

**MATTERS FOR
LIVERPOOL LOCAL PLANNING PANEL
DETERMINATION**

Monday 29th April 2019

To be held at the
“Gold Room, Liverpool Library”
170 George Street
Liverpool

Doors open at **1:45 PM** to commence at **2:00 PM**

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

Should you wish to address the Panel, please advise Danielle Hijazi, Panel Support Officer on 8711 7627 or 1300 36 2170, by 4pm, Friday, 26th April 2019.

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

ITEM No.	SUBJECT	PAGE No.
1	Development Application DA-934/2018 New additional indoor and outdoor seating, new awning and a new coolroom for use with an existing restaurant (Food and Drink Premises) LOT 200 DP 1224084 300 MACQUARIE STREET, LIVERPOOL	2-41

ITEM No.	SUBJECT	PAGE No.
2	Development Application DA-930/2016 Demolition of existing structures and construction of a 5 storey boarding house containing 25 boarding rooms above 2 levels of basement car parking DP 217227 Pt Lot 19 37 COPELAND STREET LIVERPOOL	42-125

Item no:	1
Application Number:	DA-934/2018
Proposed Development:	Additional indoor and outdoor seating, construction of a new awning and cool room and extended hours of operation for an approved restaurant (food and drink premises)
Property Address	Shops 1 and 2, 300 Macquarie Street, Liverpool
Legal Description:	Lot 200 DP 1224084 (Strata Plan SP not registered at the time of this report)
Applicant:	The Spot Hospitality Group
Land Owner:	Vicliz Pty Ltd (Sole owner of the site at the time of this report)
Cost of Works:	\$15,000.00
Recommendation:	Deferred Commencement
Assessing Officer:	Kevin Kim – Senior Development Planner

1. EXECUTIVE SUMMARY

Council has received a Development Application for additional indoor and outdoor seating, construction of a new awning and cool room and extended hours of operation for an approved restaurant (food and drink premises) at the subject premises known as Shops 1 and 2, 300 Macquarie Street, Liverpool. The extended hours of operation of the restaurant are between 12pm and 11.30pm, Monday to Sunday. It is also proposed to provide a designated outdoor smoking area under the new awning for the smoking of 'Shisha' (Mediterranean cultured pipe smoking).

The existing restaurant was approved under CD-803/2018 by a private certifier for the first use of the premises as a restaurant for 50 patrons and fit-out. No outdoor seating and kitchen were approved as part of this Complying Development Certificate (CDC).

The subject development application seeks to increase the number of seats from 50 to 152 internally and add 28 seats externally (from no outdoor seating for the approved restaurant).

The main issues arising from the proposal are the potential social and noise impacts on local amenity. A 12 month consent is recommended for the subject application in order to enable to monitor the intensified use of the premises. This will ensure that the intensified use of the premises can be operated and managed with minimal impacts on local amenity.

This report summarises the relevant matters which should 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 the Liverpool Local Environmental Plan (LLEP) 2008.

No neighbor notification was required for the proposed development under the Liverpool

Development Control Plan (LDCP) 2008, Part 1 Section 18.3 – Exemption to Notification.

Pursuant to the requirements of the endorsed Liverpool Local Planning Panel (LLPP) Charter and Procedure, the subject application is referred to the LLPP for consideration and determination as the proposal involves four (4) Council owned car parking spaces within the subject site in the location identified for the installation of a new cool room.

Based on the assessment of the application it is recommended that the application be determined by way of Deferred Commencement and once operational a 12 month trial consent, as detailed in Attachment 1 of this report.

2. BACKGROUND

CD-803/2018 (First use of Shops 1 and 2) – The first use of the premises was approved for a restaurant (food and drink premises) under the provisions of SEPP (Exempt and Complying Development Code) 2008. The relevant and applicable Section 5.5(1) of the SEPP (Exempt and Complying Development Code) 2008 stipulates that:

“5.5 Specified development (1) The first use of a part of a building that is a Class 5, 6, 7b or 8 building is development specified for this code if the use is not for any of the following:

(g) food and drink premises with the capacity for more than 50 seats, other than premises where the seating is provided within a common food court or food hall,

(i) a small bar.”

The original CDC (reference number CD-803/2018) for the first use of the premises as a restaurant (maximum 50 seats) was issued by a private certifier. Despite the description of the approved CDC, the approved plans indicate that no kitchen or cooking facilities were approved as part of this CDC (See **Figure 1** below).

It is noted that the initial CDC included a bar area within the subject premises, which forms part of the subject Development Application. The approved use of the premises is best defined as an *on-premises licenced restaurant* rather than a *small bar* under the Liquor Act 2007.

Whilst the original CDC is considered valid, the Principal Certifying Authority (PCA) for this CDC has not yet issued an Occupation Certificate (OC) for the approved first use of the premises at the time of this report.

As such, the application is recommended to be granted a deferred commencement consent to allow time for the issue of an Occupation Certificate (OC). The subject application relates to and relies on the existing use of the premises and therefore an OC is required to validate the first use of the premises.

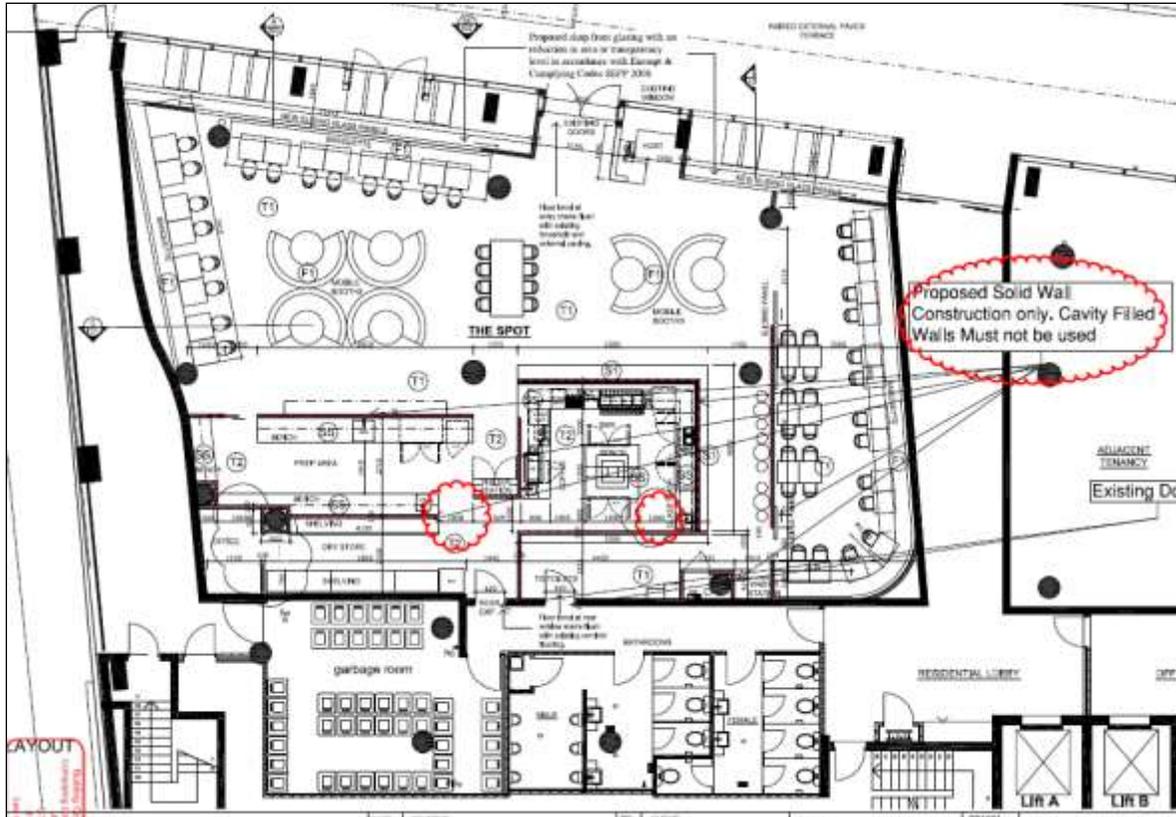


Figure 1: Approved internal layout of the restaurant as part of CD-803/2018 (source: TS-002 prepared by Brad Ward Design).

3. SITE AND SURROUNDS

The subject site is legally described as Lot 200 of DP1224084 at 300 Macquarie Street, Liverpool. It has a total land area of approximately 2,133m² and a frontage to Macquarie Street of approximately 85m.

The subject site is zoned B4 – Mixed Use under the Liverpool Local Environmental Plan 2008 (LLEP2008) and consists of a Heritage Item No 99, known as the Memorial School of Arts, under Schedule 5 of the LLEP 2008. The subject site is located on the corner of the intersection of Macquarie Street and Memorial Avenue/Scott Street within the southern area of the Liverpool City Centre (See **Figure 2** below).

The subject site comprises of a 9-storey mixed use building with 3 x ground floor retail tenancies, 2 levels of office premises and 6 levels of residential units. The western ground floor retail tenancies (Shops 1 and 2) are subject to this application.

The subject commercial tenancies (Shops 1 and 2) occupy a total floor area of 318m². The main entry to the premises is located in the centre of the 22m wide shopfront and access to the common facilities, including toilets and waste storage room are through the rear of the premises. There is an existing loading bay within the footpath area adjacent to the driveway crossing on the western side of the street frontage (See **Figure 3** below).



Figure 2: Aerial photograph of site in context (source: *nearmap*)

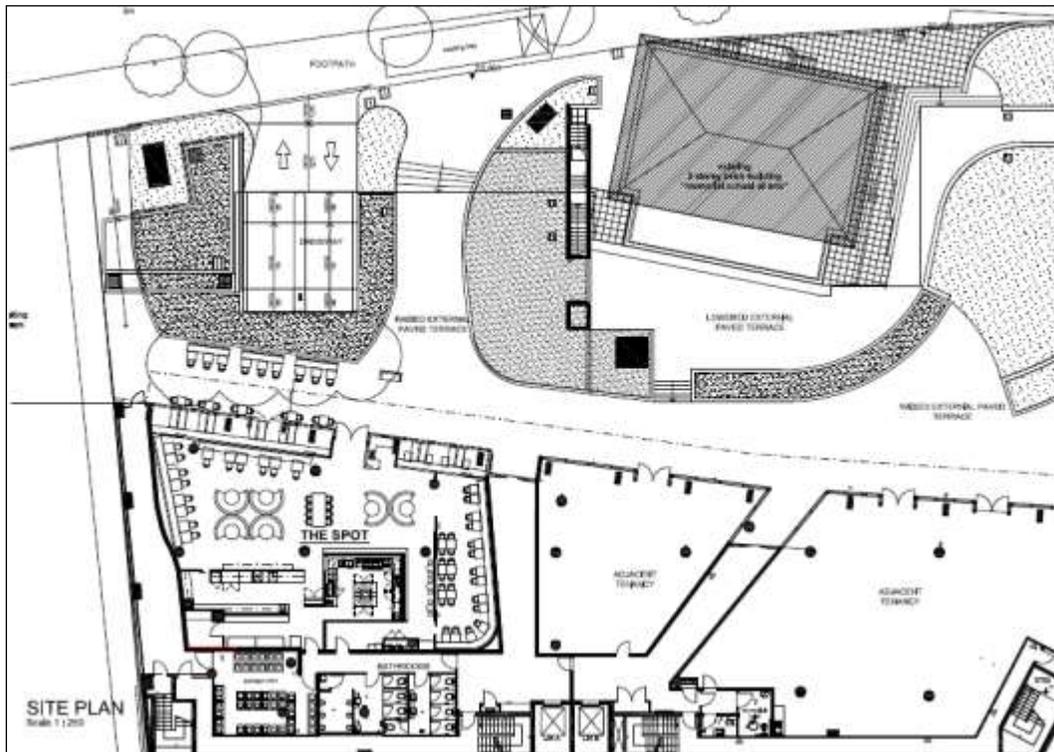


Figure 3: Site plan showing the existing loading bay and Shops 1 and 2 in the site context (source: TS-DA-001 prepared by Brad Ward Design).

4. THE PROPOSAL

The subject development application proposes new additional indoor and outdoor seating, new awning and a new cool room for the restaurant, known as 'The Spot' at Shops 1 and 2, 300 Macquarie Street, Liverpool. It is also proposed to extend the hours of operation of the restaurant as part of this application.

In detail the proposed development involves the following works:

Indoor and outdoor seating

- Increase the number of indoor seating to 152, from the approved 50 seats under CD-803/2018 (the proposed internal seating layout is shown in **Figure 4-5** below).
- New outdoor seating area for 28 seats and a new awning structure in front of the shop. The outdoor seating area is located within one of the three existing pedestrian pathways that connect the street and the main entries of the building and includes recessed/semi-outdoor seating area. The recessed/semi-outdoor area is provided within the shop front alignment (the photo of the recessed seating area is shown in **Figure 4** below).



Figure 4: Photograph of the shop front showing the recessed/semi-outdoor seating area.

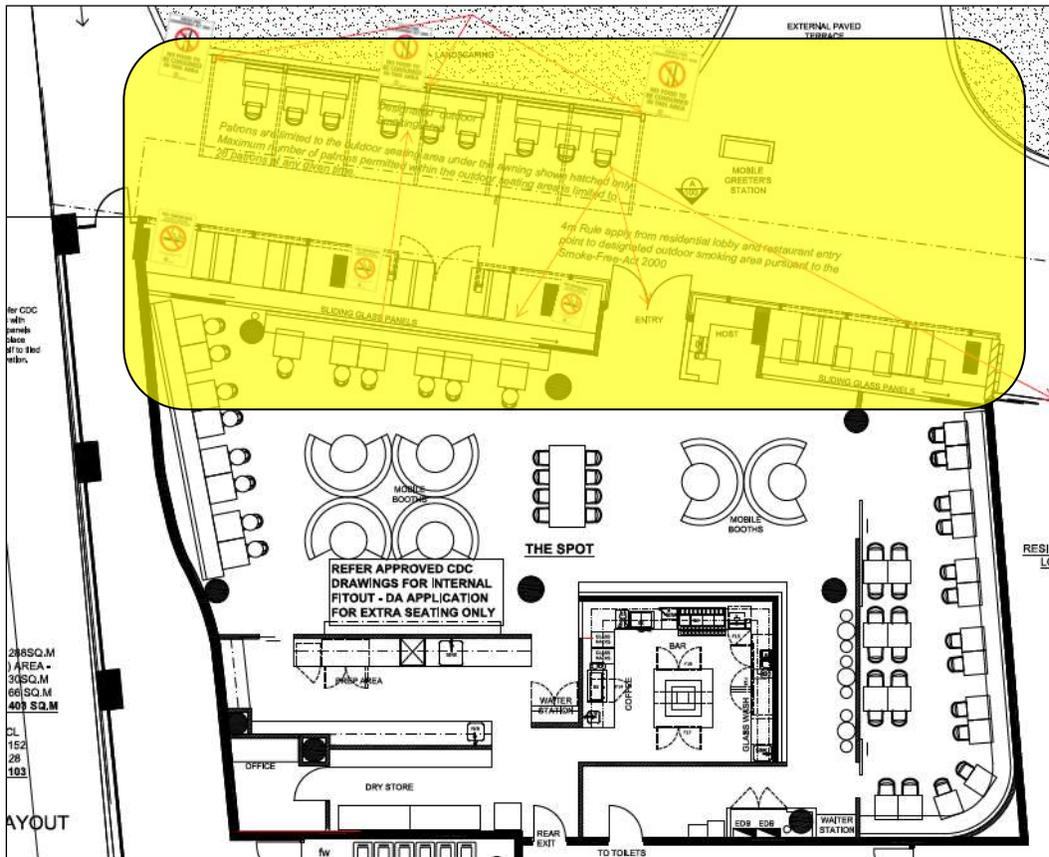


Figure 5: Floor plan showing the additional indoor and outdoor seating areas (highlighted) (source: TS-DA-002 Rev E prepared by Brad Ward Design).

New awning structure

- An awning is proposed over the new outdoor seating area at the front of the premises. The structural columns are to be placed behind the landscape wall/balustrades of the pedestrian pathway (see **Figure 6** below).
- The awning is to be covered with a clear glazed roof and partially enclosed with clear glazed panels between the structural columns. The outdoor dining area as proposed does not constitute additional floor area for the premises, given that it is not fully enclosed and has at least two sides open and that the glazed panels act as screens to provide weather protection.
- The awning is not to be attached to the existing awning of the building and is to provide additional acoustic separation and screening from the residential units on Levels 3-6 above the subject premises (see **Figure 7** showing the office/residential units above the subject premises).
- No guttering or stormwater connection is proposed for the new awning, however the awning is unlikely to require any new connection or modification of the existing drainage system for the premises given that it is placed over the existing paved pathway.

- The anchorage points of the columns are to be placed over the common pedestrian pathway of the building. It is noted that the applicant has submitted owner's consent (sole owner for the entire building) for the use of the common pedestrian pathway for the proposed awning structure. It is further noted that there are no Body Corporate nor Strata Plans established and registered at the time of this report and the sole owner's consent for the use of the common pedestrian pathway is considered sufficient.



Figure 6: Perspectives showing the awning structure over the outdoor seating area (source: AP03 prepared by MPA).



Figure 7: Photo and elevation showing the restaurant on the façade of the building.

New cool-room over Council owned basement car parking spaces

- A new cool-room is to be installed within the basement car park (basement level 1), next to the existing driveway ramp. The cool-room consists of a freezer, cool-room and storage area and is to be placed over 4 x Council-owned car spaces that are designated for the Memorial School of Arts. These car spaces are 2 x side by side and tandem car spaces.

Council's Property & Commercial Development section has provided a copy of the car parking licence agreement confirming the car parking arrangement (prepared in February 2019): there is no loss of car parking spaces for both Council and the applicant as 4 car spaces for the subject premises were swapped with 4 council owned car spaces for the

installation of a new cool-room (see **Figure 8** below).

- No additional Gross Floor Area (GFA) is being proposed with this application, however the proposal is required to retain the minimum 2 car parking spaces required under the car parking provisions under the LLEP 2008. This can be conditioned to comply by removing the storage area in front of the proposed cool room as depicted in **Figure 8** below.

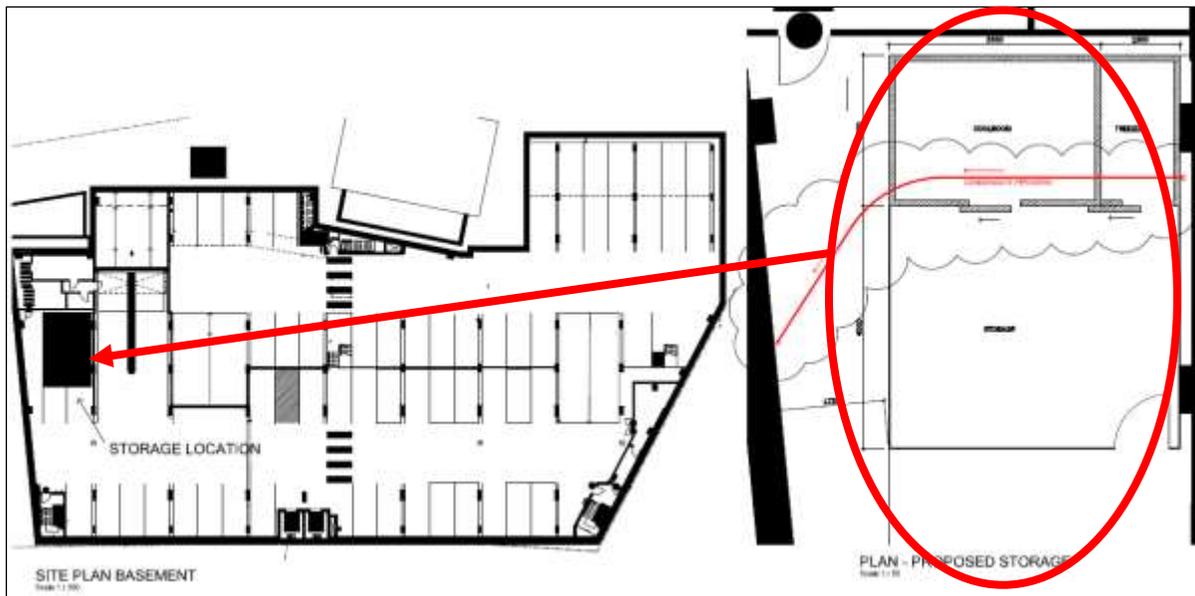


Figure 8: Basement Plan showing the proposed cool-room and storage (source: TS-008 Rev B prepared by Brad Ward Design).

On-going operation of the restaurant

- Approved hours of operation - 7.00am to 7.00pm Monday to Saturday and 9.00am to 6.00pm on Sunday and public holidays (Condition 21 of CD803/2018).
- Proposed hours of operation - 12pm to 11.30pm, Monday to Sunday for the operation of the premises and an additional 30 minutes until 12-midnight for closing-up (maximum 3 staff for the closing up). All loading and unloading in connection with the proposal will be carried out from the designated loading/unloading zone between 7.00am to 6.30pm Monday to Friday.
- The anticipated number of employees range from 5 to 15 employees on a rotating roster system during the operation of the restaurant with at least 1 duty manager for supervision of serving alcohol.
- As part of the submission of a revised Plan of Management to Council in March 2019, the applicant states that “the Spot restaurant will be a licenced restaurant which allows the smoking of *Shisha*.” The designated area for the smoking of *Shisha* is limited to the outdoor seating area under the proposed awning as shown in **Figure 9** below.

Figure 9 shows the designated smoking area under the awning that provides a maximum 18 seats under the awning area of 28.6m². Accordingly a condition will be recommended to: limit the total number of seats within the designated smoking area; provide a clearance

of minimum 2.5m for the pedestrian pathway; and to comply with the 4m rule pursuant to the Smoke Free Act 2000.



Figure 9: Outdoor seating layout showing the designated smoking area and main entry of the restaurant (source: TS-DA-002 Rev E prepared by Brad Ward Design).

5. PLANNING ASSESSMENT

The following planning instruments and development control plans have been considered in the planning assessment of the subject Development Application:-

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- State Environmental Planning Policy 55 – Remediation of Land.
- Liverpool Local Environmental Plan 2008.
- Liverpool Development Control Plan 2008.

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning Assessment Act 1979 (as amended):

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

(a) 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.

The proposed development is considered to meet the objectives of the REP and will have no significant impact on the environmental quality of the Georges River Catchment.

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

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

As the proposed building works is for the installation of an awning only, a land contamination assessment is not considered to be necessary.

(c) Liverpool Local Environmental Plan 2008

(i) Permissibility

The subject site is zoned B4 mixed Use under the LLEP 20078 (as amended). The restaurant is defined as a “Food and Drink Premises”. A food and drink premises is a sub-definition of retail premises, which is a type of the broader definition of Commercial Premises. Commercial Premises are permissible with Council’s consent in the B4 Zone.

A food and drink premises is defined as:

“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.*

Note. Food and drink premises are a type of retail premises—see the definition of that term in this Dictionary.”

(ii) Objectives of the Zone

The objectives of the B4 Zone under the LLEP 2008 are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.*

	<p>the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>		
<p>7.1 Objectives for development in Liverpool City Centre</p>	<p>Before granting consent for development on land in the Liverpool city centre, the consent authority must be satisfied that the proposed development is consistent with such of the following objectives for the redevelopment of the city centre as are relevant to that development:</p> <p>(a) to preserve the existing street layout and reinforce the street character through consistent building alignments,</p> <p>(b) to allow sunlight to reach buildings and areas of high pedestrian activity,</p> <p>(c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,</p> <p>(d) to improve the quality of public spaces in the city centre,</p> <p>(e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding</p>	<p>The proposal does not alter the street layout.</p> <p>The proposed awning does not affect the existing sunlight access to the building and areas of high pedestrian activity.</p> <p>The site does not adjoin Hume Highway or public spaces within the city centre.</p> <p>Not relevant to the proposal.</p>	<p>Complies</p>

	<p>environment and the development of a public plaza at the station entry,</p> <p>(f) to enhance the natural river foreshore and places of heritage significance,</p> <p>(g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.</p>		
7.3 Car parking in Liverpool City Centre	<p>Development consent must not be granted to development on land in the Liverpool city centre that is in Zone B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the gross floor area of the building unless:</p> <p>(a) at least 1 car parking space is provided for every 200m² of new GFA that is on the ground floor level.</p>	No increase in the gross floor area is proposed. The recessed/semi-outdoor seating area and awning area are not included as part of the GFA as these areas are not fully enclosed with a 1.4m high enclosing wall.	Complies

Having regard to the above, the proposal is permitted in the zone and is consistent with the objectives of the zones and relevant development standards in LLEP 2008.

Section 4.15(1)(a)(ii) – Any Draft Environmental Planning Instruments

No applicable draft EPIs.

Section 4.15(1)(a)(iii) – Any Development Control Plan

Liverpool Development Control Plan 2008

The Liverpool Development Control Plan 2008 is applicable to the proposed development. The following key controls that are relevant and applicable to the proposal are discussed in the following tables:

Control	Requirement	Proposed	Comment
Part 1 General Controls for all Development			
Section 6 – Water Cycle Management	Consideration of stormwater and drainage.	No new connection or modification to the existing drainage system is required for the development.	N/A
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required.	Appropriate conditions of consent can be imposed.	Complies (by condition)
Section 20 – Car Parking and Access	Car parking to comply with Clause 7.3 of the LLEP 2008 (LLEP car parking rates prevail the DCP car parking rates). - 1 space for every 200m ² of GFA	As noted earlier, 4 x Council car spaces are to be used for the installation of a cool-room and storage, resulting no car parking spaces being provided with the proposal. The existing GFA of the premises remains unaltered and hence the proposal would be required to provide min. 2 car parking spaces. A condition can readily be imposed to require a minimum 2 car parking spaces in front of the proposed cool-room to ensure compliance.	Acceptable, conditioned to comply

Part 4 Development in Liverpool City Centre			
Control	Requirement	Proposed	Comment
4.3 On-site parking	Car parking to comply with Clause 7.3 of the LLEP 2008 (LLEP car parking rates prevail over the DCP car parking rates).	As detailed in the table above, the proposal can be conditioned to comply with the minimum car parking required.	Complies (by condition)
5.5 Noise	An acoustic report is required for all noise affected locations as identified in Figure 25.	Council's Environmental Health Officer has reviewed the acoustic report submitted (this report considers the ambient noise from Macquarie Street) and raised no objection subject to the conditions of consent attached.	Complies, based on merit.
5.6 Waste	Development	A waste management plan has	Conditions

	<p>applications for all non-residential development must be accompanied by a waste management plan</p>	<p>been submitted with the application that will form part of the approved plans.</p>	<p>to be applied to the consent.</p>
<p>7.6 Restaurants/ Outdoor Cafes: Streetscape and Layout</p>	<p>Min. 2.5m clearance from pedestrian thoroughfare and shop front.</p> <p>There shall be no increase in the number of chairs and tables at each individual cafe site without further approval from Council.</p> <p>Outdoor furniture shall remain at least 3m away from a corner, pedestrian crossing, bus stop, taxi stand or anywhere pedestrians often congregate to cross the road or wait for services</p> <p>Outdoor furniture shall remain at an appropriate distance from any pedestrian crossing, disabled parking spaces, post box, public telephone, street sign, street tree or other street structure to ensure that these facilities remain</p>	<p>Min. 2.5m between the outdoor seating area and shop front (conditioned as an on-going management of the outdoor seating area).</p> <p>Additional seating is proposed with this application.</p> <p>Not relevant to the proposal. Nevertheless, all outdoor seat are required to provide minimum 2.5m (pedestrian footpath) – 4m (smoke-free area) clearance to suffice this requirement.</p> <p>As above.</p>	<p>Complies (by condition)</p> <p>Acceptable (subject to 1 year trial period for the proposed changes)</p> <p>Acceptable (subject to 1 year trial period for the proposed changes)</p> <p>Acceptable (subject to 1 year trial period for the proposed changes)</p>

	accessible and / or retain function. An appropriate distance will be determined by Council officers.		
Car Parking and Access	No additional car parking is required for any outdoor eating area.	No additional car parking provided with the outdoor seating area.	N/A
Amenity and Environmental Impact	Hours of Operation: 7:00am to 10:00pm (unless otherwise varied by Council).	12pm to 11.30pm, Monday to Sunday (1 year trial).	Acceptable (subject to 1 year trial period for the proposed changes)
Landscaping	Planter boxes should be provided to enclose eating areas.	Existing planter box in front of the awning structure.	No change to existing.

Having regard to the above, the proposal is consistent with the LDCP 2008.

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

There are no draft planning agreements that apply to the site.

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 Building Code of Australia. Accordingly, appropriate conditions of consent will be imposed.

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

Natural and Built Environment

Impacts on residential amenity

The most obvious outcome of this additional activity is noise. There is potential to create an impact on the acoustic residential amenity of adjoining properties.

Council’s Environmental Health Officer has reviewed the acoustic report submitted with the application and raised no objection subject to conditions of consent to ensure compliance with acoustic requirements. In addition the application is recommended to be approved subject to a

12 month trial period to allow Council to monitor the operation of the intensified use of the restaurant and for the applicant to demonstrate compliance with the condition of consent.

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

The subject site is a permissible development and the proposal satisfies the key planning controls for the site as detailed above and is generally considered to be suitable for the site.

Section 4.15(1)(d) – Any Submissions made in relation to the Development

i. Internal Referrals

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

DEPARTMENT	COMMENTS
Building	Approval – subject to conditions of consent
City Design	Satisfactory given the minor nature of the proposal
Natural Environment Landscape	Approval – subject to conditions of consent
Environmental Health	No objection subject to imposition of conditions to ensure compliance with noise control (acoustic report), plan of management and Smoke Free Act 2000
Heritage Officer	Satisfactory given the minor nature of the proposal

ii. External Referrals

DEPARTMENT	COMMENTS
Police	Approval – subject to conditions of consent

iii. Community Consultation

Notification of the proposal

No neighbour notification was required for the proposed development under the Liverpool Development Control Plan (LDCP) 2008, Part 1 Section 18.3 – Exemption to Notification.

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

The proposal is generally considered to be in the public interest.

6. DEVELOPMENT CONTRIBUTIONS

No development contributions are applicable to the subject application.

7. CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, and the Environmental Planning Instruments

including the applicable State Environmental Planning Policies, Liverpool Local Environment Plan 2008, Liverpool Development Control Plan 2008, and the relevant codes and policies of Council.

The proposed development is permissible in the B4 Mixed Use zone. The proposal generally complies with the controls contained within the Liverpool Local Environmental Plan 2008 and the Liverpool Development Control Plan 2008, except for a minor shortfall in car parking. The variation to the number of car parking spaces required for the premises has been conditioned to comply by removing the surplus storage area in front of the proposed cool room.

Based on the assessment of the application it is recommended that the application be determined by way of deferred commencement for the submission of an O.C to validate the approved restaurant and once operational the consent be granted subject to a 12 month trial period to allow Council to monitor the operation of the development and for the applicant to demonstrate compliance with the conditions of consent.

8. RECOMMENDATION

That pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, as amended, Development Application DA-934/2018 for additional indoor and outdoor seating, construction of a new awning and cool room and extended hours of operation for an approved restaurant (food and drink premises); be determined by way of deferred commencement and once operational a 12 month trial period.

9. ATTACHMENTS

1: Recommended conditions of consent

2: Architectural Plans

Attachment 1: Recommended conditions of consent

Council has imposed the following conditions under the relevant planning instruments and policies.

PART 1

DEFERRED COMMENCEMENT

Development consent shall be deferred pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, until the submission to Council of:

Occupation Certificate for the first use of the premises

1. Evidence shall be submitted to Council, to confirm the issue of a Final Occupation Certificate (OC) for the first use of the premises approved under CD-803/2018, to the satisfaction of the Liverpool Council Manager Development Assessment.

Note: The items raised within Part 1, above, are to be addressed within twelve (12) months of the date shown on Council's determination notice. The consent shall become operative once Council has notified the applicant in writing that the evidence submitted in response to the "Deferred Commencement" conditions is acceptable.

PART 2

On the submission of the required evidence and on the applicant receiving written notification that Council is satisfied that the matters listed in "Part 1" have been satisfied, then the consent shall become operative subject to compliance with conditions outlined in "Part 2".

A. THE DEVELOPMENT

Approved Plans

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

Plan Name	Plan Number	Date	Revision	Prepared By
Site Plan	TS-DA-001	10/09/18	D	Brad Ward Design
Layout Plan	TS-DA-002	Received 20/03/19	E	Brad Ward Design
Basement Storage	TS-008	20/03/19	B	Brad Ward Design
Site Analysis Plan	AP01	13/09/18	A	MPA
Elevations	AP02	13/09/18	A	MPA
Awning Details and Perspectives	AP03	13/09/18	A	MPA

Report Name	Date	Reference	Prepared By
Plan of Management	20/03/2019	POM_003.02	EPA Solutions

Environmental Noise Assessment	01/03/2019	6634-1.1 Rev A	Day Design Pty Ltd
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Removal of storage room

- That part of the proposed storage room within the basement car park as marked in red on the approved plans shall be removed.

Twelve (12) Month Consent Only

- Pursuant to Section 4.17(1)(d) of the *Environmental Planning and Assessment Act 1979*, this consent is limited to a period of 12 months from the date of commencement of the use. Notice of the commencement must be provided in writing to Council prior to the use commencing.

An application must be submitted and approved prior to the expiration of the time period if it is intended to continue the use. If an Application is not submitted and determined (or the application is subsequently refused) within the specified time period the development subject to this consent must cease. Any further development application must be supported by a report demonstrating that the use has been operating satisfactorily in accordance with all conditions of this consent and shall include evidence to this effect from the NSW Police.

Comply with EP&A Act

- The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

Fee Payments

- 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:

- 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.
- Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
- 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.

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.

Site Development Work

7. 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, or a combination of (a) and (b).

Notification

8. 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.

Fire Safety Measures

9. 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 EP&A Regulation.
10. The schedule must distinguish between the measures that are currently implemented in the building premises; and
 - (a) The measures that are to be proposed to be implemented in the building premises; and
 - (b) The minimum standard of performance for each measure.

Erosion and Sediment Control

11. Erosion and sediment control measures shall be designed in accordance with the requirements of Liverpool DCP and Council specifications, and to the satisfaction of the PCA. Approved measures shall be implemented prior to commencement and maintained during construction and until all disturbed areas have been revegetated and established to the satisfaction of the PCA.

Cladding

12. Prior to issue of a construction certificate the certifier must be satisfied that all proposed attachments, cladding material and systems forming part of external walls comply with the NCC 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.

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

13. 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.
14. 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.

Commencement of Building Works

15. 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/Principal Certifying Authority

16. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
17. 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.
18. 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.
 - (b) The notice shall be given seven (7) days prior to the commencement of work.
19. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.

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) 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*.

Construction Requirements

21. 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.

Site Facilities

22. 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.

Site Notice Board

23. 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.

Identification Survey Report

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

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

25. 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

26. In the event the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a

road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.
- (c) a and b above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
- (d) Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer.

Craning and Hoardings

- 27. 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.

Refuse Disposal

- 28. 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

- 29. 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.

Food Premises – Restaurant

- 30. Plans and specifications demonstrating compliance with the nominated standards and requirements for the following aspects of the development shall be submitted and approved by the PCA:
 - (a) all proposed, altered and required mechanical ventilation systems (Building Code of Australia & Australian Standard 1668 Part 1 & 2)
 - (b) the commercial garbage and recycling storage room (Liverpool DCP 2008)
 - (c) the layout, disposition and method of installation of fixtures and fittings, together with wall, floor, and ceiling finishes to all preparation, storage areas and cool rooms (AS4674, the Food Act 2003 and Regulations thereunder).

D. DURING CONSTRUCTION

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

Noise Limiter

31. A noise limiter is to be incorporated into the sound system to produce a sound pressure level of 65 dBA at 3 meters from the speakers (equivalent to a sound power level of 82 dBA) as per the Environmental Noise Assessment (Report No. 6634-1.1R Rev A) prepared by Day Design Pty Ltd dated 1 March 2019.

Cool Room Wastewater Connection to sewer

32. The wastewater from the basement cool room is to be discharged into the properties sewer network.

Ventilation

33. 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 Construction

34. The construction, fitout and finishes of the premises including the basement storage room 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 storage 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 storage 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 ceiling is to be constructed of a material that is rigid, smooth faced and impervious to moisture. The ceiling over the storage 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;
 - d. 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
 - e. All architraves, skirting boards, picture rails and the like are not permitted within the

kitchen, food preparation and storage areas;

f. 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;

g. 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;

h. 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;

i. 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;

Building Work

35. In the case of a class 5, 6, 7, 8 or 9 building, critical stage inspections must be carried out by the appropriate person in accordance with EP&A Regulation, with Compliance Certificates issued for each inspection. The last critical stage inspection must be carried out by the PCA. The following components of construction are relevant:

- (a) after excavation for, and before the placement of, any footings, and
- (b) prior to covering any stormwater drainage connections; and
- (c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Note: These certificates or documentary evidence must be submitted to Council with any OC issued for the development

Hours of Construction Work and Deliveries

36. 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.

General Site Works

37. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

38. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor, licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of in accordance with DECCW (EPA) requirements.

Waste Management Plan

39. A Waste Management Plan is to be submitted to and approved by the Principle Certifying Authority and 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

40. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
41. 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.
42. Gaseous emissions from the development shall comply with the requirements of the POEO Act and Regulations there under. Processes producing airborne particulate matter shall incorporate a suitable dust collection system.
43. All woodworking machines shall be fitted with a approved dust collection system and no sawdust or off-cuts shall be burnt on the premises.

Erosion Control

44. 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.
45. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.

Pollution Control

46. 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.
47. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

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:

Plan of Management

48. A detailed Plan of Management and Complaints' Handling Procedure shall be kept on the premises for the operation of the restaurant. The plan shall address means by which the restaurant will control noise emissions and minimise impacts on nearby receivers.

A copy of the latest Plan of Management and Complaints Handling Procedure shall be submitted to Liverpool City Council for review and approval prior to the issue of the Occupation Certificate.

Certificates

49. The premises must not be utilised until an OC is issued by the PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.
50. A final fire or interim safety certificate is to be attached to any OC, except in the case of a Class 1a or Class 10 building(s). This must include all the "essential fire services" installed in the building.
51. 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.

Notification of Food Premises

52. 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.

Compliance with Acoustic Requirements

53. A compliance certificate or other documentation deemed suitable prepared by an appropriately qualified acoustic consultant confirming that an appropriate noise limiter has been incorporated into the sound system so that the system is limited to producing a sound pressure level of 65 dBA at 3 meters from the speakers (equivalent to a sound power level of 82 dBA) is to be provided to the PCA.

Plumbing – Certificate of Completion

54. A certificate of completion or other documentation deemed suitable prepared by an appropriately qualified plumber confirming that the cool room wastewater is being discharged into the sewer network is to be provided to the PCA.

Food Premises – Restaurant/Take-Away/Bakery

55. The premises shall be registered with Council prior to the commencement of business. In this regard, Council's Health Business registration Application Form shall be completed and returned to Council for processing
56. Trading shall not commence until an OC has been issued by the PCA.
57. A Trade Waste application shall be submitted and approved by the Sydney Water Corporation regarding the installation of proposed pre treatment equipment, eg basket and grease arrestors. A copy of the plumber's certificate of compliance for the installation of pre-treatment equipment, and of the Trade Waste Agreement, shall be furnished to the PCA.
58. Certificates of design compliance and system performance for the proposed mechanical ventilation system shall be provided to the PCA, certifying the design, and upon commissioning of the mechanical ventilation system(s), certifying performance. The certificate of performance shall be issued to the certifying authority and be accompanied by details of the test carried out in respect of: -
 - (a) Ventilation
 - (b) Acoustics

G. CONDITIONS RELATING TO USE

**The following conditions relate to the ongoing use of the premises:
Plan of Management**

59. The premises and associated operations is to comply with the Plan of Management (Ref No. POM_003.02) prepared by EPA Solutions dated 20 March 2019 at all times.

The operation of the restaurant shall comply with the approved Plan of Management and Complaints' Handling Procedure at all times.

Unreasonable Noise and Vibration

60. The proposed food premises; including but not limiting to the music, food service, mechanical noise and patron noise must not create offensive noise so as to interfere with the amenity of the neighbouring residents and commercial properties. Should an offensive noise complaint be received and verified by Council, an acoustic assessment is to be undertaken (by an appropriately qualified consultant), and an acoustic report is to be submitted to Council for review. Any attenuation methods proposed in the report and approved by Council must be implemented.

Unreasonable Noise and Vibration

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

Waste

62. All solid and liquid waste is to be removed from the site by a registered waste contractor.

63. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
64. All solid waste stored on site is to be covered at all times.

Waste Storage Area

65. 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.
66. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties.

Advertising

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

Hours of Operation

68. The hours of operation of the premises are limited to:

Monday to Sunday - 12:00pm to 11.30pm

The premises may operate on Public Holidays between the hours specified for Sundays.

Noise

69. 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.
70. 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.
 - (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.

71. 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) 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 7.00a.m to 10.00p.m daily and 0dB(A) above the L90 background between 10.00pm 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) 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) and (c) shall be carried out in accordance with AS 2973 for vibration measurements, AS1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

72. Any public address system or sound amplifying equipment shall be installed so as to not emit an offensive noise as defined by the Protection of the Environment Act 1997.

Smoke-free Environment Act and Smoke-free Environment Regulation

73. 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.

Public Health (Tobacco) Act 2008

74. The sale and display of tobacco and other smoking products must be done so in compliance with the Public Health (Tobacco) Act 2008.

Food Premises – Use of Charcoal

75. The use of charcoal for the purposes of heating, cooking or smoking food on the premises is strictly prohibited.

Food Premises – Offensive Odour/Impurities

76. 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.

Outdoor Cafe – Offensive Noise

77. The use of the area shall not give rise to a nuisance to adjoining properties or cause “offensive noise” as defined in the Protection of the Environment Operations Act 1997. No sound amplification equipment, jukebox or loud speakers must be used in the outdoor café area for the purpose of announcements, broadcasts, playing of music (whether recorded or otherwise), or similar purposes.

Environment

78. 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.

Outdoor Patrons

79. Outdoor patronage numbers are to be limited to 28 people at any one time. All patrons are to be seated within the area under the awning and adjacent the awning only. There are to be no patrons external from this designated area.

Extraction System

80. 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 sanitizing equipment that vents steam into the area to the extent that there is, or is likely to be , condensation collecting on walls and ceilings

Food Premises – Restaurant/Take-Away/Bakery

81. 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.

Odour

82. Waste and recycable material generated from the operation of the business shall be managed in a satisfactory manner and that does not give a rise to offensive odour or encourage pest activity. Food residues , food scraps, and waste material shall be regularly removed from the premises . Waste shall not be permitted to accumulate near the allocated waste storage bins.

Odour Complaints

83. A smoke and odour impact assessment shall be submitted to Council if any complaints are lodged with Council in relation to the emissions generated as a result of the business. The

report must be prepared by a suitably qualified environmental consultant and include modelling of the odour impact on the nearest affected receptor (eg. residents/property occupants). Any recommendations resulting from the report are to be in accordance with AS/NZS 1668.1 - 2015 and AS 1668.2 – 2012, as well as the Department of Environment & Conservation (now known as the NSW Environment Protection Authority) Technical Framework- Assessments and Management of Odour from Stationary Sources in NSW (November 2006).

Lighting

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

Inspection Fee

85. Council's Environmental Health Officers will carry out routine inspections of the premises under the Food Act 2003. Administration and inspection fees will be charged in accordance with Council's Pricing Policy and Fees and Charges.

NSW Police Conditions relating to Use

86. No person shall be permitted to take glasses, closed or open containers of liquor off the licensed premises when leaving. Patrons shall not be permitted to consume alcohol on the footpath outside the premises unless approved in the liquor licence.
87. The Licensee/Approved Manager shall not permit any patron to enter or remain on licensed premises who is wearing any form of clothing, jewellery or other accessory that displays or infers by form of word, colours, logo, symbol or otherwise that they are a member of a prescribed group. Prescribed Groups: Bandidos, Black Uhlands, Brothers 4 Life, Coffin Cheaters, Commanchero, Finks, Fourth Reich, Gladiators, Gypsy Jokers, Hells Angels, Highway 61, Life & Death, Lone Wolf, Mobshitters, Nomads, Odins Warriors, Outcasts, Outlaws, Phoenix Rebels, Scorpions, Notorious and any similar group.
88. The Licensee/Approved Manager, or person nominated by the licensee, must attend all general meetings of the Liverpool City Liquor Accord and remain present for the duration of the said meetings, provided however that the accord coordinator has properly advised the Licensee/Approved Manager in advance and the meeting is properly scheduled.
89. Immediately the person in charge of the licensed premises at any given time becomes aware of an incident involving violence to a person either inside the premises or directly outside the premises (within 50 metres of boundary) that person must;
 - a) Take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by NSW Police Force; and
 - b) Make direct and personal contact with the Liverpool City Police Area Commander or his/her delegate, and advise the Commander or delegate of the incident; and

- c) Comply with the directions given by the Commander or delegate to preserve or keep intact the area where the violence has occurred.
90. The Licensee/Approved Manager must maintain a closed-circuit television system on the premises in accordance with the following:
- (a) The system must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times).
 - (b) Recordings must be in digital format and at a minimum of 10 frames per second.
 - (c) Any recorded image must specify the time and date of the recorded image,
 - (d) The system cameras must cover the following areas:
 - (i) All the exit and entry points of the premises,
 - (ii) The footpath immediately adjacent to the premises,
 - (iii) All publicly accessible areas (other than toilets) on the premises. The licensee must also: (a) Keep all recordings made by the CCTV system for at least 30 days, and (b) Ensure that at least one member of staff is on the premises at all times the system is operating who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage and Provide any recording made by the system to a police officer or inspector within 48 hours of any request by a police officer or inspector to provide such recordings. All external cameras must be registered with http://www.police.nsw.gov.au/services/register_my_business_cctv_details.

H. ADVISORY

- a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 8.2, 8.3, 8.4, 8.5 of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 6 months after the date on which the application is taken to have been determined.
- b) If you are dissatisfied with this decision, Section 8.7, 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which the application is taken to have been determined.
- 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 (5) years of the date of this notice.
- d) In accordance with Section 8.8, 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.
- e) 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.
- f) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- g) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

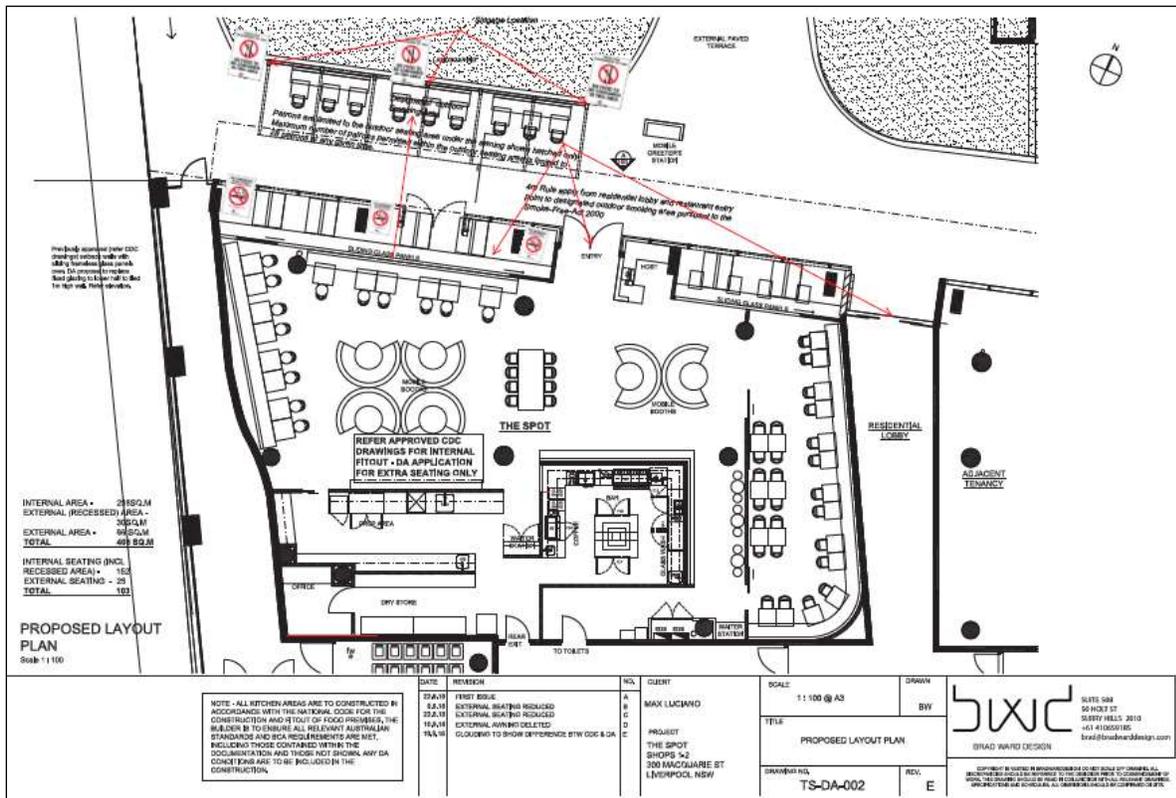
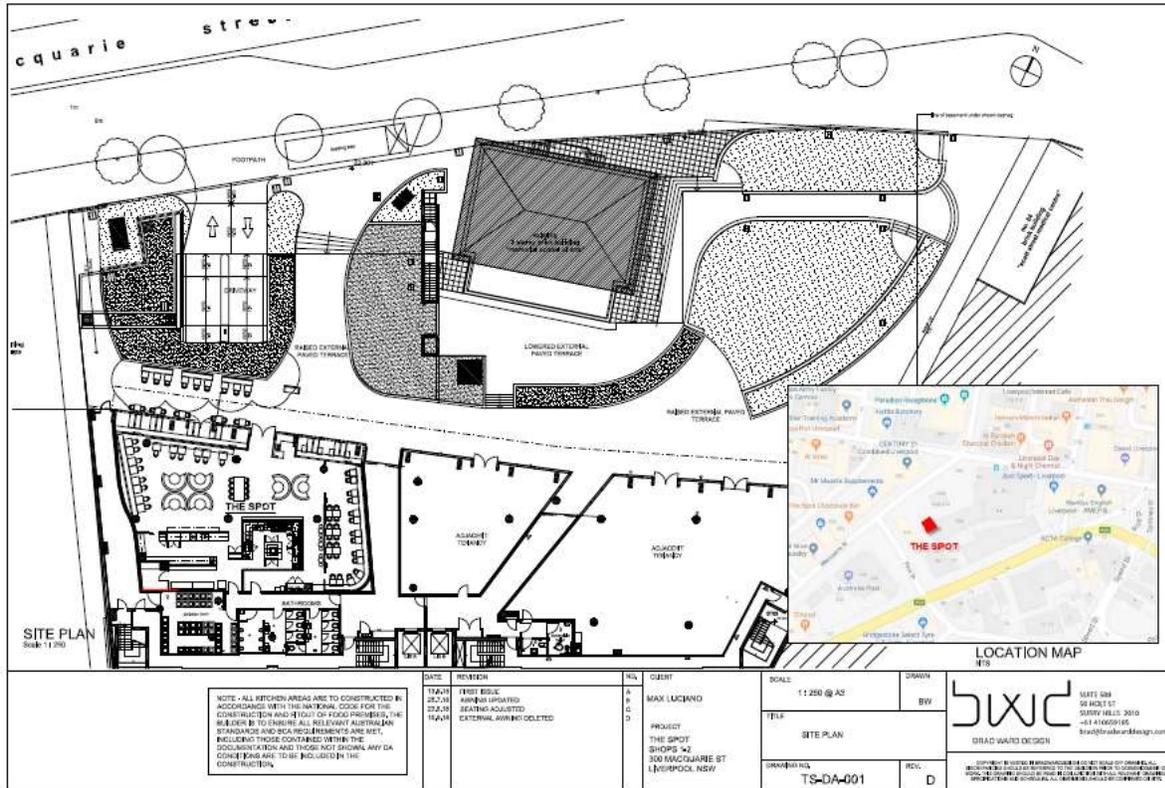
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

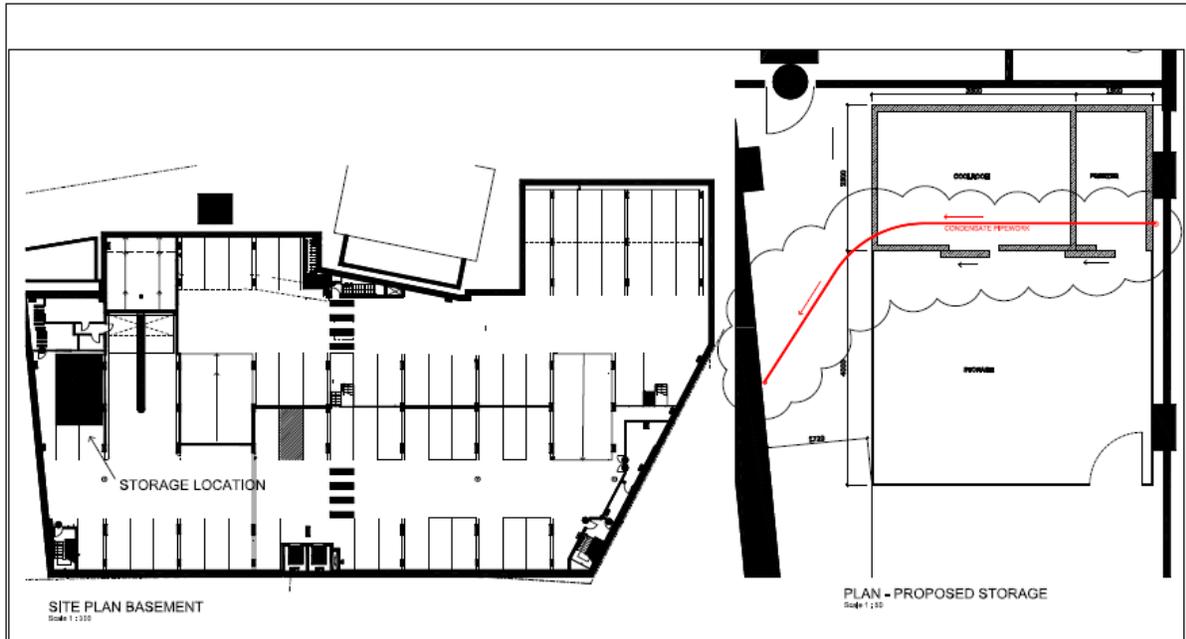
Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

- h) You are advised that the placement of a concrete path around your home may render your home vulnerable to termite attack. To minimise the possibility of any damage, ensure that a minimum of 75mm clearance is provided between the base of the weephole and the level of the path.
- i) The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required by other conditions of this consent.
- j) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- k) Food Safety Supervisor

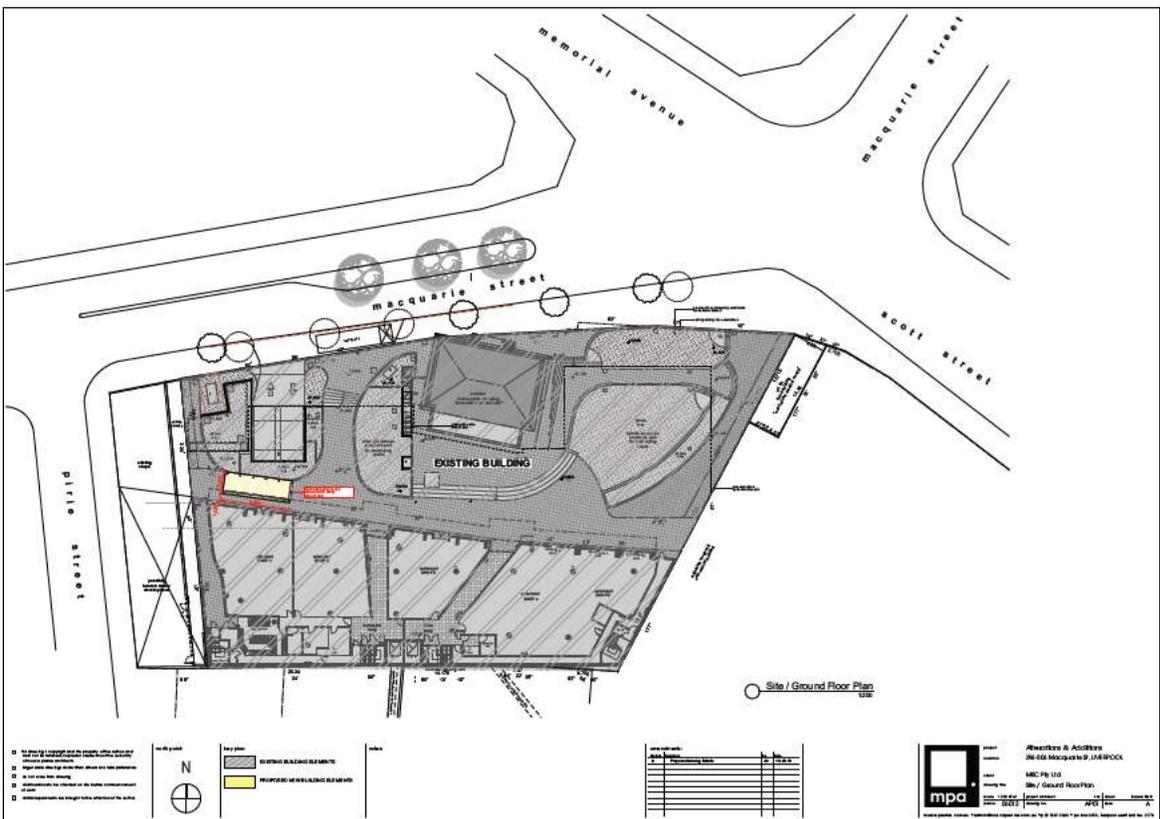
Under the Food Act 2003, certain retail food businesses such as restaurants, cafes, takeaways, clubs and pubs are required to appoint at least one trained Food Safety Supervisor (FSS) in their business. Further information is available from the NSW Food Authority's website at www.foodauthority.nsw.gov.au

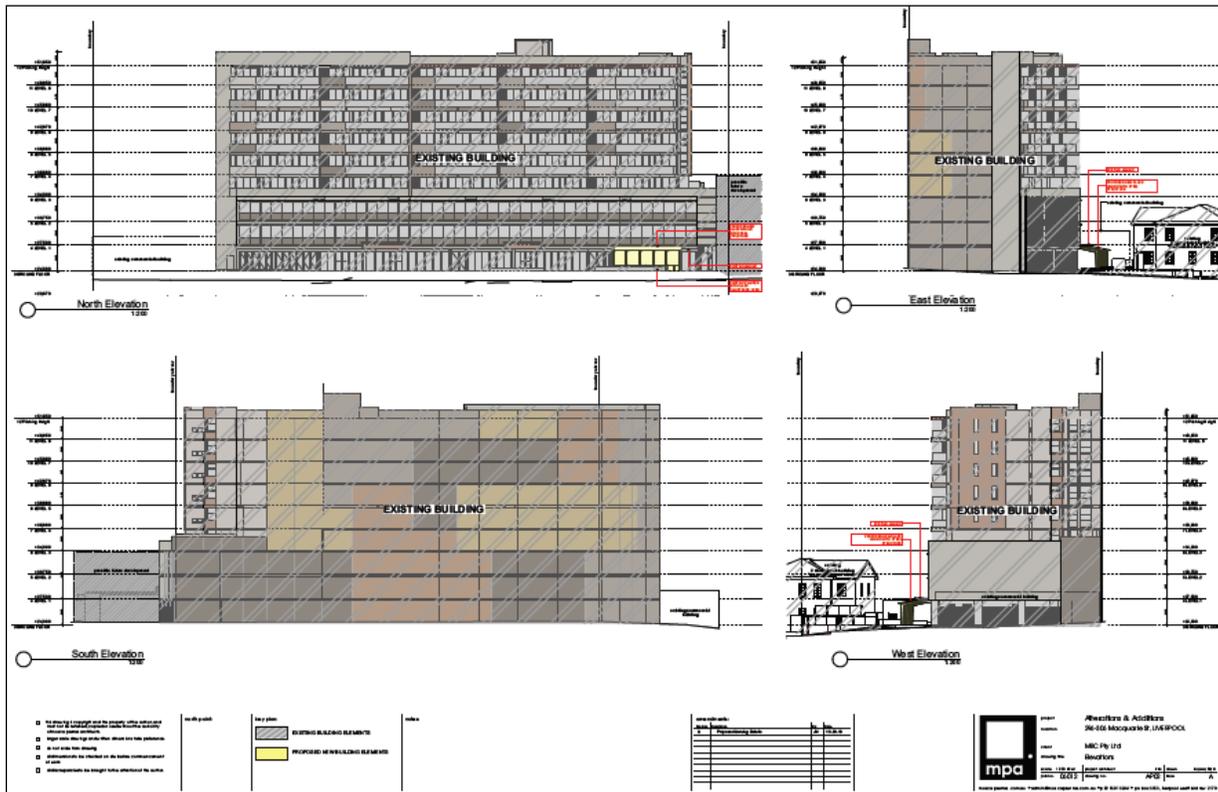
Attachment 2: Architectural plans





<p>NOTE - ALL FITCHES ARE TO BE CONSTRUCTED IN ACCORDANCE WITH THE NATIONAL CODE FOR THE CONSTRUCTION AND ERECTION OF STEEL FRAMES, THE RULES 81 TO ENSURE ALL RELEVANT AUSTRALIAN STANDARDS AND REQUIREMENTS ARE MET. INCLUDING THOSE CONTAINED WITHIN THE DOCUMENTATION AND THOSE NOT SHOWN, ANY DA CONCEPTS ARE TO BE INCLUDED IN THE CONSTRUCTION.</p>	DATE	REVISION	REV.	CLIENT	SCALE	DRAWN	<p>SUITE 508 56 HEDD ST SHEPPHILL S 2010 +61 41 0655185 bwcd@bradwarddesign.com</p> <p>COMPANY IS NOT A REGISTERED PROFESSIONAL SERVICE PROVIDER. ALL WORK IS PROVIDED AS A DESIGN SERVICE ONLY. THE CLIENT ACCEPTS FULL RESPONSIBILITY FOR THE DESIGN AND CONSTRUCTION OF THE WORK. THE COMPANY IS NOT RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE WORK.</p>
	REQD SUCH	FIRST ISSUE CONCEPTS ADDED	A B	MAX LIC/IND	1:150000 @ A3	BW	
				PROJECT THE SPOT SHOPS 1+2 258-108 MACQUARIE ST LIVERPOOL NSW	TITLE BASEMENT STORAGE	REV. B	
					DRAWING NO. TS-008		





Item no:	2
Application Number:	DA-930/2016
Proposed Development:	Demolition of existing structures and construction of a 5 storey boarding house containing 25 boarding rooms above 2 levels of basement car parking
Property Address	37 Copeland Street, Liverpool
Legal Description:	Lot 19 DP 217227
Applicant:	Saleh Constructions No.1
Land Owner:	Mr Hussein, Mrs Labuzin and Mrs Chand
Cost of Works:	\$4,248,018
Recommendation:	Approved, subject to conditions of consent
Assessing Officer:	Michael Oliveiro

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA No.930/2016) seeking consent for the demolition of existing structures and construction of a 5 storey boarding house containing 25 boarding rooms above 2 levels of basement car parking at 37 Copeland Street, Liverpool.

The site is zoned R4 – High Density Residential pursuant to Liverpool Local Environmental Plan (LLEP) 2008 and the proposed development is permissible with consent.

The development application was advertised and notified for a period of 14 days from 26 October to 9 November 2016 in accordance with Liverpool Development Control Plan (LDCP) 2008. Five (5) submissions were received during the public consultation period objecting to the proposal. The issues of concern raised in the submissions can be summarised as follows:

- Inappropriate use of the land;
- Outdoor common area acoustic impacts;
- Negative social impacts due to boarding style accommodation;
- Impacts to traffic congestion; and
- Proposed lodgings too small to accommodate future occupants.

The key issues associated with the assessment of the proposal relate to:

- Non-compliance with minimum building street frontage development standard;
- Consistency with Design Excellence Panel comments;
- Potential land fragmentation and overdevelopment of the site;
- Consistency with the Affordable Rental Housing SEPP 2009 and Council's development controls;
- Objections received regarding the proposal; and
- Sufficient room onsite for vehicle access and manoeuvring.

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 departure from development standards. The subject site is located within an R4 zone and has a frontage of 15.24m. In accordance with Clause 7.14 of the LLEP 2008, the proposed development requires a site with a 24m frontage. Accordingly, the DA proposes a deficiency of 8.76m to the minimum building street frontage and is equivalent to a variation of 36.5% to the development standard.

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 detached houses and low-rise residential flat buildings and is within a high density residential zone. The site is adjacent to Liverpool City Centre, which provides both commercial and community services with access to both bus and rail forms of public transport. This is depicted in the following figure:



Figure 1: Locality Surrounding the Proposed Development (Source: Geocortex)

The site is located approximately 1km from Liverpool Hospital, Liverpool Council's administration building and the Liverpool Train Station and Bus Interchange. The site is also within a 1km walking distance to the university of Western Sydney and Liverpool TAFE. The site is also within half a kilometre walking distance from the commercial core or the city centre, including Liverpool Westfield.

The adjoining properties to the development site are detailed as follows:

East (front): Opposite the site on the eastern side of Copeland Street, development is comprised of 'walk-up' residential flat buildings, as shows in the following figure:



Figure 2: Development directly east of the subject site (Source: applicant)

West (rear): To the rear of site and to the west, development is comprised of 'walk-up' residential flat buildings and detached housing, as shows in the following figure:



Figure 3: Development directly west of the subject site (Source: applicant)

South (side): The adjoining southern site currently features a detached dwelling, as shows in the following figure:



Figure 4: Development directly south of the subject site (Source: applicant)

North (side): The adjoining northern site currently features a ‘walk-up’ residential flat building, as shows in the following figure:



Figure 5: Development directly north of the subject site (Source: applicant)

2.2 The site

The subject site is identified as Lot 19 in DP 217227 and is known as 37 Copeland Street, Liverpool. It is regular in shape with a frontage of 15.24 metres to Copeland Street and a depth of 37.495 metres, with a total area of 569.1m².

Currently, the subject site contains a double storey brick dwelling with no significant vegetation.



Figure 6: Development of the subject site (Source: applicant)



Figure 7: Subject site overlaid in yellow, in context of immediate locality (Source: Geocortex)

3. BACKGROUND/HISTORY

- No pre-lodgement meeting held with Council regarding the proposed development of the site as a boarding house.
- The subject DA was lodged with Council on 4 October 2016.
- Application initially deferred in November 2016 for the following reasons:
 - i. Unacceptable non-compliance with minimum building street frontage;
 - ii. Potential land fragmentation and overdevelopment of the site;
 - iii. Inconsistencies with the SEPP provisions of boarding houses, including standards that cannot be used to refused development;
 - iv. Objections received regarding the proposal; and
 - v. No support from RMS.
- Amended plans and additional was continually provided by the applicant throughout the assessment and finalised amendments were submitted by the applicant on 18 March 2019.
- Application initially reviewed by DEP on 8 December 2016, where they request significant design changes.
- DEP provided support for the proposal, subject to further changes, on 14 June 2018.

Design Excellence Panel:

In accordance with Council’s design excellence panel charter the proposed development is required to be reviewed by Council’s Design Excellence Panel (DEP). The DEP provided the following final comments with regards to the proposal as part of Council’s assessment of the DA:

DEP Comment	Council Comment:
<i>The proposal should not place any unnecessary burden on adjoining sites in terms of their development potential. It is noted that the adjoining sites are also</i>	The applicant has been amended by the application to provide sufficient setbacks and building separation to adjoining sites so that their

<p><i>zoned R4 and have the ability to be re-developed as apartment buildings.</i></p>	<p>ability to erect ADG compliant RFB's is not prejudiced by the proposal.</p> <p>However, this has not occurred with the design of the top floor of the development at the fifth storey. Accordingly, conditions are recommended to be imposed to remove the fifth storey POS areas and increase the fifth level building setback to the side boundaries from 3m to 4.5m. This will ensure the building would not compromise any adjoining sites ability to develop RFB's in accordance with the ADG.</p>
<p><i>The Applicant is to show how vehicles would be able to enter and manoeuvre within the basement carpark, given the width of the site.</i></p>	<p>The amended proposal was referred to the RMS and Council's Traffic Engineers, who supported the development and the proposed vehicle access arrangement onsite in the context of the 15.24m width of the site. Accordingly, there is considered to be sufficient building frontage for vehicles to service the proposal and adequately manoeuvre onsite.</p>
<p><i>Apart from the ground floor, the building consists entirely of a single boarding room type. The Panel does not endorse the design of this standard room. The internal amenity of the rooms is considered to be poor, and their substandard functionality unacceptable. Putting the bed in each room adjacent to the window with cupboards on both sides does not allow the window to be opened without climbing onto the bed or the cupboards to be readily accessed. It is not clear if or how the rooms are provided with cross-ventilation, other than leaving the door open, which raises privacy and safety concerns. The rooms have inadequate natural light. The long side elevations should incorporate openings so that each habitable room has two sources of natural light and is able to be cross-ventilated while the door is shut.</i></p>	<p>The applicant has amended the proposal in accordance with these comments. The amended proposal now includes:</p> <ul style="list-style-type: none"> • No beds are located adjacent to windows. • A mix of high and passive ventilation windows have been added to units to allow two sources of natural light and cross-ventilation into rooms.
<p><i>The applicant needs to consider the impact of noise pollution from the hostile Hume Highway environment on the boarding rooms, particularly as it relates to access to fresh air for the rooms facing the highway.</i></p>	<p>For each room with openings to the Hume Highway 'AWS Ventient Passive Ventilation Windows' have been added to allow air to flow into the room without compromising acoustic amenity.</p>
<p><i>The adjoining sites must not have their ability to be developed impinged upon by the development of this site. Therefore while the ADG does not apply to a boarding house the panel require that this development does not affect the development of adjoining blocks as residential flat buildings. Notably, the fifth level is provided with the same setback as the first 4 storeys. At level 5, the side and rear setbacks should be 4.5m for non-habitable rooms/blank walls and 9m for habitable</i></p>	<p>The applicant has been amended by the application to provide sufficient setbacks and building separation to adjoining sites so that their ability to erect ADG compliant RFB's is not prejudiced by the proposal.</p> <p>However, this has not occurred with the design of the top floor of the development at the fifth storey. Accordingly, conditions are recommended to be</p>

<i>rooms/balconies. Non-compliance with the ADG in respect to setbacks/building separation is problematic, in that it results in amenity issues with adjoining sites and for future residents of the subject proposal. The panel require that setbacks be according to those set for the ADG for habitable rooms.</i>	imposed to remove fifth storey POS areas and increase the fifth level building setback to the side boundaries from 3m to 4.5m. This will ensure the building would not compromise any adjoining sites ability to development RFB's in accordance with the ADG.
<i>The Panel notes that the submitted sectional drawing shows the ground level and ground level Communal Open Space to be sunken below natural ground level, which is unacceptable and needs to be rectified.</i>	Updated section drawing have been provided that do not show the ground level and COS area sunken below natural ground level.
<i>The proposal is acceptable subject to the incorporation of the above Panel advice and will not need to be seen by the Panel again.</i>	Noted.

As per the above table, the development is considered to be consistent with the requirements of the DEP.

Site Amalgamation:

In order to address the limited frontage width of the subject site the applicant attempted to amalgamate with the adjoining land owners to the north and south. Amalgamation with one of those sites would have allowed the applicant to develop the site in accordance with Clause 7.14 of LLEP 2008, which requires a 24m frontage for development of buildings greater than two-stories in an R4 – High Density zone. To ensure that the amalgamation process was undertaken in an acceptable manner, the applicant followed the procedures of the planning principles regarding site isolation and the proceedings of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251. Accordingly the applicant carried out the following:

- The applicant engaged independent valuations to be conducted for No.35 and No.39 Copeland Street, Liverpool by Access Valuations Pty Ltd. The date of the valuation for No.35 Copeland Street was 8 August 2017 and the date of the valuation for No.39 Copeland Street was 3 February 2017;
- Offers were made to the owners of No.39 Copeland Street, Liverpool dated 21 September, 8 November and 23 November 2017. Attached to the offers was the independent valuation prepared by Access Valuations Pty Ltd;
- Offers were made to the owners of No.35 Copeland Street, Liverpool dated 22 September, 23 October and 9 November 2017. Attached to the offers was the independent valuation prepared by Access Valuations Pty Ltd;
- No responses has been received by the applicant to date with regards to the above offers.

In order to further demonstrate that the subject site is suitable to development despite unsuccessful amalgamation, the applicant provided elevation plans showing that the adjoining sites could be developed for high density purposes and without prejudicing their development potential, pursuant to the ADG. This is demonstrated in the following figure:

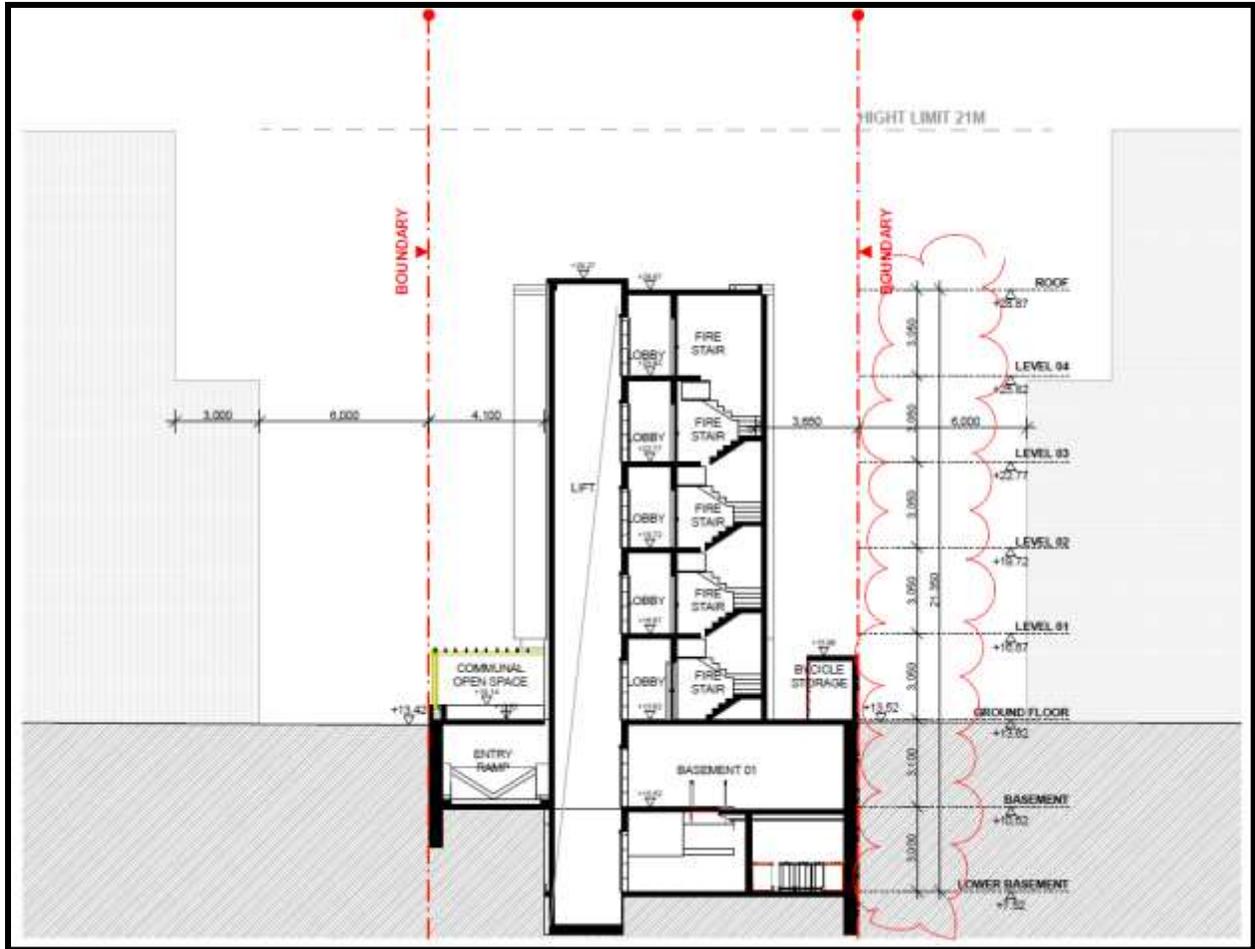


Figure 8: Building Separation to adjoining “future” buildings shown in grey (Source: applicant)

Figure 8 above shows that the adjoining sites could be developed in accordance with the ADG for high density residential purposes, without requiring increased setbacks due to the proposal. It should be noted that conditions are recommended to be imposed that would require the redesign of the fifth storey to fully comply with the ADG building separation requirements, as per the DCP assessment above.

With regards to the above, it is considered that the applicant has adequately demonstrated that the site may be suitable for development despite being unable to amalgamate with adjoining sites to the north and south and it is unfeasible to pursue amalgamation any further.

4. DETAILS OF THE PROPOSAL

The proposed development consists of the following:

- Construction of a 25 room boarding house over 5 stories, with manager’s room at ground level. 23 rooms to accommodate 2 lodgers and 2 rooms to accommodate single lodgers, which brings the total number of lodgers onsite to 48 at any one time.
- Construction of 2 levels of basement parking for 13 cars and 5 motor cycle spaces.
- Inclusion of ground floor indoor and outdoor communal area with rear combined private open space and deep soil zone.

- Inclusion of ground floor bin holding area and waiting bay at the front of the site.
- Landscaping works across the site.
- Drainage to be connected to Copeland Street.



Figure 9: Artist render of the proposal with streetscape context (Source: applicant)

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 (Affordable Rental Housing) 2009;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development; and
 - Part 3.9: Boarding House Development.

Contributions Plans

- Liverpool Contributions Plan 2009 applies to all development pursuant to Section 7.11 of the EPA & Act.

6. ASSESSMENT

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

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

Insert the provisions of relevant Planning Instrument

(a) State Environmental Planning Policy (Affordable Rental Housing) 2009

The SEPP (Affordable Rental Housing) 2009 is the applicable Environmental Planning Instrument as it contains specific provisions in relation to the proposed development, being a boarding house. Assessment of the application against the relevant development standards of the SEPP is provided below.

Provision	Comment
Part 2 New Affordable Rental Housing Division 3 Boarding Houses	
Clause 26: Land to which this division applies	
<p><i>This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:</i></p> <p>(a) <i>Zone R1 General Residential,</i> (b) <i>Zone R2 Low Density Residential,</i> (c) <i>Zone R3 Medium Density Residential,</i> (d) <i>Zone R4 High Density Residential,</i> (e) <i>Zone B1 Neighbourhood Centre,</i> (f) <i>Zone B2 Local Centre,</i> (g) <i>Zone B4 Mixed Use</i></p>	<p>Complies</p> <p>The proposed development is located within the R4 High Density zone pursuant to the LLEP 2008.</p>
Clause 27: Development to which Division Applies	

<p><i>This division does not apply to development on land within zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible zone.</i></p> <p><i>Pursuant to Clause 4 of the SEPP, 'accessible area' means land that is within:</i></p> <p><i>(a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or</i></p> <p><i>(b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or</i></p> <p><i>(c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</i></p>	<p>Not applicable</p> <p>The proposed development is located within the R4 High Density zone pursuant to the LLEP 2008 and is not required to be within an accessible area.</p>						
<p>Clause 28: Development may be carried out with consent</p>							
<p><i>Development to which this division applies may be carried out with consent.</i></p>	<p>Noted</p> <p>Development consent is sought for a boarding house.</p>						
<p>Clause 29 Standards that cannot be used to refuse consent</p>							
<p><i>(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</i></p>	<table border="1"> <tr> <td data-bbox="415 1079 959 1171"> <p><i>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</i></p> </td> <td data-bbox="959 1079 1411 1171"> <p>Not Applicable</p> </td> </tr> <tr> <td data-bbox="415 1171 959 1327"> <p><i>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</i></p> </td> <td data-bbox="959 1171 1411 1327"> <p>Not Applicable</p> </td> </tr> <tr> <td data-bbox="415 1327 959 1782"> <p><i>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</i></p> <p><i>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</i></p> <p><i>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</i></p> </td> <td data-bbox="959 1327 1411 1782"> <p>Complies</p> <p>Pursuant to the LLEP 2008 the FSR applicable to site is 1.5:1.</p> <p>Accordingly, the applicable FSR for the proposal is 2:1 pursuant to the SEPP.</p> <p>The site area is 569.1m².</p> <p>The proposed FSR is:</p> <p>784/569.1= 1.377614</p> <p>FSR = 1.4:1</p> </td> </tr> </table>	<p><i>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</i></p>	<p>Not Applicable</p>	<p><i>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</i></p>	<p>Not Applicable</p>	<p><i>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</i></p> <p><i>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</i></p> <p><i>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</i></p>	<p>Complies</p> <p>Pursuant to the LLEP 2008 the FSR applicable to site is 1.5:1.</p> <p>Accordingly, the applicable FSR for the proposal is 2:1 pursuant to the SEPP.</p> <p>The site area is 569.1m².</p> <p>The proposed FSR is:</p> <p>784/569.1= 1.377614</p> <p>FSR = 1.4:1</p>
<p><i>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</i></p>	<p>Not Applicable</p>						
<p><i>(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</i></p>	<p>Not Applicable</p>						
<p><i>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</i></p> <p><i>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</i></p> <p><i>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</i></p>	<p>Complies</p> <p>Pursuant to the LLEP 2008 the FSR applicable to site is 1.5:1.</p> <p>Accordingly, the applicable FSR for the proposal is 2:1 pursuant to the SEPP.</p> <p>The site area is 569.1m².</p> <p>The proposed FSR is:</p> <p>784/569.1= 1.377614</p> <p>FSR = 1.4:1</p>						

<p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	<p>(a) building height:..... if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p>	<p>Complies LLEP 2008 allows a maximum height of 21m. Overall height is: 29.27 – 13.48 = 15.79m</p>
	<p>(b) landscaped area..... if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p>Complies The landscape character of the front setback within the immediate area is characterised by grassed areas, driveways and low level shrubs. The proposed landscape plan reflects this character.</p>
	<p>(c) solar access..... where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>Complies One communal living room is proposed on the ground floor level. The room benefits from a northerly orientation and will receive 3 hours of direct sunlight between 9am and 3pm during mid-winter.</p>
	<p>(d) private open space..... if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager— one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</p>	<p>Complies A total area of 60m² POS with a minimum dimension of 3m is proposed and is accessed via the internal living area. Accommodation for an onsite boarding house manager has been provided. A POS area of 8m² has been provide with a minimum dimension of 2.5m.</p>

	<p>(e) parking if:</p> <p>(i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>Complies</p> <p>The development is not being carried out by a social housing provider.</p> <p>25 boarding rooms x 0.5 spaces = 12.5</p> <p>Total of 13 spaces proposed.</p> <p>Not more than 1 space is provided for the building manager employed at the site.</p>
	<p>(f) accommodation size..... if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>Complies</p> <p>All single lodger rooms are greater than 12m² GFA.</p> <p>All double lodger rooms are greater than 16m² GFA.</p>
<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>		<p>Complies</p> <p>Each boarding room contains private kitchen and bathroom facilities.</p>
<p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>		<p>Noted</p>
<p>Clause 30: Standards for Boarding Houses</p>		
<p>1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</p>	<p>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</p>	<p>Complies</p> <p>One communal living room is proposed on the ground floor.</p>
	<p>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,</p>	<p>Complies</p> <p>No boarding room has a gross floor area of more than 25m² (excluding kitchen and bathroom facilities).</p>
	<p>(c) no boarding room will be occupied by more than 2 adult lodgers,</p>	<p>Complies</p> <p>A condition will be imposed that requires no more than 2 adult lodgers per room.</p>
	<p>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</p>	<p>Complies</p> <p>Each boarding room has been designed with kitchen and bathroom facilities.</p>

	<i>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,</i>	Complies The boarding house is capable of accommodating 48 lodgers. A Managers room has been provided at ground level.
	<i>(f) (Repealed)</i>	Noted.
	<i>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,</i>	Not Applicable The subject site is zoned R4 High Density Residential.
	<i>h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</i>	Complies The development provides 8 bicycle spaces for 25 boarding rooms. The development provides 5 motorcycle spaces for 25 boarding rooms.

Clause 30A: Character of local area

<p><i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i></p>	<p>Complies</p> <p>Due to the amendments made to the development, which have reduced the number of boarding rooms from 46 rooms to 25 rooms and reduced the height of the development from 7 storeys to 5 storey, the proposal is now considered to be compatible with the character of the area.</p> <p>The immediate locality of Copeland Street is comprised by walk-up residential flat building ranging from 2 to 4 storeys mixed with detached dwellings. The streetscape is characterised by landscaped front setback areas with vehicle access from Copeland Street. The development is also consistent with the prevalent street setback, which ranges from 6-8m. Due to the reduced height of the amended building, the development will not unreasonably overshadow developments to the south as it will allow sufficient sunlight to adjoining POS areas. While the development is of a modern architectural style which contrasts from the surrounding buildings that are predominantly brick residential buildings, the design has been endorsed by Council's DEP. Accordingly, the building is considered to display design excellence and will contribute to the streetscape quality, which is undergoing transition to higher density residential developments. It should also be noted that the amended building design provides no openings to the northern and southern neighbours, reducing any visual privacy impacts to these neighbours.</p> <p>The amended development has also been reduced to respond to the ADG to ensure adjoining sites are not prejudiced from being redeveloped as high density residential uses. Accordingly, the development of the site will not detract from the desired character of Copeland Street and the adjoining western sites to the rear.</p>
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As per the ARH SEPP compliance table above, the proposed development is consistent with the relevant requirements of the SEPP and is therefore considered to be an acceptable form of development in that regard.

(b) State Environmental Planning Policy (Infrastructure) 2007

Copeland Street (Hume Highway) is a classified road. As a result the provisions of Clauses 101 & 102 of SEPP (Infrastructure) 2007 are to be addressed for this proposal, as follows:

Considerations	Comments
101. Development with frontage to classified road	
<p>1. Objectives 2. Development consent must not be granted unless: (a) Where practicable, vehicular access to the land is provided by a road other than the classified road, (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of: (i) the design of the vehicle access to the land, or (ii) the emission of smoke or dust from the development, or (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land. (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p>	<p>The subject proposal was referred to the RMS to provide comment on the development with regards to the provisions of Clause 101 of the SEPP. The RMS raised no objections with regards to the impact of the proposal on the classified roadway. This was supported by Council's traffic engineering section, whom also raised no objection to the impact of the proposal on the classified roadway.</p> <p>Accordingly, the development is considered to satisfy the provisions of Clause 101 of the SEPP.</p>
102. Impact of road noise or vibration on non-road development	
<p>(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration: (a) residential accommodation, (b) a place of public worship, (c) a hospital, (d) an educational establishment or centre-based child care facility. (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.</p>	<p>The proposal is for a boarding house, which is a type of residential accommodation. As such the provisions of 'Development near rail corridors and busy roads – interim guideline' have been taken into consideration through the applicant's submitted acoustic report. Council's Environmental Health section have reviewed this acoustic report and raise no objection to its findings or conclusions.</p> <p>Accordingly, conditions of consent have been imposed requiring the recommendations of the report to be implemented into the design of the building.</p>

As per the above table, the development considered to be an acceptable form of development as per the SEPP (Infrastructure).

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

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Although it is unlikely that the land would be contaminated, given its previous residential use, Council must consider this and the likelihood of any contamination on-site and the possible impacts which may arise from any works associated with this proposal.

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.*

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	It is unlikely the land is contaminated as it is an existing residentially zoned allotment.
(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 land is suitable for the proposed works and as it is unlikely that the land is contaminated, based on Council records
(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.

The application was referred to Council’s Environmental Health section, who reviewed the proposal with regards to potential contamination onsite. They raised no objection to the proposal on these grounds and requested no land contamination or remediation studies to be provided by the applicant.

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.

(d) 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.

The DA was referred to Council's Land Development engineering section who reviewed stormwater management and drainage associated with the proposal. They were supportive of the proposed development, subject to conditions. Accordingly, the proposed development is considered to meet the objectives of the SEPP and is unlikely to have a negative impact on the environmental quality of the Georges River Catchment.

Furthermore, 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.

(e) Liverpool Local Environmental Plan 2008

(i) Zoning

The site is zoned R4 – High Density Residential per the LLEP 2008, as shown in the following figure:

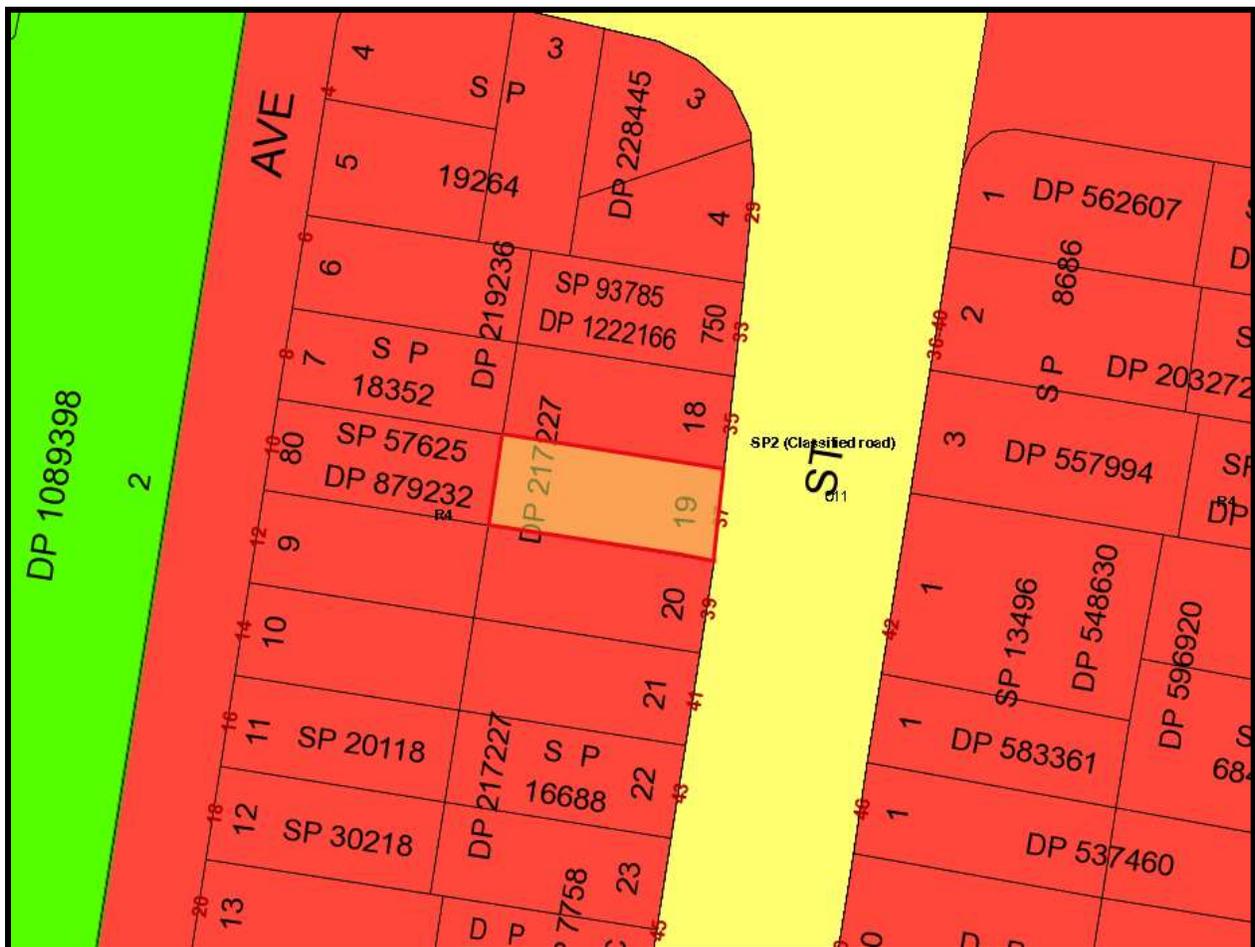


Figure 10: Zoning map with subject site overlaid in yellow (Source: Geocortex)

(ii) Permissibility

A “Boarding House” is identified as a permitted land use subject to consent within the R4 High Density Residential Zone and is defined in the dictionary contained within LLEP 2008 as:

Boarding house means a building that:

- (a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers’ accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.*

The proposal complies with the above definition of a boarding house.

(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 amended proposal would meet and satisfy the above stated objectives. Specifically, the building will provide a total of 25 boarding rooms (with a mix of single and double lodgings) and the site is located in an area identified for urban renewal and transformation, in proximity to Liverpool Railway Station, community uses and retail and commercial facilities.

The applicant has attempted to amalgamate with the adjoining properties in order to achieve a greater developable area and site frontage to Copeland Street. The applicant commissioned evaluation reports to provide letters of offer to the adjoining southern and northern properties, however, no interest was received with regards to those offers. This process was also undertaken to minimise the fragmentation of land along Copeland Street, however, it is considered that there are sufficient allotments both north and south of the subject site fronting Copeland Street to achieve high density residential developments.

(iv) Principal Development Standards

LLEP 2008 contains a number of principal development standards which are relevant to the

proposal as follows:-

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	Complies Development consent is sought for the demolition of the existing buildings on the development site.
4.1 Minimum subdivision lot size	1000m ²	Not Applicable No subdivision proposed
4.3 Height of Buildings	The height of the building must not exceed 21m	Complies Overall height is: 29.27 – 13.48 = 15.79m
4.4 Floor Space Ratio	The maximum floor space ratio permitted is 1.5:1 However, a bonus of 0.5:1 is provided under the ARH SEPP 2009. Accordingly, the applicable FSR is 2:1.	Complies The site area is 569.1m ² . The proposed FSR is: 784/569.1= 1.377614 FSR = 1.4:1
5.10 Heritage Conservation	To protect existing items/locations identified as containing significant heritage value	Not Applicable Not identified as a heritage listed site. The site not considered to be in the vicinity of a heritage listed item. Item No.89 (Plan of Town of Liverpool, early town centre street layout – Hoddle 1827) is approximately 70m distance from the subject site. However, it is not considered that the proposed construction of a boarding house will impact on the heritage layout of Liverpool City Centre.
7.8 Flood Planning	Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and	Complies The development has been reviewed by Council's Flood Engineers who are satisfied that the development is consistent with the requirements specified in this Clause, subject to conditions of consent.

	<p>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and</p> <p>(f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with the Floodplain Development Manual.</p>	
7.14 Minimum building street frontage	<p>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:</p> <p>(a) any building on land in Zone B3 Commercial Core or B4 Mixed Use, or</p> <p>(b) any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or</p> <p>(c) any residential flat building.</p>	<p>Does not comply – considered acceptable</p> <p>The site has a frontage of 15.24m and the proposed development is more than 2 stories.</p> <p>This is a deficiency of 8.76m, which is equivalent to a proposed variation of 36.5% to the minimum building street frontage in the R4 zone.</p> <p>The applicant has lodged a 4.6 variation statement in support of the proposed variation.</p> <p>See clause 4.6 discussion below.</p>
7.31 Earthworks	<p>No earthworks proposed other than those ancillary to the development being excavation for the proposed basement.</p>	<p>Complies</p> <p>Matters considered by Council Land Development Engineering, who have supported earthworks onsite, subject to conditions.</p>

As per the table above, the development is consistent with all applicable development standards contained in the LLEP 2008 with the exception of Clause 7.14 – Minimum building street frontage. The applicant has lodged a Clause 4.6 variation statement in support of the non-compliance as discussed below.

Clause 4.6 Variation Discussion:

As identified in the compliance table above, the proposal seeks to vary Clause 7.14 – Minimum building street frontage.

Clause 7.14 of the LLEP 2008, stipulates that:

“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 proposed development includes a 5 storey building within an R4 zone on a site with a frontage to Copeland Street of 15.24m. This is a deficiency of 8.76m to the minimum building street frontage and is equivalent to a variation of 36.5% to the development standard.

Resultantly, the applicant has provided a clause 4.6 variation statement to justify the non-compliance. The clause 4.6 variation is attached to this report. The submitted written request to vary Clause 7.14 has been assessed against the provisions of Clause 4.6, the objectives of Clause 7.14 and the objectives of the R4 zone. This is discussed below:

The relevant provisions of Clause 4.6 of the Liverpool Local Environmental Plan (LEP) 2008 are as follows:

“(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

1) Circumstances of the development

The application proposes the demolition of existing buildings and the construction of a 5 storey Boarding House with 25 boarding rooms and 1 manager’s room, above two levels of basement carparking. The subject site is located within an R4 zone and has a frontage of 15.24m. In accordance with Clause 7.14 of the LLEP 2008, the proposed development requires a site with a

24m frontage.

Accordingly, the subject site is deficient of the minimum building street frontage by 8.76m, which is equivalent to a variation of 36.5% to the development standard.

2) 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

The applicant has provided a written request to vary the minimum building street frontage and has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, which is summarised as follows:

“1. Infeasible Site Amalgamation

Negotiations between the applicant and the owners of neighbouring properties has commenced in accordance with the comments raised by the Council and Design Excellence Panel (the Panel) and includes multiple offers to amalgamate with adjoining properties of 35 Copeland Street and 39 Copeland Street, each resulting in no avail. Valuations for the adjoining sites at 35 Copeland Street and 39 Copeland Street, dated 08 August 2017 and 03 February 2017, indicate an individual site value of \$1.07 million, conducted by Access Valuations Pty Ltd. Multiple offers were issued by the applicant to the owners of the adjoining properties including a formal offer containing the valued amount. The owner of the subject site has engaged in thorough attempts for negotiation but not succeeding. The owner of the subject site has not encountered a response or willingness for discussion from the owner of 39 Copeland Street during the period from the first offer made on 21 September 2017 to the third offer made on 23 November 2017 and the later 14 days. The owner of subject site has been refused by the owner of 35 Copeland Street after the second offer made on 23 October 2017, and the third offer was still made on 9 November 2017 resulting in no avail. It is considered that reasonable attempts to amalgamate sites has been conducted by the applicant and has not been made feasible.

2. Proportional to Existing Street Frontage

In the circumstance of infeasible amalgamation, it is considered that the proposed development has thoroughly addressed the issue of limited existing frontage. The existing 15.24m street frontage is approximate 36% under the 24m required street frontage. The amended plan has proposed approximately 30% under the required height. From our perspective, the amended proposal has achieved satisfactory planning outcome given the correspondence in scale. Hence the compliance with frontage development standard becomes unnecessary in this case.”

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

- The applicant has attempted to amalgamate with the adjoining northern and southern site in order to achieve the minimum building street frontage of 24m. The applicant has commissioned evaluation reports and made multiple official offers to the adjoining landowners without any positive responses to those offers. Accordingly, it considered unreasonable to sterilise the development of the site for high density purposes, as proposed, where the applicant has made reasonable attempts to amalgamate sites.

- In order to provide a development onsite that is commensurate with the site frontage of 15.24m the applicant significantly reduced the original proposal from 7 stories with 46 boarding rooms to 5 stories with 25 boarding rooms. The applicable building height onsite is 21m with a 24m frontage. The development proposes a 15.79m high building on a 15.24 frontage. Proportionally, the proposed building height is 25% less than the allowable height limit and the proposed street frontage is 36.5% less than the minimum building street frontage. Accordingly, it is considered that the applicant has made reasonable attempts to reduce the building height of the development to be proportional to the reduced street frontage.
- The amended building design was presented to Council's DEP. They considered the variation sought by the applicant and endorsed proposed the building's height and design in the context of the limited site frontage, subject to consistency with ADG setbacks and building separation.
- As discussed below, one the objectives of Clause 7.14 is to ensure that visually, buildings have an appropriate horizontal proportion compared to their vertical proportions. Considering the applicable building height and frontage required with the height and frontage proposed, these factors are at a 1:1.03 ratio; meaning the proposed building height is almost one to one with the site frontage. In this regard, the amended development is considered proportional to the site with regards to height compared to site frontage.
- Conditions are recommended to be imposed to remove a fifth storey POS area and increase the fifth level building setback to the side boundaries from 3m to 4.5m. This will ensure the building would not compromise any adjoining sites ability to development RFB's in accordance with the ADG. This is also consistent with the comments of the DEP regarding acceptable building separation and setbacks.
- The applicant has provided shadow diagrams for the amended development that demonstrate that the adjoining southern neighbour will receive acceptable solar access to the POS area and the building between 9am and 3pm during mid-winter.
- The amended proposal was referred to the RMS and Council's Traffic Engineers who supported the development, the proposed vehicle access arrangement onsite and vehicle impacts associated with the proposal, despite the variation to the minimum building street frontage. Accordingly, there is considered to be sufficient building frontage to accommodate the vehicles required service the proposal without adversely impacting the locality.
- The amended development is fully compliant with the provisions of the ARH SEPP 2009, with regards to boarding house standards.
- The amended boarding house has been specifically designed to mitigate any potential privacy impacts to the neighbouring properties. No windows have been provided on the southern and northern (side) building elevations, which is considered to uphold visual and acoustic amenity to these neighbours. As discussed previously, conditions are recommended that would ensure the fifth storey is further setback from the boundaries to ensure greater separation to surrounding properties.
- The amended boarding house has been designed to comply with the local FSR provisions contained in the LLEP 2008 and not with the additional FSR awarded under the ARH SEPP 2009. Accordingly the proposal is considered to be sympathetic to the desired

density for the locality. As such, the development is not considered to be an over development of the site with regards to its density characteristics and is commensurate with the limited site frontage.

- The development is fully consistent with the LDCP 2008, except in the case where controls have come into effect significantly after the subject DA was lodged with Council. This is discussed further in this report as part of the DCP assessment.
- The development of the site for a boarding house will assist in providing affordable housing options in walking distance to Liverpool City Centre which hosts a range of services and community facilities for future occupants.

Considering the above, compliance with the 24m building street frontage development standard is considered unreasonable in this circumstance and there is sufficient environmental planning grounds to justify the contravention.

3) Consistency with objectives of the development standard Clause 7.14 Building Separation in the Liverpool City Centre

The following table provides an assessment of the proposed variation against the objectives of Clause 7.14:

Objective	Applicant Comment	Council Comment
(a) to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,	<p><i>"Amalgamation with neighbouring properties has not been made feasible despite thorough attempts for negotiation.</i></p> <p><i>Although the site frontage is not compliant, the site is of reasonable configuration and dimensions to accommodate the proposed five-storey boarding house development. Additionally, as elaborated above, it is considered that the proposed built form is reasonably proportional to the existing street frontage."</i></p>	<p>The original development proposed a 7 storey boarding house with an overall height of 21.23m. This represented a building height to frontage length ratio as follows:</p> <p>$21.23/15.24 = 1.39:1$.</p> <p>The applicant has amended the development significantly to 5 stories with an overall height of 15.79m. The building height to frontage length ratio is now:</p> <p>$15.79/15.24 = 1.03:1$</p> <p>Where a site has a 24m frontage and maximises the applicable height of 21m the height to frontage ratio is 0.9:1.</p> <p>In this regard, the amended building is considered to have an appropriate horizontal proportion when compared to the vertical proportion and satisfies this objective.</p> <p>It should be noted that the building design, including the height of the building, has been endorsed by Council's DEP. Accordingly, the building is considered to display design excellence and have an appropriate horizontal proportion when</p>

		compared to the vertical proportion.
(b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,	<p><i>“The basement has been substantially redesigned to accommodate 13 car parking spaces as per the amended SEPP requirement. In addition to the increased on-site parking provision, the redesign is also in relation to the removal of the column for the vehicle access on Ground Floor and relocation of the southern ramp that is positioned against southern basement wall. A waiting bay and traffic signal system have been incorporated into the basement design.</i></p> <p><i>Refer to the traffic response letter prepared by PDC Consultants at 26/10/2018, the modified vehicular access is considered acceptable and the changes will significantly improve the efficiency and safety of the development to address concerns raised by RMS.</i></p>	<p>The applicant attempted to amalgamate with the adjoining northern and southern sites in order to increase the site frontage and ensure vehicular access is spaced as much as possible along Copeland Street. As discussed previously, the adjoining owners where not receptive to official offers made by the applicant based on evaluation reports and it is therefore considered that the site frontage could not be reasonably increased.</p> <p>Accordingly, the subject site with the proposed development was referred to the RMS for their consideration, as Copeland Street is an RMS controlled roadway. The RMS raised no objections to the proposal with regards to the proposed vehicle access arrangement in the context of the existing roadway. The proposed development was also assessed by Council’s Traffic Engineers, who raised no objection to the proposal with regards to the vehicle access arrangement along Copeland Street.</p> <p>Council’s waste section also provided comment on the amended proposal. With regards, to vehicle access they could not support the proposed development being serviced by Council’s waste vehicles and requested the applicant provide an amended waste management plan for the site addressing waste vehicle collection. The applicant, in working with Council’s waste section, will engage a private waste collector to service the premises. Council’s waste management section were supportive of this arrangement subject to conditions.</p> <p>In this regard, it is considered that vehicle access has been reasonably spaced along Copeland Street as the RMS and Council’s Traffic Engineers have raised no objection to the vehicle access arrangement proposed under the amended development, when considering the context of the existing streetscape.</p>
(c) to provide appropriate dimensions for the design of car	<i>“The proposed development has been amended to include one and half basement levels including all essential services and parking requirements.</i>	Council’s Traffic Engineers have assessed the proposed basement car park design and provided the following comments:

<p>parking levels,</p>	<p><i>Refer to the traffic response letter and the swept path analysis prepared by PDC Consultants at 26/10/2018, the vehicular access, vehicle arrangement, manoeuvrability and car parking arrangements are considered acceptable and complies with the relevant requirements of AS 2890.1."</i></p>	<p><i>"The proposal indicates that vehicular access to the site will be provided by a 5.5m wide combined entry / exit driveway off Copeland Street that will extend for the first 6.0 metres. Internally the ramps reduce to 3.0m width and accommodate two-way, one-lane traffic flow.</i></p> <p><i>Swept path analysis has been provided in the report using a B99 Design Vehicle to demonstrate compliance with AS2890.1, including accommodation of two vehicles passing one another at the access. It also reports that a queuing assessment has been undertaken of the vehicle access which confirms that a single waiting bay is required at the access driveway in order to accommodate the 98th percentile queue generated by the development.</i></p> <p><i>Based on the information contained in the updated traffic report, the proposed design of the access and car parking is considered satisfactory."</i></p> <p>As per the above comments, the subject site is considered to provide appropriate dimensions for the design of parking levels despite the reduced building street frontage.</p>
<p>(d) to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.</p>	<p><i>"Thorough attempts have been made to amalgamate with adjoining sites for the purpose to achieve larger-scale development site, resulting in no avail. The proposed built form is designed to be larger-scale compared with the existing development and surrounding properties. The proposal responds to site's characteristics and constraints to accommodate appropriate density on site."</i></p>	<p>When the applicant first amended the proposal from 7 stories to 5 stories the setback of the fifth storey to the rear boundary from a habitable space was less than 9m. Accordingly, any residential flat building development on the adjoining western site would be unreasonably prejudiced by the subject proposal. Accordingly, the applicant was requested to amend the proposal to provide a 9m setback to the rear property boundary to habitable spaces on the fifth storey. The applicant amended the building to be setback 9m from the rear boundary to habitable rooms at the fifth storey. The applicant, however, has proposed balconies within the 9m setback area at the fifth level. A condition of consent is recommended to be imposed to remove these balconies. A condition of consent has also be recommended to increase the fifth storey side setbacks from 3m to 4.5m.</p> <p>As per the above, the development is considered to encourage larger</p>

		development of residential buildings on adjoining sites, and, with the imposition of special conditions, it will not prejudice the development potential of RFB's on adjoining sites in accordance with the provisions of the ADG.
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For the reasons above, the proposed development is considered to be consistent with the objectives of Clause 7.14 of LLEP 2008.

4) Consistency with objectives of the zone – R4 High Density Residential

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, inclusive of the variation to Clause 7.14, is considered to maintain consistency with the R4 zone objectives. Specifically, the building will provide a variety of housing types within a high density environment by creating a 25 boarding rooms onsite that includes a mix of single and double lodgings. The boarding rooms will provide for the needs of the community by providing alternative residential accommodation options to traditional dwelling occupancies; especially considering the proximity of Liverpool City Centre and the need for affordable housing and student accommodation. The site is located in an area identified for urban renewal and transformation and is in proximity to Liverpool Railway Station, various community uses and retail and commercial facilities.

The applicant has attempted to amalgamate with the adjoining properties in order to achieve a greater developable area and site frontage to Copeland Street. The applicant commissioned evaluation reports to provide letters of offer to the adjoining southern and northern properties, however, no interest was received with regards to those offers. This process was undertaken to minimise the fragmentation of land along Copeland Street, however, it is considered that there are sufficient allotments both north and south of the subject site fronting Copeland Street to achieve other high density residential developments in the immediate locality. Accordingly, the development of the site as proposed is likely to minimise land fragmentation.

As it can be demonstrated that the proposed development is consistent with the objectives of Clause 7.14 and the R4 zone, it is considered in the public interest.

5) 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 to apply a degree of flexibility when applying the minimum building street frontage development standard applicable to the subject site given above discussion. Despite the non-compliance the proposal provides for a suitably designed boarding house with appropriate presentation to the street and the public domain. The proposal, inclusive of the variation to Clause 7.14, provides for appropriate internal amenity for future occupants and is unlikely to detract from the amenity of the adjoining residents by way its built form.

6) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 7.14 – Minimum building street frontage, has satisfied the provisions of Clause 4.6 and is supported in this case.

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 application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development* and *Part 3.9 Boarding House Development*. This assessment is provided in the following tables:

LDCP 2008 Part 1 – General Controls for all Development			
Control	Required	Proposal	Compliance
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	No trees are proposed to be removed.	YES
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	No existing trees proposed to be removed.	YES
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.	N/A
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to	Site is not classified as Bushfire prone land.	N/A

	comply with RFS requirements		
Section 6 – Water Cycle Management	Consideration of stormwater drainage and	Stormwater will be collected through the proposed downpipes and discharged to the Council kerb.	Complies
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	Development is located more than 300m from George’s River.	N/A
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	Sediment control details were submitted as part of drainage plans. Condition imposed to ensure adequate sediment erosion controls undertaken at the site during construction.	Complies
Section 9 – Flooding Risk	Flood affection of property to considered	The site is identified on Council’s mapping system as being within a flood planning area and with a low flood risk category. The development has been reviewed by Council’s Flood Engineers who are satisfied that the proposal is consistent with flood planning control, subject to conditions.	Complies
Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	The site inspection revealed no obvious uses that may lend themselves to the requirement of a land contamination assessment /report. Therefore considered acceptable in this instance.	N/A
Section 11 – Salinity Risk	Salinity Management response required for affected properties	Site is identified on Council’s mapping system as having moderate salinity potential. Condition to be imposed regarding this affectation.	N/A
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils	Site is not affected by sulfate soils.	N/A
Section 13 – Weeds	Noxious weeds to be removed as part of development where applicable	The submitted site analysis does not identify any noxious weeds on site. A site inspection revealed/confirmed no noxious weeds on site.	N/A

Section 14 – Demolition of Existing Development	Must comply with AS 2601-2001	The dwelling is proposed to be demolished. Conditions of consent to be imposed.	Complies Condition of consent to be imposed
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	Site is connected to sewer.	N/A
Section 16 – Aboriginal Archaeology	AHIA required where items of aboriginal archaeology exist	No known items of aboriginal archaeology are present on the subject property.	N/A
Section 17 – Heritage and Archaeology	Consideration of the impact on the heritage significance on any heritage buildings, sites, streetscapes or areas.	Site is not associated with any heritage items.	N/A
Section 18 – Notification of Application	Secondary dwellings are to be notified to adjoining properties.	The proposal was advertised and notified to adjoining properties from 26 October to 9 November 2016. Five (5) submissions have been received objecting to the proposed development. These submissions have been taken into consideration during the assessment process and are discussed below.	Complies
Section 19 – Used Clothing Bins	Applies to any charity bins located on either private or Council land.	No charity bins located on site.	N/A
Section 20 – Car Parking and Access	1 space per 2 bedrooms or 2 space per 3 beds, whichever is the greater	The proposed development provides thirteen (13) car parking spaces as per SEPP (Affordable Rental Housing) 2009.	Complies

LDCP 2008 Part 3.9 Boarding House Development

Control	Required	Proposal	Compliance
Building Character	A Character Statement is to be submitted with all applications for boarding house development. At a minimum the	The applicant has not provided character statement as part of the development application, however, has provided a 'character of local area' assessment as part of the submitted statement of	Considered acceptable

	<p>statement is to address the criteria listed under Appendix 1 of this DCP.</p> <p>Note: Character statements are to be prepared by a suitably qualified person and must include 3D perspective drawings showing how the building appears when situated amongst other buildings within a 100m radius.</p>	<p>environmental effects. This provides an assessment of building height, setbacks, landscaping & deep soil, bulk & scale and architectural style & materiality. It is considered that this is consistent with the requirements of Appendix 1, with the exception of views and vistas. In the case of this development, there are considered to be no major views and vistas to be protected in the locality.</p> <p>It should be noted that the Part 3.9 of the LDCP 2008, came in effect in December 2018, two years after the subject DA was lodged. Accordingly, it is considered acceptable that no character statement has been provided by the applicant for assessment and that the submitted character assessment is deemed sufficient.</p>	
	<p>Boarding houses located in the vicinity of a Heritage Item or within a Heritage Conservation Area must be designed sympathetically to the significance of the Heritage Conservation Area/Item.</p>	<p>The site is not considered to be located in the vicinity of a Heritage Item or within a Heritage Conservation Area.</p>	
<p>Site Planning</p>	<p>All boarding houses must be located in an accessible area as defined in the SEPP ARH. Note: Boarding houses in the R2 zone are subject to additional locational criteria as required under the SEPP ARH.</p>	<p>The proposed boarding house is located in a R4 zone, as per the Clause 27 of the ARH SEPP 2009. Accordingly, the development is permitted regardless of whether it is in an accessible area or not.</p> <p>It should be noted that the Part 3.9 of the LDCP 2008, came in effect in December 2018, two years after the subject DA was lodged. Accordingly, it is not</p>	<p>Considered acceptable</p>

		<p>considered appropriate in this case that the applicant must demonstrate that the boarding house is in an accessible area defined under the SEPP.</p> <p>As discussed in the locality description above, the subject site is located on the edge of Liverpool City Centre and is therefore considered to be located in proximity to a range of commercial, community and public transport services.</p>	
	Boarding houses must not be located on cul-de-sacs streets and battle-axe allotments.	The proposed boarding house is not located on a cul-de-sac or battle-axe allotment.	
	Boarding houses must have a separate pedestrian access to a street.	The proposed boarding house has a pedestrian access path along the southern site boundary, which is separate from the vehicle access point on the northern boundary.	
	Boarding houses must be located to minimise the extent of cut and fill.	The proposal has been designed with a basement, notwithstanding this building component, it is considered to minimise cut and fill on the site.	
External Building Design	All boarding rooms must only be accessed from within the building.	The proposed boarding house has all of the internal rooms accessed from the common area.	Considered acceptable
	Main entrances shall not be located along rear and side boundaries where they face adjoining properties.	<p>A majority of the rooms are accessed internally with the exception of the ground floor lodgings. This is due to the ground floor be in an open plan arrangement.</p> <p>It should be noted that ground floor access to individual rooms is consistent with ground floor apartment designs in a high density residential area. It is considered that this control relates more appropriately to low and medium density environments. The application</p>	

		<p>was referred to the DEP who are supportive of the design of the ground floor. The DA was also referred to Council's environmental health section along with the submitted acoustic report. Council's environmental health section has deemed the design of the proposal, inclusive of the ground floor, acceptable with regards to acoustic amenity based on the submitted acoustic assessment. Accordingly, the design of ground floor apartments and the location of their access doors is considered acceptable in this case.</p>	
Internal Building Design	<p>Boarding houses shall be limited to a maximum number of bedrooms using the formula in LDCP Part 3.9, Clause 6. Any floor space ratio (FSR) over 1:1 shall be rounded down to 1:1:</p>	<p>In accordance with this formula the site would be able to accommodate 13 rooms.</p> <p>The application proposes 25 rooms.</p> <p>The ARH SEPP 2009, affords the site an FSR of 2:1, the applicant has proposed 1.4:1. Considering this, the consent authority cannot refuse the DA on FSR grounds.</p> <p>The FSR applicable to the site under the LLEP 2008, is 1.5:1, to which the proposal is under. Accordingly, the development is considered to be consistent with the desired density of the locality.</p>	Considered acceptable
	<p>Communal living rooms and kitchens shall be the focal point of the building (e.g. near lobby, laundry, mail area etc.) and be provided with access to the communal open space area.</p>	<p>The proposed boarding house has been designed so that the communal living room is a focal point of the ground floor with direct access to the open space area onsite.</p>	

	<p>An indoor communal living room must be provided at a rate of 15sqm for the first 5 lodgers (or part thereof) and 1sqm for each additional lodger.</p> <p>Note: Required floor area for the communal living room may be split across multiple parts of the building if it is seen as beneficial for the internal layout of the building.</p>	<p>The proposed boarding house provides a communal living room of approximately 30sqm.</p> <p>The proposed development is able to accommodate 48 lodgers at any one time. Accordingly, 58sqm of indoor communal area is required onsite.</p> <p>It should be noted that the Part 3.9 of the LDCP 2008, came in effect in December 2018, two years after the subject DA was lodged. Accordingly, it is considered unreasonable to ensure the proposal is consistent with this requirement.</p> <p>This is especially pertinent where the ARH SEPP 2009 requires the provision of a communal area but specifies no minimum area requirements. Accordingly, the development is considered consistent with the SEPP and acceptable with regards to the provision of indoor communal areas.</p> <p>It should also be noted that the indoor communal area combined with the covered communal outdoor area is 166sqm. This is considered to sufficiently service the 48 lodgers that may reside at the site at any one time and sufficiently covers the 58sqm required by the DCP.</p>	
	<p>No boarding rooms shall open directly on to communal living, dining and kitchen areas.</p>	<p>None of the proposed rooms open into the communal living room.</p>	
	<p>At least 10% of the rooms shall be adaptable in accordance with the</p>	<p>This is recommended to be imposed as a condition of consent.</p>	<p>Complies</p>

	relevant Australian Standards (AS) for Adaptable Housing (AS 4299 - 1995) as amended.		
	Boarding houses shall be designed to comply with the minimum access requirements contained within the BCA and Australian Standard 1428 – Design for Access and Mobility (as amended).	This is recommended to be imposed as a condition of consent.	
	At least 70% of the rooms shall receive a minimum of 3 hours direct sunlight between 9am and 3pm on 21 June.	The amended boarding house has been designed to include windows on the eastern and western elevations to take advantage of the morning and evening sun. Accordingly, all rooms are considered to have direct sunlight during the winter solstice.	
	Where self-contained boarding rooms are proposed they shall be provided with the following facilities (at a minimum) in accordance with the following: Bathroom – 2.1sqm Showering in bathroom – 0.8sqm Laundry – 1.1sqm Kitchenette – 2sqm	The proposed boarding house has twenty-five (25) self-contained rooms each with their own bathroom and shower, washing machine and kitchenette, which meet the minimum area provisions.	
	Where shared facilities are proposed, they must be provided at a rate of 1 per 10 occupants (or part	The proposed boarding house has self-contained rooms.	

	<p>thereof) in accordance with Table 2:</p> <ul style="list-style-type: none"> - 1 washing machine and 1 washing sink - 1 electric clothes dryer or 30m of external clothes line - 1 bathroom - 1 toilet and wash basin (separate from bathroom) 		
	<p>A communal kitchen is to be provided on each floor (if more than 2 storeys) with a minimum area of 8sqm or 1.2sqm for each resident without a kitchenette (whichever is the greater).</p> <p>Note: The kitchen is to comply with food safety standards adopted under the NSW Food Act 2003 and the National Code for the Construction and Fitout of Food Premises.</p>	<p>The proposed boarding house has self-contained rooms with kitchenettes.</p>	<p>Complies</p>
	<p>If management or reception offices (apart from a manager's room) are to be provided, they are to be located at a central, visible point which is convenient to occupants and visitors of the boarding house.</p>	<p>The proposed manager's room is directly opposite the main entry to the building and the common circulation core.</p>	
	<p>Boarding houses in the B1, B2 or B4 zones</p>	<p>The site is zoned R4 – High Density Residential.</p>	

	shall not be provided with any rooms on the ground floor.		
Communal Open Space	<p>The communal open space must receive 3hrs of sunlight to 50% of its area between 9am and 5pm on 21 June, and must:</p> <ul style="list-style-type: none"> - be provided at ground level in a courtyard or terrace area, wherever possible; - provide partial cover from weather; - incorporate soft/porous surfaces for 50% of the area - be connected to communal indoor spaces, such as kitchens or living areas; - contain communal facilities such as barbecues, seating and pergolas where appropriate; and - be screened from adjoining properties and the public domain with plantings or similar 	<p>The COS will receive 3 hours of sunlight to more than 50% of its area during the winter solstice.</p> <p>The COS area is partly covered.</p> <p>Over 50% of the COS area onsite is deep soil zone.</p> <p>The COS is directly connected to the indoor communal area.</p> <p>The COS area is lined with vegetation so that it is screened from the adjoining properties.</p>	Complies
Car Parking and Access	A traffic and parking impact statement is required for all boarding house developments demonstrating that the	A traffic impact statement has been submitted with the DA and reviewed by Council's Traffic Engineering section. They are supportive of the findings of the report, subject to conditions.	Complies

	<p>use of the premises will not result in adverse traffic, parking and road safety impacts. The assessment is to include the following (but not being limited to):</p> <ul style="list-style-type: none"> i. Identification of prevailing traffic conditions; ii. the likely impact of the proposed development the road network; iii. pedestrian and traffic safety measures; and iv. justification for any variations of on-site parking requirements 		
	<p>The path to any building entrance(s) shall be designed in a manner which provides direct and convenient access from the nearest public footpath.</p>	<p>The path from the building entrance has been designed to provide direct and convenient access from the nearest public footpath on Copeland Street.</p>	
<p>Amenity</p>	<p>An acoustic report prepared by a suitably qualified person shall be submitted and is to include:</p> <ul style="list-style-type: none"> i. Identification of sensitive noise receivers potentially impacted by the proposal; ii. Measure (in decibels) and describe the existing acoustic environment; iii. Details of the acoustic mitigation measures to be implemented in the 	<p>The DA was also referred to Council's environmental health section along with the acoustic report submitted by the applicant.</p> <p>Council's environmental health section has deemed the design of the proposal acceptable with regards to acoustic amenity based on the submitted acoustic assessment. Compliance with the recommendations of the acoustic report are recommended to be imposed as conditions of consent.</p>	<p>Complies</p>

	proposal; iv. Identification of noise likely to be generated by the proposal based on full occupation; and v. Certification that the proposal is capable of operating without causing nuisance, including a statement of mitigation measures required to ensure this.		
	A 'Plan of Management' is to be submitted with each development application for a boarding house, including criteria as outlined in Appendix 2.	The proposed development provides a 'Plan of Management', which is consistent with Appendix 2.	

Overall, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008 and is considered an acceptable form of development in that regard.

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 and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

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

Natural and Built Environment

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

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. 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 amended proposal will facilitate residential development which is not an over-development and is consistent with the desired future built character of the locality. It

is considered that the proposed development has been designed with sufficient regard to surrounding properties to ensure that any adverse amenity impact is minimised, particularly in terms of visual and acoustic privacy and overshadowing.

Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality through the capital investment value of the development and is unlikely to generate any identifiable detrimental social impacts, being consistent with the desired development type in the locality. The applicant has provided a plan of management with the proposal to ensure that occupants of the site limit their potential to disturb the amenity of the residential area.

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 accordance with the Act or the Regulations

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Building Officer	Approval subject to conditions of consent
Development Engineer	Approval subject to conditions of consent
Landscape Officer	Approval
Traffic Engineer	Approval subject to conditions of consent
Flood Engineer	Approval subject to conditions of consent
Environmental Health	Approval subject to conditions of consent
Community Planning	Approval subject to conditions of consent

(b) External Referrals

The following comments have been received from external Agencies:

DEPARTMENT	COMMENTS
Police	Approval subject to conditions of consent
RMS	Approval subject to conditions of consent

(c) Community Consultation

The proposal was advertised and notified for a period of 14 days from 26 October to 9 November 2016 in accordance with LDCP 2008. Five (5) submissions were received in response to the public consultation process raising objections to the proposal. The key issues raised in the submissions relate to:

- Inappropriate use of the land;
- Outdoor common area acoustic impacts;

- Negative social impacts due to boarding style accommodation;
- Impacts to traffic congestion; and
- Proposed lodgings too small to accommodate future occupants.

The following comments are provided in respect to the concerns raised by surrounding residents:

ISSUE 1: The proposal is inappropriate/ incompatible with the residential uses currently on Copeland Street. Nature of accommodation proposed is comparable to a motel/ hotel or university dorm with a high turn-over or residents.

Comment: The development of the site as a boarding house is permitted in the R4 – High Density Residential Zone and is therefore consistent with the desired future character of the locality. While it is noted that the current character of Copeland Street in the vicinity of the subject site is mainly low-rise flat buildings and detached housing, the applicant has significantly reduced the development since it was notified from 7 stories with 46 lodgings to 5 stories with 25 lodgings. As discussed in the 4.6 variation assessment above, the development, as amended, is considered to be more compatible with the site characteristics and that of the immediate locality than that which was originally proposed.

While it is also noted that the boarding house may lend its self to short term styles of residential accommodation, this is consistent with the zoning of the site and definition of the boarding house as per the LLEP 2008. The minimum stay as per the definition of a boarding house is 3 months. The applicant has provided a plan of management in support of the development which reiterates the minimum stay period of 3 months for lodgers. This is considered to limit the turn-over of occupants when compared to motel/ hotel forms of the accommodation.

As per the above, the amended development is considered to adequately address the above issue and considered an acceptable form of development context of this objection matter.

ISSUE 2: Without any internal living area the outdoor ground floor common area is too small and would contribute to unreasonable acoustic impacts to neighbours, both day and night.

Comment: The amended proposal includes an internal living area on the ground floor that is directly linked to the outdoor communal area. As such, there is considered to be adequate internal communal space to ensure that future occupants have both indoor and outdoor options when enjoying communal areas onsite. Accordingly, this issue is considered to be appropriately resolved by the applicant.

Notwithstanding this, the applicant submitted an acoustic report in support of the DA. This was reviewed by Council Environmental Health Section, who supported the assessment and its proposed acoustic mitigation measures. Accordingly, compliance with this acoustic report is recommended as a condition of consent. The design of landscaping onsite incorporates landscaping screening along the circumference of the outdoor communal area of POS. Accordingly, this is considered to assist in reducing potential privacy impacts at the ground level between adjoining properties.

ISSUE 3: Studies indicate that negative behaviour results from overcrowded developments without adequate living needs. This will lead to a high turn-over of occupants.

Comment: No such studies have been provided by the objecting parties for Council's consideration to date.

As discussed previously in this report, the development has been designed to comply fully with the ARH SEPP 2009 and generally comply with LDCP 2008; especially with regards to the minimum standards for the design of boarding rooms. Accordingly, the development is not considered to be an overdevelopment of the site that would lead to an overcrowded building and would provide sufficient living amenity for future occupants. The applicant has provided a plan of management in support of the development which restricts the minimum stay period to 3 months for lodgers. This is considered to limit a high turn-over of occupants at the site. Accordingly, the design of the proposal and the submitted plan of management are considered to resolve this issue.

ISSUE 4: The development will exacerbate traffic congestion issues on Copeland Street. The proposal make no provisions for cars, deliveries and rubbish collection.

Comment: The amended proposal has been reviewed by the RMS and Council's Traffic Engineering section, who have raised no objection to the impact the development will have on Copeland Street. As such, this matter is considered to be resolved.

The proposed development has been designed to incorporate car parking and has a waiting bay for deliveries. In consultation with Council's Waste Section, the applicant has agreed to engage a private waste collector to service the site with provision for their vehicle made at the front of the site. In regards to the above, this issue is considered to be have been resolved.

ISSUE 5: Future occupants of the development will negatively impact on the public domain as they cannot be contained within the small living spaces onsite. Forty-six lodgings onsite provides too many people with inadequate living spaces.

Comment: As discussed previously, the development has been designed to comply fully with the ARH SEPP 2009 and generally comply with LDCP 2008; especially with regards to the minimum standards for the design of boarding rooms. Accordingly, the development is not considered to be an overdevelopment of the site that would lead to an overcrowded building. The amended proposal includes an internal living area on the ground floor that is directly linked to the outdoor communal area. As such, there is considered to be adequate internal communal space to ensure that future occupants have both indoor and outdoor options when enjoying communal areas. Accordingly, it is considered likely that the development makes sufficient provisions for future occupants on the site so that they do not have to congregate in the public domain surrounding the site. As such, this issue is considered to be resolved through the design of the site and building.

It should be noted that the proposal has been reduced from 46 rooms to 25 rooms, which will reduce any potential impacts to the public domain from what was originally proposed onsite.

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

The proposed development 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 Liverpool Contributions Plan 2009 and will be imposed as a condition of consent of any approval for the proposed development. The development attracts a total contribution of

\$43,681.

8. CONCLUSION

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

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

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

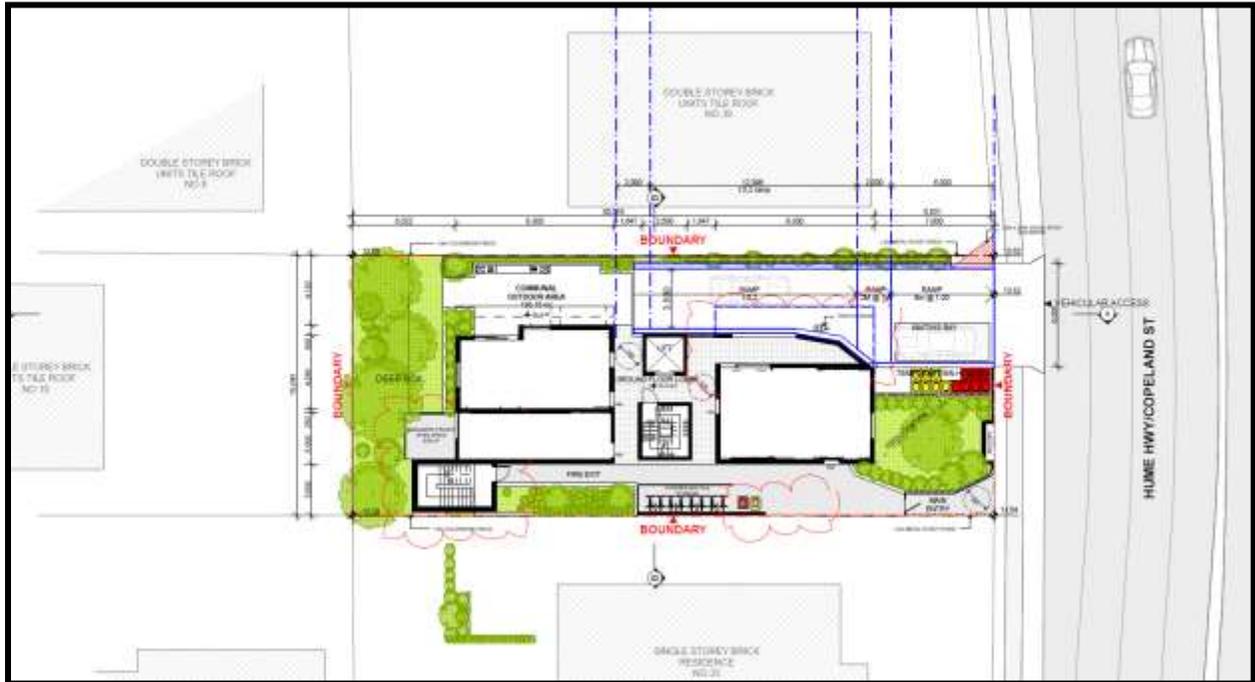
9. RECOMMENDATION

That Development Application DA-930/2016 be approved subject to conditions of consent.

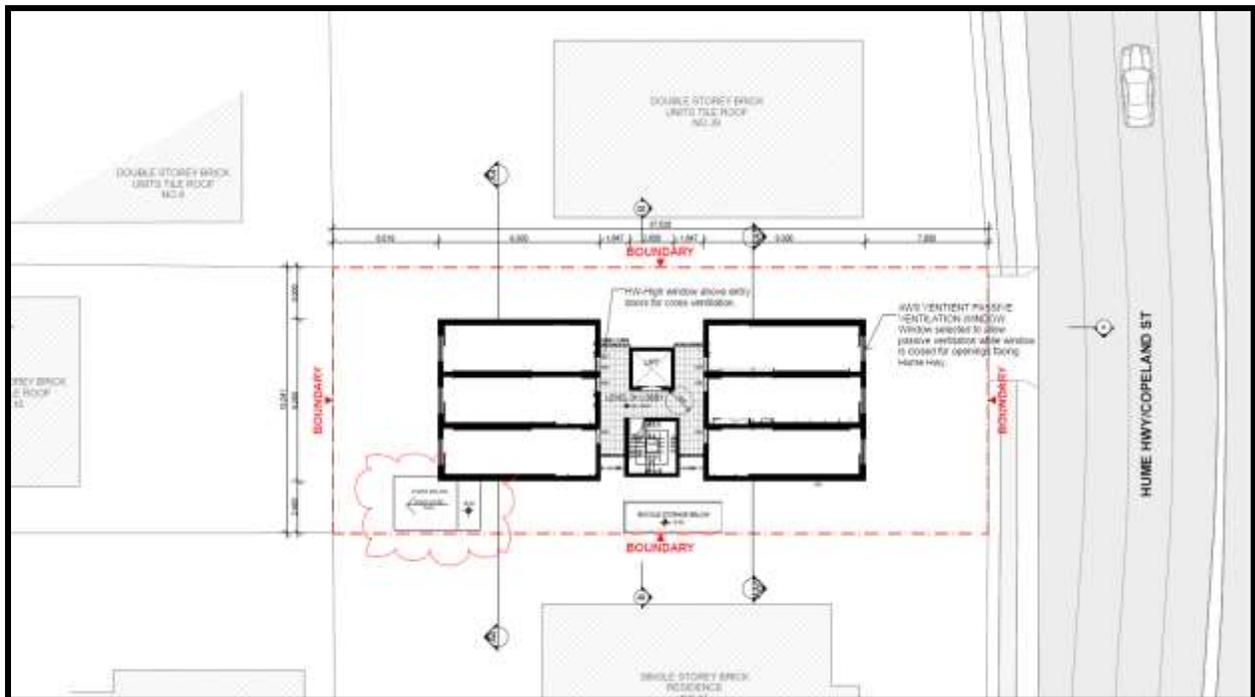
10. ATTACHMENTS

- 1. PLANS OF THE PROPOSAL**
- 2. CONDITIONS OF CONSENT**

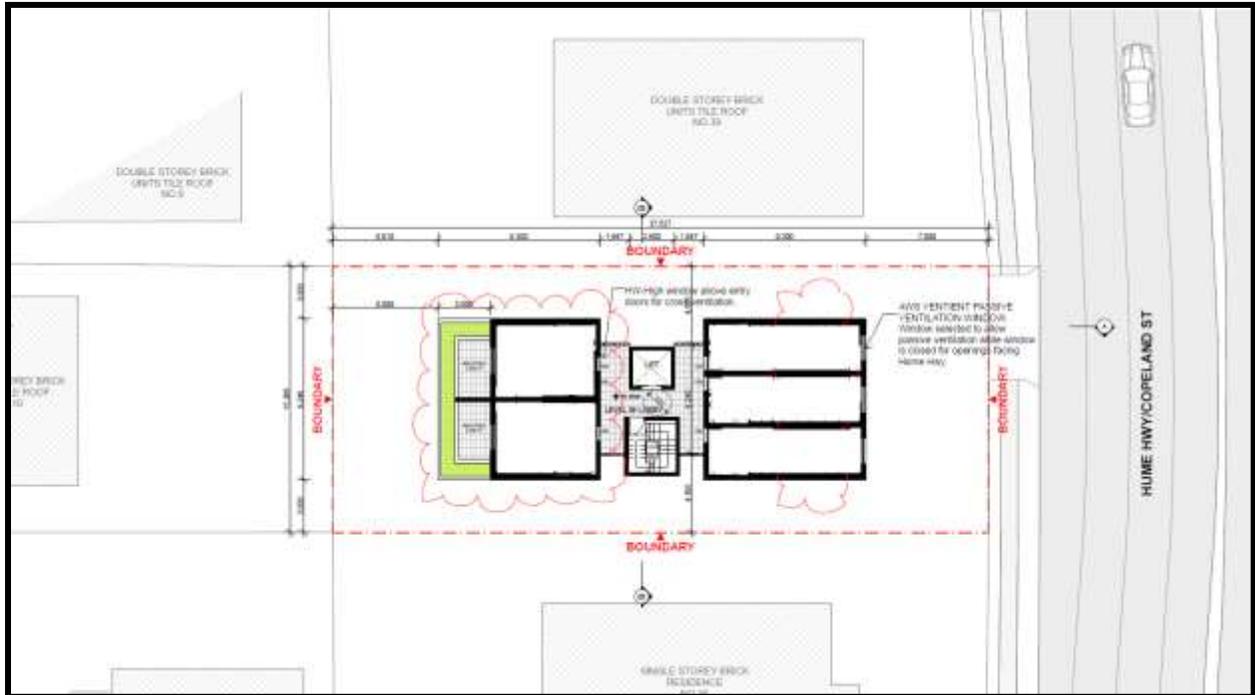
ATTACHMENT 1: PLANS OF THE PROPOSAL



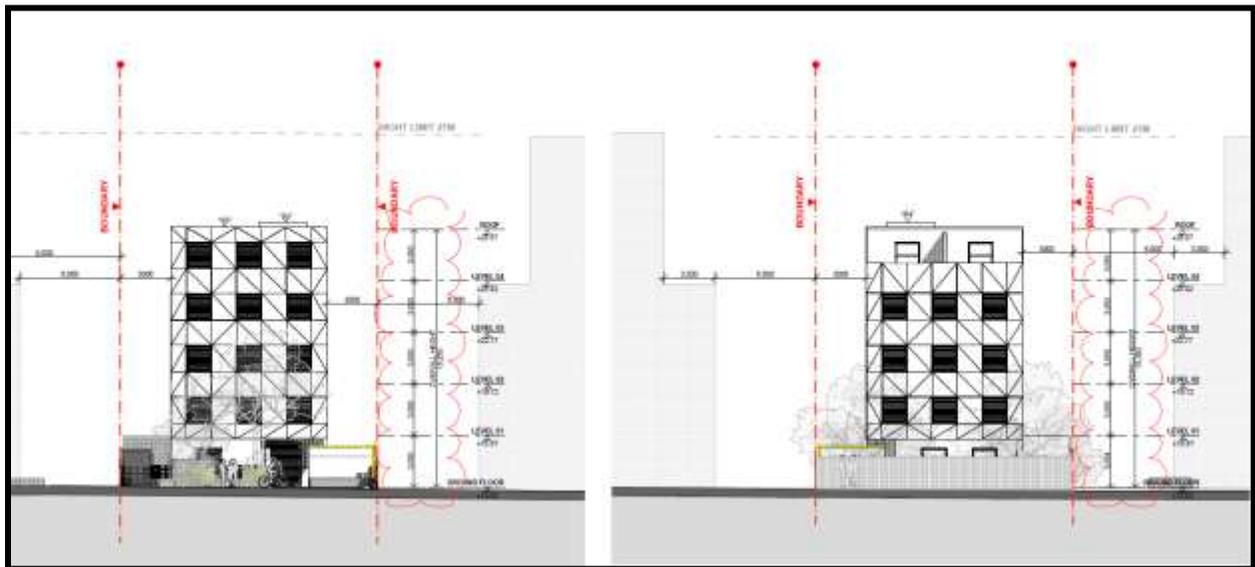
Ground Floor Plan



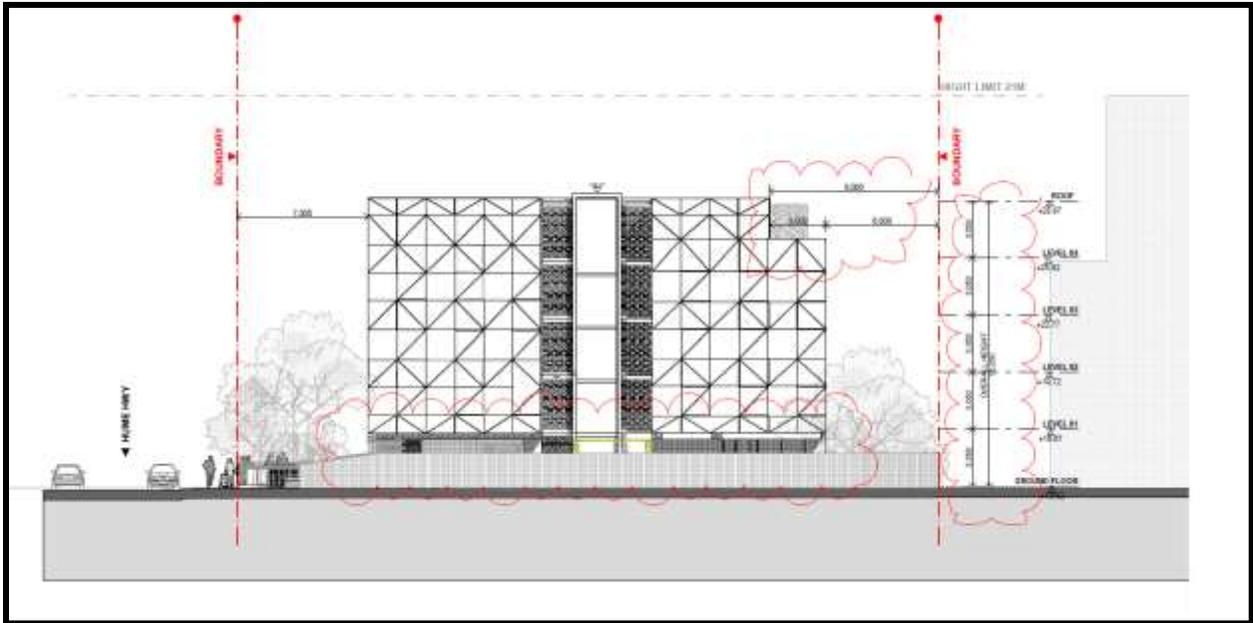
Floors Plans for Level 1 to Level 3



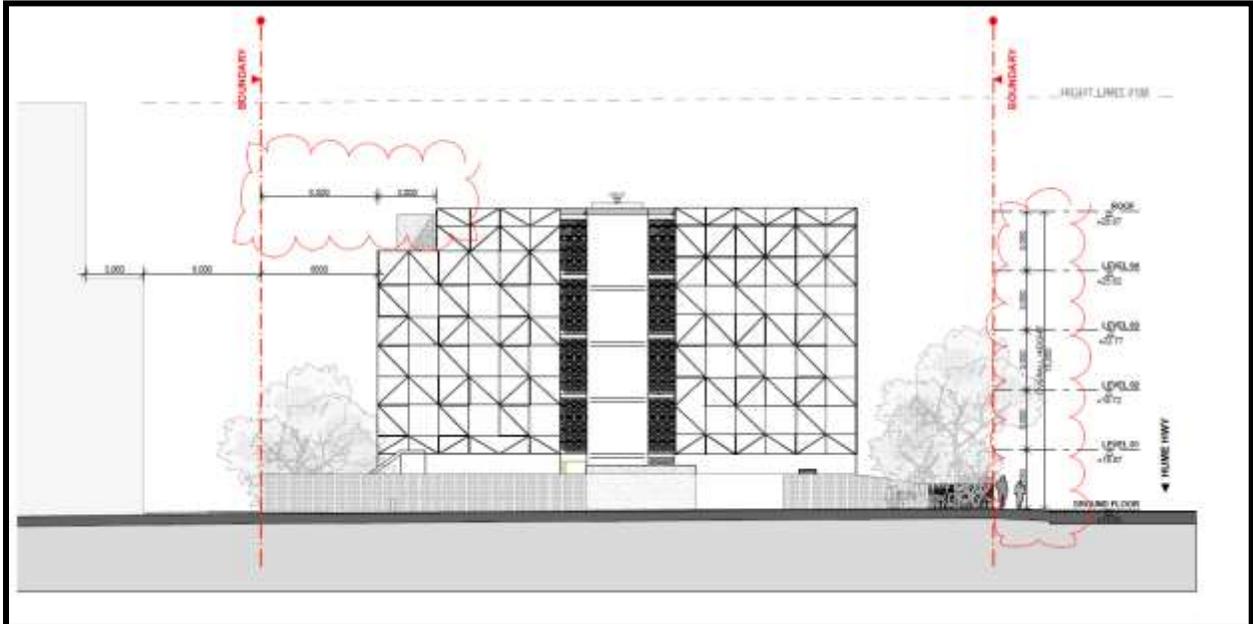
Floors Plan for Level 4



Eastern Elevation (Left) and Western Elevation (Right) Plans



Northern Elevation Plan



Southern Elevation Plan

ATTACHMENT 2: CONDITIONS OF CONSENT

DRAFT CONDITIONS: – CONDITIONS OF APPROVAL

Council has imposed the following conditions under the relevant planning instruments and policies.

A. THE DEVELOPMENT

1. Approved Plans

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)

Plan Name	Drawing Number	Project Number	Date	Issue	Prepared by
Demolition Plan	A1110	17.16	29/07/2016	A	Ghazi Al Ali Architect Pty Ltd
Basement 02	A1200	17.16	17/08/2017	A	Ghazi Al Ali Architect Pty Ltd
Basement 01	A1201	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Ground Floor Plan	A1202	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Level 01 Plan	A1203	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Level 02 Plan	A1204	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Level 03 Plan	A1205	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Level 04 Plan	A1206	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Roof Plan	A1207	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd

					Ltd
Elevations	A1301	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Elevations	A1302	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Elevations	A1303	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Section AA	A1401	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Section BB	A1402	17.16	17/08/2017	D	Ghazi Al Ali Architect Pty Ltd
Material Schedule	A2201	17.16	17/08/2017	C	Ghazi Al Ali Architect Pty Ltd
Material Schedule	A2202	17.16	17/08/2017	C	Ghazi Al Ali Architect Pty Ltd
Material Schedule	A2203	17.16	17/08/2017	C	Ghazi Al Ali Architect Pty Ltd
Cover Sheet, Legend & Drawing Schedule	D00	160389	17/10/2018	B	Ghazi Al Ali Architect Pty Ltd
Basement 1 & 2 Stormwater Drainage Plans	D01	160389	20/06/2016	A	Ghazi Al Ali Architect Pty Ltd
Ground Floor Stormwater Drainage Plan	D02	160389	17/10/2018	B	Ghazi Al Ali Architect Pty Ltd
Site Stormwater Drainage Details (1/2)	D03	160389	17/10/2018	B	Ghazi Al Ali Architect Pty Ltd

Site Stormwater Drainage Details (2/2)	D04	160389	16/10/2018	B	Ghazi Al Ali Architect Pty Ltd
Music Model Catchment Breakdown and Details	D04	160389	16/10/2018	A	Ghazi Al Ali Architect Pty Ltd
Erosion and Sediment Control Plan & Details	D10	160389	20/06/2018	A	Ghazi Al Ali Architect Pty Ltd
Erosion and Sediment Control Plan & Details	D11	160389	20/06/2018	A	Ghazi Al Ali Architect Pty Ltd

Report Name	Date	Reference	Issue	Prepared by
Noise Assessment – Development Application (DA) Phase Proposed Residential Boarding House Development 37 Copeland Street, Liverpool	18/07/2016	160749-01L-DD	Rev01	Acoustic Consulting Engineers
Operational Waste Management Plan	18/03/2019	Report No. SO100087	Revision C	Elephants Foot recycling solutions

- b) Plan of Management, prepared for 37 Copeland Street, Liverpool.
- c) House Rules, prepared for 37 Copeland Street, Liverpool.

2. Amended Plans

Prior to the issue of a CC the following amendments shall be incorporated in the CC drawings and approved by the Manager of Development Assessment at Liverpool Council:

- a) The balconies at the fifth storey (Level 4) on the western building elevation shall be deleted.

- b) The fifth storey (Level 4) of the building shall be redesigned so that it setback a minimum of 4.5m from the northern and southern boundaries with no openings on the southern and northern elevations at this level. The design of the fifth storey (Level 4) shall achieve full compliance with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009, Division 3 Boarding Houses.
- c) No less than 10% of the total number of rooms within the boarding house shall be designed as adaptable in accordance with the Australian Standards for Adaptable Housing (As 4299 – 1995) as amended.

3. 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.

4. Roads and Maritime Services (RMS) Requirements

The development shall be carried out in accordance with the concurrence provided by the RMS, dated 31 May 2018 as per Attachment No.3 of this decision notice.

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.

5. Section 7.11 Payment (Liverpool Contributions Plan 2009)

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 \$43,681 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.

Estimated Land Acquisition Cost per square metre published by the Council at the time of granting the development consent

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

Payment must be accompanied by the attached form.

6. Fee Payments

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:

1. 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,
2. Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve, and
3. 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.

7. Provision of Services – Section 73 Compliance Certificate

An application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, must be lodged with Sydney Water. To facilitate this, an application must be made through an authorised Water Servicing Coordinator. Please refer to the “building and developing” section of Sydney Water’s web site at www.sydneywater.com.au, or telephone 13 20 92.

Following receipt of the application, a ‘Notice of Requirements’ will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of the ‘Notice of Requirements’ must be submitted to the PCA.

8. Provision of Services – Endeavour Energy

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.

9. Provision of Services – Telecommunications

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.

10. Retaining Walls on Boundary

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.

11. Fire Safety - Cladding

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.

12. National Construction Code

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).

13. Comply with EP&A Act

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.

14. Access

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.

15. Notification

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.

16. S138 Roads Act – Minor Works in the Public Road

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.

17. Construction Traffic Management Plan

A construction traffic management plan (CTMP) is to be submitted to Liverpool City Council's Traffic & Transport Section for review and endorsement. The CTMP is to be prepared by a qualified project manager/engineer. The construction activities are not to commence prior to Council endorsing the CTMP.

All construction vehicles must enter and exit in forward direction, and no construction materials are to be stored on affected road and footpath reserves.

The construction sites must install shakers to prevent mud spilling from the construction sites being transported onto the road network. Any spillage on the public road network must be cleaned as soon as possible.

18. Recommendations of Acoustic Report

The recommendations provided in the approved acoustic report shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the Construction Certificate application. The recommendations are as follows:

- i. It is recommended that a qualified acoustic consultant be engaged during the design phase of the project to review the acoustic requirements for the project;

- ii. It is recommended that acoustic privacy between sole-occupancies should be reviewed by a qualified acoustic consultant during the design phase of the project and appropriate construction systems should be incorporated into the design and construction to ensure the National Construction Code (NCC)/Building Code of Australia (BCA) acoustic requirements for sole-occupancies are achieved.
- iii. Mechanical plant shall be selected in consultation with a suitably qualified and experienced consultant to ensure compliance with the internal noise levels detailed within acoustic report – *“Noise Assessment – Development Application (DA) Phase proposed residential boarding house development 37 Copeland Street, Liverpool prepared by Acoustic Consulting Engineers (Ref no: 160749-01L-DDRev01, dated 18 July 2016.*

19. Landscape Plan

A detailed landscape plan prepared by a suitably qualified person is to be submitted to and approved by the Manager of Development Assessment at Liverpool Council prior to the issue of any CC that reflects the updated and approved ground floor plan, prepared by Ghazi Al Ali Architect, project number 17.16, drawing number A 1202, issue D, dated 19 October 2018.

20. Road Safety Audit

A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been addressed in the final design.

21. Access, Car Parking and Manoeuvring – General

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.

22. Access and Manoeuvring – Private Waste Collection

Prior to the issue of a Construction Certificate the Certifying Authority shall be satisfied that vehicular access, circulation and manoeuvring areas associated with the private waste collection vehicle servicing the boarding house are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Liverpool City Council's Development Control Plan, and that the private waste collection vehicle can exit the site in a forward direction.

23. Driveway and Parking Design

Detailed design for driveway and parking including cross section, turning paths, line markings and sign posting is to be submitted to Council's Traffic Engineering Section for review and approval prior to the issue of a C.C.

24. Stormwater Discharge - Basement Car Parks

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.

25. Stormwater Concept Plan

A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Australian Consulting Engineers, reference number 160389, revision B, dated 17.10.18.

- 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. The plan shall indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finish surface levels and sizes of all pipes.
- c) Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

26. Water Quality

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.

27. Dilapidation Report Private Property (Excavations)

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.

28. Demolition Assessment

Prior to issue of a Construction Certificate, the existing dwelling and all

outbuildings to be demolished must be assessed by a qualified and experienced building professional for the presence of asbestos building materials (ABMs). If more than 10m² of bonded ABMs are present on site, a suitably licensed asbestos contractor must be engaged to undertake the removal, wrapping and disposal of those materials. If an asbestos contractor is required, both Council and the PCA must be informed of the contractor's name, address and asbestos license details and the name and address of the facility to which the bonded ABMs will be taken. All records regarding the transport and disposal of any ABMs must be retained on site and be capable of being inspected by a Council Officer or the PCA.

29. Waste Storage Area

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,
- 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,
- e) Bin bay signs are available from Council,
- f) Should garbage chutes be incorporated into the design of the building, signage on how to use the chutes is to be located prominently next to the chute,
- g) Operation, maintenance and cleaning of the garbage compactor and associated equipment is the responsibility of the strata management or body corporate and not of Council,
- h) Maximum compaction ratio is 2:1,
- i) Operation, maintenance and cleaning of the garbage chutes and associated waste cupboards, rooms, or equipment is the responsibility of the strata management or body corporate, and not of Council, and
- j) Provided with signage to be prominently displayed in each bin bay, or waste service room, as appropriate indicating that:
 - i. Garbage is to be placed wholly within the garbage bins provided,

- ii. Only recyclable materials accepted by Council are to be placed within the recycling bins,
- iii. The area it to be kept tidy,
- iv. A phone number for arranging disposal of bulky items, and
- v. Graphic illustrative content to be 50%.

30. Flooding

The lowest habitable floor level shall be no less than the 1% AEP flood plus half a metre freeboard (i.e. 13m + 0.5m = 13.5m Australian Height Datum).

31. Flooding

The structure shall be constructed from flood compatible building components below the 1% AEP flood plus half a metre freeboard (i.e. 13m + 0.5m = 13.5m Australian Height Datum).

C. PRIOR TO WORKS COMMENCING

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

32. Construction Certificates

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.

33. Construction Certificates

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.

34. Commencement of building works

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.

35. Residential Building Work

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.

36. 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.

37. Excavation

In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:

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

38. Construction Requirements

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.

39. 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.

40. Construction Requirements - Retaining Walls

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.

41. Construction Requirements

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.

42. Site Facilities

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.

43. Sydney Water

Development plans must be processed and approved by Sydney Water.

44. "DIAL BEFORE YOU DIG"

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

45. Traffic Management Plan

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.

46. 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 (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.

47. 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.

48. 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.

49. Dilapidation Report

Prior to the Commencement of Works, a dilapidation report of all infrastructure fronting the development in Copeland 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 5m either side of the development.

50. Return of waste bins

Prior to any works commencing, including site clearance or demolition, all Liverpool Council residential waste bins that have been issued to 37 Copeland Road Liverpool must be returned to Council. Ring 1300 26 2170 to notify Council when the waste bins are ready for collection and so that their removal can be noted.

D. DURING CONSTRUCTION

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

51. Building Work

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.

52. Building Work

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.

53. 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 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.

54. Identification Survey Report

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.

55. Excavation

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

56. 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*.

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

58. 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.

59. Refuse Disposal

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.

60. Waste Management

All demolition and construction waste must be separated as it is generated and kept separate bays, builder's site bins and/or skips prior to recycling or disposal.

61. Waste Management

All lightweight or granular excavation or construction wastes such as wrapping, packaging materials, bags, insulation, sand, soil etc. must be kept fully enclosed to prevent them from becoming wind-blown litter in strong wind conditions or from washing away in wet weather.

62. Site Notice Board

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.

63. Craning and Hoardings

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.

64. Craning and Hoardings

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.

65. Notification of Damage

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.

66. 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, 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.

67. General Site Works – Surface contours

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.

68. Removal of Dangerous and/or Hazardous Waste

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.

69. Traffic Management

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*.

70. Traffic Management

A construction zone is not permitted on Copeland Street unless otherwise approved by RMS.

If RMS consent is obtained for a construction zone, 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>

71. Traffic Management

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.

72. 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.

73. Aboriginal Relics/Artefacts

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.

74. Vegetation – Tree removal

No trees are to be removed without the prior approval of Council.

75. Fencing

Any gate associated with a front fence shall swing inwards from the property boundary.

76. Switchboards

Switchboards for utilities shall not be attached to the street and/or road elevations of the development.

77. External Lighting

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.

78. Contamination

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)*.

79. Imported Fill Material

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.

80. Record Keeping of Imported Fill

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.

81. Unidentified Contamination

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.

82. Air Quality - Dust Screens

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

83. Air Quality - Stabilisation

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.

84. Air Quality – Vehicle Movement

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.

85. Erosion Control - Measures

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

86. Pollution Control – Site Operations

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.

87. Pollution Control – Truck Movements

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.

88. NSW Police Conditions

During construction stage:

- a) Construction equipment is to be locked and secured when not in use/ after hours.
- b) Installation of hot water systems shall be delayed towards the latter stages to prevent theft.

- c) Construction site is to be locked and secured by fence with a security guard on patrol after hours to prevent theft of construction equipment/s.
- d) Display visible signage at entrances to warn of security guards patrolling the location.

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):

89. Occupation Certificates

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

90. Certificates

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.

91. Certificates

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.

92. Certificates

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.

93. Section 73 Sydney Water Certificate

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.

94. Cladding

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.

95. Certificates - Telecommunications

Prior to the issue of an Occupation Certificate or Subdivision 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

96. 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 S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Liverpool City Council.

97. Display of Street Numbers

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.

98. Landscaping

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.

99. Road Works

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.

100. Recommendations of Acoustic Report

A Compliance Certificate or other documentation deemed suitable demonstrating compliance with the following is to be submitted to the Principal Certifying Authority:

- a) The building has been constructed to meet the relevant noise criteria's in accordance with the approved acoustic report; and
- b) All recommendations within the approved acoustic report have been adopted.

101. Stormwater Compliance

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the:

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

102. Restriction as to User and Positive Covenant

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the following shall be registered on the title of the property:

- a) On-site detention system/s,
- b) Stormwater pre-treatment system/s,
- c) Basement carpark pump-out system.

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.

103. Restriction as to User

A 'restriction as to user' is to be placed on the title of the property at the applicant's expense, which may not be altered or removed without Council's consent, stating:

"All waste removal from the property, including green (garden) waste and bulky household waste, and the lawful disposal of same, is to be carried out by private waste contractors. Liverpool Council does not supply bins or waste services to this property."

104. Footpaths

Construction of 1.5m wide by 100mm thick (with one layer of SL72 reinforcing mesh) concrete path paving on one side of all residential access roads and both sides of all collector and distributor roads. Path paving will not be required in minor cul-de-sac with less than fifteen lots.

105. Dilapidation Report

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

106. Boarding House Manager

The certifying authority must advise Council, in writing of the name and contact details of the boarding house manager who will reside at the boarding house.

107. NSW Police Conditions

The following shall be carried out and complied with to the satisfaction of the PCA prior to the issue of an occupation certificate:

Public areas:

- a) Vegetation to not cover/ obstruct natural surveillance of the entrance, mail box areas and public open space.
- b) Lighting to cover the pedestrian areas, public walkways in parks, car park and mail box areas to deter stealing and personal violence related offences.
- c) Display unit/ building numbers and address at the front of the building and each unit at the recommended size to assist in identifying the building.

Basement carpark:

- a) Display signage reminding users to remove valuables, lock and secure their vehicles.
- b) Installation of speed humps to deter/ prevent traffic related offences.
- c) Access to the underground car park to be restricted with shutter & access is given to authorised people only to prevent unauthorised access.
- d) CCTV cameras covering the entrances and main areas of the basement.

Lifts:

- a) CCTV cameras covering inside the lifts and facing out towards lift entry.
- b) Help button with signage displaying the buildings address and emergency contact phone number for emergencies.

Residential building:

- a) Install smoke alarms to meet with NSW legislation (Australian Standards AS3786).
- b) Windows above ground level to be fitted with devices to be locked at 12.5cm when it is engaged to prevent children from falling from windows.

Swipe card access:

- a) If building and floors is only accessible by swipe card, **supply Liverpool police with a master key** for access into the building during an emergency. Contact Senior Constable HA at ha1ton@police.nsw.gov.au to arrange this.

Mailbox:

- a) Installing 'anti-theft' type mail boxes or mailboxes that cannot be accessed by universal keys to prevent mail/ identity theft (Australian standards AS/NZS 4253:1994)
- b) Mailboxes to be locked when not in use

108. Waste Store Room Signage

Permanent signage for the bin storage room and bulky household waste storage room must be installed on the outer face of the relevant rooms, stating:

- i. That the bin storage room is to be kept tidy and free of litter;
- ii. That all waste materials are to be separated correctly and placed in the waste bins provided;
- iii. That residents should contact building management to arrange for the storage of household waste items in the room provided, prior to disposal.

Signage with at least 50% content of illustrative images, showing what waste items can be recycled (loose and unbagged), through the selected private recycling service must be prominently and permanently fixed to the internal walls of the bin storage room.

F. CONDITIONS RELATING TO USE

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

109. Car and Motorcycle Parking

A total of thirteen (13) off street car parking spaces must be provided onsite at any one time. A total of five (5) off street motorcycle parking spaces must be provided onsite at any one time.

110. Car and Motorcycle Parking

All parking areas shown on the approved plans must be used solely for this purpose.

111. Loading Areas

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.

112. Vehicular Access

The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, with the exception of garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in

accordance with *AS 2890.1 Parking Facilities – Off Street Car Parking*.

113. Advertising

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

114. Boarding House Manager

If the boarding house manager changes at any time Council must be immediately informed and provided with the updated boarding house manager's name and contact details.

115. Plan of Management

The approved plan of management and associated house rules shall be carried out and adhered to at all times during the operation boarding house.

116. Noise Complaints Register

- a) 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:
 - i. the date and time, where relevant, of the complaint;
 - ii. the means by which the complaint was made (telephone, mail or email);
 - iii. any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - iv. the nature of the complaint;
 - v. 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.
 - vi. allocate an individual "complaint number" to each complaint received.
- b) The Complaints Register must be made available for inspection when requested by Liverpool City Council.
- c) The industry shall be operated in accordance with the approved Noise Management Plan and Complaints Handling Procedure at all times.

117. Lighting

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.

118. Noise – Music and other activities

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.

119. Environment

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

120. 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.

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

121. Waste Management and Handling

After the issue of an Occupation Certificate but prior to residents first moving in, all the required waste bins for the property must be present on site.

122. Waste Management and Handling

No waste of any kind from the property is to be placed on, or collected from the footpath or nature strip in front of the property. All waste collection must take place internally within the site.

123. Waste Management and Handling

The management of the boarding house facility must continue to exercise oversight and actively manage and guide the waste disposal practices of residents to ensure correct waste disposal.

124. Waste Collection

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.

125. Waste

All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.

126. Waste Collection

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.

Operation, maintenance and cleaning of the garbage compactor and associated equipment is the responsibility of the strata management or body corporate. Maximum compaction ratio is 2:1.

Operation, maintenance and cleaning of the garbage chutes and associated waste cupboards, rooms, or equipment is the responsibility of the strata management or body corporate.

Signage is to be prominently displayed in each waste storage area, or waste service room, as appropriate, indicating that:

- i. Garbage is to be placed wholly within the garbage bins provided,
- ii. Only recyclable materials accepted by Council are to be placed within the recycling bins,
- iii. The area is to be kept tidy,
- iv. A phone number for arranging disposal of bulky items, and
- v. Graphic illustrative content to be 50%.

127. Waste Storage in rooms

Sufficient space shall be provided within each dwelling for the storage of a minimum of one day's waste and recycling.

128. Waste Holding area

A separate storage area must be allocated for the holding of bulk waste prior to collection.

G. ADVISORY

- a) Section 8.2, 8.3, 8.4 & 8.5 allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- b) Under Section 8.7 & 8.10 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent,

this consent will lapse unless the development is commenced within five years of the date of this notice.

- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- e) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- f) In accordance with Section 8.8 and 8.10 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for designated development (including designated development that is integrated development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- g) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- h) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- i) "DIAL BEFORE YOU DIG"

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contact the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

j) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 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) 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.
- n) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.