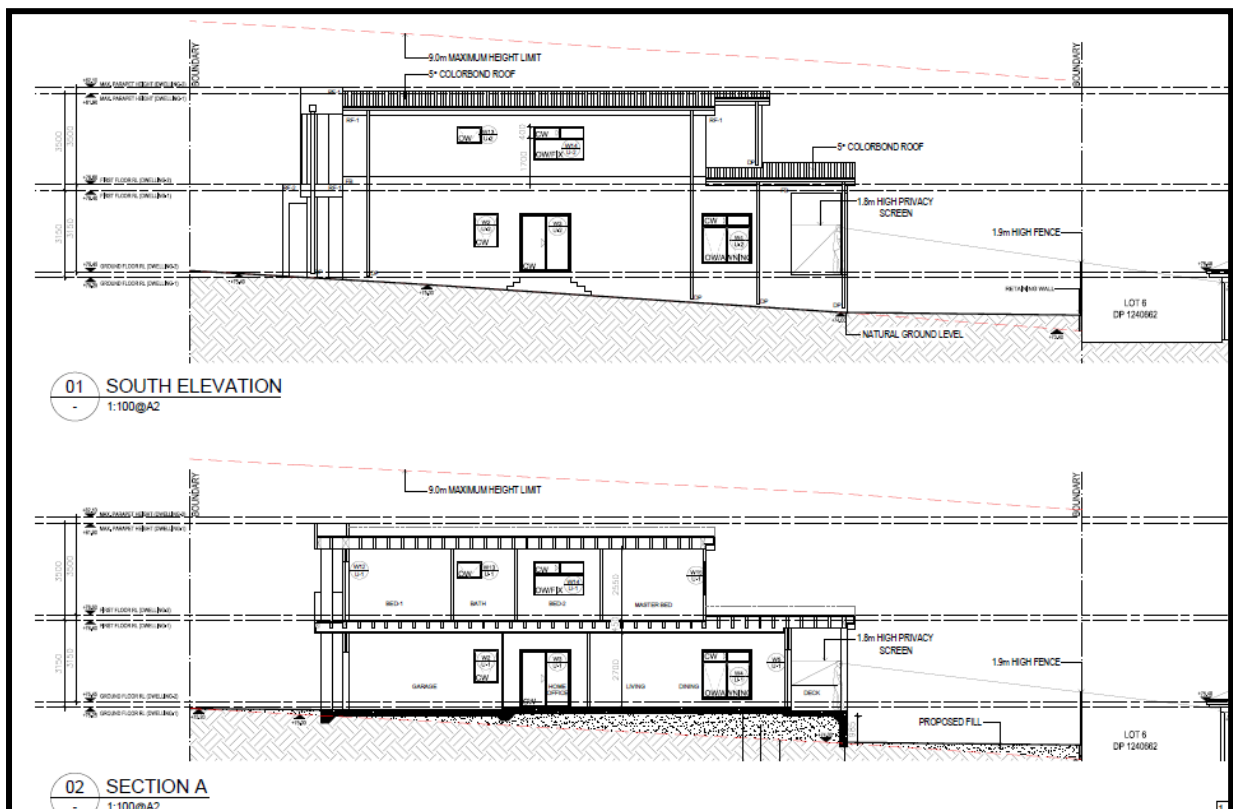
Figure 5: Site Plan (Source: Riz Afzal)

**LIVERPOOL CITY COUNCIL**  
**LOCAL PLANNING PANEL REPORT**

**31 October 2022**



**Figure 6: Elevations (Source: Riz Afzal)**



**Figure 7: Sections (Source: Riz Afzal)**

**5. STATUTORY CONSIDERATIONS**  
**5.1 Relevant matters for consideration**

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

State Environmental Planning Policy (Resilience and Hazards) 2021;  
 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;  
 State Environmental Planning Policy (Biodiversity and Conservation) 2021;  
 State Environmental Planning Policy (Sydney Region Growth Centres) 2006; and  
 Liverpool Growth Centres Precincts Development Control Plan (DCP).

Other Plans

- Liverpool Community Participation Plan 2019.

**6. ASSESSMENT**

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

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

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

Chapter 4 – Remediation of land

Pursuant to Clause 4.6 of Chapter 4 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.

The objective of Chapter 4 of SEPP (Resilience and Hazards) 2021 are:

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

<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	The land was identified as being contaminated under DA-804/2017. Appropriate remediation strategies were undertaken to make the land suitable for its intended residential use. As such, the land is considered not to be contaminated and further investigation is deemed not to be necessary.
(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 land was made suitable for the intended use under DA-804/2017.

the purpose for which the development is proposed to be carried out, and	
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of Chapter 4 of SEPP (Resilience and Hazards) 2021, therefore, it is considered that the subject site remains suitable for the proposed development.

**(b) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

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

Valid BASIX Certificates have been submitted for each dwelling.

Accordingly, the development, as proposed, is considered to be satisfactory with regard to water and energy efficiency and thermal comfort.

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

- 

Chapter 9 – Hawkesbury – Nepean River

The subject land is located within the Hawkesbury Catchment and as such Chapter 9 of the SEPP Biodiversity and Conservation 2021 applies to the application.

The SEPP generally aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

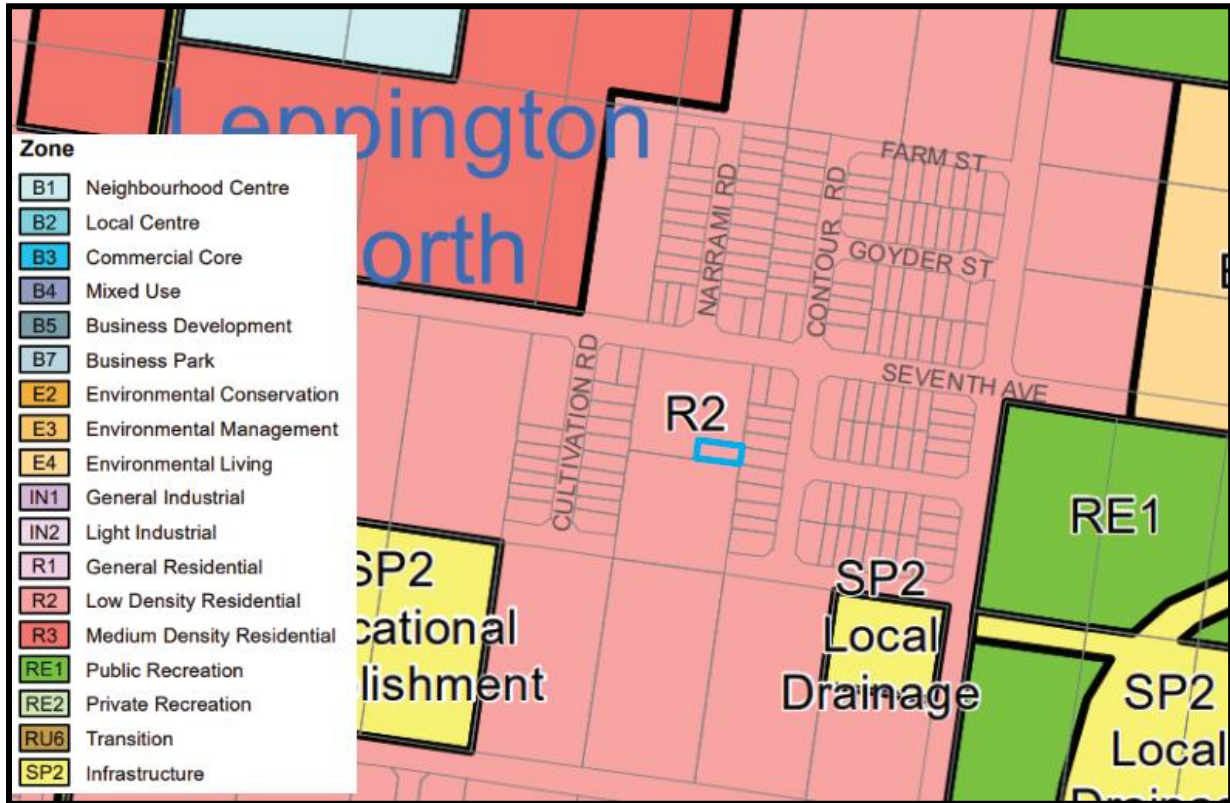
It is considered that the proposal satisfies the provisions of Chapter 9, subject to appropriate sedimentation and erosion controls being implemented during construction.

- **State Environmental Planning Policy (Sydney Region Growth Centres) 2006; and**

As of the 1st of March 2021, the State Environment Planning Policy (Precincts-Western Parkland City) 2021 consolidated areas of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The subject site sits within the Liverpool Growth Centres being an area consolidated within the new SEPP. Pursuant Clause 1.8A of Appendix 4, the application was lodged prior to the commencement of the SEPP Precincts-Western Parkland City 2021. As such, Sydney Growth Centres SEPP continues to apply to the proposed development.

(i) Zoning

The subject site is zoned R2 – Low-Density Residential pursuant to Appendix 8 of the Sydney Growth Centres SEPP. An extract of the zoning map is provided in **Figure 8** below.



**Figure 8:** Zoning map demonstrating the indicative location of the site in blue (source: NSW Legislation)

(ii) Permissibility

The proposed development is defined as semi-detached dwellings. This form of development is a permissible form of development with consent in the R2 – Low-Density Residential zone under Appendix 8 of the Sydney Growth Centres SEPP. A semi-detached dwelling is defined as the following:

**Semi-detached dwelling** - means a dwelling that is on its own lot of land and is attached to only one other dwelling.

(iii) Objectives of the zone

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

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

**Comment**

The development is considered to be consistent with the relevant objectives of the zone given that the proposed development provides for the housing needs of the community within a low-density environment. Furthermore, the proposed dwellings have been designed in a manner that allows residents to carry out a reasonable range of activities from their home without having adverse impacts on adjoining properties.

**(iv) Principal Development Standards**

Appendix 8 of the Sydney Growth Centres SEPP contains a number of principal development standards which are relevant to the proposal, as detailed below.

<b>Development Provision</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part 4 Principal Development Standards</b>			
<b>4.1AA Subdivision resulting in lots between 225-300m<sup>2</sup></b>	Development consent maybe granted to the subdivision of land to which this clause applies resulting in the creation of a lot that has an area of less than 300m <sup>2</sup> (but not less than 225m <sup>2</sup> ) if the consent authority is satisfied that the lot will contain a sufficient building envelope to enable the erection of a dwelling house on the lot.	The proposal includes the Torrens title subdivision of 1 lot into 2. The subdivision layout is as follows: <ul style="list-style-type: none"> <li>• Lot 1 with an area of 225.5m<sup>2</sup></li> <li>• Lot 1 with an area of 225.5m<sup>2</sup></li> </ul> The proposed subdivision layout demonstrates sufficient lot sizes for the erection of Semi-Detached Dwellings.	<b>Yes</b>
<b>4.1AB Minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential</b>	The minimum lot size for a semi-detached dwelling is—  (B) 200m <sup>2</sup> if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is 15, or	The proposal involves the construction of two semi-detached dwellings and the Torrens title subdivision on 1 lot into 2. The subdivision layout is as follows: <ul style="list-style-type: none"> <li>• Lot 1 with an area of 225.5m<sup>2</sup></li> <li>• Lot 2 with an area of 225.5m<sup>2</sup></li> </ul> The proposed lot sizes comply with a minimum of 200m <sup>2</sup> .	<b>Yes</b>
<b>4.1B Residential density</b>	The density of any residential development to which this clause applies is not to be less than the density shown on the Residential	The site contains 451.1m <sup>2</sup> of R2 zoned land. The applicable minimum residential density for this land is 15 dwellings per hectare (dw/h). The net developable area is 451.1m <sup>2</sup> (0.04511 hectare). The	<b>Yes</b>



	Density Map in relation to that land.	proposal provides 2 dwellings lot at a rate of 44.345 dw/ha and complies with minimum 15 dw/ha.	
<b>4.3 Height of building</b>	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.  - 9m	The proposed building height of 7.775m complies with the maximum of 9m.	<b>Yes</b>
<b>6.1 Public Utility Infrastructure</b>	Public utility infrastructure must be available	The site has access to existing public utility infrastructure.	<b>Yes</b>

As demonstrated in the above compliance table, the development is consistent with the provisions of Appendix 8 of the Sydney Growth Centres SEPP.

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

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

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

#### (a) Liverpool Growth Centres Precincts Development Control Plan

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

- Part 2: Precinct Planning Outcomes; and
- Part 3: Neighbourhood and Subdivision Design;
- Part 4: Residential Development

The assessment has identified that the proposal generally demonstrates compliance with the relevant DCP requirements. The key controls are discussed in **Attachment 1** of this report.

### **Policy/Plan Non-compliances**

#### **DCP Variation No. 1 – Lot Frontage Width**

*Section 3.1.2(6) Block and lot Layout* of the Liverpool Growth Centre Precincts DCP requires a minimum frontage for a front loaded lot in a 15dw/Ha density band of 9m. The proposed subdivision results in both lots containing a 7m frontage to Narrami Road. Both lots will contain a non-compliance of 2m as required by the DCP. The minor variations proposed to the lot widths are unlikely to have a significant impact on the streetscape or result in any adverse impacts on adjoining properties.

Despite the non-compliance, the objectives this section are deemed to be satisfied. These are as follows:

- a. *To establish a clear urban structure that promotes a 'sense of neighbourhood' and encourages walking and cycling.*

- b. To efficiently utilise land and achieve the target dwelling yield for the relevant Precinct.
- c. To emphasise the natural attributes of the site and reinforce neighbourhood identity through the placement of visible key landmark features, such as parks, squares and landmark buildings.
- d. To optimise outlook and proximity to public and community facilities, parks and public transport with increased residential density.
- e. To encourage variety in dwelling size, type and design to promote housing choice and create attractive streetscapes with distinctive characters.
- f. To accommodate a mix of lot sizes and dwelling types across a precinct.
- g. To establish minimum lot dimensions for different residential dwelling types.

Considering the small-scale nature of the proposed development, the proposal will not have any significant impact on the urban structure, 'sense of neighbourhood', nor have an effect on walking and cycling. The erection of 2 semi-detached dwellings and associated Torrens title subdivision encourages a mix of lot sizes and dwelling types across a precinct and is considered to be efficient use of land. The proposal supports achieve the targeted dwelling yield for the precinct and will not have a significant impact on key natural attributes of the site or features that reinforce neighbourhood identity.

It is noted that minimum lot dimensions have been established for a range of residential dwelling types in the locality. The proposed variations to the minimum frontage is considered appropriate in his instance in that it does not result will not erode the streetscape character and provides for a mix of built typology within Narrami Road.

In addition, the applicant has provided examples of where this control has been varied. This is demonstrated in the following table.

Location	Requirement
Lot 46 Ninth Avenue Austral (LOT 46 DP 1223299)	DA-13/2019 approved the construction of 2 x two-storey semi-detached dwellings and two lot Torrens Title subdivision. Both sites contained a frontage of 7.25m.
59B Tokyo Road, Austral (LOT 201 DP 1238763)	DA-387/2021 The construction of two semi-detached dwellings and Torrens title subdivision of the site into two lots. Lot 1 contained a frontage of 8.075m and Lot 2 contained a frontage of 8.09m.

As such, the proposed variation has been reviewed and is recommend that it be supported for the following reasons:

- These two lots will contribute towards providing a variety of dwellings.
- The proposal is compliant with the density characteristics set out in the DCP.
- As the proposed development is an attached product type the narrow lots will not be obvious on the streetscape.

The proposal is therefore considered to be consistent with the key controls outlined in the Liverpool Growth Centre Precincts Development Control Plan despite the variation proposed.

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

There are no planning agreements that apply to the development.

**6.6 Section 4.15(1)(a)(iv) - The Regulations**

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

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

##### **Natural Environment and Built Environment**

The site is currently vacant and cleared pursuant DA-804/2017. The proposed development is unlikely to create a detrimental impact on the natural environment subject to the implementation of appropriate conditions of consent.

The development is considered to be of an appropriate bulk and scale that is consistent with the desired future character for the R2 Low-Density Residential Zone. The proposed development will facilitate the construction of a residential development that achieves the desired future built character of the locality.

The minor variations proposed to the lot frontages will not have a significant impact on the streetscape. The subject site has demonstrated to be suitable from the construction of 2 semi-detached dwellings that will contribute positively to providing for a mix of typology and built form.

It is considered that the proposed development has been designed with sufficient regard to surrounding properties to ensure that the development is compatible with the envisaged built form and any adverse amenity impacts are minimised.

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

The proposal will continue to provide a positive economic impact in the locality through the capital investment value of the development. The proposal is unlikely to generate any identifiable detrimental social impacts.

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

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

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

The development application was notified for a period of 14 days from 21 March 2021 to 5 April 2022 in accordance with Liverpool Development Control Plan. 0 submissions were received during the public consultation period objecting to the proposal.

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

The proposed dwellings and residential subdivision have been designed in a manner that does not compromise the future development of the area in accordance with the ILP. For these reasons, the proposed development is considered to be in the public interest.

### **7. 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, LGCDP, and the relevant codes and policies of Council.

The proposed development is unlikely to result in any 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 No 52/2022 seeking approval for Torrens title subdivision and construction of two semi-detached dwellings be approved subject to conditions of consent.

**10. ATTACHMENTS**

1. LIVERPOOL DCP COMPLIANCE TABLE
2. CONDITIONS OF CONSENT
3. PLANS OF PROPOSAL

**ATTACHMENT 1 – LIVERPOOL GROWTH CENTRES DCP COMPLIANCE TABLE**

<b>Part 2.0 Precinct Planning Outcomes</b>		
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>
<b>2.2 The Indicative Layout Plan</b>	All development applications are to be generally in accordance with the Indicative Layout Plan.	<b>Complies</b> The proposed development is consistent with the Indicative Layout Plan. No variations are proposed.
	When assessing development applications, Council will consider the extent to which the proposed development is consistent with the Indicative Layout Plan	<b>Complies</b> As above.
<b>2.3 Site Analysis</b>	<b>2.3.1 Flooding</b> This section contains controls relating to development on flood prone land.	<b>Complies</b> The subject site is not identified as being flood prone.
	<b>2.3.2 Water cycle management</b> This section contains controls relating to stormwater management.	<b>Complies</b> The application was accompanied by Stormwater Management Plan. These plans were reviewed by Council's Development Engineer and no concerns have been raised subject to the imposition of recommended conditions.

	<p><b>2.3.3 Salinity and Soil Management</b> This section contains controls relating to salinity and soil management.</p>	<p><b>Complies</b> The site is identified as being on the “Potential Salinity” Map as being in the “Low Saline” category. The application was reviewed by Council’s Development Engineer and no concerns have been raised subject to the imposition of recommended conditions.</p>
	<p><b>2.3.4 Aboriginal and European Heritage</b> This section contains controls relating to the management of Aboriginal heritage values and to ensure areas identified as European cultural heritage sites or archaeological sites are managed.</p>	<p><b>Complies</b> Councils Heritage Officer reviewed DA-807/2017 which created the subject lot. The site was not identified as being of heritage significance.</p>
	<p><b>2.3.5 Native Vegetation and Ecology</b> This section contains controls relating to the conservation and rehabilitation of native vegetation.</p>	<p><b>Complies</b> The subject site is currently vacant and cleared of any vegetation pursuant DA-804/2017. Tree removal is not proposed.</p>
	<p><b>2.3.6 Bushfire Hazard Management</b> This section contains controls relating to development on bushfire prone land.</p>	<p><b>Not Applicable</b> The site is not bushfire prone.</p>
	<p><b>2.3.7 Site Contamination</b> This section contains controls relating to development on potentially contaminated land.</p>	<p><b>Complies</b> The land was identified as being contaminated under DA-804/2017. Appropriate remediation strategies were undertaken to make the land suitable for its residential use. As such, the land is considered not to be contaminated and further investigation is deemed unnecessary</p>
	<p><b>2.3.8 Development on and adjacent to electricity and gas easements</b> This section contains controls relating to development on and adjacent to electricity and gas easements.</p>	<p><b>Not Applicable</b> Not identified as being Land Adjacent to Electricity and Gas easements</p>
	<p><b>2.3.9 Noise</b> This section contains controls relating to ensuring acoustic privacy is achieved for future residential development.</p>	<p><b>Not Applicable</b> The site is not located in an acoustic-sensitive area. No further comments are required in this regard.</p>
	<p><b>2.3.10 Odour assessment and control</b> This section relates to land deemed by Council to be affected by an odour source.</p>	<p><b>Not Applicable</b> The proposal is not affected by any odours (i.e. poultry farms).</p>

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022

<b>2.4 Demolition</b>	This section contains controls relating to demolition of buildings.	<b>Not Applicable</b> The subject site is currently vacant and cleared of any structures pursuant to DA-804/2017. Demolition is not proposed.
<b>2.5 Crime Prevention through Environmental Design</b>	This section contains controls relating to the principles of CPTED.	<b>Complies</b> The proposed development is unlikely to contravene the principles of CPTED and will provide casual surveillance of public areas through the construction of a new permanent development on the site.
<b>2.6 Earthworks</b>	This section contains controls relating to earthworks	<b>Complies by condition</b> This aspect has been reviewed by Council's Development Engineers, who have raised no issues to the earthworks, subject to conditions. Further, no dams exist on-site to be removed.

### Part 3.0 Neighbourhood and Subdivision Design

Development Control	Provision	Comment
<b>3.1.1 Residential Density</b>	All applications for residential subdivision and the construction of residential buildings are to demonstrate that the proposal meets the minimum residential density requirements of the relevant Precinct Plan and contributes to meeting the overall dwelling target in the relevant Precinct.	<b>Complies</b> Refer to SEPP Sydney Growth Centres 2006 Compliance Table in Section 6.1(D).
	Residential development is to be generally consistent with the residential structure as set out in the Residential Structure Figure in the relevant Precinct Schedule, the typical characteristics of the corresponding Density Band in Table 3-1.	<b>Complies</b> The construction of two semi-detached dwellings is considered an appropriate built form for a 15-20dw/ha residential area. The proposed subdivision creates small lots that are located in proximity to a range of services and amenities.
<b>3.1.2 Block and Layout</b>	This section contains controls relating to blocks.	<b>N/A</b> The proposed development consists of the construction of two semi-detached dwellings and Torrens title subdivision. The proposal will not create any street blocks.

	<p>Minimum lot sizes for each dwelling type will comply with the minimum lot size provisions permitted by the Sydney Region Growth Centres SEPP, summarised here as Table 3-2. In certain density bands, variations to some lot sizes may be possible subject to clauses in the Sydney Region Growth Centres SEPP.</p>	<p><b>Complies</b> The minimum lot size required for semi-detached dwelling is 200m<sup>2</sup>.</p> <p>The subdivision layout is as follows:</p> <ul style="list-style-type: none"> <li>• Lot 1 with an area of 225.5m<sup>2</sup></li> <li>• Lot 2 with an area of 225.5m<sup>2</sup></li> </ul> <p>Both lots comply with minimum 200m<sup>2</sup>.</p>
	<p>Minimum lot frontages applying to each density band will comply with Table 3-3. Lot frontage is measured at the street facing building line as indicated in Figure 3-3.</p>	<p><b>Considered Acceptable</b> The minimum frontage for a front loaded lot in a 15dw/Ha density band is 9m.</p> <p>The proposed frontages are as follows:</p> <ul style="list-style-type: none"> <li>- Lot 1 – 7m</li> <li>- Lot 2 – 7m</li> </ul> <p>Both lots contain a non-compliance of 2m as required by the DCP.</p> <p>The plans accompanying this development application demonstrate the site’s suitability for the construction of a semi-detached dwelling. The minor variations proposed to the lot widths are unlikely to have a significant impact on the streetscape or result in any adverse impacts on adjoining properties.</p> <p>In addition, the applicant has provided examples of where this control has been varied. This includes Lot 100, DP 1255408 and Lot 101, DP 1255408. <b>DA-13/2019</b> which approved the construction of 2 x two-storey semi-detached dwellings and two lot Torrens Title subdivision. Both sites contained a frontage of 7.25m. As such, the proposed variation is considered appropriate and consistent with development in the locality.</p>
	<p>A range of residential lot types (area, frontage, depth, zero lot and access) must be provided to ensure a mix of housing types and dwelling sizes and to create coherent streetscapes with distinctive garden suburban, suburban and urban characters across a neighbourhood.</p>	<p><b>Complies</b> The proposed development consists of Torrens title subdivision and the construction of two semi-detached dwellings. The proposed development is considered acceptable given it supports in providing a mix of residential lot types, housing types and dwelling sizes within the streetscape.</p>

	<p>In density bands <math>\leq 20dw/Ha</math> no more than 40% of the total residential lots proposed in a street block may have frontage of less than 10m wide.</p>	<p><b>Complies</b>                  The existing block contains is bound by Contour Road to the east, Narrami Road to the west; Seventh Avenue to the north and Haybale Street to the south. Eighteen lots are provided in the following configuration.</p> <table border="1" data-bbox="943 539 1463 1944"> <thead> <tr> <th>No</th> <th>Lots</th> <th>Widths</th> </tr> </thead> <tbody> <tr> <td>.</td> <td></td> <td></td> </tr> <tr> <td>1.</td> <td>Lot 1, DP 1240662</td> <td>12m</td> </tr> <tr> <td>2.</td> <td>Lot 1, DP 1261012</td> <td>14m</td> </tr> <tr> <td>3.</td> <td>Lot 2, DP 1261012</td> <td>12m</td> </tr> <tr> <td>4.</td> <td>Lot 3, DP 1240662</td> <td>10m</td> </tr> <tr> <td>5.</td> <td>Lot 4, DP 1240662</td> <td>11m</td> </tr> <tr> <td>6.</td> <td>Lot 5, DP 1240662</td> <td>11m</td> </tr> <tr> <td>7.</td> <td>Lot 6, DP 1240662</td> <td>12m</td> </tr> <tr> <td>8.</td> <td>Lot 7, DP 1240662</td> <td>12m</td> </tr> <tr> <td>9.</td> <td>Lot 8, DP 1240662</td> <td>12m</td> </tr> <tr> <td>10</td> <td>Lot 9, DP 1240662</td> <td>11m</td> </tr> <tr> <td>11</td> <td>Lot 10, DP 1240662</td> <td>10m</td> </tr> <tr> <td>12</td> <td>Lot 11, DP 1240662</td> <td>26m</td> </tr> <tr> <td>13</td> <td>Lot 2, DP 1257865</td> <td>53m</td> </tr> <tr> <td>14</td> <td>Lot 14, DP 1275235</td> <td>11m</td> </tr> <tr> <td>15</td> <td>Lot 15, DP 1275235</td> <td>11m</td> </tr> <tr> <td>16</td> <td>Lot 16, DP 1275235</td> <td>10m</td> </tr> <tr> <td>17</td> <td>Lot 17, DP 1275235</td> <td>23m</td> </tr> <tr> <td>18</td> <td>Proposed Lot-1 Proposed Lot-2  Lot 1, DP 1257865</td> <td>7m each</td> </tr> </tbody> </table> <p>The proposed lots will result in 2 lots (11.11%) having a frontage of less than 10m wide.</p>	No	Lots	Widths	.			1.	Lot 1, DP 1240662	12m	2.	Lot 1, DP 1261012	14m	3.	Lot 2, DP 1261012	12m	4.	Lot 3, DP 1240662	10m	5.	Lot 4, DP 1240662	11m	6.	Lot 5, DP 1240662	11m	7.	Lot 6, DP 1240662	12m	8.	Lot 7, DP 1240662	12m	9.	Lot 8, DP 1240662	12m	10	Lot 9, DP 1240662	11m	11	Lot 10, DP 1240662	10m	12	Lot 11, DP 1240662	26m	13	Lot 2, DP 1257865	53m	14	Lot 14, DP 1275235	11m	15	Lot 15, DP 1275235	11m	16	Lot 16, DP 1275235	10m	17	Lot 17, DP 1275235	23m	18	Proposed Lot-1 Proposed Lot-2  Lot 1, DP 1257865	7m each
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LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

	<p>In density bands <math>\leq 25dw/Ha</math>, total lot frontage for front accessed lots greater than or equal to 7m and less than 9m should not exceed 20% of any block length due to garage dominance and on street parking impacts.</p>	<p><b>Complies</b> As demonstrated above, the proposed Lot 1 and Lot 2 are the only lots to contain widths greater than or equal to 7m and less than 9m.</p> <p>The length of the block along Narrami Road is approximately 150m. The proposed accumulated 14m proposed for lot 1 and 2 accounts for 9.3%. As such the proposed lengths comply with a minimum of 20%.</p>
	<p>Lots should be rectangular. Where lots are an irregular shape, they are to be large enough and oriented appropriately to enable dwellings to meet the controls in this DCP.</p>	<p><b>Complies</b> The proposed lots are rectangular.</p>
	<p>In instances where an ILP identifies a public footpath adjacent to one lot boundary and a public laneway as adjacent to an opposite boundary, the dwelling and lot configuration is to orient dwellings to face the public path, with vehicular access being provided via the laneway. A s.88b instrument shall reinforce dwellings to be oriented to the public path/easement. See Figure 3-4 below.</p>	<p><b>Complies</b> The proposed lot configurations and associated dwellings have been oriented to face the public path created under DA-804/2017. The subject site does not contain a laneway.</p>
	<p>The orientation and configuration of lots is to be generally consistent with the following subdivision principles:</p> <ul style="list-style-type: none"> <li>• Smallest lots achievable for the given orientations fronting parks and open space with the larger lots in the back streets;</li> <li>• Larger lots on corners;</li> <li>• North to the front lots are either the widest or deepest lots, or lots suitable for residential development forms with private open space at the front. Narrowest lots with north to the rear.</li> </ul>	<p><b>N/A</b> The proposed development is a small-scale subdivision of 1 existing residential lot created under DA-804/2017 into 2.</p>
	<p>Preferred block orientation is established by the road layout on the Indicative Layout Plan in the relevant Precinct Schedule. Optimal lot orientation is east-west, or north-south where the road pattern requires. Exceptions to the preferred lot orientation may be considered where factors such as the layout of existing roads and cadastral boundaries, or topography and drainage lines, prevent</p>	<p><b>Complies</b> The proposed subdivision responds appropriately to the block orientation created DA-804/2017 and ILP.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

	achievement of the preferred orientation.	
	An alternative lot orientation may be considered where other amenities such as views and outlook over open space are available, and providing appropriate solar access and overshadowing outcomes can be achieved.	<b>Complies</b> An alternative lot orientation is not proposed.
	This section contains controls relating to Zero Lot lines	<b>N/A</b> The proposed development involves the construction of a semi-detached dwellings which results in two separate lots sharing a common wall. As such, the creation of easements for servicing, construction and maintenance of an adjoining dwelling is considered unnecessary.
	Shallow lots (typical depth 14-18m, typical area a <200 sqm) intended for double storey dwellings should be located only in locations where it can be demonstrated that impacts on adjoining lots, such as overshadowing and overlooking of private open space, satisfy the requirements of the DCP. For lots over 225m <sup>2</sup> where development is not Integrated Assessment, the Building Envelope Plan should demonstrate in principle how DCP requirements such as solar access and privacy to neighbouring private open spaces will be satisfied.	<b>N/A</b> Proposed lots 1 and 2 contains a lot depth of 32.22m and exceed 200sm. As such, the proposed lots are not considered to be shallow.
	Subdivision of lots for Torrens title attached or abutting dwellings must take into account that construction will be in 'sets'. A 'set' is a group of attached or abutting dwellings built together at the same time that are designed and constructed independently from other dwellings.	<b>Complies</b> The proposed development consists of the construction of a semi-detached development consisting of 2 dwellings.
	The maximum number of attached or abutted dwellings permissible in a set is six	<b>Complies</b> Two dwellings attached by a common wall are proposed under this development application and comply with the maximum of six.
	The composition of sets needs to be determined in the subdivision design to take into account the lot width required for a side setback to the end dwellings in each set. Examples of lot	<b>Complies</b> The proposed composition is considered appropriate in that the proposed lot widths and building

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

	subdivisions for sets are illustrated in Figure 3-5.	design allow for compliance with the required setbacks.
<b>3.1.3 Battle-axe Lots</b>	This section contains controls relating to battle axe allotments.	<b>N/A</b> Battle axe allotments are not proposed.
<b>3.1.4 Corner Lots</b>	This section contains controls relating to corner lots.	<b>N/A</b> Corner lots are not proposed under this DA.
<b>3.1.5 Subdivision in the Environmental Living Zone</b>	This section contains controls relating to subdivisions in an Environmental living zone.	<b>N/A</b> The subject site is situated in an R2 Low-Density Zone.
<b>3.2 Subdivision Approval Process</b>	The land subdivision approval process is to be consistent with the requirements of Table 3.4	<b>Complies</b> The proposed development is consistent with Pathway B2 in that it consists of subdivision and dwelling construction involving common walls and on lots with widths less than 9m.
	Subdivision of land creating residential lots less than 225m <sup>2</sup> or lots less than 9m wide shall include a dwelling design as part of the subdivision development application. The dwelling design is to be included on the S88B instrument attached to the lot.	<b>Complies</b> The development involves torrens title subdivision and the construction of a semi-detached development. Dwellings are proposed on lots with widths less than 9m wide. As such, this clause is considered to have been satisfied.
	Subdivision applications that create lots smaller than 300m <sup>2</sup> and larger than or equal to 225m <sup>2</sup> must be accompanied by a Building Envelope Plan (BEP). An example of a BEP is included at Figure 3-9.	<b>Complies</b> Dwelling plans have been lodged with the application.
	Applications for subdivision using approval pathways A2, B1 and B2 require a Public Domain Plan (PDP) to be submitted as part of the application. The purpose of the PDP is to demonstrate how the public domain will be developed as a result of future development on the proposed lots. An example of a PDP is included at Figure 3-10	<b>Complies</b> The proposed development responds appropriately to the public domain facilitated under DA-804/2017. As such, the provision of a PDP is considered unnecessary in this instance.
<b>3.4 Construction Environmental Management</b>	A Construction Environmental Management Plan (CEMP) is to be submitted to Council or the accredited certifier prior to the issue of a construction certification for subdivision.	<b>N/A</b> Considering the small-scale nature of the proposed development, this section is considered to be applicable.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

	Construction activities are to be undertaken to ensure that water quality, soil stability, trees and vegetation cover, and heritage sites are protected in accordance with the development consent and to maintain the quality of the natural environment.	<b>Complies</b> It has been satisfactorily demonstrated that the proposed development can be undertaken in a manner that ensures water quality, soil stability are protected in accordance with the development consent and to maintain the quality of the natural environment.
	Applicants are to ensure that the management of construction activities is undertaken in accordance with the Erosion and Sedimentation controls in Liverpool DCP 2008.	<b>Complies</b> The application is accompanied by a Soil and Erosion Control Plan. This plan was reviewed by Council's Development Engineers where no concerns have been raised subject to the imposition of recommended conditions.
	Preservation of trees and native vegetation during construction is to be in accordance with the development consent issued for the development, and with the native vegetation and tree preservation provisions of the relevant Precinct Plan.	<b>Complies</b> Tree removal is not proposed nor required under this development application.
	Trees to be protected must be enclosed within a 1.8m high protection fence installed to conform to a Tree Protection Zone (TPZ) that is consistent with current arboriculture industry standards.	<b>Complies</b> The subject site is vacant and clear of vegetation. Tree Protection Zone (TPZ) are therefore not necessary.
	A report which outlines the condition, dimensions and species of existing trees contained within a development site is to be included as part of any development application documents and is to be accompanied by a Tree Retention Management Plan which shows the dimension of any proposed TPZs and outlines any other protection/enhancement methods that are appropriate to encourage the viable retention of trees.	<b>N/A</b> As above.
	All reports pertaining to trees on development sites are to be prepared by a suitably qualified person.	<b>N/A</b> As above.

**PART 4 Residential Development**

Development Control	Provision	Comment
4.1.1 Site Analysis	This section contains controls relating to a site analysis.	<b>Complies</b> The application is accompanied by the Site Analysis Plan that shows the existing features of the site and its surrounding area.

<b>4.1.2 Cut and Fill</b>	The section contains controls relating to the amount of cut and type of fill to be imported.	<b>Complies</b>  The extent of earthworks has been reviewed by Council's Land Development Engineers, who have raised no objections subject to conditions of consent.
<b>4.1.3 Sustainable building design</b>	This section contains controls to minimise energy usage and greenhouse emissions and encourage the adoption of renewable energy initiatives and to minimise consumption.	<b>Complies</b> Valid BASIX Certificates have been generated for the development which includes a number of energy and water efficient measures. As such, it is considered that adequate sustainable design measures have been incorporated for the new dwellings.
<b>4.1.4 Salinity, sodicity and aggressivity</b>	This section includes controls to manage and mitigate the impacts of, and on, salinity.	<b>Complies</b> The site is identified as being on the "Potential Salinity" Map as being in the "Low Saline" category. The application was reviewed by Council's Development Engineer and no concerns have been raised subject to the imposition of recommended conditions.
<b>4.2.2 Streetscape and architectural design</b>	This section includes controls to ensure that building design enhances the built form and character of the neighbourhood.	<b>Complies</b> The proposed dwellings consist of design elements and materials which are considered appropriate for the area.
<b>4.2.3 Front Setbacks</b>	All development is to be consistent with the side and rear setback controls in the relevant Tables Table 4-2 to Table 4-6 and principles in Figure 4-8:  <ul style="list-style-type: none"> <li>• 4.5m to building facade line; 3.5m to building façade fronting open space.</li> <li>• 3.0m to articulation zone; 2.0m to articulation zone fronting open space</li> <li>• 5.5m to garage line and minimum 1m behind the building line</li> </ul>	<b>Considered Acceptable</b>  Proposed front setbacks are as follows:  <ul style="list-style-type: none"> <li>• Lot 1 - 4.5m to building facade line and the garage is 1m from the building line. No articulation zones are proposed.</li> <li>• Lot 1 - 5m to building facade line and the garage is 0.5m from the building line. No articulation zones are proposed.</li> </ul> The garage on Lot 2 proposes a setback of 0.5m to the front building line which does not comply with the minimum 1m.  The proposed variation is considered acceptable in that it is unlikely to have an adverse impact on the streetscape. The proposed garage complies with

		<p>the required 5.5m and the front building line exceeds the minimum 4.5m. The proposed garage will not visually impact upon the streetscape.</p>
<p><b>4.2.4 Side and rear setbacks</b></p>	<p>All development is to be consistent with the side and rear setback controls in the relevant Tables Table 4-2 to Table 4-6 and principles in Figure 4-8:</p> <p><b>Side Setback (min) –</b></p> <ul style="list-style-type: none"> <li>• Zero Lot, Attached or Abutting Boundary - Ground floor: 0m Upper floor: 0m</li> <li>• Detached Boundary 0.9m</li> <li>• If lot burdened by zero lot boundary, side setback must be within easement:             <ul style="list-style-type: none"> <li>- 0.9m (single storey zero lot wall)</li> <li>- 1.2m (double storey zero lot wall)</li> </ul> </li> </ul> <p><b>Rear setback (min)</b></p> <ul style="list-style-type: none"> <li>• 4m (ground level) and 6m (upper levels)</li> </ul>	<p><b>Complies</b></p> <p>The proposed boundaries containing attached components consist of a 0m setbacks and complies with the minimum of 0m.</p> <ul style="list-style-type: none"> <li>• Lot 1 - 0.9 to northern boundary</li> <li>• Lot 1 - 0.9 to southern boundary</li> </ul> <p>The subject lots are not burdened by zero lot boundaries.</p> <p>Proposed rear setbacks are as follows:</p> <ul style="list-style-type: none"> <li>- Dwelling 1:             <ul style="list-style-type: none"> <li>o Ground Floor – 8.5m</li> <li>o First Floor – Approx. 11m</li> </ul> </li> <li>- Dwelling 2:             <ul style="list-style-type: none"> <li>o Ground Floor – 8.5m</li> <li>o First Floor – Approx. 11m</li> </ul> </li> </ul> <p>Both dwellings comply with a minimum 4m (ground level) and 6m (upper levels).</p>
<p><b>4.2.5 Dwelling Height, Massing and</b></p>	<p>All development is to comply with the maximum site coverage as indicated in the relevant Tables Table 4-2 to Table 4-6:</p>	<p><b>Complies</b></p> <p>The proposed projections including eaves comply with the maximum of 450 millimetres.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

<p><b>Siting</b></p>	<ul style="list-style-type: none"> <li>• In density areas ≤20dw/Ha:             <ul style="list-style-type: none"> <li>○ 2 storeys maximum (3rd storey subject to clause 4.2.5(1)).</li> </ul> </li> </ul>	<p>The proposed development consists of semi-detached development with a maximum of 2 storeys.</p>
<p><b>4.2.6 Landscaped Area</b></p>	<p>The minimum soft landscaped area within any residential lot is to comply with the controls and principles in the relevant Tables Table 4-2 to Table 4-6. Figure 4-11 illustrates areas of a lot that can contribute towards the provision of soft landscaped area and principal private open space.:</p> <ul style="list-style-type: none"> <li>• Minimum 15% lot area.</li> <li>• The first 1m of the lot measured from the street boundary (excluding paths) is to be soft landscaped.</li> </ul>	<p><b>Complies</b></p> <p>Proposed landscaped area is as follows:</p> <ul style="list-style-type: none"> <li>• Dwelling 1: 71m<sup>2</sup> (31.4%)</li> <li>• Dwelling 2: 71m<sup>2</sup> (31.4%)</li> </ul> <p>As such both dwellings comply with a minimum of 15%.</p> <p>The first 1m of each lot has demonstrated the provision of soft landscaping.</p>
	<p>Plans submitted with the development application must indicate the extent of landscaped area and nominate the location of any trees to be retained or planted.</p>	<p><b>Complies</b></p> <p>Plans have been lodged with the application detailing the landscaped area and nominating the location of trees to be planted.</p>
	<p>Surface water drainage shall be provided as necessary to prevent the accumulation of water.</p>	<p><b>Complies</b></p> <p>The application was accompanied by Stormwater Management Plan. These plans were reviewed by Council's Development Engineer and no concerns have been raised subject to the imposition of recommended conditions.</p>
<p><b>4.2.7 Private Open Space</b></p>	<p>Each dwelling is to be provided with an area of Principal Private Open Space (PPOS) consistent with the requirements of the relevant Tables Table 4-2 to Table 4-6.:</p> <ul style="list-style-type: none"> <li>• In density areas ≤20dw/Ha:             <ul style="list-style-type: none"> <li>- Min 16m<sup>2</sup> with minimum dimension of 3m.</li> </ul> </li> </ul>	<p><b>Complies</b></p> <p>Both dwellings have clearly demonstrated a minimum of 16m<sup>2</sup> of PPOS with dimensions greater than 3m.</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

	The location of PPOS is to be determined having regard to dwelling design, allotment orientation, adjoining dwellings, landscape features, topography.	<b>Complies</b> The location of PPOS is considered appropriate and consistent with adjoining dwellings.
	The PPOS is required to be conveniently accessible from the main living area of a dwelling or alfresco room and have a maximum gradient of 1:10. Where part or all of the PPOS is permitted as a semiprivate patio, balcony or rooftop area, it must be directly accessible from a living area.	<b>Complies</b> PPOS is conveniently accessible from the main living area of a dwelling and alfresco area. Furthermore, earthworks are proposed within the rear to support the usability of the area.
<b>4.2.8 Garages, Storage, Site Access and Parking</b>	3 bedroom or more dwellings will provide at least 2 car spaces.	<b>Complies</b> Both dwellings contain opportunities for parking within the proposed garages and provides opportunities for hardstand parking within the driveway. As such, it is considered that adequate provisions for car parking is provided.
	At least one car parking space must be located behind the building façade line where the car parking space is accessed from the street on the front property boundary.	<b>Complies</b> As above, at least one space is provided within the garage of each dwelling.
	Vehicular access is to be integrated with site planning from the earliest stages of the project to eliminate/reduce potential conflicts with the streetscape requirements and traffic patterns, and to minimise potential conflicts with pedestrians.	<b>Complies</b> The proposed vehicular access is considered appropriate in that it will not arise impacts on the streetscape, traffic patterns, or conflict with pedestrians.
	Driveways are to have the smallest configuration possible (particularly within the road verge) to serve the required parking facilities and vehicle turning movements and shall comply with AS2890.	<b>Complies</b> The application has been referred to Councils development Engineers who raised no concerns about the design of the driveway.
	Driveways are to have soft landscaped areas on either side, suitable for water infiltration.	<b>Complies</b> Driveways adjoin the landscape area and provides adequate opportunities for water infiltration.
	Garages are to be designed and located in accordance with the controls in relevant Tables Table 4-2 to Table 4-6.:	<b>Considered Acceptable</b>



	<ul style="list-style-type: none"> <li>• Single width garage or car space only</li> <li>• Carport and garage minimum internal dimensions: 3m x 5.5m.</li> <li>• 1-2 bedroom dwellings will provide at least 1 car space.</li> <li>• 3 bedroom or more dwellings will provide at least 2 car spaces.</li> <li>• Regardless of the door width, the internal and external dimension of the garage, at the façade, must be less than 40% of the width of the front façade.</li> </ul>	<p>Single width garages are proposed for each dwelling.</p> <p>Proposed garages contain internal dimensions of 3m x 5.5m.</p> <p>Not Applicable, both dwellings contain 3 bedrooms.</p> <p>Both dwellings contain opportunities for parking within the driveway in a stacked configuration. As such, it is considered that adequate provisions for car parking are provided.</p> <p>Lot 1 – internal = 49% (3m/6.1m) and garage door = 39% (2.4m/6.1m)          Lot 2 – internal = 49% (3m/6.1m) and garage door = 39% (2.4m/6.1m).</p> <p>Considering the garage at the front façade does not exceed the maximum 40%, the variation is considered acceptable as the development achieves the key objectives of Section 4.2.8 of the DCP as it has been designed to provide on-site parking for residents whilst reducing the visual impact of garages and parking areas on the streetscape.</p>
	<p>Garage design and materials are to be consistent with the dwelling design.</p>	<p><b>Complies</b>          The proposed single garages are consistent with the design of the dwelling.</p>
	<p>Single width garage or car space only</p>	<p><b>Complies</b>          Single-width garages are proposed for each dwelling.</p>
	<p>Carport and garage minimum internal dimensions: 3m x 5.5m.</p>	<p><b>Complies</b>          Proposed garages contain internal dimensions of 3m x 5.5m.</p>
<p><b>4.2.9 Visual and acoustic privacy</b></p>	<p>This section contains controls relating to Visual and Acoustic Privacy.</p>	<p><b>Complies</b>          First floor windows facing the rear boundary are glazed and setback approximately 13m from the rear boundary and are unlikely to result in overlooking of adjoining properties.</p>

		<p>The applicant has provided 1.8m high privacy screens to the rear deck and an indicative sightline which demonstrates an unlikely overlooking impact towards the rear or adjoining properties to the north and south.</p> <p>Towards the side boundaries, first floor windows contain sill heights of 1.7m and include obscure and fixed glazing. As such, unlikely to result in any privacy impacts.</p> <p>Furthermore, the small-scale residential nature of the proposed development is consistent to surrounding uses and unlikely to result in significant acoustic impacts. The development site is not affected by rail or traffic noise.</p>
<b>4.2.10 Fencing</b>	Side and rear fences are to be a maximum of 1.8m high commencing 2m behind the building line (refer to Figure 4-13).	<p><b>Complies</b></p> <p>The proposed 1.8m high boundary fence between the proposed dwellings complies with the minimum of 1.8m.</p>
<b>4.3.2 Attached of abutting dwellings</b>	It is preferred that garages for attached dwellings are located at the rear of the lot. Where attached dwellings have frontage to a collector road, all vehicle access and parking is to be located at the rear of the lot.	<p><b>N/A</b></p> <p>Narrami Road is not considered to be a Collector Road and the subject site is not capable of containing a rear garage.</p>
	Attached or abutting dwellings should have a pleasing rhythm and order when seen together as a group, rather than appear as a random arrangement of competing dwellings. Each dwelling should benefit from the unified design of the whole form, a co-ordinated style and base colour palette. Individuality can be added as small details or accent colours, rather than strikingly different forms.	<p><b>Complies</b></p> <p>The proposed design is considered to appropriately provide a pleasing rhythm and order when seen together.</p>

**ATTACHMENT 2 – RECOMMENDED CONDITIONS OF APPROVAL**

**A. THE DEVELOPMENT**

**Approved Plans**

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

**Plans**

Title	Drawing No	Job No:	Dated	Prepared by
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Cover Sheet	DA-00	-	20.06.22	Riz Afzal
Site Plan	DA-01	-	20.06.22	Riz Afzal
Ground Floor	DA-02	-	20.06.22	Riz Afzal
First Floor Plan	DA-03	-	20.06.22	Riz Afzal
Subdivision Plan	DA-04	-	20.06.22	Riz Afzal
Elevations	DA-05	-	20.06.22	Riz Afzal
South Elevations and Sections	DA-06	-	20.06.22	Riz Afzal
Landscape Plan	DA-07	-	20.06.22	Riz Afzal
Cut and Fill Plan	DA-08	-	20.06.22	Riz Afzal
Shadow Diagrams	DA-09	-	20.06.22	Riz Afzal
Stormwater Management Plan Sediment Erosion Plan	DA-09	-	20.06.22	Riz Afzal
BASIX Certificate	1271752S_03	-	19.06.22	Riz Afzal
BASIX Certificate	1271755S_03	-	19.06.22	Riz Afzal
Waste Management Plan	-	-	-	-
Schedule of Material and Finishes	-	-	-	-

### Comply with Environmental Planning & Assessment Act

2. A 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.

### National Construction Code

3. In accordance with Section 4.17 (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,
- (c) or a combination of (a) and (b).

**4. 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)**

5. 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 **\$30,000** and will be adjusted at the time of payment in accordance with the contribution plan.

50% of the total amount is \$xxxx and is to be paid prior to the release of any Construction Certificate (amount to be adjusted at the time of payment in accordance with the contribution plan).

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

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

Payment must be accompanied by the attached form.

**Site Development Work**

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

**Comply with EP&A Act**

7. 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.

**Fee Payments – Land Development**

8. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

- a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery,
- b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve, 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.

#### **National Construction Code**

9.

All aspects of construction shall comply 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).

#### **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.

#### **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.

#### **Stormwater Concept Plan**

12.

A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by prepared by RIZ Afzal, reference number DA-09 and dated 20/06/2022.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

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

13. Prior to the issue of a Construction Certificate, a Section 138 Roads Act application, 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.

**Driveway/Services – Location**

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

**Driveway/Services – Design**

15. Driveways are to conform to Council standard requirements for vehicle crossings as detailed in Council's Design and Construction Specifications for Subdivisions (as amended) and as per the requirements in Council's DCP.

**No Loading on Easements**

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

**Driveway/Services – Service Network**

17. The applicant is to arrange with the appropriate service provider for any above ground service riser or access point to be constructed clear of any proposed or existing pedestrian footways, and if possible, located in recessed unobtrusive locations. Should any service provider require and/or insist the applicant/developer build a service riser that would create an obstruction and pose a potential safety hazard, then the applicant/developer should refer the request to Council for negotiation directly with the Service Network Authority.

**Access Car Parking and Manoeuvring – General**

18. 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.

**Provision of Services – Sydney Water**

19. 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.

**Provision of Services – Endeavour Energy**

20. 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.

**Provision of Services – Telecommunications**

21. 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.

**Fee Payments - Land Development**

22. 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.

#### **Long Service Levy**

23. 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*.

#### **Access**

24. 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.

#### **Retaining Walls on Boundary**

25. 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 – Minor Development**

26. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that:



- a) Off street access and parking complies with AS2890.1,
- b) Sight Distance at the street frontage has been provided in accordance with AS 2890.1,

**S68 Local Government Act – Stormwater drainage works**

27. Prior to the issue of a Construction Certificate, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including the payment of application and inspection fees, has been lodged with, and approved by Liverpool City Council for the stormwater drainage connection to the Council stormwater drainage system (pipe or pit, as appropriate) within the footpath area.

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

## C. PRIOR TO WORKS COMMENCING

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

**Construction Certificates**

28. 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.

**Construction Certificates**

29. Prior to the commencement of any building works, the following requirements must be complied with:
- a) Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*,
  - b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,
  - c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment,
  - d) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and

The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.

**Residential Building Work**

30. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be commenced unless the principal certifying authority for the development to which the work relates has been given written notice of the following information:
- a) In the case of work for which a principal contractor is required to be appointed:
    - i. The name and licence number of the principal contractor; and
    - ii. The name of the insurer by which the work is insured under Part 6 of that Act,
  - b) in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Note: A certificate supporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part.

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

**Notification**

32. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
- a) Any excavation, below the base of the footings of a building on an adjoining allotment of land, and
  - b) The notice shall be given seven (7) days prior to the commencement of work.

**Excavation**

33. 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:
- Protect and support the adjoining premises from possible damage from the excavation, and
  - Where necessary, underpin the adjoining premises to prevent any such damage.

**Site Facilities**

34. Adequate refuse disposal methods and builder's 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.

**Construction Requirements**

35. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer. Retaining walls on any boundary are to be of masonry construction.

**Traffic Control Plan**

36. 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 requested from the Council's Customer Services.

**Traffic Control Plan**

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

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

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

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

38. 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.

**“DIAL BEFORE YOU DIG”**

39. 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.

**Site Facilities**

40. Adequate refuse disposal methods and builder’s 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.

**Residential Building Work**

41. 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.

**Sydney Water**

42. Development plans must be processed and approved by Sydney Water.

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

43. 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 (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 with 30 days of the waste being disposed.

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 and Erosion Control**

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

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

**Traffic Control Plan**

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

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

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

**Toilet Facilities**

46. 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*.

**Security Fence**

47. 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.

**"DIAL BEFORE YOU DIG"**

48. 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**

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

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

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

**D. DURING CONSTRUCTION**

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

**Building Work**

50. 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.

**Building Work**

51. 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.

**Excavation**

52. 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 adjoining premises from possible damage from the excavation,

- b) where necessary, underpin the adjoining premises to prevent any such damage, and
- 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.

**Hours of Construction Work and Deliveries**

53. 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**

54. 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).

**Traffic**

54. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
55. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA's Traffic Control at Worksites Manual and the RTA's Interim Guide to Signs and Markings.
56. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.
57. 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.

**General Site Works**

58. 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.

59. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.

60. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.

61. **Earthworks**

All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council's Design Guidelines and Construction Specification for Civil Works. The level of testing shall be determined by the Geotechnical Testing Authority/Superintendent in consultation with the Principal Certifying Authority.

**Soil Testing**

62. Soil Testing is to be carried out to enable each lot to be classified according to AS2870 "Residential Slabs and Footings".

**Water Quality**

63. 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**

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

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

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

65. 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.

**Erosion Control - Measures**

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



**Acoustic Privacy**

67. Where party walls are provided, they must be carried to the underside of the roof and be constructed in accordance with Part F5 of the Building Code of Australia.

**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.

**Notification of Damage**

69. 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.

**Aboriginal Relics/Artefacts**

70. 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.

**Unidentified Contamination**

71. 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.

**Waste Management Plan**

72. 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.

**Air Quality – Dust Screens**

73. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
74. 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.

**Air Quality – Vehicle Movement**

75. 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.

**Termite Protection**

76. To protect the buildings from subterranean termite, termite barriers must be installed in accordance with AS 3660.1 to the underside and penetrations of the concrete slab floor. In addition a durable notice must be permanently fixed inside the metre box indicating:
1. the method of protection,
  2. the date of installation of the system,
  3. where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label, and
  4. the need to maintain and inspect the system on a regular basis.

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

**Erosion Control – Measures**

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

**Drainage Connection**

78. 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.

**Toilet Facilities**

79. 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*.

**Site Notice Board**

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

**Building Work**

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

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

82. 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. The material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

**Identification Survey Report**

83. 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 do 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.

**Security Fence**

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

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

**Hours of Construction, Work and Deliveries**

85. 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.

**Traffic Management**

86. Construction activities affecting adjoining road reserves require submission of a road occupancy application to Council along with traffic control plan and public liability insurance. The traffic control plan must be prepared by a qualified professional and to be in accordance with the *RMS Traffic Control at Worksites Manual*, the *Austrroads Guide to Traffic Management*, the *RMS Supplements for Austrroads Guide to Traffic Management* and *Australian Standard 1742*.

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

**General Site Works – Surface Contours**

87. 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.

**General Site Works – Roofwater**

88. All roofwater is to be connected to the approved stormwater system.

**General Site Works – Stormwater Connection**

89. Stormwater pipeline connections to the street kerb shall be constructed in the following manner:
- a) the kerb shall be saw cut on both sides of the proposed pipe outlet,
  - b) an approved rectangular kerb adaptor shall be installed with the base matching the invert level of the gutter, and
  - c) The kerb shall be reinstated to its original profile using a cement mortar containing an epoxy additive for adherence to the existing kerb.

**90. General Site Works – Sediment**

The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

**Contamination**

- 91.** The development, including all civil works and demolition, must comply with the requirements of the *Contaminated Land Management Act, 1997*, *State Environmental Planning Policy No. 55 – Remediation of Land*, and *Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998)*.

**Imported Fill Material**

**92.**

Filling material must be limited to the following:

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

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**

- 93.** Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:

- a) the course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration,
- b) the results of a preliminary contamination assessment carried out on any fill material used in the development, and
- c) the results of any chemical testing of fill material.

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

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

**Completion of Subdivision Works**

94.

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

**Rectification of Damage**

95.

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

Any rectification works within Tokyo 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**

96.

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

**Subdivision Compliance**

97.

Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority:

- a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Design Guidelines. Electronic copies of the WAE shall be provided in PDF format and a DXF format to Council along with two hard copies of the WAE plans,

**Service Providers**

98.

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

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

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

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

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

**Liverpool City Council Clearance – Roads Act/Local Government Act**

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

**Linen Plans and 88B Instruments**

- 100. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument (where proposed).

**Linen Plans and 88B Instruments**

- 101. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.

**Linen Plans and 88B Instruments**

- 102. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Council's standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.

**F. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

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

**103. Occupation Certificate**

**103A.** The premises must not be utilised until an Occupation Certificate is issued by the principal certifier.

Prior to the issue of any Occupation Certificate all outstanding Section 7.11 Contributions must be paid as required by Condition 4. Evidence is to be provided to the satisfaction of the relevant certifying authority that all outstanding contributions have been paid to Council.

**104.** No occupation certificate shall be issued, interim or final, unless a subdivision certificate has been issued for the approved development and a subdivision registration application has been lodged with the NSW Land Registry Services. Evidence of that the application has been lodged with NSW Land Registry Services shall be provided to the PCA.

**105.** 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.

**106.** 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.

**Liverpool City Council Clearance – Roads Act/Local Government Act**

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

**Section 7.11 Payment**

**108.** Prior to the issue of **any** occupation certificate all outstanding section 7.11 contributions must be paid as required by Condition 6 of this consent. Evidence is to be provided to the satisfaction of the relevant certifying authority that all outstanding contributions have been paid to Council.

**Works as Executed – General**

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

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

**Stormwater Compliance**

**110.** 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,

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

**Rectification of Damage**

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

**Restriction as to User and Positive Covenant**

112. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the following shall be registered on the title of the property:

- a) On-site detention system/s,
- b) Stormwater pre-treatment system/s,

The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

**Display of Street Numbers**

113. Street numbers must be prominently displayed at the front of the development in a contrasting colour to the building materials and at the front of each individual unit to comply with the Local Government Act 1973, Section 124(8). The number should be a minimum height of 120mm and be visible at night.

**Certificates**

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

**Certificates**

115. 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.

**116. Landscape**

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.

**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 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 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.

**Section 73 Sydney Water Certificate**

**119.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained for submission to the PCA prior to issue of Occupation certificate.

**BASIX**

**120.** 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.

**121. Cladding**

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

**Road Works**

**122.** 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.

**Rectification of Damage**

123. 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 Tokyo 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**

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

**G. CONDITIONS RELATING TO USE**

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

126. **Landscaping**

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.

**Waste**

127. Sufficient space shall be provided within each dwelling for the storage of a minimum of one day's waste and recycling.

**H. ADVISORY**

- a) Section 4.55 of the Environmental Planning and Assessment Act, 1979 gives you the right to request Council to review this determination within six (6) months of the date of determination
- b) Sections 8.7 & 8.10 of the Environmental Planning and Assessment Act, 1979 gives you the right to appeal to the NSW Land and Environment Court within six (6) months after:
  - a. the date on which the applicant received notice, given in accordance with the regulations, of the determination of that application or, if an application for review under section 8.3 has been decided, the date on which the applicant received notice, in accordance with the regulations, of the decision, or

- b. the date on which the applicant's application is taken to have been determined in accordance with regulations made under section 8.5 (3), 4.55 (6) or 4.55AA (3).
- c) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- d) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- e) In accordance with Section 8.8 and 8.10 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for designated development (including designated development that is integrated development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- g) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- h) "DIAL BEFORE YOU DIG"

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](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.

- i) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

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

**Attachment 2: Section 7.11 Payment****CONTRIBUTIONS PURSUANT TO SECTION 7.11 OF THE ENVIRONMENTAL  
PLANNING & ASSESSMENT ACT, 1979****Liverpool Contribution Plan 2014 Austral & Leppington North**

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

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

**APPLICATION NO.:** DA-52/2022

**APPLICANT:** MR M R AFZAL

**PROPERTY:** LOT 1 DP 1257865, AUSTRAL NSW 2179  
LOT 1 DP 1257865

**PROPOSAL:** Torrens title subdivision and construction of two semi-detached dwellings and associated works.

<b>Facilities</b>	<b>Amount (\$)</b>	<b>Job No.</b>
<b>Liverpool Contributions Plan 2014 ALN</b>		
Local Community Facilities - Land	\$663	GL.3011210001870.10190
Local Recreation - Land	\$29,337	GL.3011210001869.10191
Local Recreation - Works	\$0	GL.3011210001869.10192
Local Transport Facilities - Land	\$0	GL.3011210001865.10193
Local Transport Facilities - Works	\$0	GL.3011210001865.10194
Local Drainage Facilities - Land	\$0	GL.3011210001866.10195
Local Drainage Facilities - Works	\$0	GL.3011210001866.10196
Administration	\$0	GL.3011210001872.10197
<b><u>TOTAL</u></b>	<b><u>\$30,000</u></b>	

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

**RECORD OF PAYMENT**

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

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

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

<b>Item no:</b>	4
<b>Application Number:</b>	DA-1379/2021
<b>Proposed Development:</b>	Decommission and removal of the existing network infrastructure and the installation of a 30m high Telstra telecommunications facility and supporting ancillary equipment.
<b>Property Address</b>	560 Hume Highway, Casula
<b>Legal Description:</b>	Lot 101 DP 747318
<b>Applicant:</b>	Telstra Corporation Ltd
<b>Land Owner:</b>	Be Original Pty Ltd
<b>Date Lodged:</b>	25 November 2021
<b>Cost of Works:</b>	\$654,500
<b>Zoning:</b>	B6 - Enterprise Corridor 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) for the installation telecommunications tower at 560 Hume Highway, Casula, legally described as Lot 101 DP 747318. Telstra propose to construct a new telecommunications facility consisting of a 30 m high monopole with triangular headframe containing six (6) panel antennas and three (3) 5G Air antennas at a centreline elevation of 30 m and supporting ancillary equipment. Additionally, Telstra propose to install underground fibre and power route between the proposed facility and a connection point on the northern perimeter of the property, fronting Blackwood Avenue.

The site is zoned B6 - Enterprise Corridor pursuant to Liverpool Local Environmental Plan 2008 (LLEP 2008) and the proposed development is permissible with consent under State Environmental Planning Policy (Transport and Infrastructure) 2021. This report summarises the key issues which are to be considered in the determination of the proposal in accordance with the provisions of the Environmental Planning and Assessment Act 1979 (EP & A Act) and Liverpool Local Environmental Plan 2008 (LLEP 2008).

The key issues associated with the proposal relate to the 30m building height of the proposed telecommunications tower. A 4.6 variation has been provided by the applicant in support of the contravention to the 18m height limit. These matters have been addressed through the assessment of the application and the proposal is considered to be acceptable.

The proposal was advertised between 17 March 2022 and 6 April 2022. Two submissions were received during this advertising period which raised the following concerns:

- Building Height
- View and shadow impacts of Telecommunications Tower
- Health Impacts to residents and ecosystem due to wide coverage and radiation intensity
- Property Value Decrease
- Location of Telecommunications Tower

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the *Local Planning Panels Direction, endorsed by the Minister for Planning and Public Spaces on 30 June 2020*, as the development falls in the category of departure from development standards due to the contravention to the 18m (74% variation) height restriction by over 10%.

***Departure from development standards***

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

*Note: If the Secretary allows concurrence to be assumed by Councils staff for contravening development standards, the panel can delegate these applications to council staff to determine.*

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

**2. SITE DESCRIPTION AND LOCALITY****2.1 The site**

The subject land for this application consists of a small shopping village, situated on 560 Hume Highway, Casula, legally described as Lot 101 DP 747318. The site is an irregular corner shaped allotment with an area of 2,993m<sup>2</sup>, a primary frontage of 27m to the Hume Highway and a secondary frontage of 56m to Blackwood Avenue. The subject site backs onto a medium residential zone. The current use of the tenancies on site pertain to a rug and flooring business outlet and a bathroom and kitchen business and showroom. Telstra currently provides mobile phone coverage and data capacity to the suburb of Casula via the existing telecommunications facility positioned on the rooftop of these tenancies. The existing Telstra rooftop antennas are currently positioned at an elevation of 10m above ground level.



**Figure 1:** Aerial view of subject site with red marker (Source: Nearmaps, 4 June 2022)





**Figure 2:** The existing Telstra communications facility located on the roof of 560 Hume Hwy, viewed from the Hume Highway.

## 2.2 The locality

The site is zoned B6 - Enterprise Corridor pursuant to Liverpool Local Environmental Plan 2008 (LLEP 2008). The site surrounds medium density residential development and directly fronts the classified road network of Hume Highway. The site is located approximately 520m north-east of Casula Mall, a key retail and shopping area in the locality along with the Casula Library which is next door to the mall. The subject site is 450m north-west of Casula train station, 165m north of Bellbird Walking Track and is also situated 580m west of the Georges River. The locality of the subject site can be found in Figure 3 below.



**Figure 3:** Locality Surrounding the Proposed Development (Source: Nearmaps, 25 October 2021)

## 3. BACKGROUND/HISTORY

### 3.1 Assessment and Site Background & History

- Pre-DA (PL-79/2021) was held with applicant on 18 August 2021 for the installation of the 30m high monopole with triangular headframe.

- The subject DA was lodged with Council on 25 November 2021.
- Application notified from 17 March 2022 and 6 April 2022.

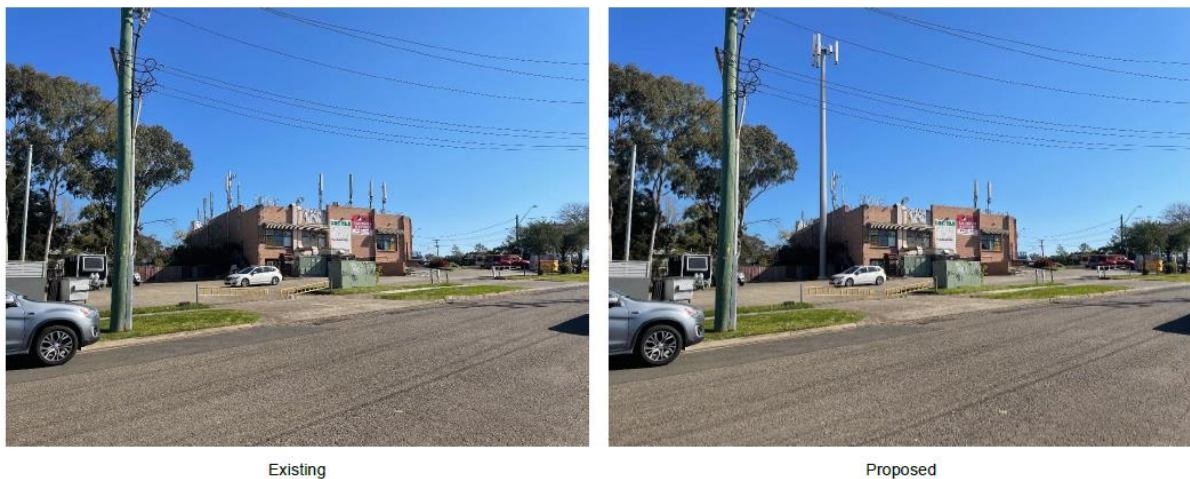
**4. DETAILS OF THE PROPOSAL**

Telstra propose to construct a new telecommunications facility consisting of a 30m high monopole with triangular headframe containing six (6) panel antennas and three (3) 5G Air antennas at a centreline elevation of 30 m and supporting ancillary equipment. Additionally, Telstra propose to install underground fibre and power route between the proposed facility and a connection point on the norther permitter of the property, fronting Blackwood Avenue.

The applicant proposes to install a new mobile phone base station on the eastern side of the commercial building located at the subject site. The base station would be positioned on the boundary fence alongside a rear stair access, within an unused section of the car park, replacing three (3) car bays.

The proposal comprises the following:

- Decommissioning and removal of the Telstra infrastructure from the roof of the commercial premises at 560 Hume Hwy
- Installation of a 30m high monopole
- Installation of a triangular headframe
- Installation of six (6) panel antennas (each 2.533m in length)
- Installation of three (3) Air panel antennas (each less then 1m in length)
- Installation of three (3) Tower Mounted Amplifier’s (TMA)
- Installation of six (6) Remote Radio Unit’s (RRU)
- Installation of associated ancillary equipment including a power distribution box, a 3 bay Outdoor Unit (ODU) and a power rack ODU.
- Installation of underground power and fibre optic cables between the proposed facility and the connection point on Blackwood Ave.
- The Telstra equipment and monopole would be located within a designated area (≈10m x 5m), protected by bollards



**Figure 4:** Picture depicting existing site (left) and photomontage of proposed telecommunications tower in height and scale (right)

## 5. STATUTORY CONSIDERATIONS

### 5.1 Relevant matters for consideration

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

#### Environmental Planning Instruments (EPI's)

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

#### Development Control Plan

- 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 2021, as follows:

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

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

Under Division 21 of the SEPP (Transport and Infrastructure) 2021 the proposal is defined as a telecommunication facility. A telecommunication facility is defined as;

***“telecommunications facility means:***

- (a) any part of the infrastructure of a telecommunications network, or*
- (b) any line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or*
- (c) any other thing used in or in connection with a telecommunications network”.*

The subject proposal is for a telecommunication facility. A telecommunication facility is permitted with consent in any zone under the SEPP (Transport and Infrastructure) 2021 under Division 21. Therefore, even though the Liverpool Local Environmental Plan 2008, does not specify a “telecommunication facility” as a permissible use in an B6 zone, the SEPP (Transport and Infrastructure) 2021, takes precedence in this instance, resulting in the proposal being a permitted use.

The following clauses of the SEPP (Transport and Infrastructure) 2021 are applicable to this proposal;

#### **Division 21 (Clause 2.143) Development permitted with Consent**

*(1) Development for the purposes of telecommunications facilities, other than development in section 2.141 or development that is exempt development under section 2.20 or 2.144, may be carried out by any person with consent on any land.*

**Comment:** The proposal is a telecommunication facility and is a permissible form of development in the B6 zone under this clause, subject to development consent.

*(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette*

**Comment:** The proposal has been designed in accordance with the *NSW Telecommunications Facilities Guideline including Broadband 2020*. The above-mentioned guidelines provides a set of standards and principles under section 2 that need to be taken into account in relation to the site selection, design, construction and operation of telecommunication facilities. The proposal has been assessed against these standards and is found to be compliant with the relevant requirements.

Specifically, Section 2.2 of the guidelines, outlines 4 principles that are to be taken into account in relation to the design and construction of a telecommunication facility. The four principles are as follows;

- 1) A telecommunication facility is to be designed and sited to minimise visual impact
- 2) Telecommunication facilities should be co-located wherever practical.
- 3) Health standards for exposure to radio emissions will be met.
- 4) Minimise disturbance and risk, and maximise compliance.

The Statement of Environmental Effects lodged in support of the proposal is has addressed these principles as follows:

- (1) *A major consideration when siting telecommunications facilities is the potential to cause adverse visual impact on the broader area. There is a requirement to remove equipment from the roof of the commercial premises located on the subject site. Additionally, there are no other suitable structures (buildings or infrastructure) within the search ring tall enough to accommodate the proposed telecommunications equipment, and as such, a new standalone facility is required.*

*It is recognised that, similar to all forms of development, telecommunication facilities may have a visual impact on the surrounding area. This visual effect can be attributed to two unavoidable characteristics of telecommunication facilities:*

- *They are structures which generally protrude above other structures; and*
- *They need to be located at suitable heights in order to operate effectively.*

*These characteristics mean that by necessity, telecommunication facilities may be and often are visible in urban landscapes.*

*Telstra has endeavoured to strike a balance between providing services and minimising visual impact on the community and local environment by proposing a facility that elevates the antenna to the minimum height necessary to provide the required coverage to the Casula area.*

**Assessing officer comment** – A number of existing trees and vegetation surround the proposed telecommunications tower which will enable a good level of screening which will soften the appearance to adjoining residents to the rear and side of the site. Furthermore, this assessment is considered reasonable as Telstra is proposing the minimum height necessary in this circumstance to facilitate the required coverage to service the Casula Area.

- The development is able to meet the objectives of the development standard.
- The proposed development does not create any detrimental overshadowing or privacy impacts on the adjoining developments

(2) The SEE provides the following table discussing options for co-location with other telecommunications facilities:

Map reference	RFNSA Number	Site location	Comments
A	2170067	Casula Mall	This candidate consists of both in-building installations and a rooftop facility. Given the lower general elevation of this site when compared to the objective elevation of the proposal, and the distance from the search area, this co-location option was discounted.
B	2170066	DTRS 104 Casula Rail Corridor near Rushton Place. CASULA NSW 2170	This site is located within the rail reserve and Transport for NSW operates communications equipment at this location. Due to the low elevation and distance from the search area this candidate was not considered appropriate for the proposal.
C	2170064	6-8 Rushton Place CASULA NSW 2170	The RFNSA indicates that this is a proposed facility and no physical structure currently exists at this particular location. Further, the low elevation and distance from the search area would discount this site as a candidate.

**Assessing officer comment** - The subject site was considered the most suitable location for the construction of a new 30m monopole. By keeping the facility at the same location and moving the infrastructure from 10m in elevation (on the rooftop) to 30m in elevation (on the proposed monopole) Telstra are able to provide an increased quality of coverage to the surrounding area as well as the enabling the introduction of their 5G service. The justification provided for not co-locating the proposal with nearby telecommunication facilities is considered to be satisfactory.

(3) The SEE has demonstrated that the proposal satisfies the relevant Australian Standard in relation to EME (Electro-magnetic radiation Human Exposure) as follows:

*“The predicted maximum EME levels are low and below the ARPANSA public exposure limit standard expressed as 100%. The maximum EME level, from the site in a publicly accessible location, is predicted to be 19.12% of the Australian standard. Telstra’s contribution to this maximum EME level is only 3.93%. Additionally, the relocation of Telstra’s equipment from the existing rooftop site to the proposed monopole will cause a decrease of 2.34% to the maximum EME level in consideration of all equipment on the subject site.”*

**Assessing officer comment** -This response, in association with the detailed response provided within the SEE is considered to be satisfactory.

*(4) In summary, the proposed upgrade is considered appropriate within the context of its environment as:*

*The mobile phone base station is important to provide continuous and improved mobile coverage within the locality for all mobile users considering the required removal of existing equipment on the rooftop of the commercial building*

*The proposal includes the removal of Telstra rooftop equipment from the commercial building at 560 Hume Highway, decluttering this site and consolidating the equipment into a streamlined monopole.*

*No other adverse environmental impacts will occur from the proposal*

**Assessing officer comment** -This response, in association with the detailed response provided within the SEE is considered to be satisfactory.

**(b) 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.

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 found on Council's GIS system illustrates the presence of the commercial use on site which suggests the site has principally been used for the B6 zone purposes for at least the past 20 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 considered to not 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.

**(d) 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 proposal is not contrary to the aims, objectives and planning principles of the GREP.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal results in a minimal amount of paving and roofing and such paving/roofing is located on an existing paved area. As such the proposal will have no additional impact on downstream properties.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	Conditions in relation to erosion and sedimentation controls during construction will ensure that there is no downstream impact as a result of the proposal
(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 DPI Water and the proposal is consistent with the guidelines.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	The SEE has identified a range of sites where the proposal was considered. Sufficient justification has been provided indicating that the subject site is the most suitable location for the proposal.
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	Not applicable.
(3) Flooding	The site is not flood affected.
(4) Industrial discharges	Not applicable.
(5) Land degradation	Not applicable.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Not applicable.
(10) Urban development areas	Not applicable.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Not applicable.
(13) Wetlands	Not applicable.

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

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

**(i) Zoning**

The subject sites are all zoned B6 – Enterprise Corridor in accordance with the Liverpool Local Environmental Plan 2008. An extract of the zoning map is provided below.

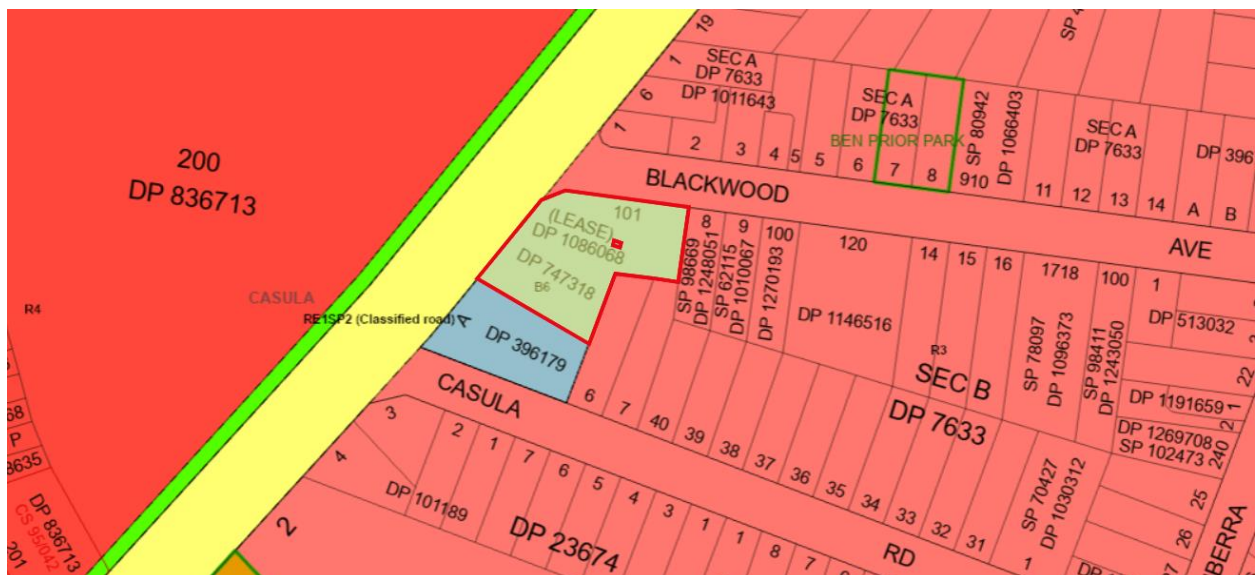


Figure 5 – Extract of LLEP 2008 zoning map (site in yellow box)

**(ii) Permissibility**

As discussed above the proposal is a permitted use under Division 21 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

**(iii) Objectives of the zone**

The objectives of the B6 – Enterprise Corridor zone are as follows:



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

The proposed development is consistent with the objectives of the B6 Enterprise Corridor zone. The proposed facility will compliment business communications with the zone and will not restrict future mixed use or business development on the land. Additionally, the proposed facility is expected to have significant benefit for residents, business and educational establishments in the Casula locality. It will assist by providing improved mobile phone and internet services within the area and contribute socially and economically.

**(iv) Principal Development Standards**

The Liverpool Local Environmental Plan (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	Proposed	Comment
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The applicant is proposing the decommissioning of existing telecommunication towers.	<b>Complies.</b> Consent sought for demolition works onsite.
4.3 Height of buildings	Maximum height of 18m	Height of 31.3m from natural ground level.  (74% variation)	<b>Acceptable on Merit</b> Please see 4.6 variation discussion below.

The proposal is considered to be consistent with the relevant provisions outlined in the Liverpool Development Control Plan 2008, except for the variations to the minimum height requirement.

**4.6 Variation to Height**

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

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

The subject proposal seeks a variation to the maximum height of buildings contained in LLEP 2008. Council’s LEP prescribes a maximum height of 18 m for the subject site. The installation of the proposed 30m telecommunications facility will result in a height of 31.3m from the natural ground level and exceeds the height outlined in Clause 4.3(2) by 13.3m (74%).

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

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Planning Secretary has been obtained.

The applicant submitted a Clause 4.6 Variation Statement to the Height of Buildings Development Standard, dated 03 November 2021, in order to justify the variation described above. This document provides the following justifications based on the merits of the proposal:

Variation to Height of Buildings, Clause 4.3:

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

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

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

**Applicant Comment**

*Strict compliance with the LEP height control is considered to be unreasonable given the nature of telecommunications facilities. The height of the proposed facility is necessary as the nature of telecommunications facilities requires them to protrude above all surrounding vegetation and structures to be able to provide adequate coverage.*

*In the case of Casula, the adjoining commercial building with existing antennas is at a height 10 m and as such, the proposal needs to be elevated above this development, to a distance*

*where sufficient clearance can be achieved. This is to ensure that adequate coverage can be provided to the area and to ensure EME compliance and safety is achieved on the rooftop area of the adjoining development.*

*If the 18 m height restriction was enforced in all localities as identified in Council's LEP, this would generally result in there being insufficient telecommunications coverage throughout The Liverpool LGA. Typically, telecommunications base stations exceed LEP height limits.*

*With respect to Clause 4.6(4)(a)(ii), Telstra believes that the proposal will be in the public interest because the proposal will provide mobile phone and data coverage service that is essential for residents, businesses and visitors to the area.*

### **Council Comment**

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

- The height proposed of the telecommunications tower is necessary as the nature of telecommunications facilities requires them to protrude above all surrounding vegetation and structures to be able to provide adequate coverage.
- The development is able to meet the objectives of the development standard.
- A number of existing trees and vegetation surround the proposed telecommunications tower which will enable a good level of screening. This will soften the appearance of the tower to immediate adjoining residents to the rear and side of the site.
- The proposed development does not create any detrimental overshadowing or privacy impacts on the adjoining developments.
- The proposed facility is considered to have sufficient environmental planning grounds as the facility would deliver improved internet services to the area contributing socially and economically to Casula and the LGA more generally.
- The height of the proposed facility is necessary as the nature of telecommunications facilities requires them to protrude above all surrounding vegetation and structures to be able to provide adequate coverage.
- The proposed facility is recognised to have addressed the technical requirements of Clause 4.6 of the LEP and is compliant under Division 21 of the SEPP (Transport and Infrastructure) 2021.
- Given the nature of telecommunications facilities, strict height restrictions applying to the proposed development are considered unreasonable as the operation of the proposal could not provide adequate coverage to the Casula area under the current height restrictions.
- The proposed facility is considered to have sufficient environmental planning grounds as the facility would deliver improved internet services to the area contributing socially and economically to Casula and the LGA more generally.
- While technically the facility is defined as a building, the structure does not comprise any windows or floors. It is not believed that this clause of the LEP relating to maximum heights, is intended to include things such as manned infrastructure. In this instance, it is appropriate to apply some flexibility to this particular development standard as it is not intended for application to telecommunications facilities, which requires height to operate effectively, as is evident throughout the broader Local Government Area (LGA).

Based on the applicant's comments and investigation into the 4.6 variation, it is considered that strict compliance is unreasonable in this case as the nature of the proposed telecommunications tower is required to protrude above all surrounding vegetation and structures to be able to provide adequate coverage. Having regard to the above, it is considered

that there are sufficient environmental planning grounds to vary Clause 4.3 – Height of buildings in this instance.

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

### **Applicant Comment**

*The proposed development is considered to have strong environmental planning grounds for the Casula locality. This proposal would ensure digital mobile telephone and mobile broadband internet coverage is accessible to Telstra customers within the Casula locality and surrounds. The area of Casula and its surrounds is a dynamic community where many residents and visitors require and expect a high degree of service infrastructure, including mobile phone and internet availability. In consideration of the relocation of telecommunication equipment from the adjoining commercial building, a new monopole of sufficient height is required to provide ongoing coverage.*

*Telstra considers that nearby residential and business needs would benefit significantly from the proposal by ensuring quality mobile phone and mobile broadband internet services are provided to the area and allowing greater opportunity for competitive development. Telstra considers this site the most suitable to address the coverage requirements for customers within the area and that the public would benefit by the approval of this proposal.*

*The proposed facility is expected to have significant benefit for residents, business and educational establishments in the Casula locality. It will assist by providing improved mobile phone and internet services within the area and contribute socially and economically. Furthermore, the proposal has been designed to minimise environmental impact.*

### **Council Comment**

As a result of the assessment above, it is also considered that compliance with the height of buildings development standard is unreasonable or unnecessary due to the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard. The height of the proposed telecommunications tower ensures that adequate coverage can be delivered to users which is essential for residents, businesses and visitors to the area. The objectives of the Height of Buildings clause, as per the Liverpool LEP 2008, have also been addressed, as well as the objectives of the zone.

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

### **Consistency with objectives of the development standard Clause 4.3 Height of Buildings**

The objectives of Clause 4.3 and assessment are as follows:

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

The Clause 4.6 application provides response as to the consistency of the development with the objectives of Clause 4.3 as follows:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved.

**Applicant Comment:** *The proposed facility is considered to be consistent with the objectives of this clause despite contravening the development standard.*

**Council Comment:** While technically the facility is defined as a building, the structure does not comprise any windows or floors. It is not believed that this clause of the LEP relating to maximum heights, is intended to include things such as manned infrastructure. In this instance, it is appropriate to apply some flexibility to this particular development standard as it is not intended for application to telecommunications facilities, which requires height to operate effectively, as is evident throughout the broader Local Government Area (LGA). The breach in building height does not result in a breach in floor space ratio and is consistent with this objective.

- (b) to permit building heights that encourage high quality urban form.

**Applicant Comment:** *The proposed facility is the smallest facility capable to accommodate the coverage objectives, is of a high-quality design and would be constructed using the latest technology.*

**Council Comment:** The breach in building height is unlikely to impact on the urban form. The height will also assist in delivering improved internet services to the area contributing socially and economically to Casula and the LGA more generally.

- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight.

**Applicant Comment:** *The height proposed for the telecommunications facility is appropriate for the Casula locality given the requirements to meet coverage objectives for the area. Whilst the urban form of the Casula locality predominately consists of residential dwellings, tall buildings are not uncommon.*

**Council Comment:** A major consideration when siting telecommunications facilities is the potential to cause adverse visual impact on the broader area. It is recognised that, similar to all forms of development, telecommunication facilities may have a visual impact on the surrounding area. This visual effect can be attributed to two unavoidable characteristics of telecommunication facilities:

- They are structures which generally protrude above other structures; and
- They need to be located at suitable heights in order to operate effectively.

These characteristics mean that by necessity, telecommunication facilities may be and often are visible in urban landscapes. In order to provide services and minimising visual impact on the community and local environment, the applicant has proposed a telecommunications tower to the minimum height necessary to provide the required coverage to the Casula area.

The variation to building height will not cause unsatisfactory issues on adjoining sites as they will still be able to receive adequate solar access to their living rooms and private open spaces as well as in the future as a developed site with appropriate building separation.

- d) *to nominate heights that will provide an appropriate transition in built form and land use intensity*.

**Applicant Comment:** *The proposed facility is the smallest facility capable to accommodate the coverage objectives, is of a high-quality design and would be constructed using the latest technology.*

**Council Comment:** The height proposed for the telecommunications tower is necessary as the nature of telecommunications facilities requires them to protrude above all surrounding vegetation and structures to be able to provide adequate coverage. As such the transition in built form and land use is considered acceptable on merit in this instance.

### Summary

The above adequately demonstrates that compliance with the Minimum height is unreasonable or unnecessary in the circumstances in this case where the Proposal does not interfere with the objectives of the standard, notwithstanding the Variation.

While technically the facility is defined as a building, the structure does not comprise any windows or floors. It is not believed that this clause of the LEP relating to maximum heights, is intended to include things such as manned infrastructure. In this instance, it is appropriate to apply some flexibility to this particular development standard as it is not intended for application to telecommunications facilities, which requires height to operate effectively, as is evident throughout the broader Local Government Area (LGA). Therefore compliance with the minimum building height development standard is considered to be unreasonable and unnecessary for the reasons set out above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. The objectives of the zone are addressed in Section 5 below.

**Overall Council Comments:** It is considered that the proposed development does not interfere with the objectives of Clause 4.3. Given the nature of telecommunications facilities, strict height restrictions applying to the proposed development are considered unreasonable as the operation of the proposal could not provide adequate coverage to the Casula area under the current height restrictions.

### Consistency with objectives of the zone – B6 Enterprise Corridor

The proposed facility is located within the B6 Enterprise Corridor zone. The objectives of the zone are:

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

**Applicant Comments**

*The proposed facility is considered generally consistent with the objectives of the B6 Enterprise Corridor zone. Like the current rooftop installation, the services provided by the proposed facility are heavily relied upon by local residents and businesses alike. Quality data and voice coverage across and area is intrinsically linked to the proper and effective commercial functioning of businesses in these zones. The facility would be located on land that is not going to undermine the effectiveness and viability of the commercial operation at the site.*

**Council Comments**

The proposed variation in height does not prevent the ability of the proposed development to comply with the objections of the zone. The proposed telecommunications facility is likely to encourage and promote employment and strengthening economic businesses by providing improved internet services to the area contributing socially and economically to Casula and the LGA more generally. It is considered that the proposed development is consistent with the objectives of the B6 Enterprise Corridor Zone.

**Consistency with Clause 4.6 objectives**

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

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

**Recommendation**

With considerations to the discussion above, the proposed variation to Clause 4.3 – Height of Buildings, adequately addresses the provisions of Clause 4.6 including the objectives of the development standard and the zoning. The proposal is also considered to be in the public interest and is therefore supported in this instance.

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**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. All relevant compliance tables for the LDCP 2008 can be found in Report Attachment 2.

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

There are no Planning Agreements which apply to the development.

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

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

**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.

**(b) Built Environment**

It is considered that the proposed development will have minimal impact on the built environment.

The proposal has been designed to facilitate the minimum height required for a telecommunications tower to service the Casula area. As such, the proposed bulk and scale of the development represents an acceptable proposal for the site.

**(c) Social Impacts**

The proposed development is not likely to result in any adverse social impact in the locality. It will assist in facilitating the effective delivery of communications infrastructure across the Casula. It is considered that the proposal is unlikely to generate any unreasonable social impacts on the surrounding area.

**(d) Economic Impacts**

It is considered that the proposal has no detrimental impact on the Liverpool City Council's economic development strategy. The primary purpose of the proposed facility is to maintain Telstra services at the Casula locality, whilst introducing the 5G network to the area. This critical infrastructure would ensure digital mobile telephone and mobile broadband internet coverage is maintained to Telstra customers within the Casula locality and surrounds. The use of mobile phones is now a common and expected aspect of daily life within both private and commercial communities. The proposed facility will maintain and improve mobile phone and internet availability in the Casula locality.

**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 and the relevant Environmental Planning Instruments, as outlined in this report. The identified variations have been considered and are supported as they do not 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
Councils Building Department	Supported, subject to conditions of consent

### (b) Community Consultation

In accordance with the Liverpool Community Participation Plan 2019, the application was notified between 17 March 2022 to the 6th of April 2022. Two submissions were received during the public consultation process. The issues raised in the submission, and a response to each, are summarised as follows:

#### ISSUE 1: *Building Height*

The proposed 30m Telecommunication Tower is considered to have sufficient environmental planning grounds despite the contravention to the height development standard as the facility is required to enable improved internet services to the area contributing socially and economically to Casula and the LGA more generally. The height of the proposed facility is considered reasonable as Telstra is proposing the minimum height necessary in this circumstance to facilitate the required coverage to service the Casula Area. This is considered to be acceptable and compliant with SEPP (Transport and Infrastructure) 2021 Division 21 (Clause 2.143) in relation to minimal visual impact which is justifiable in these circumstances.

#### ISSUE 2: *View and shadow impacts of Telecommunications Tower*

There is a requirement to remove equipment from the roof of the commercial premises located on the subject site. Additionally, there are no other suitable structures (buildings or infrastructure) within the search ring tall enough to accommodate the proposed telecommunications equipment, and as such, a new standalone facility is required.

It is recognised that, similar to all forms of development, telecommunication facilities may have a visual and shadow impact on the surrounding area. This visual effect can be attributed to two unavoidable characteristics of telecommunication facilities:

- They are structures which generally protrude above other structures; and
- They need to be located at suitable heights in order to operate effectively.

These characteristics mean that by necessity, telecommunication facilities may be and often are visible in urban landscapes.

In order to provide services and minimising visual impact on the community and local environment, the applicant has proposed a telecommunications tower to the minimum height necessary to provide the required coverage to the Casula area.

Notably, a number of existing trees and vegetation surround the proposed telecommunications tower which will enable a good level of screening. This will soften the appearance of the tower to immediate adjoining residents to the rear and side of the site. It is considered that the

proposed development does not create any detrimental overshadowing or privacy impacts on the adjoining developments.

**ISSUE 3: *Health Impacts to residents and ecosystem due to wide coverage and radiation intensity***

The applicant has provided a detailed ARPANSA (Australian radiation protection and nuclear safety agency) electromagnetic energy (EME) Report which details that the predicted maximum EME levels are low and below the ARPANSA public exposure limit standard expressed as 100%. The maximum EME level, from the site in a publicly accessible location, is predicted to be 19.12% of the Australian standard. Telstra's contribution to this maximum EME level is 3.93%. Additionally, the relocation of Telstra's equipment from the existing rooftop site to the proposed monopole will cause a decrease of 2.34% to the maximum EME level in consideration of all equipment on the subject site. This is considered to be acceptable and compliant with SEPP (Transport and Infrastructure) 2021 Division 21 (Clause 2.143) in relation to health standards for exposure and minimising disturbance and risk.

**ISSUE 4: *Property Value Decrease***

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

**ISSUE 5: *Location of Telecommunications Tower***

The Communications Alliance Industry Code – Mobile Phone Base Station Deployment (C564:2020) (the Code) promotes the use of existing sites in order to mitigate the effect of excessive proliferation of facilities on the landscape. The applicant has conducted a study on the most suitable location for the construction for the new 30m monopole. The study demonstrates that multiple facilities that were taken into consideration at which the potential for co-location was investigated and reasons as to why co-locating was not possible. The study deemed that the most appropriate outcome results in, keeping the facility at the same location and moving the infrastructure from 10m in elevation (on the rooftop) to 30m in elevation (on the proposed monopole). This is considered to be acceptable and compliant with SEPP (Transport and Infrastructure) 2021 Division 21 (Clause 2.143) in relation to co-located wherever practical.

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

The proposed is considered beneficial because the proposal will provide mobile phone and data coverage service that is essential for residents, businesses and visitors to the area. Given the assessment undertaken, the proposal is considered to be in the public interest

**7. DEVELOPMENT CONTRIBUTIONS**

Section 7.12 Development Contributions are applicable to the proposed development totalling \$6,545 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 Local Environmental Plan 2008, Liverpool Development Control Plan 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-1379/2021 seeking approval for the decommission and removal of the existing network infrastructure and the installation of a 30m high Telstra telecommunications facility and supporting ancillary equipment, be approved subject to conditions of consent.

**10. REPORT ATTACHMENTS**

1. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES
2. PLANS OF THE PROPOSAL
3. CLAUSE 4.6 VARIATION SUPPLIED BY APPLICANT
4. CONDITIONS OF APPROVAL INCLUDING 7.12 CONTRIBUTIONS

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

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

<b>Part 1 General Controls for all Development</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Comment</b>
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	No trees on site to be removed	N/A
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	No trees on site to be removed	N/A
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	The development does not involve removal of any bushland or fauna habitat.	N/A
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	Not identified as on or adjacent to bushfire prone land	N/A
Section 6 – Water Cycle Management	Consideration of stormwater and drainage	No drainage required	N/A
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	The subject site is not located within 40m of a watercourse.	N/A
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	Not required in this instance	A sediment control plan will be conditioned as part of any

LIVERPOOL CITY COUNCIL

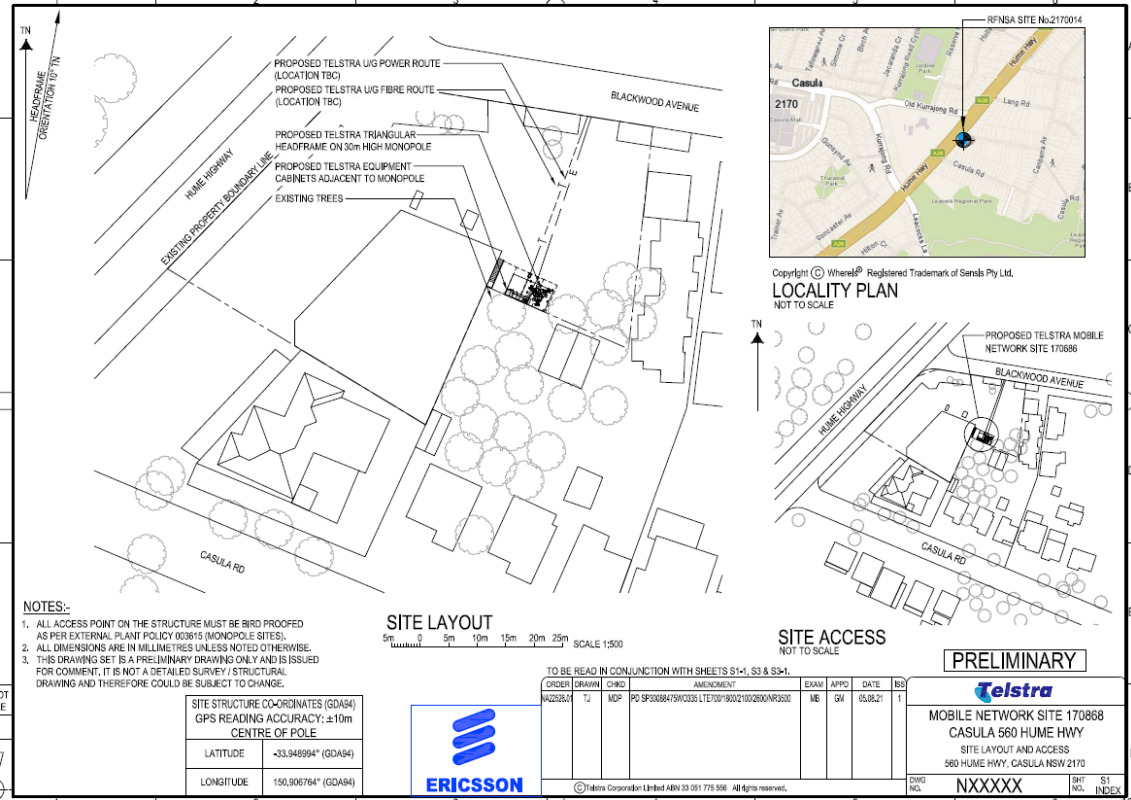
LOCAL PLANNING PANEL REPORT

31 October 2022

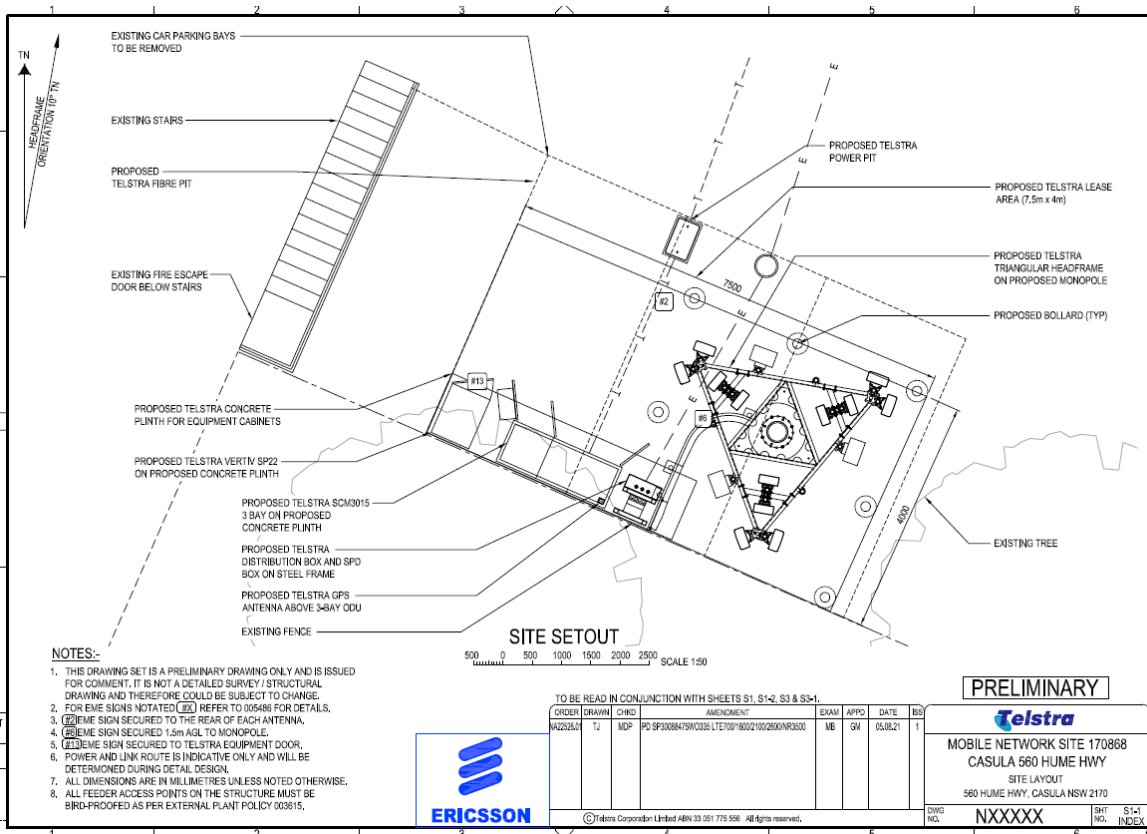
			future development consent
Section 9 – Flooding Risk	Flood affectation of property to considered	Not flood affected	N/A
Section 10 – Contaminate Land Risk	Previous use to be considered in assessing risk	Existing established use not being changed	N/A
Section 11 – Salinity Risk	Salinity Management response required for affected properties	No management required	N/A
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils	Site is not affected by Acid Sulfate Soils	N/A
Section 13 - Weeds	Noxious weeds to be removed as part of development where applicable	No weeds present	N/A
Section 14 – Demolition of Existing Development	Appropriate measures proposed	Decommissioning of existing telecommunications tower proposed.	Complies through conditions of consent.
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	N/A	N/A
Section 16 & 17 – Aboriginal Archaeology	AHIA required where items of aboriginal archaeology exist	N/A	N/A
Section (18) – Notification	Notification required	The application was notified on the 17 March 2022 to the 6 <sup>th</sup> of April 2022. Two submissions were received during this advertising period which has been discussed in the community consultation section of the report.	Complies
Section 20 – Car parking and access	1 space per 20sqm LFA	Not applicable	N/A
Section 21 – subdivision of land buildings	Objectives & specifications	N/A	N/A
Section 22 - Water Conservation	Non-residential developments to provide water efficiency measures	Not applicable	N/A
Section 23 - Energy Conservation	Non-residential developments to provide energy efficiency measures	Not applicable	N/A
Section 24 - Landfill	Controls relating to fill of land and impacts	No fill proposed	N/A

Section 25 - Waste Disposal & Re-Use facilities	Objectives and controls to reduce and re-use waste materials	None proposed	N/A
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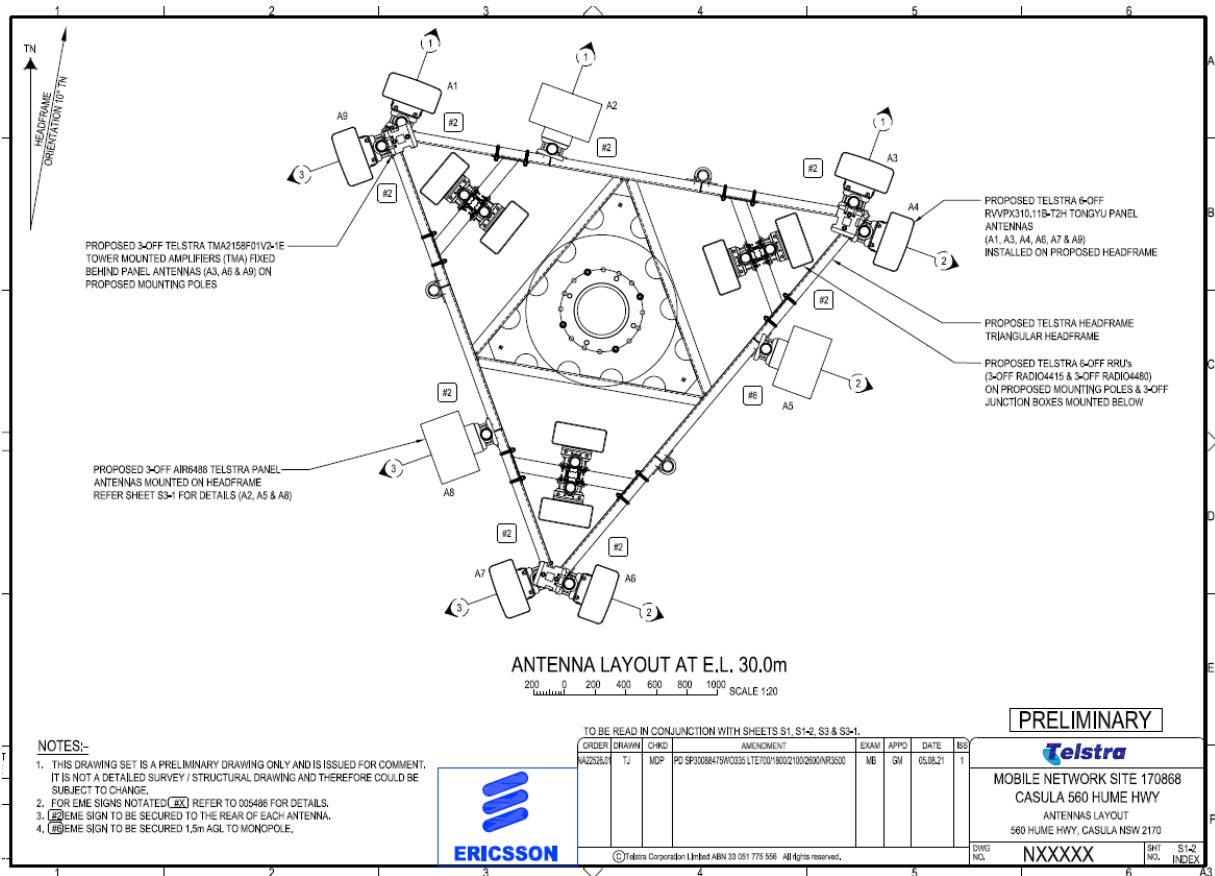
**REPORT ATTACHMENT 2 – PLANS OF THE PROPOSAL**



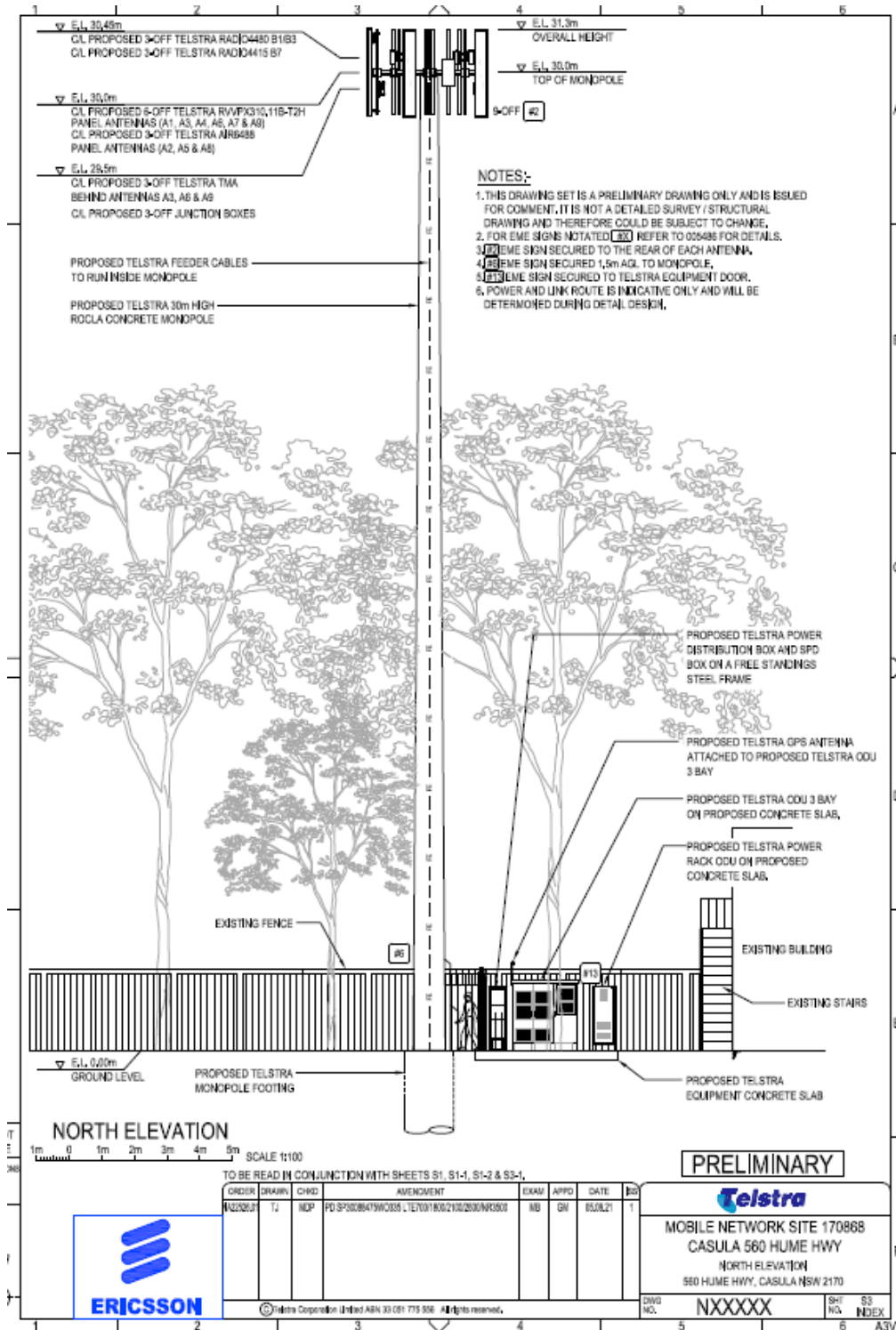
Site Layout Plan



Site setout Plan

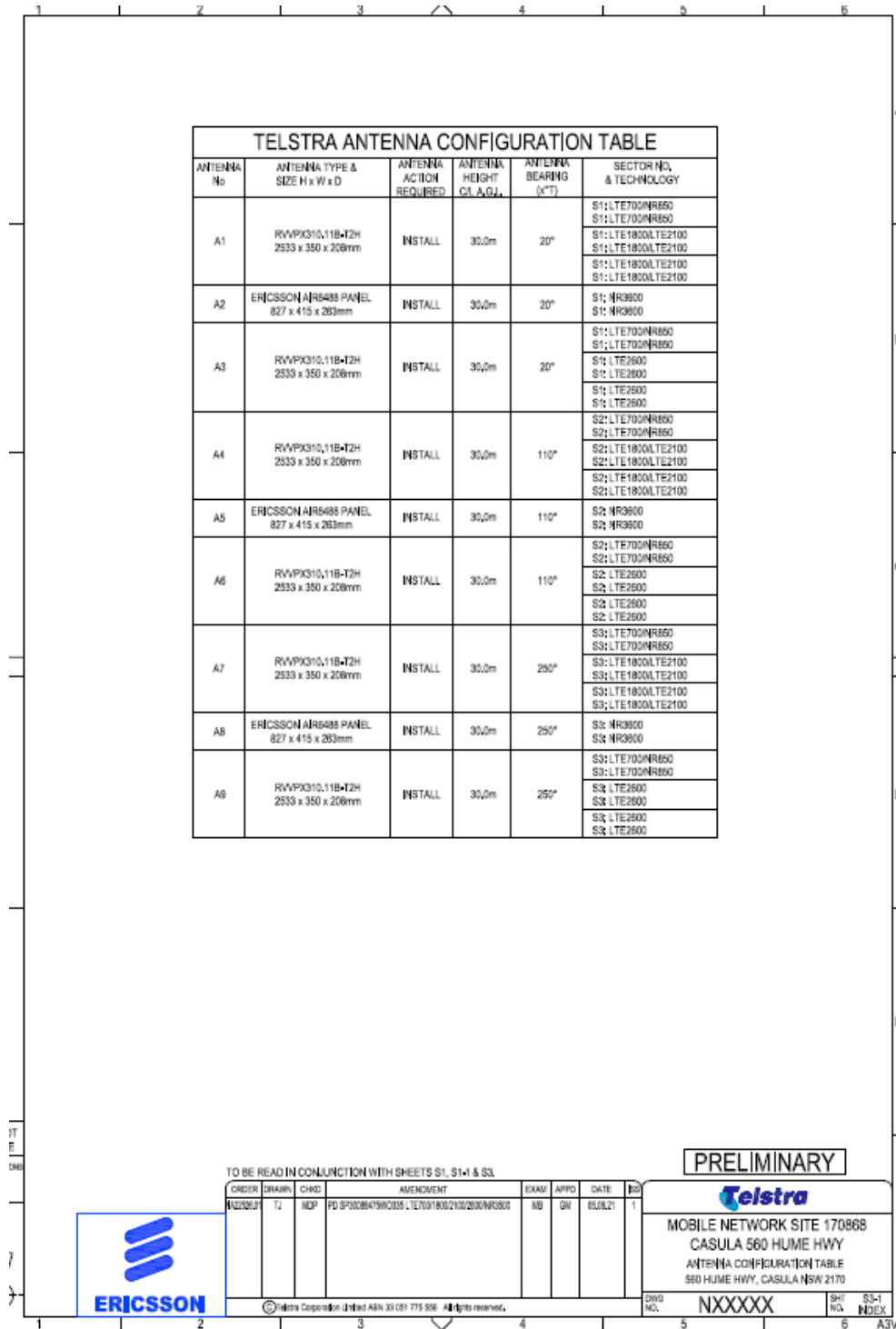


Antenna Layout Plan



North Elevation Plan





Antenna Configuration Table

## REPORT ATTACHMENT 3 – 4.6 VARIATION REQUEST

Aurecon Australasia Pty Ltd  
ABN 54 005 139 873  
Ground Floor, 25 King Street  
Bowen Hills QLD 4006  
Locked Bag 331  
Brisbane QLD 4001  
Australia

T +61 7 3173 8000  
F +61 7 3173 8001  
E [brisbane@aurecongroup.com](mailto:brisbane@aurecongroup.com)  
W [aurecongroup.com](http://aurecongroup.com)



2021-11-03

Planning Department  
Bega Valley Shire Council  
PO BOX 492  
BEGA NSW 2550

To whom it may concern,

**Request for Varying Development Standard for Telecommunication Facility Development at 560 Hume Hwy Casula NSW 2170 (Lot 101 DP747318)**

I am writing to request a variation under Clause 4.6 of Liverpool Local Environmental Plan 2008, in relation to Clause 4.3 Height of buildings.

Clause 4.3(2) states that the height of a building on any land within the LGA is not to exceed the maximum height indicated on the Height of Buildings Map. Council's LEP prescribes a maximum height of 18 m for the subject site. The proposed telecommunications facility is 31.3 m in height and exceeds the height outlined in Clause 4.3(2) by 13.3 m. However, Clause 4.6 does allow Council to consider proposals that contravene development standards.

Clause 4.6(3) states consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that:

- a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- b) There are sufficient environmental planning grounds to justify contravening the development standard.

In addition, development consent must not be granted under Item 4 unless:

- a) the consent authority is satisfied that:
  - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- b) the concurrence of the Planning Secretary has been obtained.

The following information provides an assessment of the proposal with regards to these requirements so that consent may be granted.

**1 Overview of the proposal**

The proposal is for the development and operation of a new mobile phone base station comprising a 30 m monopole, antennas, transmission equipment and ground equipment. The proposal will meet the requirement for Telstra as a licensed carrier to provide adequate mobile phone coverage to their customers in Casula.

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

Strict compliance with the LEP height control is considered to be unreasonable given the nature of telecommunications facilities. The height of the proposed facility is necessary as the nature of



telecommunications facilities requires them to protrude above all surrounding vegetation and structures to be able to provide adequate coverage.

In the case of Casula, the adjoining commercial building with existing antennas is at a height 10 m and as such, the proposal needs to be elevated above this development, to a distance where sufficient clearance can be achieved. This is to ensure that adequate coverage can be provided to the area and to ensure EME compliance and safety is achieved on the rooftop area of the adjoining development.

If the 18 m height restriction was enforced in all localities as identified in Council's LEP, this would generally result in there being insufficient telecommunications coverage throughout The Liverpool LGA. Typically, telecommunications base stations exceed LEP height limits.

With respect to Clause 4.6(4)(a)(ii), Telstra believes that the proposal will be in the public interest because the proposal will provide mobile phone and data coverage service that is essential for residents, businesses and visitors to the area.

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

The proposed development is considered to have strong environmental planning grounds for the Casula locality. This proposal would ensure digital mobile telephone and mobile broadband internet coverage is accessible to Telstra customers within the Casula locality and surrounds.

The area of Casula and its surrounds is a dynamic community where many residents and visitors require and expect a high degree of service infrastructure, including mobile phone and internet availability. In consideration of the relocation of telecommunication equipment from the adjoining commercial building, a new monopole of sufficient height is required to provide ongoing coverage.

Telstra considers that nearby residential and business needs would benefit significantly from the proposal by ensuring quality mobile phone and mobile broadband internet services are provided to the area and allowing greater opportunity for competitive development. Telstra considers this site the most suitable to address the coverage requirements for customers within the area and that the public would benefit by the approval of this proposal.

The proposed facility is expected to have significant benefit for residents, business and educational establishments in the Casula locality. It will assist by providing improved mobile phone and internet services within the area and contribute socially and economically. Furthermore, the proposal has been designed to minimise environmental impact.

4 This request has adequately addressed the matters required to be demonstrated by subclause (3)

It is considered that this written request comprised more than adequately addresses the matters required by Clause 4.6(3) in relation to the proposed development.

The strict compliance with the LEP height control is considered to be unreasonable given the nature of telecommunications facilities requiring uninterrupted 'line of sight' for antennas located atop the facility to provide mobile phone and data coverage to Telstra customers.

The proposal has strong environmental planning grounds as the proposal will assist by providing improved internet services within the area and contribute socially and economically to the Casula locality.



## 5 Objectives of the height of buildings standard

Clause 4.3(1) outlines the objectives for the Height of buildings clause and map. The objectives of the building height clause are as follows:

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

The proposed facility is considered to be consistent with the objectives of this clause despite contravening the development standard. The height proposed for the telecommunications facility is appropriate for the Casula locality given the requirements to meet coverage objectives for the area. Whilst the urban form of the Casula locality predominately consists of residential dwellings, tall buildings are not uncommon. The proposed facility is the smallest facility capable to accommodate the coverage objectives, is of a high-quality design and would be constructed using the latest technology.

Furthermore a detailed assessment addressing visual amenity is contained with the Statement of Environmental Effects.

## 6 Objectives of the Zone

The proposed facility is located within the B6 Enterprise Corridor zone. The objectives of the zone are:

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

The proposed facility will compliment business communications with the zone. Additionally, enhanced 5G coverage will provide faster data speeds, lower latency and greater capacity for businesses and residential uses within Casula. The proposed facility will require minimal space in an unused car park area and will not restrict future mixed use or business development on the land. As such, the proposed facility is considered to be consistent with the objectives of the zone.

## 7 Conclusion

The proposed facility is recognised to have addressed the technical requirements of Clause 4.6 of the LEP. Given the nature of telecommunications facilities, strict height restrictions applying to the proposed development are considered unreasonable as the operation of the proposal could not provide adequate coverage to the Casula area under the current height restrictions. The proposed facility is considered to have sufficient environmental planning grounds as the facility would deliver improved internet services to the area contributing socially and economically to Casula and the LGA more generally.

The area of Casula and its surrounds is a dynamic community where many residents and visitors require and expect a high degree of service infrastructure, including mobile phone and internet

LIVERPOOL CITY COUNCIL  
LOCAL PLANNING PANEL REPORT

31 October 2022

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availability. The proposed facility is generally consistent with the objectives of the height of buildings standard and the zone objectives. The proposed facility would not have adverse implications to the built form or environmental values of the area.

While technically the facility is defined as a building, the structure does not comprise any windows or floors. It is not believed that this clause of the LEP relating to maximum heights, is intended to include things such as manned infrastructure.

In this instance, we believe it is appropriate to apply some flexibility to this particular development standard as it is not intended for application to telecommunications facilities, which requires height to operate effectively, as is evident throughout the broader Local Government Area (LGA).

Aurecon on behalf of Telstra requests that Council support this variation to the building height standard and provide consent for the proposed telecommunications facility at Casula to allow improved mobile coverage for the community.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Max Peel', with a horizontal line extending to the right.

Max Peel  
Senior Consultant  
Environment and Planning, Aurecon

## **REPORT ATTACHMENT 4 – CONDITIONS OF APPROVAL WITH 7.12 CONTRIBUTIONS**

### **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:

#### **Architectural Plans**

<b>Plan</b>	<b>Drawing No.</b>	<b>Sheet No.</b>	<b>Issue</b>	<b>Dated</b>	<b>Prepared by</b>
Site Layout	NXXXXX	S1 Index	1	05.08.21	Ericsson
Site Setout	NXXXXX	S1-1 Index	1	05.08.21	Ericsson
Antenna Layout at E.L. 30m	NXXXXX	S1-2 Index	1	05.08.21	Ericsson
North East Elevation	NXXXXX	S3 Index	1	05.08.21	Ericsson
Telstra Antenna Configuration Table	NXXXXX	S3-1 Index	1	05.08.21	Ericsson

except where modified by the undermentioned conditions.

### **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.

#### **2. 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.

#### **3. Compliance with the Act and Regulations**

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.

4. **Long Service Levy (General)**

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.

**Fee Payments**

5. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

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

These fees are reviewed annually and will be calculated accordingly.

6. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.
7. A construction management plan is to be prepared and provided to the certifying authority. The Construction Environmental Management Plan (CEMP) must include an 'unexpected finds' protocol during civil work in accordance with the recommendations of the Preliminary Site Investigation, prepared by Canopy Australia, dated December 2020.

8. **Section 7.12 Payment (Liverpool Contributions Plan 2018)**

As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment represents 1% of the cost of the development and is imposed in accordance with Liverpool Contributions Plan 2018.

The total contribution is **\$6,545** and will be adjusted at the time of payment in

accordance with the contributions plan.

A breakdown of the contribution's 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.

### **S138 Roads Act – Minor Works in the public road**

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

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

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

10. 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 Drainage storm water connection to a street drainage system in Oatlands Court.

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.

## **C. PRIOR TO WORKS COMMENCING**

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

**Construction Certificate**



11. Prior to the commencement of any building works, 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* and *Environmental Planning & Assessment Regulation 2000*.
12. A copy of the construction certificate, the approved plans and development 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.
13. A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate.
14. A principal contractor must be appointed for the building work and the PCA and Council are to be notified accordingly; and
15. The principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority; and
16. At least two days' notice must be given to the Council, in writing, prior to commencing any works.
17. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the *Occupation Certificate*.
18. **Commencement of Building Work (Prior to Works Commencing)**

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.

19. **Traffic Control Plan**

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

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

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

20. **Sediment & Erosion Control**

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.

21. **Notification**

Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:

- (a) Any excavation, below the base of the footings of a building on an adjoining allotment of land, and
- (b) The notice shall be given seven (7) days prior to the commencement of work.

22. **Excavation**

In the event the development involves an excavation that extends below the level of the base of the footings of a building or structure within the zone of influence of the excavation works, the following is to be undertaken at full cost to the developer:

- (a) Protect and support the adjoining building or structure from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining building or structure to prevent any such damage.

**Site Facilities**

23. Adequate refuse disposal methods and builder's 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.

24. **Notification of Service Providers**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for more information.

25. **Waste Classification and Disposal of Contaminated Soil and Material**

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.

26. **Demolition Works**

Demolition works shall be carried out in accordance with the following:

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

**D. DURING CONSTRUCTION**

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

**Building Work**

27. In accordance with section 80 A (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 provisions of the Building Code of Australia (BCA).

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

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).

29. **Identification Survey Report**

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 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.

30. **Identification Survey Report**

31. 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.

32. **Sign Notice Board**

A sign must be erected and maintained in a prominent position on the site, which contains the following details:

- (a) name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- (b) name, address and telephone number of the *Principal Certifying Authority*
- (c) a statement stating that 'unauthorised entry to the work site is prohibited'.

**Traffic Management**

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

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

37. **Hours of Construction Work and Deliveries**

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

38. **Construction/ Work Noise**

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).

39. **Demolition Inspections**

The following inspections are required to be undertaken by Council in relation to approved demolition works:

a) Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works.

Please note that demolition works are not permitted to commence on site until such time as a satisfactory inspection result is obtained from Council.

b) Immediately following completion of the demolition. Please note that proof of appropriate disposal of demolition materials (including asbestos) may be required at this time in accordance with the approved Waste Management Plan.

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

40. **Erosion Control - Measures**

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

41. **Waste Management Plan**

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.

**Air Quality**

42. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
43. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
44. 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.
45. The loading and unloading of all vehicles associated with the development must be undertaken within the property boundary of the premises subject to this consent.

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

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

**Water Quality**

46. 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**

47. 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.
48. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

**Contamination**

49. 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.
50. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
51. All soils to be taken offsite must be classified in accordance with the EPA Waste Guidelines Part I: Classifying Waste (2014) prior to being disposed of at a landfill facility authorised to receive the material.

**Record Keeping of Imported Fill**

52. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
  - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
  - (b) clearly indicate the legal property description of the fill material source site;
  - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
  - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
  - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.
53. Records of the following 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 the results of any chemical testing undertaken on fill material.

**54. Unidentified Contamination**

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

A Section 96 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

**55. Toilet Facilities**

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.

**56. Security Fence**

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.

**E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE AND BEFORE COMMENCEMENT OF USE**

**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):**

**Occupation Certificate**

- 57. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development



consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

58. 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.

### **Electromagnetic Emissions**

59. Where the development is part of infrastructure for a public mobile phone network - the Council must, before commencement of use, be given:

- (i) in the case of development that will produce electromagnetic radiation - a report in the format required by the Australian Radiation Protection Nuclear Safety Agency that shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and;
- (ii) a report showing compliance with the Australian Communications Industry Forum Industry Code entitled CIF C564:2004 Deployment of Mobile Phone Network Infrastructure.

60. **Liverpool City Council clearance – Roads Act/ Local Government Act**

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.

61. **Works as executed - General**

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

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

62. **Roads Act/ Local Government Act**

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.

63. **Dilapidation Report**

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

64. **Rectification of Damage**

Prior to the issue 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.

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

The following conditions are to be complied with during the use:

### **Environment**

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

66. **Waste Management**

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.

## **G. ADVISORY**

- a) Sections 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979 allow you to request the consent authority to review this determination notice if you are dissatisfied with it or the conditions contained within this determination notice. This right must be exercised within six (6) months from the date of this notice with the appropriate fee.
- b) Under Sections 8.7 & 8.10 of the Environmental Planning and Assessment Act 1979 applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice of determination.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.

- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally, the consent becomes effective from the determination date shown on the front of this notice. However, if unsure applicants should rely on their own enquiries.
- e) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally, consent lapses if the development is not commenced within five years of the date of approval. However, if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- f) In accordance with Sections 8.8 and 8.10 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a Development Application for Designated Development (including Designated Development that is Integrated Development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- g) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the applicant should investigate their liability under the Act.
- h) 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.
- i) "DIAL BEFORE YOU DIG"

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](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.

- j) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

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

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

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

**SECTION 7.12 PAYMENT FORM****CONTRIBUTIONS PURSUANT TO SECTION 7.12 OF THE ENVIRONMENTAL  
PLANNING & ASSESSMENT ACT, 1979**  
**Liverpool Contribution Plan 2018**

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

These figures have been calculated to the CPI June 2022 and will be adjusted at the time of payment in accordance with the conditions of consent.

**APPLICATION NO:** DA-1379/2021

**APPLICANT:** Telstra Corporation Ltd

**PROPERTY:** 560 Hume Highway, Casula

**PROPOSAL:** Decommission and removal of the existing network infrastructure and the installation of a 30m high Telstra telecommunications facility and supporting ancillary equipment.

<b>Liverpool Contributions Plan 2018 Established Areas</b>		
Transport - Bikeways - works		
Central	\$491	GL.10000001865.10207
Transport - Traffic management - works		
Central	\$3,273	GL.10000001865.10213
Transport - Bus shelters - works		
Central	\$164	GL.10000001865.10215
Drainage - works		
Central	\$2,618	GL.10000001866.10209
<b>Total</b>	<b>\$6,545</b>	

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

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**RECORD OF PAYMENT**

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

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

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

Item no:	5
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<b>Application Number:</b>	DA-14/2021
<b>Proposed Development:</b>	Demolition of all existing structures and improvements, construction of a new service station development including sales and fast-food building with drive through service, a separate restaurant facility, fuel dispensing canopy, 8.5m high pylon sign, underground tanks, signage, alteration of existing driveway crossovers & associated works with 24/7 trading time.
<b>Property Address</b>	226 -228 Newbridge Road, Moorebank
<b>Legal Description:</b>	Lot 1 DP 523597 and Lot 55 in DP 567062
<b>Applicant:</b>	Craig Ridgewell
<b>Land Owner:</b>	T Simonetta & Co Pty Ltd
<b>Date Lodged:</b>	18 January 2021
<b>Cost of Works:</b>	\$2,680,000.00
<b>Zoning:</b>	B6 – Enterprise Corridor under Liverpool Local Environmental Plan 2008
<b>Recommendation</b>	Approval, subject to conditions of consent
<b>Assessing Officer:</b>	Greg Mottram

#### 4. EXECUTIVE SUMMARY

Council has received a Development Application (DA-14/2021) seeking consent for the Demolition of all existing structures and improvements, construction of a new service station development including sales and fast food building with drive through service, a separate restaurant facility, fuel dispensing canopy, 8.5m high pylon sign, underground tanks, signage, alteration of existing driveway crossovers & associated works with 24/7 trading time on the property known as 226-228 Newbridge Road, Moorebank and formally known as Lot 1 in DP 523597 and Lot 55 in DP 567062.

The site is zoned as B6 – Enterprise Corridor, 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. The application was notified between 10 March until 23 March 2021 and between 25 August 2021 and 7 September 2021. Eleven submissions have been received regarding the application which are discussed in the report.

The key issues associated with the assessment of the subject Development Application relate to the access to Newbridge Road which is a classified road controlled by Transport for NSW, the objections raised as a result of the public exhibition of the application and minor variations to DCP setback controls. As demonstrated in the report, the variations to the building setback and the issues raised in the objections are considered acceptable in this instance.

The issues raised as a result of the public exhibition of the application are generalised as follows:

The key issues raised in the submissions relate to:

- Health Issues from exposure to gasoline and hazardous materials, whether in liquid or vapor form;
- Contamination: Underground storage fuel tank leaks;
- Noise;

- Safety and Security;
- Fires and explosions risk from gas leaks/petrol;
- Privacy;
- Odour from Petrol Fumes, Waste Storage Areas and Fast Food Cooking;
- Traffic;
- Lighting;
- Proximity To Other Service Stations And Fast Food Restaurants;
- Overdevelopment of the site;
- Devaluation of surrounding property and;
- Waste

These matters are discussed further in the report.

It is recommended that the 24 hour a day operations of the premises be conducted on a twelve month trial basis from the date of the issue of an occupation certificate. Following the twelve month trial the hours of operation will automatically revert to 6:00am to 12pm.

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 (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 subject land for this application consists of two parcels of land which are currently occupied by a produce store and separate building containing office units. Descriptions of the lots are provided in the table below.

Address	Lot & DP	Area (sqm)
226 Newbridge Road	Lot 1 DP 523597	999
228 Newbridge Road	Lot 55 DP 567062	2476

226 Newbridge Rd is a parallelogram shaped lot with a frontage of 27.4m to Newbridge Road to the north and a depth of 36.48m. 228 Newbridge Road is a square shaped lot with a frontage to Newbridge Road of 53.6m and a depth of 48.2m. This gives the site a total frontage to Newbridge Road of 81.0m.

The location of the sites can be seen in the aerial view in the Figure below.



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

**2.2 The locality**

The site is an isolated pocket of B6 Enterprise Corridor zoned land which is surrounded by medium density land to the west, south and east and the locality is transitioning from detached one and two storey dwellings to multi-dwelling development as seen in Figure 1. The existing use on the site is a greengrocer produce store and separate retail premises.

NORTH	The site faces the six lane Newbridge Road which is a classified road under the control of Transport for NSW.
SOUTH	The development bounds 4 residential allotments facing Lucas Avenue. Number 50 Lucas Avenue is currently being developed as three attached dwellings while Numbers 52-56 Lucas Avenue contain detached single storey dwellings
EAST	The site to the east is operated as a place of public worship
WEST	The site to the east consists of a public reserve (Regan Park)

The site is located approximately 200m west of Nuwarra Road and is approximately 3km by road from the Liverpool CBD further to the east with connection to Liverpool Railway Station. The site is located approximately 1km west of the industrial area of Chipping Norton. This area is within the Georges River Catchment.





Figures 2 & 3: Locality Surrounding the Proposed Development (Source: Geocortex)

### 3. BACKGROUND/HISTORY

- The subject DA was lodged with Council on 18 January 2021
- The application was advertised on 10 March until 23 March 2021
- The application was referred externally to Transport for NSW
- The application was deferred by TfNSW requiring a Deceleration Lane on 24 March 2021
- Request for additional information issued to the Applicant for a number of planning issues (including signage, food outlet details, pedestrian access, location of elements of the development, street infrastructure, acoustic matters, and the objections to the development,) engineering matters and environmental health issues on 19 May 2021.
- The application was re-advertised for 14 days between 25 August 2021 and 7 September 2021
- The applicant advised that negotiations with Transport for NSW had progressed and the deceleration lane was no longer required.

- The application was referred externally to NSW Police for CPTED conditions 11 August 2022
- The application was referred externally to Transport for NSW 2 July 2022
- On the 14 August 2022 Transport for NSW confirmed that a deceleration lane was not viable and provided conditions for consent.

DA History on Site		
DA No.	Proposed Development	Determination
DA-1577/2004	Alterations and additions to an existing commercial development and basement carpark - retail	Approved
DA-1577/2004/A	S96(1A) Application proposing to modify Development consent 1577/2004. Application seeks the following: demolition of existing residence, retention of air conditioning and refrigeration compressors on roof top, acoustic treatment and screening of air conditioners and refrigeration compressors, reconfiguration of waste storage area identification of stock storage areas to be used only between delivery of the stock and the loading of the stock into the building, implementation of operational plan, deletion of Condition 29.	Approved
DA-1006/2009	Erection of a bin enclosure of South East corner of site.	Approved
DA-14/2021	Demolition of all existing structures and improvements, construction of a new service station development including sales and fast-food building with drive through service, a separate restaurant facility, fuel dispensing canopy, 8.5m high pylon sign, underground tanks, signage, alteration of existing driveway crossovers & associated works with 24/7 trading time.	<i>Subject Application</i>

#### 4. DETAILS OF THE PROPOSAL

The proposal consists of the demolition of existing structures and the construction of a 24/7 service station and attached drive through fast food outlet and separate restaurant/retail building with associated parking and landscaping. Further detail of this is provided below:

##### Demolition Works

- The proposed development would incorporate demolition works including:
  - Demolition of buildings and ancillary structures at Lot 1 DP 523597 and 55 DP 567062;
  - Removal of front pallisade fencing;
  - Removal of hardstand and parking areas;
  - Removal of three existing driveway; and
  - Removal of the existing landscaping areas

A demolition waste management plan has been provided with the proposed application.

### **Site**

The site will include a forecourt area including marking pedestrian ways, landscaping, acoustic fencing, an oil/water separator, fuel vent stacks, grease arrestor trap, underground OSD stormwater pit, and a 5,000 underground rainwater tank.

### **Building 1 (Service Station and Drive through Fast Food Outlet)**

- Ground Floor Plan

The Service station sales area to include a service counter, small ancillary food offer, retail sales area, amenities suitable for person with disabilities, walk-in cool room, freezers and back of house office, store & wash up area for staff. Externally the service station will include an air/water point, gas cylinder exchange, ice storage and a loading zone.

The Drive through fast food outlet will include a driveway order point, payment window, food collection window, 20 indoor seats, universal toilet, service counter, managers officer, coolroom, back of house kitchen, dry store, wash-up sinks and freezer.

Separate waste storage areas are proposed for each use which are contained behind Colorbond fencing and covered by a roof structure.

### **Building 2 (Restaurant/retail store)**

- Ground floor

12 indoor seats, sales area, universal toilet, storage area, back of house kitchen, wash area cool room, waste enclosure and loading area underground grease arrestor trap.

### **Canopy**

- The proposal includes motor spirit and ADF fuelling facilities. The fuel dispensing Canopy will include 4 multi-product dispensers servicing 8 cars at any one time.

### **Underground Storage Tanks**

- The proposed development would include the installation of two double walled 110,000 litre underground fuel storage tanks divided into the required fuel types with the appropriate monitoring equipment.
- The system would include vapour recovery equipment.

### **Pylon Sign**

An 8.5m high internally lit business identification pylon sign is to be located at the front of the site. This will include business identification and fuel pricing.

### **Vehicle Parking**

The proposal includes the provision of 22 car parking spaces (inclusive of 2 disabled spaces) and provides two waiting bays for the drive through take-away food and drink premises and queuing for 10 vehicles within the drive-through facility.

**Vehicle Access**

It is proposed to amend the three existing driveways to the site to be replaced by a single access point and a separated egress driveway to and from Newbridge Road. The internal layout of the site will allow cars and trucks to enter the site and circulate before existing in a forward direction onto Newbridge Road.

**Landscaping**

The development will include the removal of some existing vegetation with the provision of additional planting. A landscape plan has been supplied for the proposed use, proposing a mix of vegetation incorporating a variety of shrubs, bushes and trees.

**Signage**

Signage detail has only been provided for the BP Service Station which is shown in Figures 5 & 7 below. The signage for the drive through fast food outlet and the separate restaurant/retail buildings are to be assessed separately when tenants for these buildings are known.

The development is shown the following excerpts of the submitted plans

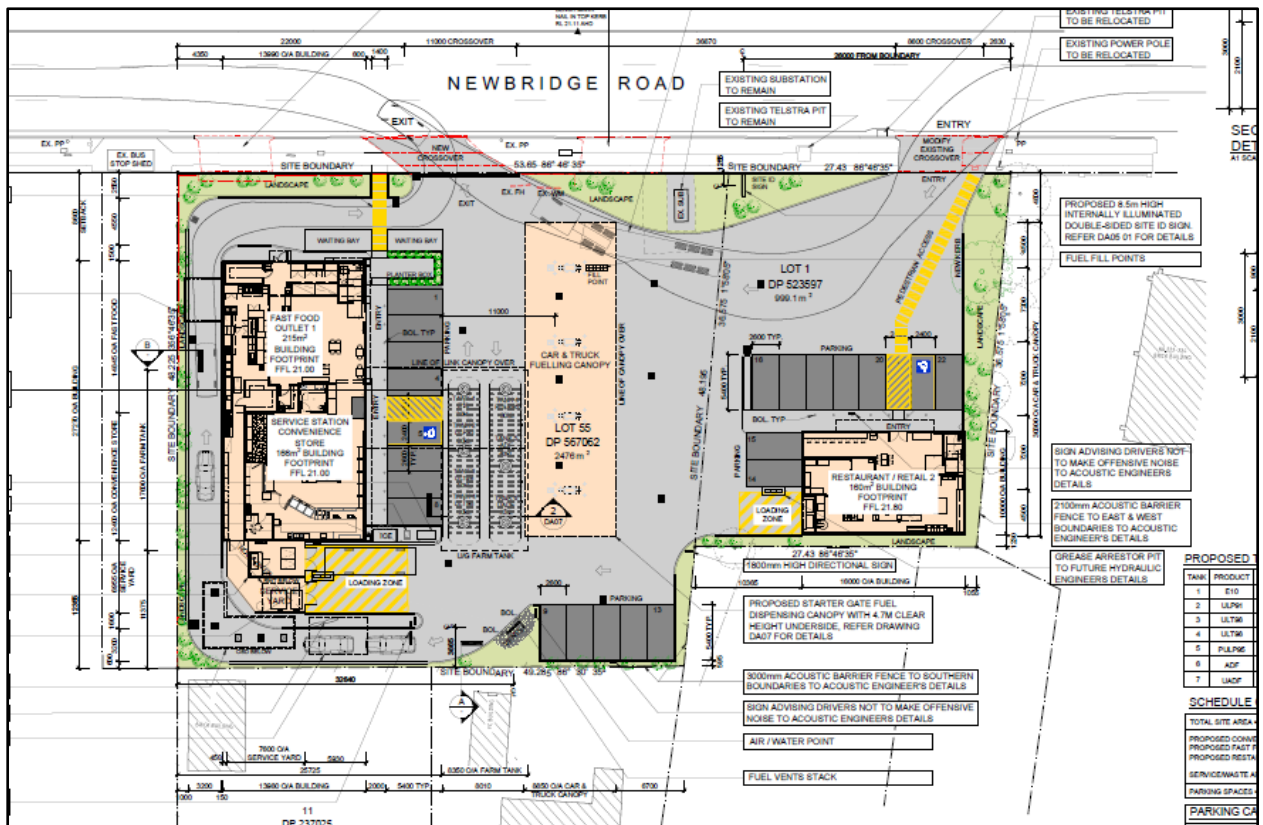
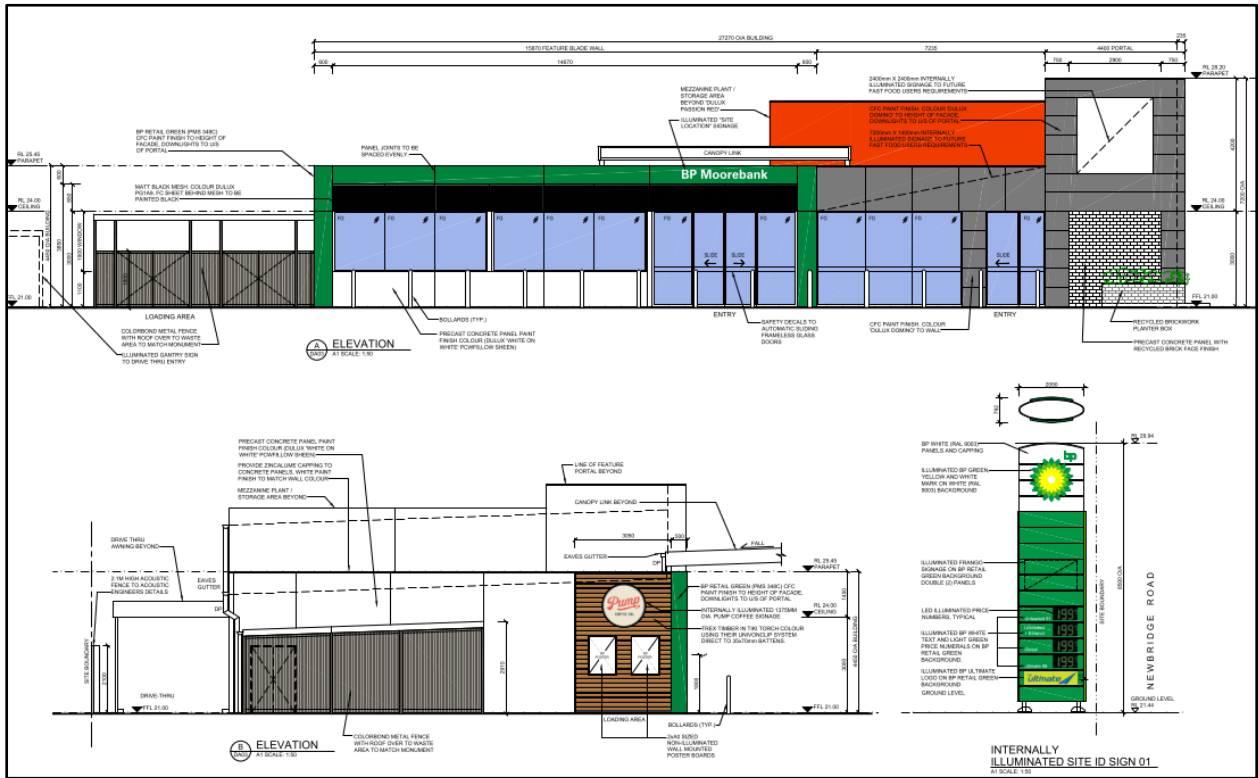


Figure 4: Proposed site layout

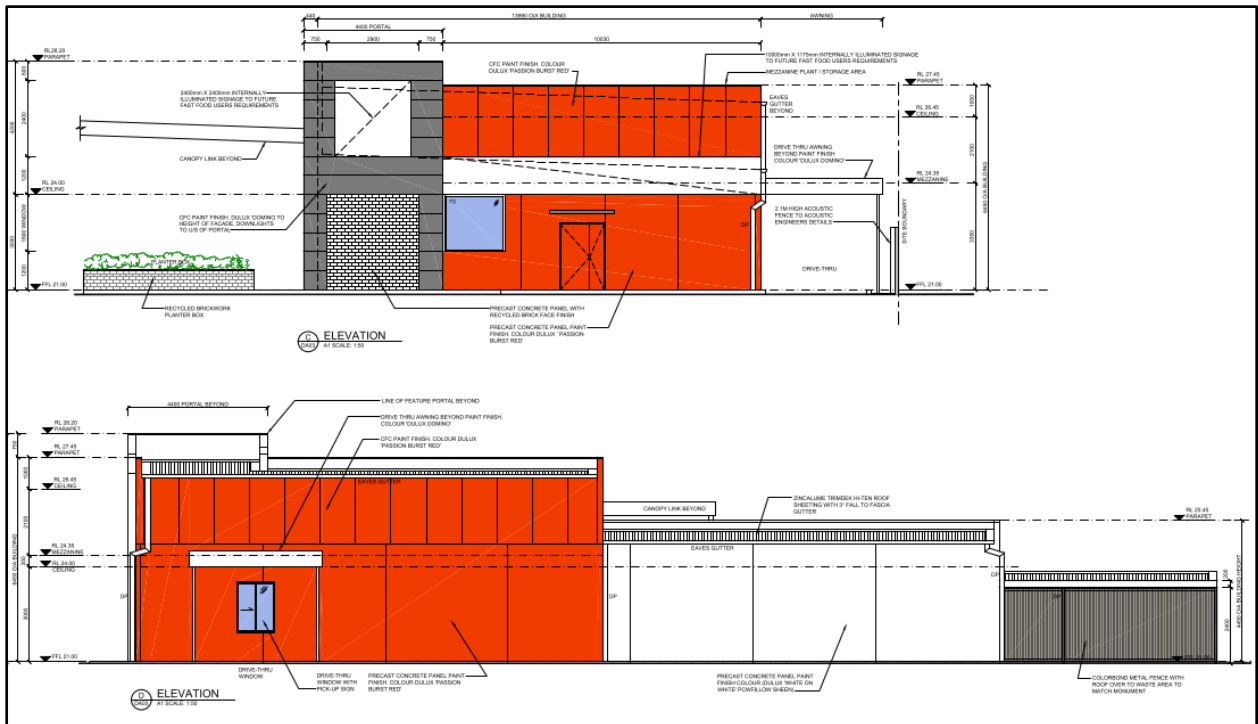
# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022



**Figure 5:** Elevations of the service station building viewed internally (top) and from the rear (bottom)



**Figure 6:** Elevations of the service station building viewed from the street (top) and public reserve (bottom)

LIVERPOOL CITY COUNCIL  
 LOCAL PLANNING PANEL REPORT

31 October 2022

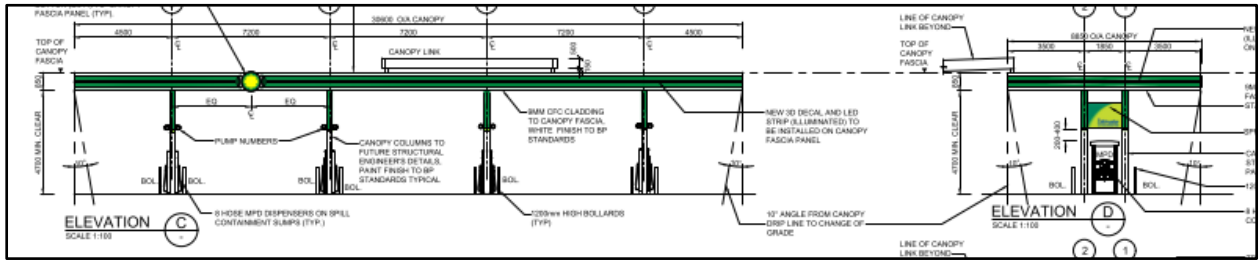


Figure 7: excerpt of fuel canopy of the development showing the extent of the signage

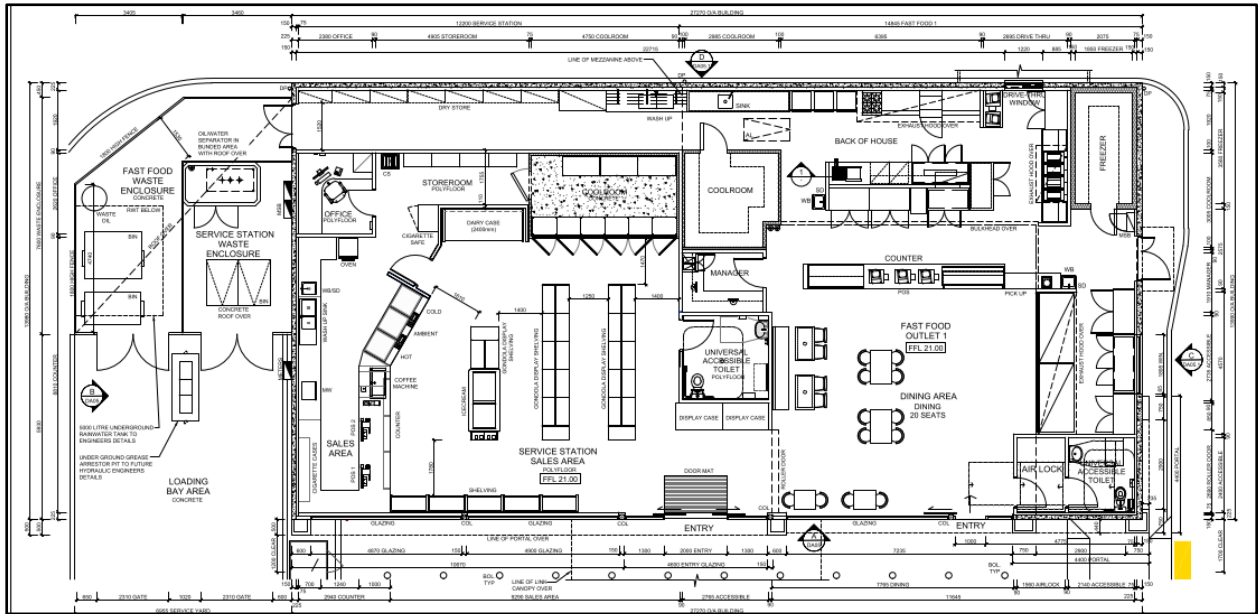


Figure 8: Floor plan of service station and fast food outlet

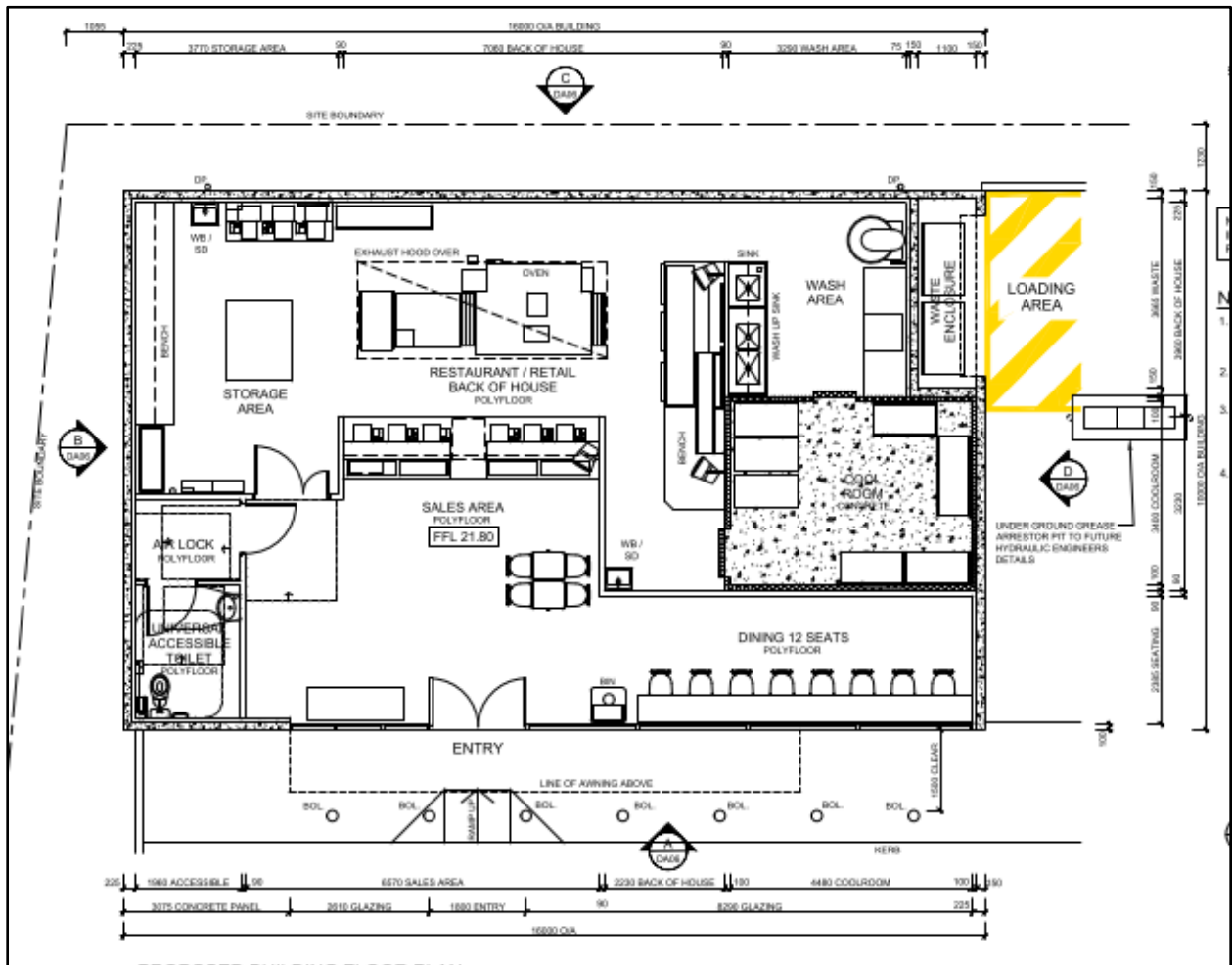


Figure 9: Floor plan of proposed separate restaurant.

**Hours of Trade**

The application is seeking that the site operations for the development including the fast-food outlets are to be 24hours a day 7 days a week. It was considered appropriate that on top of the measures included in the submitted acoustic report that the proposal should be referred to the NSW police. The NSW police referral response did not object to the development instead requesting conditions of consent to provide closed circuit TV monitoring of the site. Notwithstanding these comments, it is considered prudent that the development is approved with the proposed hours of operation to be approved on a twelve-month trial basis with the application reverting to 12.00am closure 6:00 am opening if it cannot be demonstrated that the use of the site is not detrimental to the surrounding residential receivers.

**Number of Staff**

It is proposed that the service station will be operated by between 3 & 5 employees during daylight hours and by one person after hours and non-peak periods.

Both the Fast-Food facility and the Restaurant/Retail will be operated by between 4 & 6 staff each during daylight periods with 3 to 4 after hours and non-peak times

## 5. STATUTORY CONSIDERATIONS

### 5.1 Relevant matters for consideration

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

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Liverpool Local Environmental Plan 2008;
- Liverpool Development Control Plan 2008;
  - Part 1: General Controls for All Development; and
  - Part 6: Development in Business Areas

#### Contributions Plans

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

## 6. ASSESSMENT

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

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

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

#### Chapter 3 Hazardous and offensive development

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 3 – Hazardous and Offensive Development (Chapter 3) presents a merit based approach to planning and assessing proposals for potentially hazardous and offensive development for the purpose of industry or storage. Chapter ensures that only those proposals which are suitably located, and able to demonstrate that they can be built and operated within an adequate level of safety and pollution control, can proceed.

#### ***3.11 The application was accompanied by a preliminary hazard analysis.***

As such, the analysis proposes that the proposed use may fall within the definition of potentially hazardous industry under Chapter 3, the relevant clauses of the SEPP must be considered. The relevant provisions of SEPP are as follows;

#### ***3.12 Matters for consideration by consent authorities***

*In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):*

- (a) *current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*

**Comment:** The proposal has been considered against the current Department of Planning's



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*Hazardous and Offensive Development Application Guidelines – Applying SEPP 33, and the Department of Planning’s Hazardous Industry Planning Advisory Paper No.6 “Guidelines for Hazardous Analysis” which are still current despite the change in the title of the SEPP.*

*(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*

**Comment:** There is considered to be no relevant public authority that will need to be contacted regarding this development proposal.

*(c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*

**Comment:** The applicant has provided a discussion relating to whether or not the development is considered as potential hazardous industry. This is shown in excerpts below from the applicants Preliminary Hazard Analysis which forms part of the supporting documents for the development.

*The proposed work involves installation of 2 x new 110kl compartmented underground fibreglass fuel storage tanks, new fill box & vent pipes and associated pipework, new concrete pavement to forecourt area and new 8 hose multi product fuel dispensers.*

*Details of the site layout including underground tanks can be found on the drawings accompanying the Development Application.*

*New Tanks to be Installed (2 x 110kl / double walled compartmented fibreglass u/g tanks)*

- Tank 1 - 30kl capacity - E10
- Tank 2 - 30kl capacity - ULP
- Tank 3 - 10kl capacity - ULT 98
- Tank 4 - 40kl capacity - ULT 98
- Tank 5 - 30kl capacity - PULP
- Tank 6 - 40kl capacity - ADF
- Tank 7 - 40kl capacity - UADF

*For calculation of product weight;*

- Petrol, 737kg per 1000 litres
- Diesel, 875kg per 1000 litres

*In accordance with SEPP 33 Screening thresholds, total motor spirit fuel storage capacity is 220,000 litres, as the fuel storage is located underground the screening capacity can be divided by five (5). The revised screening capacity is therefore considered to be 44.0kL or based on weight,*

*Based on the above the total weight of Flammable / Combustible products stored on site to be assessed is 34.636 tonnes.*

#### Location

*The site is described as 226-228 Newbridge Road, Moorebank NSW 2170 (Lot 55 DP 567062, Lot 1 DP 523597) and it is surrounded by; some residential properties to the West separated by Regan Park. North of the site is Newbridge Road, across the road are residential properties. East of the site is a commercial property. South of the property are residential properties.*

- *The nearest property boundary is located approximately 11.25m from the tank farm (52 Lucas Avenue).*
- *The nearest road boundary is located approximately 19.25m from the tank farm (Newbridge Road).*

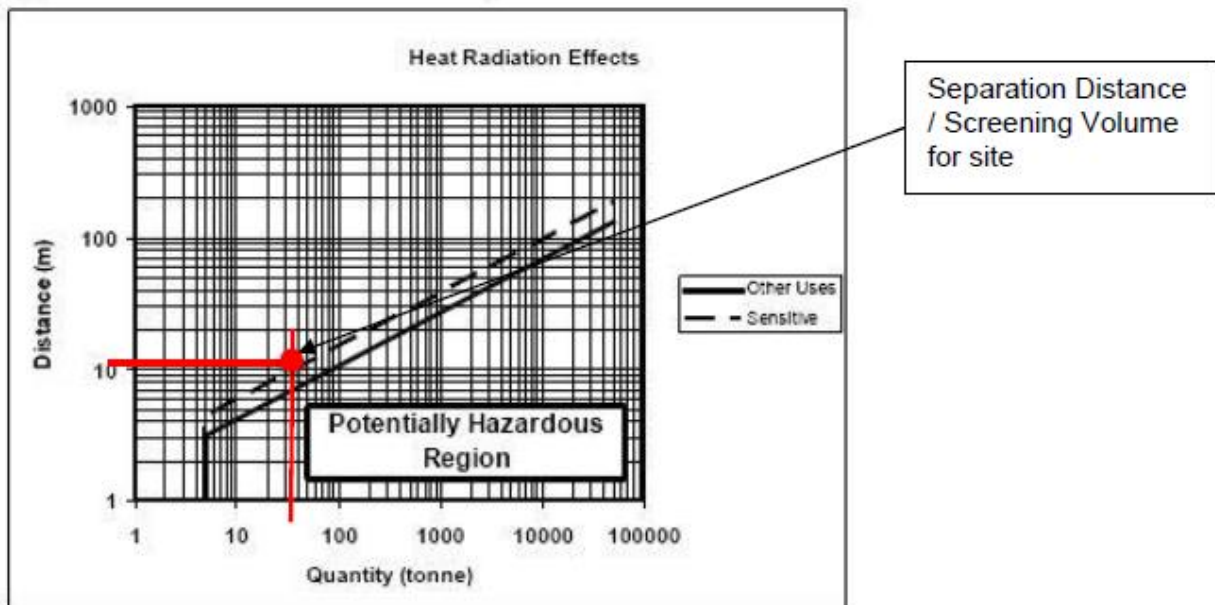
- The nearest property boundary (54 Lucas Avenue) is located approximately 12.73m from the nearest Motor Spirit dispenser.
- The nearest road boundary (Newbridge Road) is located 9m from the nearest Motor Spirit fuelling dispenser.
- The tanker unloading point is located 28.23m from the nearest property boundary (54 Lucas Avenue).

In accordance with Threshold Screening Method as defined in the document "Applying SEPP 33" Figure 9, for a screening weight of **34.636 tonnes** the minimum separation distance from the closest product dispenser to the nearest property boundary is **10.2m**.

This dispenser falls just outside the required separation distances as defined in the following table, we therefore believe that the proposed works are not considered to be potentially hazardous. Notwithstanding this we provide the following detailed analysis and supplementary detail in support of this application.

This qualitative analysis will indicate that there will be no major off site consequences and the risk to society is negligible, it all so provides details of technical and management safeguards are well understood and can be readily implemented.

Figure 9: Class 3PGII and 3PGIII Flammable Liquids



#### Transport Screening

The document "Applying SEPP 33" table 2 indicates that the development may be potentially hazardous if the number of generated traffic movements carrying significant quantities of hazardous materials are above the annual or weekly threshold.

For Class 3 PG II products (motor spirit) the screening value is an annual figure of 750, As we believe the proposed development will require a maximum of 3 weekly motor spirit fuel deliveries per week (150 annual). It is clear that the development falls well below both the weekly and annual threshold figures.

#### Risk Classification

In accordance with the results of the screening threshold as determined above, and the fact that the facility does marginally exceed the screening threshold, the tables below will determine the level of further assessment required:

- Figure 11 " Multi Level Risk Assessment Approach" - Applying SEPP 33
- Table 4 " Levels of Analysis and Assessment" - Applying SEPP 33

Hazardous Substances

The proposed hazardous material storage is Motor Spirit with a dangerous Goods (DG) Classification 3 Packaging Group 11 and Diesel Fuel with a D.G. Classification 3 Packaging Group C1.

Maximum Distance and Area of Effect:

From IAEA Table III, we get the following: For Petrol  
Maximum Distance = 25 - 50 m  
Area of Effect, A = 0.4 ha

Population Density

Using a land use methodology for 50m radius around the new underground fuel tanks location (50m radius is very close to 1 hectares (ha)), we can estimate the number of people within the above region at any one time.

Other site considerations are:

The property at present is surrounded by residential properties, in accordance with IAEA table IV we have based the population density of those surrounding areas as being a density of 10 persons per ha based on the following;

A 57m radius (1ha area) encompasses an area including the site, is developed with a combination of residential uses. All these uses represent medium intensity uses with transient vehicle movements in and out of the assessment zone.

Note that IAEA table V: population density of document 'Multi Level Risk Assessment' Indicates the following densities;

- Farmland, Scattered houses - 5 persons/ha
- Individual Dwellings - 10 persons/ha
- Village, Quiet Residential - 20 persons/ha
- Residential - 40 persons/ha
- Busy Residential Area - 80 persons/ha
- Urban Area,  
Shopping Centres,  
Centres of City - 160 persons/ha

In light of no available data from Council in relation to actual population densities in this location we believe that an assumption of **10 person** per ha is accurate for this location.

Effect area and distances are determined using IAEA table III  
For petrol = a distance of 50m with an area of 0.4ha

Population Correction factor:

The Population Correction Factor is to determine what percentage of the area within a 50 m radius from the site is populated, therefore: using formula for area;  
 $A = \pi \times R^2$

Total Area considered = 7850 sq.m (50m radius area)  
Site area = 3475.1 sq.m  
Population correction factor = fa

$fa = (\text{total effected area} - \text{site area}) / \text{total area}$

$$fa = (7850 - 3475.1) / 7850$$

$$= 0.557$$

Mitigation Correction Factor

From IAEA Table VIII, Correction factor for mitigation,  $fm = 1$

Estimate of External Consequences

To identify the extent of external consequences the formulae  
 $C(a,s) = A \times d \times fa \times fm$  is applicable

$A$  = Population density within Affected area

$D$  = Population Density (people per Ha)

$Fa$  = Area Correction

$Fm$  = Correction for mitigation (in this case flammable liquids)

For this development

$$C(as) = 0.4 \times 10 \times 0.557 \times 1.0$$

$$= 2.228 \text{ fatalities per accident}$$

Probability Numbers

The probability number is given by the formula:

$$N(is) = N^*(is) + nl + nf + no + np$$

The average probability number  $N^*(is)$  for underground fuel storage is = 7

Correction Factor for:

Loading,  $nl = -1$  (Refer IAEA Table X)

Flammables,  $nf = 0$  (Refer IAEA Table XI)

Organizational Safety,  $no = 0$  (Refer IAEA Table XII)

Wind Direction,  $np = 0$  (Refer IAEA Table XIII)

Based on IAEA table XIV for Fuel conversion of probability number

$$N(is) = 7 + (-1) + 0 + 0$$

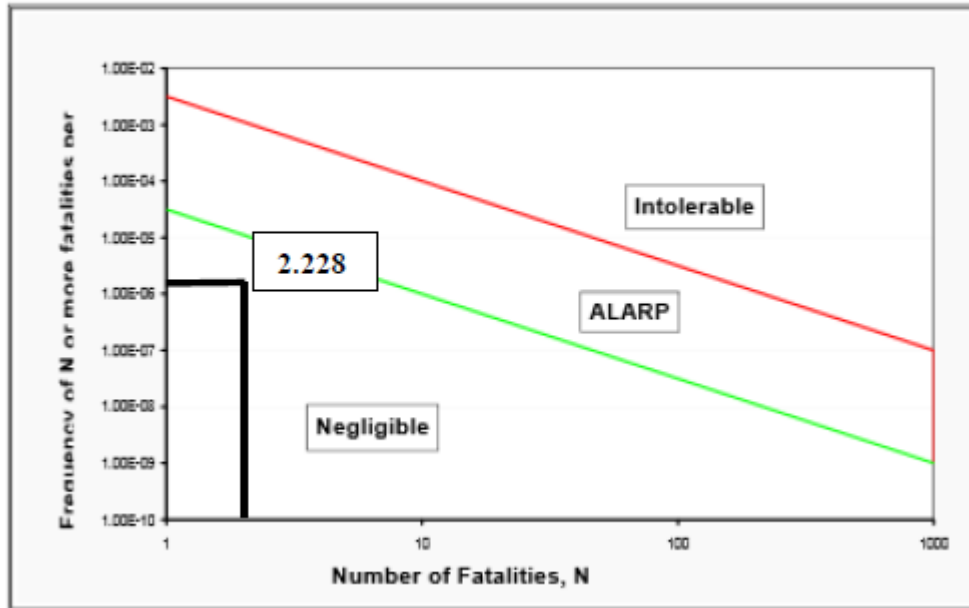
$$N(is) = 6$$

And converting Probability Numbers into Frequency of Events per year, (Refer IAEA Table XII):

$$P = 1 \times 10^6$$

Level of Risk

Figure 6: Indicative Societal Risk Criteria



By intersecting frequency with consequence **2.228** in graph above, it can be seen that the risk to society from the proposed development falls within the negligible area, all possible measures shall be taken during design, construction and operation to ensure that the level of risk remains as low as possible.

Summary and Conclusion

In accordance with the document 'applying SEPP 33' a level 1, qualitative assessment has been undertaken, this is due to the fact that risks are shown not to pose a significant risk and risks can be managed by design, construction and ongoing operations;

The implementation of many safe guards in compliance with the various applicable Legislative requirements, Australian Standards as previously outlined, the SafeWork NSW requirements, self-regulating industry standards, the high level of operational and safety education of tanker drivers and site staff together with general good business and management standards required by the industry, all act to ensure there is no significant risk to the locality as a consequence of the new proposed motor spirit storage.

The installation and operation of the Motor Spirit facility will be strictly in accordance with AS/NZSD 1940 (latest edition). The site operators and tanker drivers will be highly trained personnel and this preliminary hazard analysis indicates that the safeguards to be incorporated into this automotive retail facility will minimise any potential hazards.

Given the above findings, it is considered that the requirements of Chapter 3 have been adequately addressed and satisfied as part of the proposed development. The assessment is considered satisfactory as the size and location of the underground storage tanks fall below the screening threshold. Thus, the development is not considered to be classified as "hazardous" "potentially hazardous" or "offensive" or "potentially offensive" under the provisions of Clause 3.1 of Chapter 3 – Hazardous and Offensive Development, and a preliminary hazard analysis required.

(d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible

*alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*

**Comment:** The subject site is considered suitable for the proposed development. It is located within a predominately residential and business zoned area, adjacent to a public reserve. In addition, the zone encourages the use of service stations along Newbridge Road.

*(e) any likely future use of the land surrounding the development.*

**Comment:** The future use of the land surrounding the development is zoned for residential uses and apart from the public reserve along the western boundary to the site.

Having regard to the above findings it is considered that the proposed development satisfies the requirements of Chapter 3 and no further assessment is required. Notwithstanding, conditions of consent will be applied to ensure the use and storage of materials is carried out appropriately.

#### Chapter 4 Remediation of land

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

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.

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The application was referred to Council's Environmental Health Section who did not object to the development providing conditions for consent.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The sites are suitable for the future residential use of the land.

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The site is not required to be further remediated. This aspect was looked at by Council's Environmental Health Section who have found no issues with the proposal. A standard condition of consent will be included for potential unexpected finds.
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The proposal has provided satisfactory information to demonstrate that the site is suitable for residential use and is in accordance with SEPP (Resilience and Hazards).

**(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.
Clause 11.7 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No bank disturbance is proposed.
(3) Flooding	The site is not 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 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 (Resilience and Hazards) 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 (Industry and Employment) 2021;**

As part of the development application, one sign is to be placed to the frontage of the service station building, with one illuminated logo on the three façades of the canopy facing the road, and branding to each bowser, with one internally lit 8.5m high business identification pylon sign located at the frontage of the site between the two driveways as seen in Figure 4. It is noted that the signage for the two fast food outlets have not been provided or assessed and will be subject to separate subsequent approvals.

As such the proposal has been assessed having regard to the objectives and provisions of SEPP (Industry and Employment) 2021. An assessment pursuant to the objectives and Schedule 5 – Assessment Criteria is provided in the following compliance table:

REQUIREMENT	COMMENT
<b>Objectives</b>	
Consistency with the objectives of	The proposed signage is considered



<p>Chapter 3 as set out in clause 3 (1)(a):</p> <p>(a) to ensure that signage (including advertising):</p> <p>(i) is compatible with the desired amenity and visual character of an area, and</p> <p>(ii) provides effective communication in suitable locations, and</p> <p>(iii) is of high quality design and finish.</p>	<p>to be compatible with the amenity of the surrounding area along Newbridge Road and would effectively communicate both the branding and services provided at the site. It is considered that the proposed signage is of a high quality design and finish.</p>
<p><b>Character of the area</b></p>	
<p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The proposed signage is considered to be compatible with the desired character of the Enterprise Corridor zone.</p>
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>While there is no identified advertising theme for the vicinity, the proposal is consistent with other advertising in the area, particularly the existing signage along Newbridge Road for similar developments.</p>
<p><b>Special Areas</b></p>	
<p>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>There are no identified special areas such as environmentally sensitive areas, heritage area or natural or other conservation areas water ways or rural areas in the vicinity.</p> <p>The proposal is of similar scale to residential development in the vicinity which is separated from the development by open space public reserve to the west of the site. The proposed signage to the service station is low key which the signage to the fast food outlets to be approved under a separate application.</p>
<p><b>Views and Vistas</b></p>	
<p>Does the proposal obscure or compromise important views?</p>	<p>The proposed signage does not compromise any important views</p>
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	<p>The proposed signage does not dominate the skyline or reduce quality of vistas.</p>

Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not obscure signage on neighbouring sites.
<b>Streetscape, setting or landscape</b>	
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage contributes to the visual interest of the streetscape.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal is a new development replacing the existing business on the site. The proposed signage is considered to be simple and clean in appearance.
Does the proposal screen unsightliness?	No
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage on the service station do not significantly protrude above the canopy. Signage to the two retail outlets are to parapets are subject of subsequent approvals.
Does the proposal require ongoing vegetation management?	The proposed signage does not require ongoing vegetation management.
<b>Site and building</b>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is considered to be compatible with the scale, proportion and other characteristics of the building.
Does the proposal respect important features of the site or building, or both?	The proposed signage is considered to be respectful of the proposed built form.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is standard for the type of development.
<b>Associated devices and logos with advertisements and advertising structures</b>	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Not relevant
<b>Illumination</b>	
Would illumination result in unacceptable glare?	The design includes green neon lights to the façade and illuminated logos however there are conditions to limit impact to receivers of any glare produced by the signage.
Would illumination affect safety for	No

pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	No
Can the intensity of the illumination be adjusted, if necessary?	No.
Is the illumination subject to a curfew?	No.
<b>Safety</b>	
Would the proposal reduce the safety for any public road?	It is considered that the proposal would not reduce the safety for any public road.
Would the proposal reduce the safety for pedestrians or bicyclists?	It is considered that the proposal would not reduce the safety for pedestrians or bicyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	It is considered that the proposed signage will not obscure sightlines from public areas.

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

The subject site has a frontage to a classified road, being the Newbridge Road, therefore the provisions of the Infrastructure State Environmental Planning Policy (Transport and Infrastructure) 2021 are to be considered.

Considerations	Comments
<b>2.119 Development with frontage to classified road</b>	
<p>The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:</p> <p>Where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</p> <p>The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</p> <p>(i) the design of the vehicular access to the land, or</p> <p>(ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</p> <p>The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p>	<p><b>Complies.</b></p> <p>The development proposes vehicular access to the land via Newbridge Road. The amended proposal was referred to Transport for NSW. Transport for NSW has reviewed the submitted plans and has no objections to the proposal, subject to the imposition of conditions of consent. Therefore, it is likely that the proposed development would provide safety, and efficiency for the ongoing operation of the classified road and would not be adversely affected by the development.</p>

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

**(i) Zoning**

The subject sites are all zoned B6 – Enterprise Corridor in accordance with the Liverpool Local

Environmental Plan 2008. An extract of the zoning map is provided below.

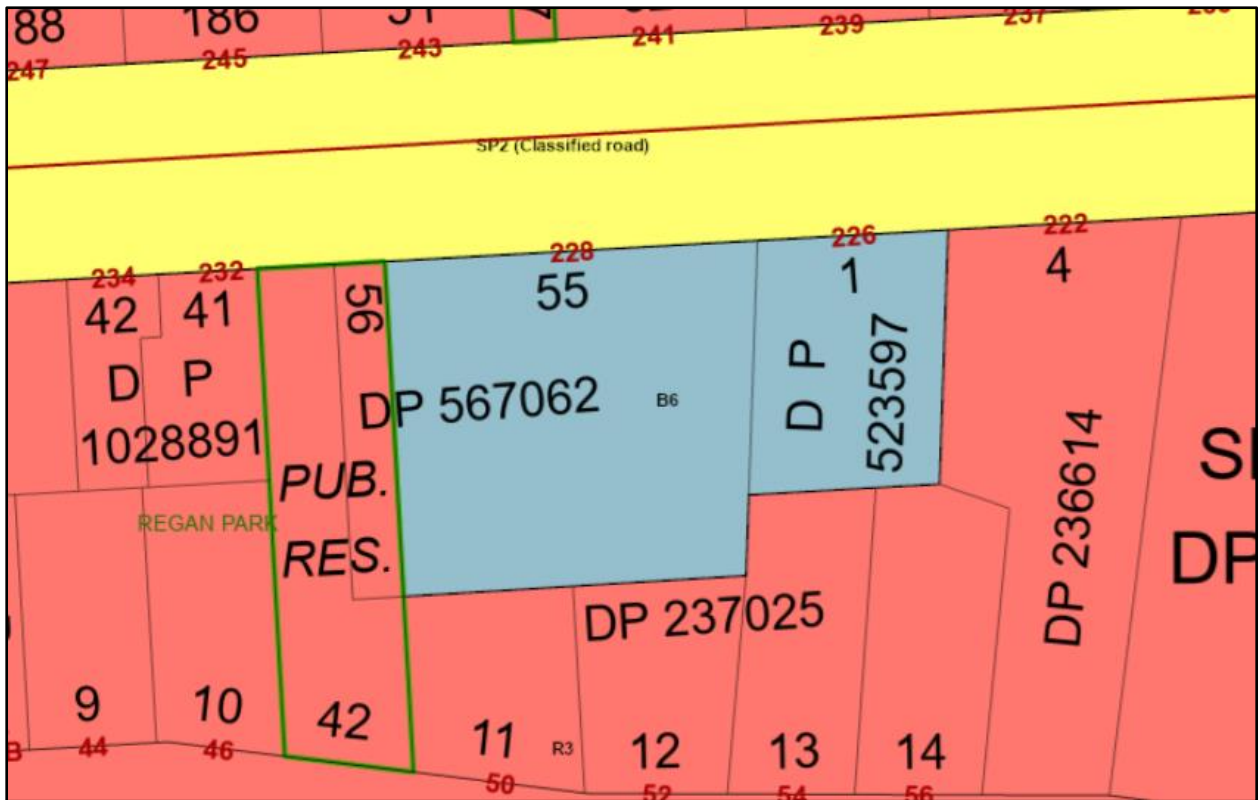


Figure 10 – Extract of LLEP 2008 zoning map

**(ii) Permissibility**

The development is categorised as a service station and a food & drink premises which are permissible in the B6 Enterprise Corridor pursuant to the Liverpool Local Environmental Plan 2008.

Food and drink premises are a type of retail premises which are a type of commercial premises which are permitted in the B6 zone

*service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following—*

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

*food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—*

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,

(d) a small bar.

### (iii) Objectives of the zone

The objectives of the B6 zone are as follows:

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

It is considered that the proposal is consistent with these zone objectives in the fact that it will provide additional service station and food premises choices and employment opportunities to the surrounding community.

### (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	Provision	Comment	Complies
<b>Clause 2.6 Subdivision</b>	Land to which this Plan (LLEP 2008) applies may be subdivided with development consent.	Consolidation of lots to be conditioned.	N/A
<b>Clause 4.1 Minimum Subdivision Lot Size</b>	The development site is identified as having a minimum subdivision lot size of 2000m <sup>2</sup>	Consolidated lots to exceed minimum lot size.	Complies
<b>Clause 4.3 Height of Buildings</b>	The development site is identified as having a maximum building height of 8.5m.	The proposed structures on the site have a maximum height above NGL of 8.5m (the pylon sign) The maximum height of building for the buildings is 7.20m which is located at the front of the site.	Complies
<b>Clause 4.4 Floor Space Ratio</b>	The development site has a floor space ration of 0.5:1	The proposed structures on the site have a floor area of 541sqm on the 3,475.1sqm site given a floor space ratio of 0.1556:1	Complies
<b>Clause 6.5 Public Utility</b>	Public utility infrastructure must be available	Public utilities are available to the site	Complies by

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

Clause	Provision	Comment	Complies
<b>Infrastructure</b>			condition.
<b>7.22 Development in Zone B6</b>	<p>(1)(a) to maintain opportunities for business and retail types that are suited to high exposure locations while ensuring the that centres remain the focus for business and retail activity</p> <p>(5) Development consent must not be granted to development that would result in total gross floor area of all retail premises (other than garden centres, hardware and building supplies, landscaping material supplies or vehicle sales or hire premises) in a single building being more than 8,000 square metres.</p> <p>(6) Development consent must not be granted for development for the purposes of a building on land to which this clause applies that is within 50 metres of a classified road unless the consent authority is satisfied that the ground floor of the building will have at least one entrance and at least one other door or window on the front of the building facing a street other than a service lane.</p>	<p>The proposed service station and ancillary food premises are suited to the high exposure location.</p> <p>The proposed floor area of the development is 541sqm</p> <p>The development faces onto Newbridge Road with no service lane accessing the site. The ground floor of the buildings have one entrance and one door or window on the front of the building facing western most building facing Newbridge Road, which is not considered to sufficient to provide active uses at street level to encourage the presence and movement of people.</p> <p>A condition of consent is proposed to redesign the layout of Fast Food Outlet 1 to relocate the dining area along the northern elevation, with windows for the length of this dining area.</p>	<p>Complies</p> <p>Complies</p> <p>Complies by condition</p>
<b>7.23 Specialised retail</b>	(1) Development consent must not be granted to development for the	The total gross floor area is 541sqm	Complies

Clause	Provision	Comment	Complies
<b>premises in Zone B6</b>	<p>purposes of specialised retail premises on land in Zone B6 Enterprise Corridor if the gross floor area of the specialised retail premises is more than 2,500 square metres.</p> <p>(2) Development consent must not be granted to development for the purposes of retail premises on land in Zone B6 Enterprise Corridor if the gross floor area of the retail premises is more than 1,600 square metres.</p>		

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

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

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

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

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

- Part 1 of the LDCP 2008, which covers general controls relating to all types of development within the Liverpool LGA;
- Part 6 of the LDCP 2008 for Development in Business Areas

The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008, except for Part 6 – Section in relation to Site frontage and setbacks. The justification of these variations is discussed in the following table and are considered to be supportable.

<b>LDCP 2008 - Part 6 Development in Business Areas</b>			
Development Control	Provision	Comment	Complies
<p>2. SUBDIVISION, FRONTAGE AND ALLOTMENT SIZE</p> <p><i>1. Development shall not be permitted for a new building (other than</i></p>	The development site has a frontage of 81.0m	The development site has a frontage to a Classified Road (Newbridge Road) of 81.0m. This is a shortfall of 9m or 10% of the control. This variation to the DCP control is supported in this	Considered Acceptable

<p><i>a maximum 10% addition to an existing structure) in the B6 zone unless the site has a frontage width to the classified road of at least:</i></p> <ul style="list-style-type: none"> <li>- 30 m, where the site also has frontage to a local street that intersects with and would permit access to and from the classified road: or</li> <li>- 90m otherwise.</li> </ul> <p><i>2. Development for a new building (other than a maximum 10% addition to an existing structure) in the B6 zone must not leave adjacent land such that it cannot achieve either:</i></p> <ul style="list-style-type: none"> <li>- A site frontage with of at least 30m (where the site also has frontage to a local street that intersects with and would permit access to and from the Classified road): or</li> <li>- 90m otherwise.</li> </ul>		<p>instance for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed development is developing the whole of the portion of B6 zoning so cannot acquire further B6 zoned land to achieve the control.</li> <li>• The proposal does not leave land in the B6 zone isolated.</li> <li>• The application was referred to Transport for NSW who do not object to the development in terms of access to the site.</li> <li>• Swept path diagrams show how the site can be serviced by the largest vehicle.</li> </ul>	
<p><b>4. SETBACKS</b> <i>Rear setback</i></p> <ul style="list-style-type: none"> <li>1. 5m for non-residential component of building up to 10m high.</li> </ul>	<p>The rear setback is 1.23m</p>	<p>The rear setback of Restaurant/Retail 2 building has a rear setback of 1.23m. It is considered that this variation is supportable in this instance for the following reasons:</p> <ul style="list-style-type: none"> <li>•The building at this location is single storey with a height of approximately 3.5m so would have minimal overshadowing impacts.</li> <li>• It is noted that this facade has no windows facing the rear so will have no visual privacy impacts.</li> <li>• It is observed that this is a similar setback to the buildings already on the site. Furthermore, the development includes</li> </ul>	<p>Considered Acceptable</p>



		acoustic fencing which will reduce any visual impact of the building.	
4. Setbacks Front Setback  <i>Other Locations 15m</i>	The proposed front setback is 8.6m	The front setback to the fast-food outlet on the western side of the development 8.6m from the front boundary. This building is 14m wide in the 81m frontage to Newbridge Road so is considered a minor encroachment. It is noted that this setback is consistent and more harmonious with the 7m setback required for residential developments fronting classified roads, so is in keeping with the general desired streetscape of the immediate locality.  It is noted that a condition is recommended to be imposed to increase the activation of the built form from Newbridge Road. This is considered to assist in reducing the bulk of the development to the streetscape.	Considered Acceptable

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

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

There are no Planning Agreements which apply to the development.

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

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

**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.

**(b) Built Environment**

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

**(c) Social Impacts and Economic Impacts**

The proposed subdivision would result in a positive economic impact in the locality through the capital investment value of the development and the resulting employment opportunities and is unlikely to generate any identifiable detrimental social impacts. Appropriate conditions will also be imposed to alleviate any potential social impacts of the development on the surrounding locality, for example the use of a trial period of the 24 hour operation of the site.

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

The proposal generally complies with the relevant planning controls and provisions that are applicable to development in the locality. It is therefore considered that the site is suitable for the proposed development.

**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
Environment Health	Supported, subject to conditions of consent
Building	Supported, subject to conditions of consent
Fire Safety	No Objection to the development
Traffic Management	Supported, subject to conditions of consent and TfNSW comments
Economic Development	Supported.

**(b) External Referrals**

AGENCY	COMMENTS
Transport for NSW	No objection, subject to conditions of consent
NSW Police	No objection subject to comments

**(c) Community Consultation**

The proposal was required to be notified in accordance with Liverpool Community Participation Plan 2019 between 10 March 2021 and 23 March 2021 and again between 25 August 2021 and 7 September 2021. Eleven submissions were received in response to the public consultation process objecting to the proposal.

The key issues raised in the submissions relate to:

- Health Issues from exposure to gasoline and hazardous materials, whether in liquid or vapor form;
- Contamination: Underground storage fuel tank leaks;
- Noise;
- Safety and Security;
- Fires and explosions risk from gas leaks/petrol;
- Privacy;
- Odour from Petrol Fumes, Waste Storage Areas and Fast Food Cooking;
- Traffic;
- Lighting;
- Proximity To Other Service Stations and Fast Food Restaurants;
- Overdevelopment of the site;
- Devaluation of surrounding property and;
- Waste

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

**Issue 1: Health Issues from exposure to gasoline and hazardous materials, whether in liquid or vapor form**

The consent will be conditioned to require that the use of the premises shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities that are a nuisance, injurious or prejudicial to health. Additionally, the operator of the site will need to follow the relevant legislation and industry standards including gas recovery devices.

The development is required to comply with the relevant statutory design, construction and operational controls to minimise such impacts. It is also noted that no servicing of vehicles will occur on the site.

**Issue 2: Contamination: Underground storage fuel tank leaks**

The design and operation of the underground tanks and connecting pipes permit them to be monitored to detect such leaks into groundwater and the staff are trained to handle such occurrences. Furthermore, Council's Environmental Health officer has assessed the proposal and associated contamination matters and have raised no objections to the development, subject to conditions of consent.

**Issue 3: Noise**

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

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

While noise associated with the site is likely to increase given the intensification of the site, it is considered to be commensurate with the B6 zoning of the site. With regards to the above, the

development is considered unlikely to cause unreasonable acoustic privacy impacts within the locality.

**Issue 4: Safety and Security**

The proposal incorporates security measures which provide security to enter the proposed buildings. The development will have back to base security alarm systems as well as CCTV cameras for external and internal areas of the site, with back to base monitoring.

Regarding crime occurring on the site, any matters are to be reported to NSW Police. Crime can occur with any use and there is no evidence to suggest that the proposed use would be used for criminal activity. Any complaints regarding people throwing items over fences, littering or other complaints are to be taken up with the management of the development or Council's compliance section to investigate.

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

**Issue 5: Fires and explosions risk from gas leaks/petrol.**

The chance of fires and explosions is minimised by the measures that are proposed to be implemented by the developer to ensure the safety of staff and customers and therefore adjoining properties. A forecourt management plan will be required as a condition of consent to minimise operational risks and to inform staff of the procedures and requirements of the development.

**Issue 6: Privacy**

The proposed rear setback of the proposed restaurant/retail building would be a minimum of 1.23m at the ground floor level. This is considered acceptable as the applicant is considered to have satisfactorily demonstrated that the proposed development would not generate any unreasonable impacts on adjoining properties in terms of overshadowing, privacy or amenity issues. While the rear setback of the proposed restaurant/retail building does not comply with Council's numerical setback controls, the proposed restaurant/retail building is considered unlikely to cause any unreasonable visual privacy intrusions to adjoining neighbours due to no windows proposed to the rear. Furthermore, adequate visual privacy is maintained due to boundary fencing 2.1 to 3.0m in height screening a large portion of the development site.

**Issue 7: Odour from Petrol Fumes, Waste Storage Areas and Fast Food Cooking**

The services station will need to abide by statutory controls and standards in terms of the emission of petrol fumes. The waste storage areas for the service station and fast-food outlet are contained within a fenced area that is under a roof which will reduce the level of odour to the bins particularly in summer. Waste storage for the separate restaurant is located within a sealed waste enclosure.

Furthermore, the application was accompanied by an odour report which was reviewed by Council's Environmental Health Officer who was supportive of the proposed development and has provided conditions of consent to minimise these potential impacts.

Additionally, odour emission from the subject site is considered to be mitigated through the use of the site and conditions of consent. A condition of consent has been applied to ensure the proposed development is not to cause offensive odour as defined by the Protection of the Environment Operations Act 1997. Council has the ability to investigate odour issues when they arise.

**Issue 8: Traffic**

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

**Issue 9: Lighting**

While light emissions associated with the development is likely to occur, it is considered to be typical with that generated by a commercial premise with ground level parking. Conditions of consent will be imposed which require compliance with the Australian Standards and will require that lighting is designed to the development to minimise the amount of light causing a nuisance to adjoining users.

**Issue 10: Proximity To Other Service Stations And Fast Food Restaurants**

The proposed development is a permissible form of development within a B6 – Enterprise Corridor Zone. As noted above, the proposal is generally consistent with the controls relating to this type of development.

**Issue 11: Overdevelopment of the site**

The development proposed a floor space ratio (FSR) that is within the maximum allowable FSR for the site, which in turn results in a development that is considered to be of an appropriate bulk and scale for the locality.

**Issue 12: Devaluation of surrounding property**

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

**Issue 13: Waste Management**

A number of waste management conditions of consent will be imposed on the development to minimise impacts pertaining to waste storage areas. This includes waste collection times which are will be conditioned to occur between 7am to 6pm Monday to Friday. It is noted that the bin store areas are located under a roof to reduce odour affects particularly in summer. Any complaints regarding people throwing items over fences, littering or other complaints are to be taken up with Council's compliance section to investigate.

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

The development is consistent with the objectives of the B6 Enterprise Corridor and is satisfactorily compliant with the relevant planning provisions and controls contained under the

LLEP 2008 and LDCP 2008. Where non-compliances have been identified, these have either been considered justifiable in the circumstances, or addressed by way of consent conditions. As such the proposal is within the public interest.

**7. DEVELOPMENT CONTRIBUTIONS**

A Section 7.12 Development Contribution is applicable to the proposed development in accordance with the Liverpool Contributions Plan 2018 (Established Areas).

A Special Infrastructure Contribution condition is not required.

**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 considered 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-14/2021 seeking approval for demolition of all existing structures and improvements, construction of a new service station development including sales and fast food building, separate restaurant facility, fuel dispensing canopy, 8.5m high pylon sign, underground tanks, signage, alteration of existing driveway crossovers & associated works with 24/7 trading time, be approved subject to conditions of consent.

**10. REPORT ATTACHMENTS**

- 1. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES
- 2. PLANS OF THE PROPOSAL
- 3. CONDITIONS OF APPROVAL WITH ASSOCIATED EXTERNAL COMMENTS AND 7.12. PAYMENT FORM

**REPORT ATTACHMENT 1: LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLES**

<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 2. Tree Preservation</b>	Controls relating to the preservation of trees	The sites do not include substantial vegetation in the form of trees.	Yes
<b>Section 3. Landscaping Incorporation of Existing Trees</b>	Controls relating to landscaping and the incorporation of existing trees.	A landscape plan was submitted with the application demonstrating vegetation and two 6m mature height trees to be planted.	Complies with conditions

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

<b>Section 4 Bushland and Fauna Habitat Preservation</b>	Controls relating to bushland and fauna habitat preservation	The site has been heavily modified in terms of bushland habitat. As such, further assessments on flora and fauna is not required.	Yes
<b>Section 5. Bush Fire Risk</b>	Controls relating to development on bushfire prone land.	The site is not mapped as being bushfire prone.	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.	Yes
<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.	The Application was supported by a document titled T. Simonetta & Co Pty Ltd Preliminary Site Investigation Lot 1 DP 523597 and Lot 55 DP 567062 226 and 228 Newbridge Road, Moorebank NSW, 61063-138101 (Rev 2) Aurora Environmental Consulting Pty Ltd prepared by JBS&G Australia Pty Ltd dated 16 <sup>th</sup> May 2022. The document now confirms that a detailed inspection was undertaken within accessible areas of the site to confirm the findings of the desktop assessment.	Complies

		<p>Section 3.2.1 and Appendix F of the report also verifies that searches were undertaken of the NSW EPA's contaminated land records held under Sections 58 and 60 of the <i>Contaminated Land Management Act 1997</i>. The report now identifies the nearest notified site located approximately 94 metres east (upgradient) of the proposed development site. Based upon their site history review, JBS&amp;G Australia Pty Ltd concluded that there is a low likelihood of significant site contamination when considering historical land use activities at the properties. The consultant recommended for an Unexpected Finds Protocol to be prepared for the proposed development.</p> <p>The document was reviewed by Matt Parkinson who is certified under the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) which complies with Council's lodgement requirements</p>	
<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. Demolition of Existing Development</b>	Provisions relating to demolition works	The application was reviewed by Council's Environmental Health section who recommended condition of consent to ensure compliance with AS	Complies



LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

<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 and the site has been heavily disturbed.	Yes
<b>Section 17. Heritage and Archaeological Sites</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.	N/A
<b>Section 20. Car Parking and Access</b>	<p>This section of the DCP specifies requirements in relation to vehicular access and car parking.</p> <p>Required</p> <p>Service Station 2 spaces per outlet = 2 1 space per 20sqm of any convenience store = 8.3 spaces</p> <p>Drive in food outlet 1 space per 6 seats plus queuing for ten cars = 3.3 spaces</p> <p>Restaurant Restaurant 1 space per 20sqm of LFA = 8</p> <p>Total required 21.6</p>	<p>Provided 22 spaces Including two disabled car parking spaces</p> <p>The carpark design has been reviewed by Councils Traffic Management engineers with no objection</p>	Complies
<b>Section 21. Subdivision of Land and Buildings</b>	The development site is identified as having a minimum subdivision lot size of 300sqm for 226 Newbridge Road and 2,000sqm for 228 Newbridge Road	Subdivision is not sought for the application. Additionally, a condition of the consent will require the amalgamation of the two sites prior to the issue of an occupation certificate.	Complies
<b>Section 22 and Section 23. Water Conservation and Energy Conservation</b>	All Class 5 to 9 non-residential developments are to comply with the Building Code of Australia energy efficiency provisions.	The buildings are required to comply with BCA by conditions of consent.	Complies by condition
<b>Section 25. Waste</b>	A waste management	The waste management	Complies

<p><b>Disposal and Re-use Facilities</b></p>	<p>plan shall be provided for</p>	<p>plan provided with the application shall be complied with as a condition of consent, including the fact that all waste is to be removed by a commercial contractor on a regular basis.</p>	<p>by condition</p>
<p><b>Section 26. Outdoor Advertising and Signage</b></p>	<p>Business Zones</p> <ol style="list-style-type: none"> <li>1. The cumulative area of all signs is not to exceed 1sqm of advertising area per 1m length of street frontage.</li> <li>2. One under awning sign is permitted on each shop or commercial premises. For premises with wide frontages, under awning signs are permissible at a maximum rate of one sign per 8m of frontage.</li> <li>3. Under-awning signs are to be at least 6m apart to provide adequate visibility.</li> <li>4. One projecting wall sign is permitted per building elevation.</li> <li>5. One flush wall sign is permitted per building elevation.</li> <li>6. Signs painted on awning blinds or window blinds are not supported.</li> <li>7. Signs in excess of a total of 50sqm in area are generally unsupported and are to be considered on their merits.</li> <li>8. Signs must not be present on walls facing adjoining residences.</li> <li>9. For development in the B6 Enterprise Corridor zone, pole signs are limited to a maximum of one pole sign per development. Applications for additional pole signs will be considered on individual merit.</li> </ol>	<ol style="list-style-type: none"> <li>1. The cumulative area of street frontage is limited to 1sqm per 1m length of street frontage.</li> <li>2. Not applicable</li> <li>3. Not applicable</li> <li>4. Complies</li> <li>5. Complies</li> <li>6. Not applicable</li> <li>7. Not applicable</li> <li>8. Not applicable</li> <li>9. One pylon sign is proposed</li> </ol>	<p>N/A</p>

<b>Section 27. Social Impact Assessment</b>	Provisions relating to social impact.	Social impact comment is not required.	N/A

### Consideration of LDCP 2008, Part 6 Development in Business Areas

The table below provides an assessment of the proposal in relation to the relevant sections of Part 6 of the Liverpool DCP 2008.

DEVELOPMENT CONTROL	PROPOSAL	COMMENT
<b>PART 6 – DEVELOPMENT IN BUSINESS AREAS</b>		
2. PRELIMINARY	<p>The objectives</p> <p>a) To have viable and vibrant local centres that provides a diversity of retail, commercial, residential, and other uses.</p> <p>b) To have viable neighbourhood centres that provides businesses and services to the local community.</p> <p>c) To revitalise and enhance the image and urban design of centres.</p> <p>d) To ensure the building bulk of a development is in keeping with the height and scale of neighbouring development, and/or the desired character of the commercial centre.</p> <p>e) To encourage viable retail and commercial activities.</p> <p>f) To provide a high level of accessibility and amenity for workers, shoppers, residents, and visitors in the centres.</p> <p>g) To provide housing choice in centres.</p> <p>h) To protect the amenity of residential zoned land that adjoins centres.</p>	Complies
<p>2. SUBDIVISION, FRONTAGE AND ALLOTMENT SIZE</p> <p><i>1. Development shall not be permitted for a new building (other than a maximum 10% addition to an existing structure) in the B6 zone unless the site has a frontage width to the Classified road of at least:</i></p> <p><i>- 30 m, where the site also has frontage to a local street that intersects with and would permit access to and from the classified road; or</i></p>	<p>The development site has a frontage to a Classified Road (Newbridge Road) of 81.0m. This is a shortfall of 9m or 10% of the control. This variation to the DCP control is supported in this instance for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed development is developing the whole of the portion of B6 zoning so cannot acquire further land to achieve the control.</li> <li>• The proposal does not leave land in the B6 zone isolated.</li> <li>• The application was referred to Transport for NSW who do not object to</li> </ul>	Considered Acceptable.

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

<p>- 90m otherwise.                  2. Development for a new building (other than a maximum 10% addition to an existing structure) in the B6 zone must not leave adjacent land such that it cannot achieve either:                  - A site frontage with of at least 30m (where the site also has frontage to a local street that intersects with and would permit access to and from the Classified road): or                  - 90m otherwise.</p>	<p>the development in terms of access to the site.</p> <ul style="list-style-type: none"> <li>• Swept path diagrams show how the site can be serviced by the largest vehicle.</li> </ul>	
<p>3. SITE PLANNING                  In Enterprise Corridor the siting of buildings and the development should also:                  1. Be compatible with existing business development in terms of scale, bulk, setbacks, materials and visual amenity.                  2. Address the street and consider its presentation to the arterial road environment.</p>	<ol style="list-style-type: none"> <li>1. The development will be the only business in this section of B6 zoned land.</li> <li>2. The development is considered to appropriately address Newbridge Road.</li> </ol>	<p>Complies</p>
<p>4. SETBACKS                  Rear setback                  1. 5m for non-residential component of building up to 10 high.</p> <p>Side Setback                  2. Where the side boundary of the site</p>	<p>The rear setback of Restaurant/Retail 2 building has a rear setback of 1.23m. It is considered that this variation is supportable in this instance for the following reasons:</p> <ul style="list-style-type: none"> <li>• The building at this location is single storey with a height of approximately 3.5m so would have minimal overshadowing impacts.</li> <li>• It is noted that this facade has no windows facing the rear so will have no visual privacy impacts.</li> </ul> <p>It is observed that this is a similar setback to the buildings already on the site. Furthermore, the development includes acoustic fencing which will reduce any visual impact of the building.</p> <p>The whole development is single storey. The western boundary is shared with open space public reserve. The eastern</p>	<p>Considered Acceptable</p> <p>Complies</p>

<p><i>adjoins land that is in a residential zone, the building may be required to be setback from the side boundary or limited to one storey near the boundary. Any floors above the ground floor shall be setback equal to the height of the additional floors.</i></p> <p>Front Setback</p> <p>Other Locations 15m</p>	<p>boundary is separated by an acoustic fence as well as landscaping which will aid in screening the building</p> <p>The front setback to the fast-food outlet on the western side of the development 8.6m from the front boundary. This building is 14m wide in the 81m frontage to Newbridge Road so is considered a minor encroachment. It is noted that this setback is consistent and more harmonious with the 7m setback required for residential developments fronting classified roads, so is in keeping with the general desired streetscape of the immediate locality.</p>	<p>Considered Acceptable</p>
<p>5. LANDSCAPED AREAS AND PEDESTRIAN AREAS</p> <p><i>1. Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area and public footpaths.</i></p> <p><i>2. Pedestrian areas should link all major activity areas of the centre.</i></p> <p><i>3. Pedestrian areas should be separate from loading areas.</i></p> <p><i>4. Separate pedestrian access should be provided to adjoining public footpaths, community facilities and open space.</i></p> <p><i>5. Sufficient area shall be provided to permit landscaping and tree planting within pedestrian areas and car parking areas.</i></p>	<ol style="list-style-type: none"> <li>1. The development does not propose level changes and includes disabled parking and access.</li> <li>2. Pedestrian areas have been identified on the plans to link the activity areas of the development.</li> <li>3. The pedestrian areas are separate from loading areas.</li> <li>4. Separate pedestrian access from adjoining public footpaths have been provided.</li> <li>5. It is considered that appropriate landscaping has been provided for this type of development.</li> </ol>	<p>Complies</p>
<p>6. BUILDING FORM, STREESCAPE AND LAYOUT</p> <p>Building Form</p> <p>1. Articulate building walls addressing the street to add</p>	<p>Building Form</p> <p>1. The building closest to the street is 14m long and serves and provides</p>	<p>Complies</p>

<p>visual interest.</p> <p>2. Development adjoining open space shall address the open space and avoid blank walls.</p> <p><b>Building Materials</b></p> <p>1. Highly reflective finishes are not permitted above the ground floor.</p> <p>2. Colour &amp; materials of the buildings shall be consistent with the existing adjoining development.</p> <p><b>Entrances</b></p> <p>1. Orientate entrances to buildings towards the public street and provide clear lines of sight between entrances, foyers and the street.</p> <p>2. The common lobby to a home unit development should face the street.</p> <p>3. Where the ground floor of a business development, mixed-use development, and shop-top housing faces the street, the ground floor must incorporate shopfront style windows with clear glazing so that pedestrians can see into the premises and vice versa.</p> <p><b>Street Frontage</b></p> <p>1. Ground floor uses are to be at the same general level as the footpath and be accessible directly from the street.</p> <p>2. Provide predominately glazed shop fronts to all ground floor retail areas.</p> <p>3. Developments on corner sites shall address the corner and the secondary street frontage.</p>	<p>articulation. The separate restaurant building is small in scale and is setback to the rear of the site</p> <p>2. The development has a frontage to a public reserve however, it is separated by an acoustic fence and landscaping. The façade facing the public reserve would consist of the drive through area which has limited ability to address the reserve.</p> <p><b>Building Materials</b></p> <p>1. N/A</p> <p>2. The building is predominately white with green highlights noting that this will be the only development in the zone. The building is separate from residential development in the street by a public reserve on the western side.</p> <p><b>Entrances</b></p> <p>1. The entrances are appropriately oriented.</p> <p>2. N/A</p> <p>3. N/A</p> <p><b>Street Frontage</b></p> <p>1. The plans provided show that the proposed levels are generally the same and accessible from the street.</p> <p>2. The proposed buildings have predominately glazed frontages.</p> <p>3. N/A</p> <p>4. The street frontage to the drive through food premises is a blank wall however has a narrow frontage which will be broken up with signage and landscaping and is considered appropriate in this instance. The</p>	
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<p>4. Avoid blank or solid walls and the use of dark or obscured glass on street frontages.</p> <p>5. Roller shutters that obscure windows are not permitted.</p> <p>6. Provide opportunities for table seating along shop frontages.</p> <p>7. Any Automatic Teller Machine (ATM) must be located at a highly visible location at street level, and must be well lit at night and incorporate mirrors or reflective materials so that users can observe people behind them.</p> <p>8. The street number of a building must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.</p> <p>Awnings</p> <p>1. Provide continuous street frontage awnings to all new developments.</p> <p>2. Wrap awnings around corners on street corner buildings.</p> <p>3. Awnings must be complementary to each other.</p> <p>4. Canvas blinds along the street edge are permitted.</p> <p>Roof Forms</p> <p>1. Minimise the bulk and mass of roofs and the potential for overshadowing from roofs.</p> <p>2. Provide eaves with a minimum length of 400mm in dwellings with pitched roofs.</p> <p>3. Where flat roofs are proposed, lift overruns and rooftop plant and machinery are to be obscured from view by parapets or designed to be incorporated within rooftop</p>	<p>eastern frontage of the store is glazed and is the frontage from a drivers point of view.</p> <p>5. None proposed.</p> <p>6. The food premises provide table seating along the inside of shop frontages.</p> <p>7. None proposed.</p> <p>8. This will be a condition of consent</p> <p>Awnings</p> <p>1. – 4. None proposed</p> <p>Roof Forms</p> <p>1. The rooves are a parapet design and are minimal in scale compared to the site area.</p> <p>2. N/A</p> <p>3. Complies</p> <p>4. N/A</p> <p>5. N/A</p>	
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<p>activities/features.</p> <p>4. Incorporate lift overruns and service plant etc into the design of the roof.</p> <p>5. Wherever possible provide landscaped and shaded areas on roofs to serve as communal private open space for residents of the building.</p> <p>Material and Finishes</p> <p>1. Avoid expanses of any single material.</p> <p>2. Utilise high quality and durable materials and finishes, such as face brick with / without coloured render; and plain glass windows.</p> <p>3. Avoid large wall tiles, rough textured render, polished metal and curtain walls or reflective glass.</p> <p>Adjoining Residential Areas</p> <p>1. Development should minimise impact of the privacy of adjoining and nearby dwellings.</p> <p>2. Development should be compatible with any adjoining and nearby dwellings.</p>	<p>Materials and Finishes</p> <p>1. It is considered that the design avoids expanses of any single material.</p> <p>2. The exterior of both buildings consists of painted stand up concrete panels and glazing to the frontages</p> <p>3. Noted</p> <p>Adjoining Residential Areas</p> <p>1. The development is single storey so will have no visual privacy impacts to adjoining dwellings noting that there are already buildings on the site. Conditions of consent will be imposed to minimise any acoustic and odour impacts.</p> <p>2. The proposed service station and fast food outlets are considered to be compatible with adjoining and nearby dwellings. The proposed 24/7 usage of the site will be given approval on a twelve month trial basis.</p>	
<p><b>7. LANDSCAPING AND FENCING</b></p> <p>Where landscaping is to be provided a detailed landscape plan shall accompany a development application. A suitably qualified Landscape architect must prepare all Landscape Plans submitted with the development application. Refer to Part 1 for requirements</p>	<p>A landscape plan prepared by a qualified landscape architect has been provided for the development.</p>	<p>Complies</p>



<p>for Detailed Landscape Plans.</p> <p>Landscaped areas within Business Development and Enterprise Corridor zones shall generally involve the provision of trees and shrubs in mulched garden beds. In particular the landscaping shall involve the following:</p> <ol style="list-style-type: none"> <li>1. The trees shall provide a canopy for the streetscape and soften the appearance of the Enterprise Corridor environment, without unduly concealing approved on site signage.</li> <li>2. Mulched garden beds shall incorporate ground covers that will cover the ground area.</li> <li>3. Shrubs shall be used to soften appearance of the area but still allow viewing between the street and the development.</li> <li>4. Large shrubs shall be used as screen planting where there is a need to screen certain areas such as outside storage.</li> <li>5. Shrubs shall only be planted in mulched garden beds.</li> <li>6. Grassed areas may be considered in limited areas in conjunction with mulched garden beds.</li> <li>7. Trees shall only be planted in grass where there is a border around the tree separating it from the grassed area.</li> </ol>	<ol style="list-style-type: none"> <li>1. 2 X 6m mature height trees are proposed for the development. Given the nature of the development which requires a high level of hard stand and good visibility, this level of planting is considered appropriate.</li> <li>2. Ground cover plants have been proposed for the site.</li> <li>3. Low feature planting has been included in the plan which will allow viewing between street and the development</li> <li>4. The outside storage and waste areas are fenced off with screen planting provided around perimeter fencing.</li> <li>5. All planting to occur in mulched garden beds</li> <li>6. No grassed areas are proposed.</li> <li>7. N/A</li> </ol>	
<p>8. CARPARKING AND ACCESS</p> <p>Car parking shall generally be located toward the front of the site.</p> <p>Pedestrians should have easy</p>	<p>The carparking is mostly located toward the front of the site</p> <p>Clearly marked pedestrian walkways are</p>	

<p>access to the buildings, through clever design of car parking, or a clearly marked zebra crossing to the primary entry of the store.</p>	<p>proposed in the design.</p>	
<p><b>9. AMENITY AND ENVIRONMENTAL IMPACT</b>  <b>Privacy</b>                  Development shall be designed to minimise overlooking of adjoining and nearby residential development.</p> <p><b>Acoustic privacy</b>                  1. Where an allotment adjoins an Classified Road, dwellings must comply with AS 3671 – <i>Acoustics – Road Traffic Noise Intrusion</i>.</p> <p>2. Dwellings should be located to minimise the impact of noise from car parking and loading areas.</p> <p><b>Lighting</b>                  External lighting to a development must give consideration to the impact of glare on the amenity of adjoining and nearby residents.</p>	<p><b>Privacy</b>                  The development is single storey with acoustic fences to all boundaries, so no overlooking of adjacent and nearby residential property is possible.</p> <p><b>Acoustic Privacy</b>                  1. An acoustic report has been provided with the application and will be imposed as a condition of consent.</p> <p>2. N/A</p> <p><b>Lighting</b>                  Lighting to the development shall be conditions to be directed away from residential receivers and be of an appropriate level.</p>	<p>Complies</p>
<p><b>10. SITE SERVICES</b>  <b>Frontage works and damage to Council assets</b>                  Where a footpath, road shoulder, new or enlarged access driveway or is required to be provided this shall be provided at no cost to Council. Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure.</p> <p><b>Waste management</b>                  1. Development involving dwellings shall provide at least two waste storage areas to separately cater for the dwellings and non-residential uses on an allotment.</p> <p>2. A development must provide a waste storage area inside</p>	<p>Conditions of consent will impose these controls</p> <p><b>Waste management</b>                  1. N/A                  2. This has been provided for both food premises.                  3. The proposed waste storage and collection areas are considered appropriate.</p>	<p>Complies</p>

LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

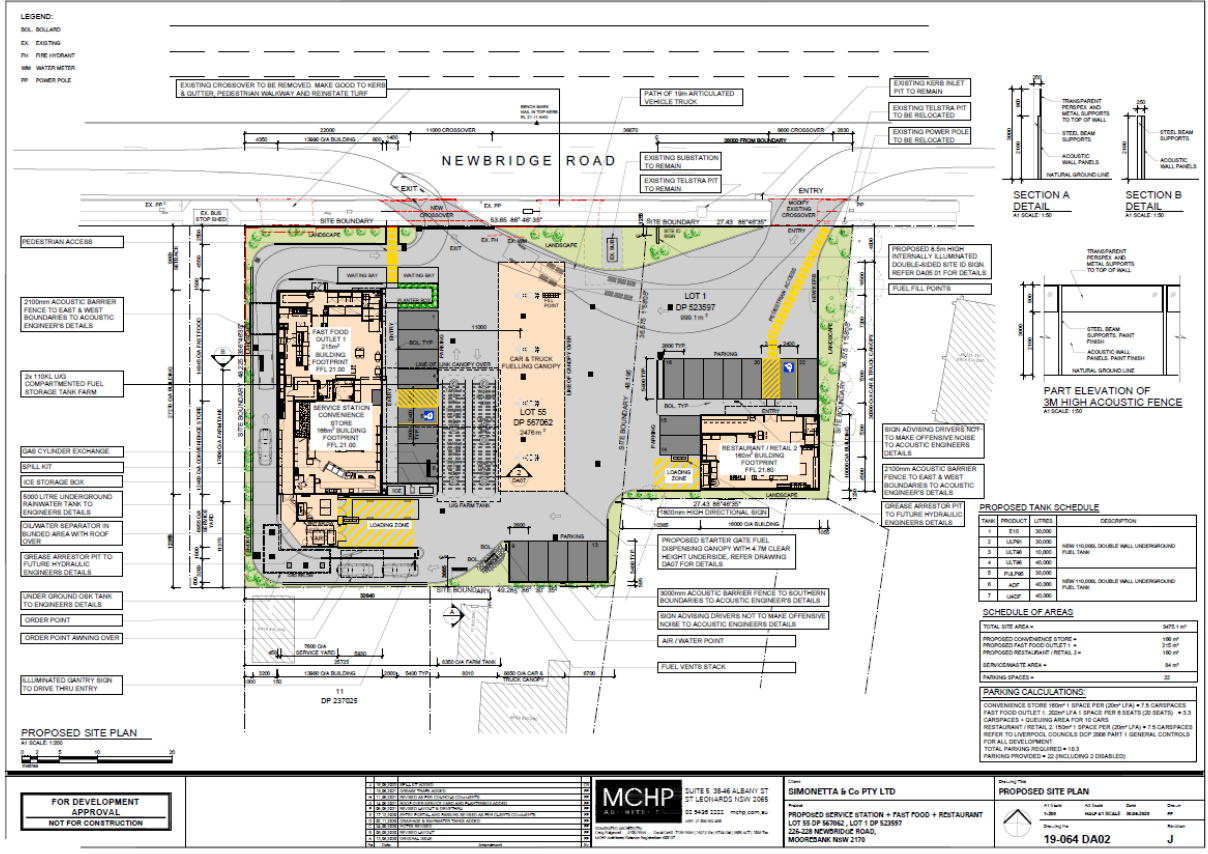
<p>every food premises, and inside any shop that is capable of accommodating a food premises.</p> <p>3. A development must locate a waste storage area inside the building, or adjacent to a lane where it is convenient and safe for residents, tenants, and waste collection trucks to access the waste storage area and the location and floor level are to the satisfaction of Council and Part 1.</p>		
<p>11. NON BUSINESS USES</p>	<p>N/A</p>	<p>N/A</p>
<p>12. SHOP TOP HOUSING</p>	<p>N/A</p>	<p>N/A</p>
<p>13. RESTAURANTS/OUTDOOR CAFES</p>	<p>N/A</p>	<p>N/A</p>
<p>14. CHILD CARE CENTRES</p>	<p>N/A</p>	<p>N/A</p>
<p>15. TELECOMMUNICATIONS FACILITIES</p>	<p>N/A</p>	<p>N/A</p>
<p>16. USED CLOTHING BINS</p>	<p>N/A</p>	<p>N/A</p>
<p>17. SERVICE STATIONS</p> <p>1. Car parking areas shall:</p> <p>a) Be located to minimise conflict with vehicle movements for other uses on the site.</p> <p>b) Be located as close as possible to the use generating the need for parking e.g. take away food and/or retailing component to minimise on street car parking.</p> <p>c) Be provided in accordance with Part 1 of LDCP 2008.</p> <p>2. Drive through areas should be located to minimise conflict with pedestrian movement and impacts on neighbourhood amenity.</p> <p>2. Drive through areas should be located to minimise conflict with pedestrian movement and impacts on neighbourhood amenity.</p> <p>3. Driveways must be</p>	<p>1.</p> <p>(a) The carparking on the site is located to still permit safe vehicle movements</p> <p>(b) The parking is located immediately outside both of the food premises and the convenience store.</p> <p>(c) The level of parking meets the requirement of Part 1 of LDCP 2008</p> <p>2. The southern portion the drive through area is located adjacent to the rear setback to adjoining dwellings and is separate from them by an acoustic barrier. The western area of the drive through is adjacent a public reserve.</p> <p>3. The driveways have been reviewed by Council's Traffic Management Engineer with no objection. The consent will condition compliance with AS2890.</p> <p>4. The proposed front setback is consistent with the setback for residences along the frontage to Newbridge Road.</p>	<p>Complies</p>

<p>appropriately designed and be located to ensure safe access and egress, particularly in reference to sight lines and pedestrian movements.</p> <p>4. Buildings should be sympathetic to existing setbacks, heights and building envelopes of neighbouring properties.</p> <p>5. Appropriate mitigation measures should be provided to limit noise, light overspill, visual impact and odour.</p> <p>6. A Landscape Plan, prepared by a suitably qualified person, is to be submitted with any development application. Landscaping is to provide a visual and acoustic buffer to adjoining development.</p>	<p>5. The application was accompanied by an acoustic report which will be conditioned to be implemented during the construction and operation phase of the development. Similarly, conditions of consent will be imposed to minimise light overspill and odour impacts.</p> <p>6. The landscape plan provided with the application and including screen planting which will assist in providing a visual and acoustic buffer.</p>	
<p>18. RESTRICTED PREMISES</p>		

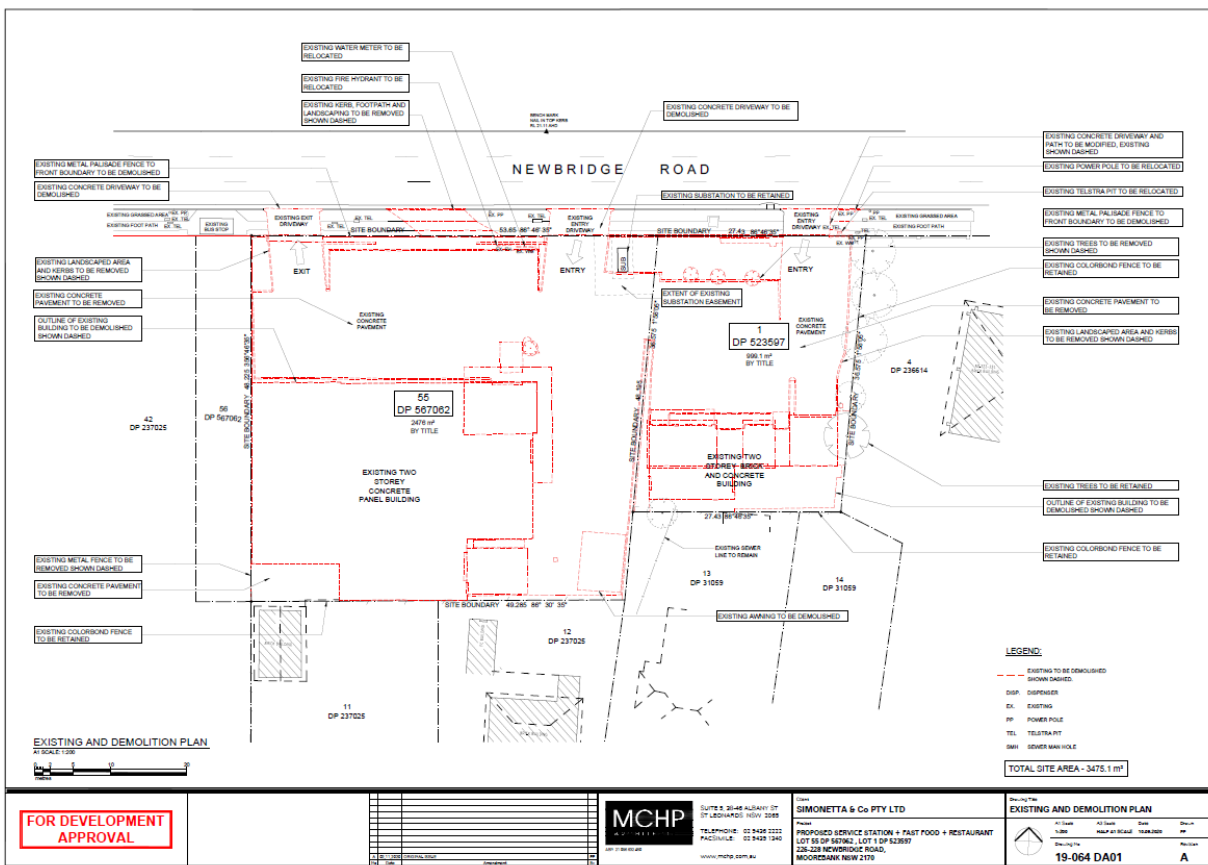
**REPORT ATTACHMENT 2: PLANS OF THE PROPOSAL**

# LIVERPOOL CITY COUNCIL LOCAL PLANNING PANEL REPORT

31 October 2022



## Site Plan

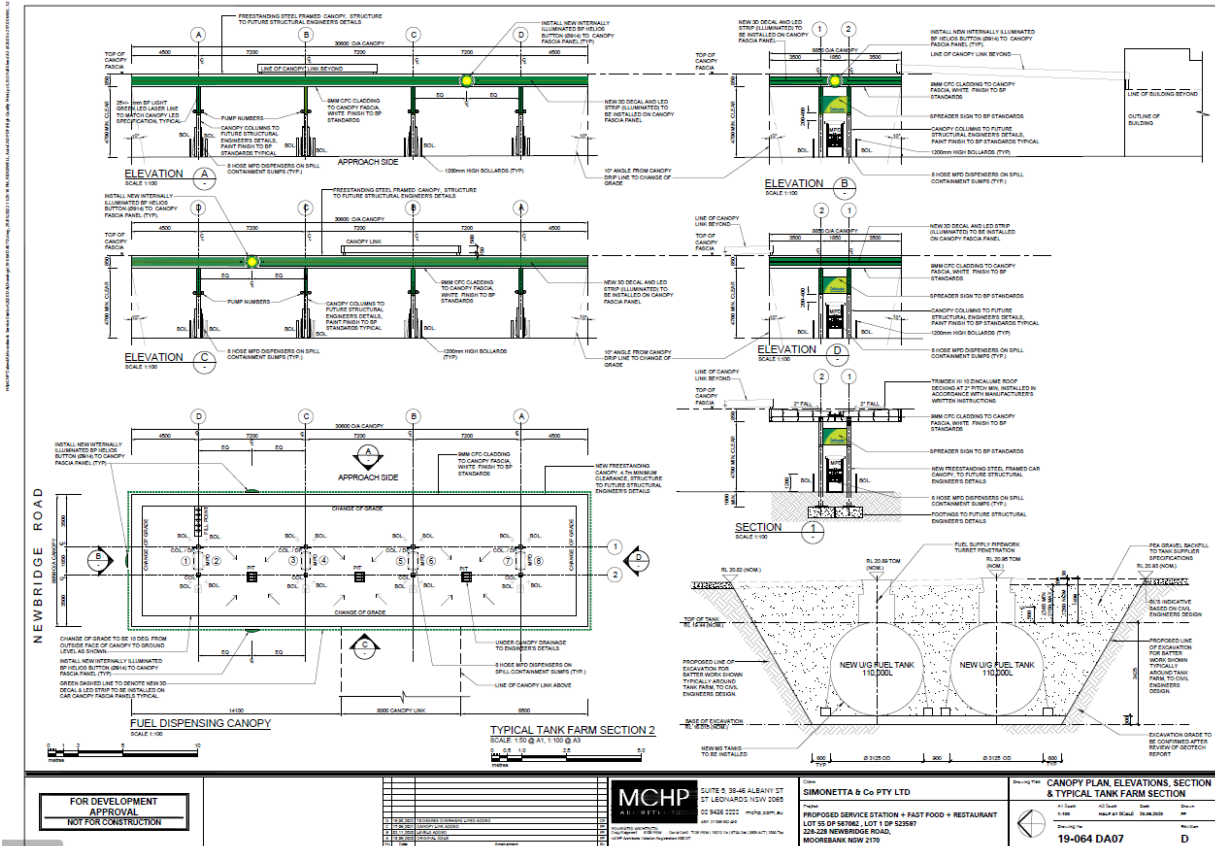


## Demolition Plan

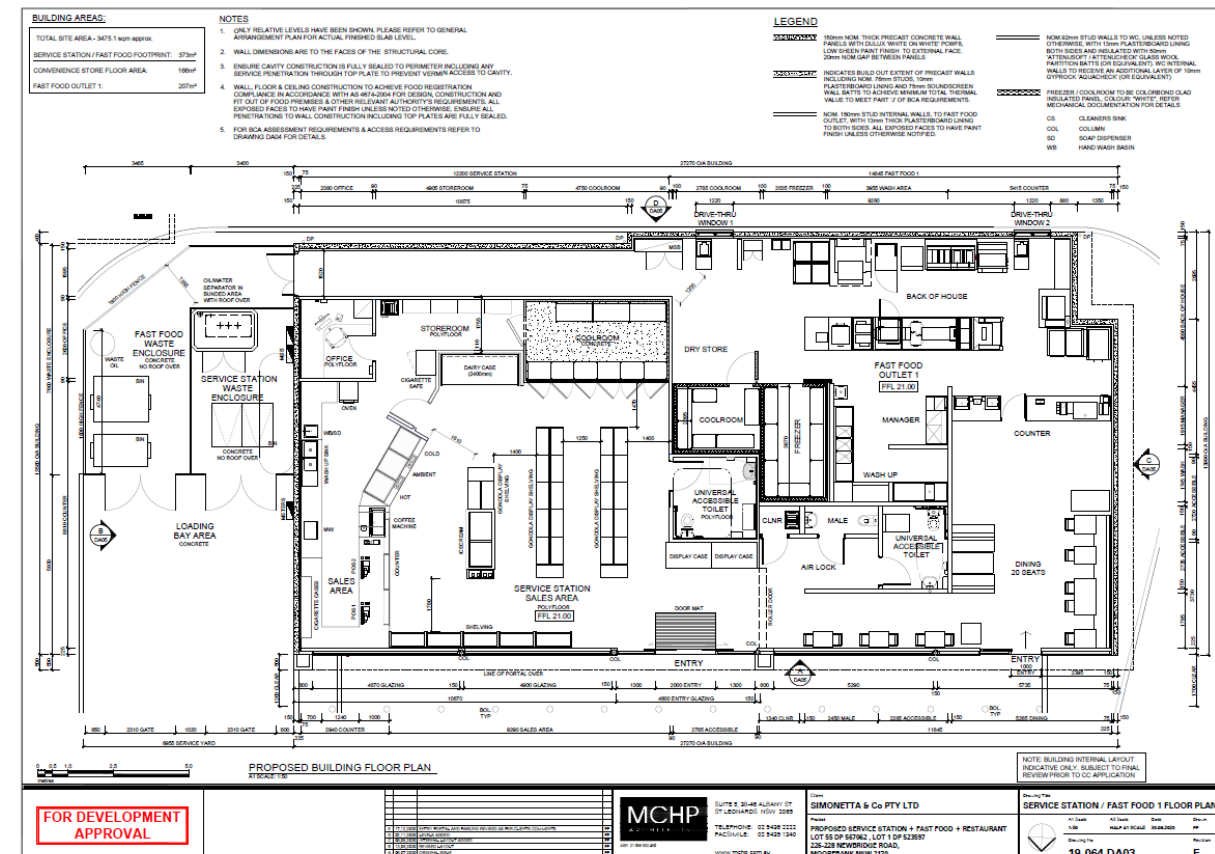
# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022



### Fuel Canopy Details

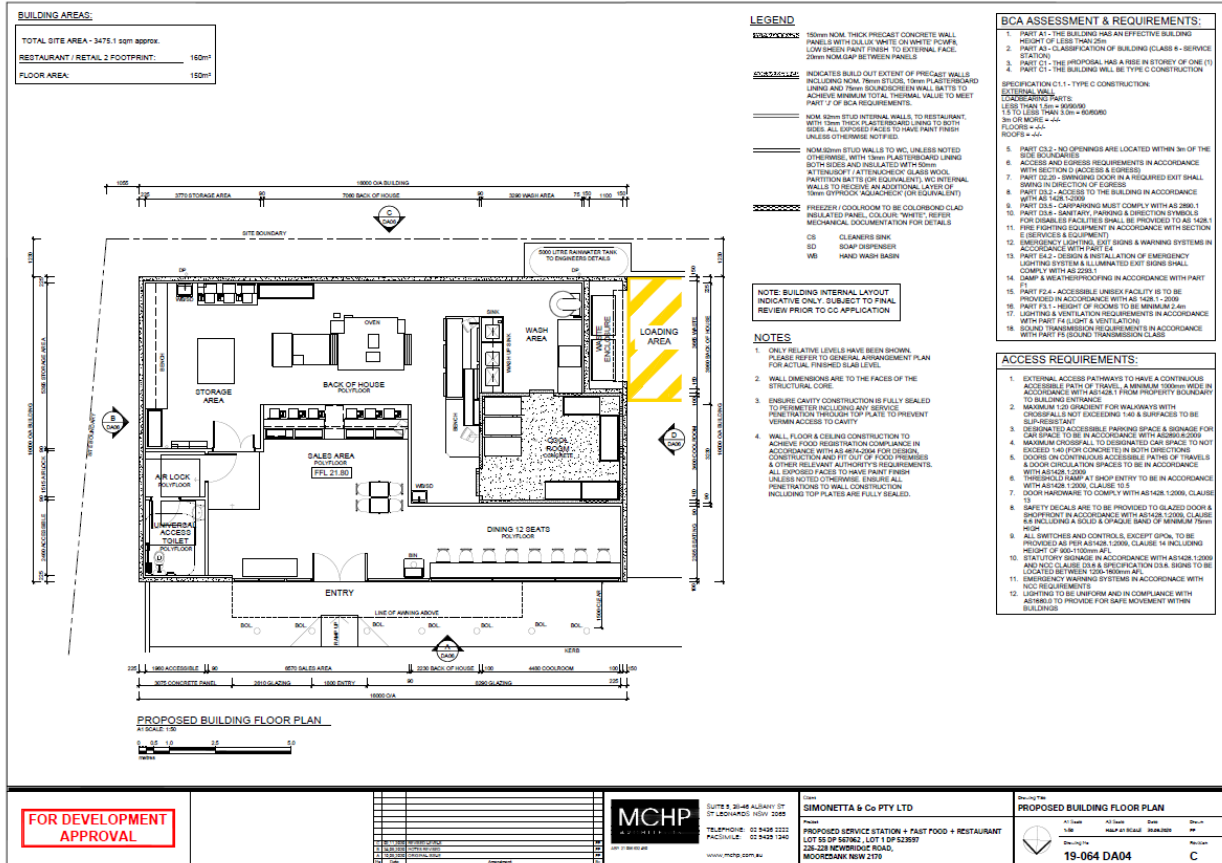


### Service Station /Fast Food Floor Plan

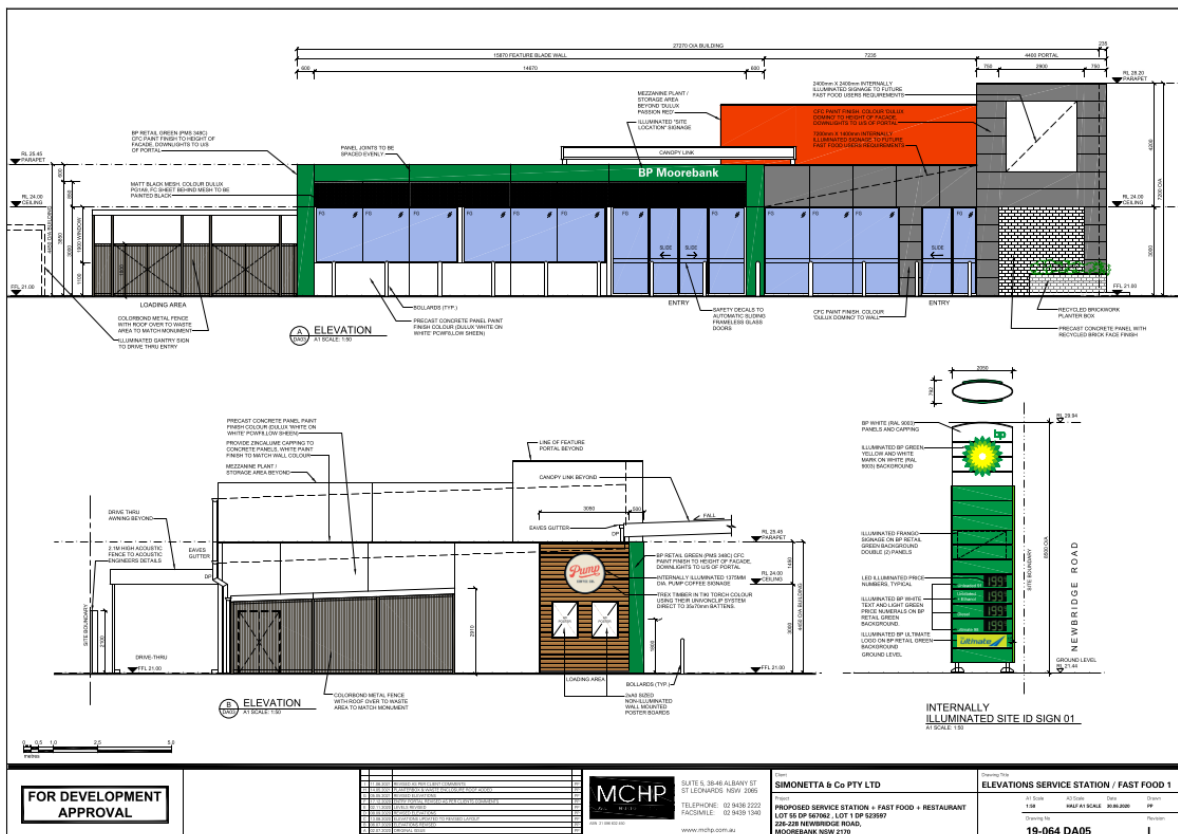
# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022

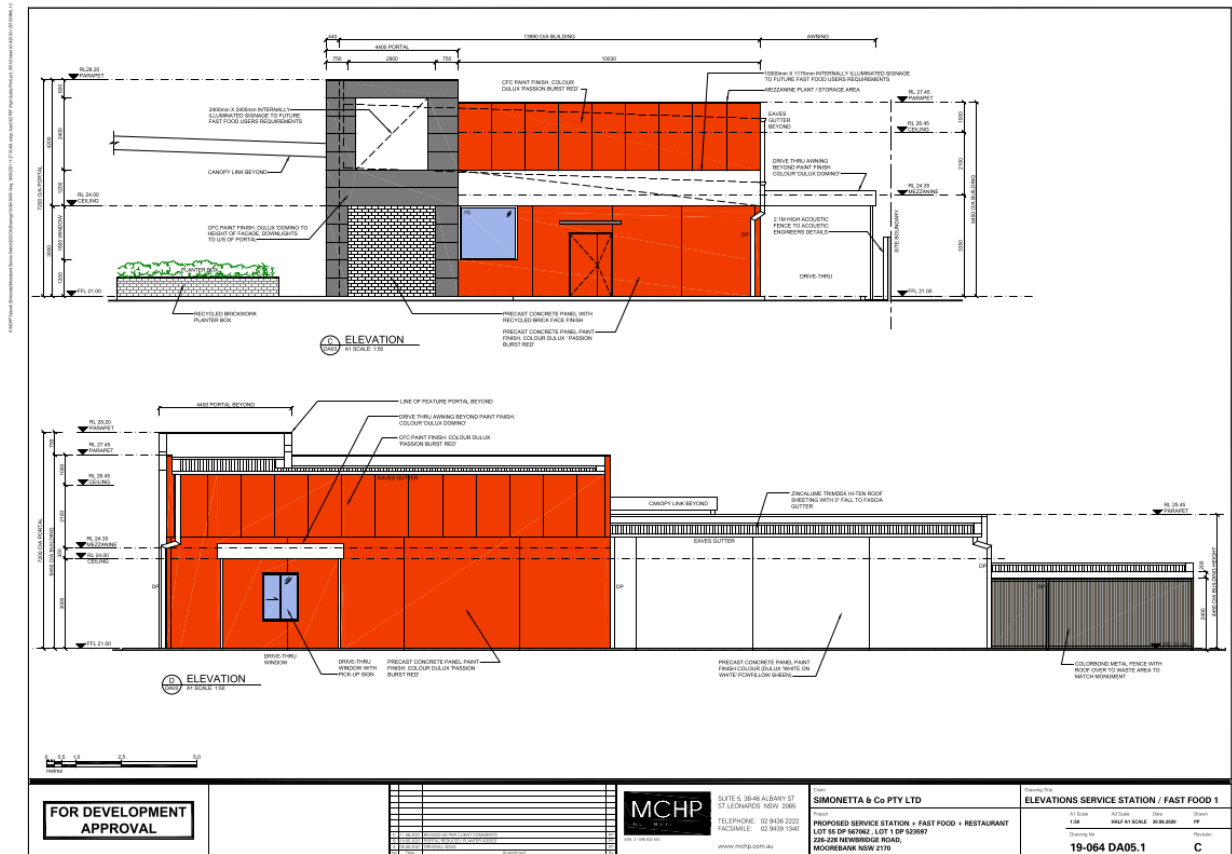


**Proposed Restaurant Building Floor Plan**

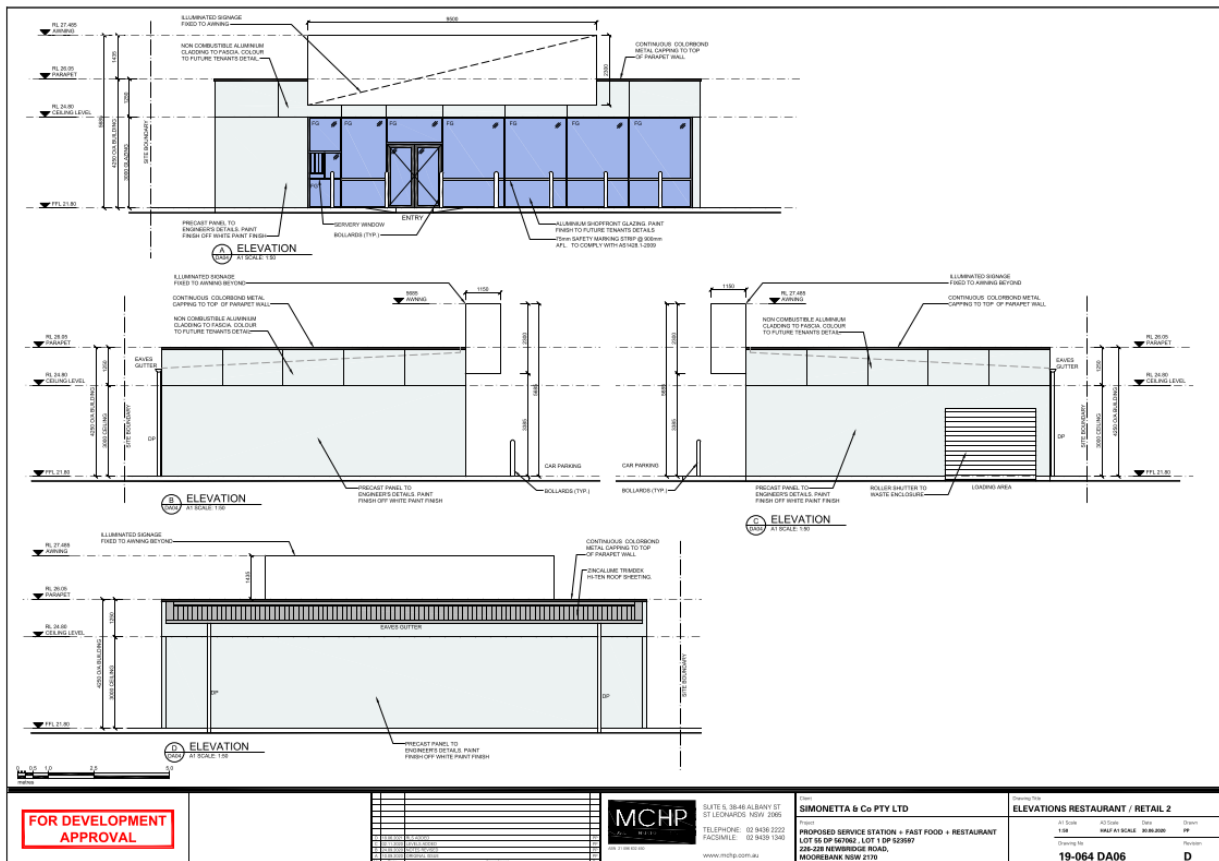


# LIVERPOOL CITY COUNCIL LOCAL PLANNING PANEL REPORT

31 October 2022



Elevations Service Station/Fast Food 1



Elevations Restaurant / Retail 2





**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.

Plan Name	Plan Number	Date	Revision	Prepared by
Existing and Demolition Plan	19-064 DA01	02.11.2020	A	MCHP Architects
Proposed Site Plan	19-064 DA02	11.10.2022	K	MCHP Architects
Service Station / Fast Food 1 Floor Plan	19-064 DA03	18.06.2021	I	MCHP Architects
Proposed Building Floor Plan	19-064 DA04	18.06.2021	E	MCHP Architects
Elevations Service Station / Fast Food 1	19-064 DA05	11.06.2021	I	MCHP Architects
Elevations Service Station / Fast Food 1	19-064 DA05.1	11.06.2021	C	MCHP Architects
Elevations Restaurant / Retail 2	19-064 DA06	18.06.2021	D	MCHP Architects
Canopy Plan, Elevations, Section & Typical Tank Farm Section	19-064 DA07	16.05.2021	D	MCHP Architects
Landscape Plan	Service Station; 226-228 Newbridge Rd Moorebank	24.09.2020	P2	Taylor Brammer Landscape Architects Pty Ltd
Sediment and Erosion Control Plan	20797_DA_SE01 and 20797_DA_SE02	16.10.2020	01	Henry & Hymas

Report Name	Date	Reference	Prepared by
Proposed Service Station, Fast Food and Retail Outlet 226-228 Newbridge Road, Moorebank Noise	14 <sup>th</sup> December 2020	R200363R1 Rev O	Rodney Stevens Acoustics

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

31 October 2022

Impact Assessment Report			
Frangos Charcoal Chicken, Moorebank Cooking Odour Assessment	15 <sup>th</sup> June 2021	21.1129.FR1V1 Final	Northstar Air Quality Pty Ltd
Waste Management Plan Project Proposed Service Station/Fast Food Outlet Client Simonetta & Co PTY LTD 226-228 Newbridge Road, Moorebank, NSW, 2170	23 <sup>rd</sup> September 2020	Lodged with Application	MCHP Architects
Preliminary Site Investigation	16 May 2022	61063-138101(Rev 2)	Aurora Environmental Consulting Pty Ltd
Proposed Serviced Centre Development 226-228 Newbridge Road, Moorebank Traffic and Parking Assessment	October 2020	20179 Issue B	Transport and Traffic Planning Associates
SEPP 33 Review	21 <sup>st</sup> September 2020		MCHP Architects
Installation, Operation and Maintenance Instructions, Coalescing Plate Separator Model No MPV-6 MPV-12	Lodged with the application	No reference	Baldwin Industrial Systems Pty Limited
Proposed Site Security Systems and Procedures	4 November 2020		MCHP Architects

### Works at No Cost to Council

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

### Transport for NSW Requirements

- The development is to demonstrate compliance with all requirements issued by Transport for NSW dated 14 August 2022 (Attachment 3).

### Twelve (12) Month Trial Period for 24 Hour Operation 7 days a week

- Approval has been granted for the use of the subject premises as a service station and two fast food premises with 24 hour operation, Monday to Sunday, for a period of **twelve (12) months** only, starting from the date of issue of an occupation certificate. In order to continue the use of the site as a service station and two fast food premises with 24 hour operation, Monday to Sunday, beyond the twelve (12) month trial period an application shall be lodged prior to the cessation of the trial period.

At the end of the twelve (12) month period if a valid consent is not issued for the continued use of the service station and two fast food premises with 24 hour operation, Monday to Sunday, the use shall cease 24 hour operation at the site and revert to the following operation hours, being:

- Monday to Sunday – 6:00am to 12:00am on the same day

**Reason:** The 24 hour 7 day a week operation will be reviewed in 12 months of occupation certification being issued to ensure that the acoustic and operational impacts on neighbouring residential development is not unreasonable.

**Excavation works**

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

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

**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.**

**Amended layout and design of fast food outlet 1**

Prior to the issue of a Construction Certificate amended plans are to be submitted for approval of the Manager of Development Assessment for the design of fast food outlet 1 which shall be amended to relocate the dining area to be adjacent to the northern building elevation, with windows for the length of the dining area along the northern building elevation. The door on the northern elevation of fast food outlet 1 shall be a different colour to the wall, to articulate this opening along this elevation.

**Site Development Work**

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

**BCA Report**

7. Prior to the issue of a Construction Certificate, a BCA report on the proposed development prepared by a suitably qualified person, shall be provided to the satisfaction of PCA. Any alterations to the approved plans outside the jurisdiction of the PCA will require the approval of a S.4.55 modification application prior to the issue of a Construction Certificate.

**Relocation of Services**

8. Prior to the issue of a Construction Certificate, evidence is to be provided to the satisfaction of the PCA from all of the relevant service providers (Including but not limited to Endeavour Energy and Telstra) that grants consent for the relocation of their service

assets (Including electricity poles and pits). All of the expense of the relocation of these assets is to be at the expense of the developer.

**Landscape Plan**

9. Prior to the issue of a Construction Certificate, an amended landscape plan consistent with the approved site plan is to be provided to the satisfaction of the PCA.

**Comply with EP&A Act**

10. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2021na, 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**

11. In accordance with Section 4.17(11) of the *Environmental Planning & Assessment Act 1979* and clause 98 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).

**Notification**

12. 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.

**Section 7.12 Payment (Liverpool Contributions Plan 2018 – Established Areas)**

13. 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 **\$26,800** and will be adjusted at the time of payment in accordance with the contribution plan.

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

The Contributions Plan may be inspected online at [www.liverpool.nsw.gov.au](http://www.liverpool.nsw.gov.au). Payment must be accompanied by the attached form.

**Fee Payments**

14. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

- a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery,
- b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve, 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.

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

**Recommendations of Odour Assessment**

16. The recommendations provided in the approved odour assessment report titled Frangos Charcoal Chicken, Moorebank Cooking Odour Assessment (Report Reference: 21.1129.FR1V1, Report Status: Final) prepared by Northstar Air Quality Pty Ltd dated 15<sup>th</sup> June 2021 shall be implemented and incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.

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

Note: 'Suitably qualified environmental consultant' means a consultant who is a Certified Air Quality Professional under the CAQP Scheme administered by the Clean Air Society of Australia and New Zealand (CASANZ) or Certified Environmental Practitioner under the CEnvP Scheme administered by the Environment Institute of Australia and New Zealand (EIANZ).

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

17. Prior to the issue of a Construction Certificate, a Section 138 Roads Act application/s, including payment of fees, shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings),
  - b) Road opening for utilities and stormwater (including stormwater connection to Council infrastructure), or
  - c) Road occupancy or road closures.

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

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

**Traffic Management Conditions**

18. 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 Traffic and Transport Section for review.
19. The applicant is to provide NO STOPPING parking restrictions on the site frontage in consultation with Council's Traffic and Transport Planning Section.
20. A Construction Traffic Management Plan prepared by a suitably accredited practitioner detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control is to be submitted to Council for approval prior to the issue of a Construction Certificate.
21. 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.
22. Works within the road reserve shall not commence until the CTMP has been endorsed.
23. The applicant is to provide street lighting to Council's specifications.

**Retaining Walls on Boundary**

24. 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.

**On-Site Detention**

25. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Henry & Hymas, reference number 20797-DA-C, revision C dated 01.06.2021

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**

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

**Water Quality**

27. 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

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

**Closed Circuit Television System (CCTV) – NSW Police**

28. A Closed Circuit Television System (CCTV) which complies with **Australian Standard – Closed Circuit Television System (CCTV) AS:4806.1.2.3.4.** <http://www.standards.org.au> should be installed within these premises to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour.

The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation. Digital technology should be used to receive, store and process data.

This system should consist of surveillance cameras strategically located in and around the premises to provide maximum surveillance coverage of the area, particularly areas which are difficult to supervise.

One or more cameras should be strategically mounted at the rear to monitor activities around these areas, and at the Entry & Exit (Driveways).

This equipment should be secured away from public access areas to restrict tampering with the equipment and data.

Staff need to be trained in the operation of the system.



Footage should be stored for 30 days

Register CCTV cameras with the NSW Police CCTV register at: [http://www.police.nsw.gov.au/services/register\\_my\\_business\\_cctv\\_details](http://www.police.nsw.gov.au/services/register_my_business_cctv_details)

### **Lighting – NSW Police**

29. A working lighting system should be installed around the perimeter of the property. NB. Security lighting should not illuminate people inside domestic building; light should be projected outwards towards pathways & gates, not towards window and doors. Security lighting should be checked and maintained in good working order. Additional security lighting should be installed, particularly to the side and rear.

### **Crime Prevention Through Environmental Design**

30. The following Crime Prevention through Environmental Design (CPTED) principles are to be incorporated into the building:
- back to base alarm system,
  - CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building,
  - 'way finding' signage should be utilised at all major interchanges,
  - lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard AS 1158. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant, especially external lighting,
  - glazed tiling, patterned, porous and non solid surfaces reduce the reward for graffiti offenders,

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

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

31. The Certifying Authority shall ensure and certify that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development have been designed and 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**

32. The Certifying Authority shall ensure and certify that
- Off street access and parking complies with AS2890.1,
  - Vehicular access and internal manoeuvring have been designed for the longest (B-Double/ Heavy Rigid/ Medium Rigid) vehicle expected to service the development site, in accordance with AS2890.2,
  - Sight distance at the street frontage has been provided in accordance with AS 2890.1,
  - All vehicles can enter and exit the site in a forward direction.

### **Driveway/Services**

33. Driveways are to conform to Council standard requirements for vehicle crossings as detailed in Council's Design and Construction Specifications for Subdivisions (as amended) and as per the requirements in Council's DCP.

**Dilapidation report**

34. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Newbridge 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.

**Dilapidation Report Private Property (Excavations)**

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

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

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

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

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

**Fire Safety Measures**

36. A schedule specifying all of the essential fire safety services, both existing and proposed, which are required for the building, shall be attached to the CC and submitted to Council, in compliance with the provisions of the Environmental Planning & Assessment Regulation 2000.

The schedule must distinguish between the measures that are currently implemented (existing) in the building premises; and

a) the measures that are to be proposed to be implemented in the building premises, and the minimum standard of performance for each measure.

**Recommendations of Acoustic Report**

37. The recommendations provided in the approved acoustic report titled Proposed Service Station, Fast Food and Retail Outlet 226-228 Newbridge Road, Moorebank Noise Impact Assessment Report R200363R1, Revision 0 prepared by Rodney Stevens Acoustics Pty Ltd dated 14<sup>th</sup> December 2020 shall be implemented and incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.

The construction methodology and plans accompanying the Construction Certificate

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

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

### **Food Premises and Service Station – Construction**

38. 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) AS 4674-2004 – Design, construction and fit-out of food premises,
    - (ii) Food Standards Code (Australia),
    - (iii) Building Code of Australia,
  - (b) Proposed/altered mechanical ventilation system/s (Building Code of Australia & Australian Standard 1668 Part 1 & 2).

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

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

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

### **Construction Noise, Vibration Assessment and Management Plan**

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

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

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

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

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

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

#### **Mechanical Plant and Equipment**

41. 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 Proposed Service Station, Fast Food and Retail Outlet 226-228 Newbridge Road, Moorebank Noise Impact Assessment Report R200363R1, Revision 0 prepared by Rodney Stevens Acoustics Pty Ltd dated 14<sup>th</sup> December 2020.

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

#### **Underground Petroleum Storage System (UPSS) and Vapour Recovery Control Equipment**

42. Prior to issue of the construction certificate, design certification prepared by a suitably qualified and experienced person shall be submitted to Liverpool City Council certifying the development's compliance with the following:
  - *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019;*
  - *Protection of the Environment Operations (Clean Air) Regulation 2021;*  
Standards and Best Practice Guidelines for Vapour Recovery at Petrol Service Stations published by the NSW Environment Protection Authority dated March 2017;

- Australian Standard 4897-2008: The design, installation and operation of underground petroleum storage systems;  
AS/NZS 1596:2014- The storage and handling of LP Gas; and
- Practice Note Managing run-off from service station forecourts published by the NSW Environment Protection Authority dated June 2019.

The design certification shall confirm whether stage two vapour recovery (VR2) is required at the service station when considering petrol throughout.

#### **Waste Storage Area - Construction**

43. All waste management facilities shall comply with the Liverpool Development Control Plan 2008. Prior to the issue of a Construction Certificate, detailed floor and section plans shall be submitted to and approved by the Principal Certifying Authority for the waste storage area/s. The plans shall identify the location of the waste storage area/s and incorporate the following requirements:
- a) Sufficient space for access by residents, storage and easy manoeuvring of bins;
  - b) The area is to be fully enclosed and include a solid roof and concrete or cement rendered walls coved to the floor;
  - c) A concrete floor graded to an approved sewer connection comprising a sump and galvanised fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer;
  - d) Adequate ventilation to the external air by natural or mechanical means;
  - e) The door to the room must be tight fitting and self-closing;
  - f) A hose cock adjacent to the garbage storage area to facilitate cleaning of bins and the storage area. If the hose cock is located inside the waste storage area, it shall not protrude into the space indicated for the placement of bins;
  - g) Sufficient lighting to permit usage at night; and
  - h) Should garbage chutes be integrated into the design of the building, operational instructions shall be located prominently next to the chute.

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

#### **Construction Traffic Management Plan**

44. A construction traffic management plan (CTMP) prepared by a suitably qualified person is to be submitted to and endorsed by Liverpool City Council's Transport Management Section for endorsement. The CTMP is to be submitted via an application form available on Council's website.

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.

Construction shall not commence until the construction traffic management plan has been endorsed. The endorsed CTMP is to be implemented during construction.

### **C. PRIOR TO WORKS COMMENCING**

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

#### **Construction Certificates**

45. Prior to the commencement of any building works, the following requirements must be complied with:
- (a) Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*,
  - (b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,
  - (c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment,
  - (d) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and
  - (e) The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.
46. 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.

#### **Commencement of building works**

47. Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 1.4 of the *Environmental Planning and Assessment Act, 1979* 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.

#### **Notification**

48. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
- a) Any excavation, below the base of the footings of a building on an adjoining allotment of land, and
  - b) The notice shall be given seven (7) days prior to the commencement of work.

#### **Demolition Works**

49. Demolition works shall be carried out in accordance with the following:
- a) Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to 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.

#### **Excavation**

50. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:

- a) Protect and support the adjoining premises from possible damage from the excavation, and

Where necessary, underpin the adjoining premises to prevent any such damage.

#### **Site Facilities**

51. Adequate refuse disposal methods and builder's 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.

#### **Site Notice Board**

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

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

#### **Road Occupancy**

53. 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 Council's Customer Service Centre).

#### **Sydney Water**

54. Development plans must be processed and approved by Sydney Water.

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

55. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and certified consultant, in accordance with the *Protection of the Environment (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 with 30 days of the waste being disposed.

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**

56. 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.

#### **Environmental Management**

57. 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**

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

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

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

## **D. DURING CONSTRUCTION**

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

### **Building Work**



59. 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.
60. 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.

#### **Identification Survey Report**

61. 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.

62. 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.

#### **Excavation works**

63. All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration. In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, is not permitted.

#### **Toilet Facilities**

64. 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
- be a temporary chemical closet approved under the *Local Government Act 1993*.

#### **Hours of Construction Work and Deliveries**

65. 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**

66. 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**

67. 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.

**Craning and Hoardings**

68. 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.
69. 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.

**Notification of Damage**

70. 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.

**Traffic Management Conditions**

71. 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 Guide to Signs and Markings.
72. 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.
73. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
74. 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 works.
75. A Traffic Control Plan, prepared by an accredited practitioner, must be submitted for approval at least 48 hours prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.

76. Applications must be made to Council's Traffic and Transport Section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and other relevant information.
77. The endorsed CTMP is to be implemented during the construction.

**Demolition Inspections**

78. The following inspections are required to be undertaken by Council in relation to approved demolition works:
- a) immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works,  
*Please note that demolition works are not permitted to commence on site until such time as a satisfactory inspection result is obtained from Council, and*
  - 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.

**General Site Works – Surface contours**

79. 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.

**General Site Works – Stormwater connection**

80. Stormwater pipeline connections to the street kerb shall be constructed in the following manner:
- a) the kerb shall be saw cut on both sides of the proposed pipe outlet,
  - b) an approved rectangular kerb adaptor shall be installed with the base matching the invert level of the gutter, and
  - c) The kerb shall be reinstated to its original profile using a cement mortar containing an epoxy additive for adherence to the existing kerb.

**General Site Works - Runoff**

81. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.

**General Site Works - Sediment**

82. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

**Erosion Control - Measures**

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

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

84. 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. The material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

**Waste Management Plan**

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

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

**Contamination**

86. 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)*.

**Imported Fill Material**

87. 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 of the *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**

88. 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

the results of any chemical testing undertaken on fill material.

**Unidentified Contamination**

89. 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.

**Air Quality**

90. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.

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.

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.

**Erosion Control - Stabilisation**

91. 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.

**Erosion Control – Measures**

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

**Erosion Control – Maintenance**

93. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.

**Erosion Control**

94. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways it shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

**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.

**Pollution Control - Site Operations**

96. 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**

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

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

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

**Ventilation**

98. 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.

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**

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

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

**Food Premises and Service Station– Construction**

100. The construction, fit-out and finishes of the premises shall comply with Australian Standard 4674-2004, *Food Act 2003* and Regulations thereunder. Construction is to include, but not be limited to the following:

- a) All walls (including partition walls) within the food premises shall be of solid construction (e.g. bricks, cement or other approved material). These walls are to be finished with glazed tiles, stainless steel or other approved material adhered directly to the wall to a height of 2 metres above floor level;
- b) Walls within the food premises which are not of solid construction (e.g. stud walls) shall be finished in tiles or other approved material from the floor level to the underside of the ceiling;
- c) The floors within the food premises shall be constructed of a suitable material which is non-slip, durable, resistant to corrosion, non-toxic, non-absorbent and impervious to moisture. The floor is to be graded and drain to an appropriate floor waste fitted with a basket arrestor;

- d) If the floor in the food premises is constructed of tiles, the joints between the tiles shall be of a material that is non-absorbent and impervious to moisture;
- e) The intersection of walls with floors and exposed plinths in areas of the food premises that are cleaned by flushing or hosing with water are to be coved to a minimum radius of 25mm;
- f) All plinths are to be constructed of a material which is of solid construction and impervious to moisture. The plinths shall be:
  - (i) at least 75mm high;
  - (ii) finished level to a smooth even surface;
  - (iii) recessed under fittings to provide a toe space of not more than 50mm;
  - (iv) rounded at exposed edges; and
  - (v) coved at the intersection of the floor and wall to a minimum radius of 25mm.
- g) The ceiling is to be constructed of a material that is rigid, smooth faced and impervious to moisture. The ceiling shall be painted with a washable paint of a light colour. The surface finish is to be free of open joints, cracks, crevices or openings. The intersections of walls and the ceiling are to be tight jointed, sealed and dust-proof;
- h) All service pipes and electrical conduits shall be either:
  - (i) concealed in floors, walls, ceiling or concrete plinths, or
  - (ii) fixed with brackets so as to provide at least:
    - 25mm clearance between the wall and the pipe/conduit; &
    - 100mm between the floor and the pipe/conduit
    - pipes so installed are not to run underneath fittings.
- i) All architraves, skirting boards, picture rails and the like are not permitted within the food premises;
- j) All openings in the walls, floors and ceilings through which service pipes and electrical conduits pass through are to be designed and constructed so as to prevent the access of vermin;
- k) The internal and external surfaces, including exposed edges to all benches, counters and shelving are to be finished with a rigid, smooth faced and non-absorbent material (e.g. laminate, stainless steel or other approved material) that is capable of being easily cleaned;
- l) All shelving shall be located at least 25mm off the wall or alternatively, the intersection of the shelf and the wall is to be completely sealed. NOTE: The lowest shelf shall be a minimum of at least 150mm above the floor level;
- m) The hot water service unit shall be positioned a minimum of 75mm clear of the adjacent wall surface and mounted a minimum of 150mm above the floor level on a stand of non-corrosive metal construction;
- n) The hand wash facilities at the food premises shall be provided with hot and cold water supplied through a single outlet and fitted with an approved mixing device to enable hands to be washed under warm running water at a temperature of at least 40°C;
- o) Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage of vermin are not permitted to be formed in the construction of the premises or in the installation of fixtures, fittings and equipment;
- p) The double bowl sink shall be provided with hot and cold water supplied through a single spout.
- q) Discharge of commercial trade wastewater is to be approved by Sydney Water. Before selecting or installing trade wastewater pre-treatment devices at a retail Food business, refer to Plumbing for Retail Food businesses produced by Sydney Water.
- r) A cleaners sink connected to a supply of hot and cold water shall be provided.
- s) The grease trap is NOT to be located within an area where food is being handled.

**Air Quality – Vehicle Movement**

101. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.

**Erosion Control - Stabilisation**

102. 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.

**Vegetation - Imported Soil or Mulch**

103. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.

**Landscaping Works - Soil**

104. Premium quality organic garden soil shall be incorporated into all planting areas to achieve optimum plant growing conditions.

**Landscaping Works - Mulch Depth**

105. 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.

**Switchboards**

106. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.

**External Lighting**

107. 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**

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

**Air Conditioning Plant**

109. 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.

**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):**

**Occupation Certificates**

110. The premises must not be utilised until an Occupation Certificate (OC) is issued by the principal certifier.

**Certificates**

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 (Building) and/or the Accredited Certifier (Subdivision) 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.
113. A single and complete Fire Safety Certificate, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate.

**Lot Consolidation**

114. Prior to the issue of an occupation certificate, evidence from the NSW Land Registry Services shall be provided to the satisfaction of the Principal Certifying authority that the two existing allotments on the site have been consolidated.

**Works as executed - General**

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

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

**Stormwater Compliance**

116. 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,
    - i. Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent,
    - ii. Have met the design intent with regard to any construction variations to the approved design, and
    - iii. Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the

Works-As-Executed drawings.

**Restriction as to User and Positive Covenant**

117. 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,
- The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

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

118. 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.

**Notification of Food Premises and Service Station**

119. The food businesses are required to notify Council of their food business details. The PCA is to ensure separate Liverpool City Council approved registration forms are completed and submitted to the Council with any relevant fee.

**Food Premises - Commencement of trade**

120. Trading shall not commence until an Occupation Certificate has been issued by the PCA.

**Site Management Plans**

121. Separate Site Management Plans shall be prepared by a suitably qualified person for both fast food outlets. The Site Management Plans must include security, safety and operational procedures and a litter management plan. The Site Management Plans shall be submitted to Liverpool City Council for review and approval prior to the issue of an Occupation Certificate.

**Recommendations of Odour Assessment**

122. Upon completion of works and prior to the issue of an Occupation Certificate, written certification prepared by a suitably qualified environmental consultant shall be submitted to and approved by the Principal Certifying Authority (PCA). The written certification prepared by the suitably qualified environmental consultant shall confirm that the development complies with all requirements and recommendations detailed within the approved odour assessment report titled Frangos Charcoal Chicken, Moorebank Cooking Odour Assessment (Report Reference: 21.1129.FR1V1, Report Status: Final) prepared by Northstar Air Quality Pty Ltd dated 15<sup>th</sup> June 2021.

Note: 'Suitably qualified environmental consultant' means a consultant who is a Certified Air Quality Professional under the CAQP Scheme administered by the Clean Air Society of Australia and New Zealand (CASANZ) or Certified Environmental Practitioner under the CEnvP Scheme administered by the Environment Institute of Australia and New Zealand (EIANZ).

**Mechanical Ventilation Certification**

123. Upon completion of works and prior to the issue of an 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.

**Trade Waste Agreement/s**

124. The discharge of trade wastewater is to be approved by Sydney Water via a permit or written agreement. No wash water or trade wastewater is to enter the stormwater or creek systems.

Prior to issue of an Occupation Certificate, copies of the plumber's certificate of compliance and the Trade Waste Agreement/s issued by Sydney Water for installation of the pre-treatment devices on-site shall be furnished to Liverpool City Council.

**Underground Petroleum Storage Systems**

125. Prior to the issue of any occupation certificate, a report must be submitted to the Principal Certifying Authority and Council relating to the design, installation and testing of groundwater monitoring wells. The report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant.

**Recommendations of Acoustic Report**

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

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

**Linemarking & Signage**

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

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

**Directional Signage**

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

**Rectification of Damage**

129. 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 Newbridge 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**

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

**Plan of Management for Deliveries and Waste Collection at the Site**

131. A Plan of Management shall be prepared in consultation with a suitably qualified and experienced acoustic consultant for deliveries and waste collection at the site. The Plan of Management must identify and implement strategies to minimise noise from deliveries and waste collection at the site. The Plan of Management shall include an ongoing review process and a plan for responding to noise complaints.

The Plan of Management shall clearly specify the responsibilities of site personnel in managing noise and include a detailed list of steps taken to manage potential noise impacts arising from deliveries and waste collection at the site. The Plan of Management shall be consistent with the conditions of consent and be submitted to Liverpool City Council for review and approval prior to issue of an Occupation Certificate.

**Landscaping**

132. 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.

**G. CONDITIONS RELATING TO USE**

**Goods in Building**

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

**Unreasonable Noise and Vibration**

134. The development, including but not limited to the operation of vehicles, mechanical plant and equipment, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be

taken to avoid nuisance, particularly from machinery, plant, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by a suitably qualified acoustic consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the consultant's recommendations and any additional requirements to the satisfaction of Liverpool City Council.

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

### **Waste Collection**

135. All solid waste stored on site is to be covered at all times. Furthermore, all solid and liquid waste is to be removed from the site by a registered waste contractor.

### **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.

### **Waste**

137. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.

### **Waste Storage Area**

138. Waste bins must be stored in designated garbage/ trade refuse areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of the building, and must not leave the site onto neighbouring public or private properties.

### **Storage of Flammable and Combustible Liquids**

139. Flammable and combustible liquids shall be stored in accordance with AS 1940:2017– The Storage and Handling of Flammable and Combustible Liquids.

### **Storage and Handling of Corrosive Substances**

140. Corrosive Substances must be stored and handled in accordance with AS 3780-2008 The Storage and Handling of Corrosive Substances.

### **Underground Petroleum Storage Systems (UPSS) Environment Protection Plan**

141. The site must have a Fuel System Operation Plan that includes (as a minimum) the following matters as specified in Clause 18 of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*:
- a) Specific information about the storage system, including identifying the 'person

- responsible' for the system;
- b) Loss monitoring and detection procedures;
  - c) Incident management procedures;
  - d) Details about system maintenance;
  - e) Current 'as built' drawings of the system;
  - f) A plan of the storage site. The plan must also include information on site drainage and services;
  - g) A copy of industry standards that have been followed in constructing and maintaining the UPSS;
  - h) A copy of the specifications of the UPSS, and
  - i) An inventory of employee site induction and incident management training that has been undertaken.
- The Fuel system operation manual must be available to the Council or relevant authority when requested.

### **Loading Areas**

142. All loading and unloading must take place from the designated loading areas. These areas are to be clearly marked/signposted for use by delivery vehicles only.

### **Hours of Operation**

143. The hours of operation at the premises shall be carried out in accordance with Condition 4 of this consent.

### **Noise Complaints register**

144. 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.

### **Lighting**

145. Illumination of the site is to be arranged in accordance with the requirements and specifications of AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby premises.

### **Site operations**

146. No burning of any materials shall be carried out on-site

### **Noise – Spruiking**

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

**Noise - Silent Alarm System**

148. Any alarm installed on the site is to be “silent back to base” type.

**Noise – General**

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

**Acoustic Report**

151. An acoustic report prepared by a suitably qualified acoustic consultant shall be submitted to Council for its assessment and approval within six (6) 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 Proposed Service Station, Fast Food and Retail Outlet 226-228 Newbridge Road, Moorebank Noise Impact Assessment Report R200363R1, Revision 0 prepared by Rodney Stevens Acoustics Pty Ltd dated 14<sup>th</sup> December 2020;
  - 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.

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 is a member of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

### **Environment**

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

### **Fast Food Restaurant**

153. The approved Site Management Plans submitted to Liverpool City Council shall be adopted and implemented in regards to security, safety, operational procedures, litter management and if required, ongoing consultation with NSW Police, Council and adjoining property owners.

### **Noise – Music and other activities**

154. The use of the premises including music and other activities shall not give rise to any one or more of the following:
- a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670;
  - b) An indoor sound pressure level in any place of different occupancy (and/ or public place) greater than 3dB(A) above the L90 background level or greater than 5db(A) at the boundary of any affected property in any octave band from 31.5Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00am to midnight daily and 0dB(A) above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies;
  - c) During the period of 12 midnight to 7.00a.m. the use shall be inaudible in any habitable room of any residential premises; and
  - d) The emission of an "offensive noise" as defined under the POEO Act.

The method of measurement of vibration in (a) and sound levels in (b), (c) and (d) shall be carried out in accordance with AS 2973 for vibration measurements, AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

### **Deliveries**

155. Vehicles servicing the site shall comply with the following requirements:
- a) All vehicular entries and exits shall be made in a forward direction.
  - b) All vehicles awaiting loading, unloading or servicing shall be parked on-site and not on adjacent or nearby public roads.

### **Record keeping**



156. A permanent record of receipts for the removal of both liquid and solid waste from the site shall be kept and maintained up to date at all times. Such record shall be made available to Liverpool City Council's Officers upon request.

#### **Forecourt Management Plan**

157. Within three (3) months of occupation/completion of the development, a Forecourt Management Plan shall be prepared and submitted to Council for the service station. The plan shall include details of daily operations and best management practices for the forecourt area (including any policies, procedures and staff training). Additional information is available in the 'Practice Note Managing run-off from service station forecourts' published by the NSW Environment Protection Authority dated June 2019 and 'Environmental Action for Automotive Servicing and Repairs' (DECC 2008/77) prepared by the Department of Environment and Climate Change NSW dated May 2008.

A hard copy of the Forecourt Management Plan shall be kept on site at all times.

158. All forecourt containment measures including trafficable bunds shall be designed, installed and constructed in a manner which: permits the safe passage of personnel and vehicles; maintains effective containment capacity and minimises intrusive/offensive noise impacts arising from vehicle operation.
159. All activities and operations shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*.
160. The Construction Environmental Management Plan shall be complied with at all times.

#### **Plan of Management for Deliveries and Waste Collection at the Site**

161. A Plan of Management shall be prepared in consultation with a suitably qualified and experienced acoustic consultant for deliveries and waste collection at the site. The Plan of Management must identify and implement strategies to minimise noise from deliveries and waste collection at the site. The Plan of Management shall include an ongoing review process and a plan for responding to noise complaints.

The Plan of Management shall clearly specify the responsibilities of site personnel in managing noise and include a detailed list of steps taken to manage potential noise impacts arising from deliveries and waste collection at the site. The Plan of Management shall be consistent with the conditions of consent and be submitted to Liverpool City Council for review and approval prior to issue of an Occupation Certificate.

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

162. The approved Plan of Management for deliveries and waste collection at the site shall be complied with at all times.

#### **Inspection Fee**

163. Council's Authorised Officers will carry out routine inspections of the service station and food premises under the Food Act 2003. Administration and inspection fees will be charged in accordance with Council's Pricing Policy and Fees and Charges.

**Sydney Water**

164. The Applicant shall liaise with Sydney Water to determine whether a grease-trap and trade waste agreement are required for the service station and food premises. If required, a grease arrestor shall not be located in areas where food, equipment or packaging materials are handled or stored. Access to the grease arrestor for emptying shall not be through areas where open food is handled or stored or where food contact equipment and packaging materials are handled or stored.

**Oil/Water Separator**

165. The oil/water separator servicing the site shall be covered and bunded. The cover shall have an overhang of at least 10°. The bunding shall have sufficient capacity to contain 110% of the capacity of the oil / water separator. The oil / water separator shall be connected to Sydney Water's sewer in accordance with a Trade Waste Agreement.

**Storage of Dangerous Goods**

166. A Hazardous Chemicals Notification shall be made to SafeWork NSW if 'dangerous goods' stored on the premises exceed the manifest quantity as prescribed in schedule 11 of the Work Health and Safety Regulation 2017.

**Underground Petroleum Storage Systems and Vapour Recovery Control Equipment**

167. The underground storage system(s) and vapour recovery control equipment shall be operated in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*, Australian Standard 4897-2008: The design, installation and operation of underground petroleum storage systems and the *Protection of the Environment Operations (Clean Air) Regulation 2021*.
168. The design, maintenance and operation of the fuel dispensing area shall comply with the 'Practice Note Managing run-off from service station forecourts' published by the NSW Environment Protection Authority dated June 2019 and the approved Forecourt Management Plan.

Note: The covered fuel dispensing area shall be designed to ensure that the hose and nozzle of the bowsers cannot extend beyond the covered and bunded area. The canopy over the bunded area shall extend beyond the bunded area and have an overhang of 10°.

169. Prior to operation of the underground petroleum storage system, vapour recovery control equipment and LP gas dispensing facility, documentation prepared by a suitably qualified and experienced person shall be submitted to Liverpool City Council certifying that:
- The underground petroleum storage system(s) and vapour recovery control equipment were designed, installed and commissioned by duly qualified persons in accordance with the: *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*; *Protection of the Environment Operations (Clean Air) Regulation 2021*; Standards and Best Practice Guidelines for Vapour Recovery at Petrol Service Stations published by the NSW Environment Protection Authority dated March 2017; and Australian Standard 4897-2008: The design, installation and operation of underground petroleum storage systems.

- The LP gas dispensing facility was designed, installed and commissioned in accordance with AS 1596:2014- The Storage and Handling of LP Gas; and
  - The forecourt was designed and constructed in accordance with the Practice Note Managing run-off from service station forecourts published by the NSW Environment Protection Authority dated June 2019.
170. Spill kits shall be provided on-site at all times to clean-up any minor liquid spillages.
171. Prior to the commencement of Construction, the Applicant must ensure that the following is available for the life of the Development:
- (a) a postal address to which written complaints may be sent;
  - (b) an email address to which electronic complaints may be transmitted; and
  - (c) a telephone contact line to enable complaints associated with the Development to be registered by the community.
172. In addition to the requirements of AS/NZS 1668.1 and AS 1668.2, an extraction system shall be provided where there is any dishwasher and other washing and sanitising equipment that vents steam into the area to the extent that there is, or is likely to be, condensation collecting on walls and ceilings.
173. Waste collection shall only be undertaken between 7.00am and 6.00pm, Monday to Friday.
174. The operation of the service station and food premises shall be conducted so as to avoid unreasonable noise and cause no interference to adjoining or nearby occupants.

#### **Waste Storage Area**

175. The waste storage areas identified on the approved plans for the service station and food premises, shall be provided with a concrete floor, with concrete or cement rendered walls coved to the floor. The floor shall be graded to an approved sewer connection incorporating a floor waste comprising a removable basket within a fixed basket arrestor compliant with Sydney Water requirements. The drainage point should have a fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer. A hose cock shall be provided within the room and must not protrude into the space indicated for the placement of bins. The waste storage area shall be vented to the external air by natural or artificial means and provide an area for dry recycling facilities.

#### **Parking**

176. All parking areas shown on the approved plans must be used solely for this purpose.
177. 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.

#### **Roller Shutters**

178. No roller shutters are permitted on any windows or doors or entrances where visible from a street or public place.

#### **Advertising**

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

### **Landscaping**

180. 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.

## **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.

**ATTACHEMENT 2: Payment of Section 7.12 Contributions**  
**CONTRIBUTIONS PURSUANT TO SECTION 7.12 OF THE ENVIRONMENTAL**  
**PLANNING & ASSESSMENT ACT, 1979**  
**Liverpool Contribution Plan 2018 Established Areas**

**Note to the applicant:** When remitting payment as specified in the Conditions of Consent to the approval, this Form must be submitted with your payment.  
These figures have been calculated to the CPI September Quarter 2022 and will be adjusted at the time of payment in accordance with the conditions of consent.

**APPLICATION NO:** DA-14/2021

**APPLICANT:** MR C RIDGEWELL

**PROPERTY:** 226 & 228 NEWBRIDGE ROAD, MOOREBANK NSW 2170  
LOT 1 DP 523597 & Lot 55 DP 567062

**PROPOSAL:** Demolition Of All Existing Structures And Improvements. Proposed Construction Of A New Service Station Development Including Sales & Fast-Food Building, Separate Restaurant Facility, Fuel Dispensing Canopy, 8.5m High Pylon Sign, Underground Tanks, Signage, Alteration Of Existing Driveway Crossovers & Associated Site Works And Trading Time Of 24/7

<u>Facilities</u>	<u>Amount (\$)</u>	<u>Job No.</u>
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LIVERPOOL CITY COUNCIL

LOCAL PLANNING PANEL REPORT

31 October 2022

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<b>Liverpool Contributions Plan 2018 (Established Areas)</b>		
Transport – Bikeways – Works Eastern	\$2,010	GL.10000001865.10208
Transport – Traffic Management – works Eastern	\$13,400	GL.10000001865.10214
Transport – Buses Shelters – works Eastern	\$670	GL.10000001865.10216
Drainage – works	\$10,720	GL.10000001865.10210
<b>TOTAL</b>	<b>\$26,800</b>	

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

**RECORD OF PAYMENT**

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

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

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

**ATTACHEMENT 3: Transport for NSW Requirements**

Transport

14 August 2022

TfNSW Reference: SYD21/00262/07  
Council Reference: DA14/2021  
CNR-18994

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

Attention: Greg Mottram



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**ADDITIONAL INFORMATION FOR PROPOSED SERVICE STATION AND FAST-FOOD DEVELOPMENT AT 226 NEWBRIDGE ROAD, MOOREBANK**

Dear Sir/Madam

Reference is made to Liverpool City Council's referral on the planning portal on 11 August 2022 regarding updated plans and documentation associated with the abovementioned Development Application, which was referred to Transport for NSW (TfNSW) for concurrence under Section 138 of the Roads Act, 1993.

Based on the documentation provided by the applicant, TfNSW concurs with the proponent that a deceleration lane is not viable, largely due to the need to relocate significant utilities in the verge of Newbridge Road. Therefore, TfNSW grants concurrence to the proposed entry and exit driveway on Newbridge Road under Section 138 of the Roads Act, subject to Council's approval and the following requirements being incorporated into any development consent:

1. The proposed removal of the existing vehicular crossing and reinstatement of kerb and gutter to match existing, new vehicular crossing (exit) and modifications to the existing vehicular crossing (entry) on Newbridge Road shall be designed to meet TfNSW requirements and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTRROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au). The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works.

TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Newbridge Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

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

3. The developer shall be responsible for all public utility adjustment/relocation works, etc. necessitated by the above/approved work and as required by the various public utility authorities and/or their agents.
4. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
5. All vehicles are to enter and leave the site in a forward direction.
6. All vehicles are to be wholly contained on site before being required to stop.

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OFFICIAL

27-31 Argyle Street Parramatta NSW 2150  
PO Box 973 Parramatta CBD NSW 2124

P 131782  
W [transport.nsw.gov.au](http://transport.nsw.gov.au)



LIVERPOOL CITY COUNCIL  
LOCAL PLANNING PANEL REPORT

31 October 2022

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7. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Newbridge Road during demolition and construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

8. All works associated with the proposed development shall be at no cost to TfNSW.

If you have any further questions Zeliha Cansiz would be pleased to take your call on 0460427977 or please email [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

Yours sincerely,



James Hall  
Senior Land Use Planner  
Land Use Assessment Eastern  
Planning and Programs, Greater Sydney Division