

LIVERPOOL CITY COUNCIL
LOCAL PLANNING PANEL REPORT

25th February 2019

Item no:	4
Application Number:	DA-719/2018
Proposed Development:	Removal of all Vegetation from the Site and Earthworks to accommodate future Industrial Development (as proposed and under assessment under DA-796/2018)
Property Address	5 Yarrowa Street, Prestons
Legal Description:	Lot 1 DP 1045029 Part Lot 2 DP 1045029
Applicant:	JVMC PTY LTD
Land Owner:	Mr F Nasser, Mr G Nasser, Mr M Nasser
Cost of Works:	\$99,899.00
Recommendation:	Partial Approval subject to conditions of consent
Assessing Officer:	Ivan Kokotovic

1. EXECUTIVE SUMMARY

This Development Application (DA) seeks consent for the tree removal and earthworks to accommodate future industrial development, construction of an ancillary display suite and erection of advertising signage on shipping containers to promote the future industrial development (as proposed under DA-796/2018), at 5 Yarrowa Street, Prestons, and on Part Lot 2 which adjoins the lot to the north.

The site is zoned IN3 Heavy Industrial under Liverpool Local Environmental Plan 2008 (LLEP), for which the proposed vegetation removal and earthworks to accommodate future industrial development is permissible with consent. However, the proposed ancillary display suite and signage to promote future industrial development is not permissible at this point in time, as no industrial development consent exists for the site. As such the signage and display suite are not considered to be ancillary to industrial development, rather advertising and commercial premises which are both prohibited.

The proposal can be partially approved with respect to the permissible development, and can be restricted by condition of consent with respect to the prohibited development, to ensure consistency with the objectives and development standards of the LLEP, and with the provisions and controls of the Liverpool Development Control Plan 2008 (LDCP).

The key issues associated with the proposal relate to the subject site being land mapped erroneously as a wetlands pursuant to State Environmental Planning Policy (SEPP Coastal Management) 2018. This issue has been addressed correctly by the applicant as they have provided an Environmental impact Statement (EIS), based on specific advice from the Department of Planning and Environment (DPE).

The proposal was required to be advertised in accordance with LDCP, as it is Designated Development, and no submissions were received.

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Due to the application being identified as Designated Development, it is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979, and the assessment has concluded that the proposal can be partially approved by condition of consent to achieve compliance with the planning controls relevant to the proposal including LLEP 2008, LDCP and SEPP (Coastal management).

2. SITE DESCRIPTION AND LOCALITY

2.1 Site Description



Figure 1: Aerial view of site

The site is irregular in shape with a primary frontage to Yarrawa Street of approximately 185m and an area of approximately 2.723ha. The secondary frontage adjoins the Westlink M7 motorway and is approximately 318m in length.

The site is relatively flat falling approximately 1m from the south to the north and is identified as being entirely flood affected, containing wetlands, and being entirely bushfire prone. Existing on-site is a community of Cooks River Castlereagh Ironbark Forest and Acacia Scrubland understorey which is of limited ecological value, due to its fragmentation by other vegetation including weeds and exotic tree species and partially cleared areas. Historically, the site was used for agriculture, and the vegetation is established re-growth since cessation of that use.

The site was significantly affected by the compulsory land acquisition required for the construction of the Westlink M7 motorway.

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Adjoining the site to the east and north is the Westlink M7 motorway, to the west is an Endeavour Energy electricity substation, to the south opposite Yarrowa Street is vacant land. West further along Yarrowa Street is a Freight Transport Logistics business.

A site inspection was carried out on 25 October 2018 and subsequently on 9 January 2019, and no works as proposed had commenced.

Site Inspection Photos



1. Front of Site from Yarrowa Street



2. Frontage at Yarrowa Street near Bernera Road



3. Vegetation on site



4. The site along western boundary

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2.2 Locality Description

The area is predominately characterised by a mix of light to heavy industrial uses and vacant land zoned for heavy industrial use, within close proximity of main road corridors M7 Motorway, Hoxton Park Road and Bernera Road. It is located approximately 75m from Cabramatta Creek to the north and as such is in the Georges River Catchment.

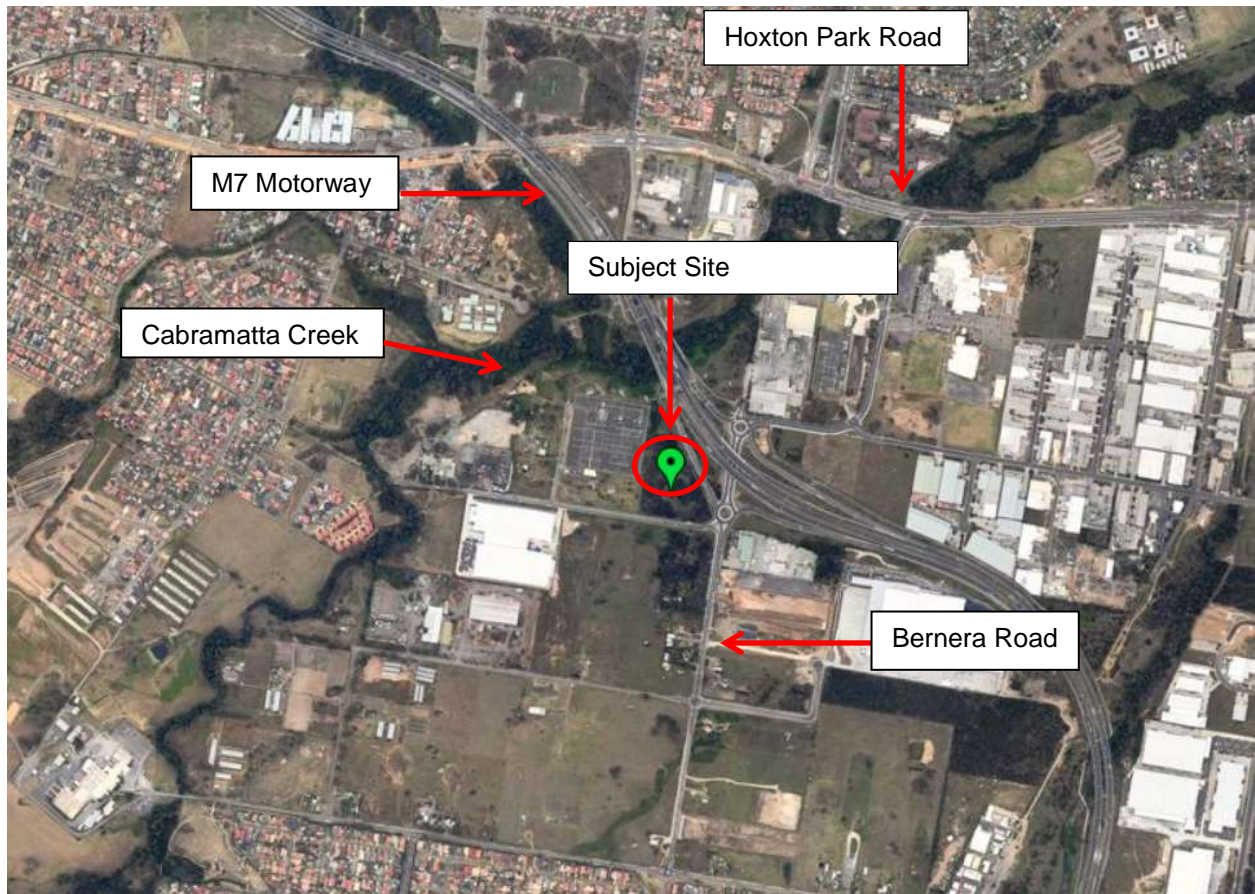


Figure 2: Locality surrounding the proposed development

2.3 Constraints

Potential Site Constraints: <ul style="list-style-type: none">• Bushfire• Flooding• Heritage Items• Aboriginal heritage• Environmentally Significant Land• Threatened Species/ Flora/ Habitat/ Critical Communities• Acid Sulphate Soils• Aircraft Noise• Flight Paths• Railway Noise• Road Noise/ Classified Road• Significant Vegetation• Contamination	Site Constraints: <ul style="list-style-type: none">• Bushfire prone in entirety.• Flood affected in entirety.• The site is contaminated requiring remediation.• Identified as potentially containing moderate saline soils.• Identified on LEP mapping as:<ul style="list-style-type: none">- containing Environmentally Significant Land- containing Forest Red Gum- having regional core conservation significance- being a Threatened Ecological Community- containing an area of remnant native vegetation• Identified on LEP mapping as containing 2 riparian corridors.• Identified on SEPP Coastal Management mapping
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	as being a wetland. <ul style="list-style-type: none">• Affected by Classified Road Noise
Are there any restrictions on title?	Nil

Note: The LLEP and SEPP (Coastal Management) mapping, indicating the native vegetation and wetlands on-site has been demonstrated by documentation assessed in this report as being outdated and incorrect. As such, it is considered that previous mapping of the site has not been updated.

In particular, the mapping indicates that the site is affected by riparian corridors which do not currently exist, and it is assumed that the mapping provides layers for certain significant vegetation usually associated with sensitive land surrounding waterbodies and wetlands.



Figure 3: Bushfire Affectation

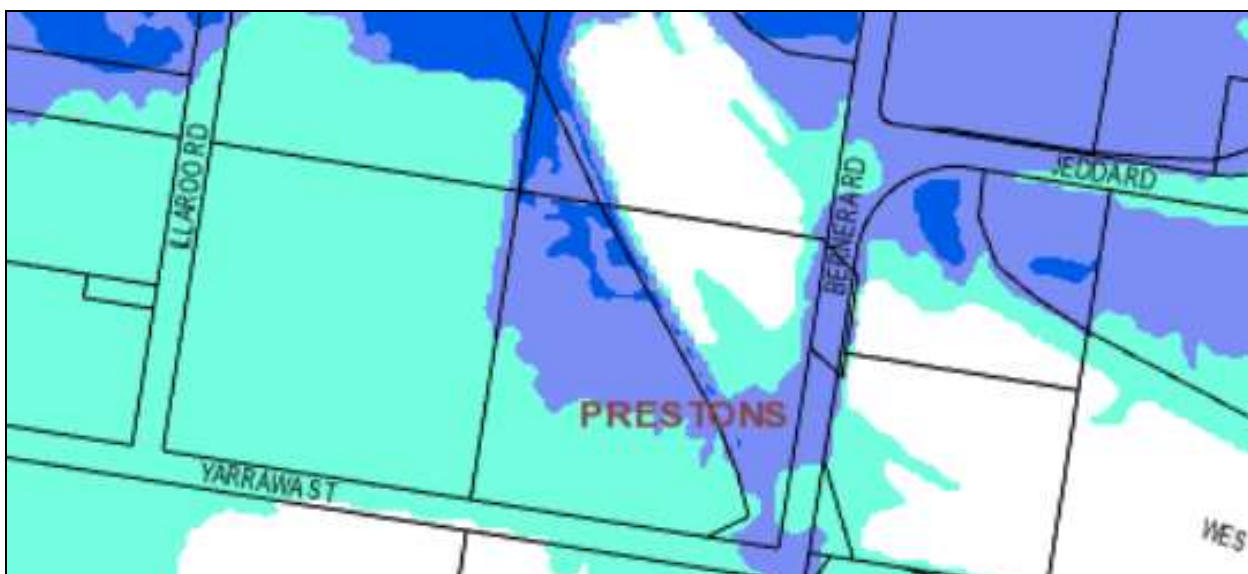


Figure 4: Flood affectation

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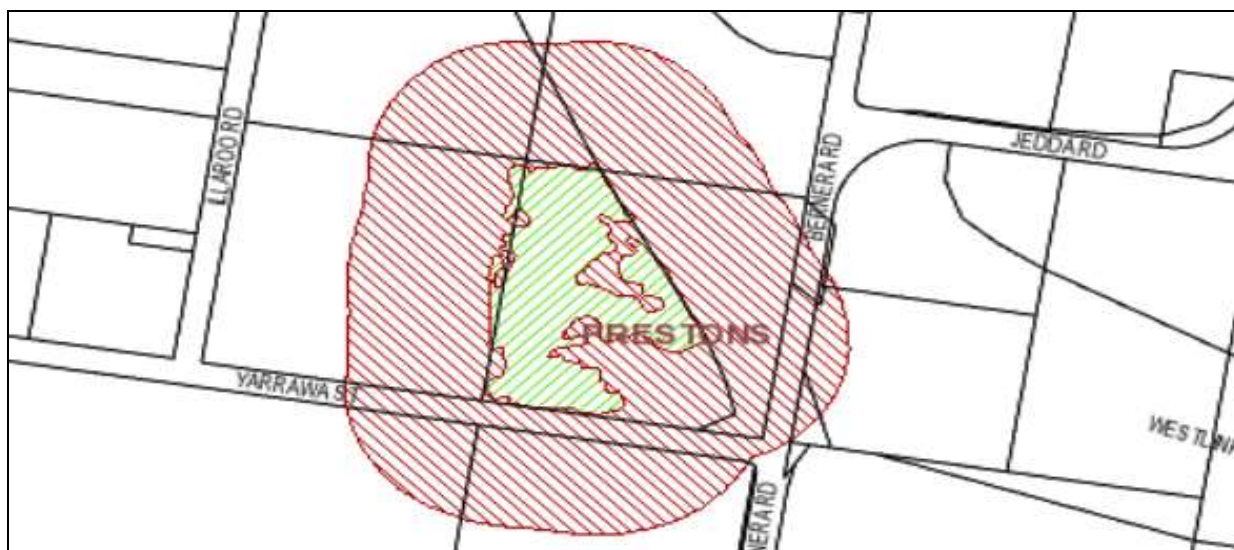


Figure 5: Extent of land identified as wetlands

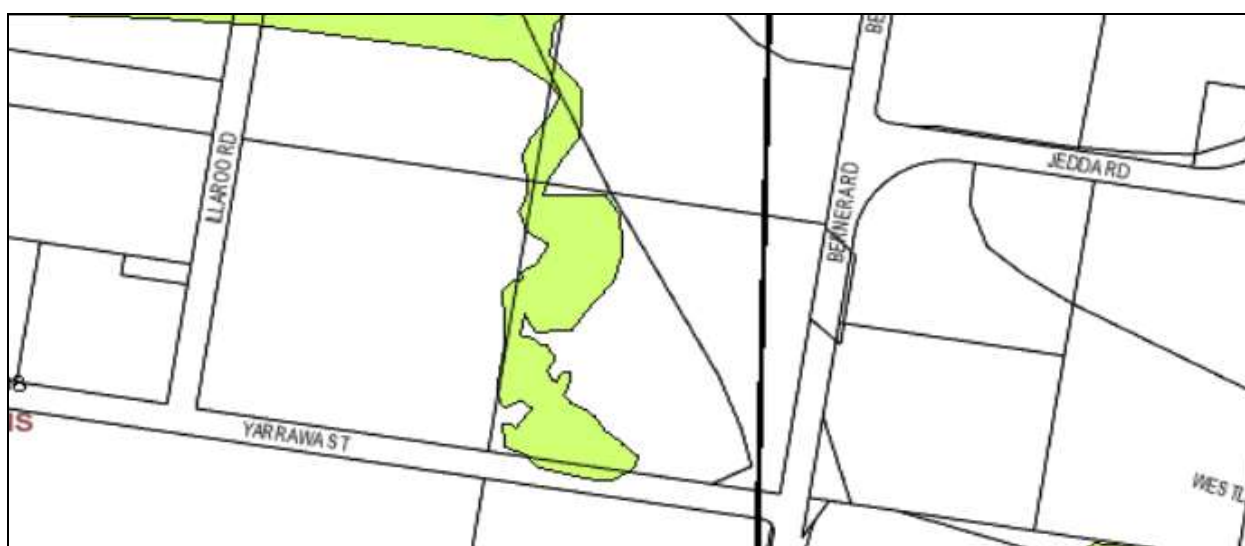


Figure 6: Area on-site identified as Environmentally Significant Land

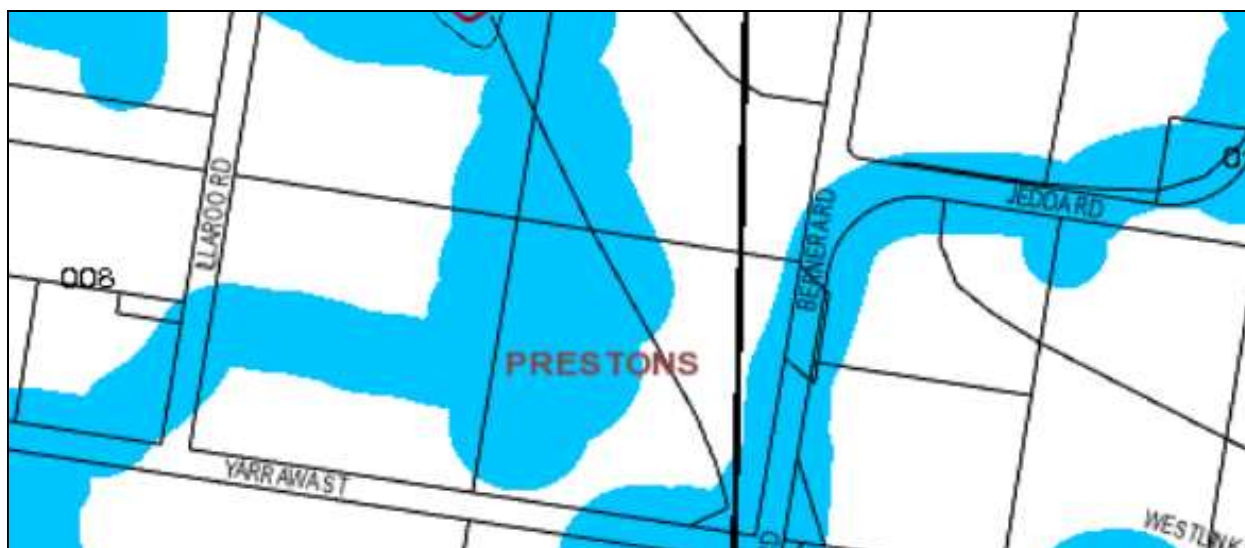


Figure 7: Area on-site identified as Riparian Corridor

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3. Background

3.1 Background and DA History

- Prior to the lodgement of the application, a Pre-DA (PL-43/2018) was held at Council on 16 May 2018.
- DA-719/2018 (subject DA) was lodged with Council on 18 September 2018.
- DA-769/2018 was lodged with Council on 17 October 2018 for the construction of 125 warehouse units, 23 storage units with ancillary offices and subdivision into 55 lots.
- 29 October 2018: Council's *Sustainable Environment Natural Resources Planner* requested additional information to the submitted Flora and Fauna Report, to verify conclusions made regarding the vegetation on-site.
- The Flora and Fauna Report was subsequently amended and Council's *Sustainable Environment Natural Resources Planner* provided comment recommending approval subject to conditions of consent on 19 November 2018.
- 6 December 2018: Council requested the submission of an Environmental Impact Statement (EIS) to ensure the appropriate assessment of the development pursuant to SEPP (Coastal Management). Council also requested that the proposal description be amended to include some works associated with an industrial use. Council's assessment of the original proposal solely for vegetation removal, display suite and advertising signage, would be inconsistent with the objectives of the industrial zone and prohibited in isolation of any approved industrial development on-site.
- The applicant submitted the EIS on 11 December 2018, and Council was able to obtain correspondence from DPE on 4 February 2019, that the proposal posed no state of regional significance. The applicant also amended the proposal's description of development to include bulk earthworks, to accommodate future industrial development as proposed in DA-796/2018 which is under assessment.

4. Details of the Proposed Development

The proposed development (which is supported) consists of the following:

- Removal of all Vegetation from the site.
- Site Remediation consistent with the strategies proposed in the provided Remediation Action Plan
- Bulk earthworks to accommodate future industrial development, consisting of a combination of cut and fill, including the construction of retaining walls on boundaries to retain fill.

The proposed development (which is not supported) consists of the following:

- Construction of a display suite
- Erection of advertising signage on a shipping container

This DA relies upon the assumption that it should be assessed as Stage 1 of the proposal to construct 125 warehouse units, 23 storage units with ancillary offices and subdivision into 55 lots, as proposed in and currently under assessment in DA-796/2018.

Extracts of the proposed site plan and civil engineering details is provided in Figures 7 and 8 below.

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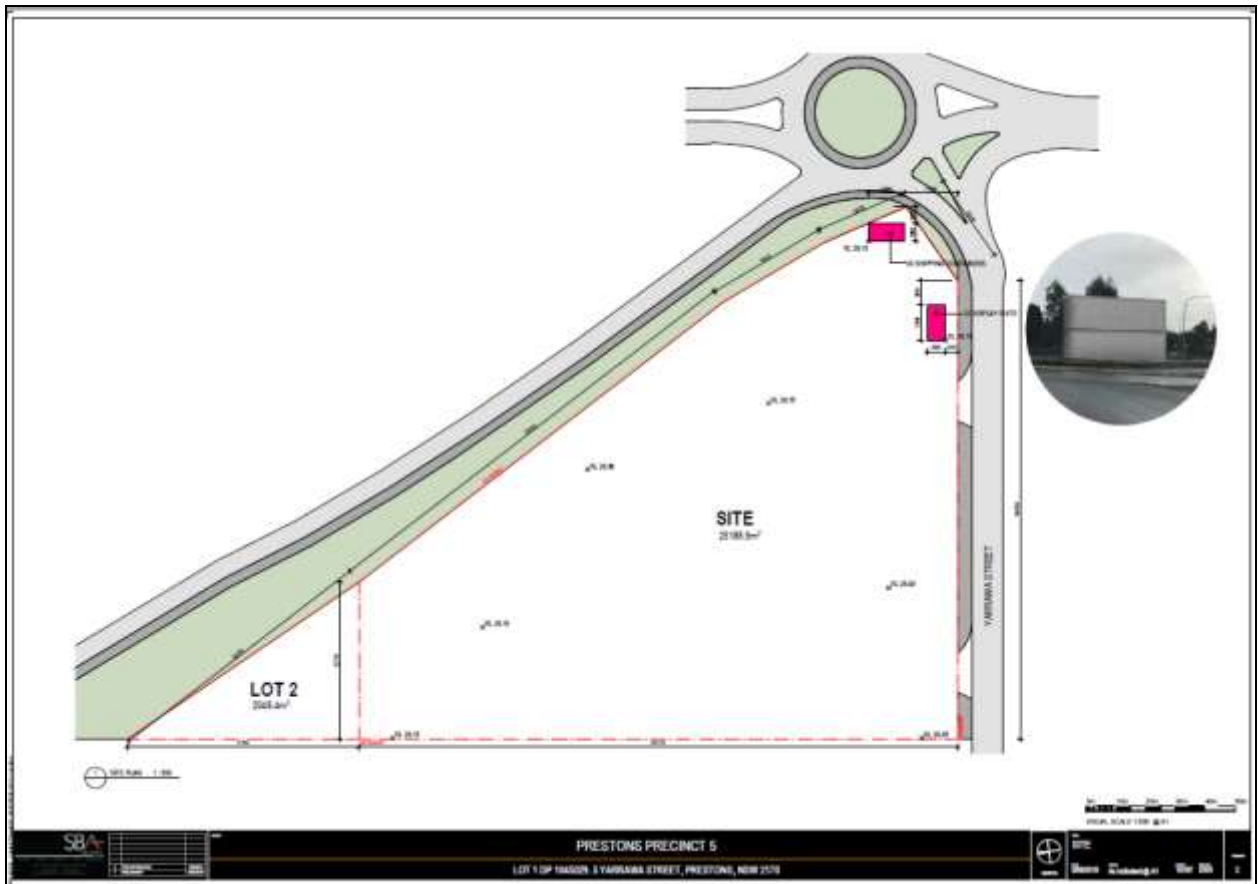


Figure 8: Site Plan with location of proposed display suite and advertising signage (north to left)

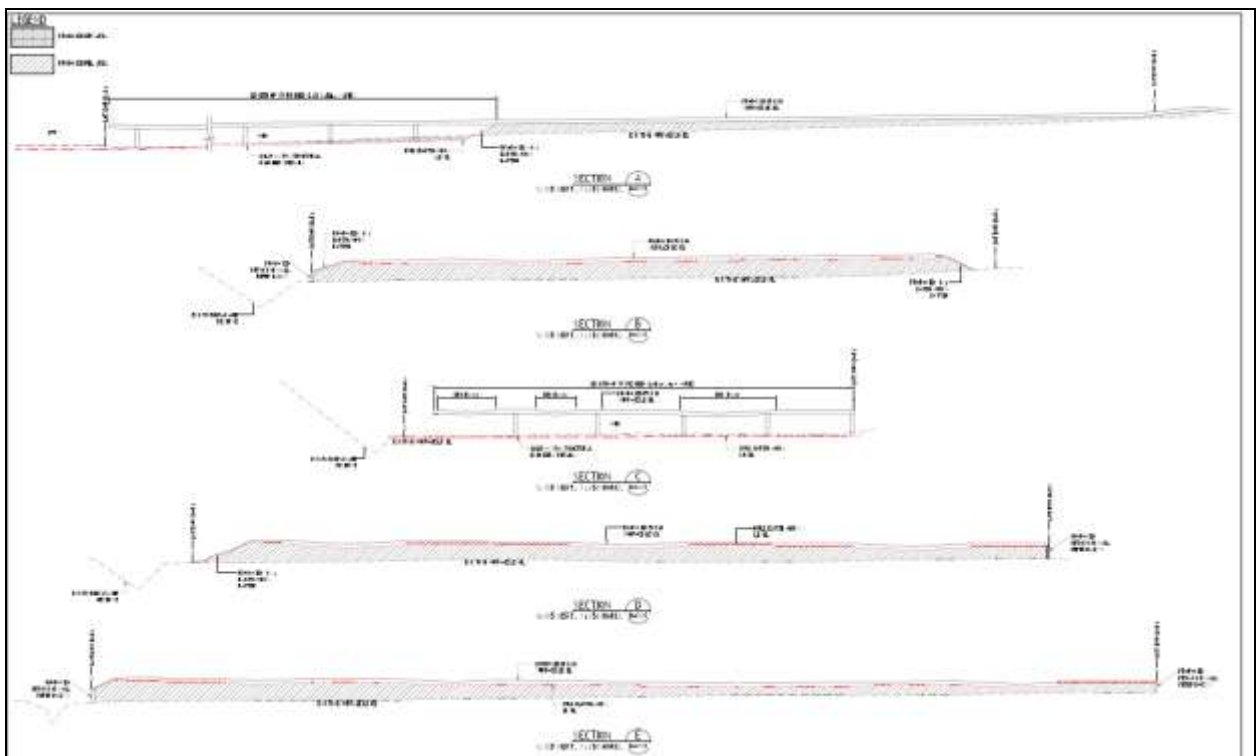


Figure 9: Sections of the extent of proposed cut and fill

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5. STATUTORY CONSIDERATIONS

Relevant matters for consideration

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

- Environmental Protection and Biodiversity Conservation Act 1999
- Biodiversity Conservation Act 2016 (*provisions of Threatened Species Conservation Act 1995*)
- State Environmental Planning Policy (Coastal Management) 2018;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development
 - Part 7: Development in Industrial Areas

6. ASSESSMENT

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

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

(a) Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)

The provisions of the EPBC Act require referral to the Federal Department of the Environment and Energy where matters of national environment significance are assessed to be required.

Although the Cooks River / Castlereagh Ironbark Forest (CRCIF) listed as critically endangered, is identified on site by the submitted Flora and Fauna Report, it was identified as covering only 0.38ha of the 2.7ha site and of being in a degraded state in the southern and central portion of the site, interspersed amongst other species of native and exotic vegetation. Ultimately, the report recommends that referral under the EPBC Act is not required as the extent of the CRCIF identified is not deemed to meet the necessary criteria, as the proportion of native species in the understorey is below 50%.

Council's *Sustainable Environment Natural Resources Planner* concurs with this assessment and agrees with the findings of the report that the vegetation on site is of limited ecological value containing no threatened flora, and that the site contains no threatened fauna species.

(b) Biodiversity Conservation Act 2016 (BC Act)

The provisions of the BC Act are not yet applicable to the Liverpool City Council LGA as they are subject to transitional arrangements (until 24 November 2019) which defer to the otherwise repealed Threatened Species Conservation Act 1995 (TSC) requirements.

As required by the EP&A Act, where a proposed development is assessed to likely cause a significant impact to a threatened species listed under the TSC Act, a Species Impact

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Statement is to be prepared and submitted for assessment and concurrence of the Office of Environment and Heritage NSW.

In this instance the Flora and Fauna Report identified 2 Ecologically Endangered Communities (EEC) and 2 non EECs which make up the entirety of the 2.73ha site area, and which are all in a degraded condition, being;

EEC

River-Flat Eucalypt Forest (RFEF) over 0.6ha
CRCIF over 0.38ha

Non EEC

Acacia scrub over 1.93ha
Weeds and exotics over 0.36ha

Further, the report did not identify any threatened fauna on the site. Due to the findings of the report it was recommended that a Species impact Statement would not be required, and that due to the limited ecological value, that impacts of the removal of all of the vegetation would be minimal with respect to the local and regional ecological processes.

Council's *Sustainable Environment Natural Resources Planner* concurs with this assessment and agrees with the findings of the report that the vegetation on site is of limited ecological value containing no threatened flora species, and that the site contains no threatened fauna species.

(c) State Environmental Planning Policy (Coastal Management) 2018

The site is identified on DPE mapping as containing a wetland and being in the proximity of a wetland. The applicant provided documentation to Council indicating that there is no wetland on the site and that the DPE mapping is incorrect. Further, the applicant obtained Secretary's Environmental Assessment Requirements (SEARs) documentation from DPEs *Industry Assessments* office explaining that the formal process for approval was still to be followed (irrespective of the possibility of incorrect mapping of the site), which was to prepare and submit an EIS addressing the provisions of SEPP (Coastal Management) 2018, to satisfy the SEARs as required for Designated development.

The EIS was submitted and referred to DPE who have confirmed in writing it is satisfied that the development poses no issues of state or regional significance, and that any notice of determination be forwarded the DPE.

In correlation with the DPEs assessment, Council's Development Assessment section concurs with the EIS methodology and assessed outcomes (including references to an historical study / Flora and Fauna Report / Soil typography Study / Hydrology and Flood assessment of the site), that the site does not contain any wetlands and thus complies by default with SEPP (Coastal Management) 2018 Part 2 Division 1 Clause 10 as is presented below:

Relevant Clauses	Proposed	Comment
Clause 10 Development on certain land within coastal wetlands and littoral rainforests		
(1) Permissible with development consent on land mapped as coastal wetlands a) the clearing of native vegetation	The proposed clearing of native vegetation meets the definition in the Local Land Services Act 2013	Complies with (a) the clearing of native vegetation (c) the carrying out of any of the following:

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<p>within the meaning of Part 5A of the <u>Local Land Services Act 2013</u>, (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the <u>Fisheries Management Act 1994</u>, (c) the carrying out of any of the following: (i) earthworks (including the depositing of material on land), (ii) constructing a levee, (iii) draining the land, (iv) environmental protection works, (d) any other development.</p>	<p>and the removal of CRCIF / RFEF / Acacia scrub are permissible</p> <p>The proposed earthworks are permissible</p>	<p>(i) earthworks (including the depositing of material on land),</p>
<p>(2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.</p>	<p>The development is identified as Designated and was advertised and referred to DPE in accordance with requirements of the Act.</p>	<p>Complies SEARs approval was provided</p>
<p>(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.</p>	<p>Applicant provided an EIS establishing that the site does not contain a coastal wetland, and a Flora and Fauna Report identifying limited ecological value on-site.</p>	<p>Not Applicable</p>
<p>(5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the <u>Biosecurity Act 2015</u>.</p>	<p>The proposed clearing priority weeds and identified on the site is not affected by this clause.</p>	<p>Complies</p>

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

The proposal has been assessed under the relevant provisions of SEPP 55 as the proposal involves the development of land to accommodate a change of use with the potential under the SEPP 55 guidelines to be a site that could be contaminated (*agricultural/horticultural activities*). Therefore under the SEPP 55 guidelines the subject site is identified as a site that could be contaminated.

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.

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

The submitted contamination assessment and subsequent Remediation Action Plan (RAP) prepared by JBS&G (ref no: 55077/117248-Rev 0) dated September 2018, were submitted to Council for review, and are supported by Council's Environmental Health Officer subject to the implementation of preferred removal strategies for the unsuitable materials at the site as conditions of consent.

Pursuant to Clause 7 of SEPP 55, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application (Clause 7).

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The land is contaminated as reports submitted by the applicant identify.
(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 RAP was submitted as part of this application and reviewed by Council's Environmental Health Staff. The land is considered suitable for its proposed future industrial use, subject to remediation works carried out in accordance with the contamination assessment, and subject to conditions of consent, as recommended by Council's Environmental Health Officer.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	Conditions of any consent shall require the remediation of the land as per recommendations in the submitted contamination assessment and as recommended by Council's Environmental Health Officer.

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

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

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

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

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

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Clause 8 General Principles	Comment
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	Proposal reviewed by Council's Engineers. Water quality features not required to be incorporated at this stage of site development.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The earthworks plan was submitted and reviewed by Council's development engineers. Conditions of consent apply with respect to sediment and erosion mitigation measures.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	Consistent with the strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	Not required to be referred, not closer than 40m to a water body.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No. The site is located in an area nominated for industrial development.
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No bank disturbance is proposed.
(3) Flooding	Flood affected lot. Proposal reviewed by Council's Engineers. Impacts have been assessed to be manageable through recommended conditions of consent.
(4) Industrial discharges	Not applicable at this stage of the development
(5) Land degradation	An erosion and sediment control plan to manage salinity and minimise erosion and sediment loss required prior to CC.
(6) On-site sewage management	Not applicable.
(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.

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(10) Urban development areas	The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable
(12) Water quality and river flows	Erosion and sediment control to be implemented in construction. Salinity measures to be implemented in earthworks and construction.
(13) Wetlands	Not applicable (view assessment under SEPP Coastal Management)

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

(f) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned IN3 Heavy Industrial pursuant to the LLEP 2008. An extract of the zoning map is provided in Figure 9 below.

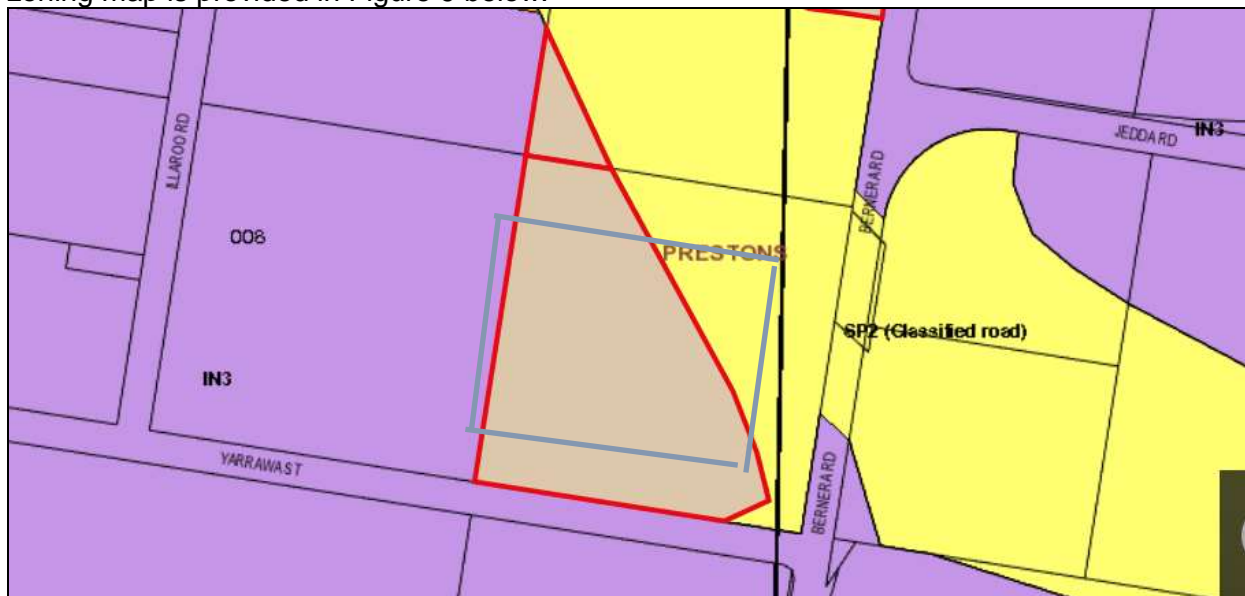


Figure 10: Extract of Zoning Map

(ii) Permissibility

The proposed vegetation removal and bulk earthworks is development characterised as works to accommodate a future industrial development, and as such is ancillary to a number of possible developments that could use the site, including those appropriately defined by the standard instrument as “General industries, Heavy industries, Light industries”, which are identified as permitted land uses with consent within the IN3 Heavy Industrial Zone under Liverpool Local Environment Plan 2008.

Note: In characterising the proposed vegetation removal and bulk earthworks as ancillary to industrial development and thereby permissible, Council has followed the precedent set by Acting Commissioners Adam and Douglas during proceedings for the Amended Class 1 Appeal (case number 2017/00234018) in which Liverpool City Council was the respondent. The Class 1 Appeal (for DA-1250/2016) was initially submitted for the proposed ‘Removal of all trees and vegetation’ from an industrially zoned site at 36 Lyn Parade, Prestons. Council raised as a key

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contention that a development proposal solely for vegetation removal was not permissible works and thereby was prohibited in the zone. On 20th March 2018 a Notice of Motion hearing was held in which the Acting Commissioners approved an amendment to the Development Application, introducing site works, as an express connection of the vegetation clearing and site works to the future industrial use of the land. In effect, the applicant for this DA-719/2018 has followed the same process in amending the originally submitted DA to propose bulk earthworks to accommodate a future industrial development for which DA-796/2018 has been lodged and is under assessment.

The proposed advertising signage and display suite are assessed to be prohibited, as they would be approved before any associated industrial development (proposed in DA-796/2018) has been granted consent. As such they are not considered to be the permissible "Building / Business identification signs", nor are they ancillary to industrial development. Rather they are defined as "advertising" and "commercial premises" which are prohibited in the zone.

(iii) Objectives of zone

Objectives of the IN3 Heavy Industrial Zone are;

- *To provide suitable areas for those industries that need to be separated from other land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of heavy industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To preserve opportunities for a wide range of industries and similar land uses by prohibiting land uses that detract from or undermine such opportunities.*

The proposed vegetation removal and bulk earthworks is not inconsistent with the above objectives of the IN3 zone, and facilitates the future development of land for industrial purposes.

(iv) Principal Development Standards and Provisions

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

Clause	Provision	Comment
Part 4 Principal Development Standards		
2.7 Demolition	The demolition of a building or work may be carried out only with development consent	Not Applicable Vacant Site
4.1 Minimum subdivision lot size	V = 2000sqm	Not Applicable No subdivision proposed
4.3 Height of Buildings (as per HOB Map)	U = 30m	Not Applicable No buildings proposed
4.4 Floor Space Ratio (as per FSR Map)	No nominated FSR	Not Applicable No buildings proposed
5.10 Heritage	To protect existing items/locations	Not Applicable

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Conservation	identified as containing significant heritage value	Not identified as a heritage listed site and not in the vicinity of a heritage listed item.
6.5 Public Utility Infrastructure	Public Utility Infrastructure must be available	Not Applicable No building construction or use proposed.
7.6 Environmentally Significant Land	(1) The objectives of this clause are as follows: (a) to Maintain bushland, wetlands and wildlife corridors of high conservation value, (b) to identify areas of significance for revegetation to connect to or buffer <u>bushland</u> , wetlands and wildlife corridors, (c) to protect rare and threatened <u>native flora</u> and native fauna, (d) to ensure consideration of the significance of vegetation, the sensitivity of the land and the impact of development on the environment prior to the giving of any development consent.	Complies on merit The site is identified as containing Environmentally Significant Land. A Flora and Fauna Report has identified limited ecological value on-site and is supported by Council's <i>Sustainable Environment Natural Resources Planner</i> . Further, it is assessed that the proposed vegetation removal complies with the requirements of the LLEP as expressed below this table.
7.7 Acid Sulfate Soils	Affected properties to consider impact of development on soils	Not Applicable The site is not identified as being impacted by acid sulfate soils.
7.8 Flood Planning	To allow development on land that is compatible with the land's flood hazard	Complies by condition The site is identified as being flood prone. However, as reviewed by Council's Flood Plain Engineers, the limited scope of works is considered to cause minimal adverse impact subject to conditions of consent
7.31 Earthworks	This section contains controls relating to earthworks	Complies by condition This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues to the bulk earthworks, subject to conditions of consent

7.6 Environmentally significant land

(2) Before determining an application to carry out development on environmentally significant land, the consent authority must consider such of the following as are relevant:

- (a) the condition and significance of the vegetation on the land and whether it should be substantially retained in that location,

The Flora and Fauna Report identified 2 Ecologically Endangered Communities (EEC) and 2 non EECs which make up the entirety of the 2.73ha site area, and which are all in a degraded condition. Based on the limited ecological value of the vegetation on-site and the objectives of the industrial zone, Council considers that it should not be retained. An outcome which would otherwise significantly reduce the potential of the site to achieve the anticipated outcomes of the zone.

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- (b) the importance of the vegetation in that particular location to native fauna,

The Flora and Fauna Report did not find evidence of any native fauna on-site.

- (c) the sensitivity of the land and the effect of clearing vegetation,

The Flora and Fauna Report concluded clearing the vegetation would not result in adverse impacts on the subject site and on surrounding land, and that the removal of priority weeds would benefit the natural process of Cabramatta Creek, as the site is within its floodplain.

- (d) the relative stability of the bed and banks of any waterbody that may be affected by the development, whether on the site, upstream or downstream,

The proposed vegetation removal is unlikely to affect the nearest waterbody being Cabramatta Creek, and Council's Land Development Floodplain Engineers have provided comment and conditions of consent to minimise any possible impacts as a result of the proposed earthworks, which the vegetation clearing facilitates.

- (e) the effect of the development on water quality, stream flow and the functions of aquatic ecosystems (such as habitat and connectivity),

The proposed vegetation removal is unlikely to affect water quality, stream flow and the functions of aquatic ecosystems, and Council's Land Development and Floodplain Engineers have provided comment and conditions of consent to minimise any possible impacts as a result of the proposed earthworks, which the vegetation clearing facilitates, consistent with Council's Stormwater Strategies.

- (f) the effect of the development on public access to, and use of, any waterbody and its foreshores.

The development does not impact on public access to Cabramatta Creek.

Given the above assessment, It is considered that the proposal satisfies the provisions of the Liverpool LEP.

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.

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

(a) Liverpool Development Control Plan (LDCP) 2008

- The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development*, *Part 7 Development in Industrial Areas*. The development is found to be generally compliant on merit and satisfactory.

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

6.4 Section 4.15(1)(a)(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 2000 requires the consent authority to consider the provisions of the BCA. Accordingly, appropriate conditions of consent will be imposed.

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

Natural and Built Environment

The native vegetation on-site is assessed to be of low ecological value as it is in a degraded state and disrupted by previous land clearing and instances on-site of exotic species and weeds, as concluded by a Flora and Fauna Assessment which Council's relevant officers support. The proposed development is unlikely to create a detrimental impact on the natural environment surrounding the subject site, subject to the imposition of appropriate conditions of consent.

The proposed development is unlikely to create any adverse impacts on the surrounding built environment, including adjacent roads and the energy substation on the adjoining site. The proposed development is considered to be of an appropriate scale and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate a future industrial development which is consistent with the desired future built character of the locality.

It is considered that the proposed development, as amended, has been designed with sufficient regard to surrounding properties to ensure that any adverse amenity impact is minimised during the course of the works.

Social Impacts and Economic Impacts

The proposal would result in a future positive economic impact in the locality through the capital investment value of a future industrial development and is unlikely to generate any identifiable detrimental social impacts, being consistent with desired development in the locality.

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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 the site is considered to be suitable for the proposed development.

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Environmental Health Officer	Approval subject to conditions of consent
Floodplain Engineer	Approval subject to conditions of consent
Land Development Engineer	Approval subject to conditions of consent
Sustainable Environment Planner	Approval subject to conditions of consent

(b) External Referrals

The following comments have been received from External Departments:

DEPARTMENT	COMMENTS
Department of Planning & Environment	No objections to the development

(c) Community Consultation

The proposal was not required to be placed on public exhibition but was advertised in accordance with the Act as Designated Development. No objections were submitted to Council.

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

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

7. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contribution is 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.

The proposed development is unlikely to result in any adverse impact upon the locality and is considered to be worthy of support specifically in providing a development compatible with the desired future character of the locality.

9. RECOMMENDATION

That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979, Development Application DA-719/2018 be partially approved with respect to the permissible development, and is to be restricted by condition of consent with respect to the prohibited development.

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10. ATTACHMENTS

- 1. PLANS OF THE PROPOSAL**
- 2. DCP COMPLIANCE TABLE**
- 3. DRAFT CONDITIONS OF CONSENT**

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LOT 1
25185.3m²

LOT 2
2048.4m²

YARRAWA STREET

DRIVEWAY

ROUNDABOUT

PHOTOGRAPH

SCALE BAR
0m 10m 20m 30m 40m 50m 60m

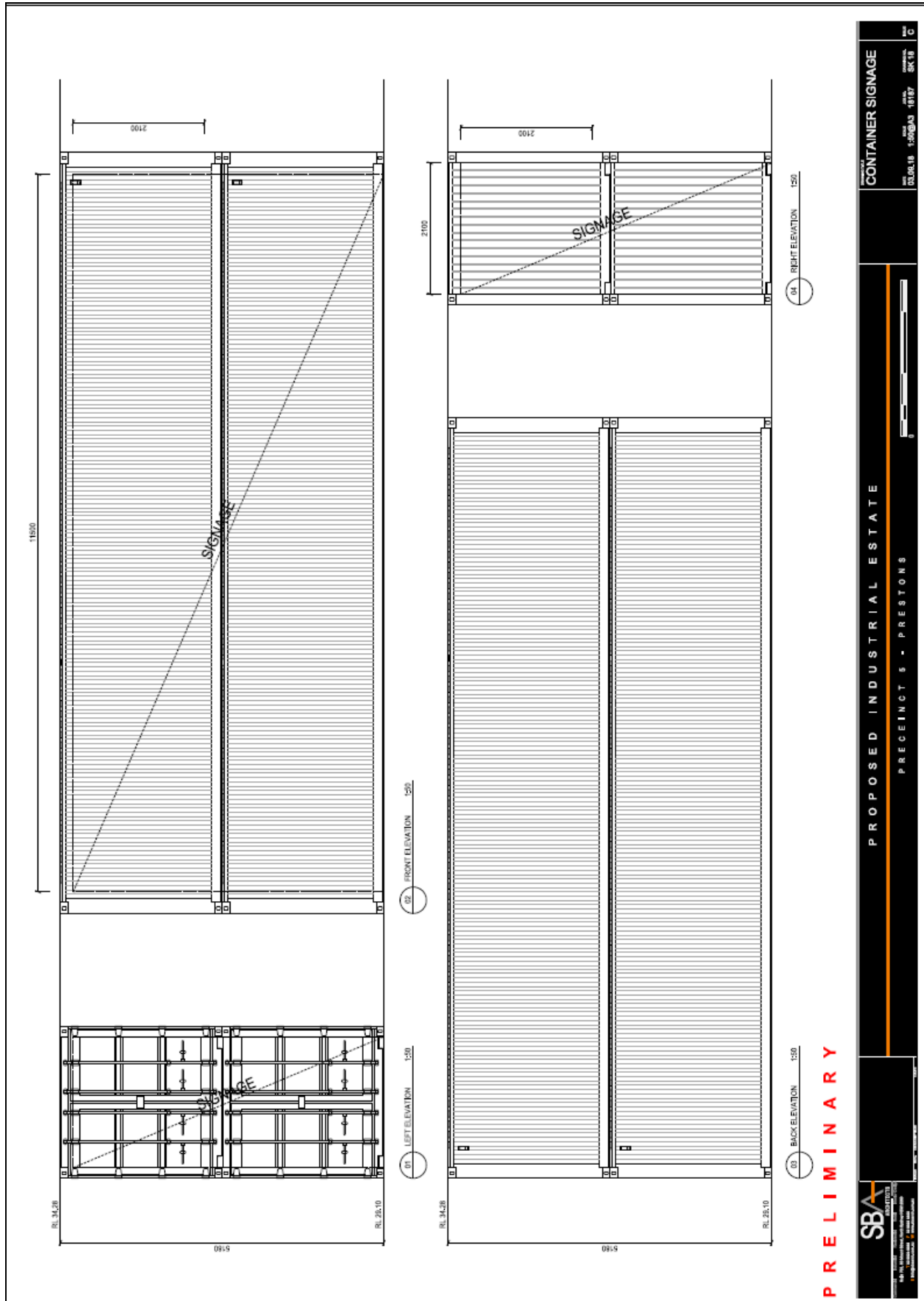
NORTH ARROW

PRESTONS PRECINCT 5

LOT 1 DP 1045029, 5 YARRAWA STREET, PRESTONS, NSW 2170

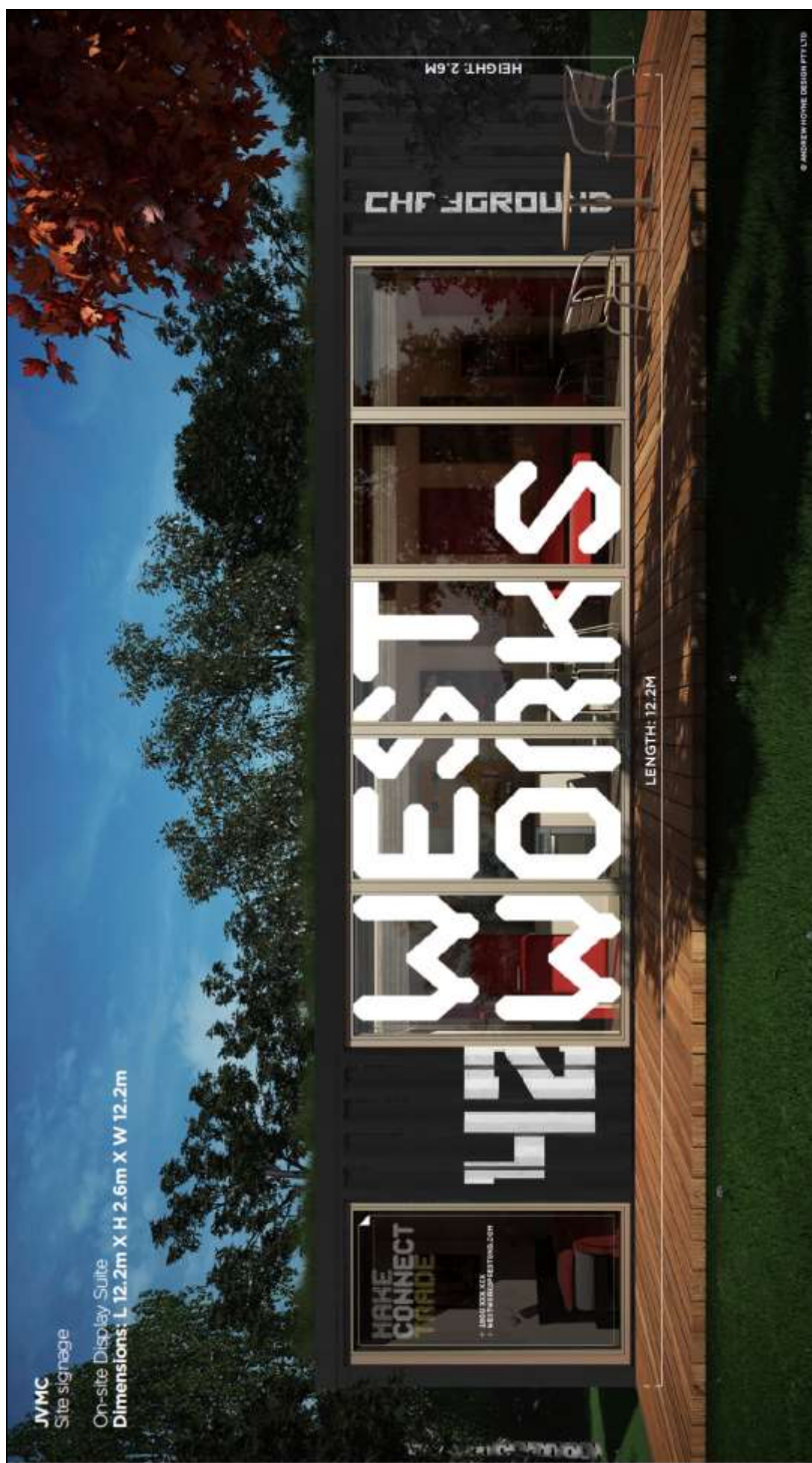
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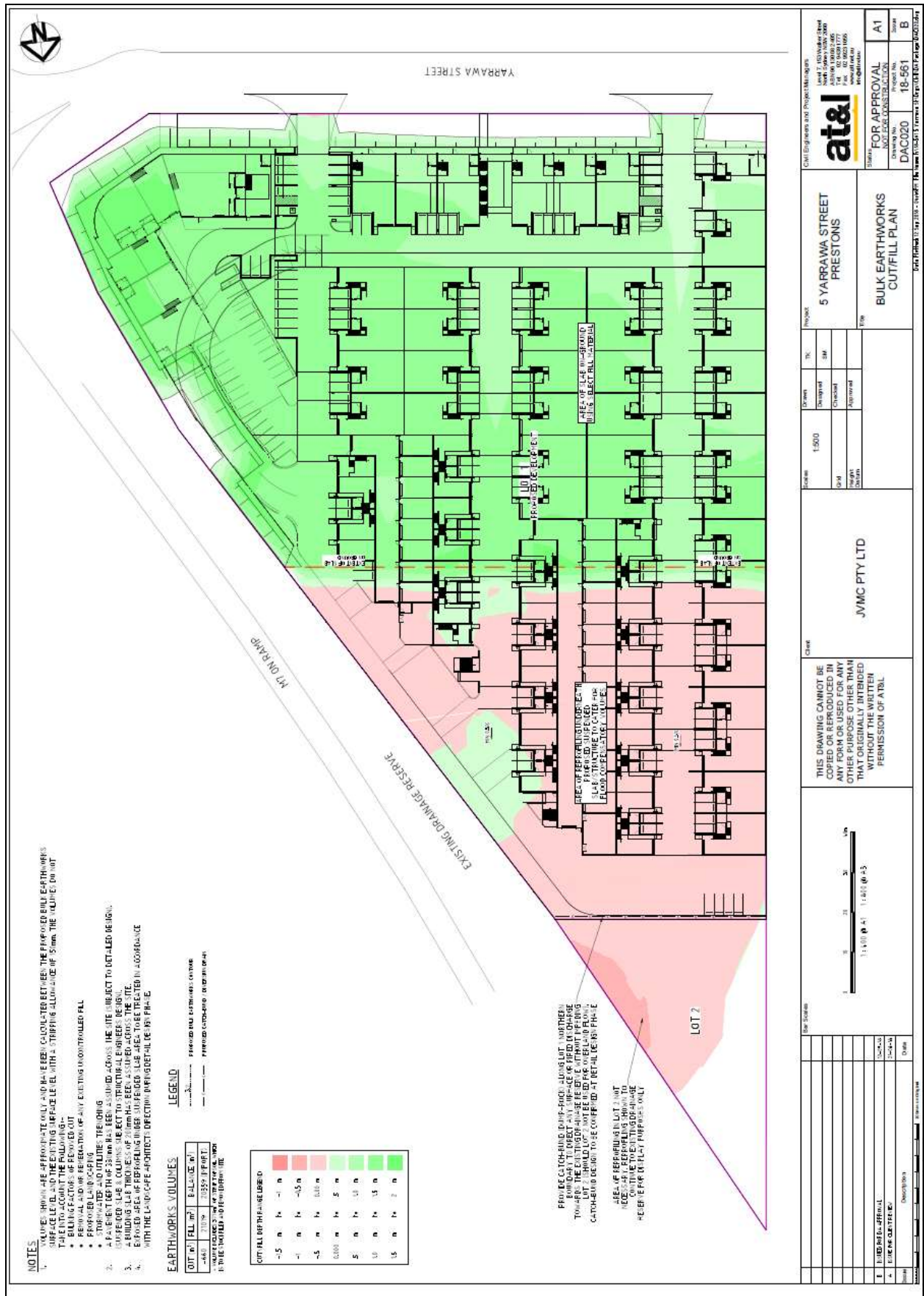


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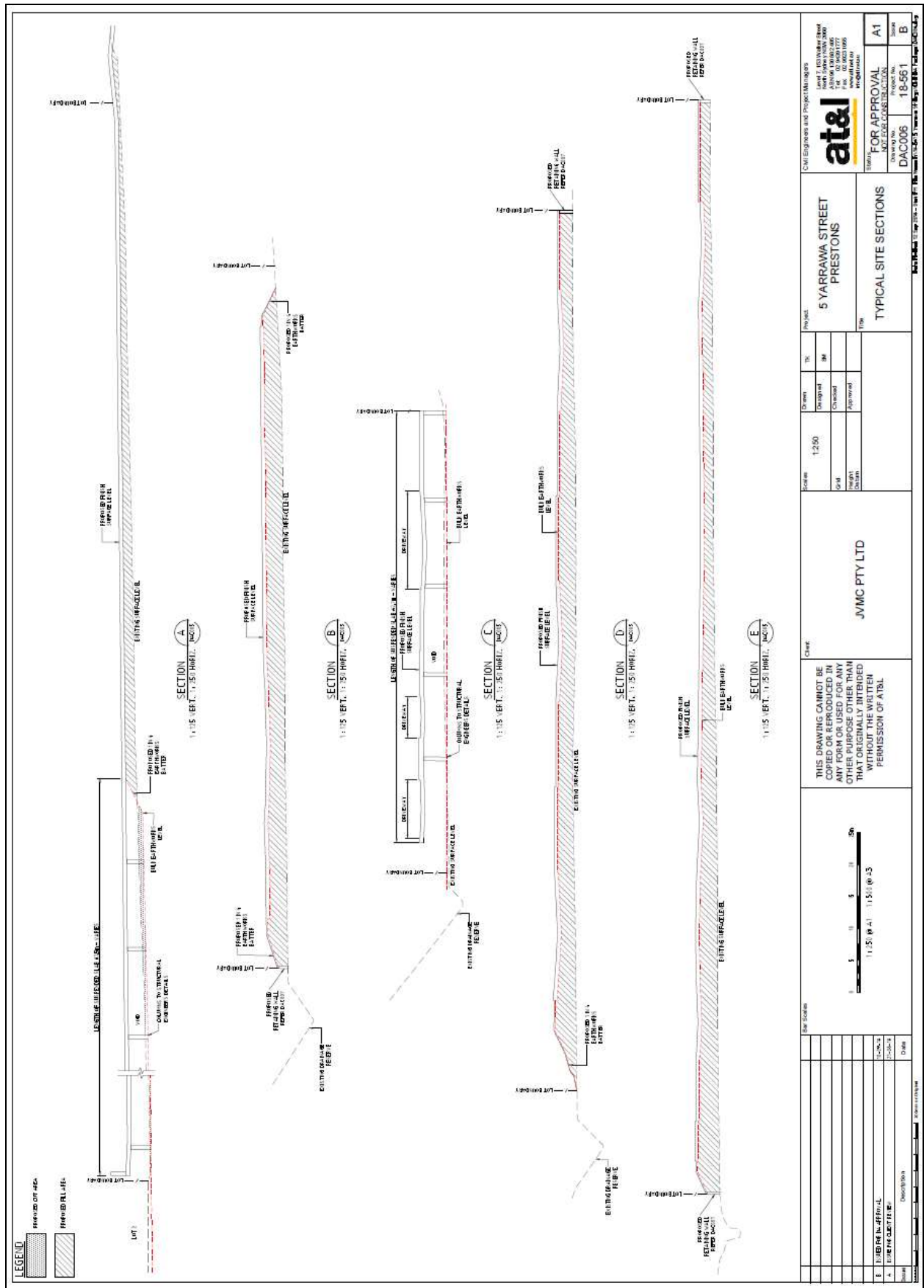
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ATTACHMENT 2 – LIVERPOOL DCP 2008 COMPLIANCE TABLES

LDCP 2008 - Part 1 General Controls for All Development

Development Control	PROPOSAL	COMMENT
PART 1 – General Controls For All Development		
2. Tree Preservation	All trees proposed to be removed from the site. No threatened species of tree were identified on the site, and the 2 EECs identified of the site were assessed to be of low ecological value. Removal of all trees is supported.	Complies by condition
3. Landscaping	No landscaping required to be proposed as no buildings or use proposed.	N/A
4. Bushland And Fauna Habitat Preservation	The site does not include any significant native vegetation or fauna as identified in the Flora and Fauna Report.	Complies
5. Bush Fire Risk	The site is identified as bush fire prone, however no assets requiring protection are proposed.	N/A
6. Water Cycle Management	No additional stormwater to be directed towards Cabramatta Creek. Land Development Engineers have viewed the civil plans and have provided conditions of consent.	Complies by condition
7. Development Near A Watercourse	The subject site is not within 40m of a watercourse	N/A
8. Erosion And Sediment Control	Soil and erosion measures reviewed by Council Engineers and conditions of consent imposed	Complies by condition
9. Flooding Risk	The site is identified as flood prone. Council's Floodplain Engineers have reviewed the proposed scope of work and have provided conditions of consent to ensure compliance with Council's requirements.	Complies by condition
10. Contamination Land Risk	The site is contaminated and remediation is required for the proposed works as per the submitted RAP and as approved with conditions by Council's EHO.	Complies by condition
11. Salinity Risk	Site is identified as containing moderate salinity potential. A Salinity Assessment was provided and recommended strategies are supported by Council's Engineers.	Complies by condition
12. Acid Sulfate Soils	Site is not identified as affected by Acid Sulfate Soils	N/A
13. Weeds	Site is affected by priority Weeds, which will be completely removed from the site as proposed.	Complies
14. Demolition Of Existing Development	No demolition proposed.	N/A
15. On-Site Sewerage Disposal	Not proposed.	N/A
16. Aboriginal Archaeological Sites	The proposal does not impact on any aboriginal heritage, and Council's Heritage Officer did not require the submission of a Due Diligence assessment.	N/A
17. Heritage And Archaeological Sites	Not identified as a heritage listed site and not in the vicinity of a heritage item.	N/A
18. Notification Of Applications	Was not required to be notified as per DCP requirements, but was Advertised as Designated Development, and no submissions were received.	N/A
20. Car-parking And Access	No buildings approved by recommended development consent to generate car-parking.	N/A
21. Subdivision Of Land And Buildings	None Proposed.	N/A
22. Water Conservation	No buildings approved by recommended development	N/A

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	consent.	
23. Energy Conservation	No buildings approved by recommended development consent.	N/A
24. Landfill	None Proposed	N/A
25. Waste Disposal And Re-Use	Management during construction and on-going waste. During Construction: A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction.	Complies by condition
26. Outdoor Advertising	Proposed but not approved as prohibited.	N/A
27. Social Impact Assessment	A Social Impact Assessment was not required to be reviewed by Council's Community Planner.	N/A

Part 7 –Development in Industrial Areas		
Development Control	Provision	Comment
1 PRELIMINARY	The proposed works on-site are consistent with the objectives, in facilitating the future industrial use of the land.	Complies
2 SITE AREA	Subdivision not proposed	N/A
3 SITE PLANNING	This proposal does not propose any specific design to enable assessment of the Site Planning requirements, including vehicular access and response to any vegetation of value to be retained.	N/A
4 SETBACKS	No buildings recommended for approval	N/A
5 LANDSCAPED AREA	No buildings recommended for approval, for Landscaping to be required	N/A
6 BUILDING DESIGN, STREETSCAPE AND LAYOUT	No buildings recommended for approval	N/A
7 LANDSCAPING AND FENCING	No buildings recommended for approval, for Landscaping and fencing to be required	N/A
8 CAR PARKING AND ACCESS	No buildings recommended for approval, for car-parking to be required	N/A
9 AMENITY AND ENVIRONMENTAL IMPACT	No buildings recommended for approval, and no use proposed to be able to assess environmental impact. The removal of vegetation from the site has been assessed to be appropriate due to its limited ecological value.	N/A
10 SITE SERVICES	No buildings recommended for approval and no use proposed	N/A
11 CHANGE OF USE OF EXISTING BUILDINGS	No existing building on-site.	N/A
12 NON INDUSTRIAL DEVELOPMENT	No use proposed	N/A

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ATTACHMENT 3 – DRAFT CONDITIONS OF CONSENT

DA-719/2018

Lot 1 and Part Lot 2 in DP 1045029, NO. 5 Yarrowa Street and 1–3 Bernera Road, Pestons

**REMOVAL OF ALL VEGETATION FROM THE SITE AND EARTHWORKS TO
ACCOMMODATE FUTURE INDUSTRIAL DEVELOPMENT**

Before commencing the development please read the development consent carefully and make sure that you understand all the conditions that have been imposed. Please contact Liverpool City Council regarding any enquiry you may have in respect of the following conditions.

DEFINITIONS

AEP	Annual Exceedance Probability
NCC	National Construction Code (formerly Building Code of Australia)
Council	Liverpool City Council
DCP	Liverpool Development Control Plan 2008
DECC	Department of Environment and Climate Change and Water
CC	Construction Certificate
1% AEP Flood	The 1 in 100 year flood
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
LPI Service	Land and Property Information Service
OC	Occupation Certificate
PCA	Principal Certifying Authority
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
RMS	Roads and Maritime Services

ATTACHMENT 1: CONDITIONS OF APPROVAL

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

A. THE DEVELOPMENT

Approved Plans

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

Plan Name	Plan Number	Date	Revision	Prepared By
Site Plan	18187 D001	03/09/2018	2	SBA Architects
Typical Site Sections	18-561 DAC006	10-09-18	B	At&L
Bulk Earthworks Cut/Fill Plan	18-561 DAC020	12-09-18	B	At&L

Report Name	Date	Reference	Prepared By
Detailed Site Investigation	5 September 2018	55077/116883 (Rev 0)	JVMC Pty Limited
Environmental Impact Statement	December 2018	WTJ18-201 Rev 1	WillowTree Planning

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Flora and Fauna Assessment	5 November 2018	18SYD_10293 Rev 3	Ecological Australia
Remedial Action Plan	5 September 2018	55077/117248 (Rev 0)	JVMC Pty Limited
Waste Management Plan	27 July 2018	Version Final	JVMC Pty Limited

Design Amendment

2. No consent is expressed or implied for the proposed ancillary display suite and advertising signage located on a container, as shown on the approved Site Plan. The amended plan is to demonstrate that only vegetation removal and earthworks is given approval by this consent.

Works at no cost to Council

3. 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

4. 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.

5. 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.

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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.

Notification

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

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

Design Amendment

8. No consent is expressed or implied for the proposed ancillary display suite and advertising signage located on a container, as shown on the approved Site Plan. An amended site plan submitted to the PCA prior to the issue of a Construction Certificate, is to demonstrate the removal of the ancillary display suite and advertising, to ensure that only vegetation removal and earthworks is given approval by this consent.

Construction Environmental Management Plan (CEMP)

9. 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.

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Retaining Walls on Boundary

10. 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.

No Loading on Easements

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

Stormwater Concept Plan

12. A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by AT&L, reference number 18-561, revision B, dated 12/09/18.
- (a) The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.
 - (b) Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and shall accompany the application for a Construction Certificate.
 - (c) Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

Water Quality

13. 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.

Floodplain Engineer Requirements

14. Prior to the issue of a Construction Certificate, detailed design plans and drawings and reports are required shall be submitted demonstrating for Council's review and approval the following:

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- a) There shall be no adverse flooding impact in the vicinity of the site due to proposed work. Any loss of floodplain storage volume below the 1%AEP flood shall be compensated through compensatory excavation within the site.
- b) There shall be no adverse overland flooding impact on adjoining sites due to proposed work. Existing overland flows through the site shall not be disturbed and accommodated/managed through the site up to the 1%AEP flood.
- c) Existing overland flows draining from adjoining site to the west (electric substation) shall not be disturbed and managed through the proposed development. Proposed filling & associated retaining wall on the western boundary shall not disturb the existing flow path running through the site.
- d) Proposed development shall be in accordance with Concept Civil Engineering Plans, Rev.B (12/09/18, at&I), Flood Assessment report (August 2018, BMT WBM) and Civil Engineering Application Report (12/09/2018, at&I).
- e) Finished surface levels of proposed development site (both landfill and elevated concrete slab) shall be no lower than the 1%AEP flood levels for the site, i.e. 27.3mAHD (minimum).
- f) Obvert levels of elevated concrete slab shall be no lower than the 1%AEP flood level, i.e 27.3m AHD (minimum).
- g) Finished floor levels of proposed buildings/industrial units shall be no lower than the 1%AEP flood level plus 0.5m freeboard, i.e. (27.3+0.5=) 27.8m AHD (minimum).
- h) All structures including proposed elevated concrete slab and associated piers shall be able to withstand the forces of floodwater, debris and buoyancy up to and including the 1%AEP flood plus 0.5m freeboard. Engineers report certifying structural stability against flood forces shall be submitted at CC Stage.
- i) Structural components below the 1%AEP, such as concrete piers, shall be considered for loss of floodplain storage volume and counted for flood compensatory storage.
- j) Major/minor stormwater system (combined piped and overland flow paths) shall accommodate storm flow through the site up to the 1%AEP flood event. Overland flow depth shall be no greater than 0.2m at kerb and velocity x depth < 0.4m²/s- safety criteria shall apply as per Council's design requirement.
- k) Water quality treatment measures shall be incorporated to the development to treat stormflows before discharging into receiving waters and shall achieve Council's stormwater treatment targets. Water quality treatment devices shall be designed using MUSIC modelling software and water quality treatment performance shall be verified using Council's MUSIC link. Detail of treatment train, design plans/drawings including an assessment report and MUSIC modelling files shall be submitted at CC stage.
- l) Submit detailed design plans and drawings including the following (and mentioned elsewhere above) for Council's review at CC stage:

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- Detailed design plans & drawings of flood compensatory works including loss flood volume calculations,
- Detailed design of major/minor stormwater drainage system with hydrologic/hydraulic calculations including modelling files and a stormwater assessment report,
- Detailed design plan & drawings of elevated concrete slab, piers and associated structural components.

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

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

Notification/Principal Certifying Authority

18. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.18 of the Act.
19. The PCA must advise Council of the intended date to commence work which is the subject of the consent, by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum notice period of two (2) working days must be given.
20. 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.
21. In the event the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer;

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- a) Protect and support the adjoining premises from possible damage from the excavation, and
- b) Where necessary, underpin the adjoining premises to prevent any such damage.

Site Notice Board

22. A sign must be erected in a prominent position on the premises on which work, including the approved removal of trees/vegetation from the site, is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
- (a) The name, address and telephone number of the Principal Certifying Authority for the work; and
 - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Unauthorised entry to the premises is prohibited.

Erosion and Sediment Control Measures

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

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

Dilapidation Report

24. Prior to the Commencement of earthworks and the removal of trees/vegetation from the site, a dilapidation report of all infrastructure fronting the development in Yarrowa Street is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 50m either side of the development

Traffic Control Plan

25. Prior to commencement of works, including the approved removal of trees/vegetation from the site, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the RMS publication "Traffic Control at Worksites" and certified by an appropriately accredited RMS Traffic Controller.

Traffic control measures shall be implemented during the approved works 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 Council.

Waste Classification and Disposal of Contaminated Soil and Material

26. 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

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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 WORKS

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

Hours of Demolition Work and Deliveries

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

Facilities

28. 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 Facilities

29. 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

30. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction and the approved removal of trees/vegetation from the site.

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

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Site Remediation Works

31. The site must be remediated in accordance with
- i) Remediation Action Plan (RAP, Ref: 55077/117248 (Rev 0)) prepared by JBS&G Australia Pty Ltd dated 5 September 2018,
 - ii) State Environmental planning Policy No. 55 – Remediation of Land;
 - iii) National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and
 - iv) The guidelines in force under the Contaminated Land Management Act 1997.

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

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

Unidentified Contamination

32. 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.
33. 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

34. The development, including all vegetation removal and earthworks, 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).

Environmental Controls

35. 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.
36. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
37. Any works or activities shall adhere to the recommendations outlined in the approved Flora and Fauna Report prepared for the site.

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- 38. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
- 39. 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.
- 40. No known environmental or noxious weeds or known invasive plant species shall be included in any landscaping/revegetation.
- 41. 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.
- 42. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
- 43. 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.

Air Quality

- 44. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing and earthworks works.
- 45. 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.
- 46. All vehicles involved in the delivery and demolition process or the removal of trees/vegetation cleared from the site and earthworks, departing from the property shall have their loads fully covered before entering the public roadway.

Major Fill / Earthworks

- 47. All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council's Design Guidelines and Construction Specification for Civil Works. The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

Aboriginal Heritage – Unexpected Finds

- 48. If Aboriginal object/s are identified during works, then all works in the immediate area must cease and the area secured. The Office of Environment and Heritage must be notified by ringing the Enviroline 131 555. No works are to commence until authorisation has been received from the Office of Environment and Heritage and the appropriate permits have been obtained.
- 49. 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

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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

50. In the event that removal of trees/vegetation from the site and earthworks damages any adjoining land or building on adjoining land, any rectification works are the responsibility of the developer.

Waste Management Plan

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

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

Waste

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

Stockpiles

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

Traffic Management

56. 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.
57. 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 and the approved removal of trees/vegetation from the site. 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.

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58. 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.

E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

Liverpool City Council Clearance – Roads Act / Local Government Act

59. 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.

Site Contamination Validation Report

60. Prior to issue of the occupation certificate a detailed Validation report must be submitted to Council and the Principal Certifying Authority. The Report must be prepared in accordance with:
- (a) NSW Contaminated Land Planning Guidelines (1998);
 - (b) Relevant EPA guidelines, noting in particular the NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites; and
 - (c) National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The Validation Report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include details of the consultant's certification.

The Validation report must verify that the land is suitable for the purposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the Remediation Action Plan (RAP, Ref: 55077/117248 (Rev 0)) prepared by JBS&G Australia Pty Ltd dated 5 September 2018.

61. Within thirty (30) days of completion of remediation work, a notice of completion as required to be provided to Council under Clause 17 of State Environmental Planning Policy No 55 – Remediation of Land to confirm that the remediation has been carried out in accordance with the Remedial Action Plan, requirement(s) of this consent and SEPP 55. The notice of completion of remediation work shall be in writing and prepared in accordance with Clause 18 of State Environmental Planning Policy No 55 – Remediation of Land.

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

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Works as Executed – General

62. 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

63. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the Stormwater pre-treatment system/s and Overland flow-path works;
- 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, and,
 - 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

64. 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:
- Stormwater pre-treatment system/s,
 - Overland flowpath works,

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.

Dilapidation Report

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

Rectification Works

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

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

F. GENERAL

- a) Section 8.2, 8.3, 8.4 & 8.5 allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- b) Under Section 8.7 & 8.10 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.
- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- e) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- f) In accordance with Section 8.8 and 8.10 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for designated development (including designated development that is integrated development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- g) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- h) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.

"DIAL BEFORE YOU DIG"
- i) Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required

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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.

TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

- j) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.
- k) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- l) 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.