

LOCAL PLANNING PANEL AGENDA

28 April 2025

MS TEAMS

MATTERS FOR THE LOCAL PLANNING PANEL'S DETERMINATION

Monday, 28 April 2025

MS TEAMS

VIA MS TEAMS

Commencing at **2:00 PM**

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Submissions by the applicant and concerned parties will be considered at the meeting. 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 meeting that they wish to make a submission to be considered by the Panel. Presentations to the Panel by the applicant and concerned parties shall be restricted to **3 minutes each**. The Panel Chairperson has the discretion to extend the period if considered appropriate.

Should you wish to address the Panel, please advise Amanda Merchant, Panel Support Officer on 8711 7712, by 4pm, Thursday 24th April 2025.

For further information relating to the Local Planning Panel please refer to Council's web page:

[Liverpool Local Planning Panel / Liverpool City Council \(nsw.gov.au\)](https://liverpoolcitycouncil.nsw.gov.au/liverpool-local-planning-panel)

ITEM No.	SUBJECT	PAGE No.
1	DEVELOPMENT APPLICATION DA-586/2024 DEMOLITION OF THE EXISTING FIRE DAMAGED DWELLING AND ANY REMAINING STRUCTURES OR DEBRIS ON THE SITE LOT 6 DP 205472 1720 CAMDEN VALLEY WAY, LEPPINGTON NSW 2179	5 - 34

ITEM No.	SUBJECT	PAGE No.
2	DEVELOPMENT APPLICATION DA-583/2024 PROPOSED NEW TOWER CRANE AND EXTENSION OF OPERATING HOURS. LOT 73 DP 574148 28 RIVERSIDE ROAD, CHIPPING NORTON NSW 2170	35 - 56

ITEM No.	SUBJECT	PAGE No.
3	DEVELOPMENT APPLICATION DA-550/2024 DEMOLITION OF THE SITE'S EXISTING STRUCTURES FOLLOWED BY THE CONSTRUCTION OF A NEW CO-LIVING HOUSING DEVELOPMENT. THE PROPOSED NEW CO-LIVING HOUSING BUILDING IS TO COMPRISE OF SIX (6) LEVELS AND PROVIDES FOR GROUND FLOOR CARPARKING. THE PROPOSAL WILL PROVIDE FOR A TOTAL OF FORTY-FIVE (45) CO-LIVING ROOMS (EXCLUDING COMMUNAL AREAS AND OTHER ANCILLARY FEATURES) COMPRISING OF 42 SINGLE ROOMS AND 3 DOUBLE ROOMS LOT 1 DP 573750 25 SIMONE CRESCENT, CASULA NSW 2170	57 - 85

ITEM No.	SUBJECT	PAGE No.
4	DEVELOPMENT APPLICATION DA-439/2024 PROPOSED CHANGE OF USE TO A DEPOT FOR PART OF THE SITE AND MINOR ADDITIONAL WORKS. LOT 38 DP 17311 77 GOVERNOR MACQUARIE DRIVE, CHIPPING NORTON NSW 2170	86 - 117

Item Number:	1
Application Number:	Application No. 586/2024
Proposed Development:	Demolition of the existing fire damaged dwelling and any remaining structures or debris on the site
Property Address	1720 Camden Valley Way, Leppington NSW 2179
Legal Description:	Lot 6 DP 205472
Applicant:	PLANNING MINISTERIAL CORPORATION
Land Owner:	NSW DEPARTMENT OF PLANNING, INDUSTRY & ENVIRONMENT
Cost of Works:	\$60,000 (exc. GST)
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Ben Paterson

1 EXECUTIVE SUMMARY

This Development Application (DA) proposes the demolition of existing fire damaged dwelling and any remaining structures or debris on the site on the land at the subject property being 1720 Camden Valley Way, Leppington, legally described as Lot 6 in DP 205472.

The land is primarily zoned R2 – Low Density Residential under SEPP (Precincts—Western Parkland City) 2021, with a smaller vacant portion of – Infrastructure (Local Drainage) towards the rear of the site; the proposal is permissible with consent under Appendix 4, Clause 2.7 of the SEPP (Precincts—Western Parkland City) 2021, the proposal is compliant with the applicable planning provisions and is consistent with the zone objectives

In accordance with Liverpool City Council Community Engagement Strategy 2022, the proposal was not required to be notified. The proposal involves works to a Local Heritage item rather than a State Heritage Register item, therefore, it is not identified as Nominated Integrated Development under the *EP&A Act 1979* and no additional public exhibition is required. Notwithstanding, no submissions were received for this application.

The DA has been lodged by the Planning Ministerial Corporation and is Crown development, being a Development Application that is made on behalf of the Crown, in accordance with Division 4.6 of the Environmental Planning and Assessment Act 1979. Section 4.33 of Division 4.6 of the Act stipulates that a consent authority must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the

Minister. In this regard, the draft conditions have been provided to the Planning Ministerial Corporation who have reviewed the proposed conditions and granted their approval.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 6 March 2024*, as the development falls within the category of:

4. Sensitive Development

- (a) *Designated Development.*
- (b) *Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.*
- (c) **Development involving the demolition of a heritage item.**
- (d) *Development for the purposes of new licensed premises, that will require one of the following liquor licenses:*
 - (ii) *A club licence under the Registered Clubs Act 1976,*
 - (iii) *A hotel (general bar) licence under the Liquor Act 2007, or*
 - (iv) *An on-premises licence for public entertainment venues under the Liquor Act 2007.*
- (e) *Development for the purpose of sex services premises and restricted premises.*
- (f) *Development applications for which the developer has offered to enter into a planning agreement.*

Additional information has been requested from the applicant and the relevant external bodies have been consulted. It is considered that any initial concerns have been appropriately resolved. These concerns included:

- The principal criteria of heritage significance for the 'Pinewood' site is a strong associative one with Corporal John Hurst Edmondson VC, as the first recipient of the Australian Victorian Cross in World War Two. Since the land was occupied by European's, it has been used largely for pastoral purposes. It is therefore unlikely that any significant historical archaeology exists on the site. The building in its current state does not reflect 'Forest Home' as it was when Edmondson VC resided there, nor does it demonstrate any aesthetic characteristics that are of note.
- The proposed demolition of the remaining parts of the house and outbuildings will not negatively impact the heritage significance of the site. The poor current state of the house and buildings substantially compromise the site's heritage significance and the house's 1960s design distorts the understanding of the site in relation to Edmondson VC.

- The Statement of Heritage Impact (SoHI) has been amended to include consideration of archaeological matters. Noting that the development does not involve the demolition of any subterranean elements.
- Clause 5.10(7) of the LLEP 2008 requires that Council take into consideration any response received from the Heritage Council. The Heritage Council recommended that a Historical Archaeological Assessment be prepared for review by Heritage NSW.

The site is not of State heritage significance and as outlined within the SoHI the proposal is expected to have a low potential to impact potential remains within the site and is further supported by Heritage NSW's own comments which indicate their support for the SoHI's conclusions that State significant archaeology is unlikely to be present on site.

NSW Heritage comments otherwise refer to a 2012 study suggesting some archaeological integrity is likely. This is considered highly unlikely given both the abandonment of the site for over a decade since the abovementioned report, and the subsequent fire damage that has ensued.

Notwithstanding, a condition of consent has been imposed requiring any future development on the lot which proposes ground excavation to be supported by a Historical Archaeological Assessment and an Aboriginal Archaeological Assessment.

- It is considered that hazardous materials present on the site can be safely disposed of prior to the commencement of demolition works.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application, it is recommended that the application be approved subject to conditions of consent.

SITE DESCRIPTION AND LOCALITY

2.1 The site

The development site is identified and known as 1720 Camden Valley Way, Leppington and is legally described as Lot 6 DP 205472. The overall site is irregular in shape but presents similar to that of a corner allotment. The site encompasses a combined frontage of approximately 213m to Camden Valley Way along the northern boundary and a total site area of 24,469m² (2.45ha). The site was acquired by the State Planning Authority in 1974 and remains under the ownership of the Department of Planning and Environment.

Existing on-site is a single storey dwelling heritage dwelling known as 'Pinewood' (refer to section 2.2 below) and associated ancillary structures including five sheds, stables, horse yard and vegetation.

It is noted that the property was damaged due to a grass fire on 28 August 2024, resulting in significant damage to the dwelling and ancillary structures on the site. Refer to Figures 1 and 2 below.

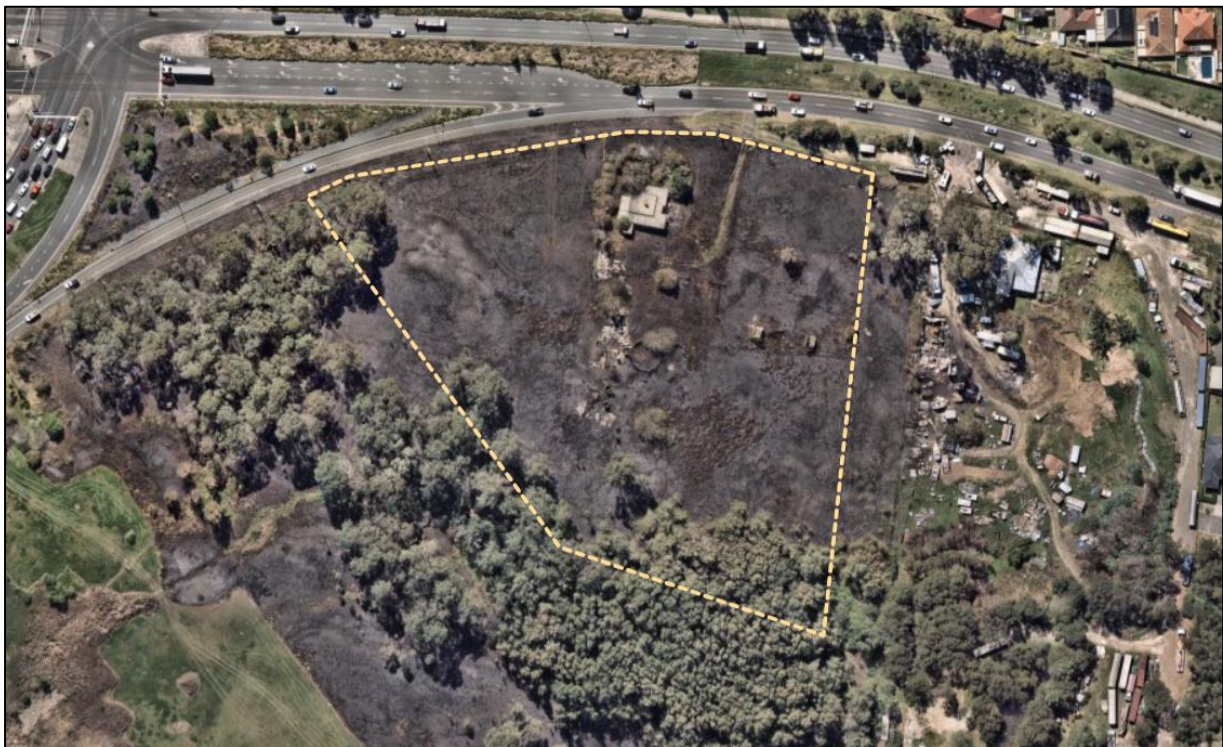


Figure 1: Subject site - post grass fire (3 September 2024)



Figure 1: Subject site - current condition (23 November 2024)

2.2 The locality

The site and immediate locality in the far north-eastern area of Leppington is predominantly residential in nature where it is bound by Edmondson Park, with further semi-rural area nearby to the south in Denham Court. There have been a number of approved and/or constructed subdivisions in the immediate locality, particularly to the south-east of the site.

To the site is approximately 2.5km north-west of Edmonson Park train station and 3km east of Leppington train station. Camden Valley Way is a major east west connection, and the subject site is located near the intersection of Bringelly Road which will also form a major east west connection to the future Bradfield City Centre and airport.

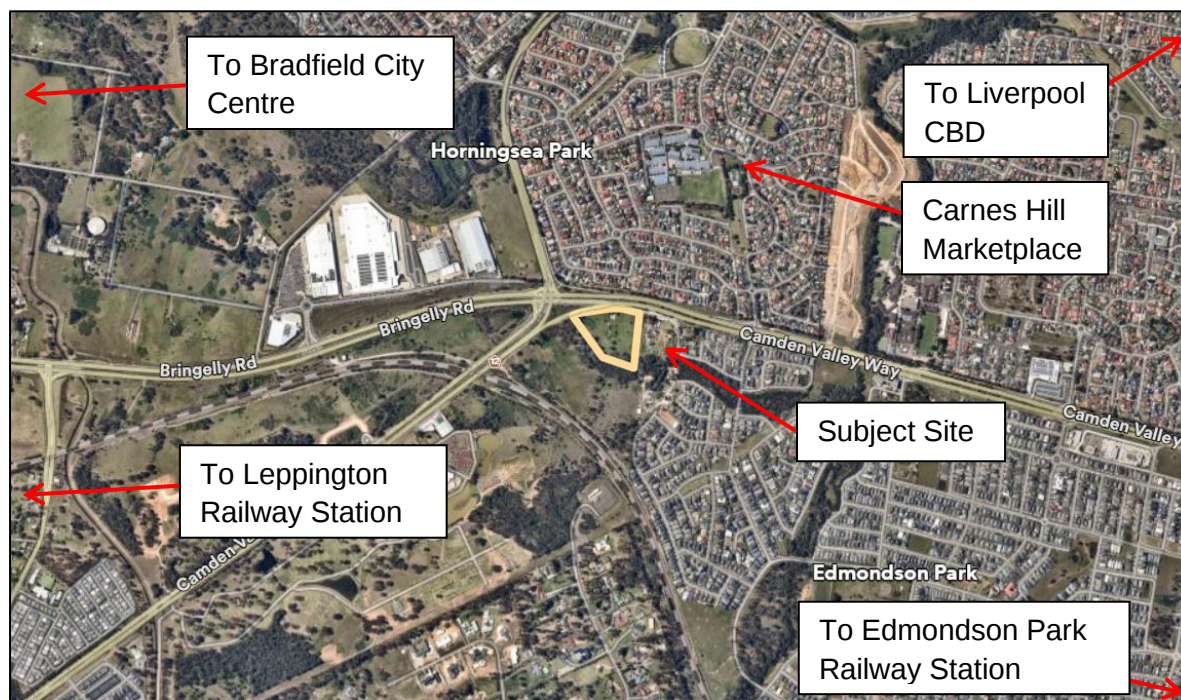


Figure 3: Subject site Locality

2.3 'Pinewood' House

Existing on-site is a single storey heritage listed dwelling known as 'Pinewood', previously known as 'Forest Home'.

The building is a locally listed item under Liverpool Local Environmental Plan 2008 (LLEP 2008):

Schedule 5 Environmental heritage

Part 1 Heritage items

Division 1 Outside Liverpool City Centre

Suburb	Item name	Address	Property description	Significance	Item No
Leppington	Edmondson Cottage and rural lot, including interiors	1720 Camden Valley Way	Lot 6, DP 205472	Local	41

Whereas the site is a locally listed item under State Environmental Planning Policy (Precincts—Western Parkland City) 2021:

Schedule 5 Environmental heritage

Part 3 Archaeological sites

Precinct	Item name	Address	Property description	Significance	Item no
Leppington North	Forest home site	1720–1726 Camden Valley Way	Lot 6, DP 205472	Local	12

The applicant has submitted a Statement of Heritage Impact, in which it is noted that the site was previously identified as having heritage value to the local community due to its association with Corporal John Hurst Edmondson VC, the first recipient of the Australian Victoria Cross in World War Two. The site is not within a heritage conservation area. The below figures 4 to 6 illustrate the transformation of the house from its original form to its current fire damaged state.

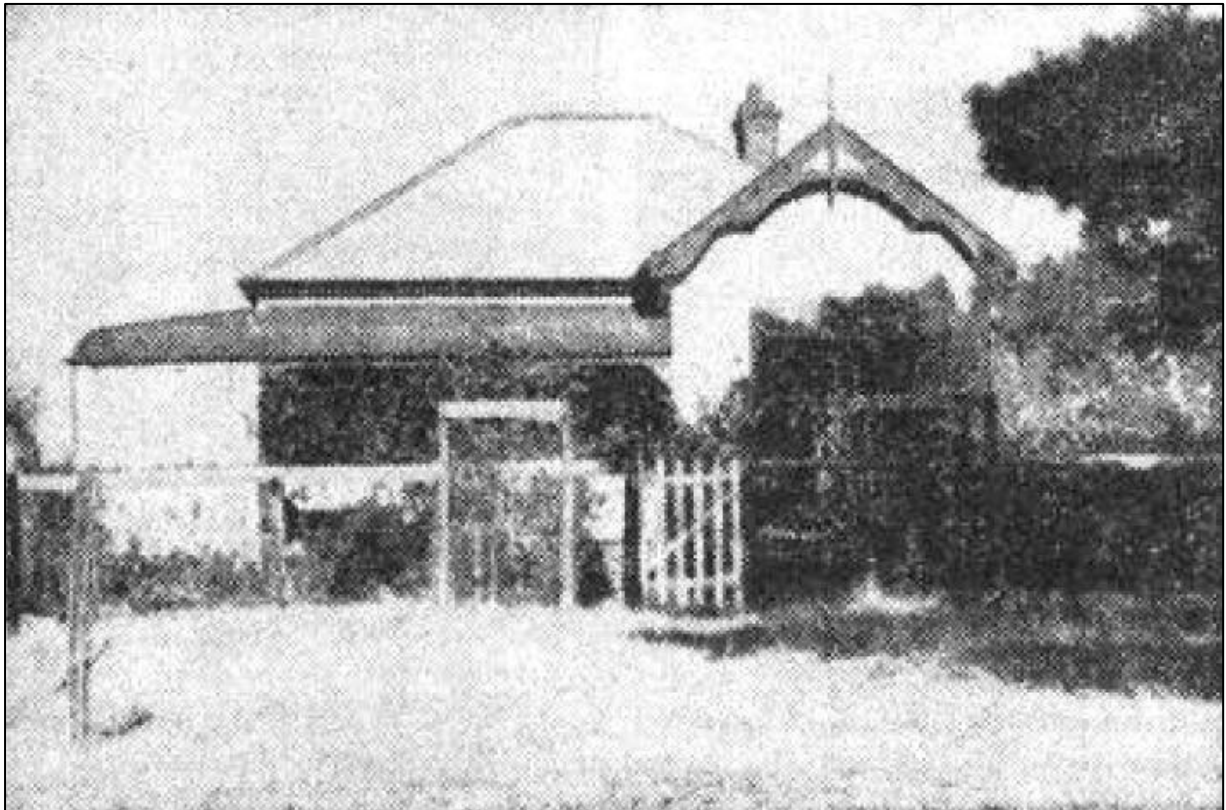


Figure 4: 'Forest Home' 1941 (extract from Statement of Heritage Impact)



Figure 5: 'Pinewood' building 2023 (extract from Statement of Heritage Impact)



Figure 6: Subject site - current condition (18 December 2024)

The house in its current state no longer reflects 'Forest Home'. It is now in very poor condition and appears to be clad in part with asbestos cement sheeting that may prove hazardous to health. The poor current state of the house and buildings substantially compromise the site's heritage significance and the house's 1960s design misrepresents the understanding of the site in relation to Edmondson VC.

2.4 Site Constraints

Potential Site Constraints	Site Constraints
• Bushfire • Flooding • Heritage Items • Aboriginal Heritage Items • Environmental Sensitive Land • Threatened Species/Flora/Habitat/Critical Communities • Aircraft Noise	• Low to High flood risk at rear of site • Flood Planning Area (1% AEP flood plus 0.5 metre freeboard) to rear of site • Bushfire Prone Land: ○ Vegetation Buffer 100m and 30m(0.6%) ○ Vegetation Category 2 (8.9%) ○ Vegetation Category 3 (90.4%) • Local - Heritage Item (LLEP 2008) • Local - Archaeological Site (SEPP (P-WPC))

• Acid Sulphate Soils • Flight Paths • Railway Noise • Road Noise/Classified Road • Contamination	• 2021) • Classified Road Noise Impact • Threatened Ecological Communities (BC Act) / Conservation Significance to rear and western boundary • South West Riparian Protection Area / Land Acquisition SP2 Local Drainage to rear of site • Moderate to High (at rear) Salinity Risk • Waterway to rear of site (proposed works >40m from the high bank) • Gas Pipeline (Jemena and APA)
Are there any restrictions on the title or 88B instrument?	N/A.

3. BACKGROUND / HISTORY

The subject site was acquired by the State Planning Authority in 1974 and remains under the ownership of Department of Planning and Environment.

Date	Comment
16 February 2024	The application was lodged with Council
17 December 2024	A Stop-the-Clock (Request for Information) was issued to the applicant requesting clarification regarding: • Addendum to SoHI - Archaeology • Addendum to SEE – Clarification extent of demolition
18 December 2024	The applicant requested a 14-day extension. This was accepted. Additional information to be submitted 21 January 2025.
20 January 2025	The applicant provided additional information, which was found to be satisfactory in response to the above issues.
12 February 2025	A Request for Information letter was issued to the applicant following NSW Heritage recommendations: • Historical Archaeological Assessment
25 February 2025	The applicant provided additional information, which was found to be satisfactory in response to the above issues.
21 March 2025	Draft conditions were provided to the Planning Ministerial Corporation for review and approval.
10 April 2025	Following several reiterations the Planning Ministerial Corporation confirmed their approval of the draft conditions.

4. DETAILS OF THE PROPOSED DEVELOPMENT

The proposed development involves the demolition of all of the structures on the subject site. Specifically, the proposal will include the demolition of:

- The main fire damaged dwelling
- Internal timber and wire fencing
- Multiple dilapidated sheds
- Stables and horse yard
- Clothesline
- Multiple trees located near the existing dwelling

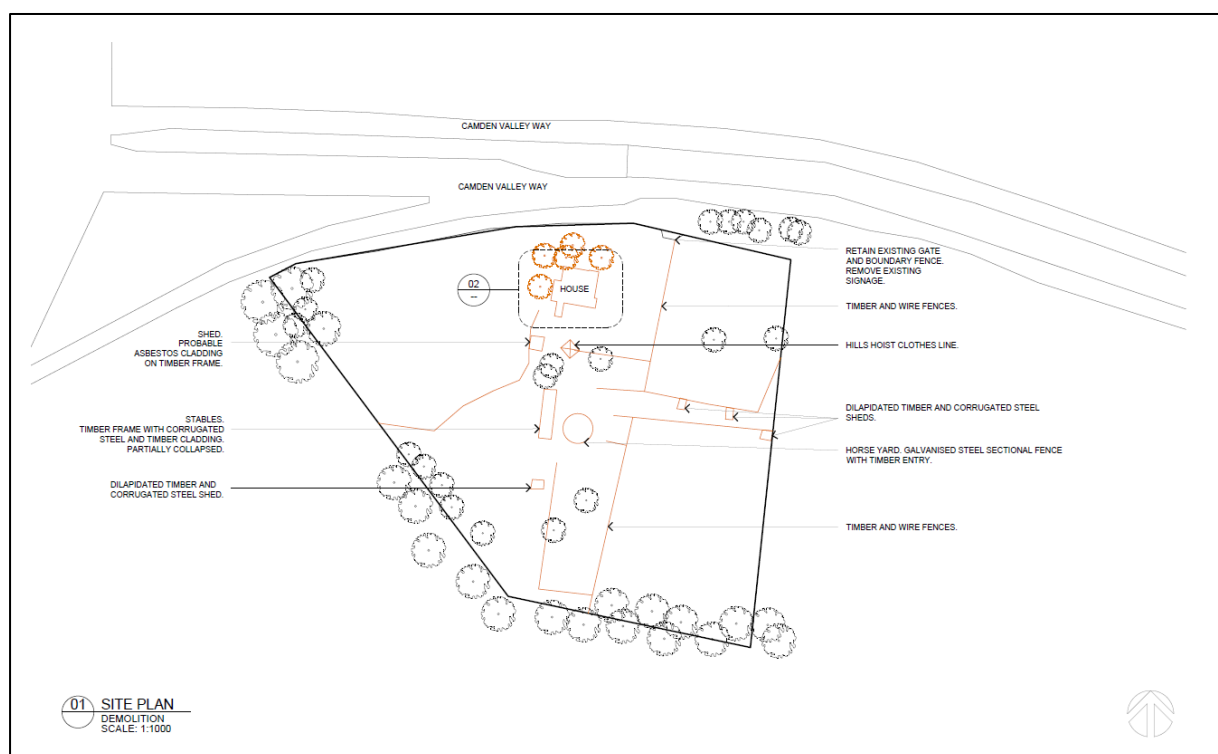


Figure 7: Extract of proposed Site demolition works

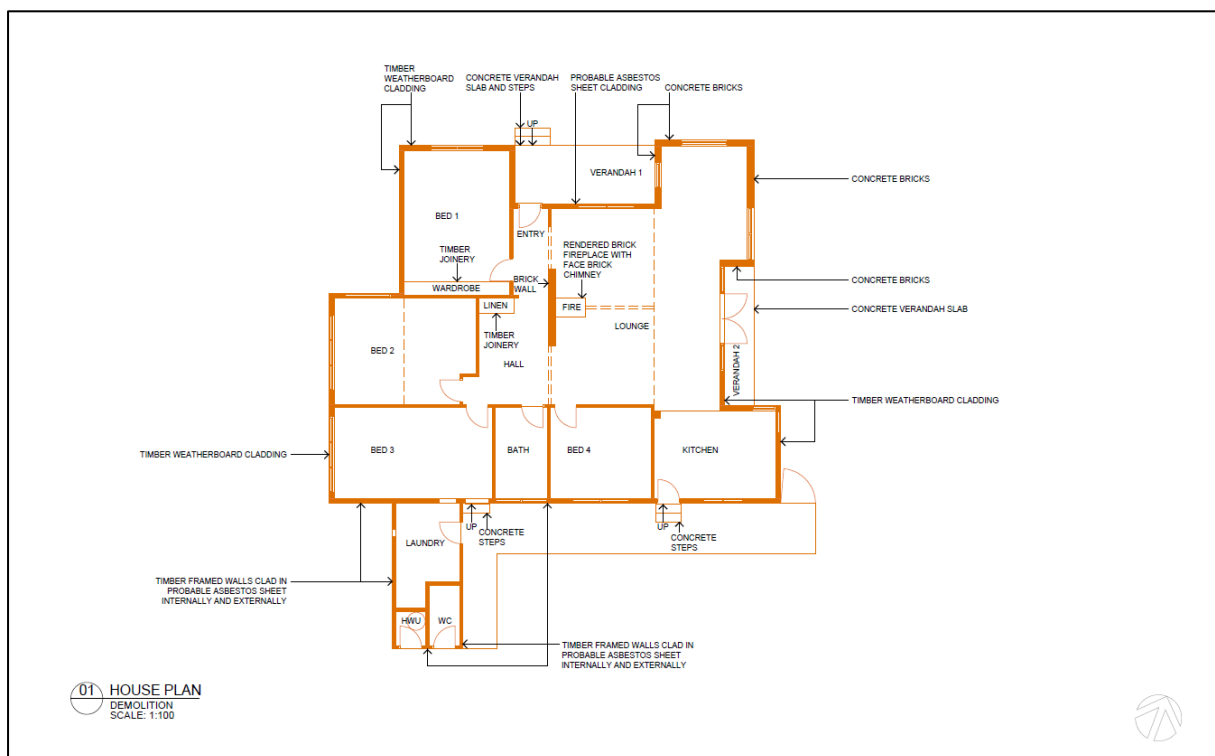


Figure 8: Extract of proposed Main dwelling demolition works

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following planning instruments and plans are relevant to the proposed development:

- *Environmental Planning and Assessment Act 1979* (the EP&A Act);
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021;
- Liverpool Local Environmental Plan (LLEP) 2008;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021; and
- Liverpool Growth Centre Precincts Development Control Plan 2021.

6. ASSESSMENT

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

6.1 Crown Development

Under Part 4 Division 4.6 of the EP&A Act, “**Crown development application** means a development application made by or on behalf of the Crown.”

The application has been lodged as a Crown DA pursuant to the provisions of the EP&A Act 1979. In accordance with s.4.33(1) of the EP&A Act:

- (1) A consent authority (other than the Minister) must not—
- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or
 - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

Accordingly, the draft conditions have been provided to the Planning Ministerial Corporation who have reviewed the proposed conditions and granted their approval.

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

(a) State Environmental Planning Policy (Precincts—Western Parkland City) 2021

(i) Zoning

The land is primarily zoned R2 – Low Density Residential with a smaller vacant portion of SP2 – Infrastructure (Local Drainage) towards the rear of the site; pursuant to State Environmental Planning Policy (Precincts—Western Parkland City) 2021 – Chapter 3 Sydney Region Growth Centres.

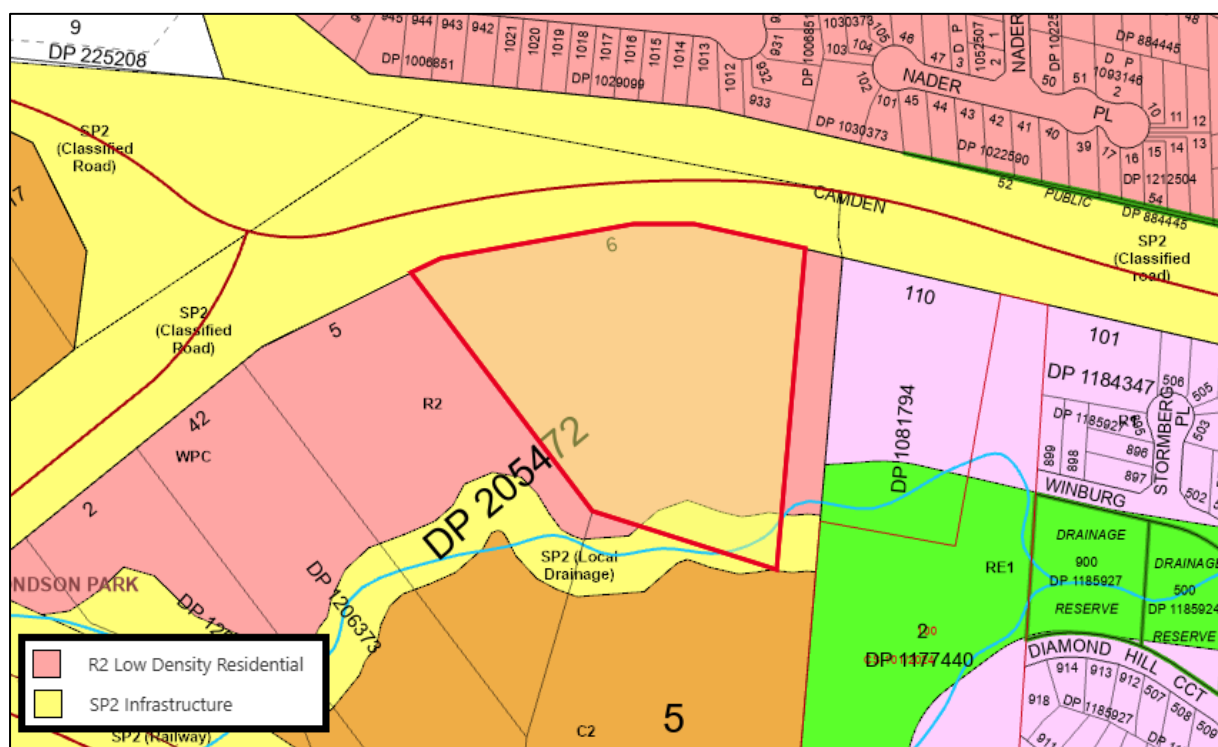


Figure 9: Extract of zoning map of the site (Sheet LZN_013)

(ii) Permissibility

The proposed development is categorised as demolition and is permissible pursuant to Clause 2.7 of Appendix 4 of the SEPP (Precincts—Western Parkland City) 2021.

(iii) Objectives of the zone

The objectives of the R2 Low Density Residential Zone are:

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

The objectives of the SP2 Infrastructure Zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The proposed demolition works are capable of facilitating future development which will be able to achieve the objectives of the R2 – Low Density Residential and SP2 – Infrastructure (Local Drainage) zonings. As such, the proposal is considered to satisfy the zone objectives.

(iv) Summary of Relevant SEPP (Precincts—Western Parkland City) 2021 Provisions

The SEPP (Precincts—Western Parkland City) 2021 contains a number of provisions which are relevant to the proposal. Assessment of the application against the applicable provisions is provided below. The proposal demonstrates compliance with these provisions.

Note: The Liverpool Local Environmental Plan does not apply to this proposal as the land is located within a Growth Centre Precinct and the SEPP prevails over the LEP. It is instead assessed against the SEPP and the Liverpool Growth Centre Precincts DCP 2014.

WPC SEPP 2021 – CHAPTER 3			
Clause	Provision	Proposed	Comment
3.26 Development on flood prone and major creeks	This section applies to development requiring consent that is carried out on flood prone and major creeks	The proposed development is affected by mainstream flooding at the rear of the property and is within the	Complies

land – additional heads of consideration	land. The consent authority must take into consideration particular flood related behaviour and its impact.	high, medium and low risk zone. An overland flow path runs across the site in the west to east direction. The subject dwelling sits outside the flood mapped area and its demolition would not detrimentally impact on the flood behaviour of the site.	
APPENDIX 4 – LIVERPOOL GROWTH CENTRES PRECINCT PLAN			
Clause	Provision	Proposed	Comment
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	Demolition works proposed and considered acceptable.	Complies
4.1.AA Subdivision resulting in lots between 225-300sqm	This consent authority must be satisfied that any lot between 225-300sqm will contain a sufficient building envelope plan (BEP) to enable the erection of a dwelling house on the lot	No subdivision occurring.	N/A
4.1B Residential Density	The site is subject to a minimum dwelling density of 15dw/ha	No subdivision occurring.	N/A
4.3 Height of Buildings (as per HOB Map)	9m for this site	No buildings proposed.	N/A
5.1 Relevant Acquisition Authority	Land to be acquired as identified on the Land Reservation Acquisition Map	<i>SP2 Local Drainage – Authority of Council</i> Land acquisition mapped over the rear of the site. The proposed demolition would not impact the land to be acquired.	Complies
5.9 Preservations of trees or vegetation	Provided when consent is required to be granted subject to the provision of this clause to remove trees or vegetation.	The subject site is identified as 'certified' pursuant to the Sydney Region Growth Centres 2006 Biodiversity Certification Order. Several trees in the vicinity of the fire damaged dwelling are proposed to be removed as part of this development application. The protection of	Complies with condition

		all other remaining trees will be conditioned appropriately.	
5.10 Heritage Conservation	2(a)(i) Development consent is required for the demolition of a heritage item.	Demolition works proposed and considered acceptable.	Complies
		The Heritage significant item, "Pinewood" is considered important in the course of the cultural history of the local area with its ties to Corporal John Hurst Edmondson VC, the first recipient of the Australian Victorian Cross, who grew up on the site. The building in its current state does not reflect 'Forest Home' as it was when Edmondson VC resided there, nor does it demonstrate any aesthetic characteristics that are of note in and of itself, it does not meet the guidelines to be of aesthetic significance. The building is now in very poor condition and appears to be clad in part with asbestos cement sheeting that may prove hazardous to health. The proposed demolition of the house and outbuildings will not negatively impact the heritage significance of the site. In contrast, the potential future erection of a memorial would have the ability to convey much more clearly the history and significance of the site's association with Corporal John Hurst Edmondson VC. The application was referred	Complies with condition
	(4) The consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.		

		to Councils Heritage officer who raised no objection subject to conditions requiring the submission of a Historical Archaeological Assessment for future development.	
	(5) On land on which a heritage item is located the consent authority may require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	A Statement of Heritage Impact, prepared by JPA&D was submitted. This document suitably assesses the effect the proposed demolition would have on the heritage significance of the heritage item. The document explores various alternatives including: ○ Leaving the site as is ○ Restoring the Building It is, however, concluded that demolition would have no negative impact on the heritage significance of the property.	Complies
	(6) The consent authority may require the submission of a heritage conservation management plan.	The application was referred to Councils Heritage officer who did not consider a further conservation management plan necessary.	N/A
	(7) Archaeological sites The consent authority must, before granting consent under this section to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies)— (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is	The subject application was referred to the Heritage Council of NSW. A recommendation that a Historical Archaeological Assessment be prepared for review by Heritage NSW was made. This recommendation has been taken into consideration. Given the current dilapidated state and fire damage to the house a condition of consent requiring the submission of a full Historical Archaeological Assessment with any future	Complies with condition

	sent.	redevelopment application for the site has been imposed.	
	(8) Aboriginal places of heritage significance The consent authority must consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment	A basic search was conducted on the Aboriginal Heritage Information Management System, which resulted in zero Aboriginal sites recorded and zero Aboriginal places declared.	N/A
	(9) Demolition of nominated State heritage items The consent authority must notify the Heritage Council about the application	The site contains a <u>locally</u> listed item.	N/A
5.11 Bush fire hazard reduction	Bush fire hazard reduction work authorised by the <i>Rural Fires Act 1997</i> may be carried out on any land without consent.	The subject site is mapped as Bushfire Prone Land, predominantly Vegetation Category 3. However, only demolition work is proposed.	Noted.
6.1 Public Utility Infrastructure	The consent authority must not grant development consent to development on land to which this Precinct Plan applies unless it is satisfied that any public utility infrastructure (supply of water, electricity and disposal/management of sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required	Infrastructure provisions would not be warranted at the demolition stage of this development and would be a matter subject to further investigation for future development on the land.	N/A
6.2 & 6.3 Development Controls – Native Vegetation Areas and Existing Native Vegetation	These control relate only to the clearing of native vegetation within a native vegetation retention area.	The location of works are not part of an Environmentally Sensitive area as defined in this plan.	N/A

Having regard to the above assessment, the proposal is permitted in the zone and is considered consistent with the objectives of the zone and relevant development standards in the SEPP.

(b) Liverpool Local Environmental Plan (LLEP) 2008

The dwelling known as ‘Pinewood’, previously known as ‘Forest Home’ was first listed under the LLEP 2008 following public consultation in 2004 for the Liverpool Heritage Study Review, prior to the introduction of SEPP (Precincts—Western Parkland City) 2021.

Schedule 5 Environmental heritage

Part 1 Heritage items

Division 1 Outside Liverpool City Centre

Suburb	Item name	Address	Property description	Significance	Item No
Leppington	Edmondson Cottage and rural lot, including interiors	1720 Camden Valley Way	Lot 6, DP Local 205472		41

Notwithstanding, the Liverpool Local Environmental Plan does not apply to this proposal as the land is located within a Growth Centre Precinct and the SEPP prevails over the LEP. It is instead assessed against the SEPP and the Liverpool Growth Centre Precincts DCP 2014.

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

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

Hazardous Materials Survey:

The applicant has provided a Hazardous Materials Survey. It has been noted that work is to be conducted in accordance with the Environmental Protection & Heritage Council’s Polychlorinated Biphenyls Management Plan, Revised Edition April 2003. However, the survey conducted did not detect any material likely to be captured under this guideline/plan.

The survey identifies asbestos containing materials, lead in paint/lead in settled dust and polychlorinated biphenyls and synthetic mineral fibre (SMF) materials within the main dwelling and associated structures on the site, with a fibre release potential of low to medium. A number of site-specific recommendations have been made for the disposal of hazardous materials on site prior to demolition and form a condition of consent.

Fire Asbestos Contamination Assessment:

The applicant has proved a Fire Asbestos Contamination Assessment. The report has been reviewed, and Council is satisfied that the potential asbestos contamination and subsequent remediation methods are supported, provision has been made for all required methodologies including air monitoring, wet removal of friable material and validation sampling.

Soil sampling has identified friable material across a large portion of the site (see Figure 10) which will require remediation, unimpacted material in non-friable form has also been noted both still attached to the dwelling and the on the external grounds of the premise.

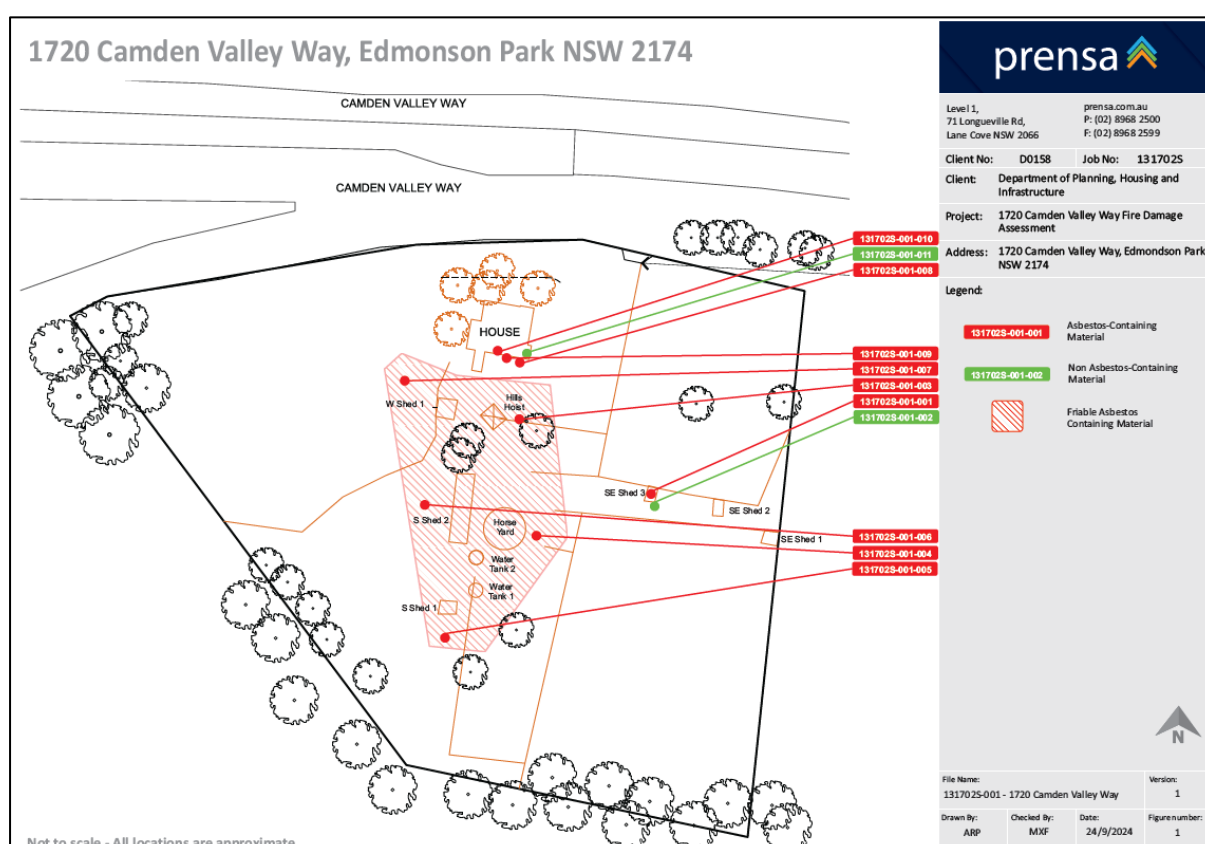


Figure 10: Location of Friable Asbestos Containing Material (Source: Fire Event Asbestos Contamination Assessment)

The conclusions made within the report are in line with the QLD Gov guidelines on fire impacted asbestos management in that:

- Asbestos soil contamination from fire events is isolated to the soil surface only and that if all ACM debris has been removed, sampling of soil and analysis for asbestos is not required.
- The secondary impact zone covered by the ACM debris is typically estimated by the size of the building and intensity of the fire.

It is considered that a detailed site investigation would be required for future redevelopment of the site. A condition of consent has been imposed noting no further development of the lot

burdened is to take place unless appropriate investigations into contamination are undertaken satisfying the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 (as it pertains to contamination), or otherwise the most current environmental planning policy pertaining to contamination applying at that time.

Conclusion:

Through implementation of the above measures and appropriate conditions of consent, it is considered that hazardous materials present on the site can be safely disposed of prior to the commencement of demolition works. As such, this application is deemed to be acceptable under the provisions of this SEPP and further investigation is to accompany any future development application.

(d) State Environmental Planning Policy (Biodiversity and Conservation) 2021

The subject land is located within the Georges River Catchments and as such the State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments applies to the application. The SEPP (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

The proposed development is affected by mainstream flooding at the rear of the property and is within the high risk, medium risk and low risk zone. An overland flow path runs across the rear of the site in a west to east direction. The proposed site is not within the floodway, however, from a water quality perspective, appropriate control measures shall be implemented so that there is no adverse impact on water quality from the proposed demolition works.

The proposed demolition is considered to be appropriate in meeting the requirements and objectives of the SEPP and is unlikely to have a negative impact on the environmental quality of the Georges River Catchment. Appropriate conditions of consent will apply to ensure appropriate sediment and erosion control measures are implemented for the proposed demolition works.

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

There are currently no draft planning instruments that would be applicable to the proposal.

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

(a) Liverpool City Council Growth Centre Precincts Development Control Plan

The application has been considered against the controls contained in the Liverpool Growth Centre Precincts Development Control Plan (DCP) in particular:

- Part 2: Precinct Planning Outcomes;

The assessment has identified that the proposal generally demonstrates compliance with the relevant DCP requirements. The key controls are discussed in the following tables:

Part 2 Precinct Planning Outcomes		
Development Control	Provision	Comment
2.4 Demolition	This section contains controls relating to demolition of buildings	Complies by conditions All demolition shall be required to comply with standard conditions of consent for demolition. A further analysis of the demolition section of the DCP is provided in the table below.
2.6 Earthworks & Dam De-watering	This section contains controls relating to earthworks	Not Applicable No dam dewatering or earthworks are associated with the proposal.

Liverpool Growth Centre Precincts Development Control Plan		
Part 2 – Planning Precinct Outcomes, Clause 2.4 Demolition		
Development Control	Proposed	Compliance
All demolition work must comply with the Australian Standard AS2601 - 1991, The Demolition of Structures.	The proposed development will be conditioned to comply with the Australian Standard for The Demolition of Structures.	Complies with Condition
Security fencing such as hoardings must be provided around the perimeter of the demolition site prior to work commencing to prevent access by unauthorised persons at all times during the demolition period. Approval of the fencing by Council must be received prior to erection.	Security fencing will be conditioned as part of any development consent.	Complies with Condition
All lead contaminated materials identified in the building must be handled and disposed of in accordance with the NSW Environment Protection Authority's requirements	Any contaminated materials will be handled and disposed of in accordance with NSW EPA requirements and the findings of the Hazardous Building Materials Survey Report. The recommendations outlined within the submitted Hazardous Building Materials Survey Report are required to be adopted. Conditions of consent to be imposed to ensure compliance.	Complies with Condition
Dust controls must be implemented on site prior to and during demolition.	The development proposed erosion and sediment control measures.	Complies with Condition

	Conditions of consent to be imposed to minimise any dust nuisance.	
Hazardous materials audits shall be conducted on any buildings at the site that may require demolition.	A Hazardous Building Material Survey Report has been provided. A condition of consent requiring a Demolition Work Plan has been imposed, this includes the identification of any hazardous materials. Demolition inspections are also conditioned and to occur immediately prior to and following demolition. All dangerous and/or hazardous material must be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW.	Complies with Condition
Asbestos, if identified in the building, must be removed and disposed of in accordance with the requirements of Work Cover.	Any asbestos identified on site will be removed and disposed of in accordance with the requirements of Work Cover and as per the Hazardous Building Materials Survey Report and the Fire Event Asbestos Contamination Assessment. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material. Conditions of consent to be imposed to ensure compliance.	Complies with Condition
Demolition activities on site must be limited to the following hours: Monday to Friday 7:00am to 5:00pm Saturday 8:00am to 5:00pm No work on Sunday and Public Holidays	Demolition work hours will be imposed as per Council's standard conditions for hours of works and construction/ demolition activities.	Complies with Condition
Sound pressure levels emanating from the site must comply with the Interim Guideline for Construction Noise (Office of Environment and Heritage).	Noise and vibration requirements are conditioned to address the 'Interim Construction Noise Guideline'.	Complies with Condition
A Waste Management Plan (WMP) is to be submitted with the Development Application.	A suitable Waste Management Plan has been submitted with the DA	Complies with

The WMP must include volume or area estimates and information about reuse, recycling and disposal options for all types of waste produced on-site, including excavation materials.	and conditions of consent to be imposed to ensure compliance	Condition
The WMP together with proof of lawful disposal for all waste that is disposed of, or otherwise recycled from the site must be retained on site.	A Waste Management Plan has been submitted with the DA and conditions of consent to be imposed requiring records of waste disposal be provided to the principal certifier.	Complies with Condition
A Dilapidation Report may be required to be submitted with a Development Application for any demolition within the zone of influence of any other building.	Not required in this instance as not within the zone of influence of any other building.	N/A

6.5 Section 4.15(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement

There is no planning agreement or draft planning agreement applying to the site.

6.6 Section 4.15(1)(a)(iv) –The Regulations

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia and Australian Standards with respect to demolition. Accordingly, appropriate conditions of consent will be imposed.

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

(a) Natural Environment

Impacts on the natural environment have been assessed as part of the development application. It is considered that the proposal is unlikely to result in any detrimental impact on the natural environment. Minor tree removal is indicated in the vicinity of the fire damaged house. Conditions of consent are imposed to ensure the protection of all other remaining trees on site.

(b) Built Environment

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. It will facilitate the removal of fire damaged structures and contaminated building material while allowing opportunity for development in the future.

Heritage Impact (built form): A Statement of Heritage Impact (SoHI) has been prepared by JPA&D. The SoHI notes that all the buildings on the site are categorised as poor to very poor condition, and the house and outbuildings have significantly deteriorated. It is further noted that the premises has deteriorated even further in the time since the SoHI was prepared due to fire damage.

The SoHI concludes that the proposed demolition would have no negative impact on the heritage significance of the property, noting that the current dwelling bears no resemblance to the house in which the Edmondson family lived.

Hazardous Building Material: A Hazardous Building Materials Survey Report has been prepared by SLR. The survey identified asbestos containing materials, lead in paint/lead in settled dust and polychlorinated biphenyls and synthetic mineral fibre (SMF) materials within the main dwelling and associated structures on the site, with a fibre release potential of low to medium.

Asbestos Contamination Assessment: Additionally, a Fire Event Asbestos Contamination Assessment Report was conducted following the August 2024 grass fire event which damaged the main dwelling and ancillary structures on the site.

Through implementation of the recommended measures outlined within these reports and appropriate conditions of consent, it is considered that hazardous materials present on the site can be safely disposed of prior to the commencement of demolition works.

(c) Social Impacts

The proposed development is not anticipated to cause detrimental social impacts.

Heritage Impact (social impact): As noted above a Statement of Heritage Impact (SoHI) has been prepared by JPA&D. The heritage significance of the 'Pinewood' site is through its association with the early life of Edmondson, and the cultural and intangible historical value that results from the association. The house in its current state no longer reflects 'Forest Home' as it was when Edmondson resided there, thus it does not add to the understanding of the life of Edmondson prior to his VC medal being awarded.

(d) Economic Impacts

The proposed demolition would result in a positive economic impact in the locality through the creation of jobs and opportunity for future capital investment works.

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

The proposed development is generally considered to be suitable for the site. The development complies with the relevant provisions of the SEPP (Precincts—Western Parkland City) 2021 and Liverpool Growth Centre Precincts DCP and will facilitate the future development of the land. The proposal has been assessed to have no impact on the heritage significance of the property.

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

(a) Internal Referrals

DEPARTMENT	COMMENTS
Environmental Health	No objection, subject to conditions. <i>Hazardous Materials Survey:</i> - Generally supported <i>Asbestos Contamination Assessment:</i> - Satisfied that the potential asbestos contamination and subsequent remediation methods are supported - It is noted that the kitchen and living room require further investigation once the house is made structurally stable - An 88b restriction condition may be required as the information under further investigation and limitations suggest the need for further assessment in future. <i>Waste Management Plan:</i> - Prepared with reference to Council's DCP requirements - In addition, all material to be removed is to be classified in accordance with the NSW EPA WC guidelines. Note: An 88b restriction be placed on this lot to cover the need for a detailed site investigation to be carried out for future development on the site. This is to cover any potential risk for asbestos impacted soils outside the perimeter of the estimated friable contamination area. (It is noted that following consultation with the applicant and in order to gain Crown approval for conditions of consent it was concluded that the above suggested 88b restriction was not necessary. Given that SEPP (Resilience and Hazards) 2021 already provides statewide guidance on how and when to deal with contamination investigations a restriction that aims to duplicate this legislation is therefore somewhat redundant but more importantly has the potential to cause significant issues on planning pathways for minor works that otherwise would ordinarily not need any contamination investigations.)
Flood Engineering	No objection, subject to conditions. <i>The proposed development is affected by mainstream flooding at the rear of the property and is within the high risk, medium risk and low risk zone. An overland flow path runs across the site in the west to east direction. Since the proposed site is not within the floodway, flood related controls doesn't apply to this</i>

	<i>proposed development. However, from the water quality perspective, applicant shall implement appropriate control measures so that there is no adverse impact on water quality from the proposed demolition works.</i>
Heritage	No objection, subject to conditions. <i>An Historical Archaeological Assessment is to be prepared by a qualified archaeologist in accordance with Heritage NSW guidelines as specified by Heritage NSW in their letter and submitted to Council for review.</i> (It is noted that following consultation with the applicant and in order to gain Crown approval for conditions of consent it was concluded that the above suggested condition would not be suitable in the form of an 88b restriction on site. It is expected that Council will require heritage studies on future applications, commensurate with the scale of work proposed, given the site remains heritage listed. The extent of those studies should be determined case by case and not uncompromisingly controlled through a restriction on site. A condition requiring any future development application on the lot which proposes ground excavation to be supported by a Historical Archaeological Assessment and an Aboriginal Archaeological Assessment has been imposed in lieu.)
Waste Management	No objection, recommendations made. <i>The waste management plan should clearly outline how asbestos will be handled during the demolition. This includes specifying the procedures to ensure the safe removal and disposal of asbestos, protecting workers, and minimizing the risk of site contamination. An ideal waste management plan should include detailed information from the demolition contractor, such as:</i> <u><i>List of Waste Materials:</i></u> <i>• A list of all waste materials expected to be generated during the demolition.</i> <i>• Estimated volumes for each type of waste material.</i> <u><i>Disposal and Recycling Plans:</i></u> <i>• Specific locations or facilities where the listed materials will be disposed of or recycled.</i> <i>• Details of any arrangements made for recycling or reusing materials.</i> <u><i>Contractor Responsibilities:</i></u> <i>• Identification of the contractor(s) responsible for the</i>

	<i>transportation and disposal of each type of waste material.</i> <u><i>Removal and destroying refrigerants:</i></u> <i>Prior to any works commencing, any air-conditioning or refrigeration systems fitted to the buildings or outbuildings to be demolished, must have the refrigerants present in those systems extracted into a durable, air-tight container by a licensed air-conditioning technician. This container and its contents must be sent intact, for secure destruction, to a facility licensed to destroy such refrigerants. Documentary evidence that this has been completed, if these systems are present, must be sighted by the Principal Certifying Authority and included as part of the Occupation Certificate documentation.</i> <u><i>Returning of existing bins:</i></u> <i>Organise the return of any existing domestic waste bins that have been issued to the property back to Liverpool City Council. Please ring Council on 1300 36 2170 to advise that the bins are empty and ready to be removed, so their removal can be noted on Council's rates system.</i>
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(b) External Referrals

DEPARTMENT	COMMENTS
APA (Gas)	No objections, subject to conditions <i>- Works within the road reserve</i> <i>- Easement Delineation on Site</i> <i>- Pipeline Delineation on Plans</i>
Jemena (Gas)	No objection. <i>The proposed development will not impact the Jemena high pressure gas pipeline in the road reserve.</i>
Heritage Council of NSW	Recommendation provided: <i>A historical archaeological assessment must be prepared by a suitably qualified archaeologist in accordance with the guideline Archaeological Assessment (1996) and Assessing Significance for Historical Archaeological Sites and Relics (2009).</i> <i>This assessment should identify what relics, if any, are likely to be present, assess their significance and consider the impacts from the proposal on this potential archaeological resource. Where harm is likely to occur, it is recommended that the significance of the relics be considered in</i>

	<i>determining an appropriate mitigation strategy.</i> <i>If works will have an impact on relics of local heritage significance or if works will disturb or excavate land that is likely to contain archaeological relics of State heritage significance, a s140 permit under the Heritage Act 1977 may be required, prior to commencement of works. As part of a permit application, a Research Design and Excavation Methodology would also need to be prepared to guide any proposed excavations or salvage program.</i>
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(c) Community Consultation

In accordance with Liverpool City Council Community Engagement Strategy 2022, the proposal was not required to be notified. No submissions were received for this application.

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

Approval of the proposed development is considered to be in the public interest. The development is consistent with the objectives of the zones and complies with the relevant provisions of the SEPP (Precincts—Western Parkland City) 2021 and Liverpool Growth Centre Precincts DCP. The proposal has been assessed to have no impact on the heritage significance of the property

7. DEVELOPER CONTRIBUTIONS

Section 7.11 Contributions: s7.11 contributions are not required as part of this development application.

Special Infrastructure Contribution (SIC) : A SIC condition is required in accordance with advice from the Department of Planning and Environment.

Housing Productivity Contribution (HPC): The land falls within the excluded area – Western Sydney Growth Area and Aerotropolis SCAs, therefore the HPC does not apply.

8. CONCLUSION

Having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is considered satisfactory with the following matters noted:

- The proposed development complies with the relevant provisions of the SEPP (Precincts—Western Parkland City) 2021 and Liverpool Growth Centre Precincts DCP.
- The proposed demolition of the remaining parts of the house and outbuildings will not negatively impact the heritage significance of the site. The poor current state of the house and buildings substantially compromise the site's heritage significance and the

house's 1960s design distorts the understanding of the site in relation to Edmondson VC.

- Conditions of consent will be imposed to minimise any potential negative environmental impacts resulting from the demolition.
- The proposed demolition is appropriate for the site and approval is in the public interest.
- A Special Infrastructure Contribution Condition has been imposed.

9. RECOMMENDATION

That Development Application DA No 586/2024 be **approved subject to conditions of consent**.

ATTACHMENTS

1. Draft Conditions DA-586_2024 (Applicant Approved) (Under separate cover)
2. Applicant Approval of Conditions (Under separate cover)
3. Architectural Plans (Under separate cover)
4. Heritage NSW - Referral Response (Under separate cover)
5. APA Gas - Referral Response (Under separate cover)
6. Heritage impact statement (Under separate cover)
7. Fire Event Asbestos Contamination Assessment (Under separate cover)
8. Hazardous Building Materials Survey Report (Under separate cover)

Item Number:	2
Application Number:	DA-583/2024
Proposed Development:	Proposed new Tower Crane and extension of operating hours.
Property Address	28 Riverside Road, Chipping Norton
Legal Description:	Lot 73 DP 574148
Applicant:	Willowtree Planning (NSW) Pty Ltd
Land Owner:	Cosmo Cranes Investments Pty Ltd
Cost of Works:	\$33,000
Recommendation:	Approval, subject to conditions of consent
Assessing Officer:	Irada Ahmed

1 EXECUTIVE SUMMARY

Council has received a Development Application No. DA-583/2024 seeking consent for proposed new tower crane and extension of operating hours at 28 Riverside Road, Chipping Norton which is legally described as Lot 73 DP 574148.

The subject site is zoned E4 – General Industrial under the Liverpool Local Environmental Plan (LLEP) 2008, and the proposed development is permissible with consent.

The proposal did not require notification in accordance with the Liverpool Community Engagement Strategy 2022. Notwithstanding, no submissions were received.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 6 March 2024, as the development falls in the category of:

Departure from Development Standards

Development that contravenes a development standard imposed by an Environmental Planning Instrument (EPI) by more than 10% or non-numerical development standards.

The proposal involves a Clause 4.6 variation to *Clause 4.3 (2) Height of buildings* of the Liverpool Local Environmental Plan 2008 for a new tower crane with maximum operational height proposed which is a 22.7% departure from the development standard.

The application has been assessed pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* (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 immediate locality is generally characterised by industrial uses which are also within the E4 – General Industrial zone to the north, south and west. To the eastern side of the subject site there are large expanses of undeveloped vegetated land bounded by the Georges River which is zoned RE1 – Public Recreation land.

The closest residential zoned land is approximately located 385m to the west of the subject site, which are residential dwellings within R3 - Medium Density zoned land on Governor Macquarie Drive.

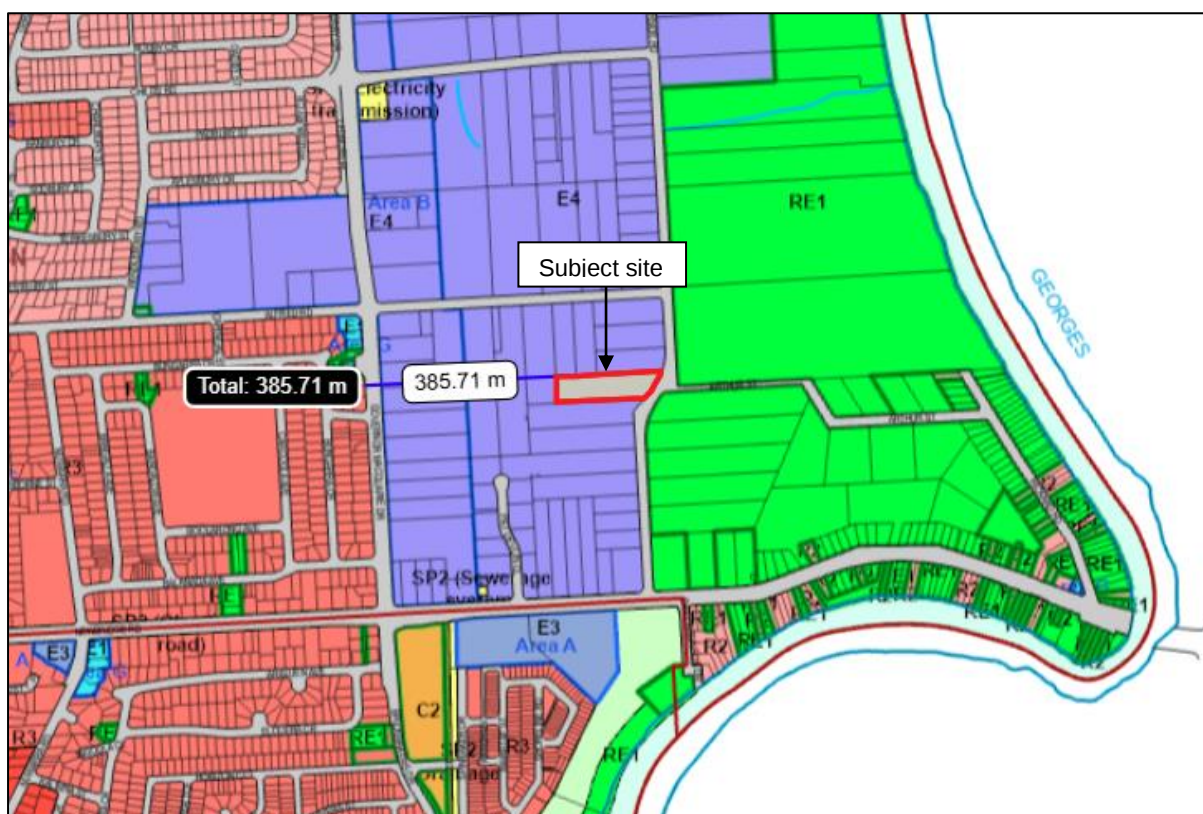


Figure 1: Locality and zoning with approximate distance shown to closest residential land to the subject site outlined in red (Source: Geocortex GIS).

2.2 The site

The subject site is identified as 28 Riverside Road, Chipping Norton and legally described as Lot 73 DP 574148. The site is mostly rectangular in shape with a splay curved front boundary due to the design of Riverside Road. The subject allotment has a total site area of 9929.5sqm and is currently owned by Cosmo Cranes Pty Ltd who operates the site for the purpose of a storage premises for crane components. Currently the site contains parts of cranes and an existing permanent operation tower crane (annotated TC1 on plans) for loading, unloading and storing the disassembled sections of tower crane on the Site.

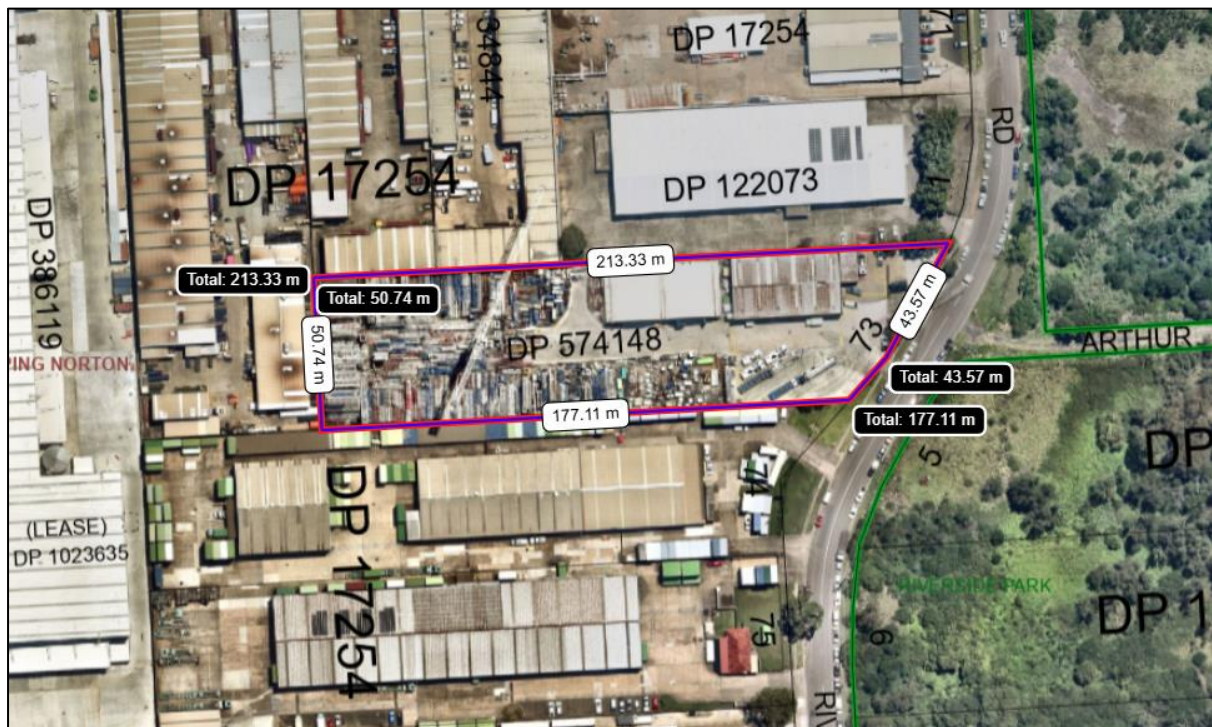


Figure 2: Subject site outlined with approximate dimensions of site (Source: Geocortex GIS and Nearmaps).



Figure 3: Subject site viewed from frontage at Riverside Road (Source: Google Street View).

A site inspection was carried out on the 19th of March 2025. The following photos were taken on that inspection:



Figure 4: Subject site viewed from street.



Figure 5: Image taken from internal driveway on site showing existing approved crane.

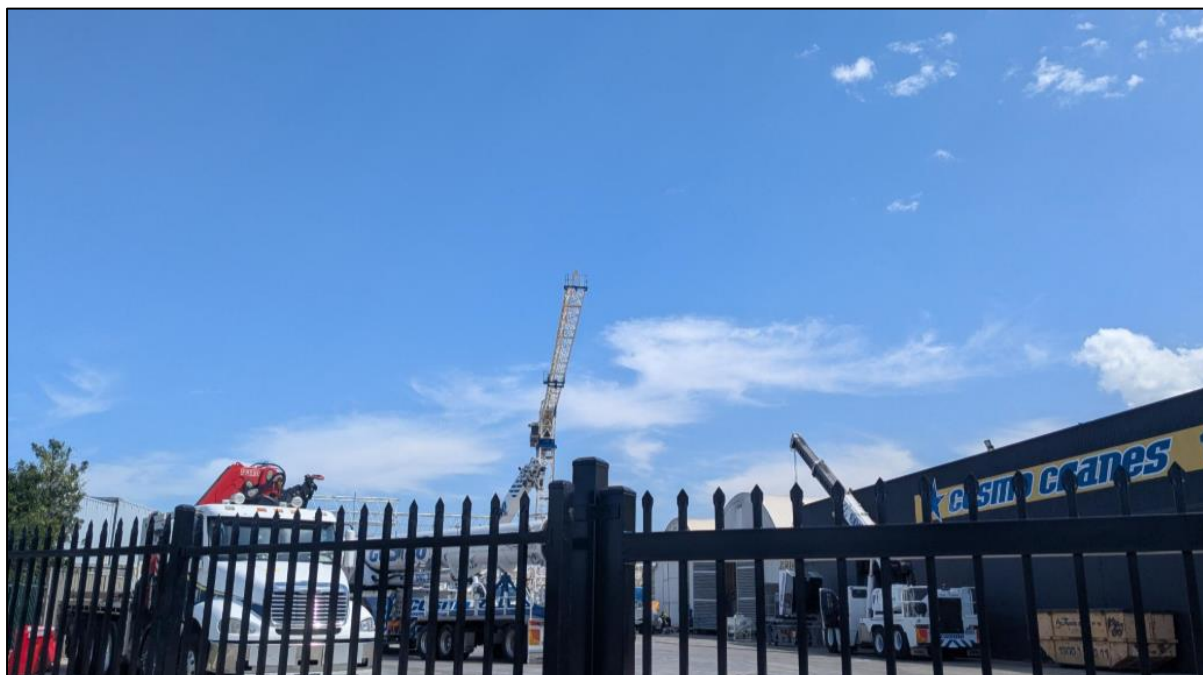


Figure 6: Another view of existing approved crane on site.

2.3 Site Constraints

Potential Site Constraints: • Bushfire • Flooding • Heritage Items • Aboriginal heritage • Environmentally Significant Land • Threatened Species/ Flora/ Habitat/ Critical Communities • Acid Sulphate Soils • Aircraft Noise • Flight Paths • Railway Noise • Road Noise/ Classified Road • Significant Vegetation • Contamination • Gas Pipeline	• Low and Medium risk flood prone land • Class 5 Acid Sulphate Soils • Partial Coastal Wetlands Proximity Area • Moderate salinity potential • Partial bushfire prone area
Are there any restrictions on title?	Nil.

3. DA ASSESSMENT / BACKGROUND HISTORY

Key events for the subject DA assessment history is as follows:

- **9 December 2024** – DA Lodged
- **4 February 2025** – Additional information issued to applicant subject to assessment of application. Additional information sought:

- Requirement of Acoustic report subject to referral to Councils Environmental Health Team)
 - Clarification on height of crane due to inconsistent documentation provided.
 - Requirement of plan amendments to make the proposal clear including existing elements on site.
- **7 March 2025** – Additional information provided by applicant and assessed, thereafter it was established the application would need to be determined by the Liverpool Local Planning Panel due to the height exceedance of the crane at its maximum operational height.

3.1 DA APPROVAL HISTORY ON SITE

DA Approvals on site from Councils system are referenced in the below table:

DA Number	Description	Approval Date
DA-899/2017	Use of premises as a storage premises for tower crane components, erection of a tower crane, two shelter structures, a single self-bunded diesel fuel tank and creation of a new carpark and modification of existing driveways.	30 July 2018
DA-899/2017/B	Modification to development consent DA-930/2016 under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, seeking the following: • Relocation and reconfiguration of the car parking area, facilitating further storage of crane components and the parking area for slew cranes, prime movers and trailers; and • Change of use of the rearmost industrial shelter from a paint shop to fabrication and storage	7 January 2025
DA-583/2024	<i>Proposed new Tower Crane and extension of operating hours</i>	<i>Subject DA under assessment</i>

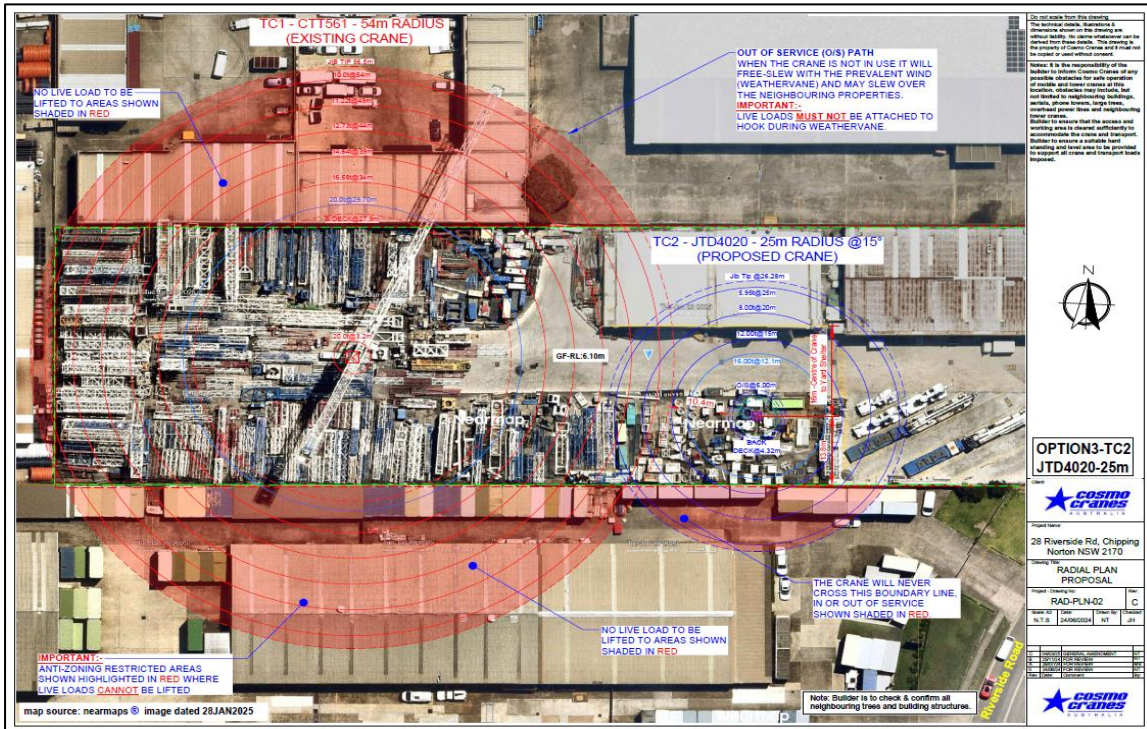
4. DETAILS OF THE PROPOSAL

The proposed development is for a proposed new tower crane and extension of operating hours. The specifics of the development proposed are as follows:

- Construction of a new permanent tower crane marked TC2 on plans for the purposes of loading, unloading and storing the disassembled sections of tower cranes on the site. The specifications of the crane are as follows:
 - Crane fixed height (non-operational): Approximately 18.67m (measured from plans)
 - Crane maximum operational height: 36.81m (42.91 AHD)
 - Crane radius: 25m
 - Crane swing proposed: Only within subject site and will never be swung over adjoining sites.
- Extension of operating hours from 24 hours a day, 7 days a week

Note: Previously approved for Monday to Sunday 7am – 5pm for the existing use on site being for the crane storage premises.

Plans of the proposal are provided in the following figures:



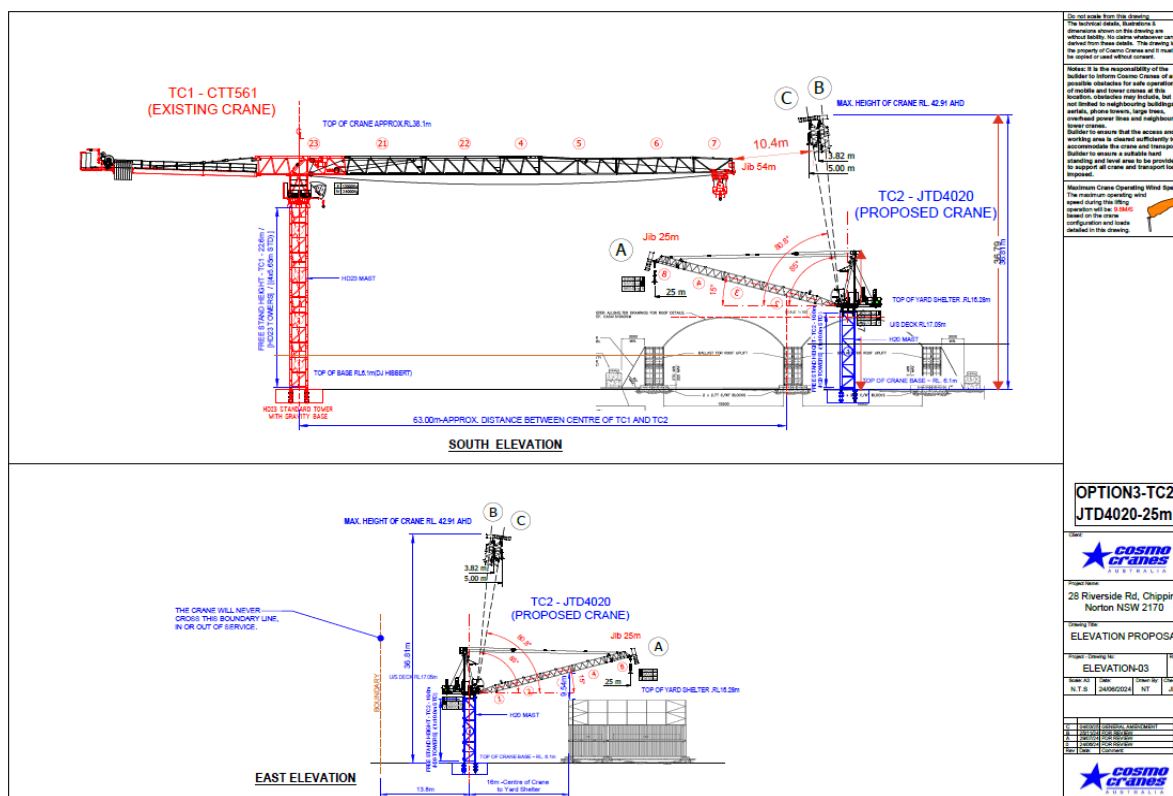


Figure 8: Proposed elevation of the proposed tower crane marked 'TC2' and the existing approved crane,

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity Conservation) 2021;
- Liverpool Local Environmental Plan 2008; and
- Liverpool Development Control Plan 2008;

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 Act 1979 and the Environmental Planning and Assessment Regulation 2021, as follows:

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

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

Chapter 2 Coastal management provides an integrated and coordinated approach to land use planning in a coastal zone consistent with the objects of Coastal Management Act 2016.

The eastern front portion of the subject site is identified as a coastal wetlands proximity area. Division 1, Clause 2.8 states that:

(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

It is noted the proposed tower crane does not involve any works that are considered to affect the attributes or ecological processes of the coastal environment or adversely impact the use of the coastal area. Furthermore, the location of the work proposed is not within the coastal wetlands proximity area mapped on the subject site. Therefore, it is considered that the proposed development is consistent with Chapter 2 of the SEPP.

Chapter 4, Section 4.6 of this policy requires the consent authority to assess whether the land is contaminated and ensure that it is either suitable in its current state or can be made suitable through remediation for the intended use before determining a development application. An assessment against this section is provided in the table below.

Section 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The land is unlikely to be contaminated given its past and current use within an established industrial area. Councils' system does not exhibit any prior contamination issues on the site.
(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	Due to the nature of the proposal being within the approved use on the site, further consideration of contamination is unwarranted.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

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

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

The site is located within the Georges River catchment which triggers considerations under Chapter 6 of this policy.

Part 2, Sections 6.6, 6.7 and 6.8 provide the considerations for consent authorities when determining developments within a regulated catchment mainly to protect the water quality, aquatic ecology and to minimise impact on the water flow. In this regard. It is noted that the proposal of the tower crane would not warrant a change in the stormwater management of the site and would not impact the existing stormwater regime, aquatic ecology and water quality in the river.

Section 6.9 contains provisions to protect the recreational use of the river and to ensure developments do not impact the foreshore access. The site does not have direct frontage and access to Georges River to have any adverse impact on its recreational use.

The proposal is consistent with the objectives of this policy and does not interfere with the functioning, water quality or ecological processes of Georges River.

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned E4 – General Industrial under the Liverpool Local Environmental Plan (LLEP) 2008.

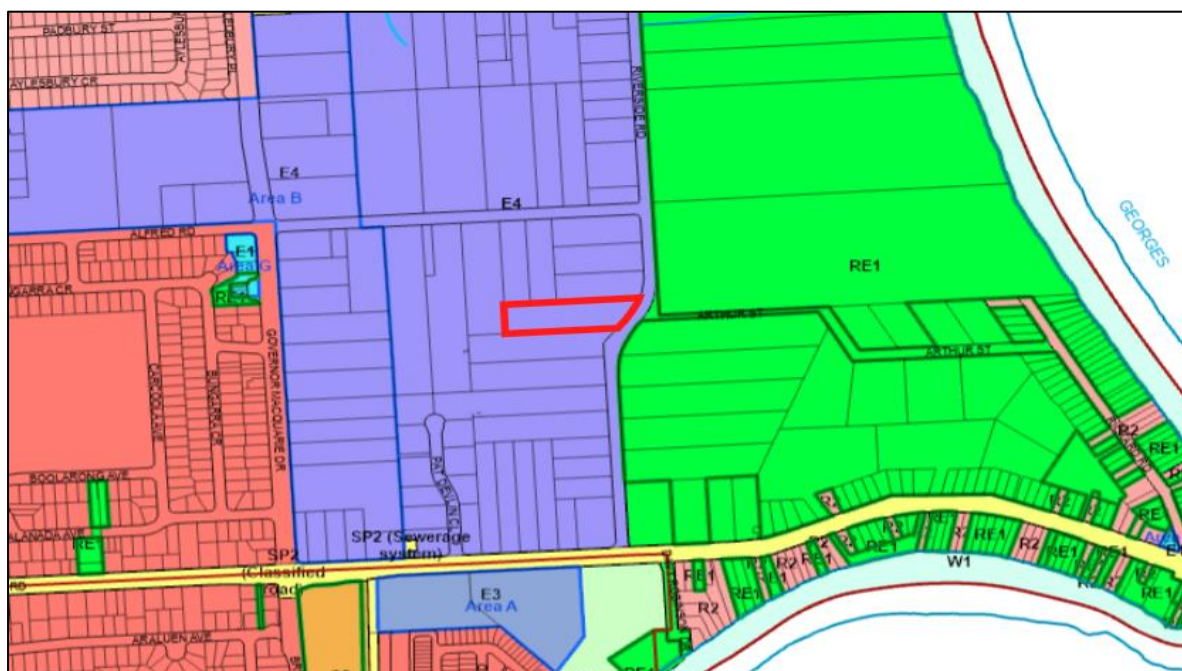


Figure 9: Zoning Map (Source: Geocortex GIS).

(ii) Permissibility

The proposal is best described as an ancillary structure to the use approved on the site under a 'general industry'

A **'general industry'** is defined as follows:

"means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity."

General industries are permitted with consent within the E4 – General Industrial zone, therefore, the proposed development is a permissible form of development in accordance with the LLEP 2008.

(iii) Objectives of the zone

The objectives of the E4 – General Industrial zone are as follows:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*
- *To allow other land uses that are compatible with industry and that can buffer heavy industrial zones while not detracting from centres of activity.*

Despite the exceedance of Building Height for the proposed crane when operational, the proposal is still considered to be consistent with the objectives of the zone in that it will facilitate the ongoing use of the industrial facility without impacting on the surrounding properties and environment. Further discussion of this is contained further in the report.

(iv) Principal Development Standards and other provisions in LLEP 2008

LLEP 2008 contains a number of principal development standards and other provisions which are applicable to the development, as detailed in the table below. Where a provision is not explicitly listed, it has been considered and deemed not relevant to the proposal.

Part 4 – Principal Development Standards		
Development provision	Requirement	Comments
4.3 Height of Buildings	Maximum building height: 30m	Does not comply Proposed maximum height of crane is 36.81m. Please refer to Clause 4.6 discussion below.
5.21 Flood Planning	To minimise the flood risk to life and property associated with the use of land,	Complies The subject site is mapped as Low and Medium risk flood prone land. The application was referred to Councils flood engineer who supported the application with no conditions required and stated: <i>The development is not affected by 1% AEP flood event but is within the flood planning area in the frontage of the development. Therefore, flood related controls don't apply to this</i>

		<i>proposed development.</i>
7.7 Acid Sulfate soils	To ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Complies Site mapped as Class 5 Acid Sulphate Soils. Notwithstanding, no works are proposed within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.
7.17 Airspace Operatons	The objective of this clause is to protect airspace around airports.	Complies The development is located within obstacle limitation contours of the Bankstown Airport. Notwithstanding the development proposed was referred to the following external agencies with airspace operations: • Bankstown Airport • South Western Sydney Local Health District • Department of Defence All external agencies assessed the proposal at its maximum height at 42.91AHD and had no objections to the proposal.
7.17A Hospital Helicopter airspace	The objective of this clause is to protect hospital helicopter airspace	Complies As above

Clause 4.6 Exceptions to Development Standards (Variation to Clause 4.3 Height of Buildings)

Clause 4.3 (2) of the LLEP 2008 states:

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

The applicant is proposing a permanent tower crane with a maximum height of 36.81m which is a numerical exceedance of 6.81m or a 22.7% variation to the maximum building height shown on the *Height of Buildings Map*.

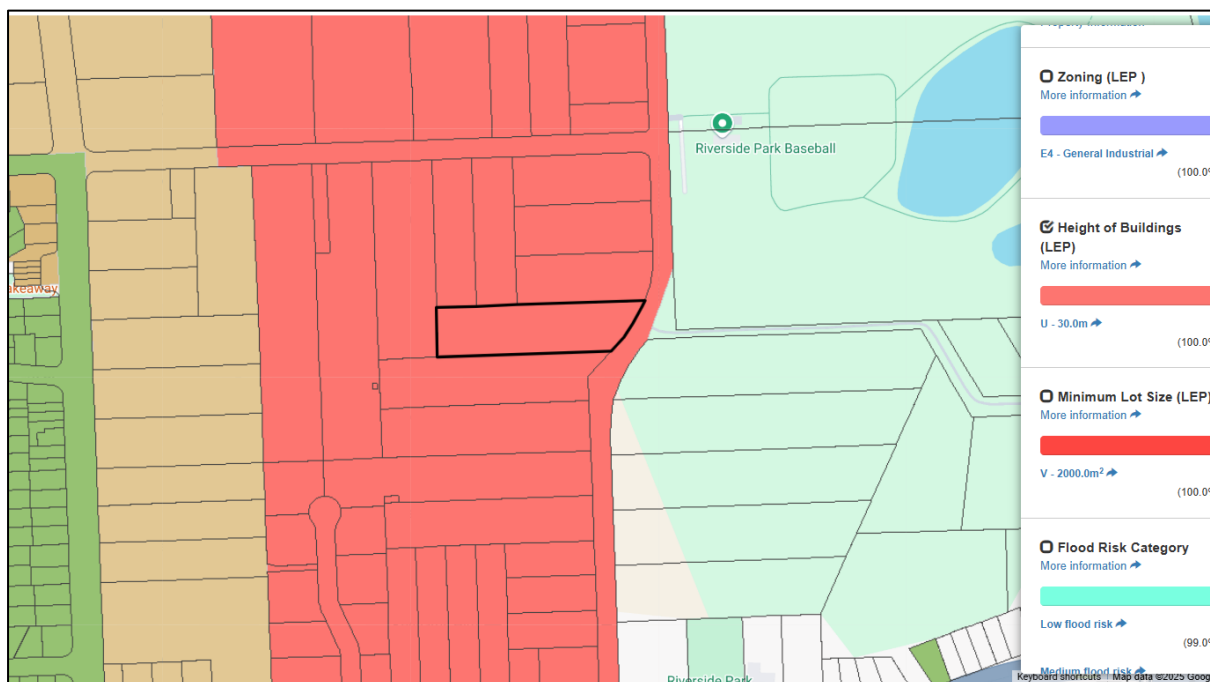


Figure 10: LLEP Height of Buildings Map.

The LEP 2008 considers variations to development standards through *Clause 4.6 Exception to Development Standards* which is referred to below with associated Council comments provided.

Clause 4.6 is referred to below with accompanying Council Comments.

- (1) *The objectives of this clause are as follows—*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Council comment: Noted

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

Council comment: Noted

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

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

- (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Variation to Height of Buildings, Clause 4.3:

The applicant submitted a Statement to support the variation to the Height of Buildings Development Standard, in order to justify the variation described above. This document provides the following justifications based on the merits of the proposal.

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

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

The applicant has provided the following justification for the contravention of the development standard:

Applicant Comment

4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Subclause 4.6(3)(a) (refer to **Section 2.1**) emphasises the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary in the circumstances.

The ways in which compliance with a development standard may be held to be “unreasonable or unnecessary” are well established. In Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe), Preston CJ provided a non-exhaustive list through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary.

While Wehbe related to objections made pursuant to State Environmental Planning Policy No. 1 – Development Standards (SEPP 1), in Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118 (Initial Action) the Court held that the common ways of demonstrating that compliance with a development standard is unreasonable or unnecessary as outlined in Wehbe are equally applicable to clause 4.6.

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demonstrating that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe* are equally applicable to clause 4.6.

The five methods outlined in *Wehbe* include:

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

It is sufficient to demonstrate only one of these methods to satisfy clause 4.6(3)(a) of LCLEP 2009 (*Wehbe*, Initial Action at [22], *Rebel* at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

However, in this case, it is demonstrated below that the **First Method** has been satisfied, and the objectives of the height of buildings standard are achieved notwithstanding the non-compliance with the numerical standard (see also Section 4.1 above).

When considering whether a development standard is appropriate and/or necessary, one must take into account:

- the nature of the proposed variation;
- the Subject Site context; and
- the design of the proposed development.

Following the decision in *Initial Action*, it was established that Clause 4.6 does not require an applicant to demonstrate that a development which contravenes a development standard have a better (or neutral) environment planning outcome than a development that complies with the development standard.

By providing the proposed crane at the height proposed, a site layout is achieved that:

- Ensures the ongoing viability and efficiency of the site to operate as a crane storage premises. The proposed crane at the exceeding height maximizes vertical space, allowing for better organization of the Subject Site. The proposed arrangement supports the safe and efficient storage, movement, and maintenance of cranes, ensuring the Subject Site can

continue to function effectively in the long term. The proposed crane will allow for the future growth and operational needs without compromising functionality.

- Enables plant and equipment to be located away from public view that can be screened; The proposed layout minimizes the impact of unsightly industrial equipment on the surrounding environment and the public.*
- Provides opportunity that will contribute to set a desirable precedent for future development in the locality of the industrial zone. The proposed Subject Site layout and design can serve as a model for future developments in the area, promoting high-quality industrial infrastructure that prioritizes both operational efficiency and environmental considerations. By setting such a precedent. This will ensure long-term viability of the industrial zoned land.*

The standard is unreasonable and unnecessary in the circumstances of the case on the following basis:

- The purpose of the crane in this instance is not just for traditional construction work but for the assembly of additional cranes, which requires more vertical reach and manoeuvrability. The LEP's height limit may not account for the specialized function of the proposed crane in the construction process. It is unreasonable to apply generic height standards without considering the specific operational needs and safety requirements involved.*
- It is important to request that the Council consider the crane as a temporary structure or building, rather than just a piece of construction equipment. When viewed in this context, the crane, particularly when used for crane assembly, is less imposing and disruptive than a typical 30-meter building. The crane is a vertical structure designed to operate efficiently within the Subject Site and does not necessarily impact the surrounding environment in the same way that a full-scale building might.*

The abovementioned justifications are considered valid, and in this instance a variation to the maximum building height development standard is considered to be acceptable. The proposed tower crane represents a significantly more efficient use of the Subject Site compared to its current operation as a storage premises. It optimizes space, resources, and functionality by introducing the proposed crane which enhances both productivity and sustainability, while reducing the environmental impact associated with the existing industrial activities. The proposed tower crane not only maximizes the Subject Site's efficiency but also aligns better with the zones land use, contributing to long-term economic benefits. The objectives of the relevant clause and E4 zone would be upheld as a result of the proposed development. In light of the above, the application of the height of building development standard is therefore unreasonable and unnecessary in response to the proposed development.

Council Comment:

In response to the applicant's justification raised above, Council provides the following comments:

- The height exceedance of the crane does not cause any operators (Bankstown Airport, South Western Sydney Local Health District and the Department of Defense) within or in proximity of the airspace above to be impacted.

- The proposed crane has a significantly lower visual and environmental impact than a permanent building of the same or lower height and the site overall is not considered to contribute to the same level of bulk or scale, noting adherence to setback requirements and the low site coverage proposed.
- The maximum height and swing operation of the crane will not hinder or obstruct surrounding industrial uses and activities or cause disruption to the surrounding area. The height exceedance of the crane also does not result in any notable additional overshadowing to adjoining properties given the long, thin structure of the crane.
- Given the proposed location of the crane and the site orientation, it is not expected that the cranes additional height would also have a negative impact on the public recreational zoned land to the east of Riverside Road, which in its immediate context is unmaintained vegetation.
- No acoustic or privacy impacts are identified as a consequence of the contravention of the development standard and the proposed tower crane would not result in an adverse effect on other surrounding land uses in terms of unsightliness and obstruction of views to surrounding sites with the closest residential zoned land being located approximately 385m to the west of the subject site.
- The existing site already includes an approved crane which is 7.53m lesser in height in comparison to the proposed crane, which is considered a minimal height difference in a visual sense when viewed from the ground plane. As such, the proposed crane is considered to remain consistent with the built form of the industrial area and character. Additionally, the proposed crane is only higher than the existing crane when at its extended operational height, however, the existing crane will remain 12.0m higher than the proposed crane when not in operation.
- The proposed crane is for the purpose of loading, unloading and storing the dissembled sections of tower cranes on the site, which directly contributes to the efficiency of the industrial activity on the site. The proposed crane is therefore not intended solely for traditional construction purposes.
- A specialized function of the crane requires increased vertical reach and enhanced manoeuvrability, which the existing LEP height controls may not have accounted for.
- The existing use of the Subject Site as a crane storage premises provides a buffer from heavy industrial uses and does not detract from nearby activity centres.

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

The variation statement also addresses whether there are sufficient environmental planning grounds to justify the contravention, as follows:

4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

In Initial Action, Preston CJ observed that in order for there to be “sufficient” environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

The environmental planning grounds to justify the departure of the development building height development standard are as follows:

- The Proposal is entirely consistent with the underlying objectives of the building height standard, as demonstrated in Section 4.1.*
- The Proposal is entirely consistent with the objectives of the E4 General Industrial zone, as described in Section 4.2.*
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in Section 4.3.*
- The additional building height beyond the 30m development standard does not cause any impact on existing development in the vicinity of the Subject Site by way of visual impact, disruption of view, loss of privacy and loss of solar access,*
- The Proposal has been designed to provide a materiality and form that ensures that the visual impact of the new additions integrates with the surrounding environment.*
- It is noted that the proposed crane will not permanently exceed the building height development standard as the crane arm can extend upwards and downwards, therefore will only temporarily exceed the building height standard.*
- Compliance with the remaining development standards applicable to the Subject Site is achieved.*

For the reasons outlined above, it is considered that the proposed variation to the height of buildings development standard under Clause 4.3 is appropriate and can be clearly justified having regard to the matters listed within clause 4.6(3)(b) under LLEP2008.

Councils Assessment of variation proposed:

- The proposed development is considered to be consistent with the objectives of the zone, the development standard and Clause 4.6.
- Besides the variation to building height given the circumstances, the applicant has enabled the proposal to achieve compliance with the applicable requirements of the LLEP 2008 and LDGP 2008. Ensuring compliance with the applicable standards and controls is considered to demonstrate that compliance with the standard is unreasonable in this case as the development can be sited with full adherence to local provisions.

- The DA also is fully consistent with the provisions of the relevant SEPP's, as previously demonstrated in this report.
- The development is considered to satisfy all of the relevant heads of consideration as per Section 4.15 (1) of the Act.
- It is considered appropriate in this instance to apply a degree of flexibility when applying the Height of Buildings development standard applicable to the subject site based on the town planning assessment of the Clause 4.6 Variation provided above. It is considered that the height exceedance of proposed crane in this instance is unlikely to result in detrimental impacts to the built and natural environments and the development is consistent with the characteristics of the zone and locality of the area.

Recommendation

As a result of the assessment above, it is also considered that compliance with the height of buildings standard is unreasonable or unnecessary due to the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard. The objectives of the Height of Buildings clause have also been addressed, as well as the objectives of the zone. Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 4.3 Height of Buildings in this instance.

With considerations to the discussion above, the proposal is also considered to be in the public interest and is therefore supported in this instance.

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

An assessment of the proposal against relevant sections in LDCP 2008 is provided in the table in Attachment 3.

Overall, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008 as demonstrated in the table in Attachment 3.

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

There are no additional matters in Environmental Planning and Assessment Regulation 2021 for consideration by the determining authority prior to granting of consent to this application.

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

Heads of Consideration	Comment
Built Environment	The proposed development is unlikely to generate adverse impacts on the surrounding built environment. The proposal is considered to be of an appropriate scale and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate efficient operations of an industrial use on the site and is not considered an over-development, while being consistent with the built character of the locality. Conditions of consent will be imposed to ensure the development will not generate adverse built environment impacts.
Natural Environment	The development is unlikely to have an adverse impact on the natural environment. No trees or other vegetation are proposed to be removed as a result of the development and the proposed crane is located on an existing hardstand area of the site.
Social Impacts	The application is unlikely to cause detrimental social impacts, being consistent with the industrial character of the area whilst providing efficiency for the industrial use carried out on site.
Economic Impacts	The proposal is considered to have a direct positive economic impact through the employment of operators for the crane and additional staff relating to the 24 hours operations approved under this application.

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

The subject use is a permissible development in the IN3 and the proposal satisfies the key planning controls as detailed above and is considered to be suitable for the site.

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Environmental Health Officer	Supported, subject to conditions.
Floodplain Management Engineer	Supported , no conditions required.

(b) External Referrals

DEPARTMENT	COMMENTS
Bankstown Airport	<i>The proposed Luff crane installation at an overall height of 42.91 m above Australian Height Datum (AHD) at this address will not penetrate the Obstacle Limitation Surfaces (OLS) for Bankstown Airport.</i> <i>As such the proposal does not raise any aviation safety implications for Bankstown Airport Pty Limited and the</i>

	<i>installation and operation of the crane are approved.</i>
South Western Sydney Local Health District	<i>I can confirm that the development at 28 Riverside Rd, Chipping Norton will not impact access to/from the Liverpool Hospital HLS.</i> <i>Kind regards,</i> Steve Graham Managing Director Aviation Management and Safety Advisers Accredited Aviation Safety & Compliance Auditors
Department of Defence	<i>Thank you for referring the abovementioned proposal to the Department of Defence (Defence) for comment. Defence understands that the proposal is for the installation of a new</i> <i>permanent tower crane for the loading, unloading and storing the disassembled sections of tower cranes on the site. The proposed crane will have a maximum height of 42.91 m AHD and is located approximately 7.3 km north east of the Moorebank Military Area.</i> <i>Defence has assessed the proposal with regards to any potential impacts to its activities and operations and does not object to the proposal.</i>

(c) Community Consultation

The proposal did not require notification in accordance with the Liverpool Community Engagement Strategy 2022. Notwithstanding, no submissions were received.

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

The development is considered to be in public interest as it is consistent with Council's adopted planning instruments which have been subject to public review and consultation.

7. DEVELOPMENT CONTRIBUTIONS

Contributions are not required in accordance with the Liverpool Contributions Plan 2018 – Established Areas.

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.

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

9. RECOMMENDATION

That Liverpool Local Planning Panel, as the consent authority, grants consent to DA-583/2024 for the proposed new Tower Crane and extension of operating hours.

ATTACHMENTS

1. Draft Unstamped Determination Documents (Under separate cover)
2. Draft Conditions of Consent (Under separate cover)
3. Liverpool Development Control Plan 2008 Assessment Table (Under separate cover)

Item Number:	3
Application Number:	Application No. DA-550/2024
Proposed Development:	Demolition of the site's existing structures followed by the construction of a new co-living housing development. The proposed new co-living housing building is to comprise of six (6) levels and provides for ground floor carparking. The proposal will provide for a total of forty-five (45) co-living rooms (excluding communal areas and other ancillary features) comprising of 42 single rooms and 3 double rooms.
Property Address	25 Simone Crescent, Casula
Legal Description:	Lot 1 DP 573750
Applicant:	Mr Huimin Cui on behalf of The Trustee for Ventureland Capital Trust
Land Owner:	Ventureland Capital Trust
Cost of Works:	\$ 5,234,557.44
Recommendation:	Refusal
Assessing Officer:	Tamim Omar

1 EXECUTIVE SUMMARY

Council has received a Development Application (DA No. 550/2024) seeking consent for the demolition of existing structures and construction of a 6 storey Co-Living Housing development at Lot 1 DP 573750, 25 Simone Crescent, Casula 2170.

The site is zoned R4 High Density Residential pursuant to Liverpool Local Environmental Plan 2008 and the proposed development is permissible with consent via Clause 67(b) of the State Environmental Planning Policy (Housing) 2021.

The DA was notified for a period of 14 days between 28 November and 13 December 2024 in accordance with Community Participation Plan 2022. 34 submissions were received during the public consultation period objecting to the proposal. A community consultation meeting between Council Planners and members of the local community was held on 4 February 2025 in response to the submissions received by Council during the notification period. The issues of concern raised in the submissions can be summarised as follows:

- Traffic generation.
- Overshadowing and solar access.
- Limited parking provided.
- Out of character.

- Neighbourhood demographics changing and safety; and
- DCP non-compliances – Related to setbacks and the height of building.

Additional matters were raised in the Community Consultation Session held on-site on 4 February 2025 which are as follows:

- Site isolation.
- Road safety.
- Zoning characterisation and lack of community consultation.
- Unsuitability of area as "accessible"; and
- Lack of infrastructure to support such developments.

The key issues associated with the proposal relate to:

- Non-compliance with the requirements of State Environmental Planning Policy (Housing) 2021, Chapter 3 Co-Living Housing.
- Non-compliance with the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6 Water Catchments
- Design issues as highlighted by the Design Excellence Panel
- Non-compliance with Section 6,26 & 28 of the Liverpool DCP Part 1

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 contentious development being subject to 10 or more unique submissions by way of objection.

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

2. SITE DESCRIPTION AND LOCALITY

2.1 The locality

The area, whilst being zoned for R4 High Density Residential is currently characterised by low density residential development and is within proximity to the Casula Mall. Whilst there have been a small number of development approvals for residential flat buildings, these have not begun been activated or began construction.

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

North (front)	Single storey low density residential housing
South (rear)	Casula Mall and low density residential housing.
East (side)	Double storey low density residential housing
West (side)	Double storey low density residential housing

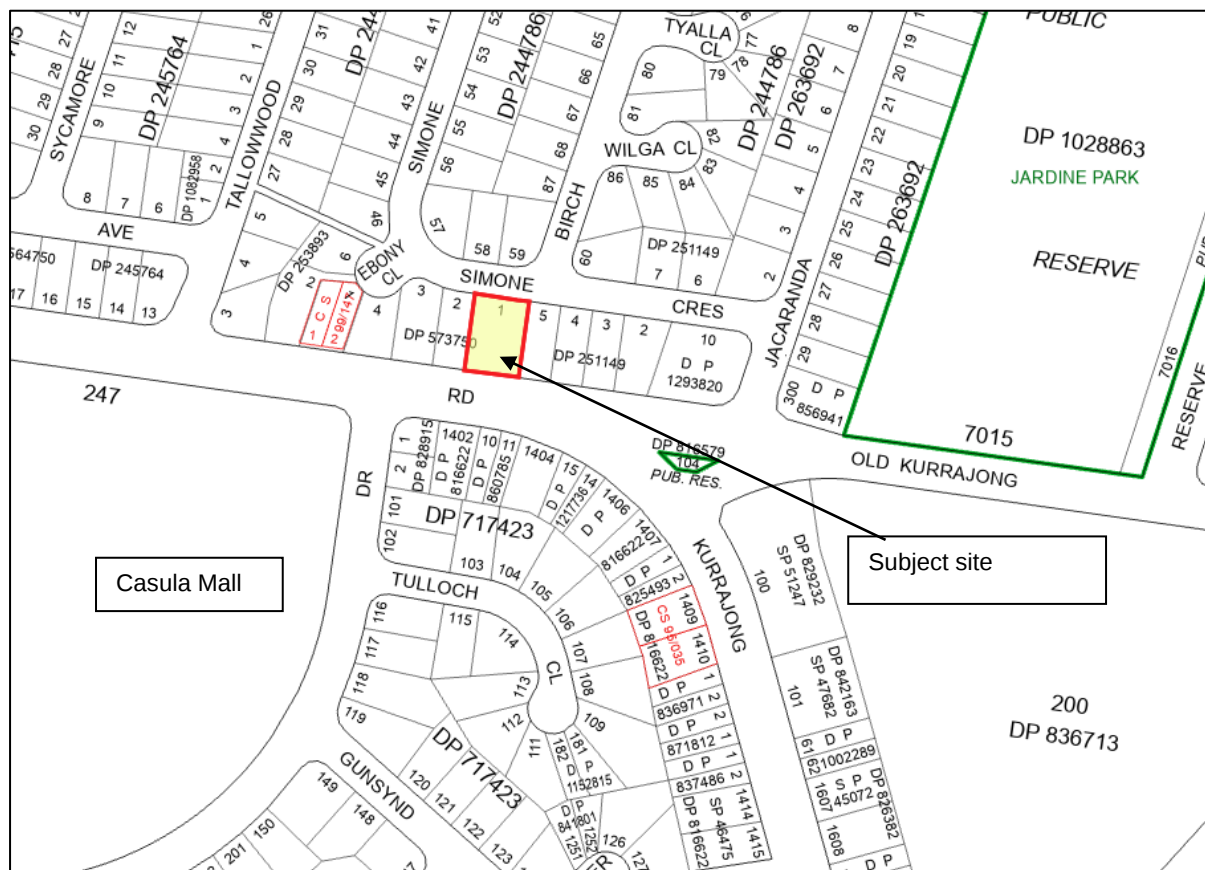


Figure 1: Locality Surrounding the Proposed Development (Source: Geocortex)

2.2 The site

The subject site is identified as Lot 1 in DP 573750 and is known as 25 Simone Crescent, Casula. It is regular in shape with a frontage of 25.1metres to Simone Crescent and a depth of 36.575m, with a total area of 947.7m². The site also contains frontage to Kurrajong Road however this is access denied as Kurrajong Road is identified as a 'Regional Road' according to NSW Road Networks Classifications Maps.

Currently, the subject site contains a single storey dwelling house and garden shed as shown in Figure 2.

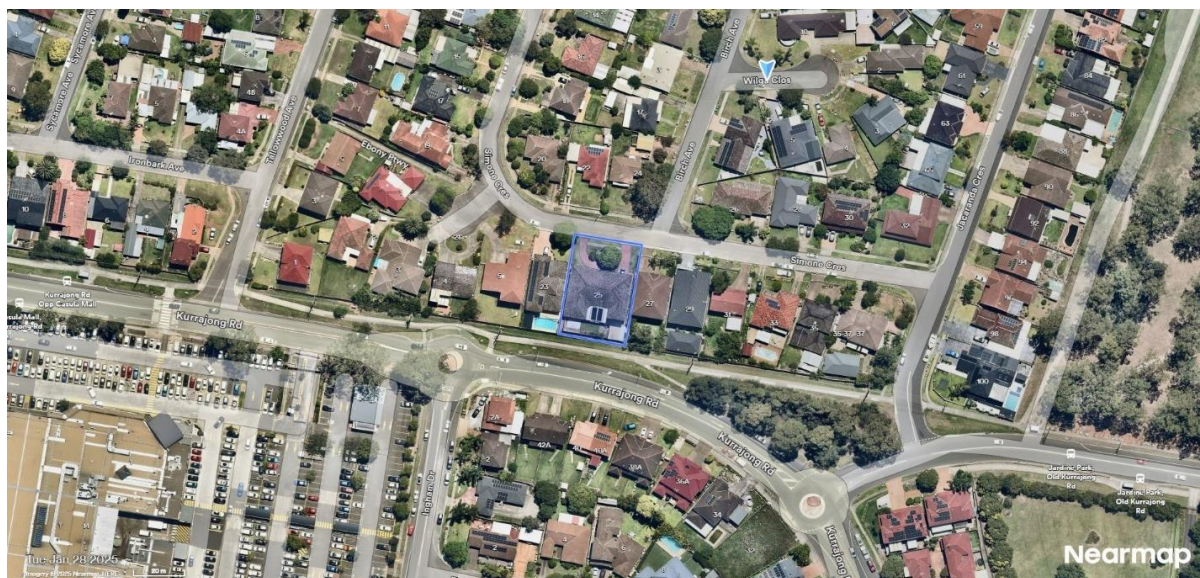


Figure 2: Aerial view of the site (Source: Geocortex)

3. BACKGROUND/HISTORY

- The Development Application (DA) was lodged with Council on 25 November 2024
- The Development Application was referred to the following internal Council Departments:
 - Waste Management
 - Traffic Engineering
 - Urban Design
 - Land Development Engineering
 - Community Planning
 - Design Excellence Panel
- The DA was notified for a period of 14 days between 28 November and 13 December 2024.
- A community consultation meeting between Council Planners and members of the local community was held on 4 February 2025 in response to the 34 submissions received by Council during the notification period
- The DA was appealed to the Land & Environment Court on 7 February 2025. A copy of the filed SOFAC is found at Attachment 6.
- Design Excellence Panel meeting held for DA-550/2024 on 13 February 2025. A copy of the minutes is found at Attachment 3.

4. DETAILS OF THE PROPOSAL

The proposed development consists of the following:

- Demolition of all structures
- Construction of a 6-storey Co-Living Housing development.

- The proposal is to consist of 45 co-living rooms (42 single rooms, 3 double rooms)
- 2 communal living areas (located on ground floor and at level four)
- 1 communal open space (located on ground floor adjoining communal living area)
- 9 parking spaces (at grade)



Figure 3: Photomontage of proposed development (Source: Texco Design)

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 (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy - SEPP (Sustainable Buildings) 2022
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Liverpool Local Environmental Plan (LLEP) 2008.
- Liverpool Development Control Plan (LDCP) 2008.

Other Plans and Policies

- Liverpool Council's Social Impact Assessment Policy

Contributions Plans

- Liverpool Contribution Plan 2018 – Established Areas 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

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

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

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The proposed development remains consistent with the existing use of site being for residential purpose. There is no historical evidence indicating that any other use other than residential has occurred at the subject site, or that any contaminating activities have occurred on the site.
(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 not considered to contain likelihood of contamination. Standard unexpected contamination conditions could be applied if the application were to be supported.
(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.	As above.

Based on the above assessment, it is considered the proposal would satisfy the relevant objectives and provisions of the SEPP (Resilience and Hazards) 2021, subject to conditions relating to unexpected find protocols during construction, in ensuring the subject site is suitable for the proposed development if the application were to be supported.

(b) State Environmental Planning Policy – SEPP (Sustainable Buildings) 2022

In accordance with this policy, and in line with the *EP&A Regulation 2021*, new residential dwellings which are identified under this policy require a BASIX certificate that measures the building sustainability index to ensure dwellings are designed to use less potable water and are responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for dwellings.

Pursuant to the *EP&A Regulation 2021* a BASIX building is defined as:

BASIX building means a building that contains at least 1 dwelling, but does not include the following—

- a) hotel or motel accommodation,
- b) a boarding house, hostel or **co-living housing** that—
 - i. accommodates more than 12 residents, or
 - ii. has a **gross floor area exceeding 300 square metres**.

As the proposal is for co-living housing with a gross floor area of greater than 300m² SEPP (Sustainable Buildings) does not apply to this application.

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

The subject land is located within the Georges River Catchment and as such, Chapter 6 Water Catchments of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies. The SEPP (Biodiversity and Conservation) 2021 aims to maintain and improve the water quality/quantity and river flows of the Georges River and its tributaries.

The application was referred to Council's Land Development Engineering section which reviewed the stormwater management and drainage associated with the proposal. The proposal was not deemed to meet Council's OSD policy and the following amendments were required in regards to stormwater design:

1. Provide 300mm minimum freeboard from the emergency overflow level of the OSD tank to the proposed finished ground floor level.
2. Indicate how the landscape area at the rear and both sides of the site will drain and show connection of retaining wall sub soil lines to the proposed pit and pipe system.
3. Provide details of the proposed retaining walls.
4. Provide proposed levels of the carpark area and indicate fall to proposed pits.
5. Provide electronic copy of DRAINS model for checking.

Accordingly, the proposed development is not considered to meet the objectives of the SEPP and is likely to have a negative impact on the environmental quality of the Georges River Catchment.

(d) State Environmental Planning Policy (Housing) 2021

SEPP (Housing) 2021 was introduced on 26 November 2021 and is designed to facilitate the development of affordable and diverse housing in the right places and for every stage of life. The SEPP includes planning provisions for a range of housing types. Chapter 3, Part 3 includes the introduction of new provisions for co-living houses. These are known as 'new generation' boarding houses which share features with traditional boarding houses but are self-contained.

The proposed development application is not considered consistent with the broader aims of the SEPP and generates the following Chapter 3, Part 3 specific matters for consideration.

Clause	Requirement	Proposed	Comment
Clause 67 – Co-living housing may be carried out on certain land with consent			
	Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument.	The site is zoned R4 High Density Residential pursuant to LLEP2008. Residential Flat Buildings are permitted with consent	Complies
Clause 68 – Non-discretionary development standards – the Act, s 4.15			
(1)	The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.		Noted.
(2)	The following are non-discretionary development standards in relation to development for the purposes of co-living housing—		
(a)	for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,	Site area: 947.7sqm <u>LLEP 2008:</u> Maximum FSR = 1.2:1 Maximum GFA = 1,137.24m ² <u>Permitted (with additional 10%):</u> FSR = 1.32:1 GFA = 1250.96m ² <u>Provided:</u> FSR = 1.31:1 GFA: 1250.83m ²	Complies
(b)	for co-living housing containing 6 private rooms— (i) a total of at least 30m ² of communal living area, and (ii) minimum dimensions of 3m for	Refer to (c) below.	N/A

	each communal living area,		
(c)	for co-living housing containing more than 6 private rooms— (i) a total of at least 30m ² of communal living area plus at least a further 2m ² for each private room in excess of 6 private rooms, and (ii) minimum dimensions of 3m for each communal living area,	45 private rooms total <u>Required:</u> 30m ² + (39 rooms x 2) =78m ² Communal Living Area <u>Provided:</u> Ground: 34.5m ² (excluding kitchen and bathroom) & (inclusive of manager work station) L4: 57m ² (excluding kitchen and bathroom) Total provided: 91.5 m ²	Complies
(d)	communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	<u>Required:</u> Site area: 947.7m ² 20% of site: 189.54m ² <u>Provided:</u> Ground floor COS –60sqm outdoor deck area Fourth Floor COS: 40sqm balcony area Total COS: 100sqm	Does not comply
(e)	unless a relevant planning instrument specifies a lower number— (i) for development on land in an accessible area—0.2 parking spaces for each private room, or (ii) otherwise—0.5 parking spaces for each private room,	The site is classified as an Accessible area (c) pursuant to the SEPP as the site is within 400m walking distance of a bus stop used by a regular bus service within the required hours. Total no. private rooms: 45 <u>Required:</u> 0.2 x 45 = 9 (9) parking spaces <u>Provided:</u> 9 car spaces provided	Complies
(f)	for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	Refer to (g) below.	N/A

(g)	for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a <u>relevant planning instrument</u>. <i>LLEP 2008:</i> landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.	The relevant planning instrument, being the Liverpool LEP 2008 is supported by the planning controls within the Liverpool DCP 2008. The LDCP establishes minimum landscaping requirements under Part 3.7 Residential Flat Buildings in the R4 Zone (outside Liverpool City Centre) <u>Landscaped area</u> is defined in Liverpool <u>LEP</u> 2008. <u>Required:</u> 1. A minimum of 25% of the site area shall be landscaped area. 2. A minimum of 50% of the front setback area shall be landscaped area. <u>The subject site is required to provide 236.925sqm of landscaped area in total.</u> <u>Provided:</u> Total landscaped area provided: 315sqm Total front setback area (based on 5.5m from street): 145m². Total landscaped area within the front setback provided: 85m² (58.6%).	Complies
Clause 69 – Standards for co-living housing			
(1)	Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—		Complies
(a)	each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m² and not less than— (i) for a private room intended to be used by a single occupant—12m², or (ii) otherwise—16m², and	<u>Required:</u> Single occupant room: 12-25m² Double room: 16-25m² <u>Provided:</u> Single occupant rooms: 13-16m² Double room: 21-22m²	
(b)	the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density	<u>Required:</u> Min lot size: 800m²	

	Residential—600m ² , or (ii) for development on other land—800m ² , and (iii) (Repealed)	<u>Provided:</u> Lot size provided: 947.7m ²	
(c)	for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co- living housing— (i) will not contain more than 12 private rooms, and (ii) will be in an accessible area, and	Not applicable to R4 zone.	N/A
(d)	the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	A desk is provided within the ground floor communal living area for a manager.	Complies
(e)	for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	Not applicable to R4 zone.	N/A
(f)	adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	Each room is provided with a bathroom and kitchenette. A washing machine/dryer combo void is proposed to be provided within each kitchenette. No confirmation is given regarding whether laundry facilities will be provided however.	Does not comply
(g)	each private room will be used by no more than 2 occupants, and	Each room is to be used by either 1 or 2 occupants.	Complies
(h)	the co-living housing will include adequate bicycle and motorcycle parking spaces.	The LDCP 2008 Part 1 General Controls for all Development, Part 20.3 (Table 13) has been used as a guide to determine what is considered “adequate”. The development resembles that of a boarding house and as such the below requirements have been assessed. Total number of beds: 45 Total number of units: 45 <u>Required Bicycle Parking:</u>	Does not comply

		Resident: 1 per 10 beds = 4.5 Visitor: 1 per 10 units = 4.5 Total required = 9 <u>Provided:</u> Bicycle parking spaces: 15 Motorcycle parking spaces: 3 Given that the proposal incorporates 45 rooms and is able to accommodate 48 persons at any one time, the provision of a total of 27 spaces (9 vehicle, 15 bicycle, 3 motorcycle) is not considered adequate and provision should be provided for further motorcycle parking.	
(2)	Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—		
(a)	the front, side and rear setbacks for the co-living housing are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or (ii) for development on land in Zone R4 High Density Residential—the minimum setback <u>requirements for residential flat buildings under a relevant planning instrument</u> , and	The relevant planning instrument, being the Liverpool LEP 2008 is supported by the planning controls within the Liverpool DCP 2008. The LDCP establishes minimum setback requirements under Part 3.7 Residential Flat Buildings in the R4 Zone (outside Liverpool City Centre). <u>Required Front Setback:</u> Front Setback (non classified road) = 5.5m <u>Provided:</u> Front setback = 9.0m to ground floor building line <u>Required side setback:</u> Side Setback to R4 zone (First 10m in height) = 3m Side Setback to R4 zone (Greater than 10m) = 8m <u>Provided:</u> Side Setback <10m = 3m Side Setback >10m Level 4 & Level 5 = Part 5m, part 6.2m	Complies Does not comply

		<u>Required Rear setback:</u> Rear Setback to R4 zone: 8m <u>Provided:</u> Rear setback – 6m provided.	Does not comply
(b)	if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	<u>ADG Requirements:</u> <i>Up to four storeys (approx. 12m)</i> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <i>Five to eight storeys (approx. 25m)</i> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms <u>Provided Separation:</u> Up to 4 storey: Does not comply. 5 storey to 8 storey: Does not comply The exact floor plans for the 2 existing dwelling houses is not provided however there is evidence of bedroom windows and bathroom windows able to be seen from street level. In this regard, the proposal does provide for adequate building separation in meeting the required separation distances from existing built form.	Does not comply
		<u>ADG Requirements:</u>	N/A

		<i>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</i>	
(c)	at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	The ground floor communal living area is north facing however given the balcony overhang, it is not considered that this communal living area receives adequate sunlight. Further, the Level 4 communal living area only receives 2 hours of solar access.	Does not comply.
(d),(e)	(Repealed)		
(f)	the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	The design is not considered to be compatible with the character of the local area given the non-compliances proposed via the side and rear setbacks and noncompliance with building separation requirements as per the ADG.	Does not comply
	Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing.		N/A
Clause 70 – No subdivision			
	Development consent must not be granted for the subdivision of co-living housing into separate lots.		Complies. No subdivision is proposed.

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned R4 High Density Residential pursuant to the LLEP 2008. An extract of the zoning map is provided in Figure 3 below.

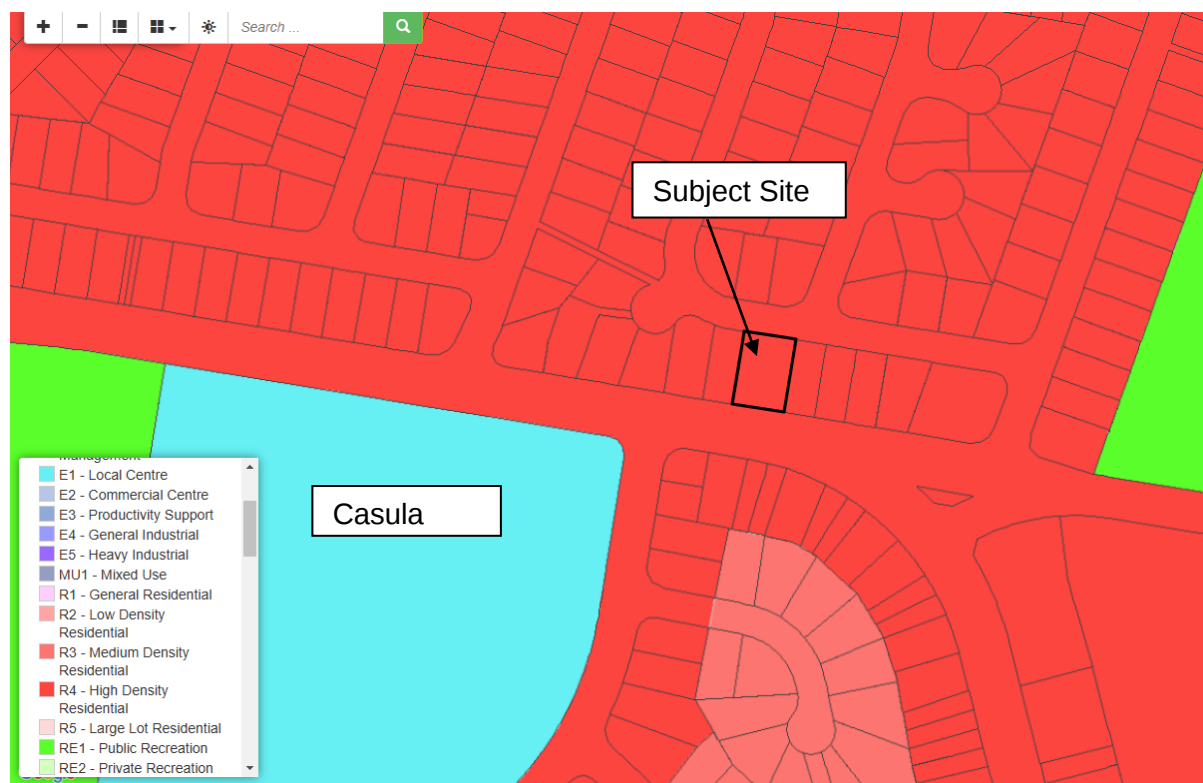


Figure 3: Zoning Map (source: Geocortex)

(ii) Permissibility

The proposed development is best defined by the standard instrument as Co-Living Housing is not identified as permitted land use with consent within the R4 High Density Residential Zone under Liverpool Local Environment Plan 2008. The proposal is a permitted form of development within the R4 High Density Residential zone pursuant to Clause 67 of the State Environmental Planning Policy (Housing) 2021 which states the following:

Development for the purposes of co-living housing may be carried out with consent on land in a zone in which—

- a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or
- b) development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument.

Pursuant to Liverpool Local Environment Plan 2008, residential flat buildings are permitted with consent within the R4 High Density zone. Thus, the development is permitted with consent pursuant to Clause 67(b) of the State Environmental Planning Policy (Housing) 2021.

Co-living housing means a building or place that—

- a) has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and
- b) provides occupants with a principal place of residence for at least 3 months, and

- c) has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day,

but does not include backpackers' accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

(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 proposal is considered to be consistent with the objectives of the zone in that:

- The proposal provides a different form of housing typology within a high-density residential environment
- The proposal provides for essential housing needs within the Sydney Basin within a high-density residential environment
- The proposal provides for a high concentration of housing within an accessible area as defined by the State Environmental Planning Policy (Housing) 2021 and is close to services and facilities within the Casula Mall.

The proposal is considered to not be consistent with the objectives of the zone in that:

- The proposal as designed fragments the future development of adjoining sites as the proposed setbacks are non-compliant with DCP standards and does not meet Apartment Design Guidelines Building Separation requirements.

(iv) Principal Development Standards

LLEP 2008 contains a number of principal development standards which are relevant to the proposal, as detailed below.

Development Provision	Requirement	Proposed	Comment
Part 4 Principal Development Standards			
2.7 Demolition	The demolition of a building or work may be carried out only with	Demolition is proposed as part of this application.	Complies

	development consent		
4.1 Minimum subdivision lot size	1000m ²	947.7sqm as per the survey plan prepared by Ensure Consulting Pty Ltd Dwg No.250095-DE-01 Rev A	Complies via SEPP Pursuant to SEPP (Housing) 2021; Clause 69 (1) (b)(ii), the minimum lot size for development on other land is 800sqm.
4.3 Height of Buildings	R4 zoned land = 18m	Maximum building height proposed is 19.3m and which exceeds the maximum 18m requirement. The maximum non-compliance is 887mm or 4.87%. The proposed non-compliance relates to the lift overrun	Considered acceptable subject to Clause 4.6 Variation.
4.4 Floor Space Ratio	R4 zoned land = 1.2:1	Pursuant to LLEP 2008, the maximum FSR is 1.2:1. Pursuant to SEPP (Housing) 2021; Clause 68(2)(a)(ii), an additional 10% of the maximum permissible floor space ratio is permitted if the additional floor space is used only for the purposes of co-living housing. Maximum allowable FSR is 1.32:1	Complies via SEPP

4.6 Exceptions to development standards	The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	A degree of flexibility is sought with regards to Clause 4.3 Height of Buildings. Development Applications are not required to be accompanied by a written request to vary a development standard pursuant to Clause 4.6. <i>(Refer to discussion section below)*</i>	Considered acceptable – please refer to Clause 4.6 Discussion.
5.21 Flood Planning	Controls relating to the minimisation of flood risk to life and property.	The proposed development is not impacted by flooding	N/A
Part 7 Additional local provisions			
7.14 Minimum Building Street Frontage	R4 zoned land = 24m	Street frontage = 25.1m	Complies

Clause 4.6 Exceptions to Development Standards (Variation to Clause 4.3 Height of Buildings)

Clause 4.3 (2) of the LLEP 2008 states:

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

The proposal seeks a variation to the maximum height of building contained within LLEP 2008. As identified in the Height of Building Map (Figure 4) the maximum permissible height is 18m.

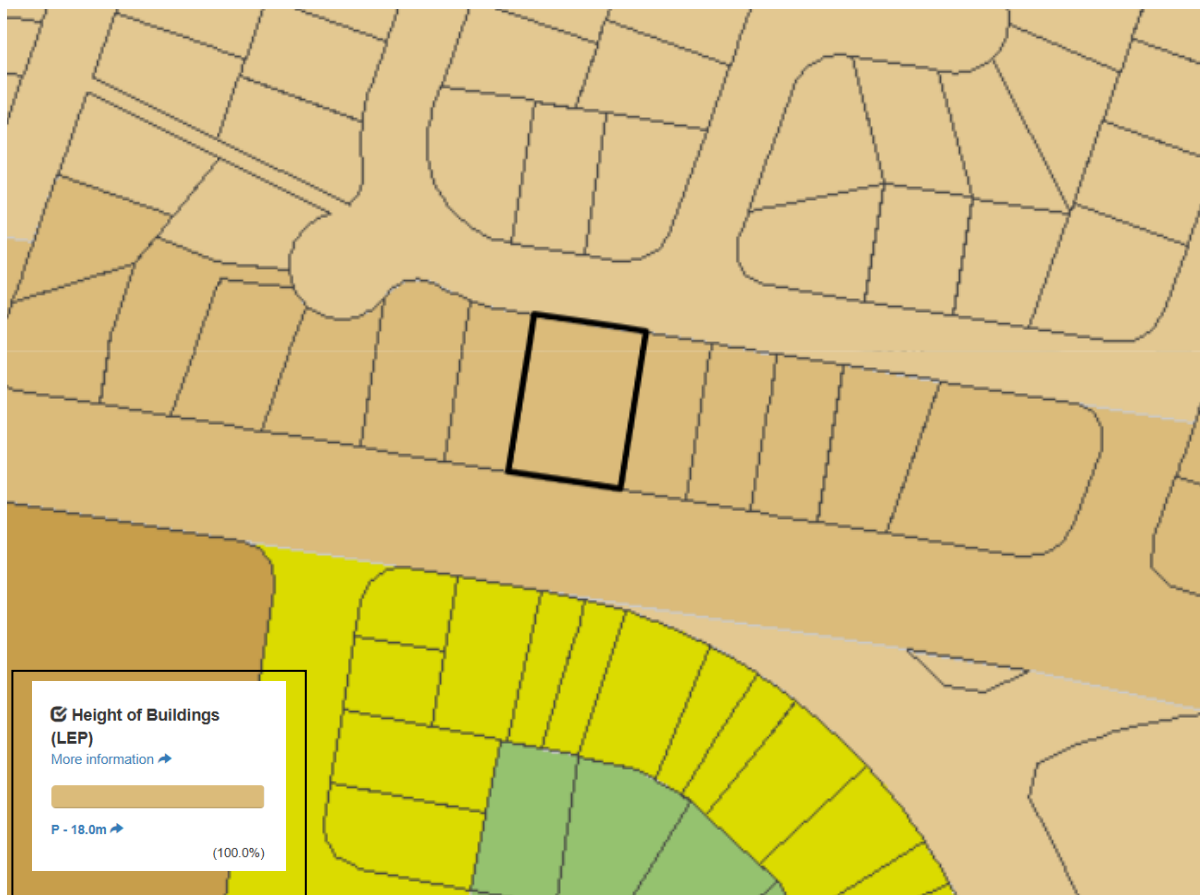


Figure 4: Height of Building Map (source: Geocortex)

The proponent has identified the breach of building height and has stated that the maximum noncompliance is 537mm or 2.98% as per the accompanying Statement of Environmental Effects and Clause 4.6 Variation Request. It is to be noted that the proponent has not identified the method used to calculate the breach in height. Council review of the proposal has indicated a different total maximum height of the proposal as explained in the following sections.

The objectives of Clause 4.6(1) are as follows:

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

Clause 4.6(3) prescribes:

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

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

The applicant has submitted a written request to justify the contravention of the development standard, pursuant to Clause 4.6(3) and can be found within Attachment 3 to this report.

Council Review of Building Height:

A review of the subject site indicates the site has irregular topography with an undulating site level across the site however generally sloping towards the street from South to North. Given the sloping site, reference is given to Land and Environment Court case, *Tony Legge v Council of the City of Sydney [2016] NSWLEC 1424* which addressed the interpretation of “ground level (existing)” for a sloping site. The Court determined that, in instances where a site has been altered or is sloping, the existing ground level should be measured from the interface with the public domain, such as the street frontage. This approach ensures a consistent and objective reference point for assessing building height compliance. This interpretation aligns with the Court’s reasoning in *Bettar v Council of the City of Sydney [2014] NSWLEC 1070*, which emphasized the importance of using the public domain interface in determining existing ground levels.

In applying the above principles to the subject development, the most appropriate level of the public domain (being the midpoint pedestrian footpath – RL44.66) is taken to determine the natural ground level of the subject site.

- As per the provided Architectural Plans contained at Attachment 4, the maximum RL for the Lift Overrun is 64.410
- Based on the natural ground level of the locality being considered at RL44.66, the total height of the building is calculated at 19.75m
- This represents a 9.72% variation to development standards.

Assessment against Clause 4.6(3)

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

- The extent of the height breach is limited to the lift overrun
- The portion of the site upon which the breach occurs is non habitable and serves no additional benefit to occupants of the building apart from gaining an essential service in the form of the lifts to traverse the building.
- The development standard is considered unnecessary in the circumstances given the breach does not cause additional impact to neighbouring properties by means of solar access and overshadowing or visual privacy/overlooking due to the central location of the lift core.
- The central location of the lift core is considered not visible from the immediate streetscape. The lift overrun may be visible on a broader scale however it is not of a scale to be considered to have significant visual impact.

That there are sufficient environmental planning grounds to justify contravening the development standard.

- The underlying objectives of Clause 4.3 ‘Height of Buildings’ in the Liverpool Local Environment Plan 2008 are as follows:

- a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
 - b) to permit building heights that encourage high quality urban form,
 - c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
 - d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- The lift overrun as assessed against the objectives indicates;
 - a) The lift overrun does not create additional habitable floor space thus satisfying objective a)
 - b) The lift overrun does not impact the urban form of the development being central to the building and not visible from the streetscape thus satisfying objective b)
 - c) The lift overrun does not reduce the availability of exposure to sky and sunlight from adjoining properties or any nearby public areas thus satisfying objective c)
 - d) The area is zoned R4 High Density Residential and is located on the boundary of this zone. The lift core is not considered to impact transitional area between zones or impact upon land use intensity.

Conclusion

On this basis, the breach of the lift overrun is considered acceptable in the circumstance and compliance with the development standard is deemed unreasonable and unnecessary

As demonstrated in the above compliance table, the proposed development is generally consistent with the provisions of LLEP 2008 via the provisions of the Housing SEPP and is not compliant with the height limit of the area however this is considered to be acceptable on merit pursuant to the provisions of Clause 4.6 of the Liverpool Local Environment Plan 2008. Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 4.3 Height of Buildings pursuant to the Liverpool Local Environment Plan 2008.

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development*. Part 3.7 'Residential Flat Buildings

in the R4 zone' does not apply to this development even though the built form is akin to a residential flat building as the definition of the proposal is a Co-Living Housing development. It is noted however that despite the above, the provisions of Section 7 'Setbacks' of Part 3.7 of the Liverpool DCP 2008 are applied to this development pursuant to Clause (69)(a)(ii) of the State Environmental Planning Policy (Housing) 2021.

The development is found to generally comply with the provisions of the Part 1, LDCP 2008 except in relation to Section 6 'Water Cycle Management', Section 27 'Social Impact Assessment' and Section 29 'Safety and Security'

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 likely to create a detrimental impact on the natural environment surrounding the subject site as adequate details regarding stormwater management have not been provided.

In regard to the built environment, the proposed development is considered likely to cause detrimental impact on the existing built environment, as the proposal fails to adhere to regulatory controls and hence is not consistent with the desired future character of the area. It is considered that the proposed development has not been designed with sufficient regard to surrounding properties to ensure that any adverse amenity impact is minimized.

Social Impacts and Economic Impacts

Whilst the proposal would result in a positive economic impact in the locality through the capital investment value of the development. The proposal is considered to have the potential to generate adverse social impacts as the design of the proposal is not consistent with the desired future development typology in the locality and through the absence of the submission of a social impact assessment.

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

The development application should be refused because insufficient information has been submitted to sufficiently demonstrate that the works proposed are satisfactory and will not have detrimental impacts in relation to the suitability of the site, pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

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
Community Planning	Objection to the proposal
Land Development Engineering	Objection to proposal
Urban Design	Objection to proposal
Design Excellence Panel	The proposal is not supported by the DEP. Refer Attachment 2 for full set of DEP Comments
Traffic Engineering	Approval subject to conditions of consent
Waste Management	No objections subject to private waste collection servicing the development, conditions provided.

(b) External Referrals

The following comments have been received from external Agencies:

DEPARTMENT	COMMENTS
Endeavour Energy	Approval subject to conditions of consent
Sydney Water	Approval subject to conditions of consent

(c) Community Consultation

The proposal was advertised/notified for a period of 14 days from 28 November 2024 to 13 December 2024 in accordance with Community Participation Plan 2022. 34 submissions were received in response to the public consultation process.

It is to note that a community consultation meeting between Council Planners and members of the local community was also held on 4 February 2025 at the subject site.

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

Issue	Comment
Issue 1 - Limited parking provision	Council acknowledges the concerns raised by local residents and notes that the existing street widths cannot accommodate additional street parking from high density developments. It is to be noted however that for the purposes of the development, the provision of carparking is determined against Clause 68(2)(e) of the State Environmental Planning Policy (Housing) 2021 which states the following; <i>(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—</i> <i>(e) unless a relevant planning instrument specifies a lower number—</i> <i>(i) for development on land in an accessible area—0.2 parking spaces for each private room, or</i> <i>(ii) otherwise—0.5 parking spaces for each private room,</i> In accordance with the State Environmental Planning Policy (Housing) 2021, an accessible area is defined as the following. (a) 800m walking distance of a public entrance to - i. a railway station, or ii. a wharf from which a Sydney Ferries ferry service operates, or (b) 400m walking distance of - i. a public entrance to a light rail station, or ii. for a light rail station with no entrance - a platform of the light rail station, or (c) 400m 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 1 bus per hour servicing the bus stop between - i. 6am and 9pm each day from Monday to Friday, both days inclusive, and ii. 8am and 6pm on each Saturday and Sunday The Jardine Park, Old Kurrajong Road bus stop is the closest to the subject site, being 230m away on the northern side of Old Kurrajong Road and 280m away on the southern side. Bus Services are available between the nominated time periods as per Transport for New South Wales's schedules. Parking Calculation: Total no. private rooms: 45 Required: $0.2 \times 45 = \text{Nine (9) parking spaces}$ Provided: 9 car spaces provided Council does not have jurisdiction to contravene the requirements of the SEPP
Issue 2 - Traffic Generation	Council acknowledges concerns relating to the increase in traffic movement. A Traffic Impact Assessment (prepared by Genesis Traffic, dated 14 October 2024) has been prepared in support of the application. Council's Traffic team have reviewed the application and have no objections to the increase in traffic generation

	proposed being an additional 8 vehicles trips per hour.
Issue 3 – Out of character	Council acknowledges the existing character of the immediate locality is that of a low density nature however it is to be noted that the site is zoned for higher density forms of building typology and there are a number of development approvals in the proximity of the subject site for residential flat buildings which have not yet commenced construction. It is to note that an approved and constructed 5 storey residential flat building used for the purposes of affordable rental housing is located on the adjoining residential block on Ironbark Avenue (approximately 380m west). Thus, the area is considered one of being in transition.
Issue 4 – Overlooking and solar access	Council acknowledges and has identified the non-compliances with the DCP as outlined within Section 6.1(d) of this report. Due to the north south orientation of the site, the proposed building does not cause adverse overshadowing on the adjoining properties with each receiving minimum 3 hours of solar access to their private open space on the winter solstice. In regard to overlooking, the proponent has proposed 1.5m sill heights on the eastern and western facades to address overlooking.
Issue 5 – Neighbourhood demographics changing and safety	Council acknowledges the existing neighbourhood demographic and notes the potential change in demographics with the introduction of diverse forms of housing. It is noted that the application has not been supported by a Social Impact Assessment. The proposed development currently lacks information about the social impacts of the development and fails to identify and manage the potential positive and negative consequences of development to optimise social outcomes, consistent with Council's objectives for the community.
Issue 6 – DCP non compliances – setbacks and building height	Council acknowledges and has identified the non-compliances with the DCP as outlined within Section 6.1(d) of this report.
Issue 7- Site isolation	Council notes concerns with site isolation having regard to DCP requirements requiring a minimum 24m width to facilitate residential flat building development. It is noted that the subject development does not preclude the ability for the adjoining dwellings to amalgamate with adjoining properties to meet the minimum lot width requirement. On this basis, the issue of site isolation is not applicable.
Issue 8 – Road Safety	Simone Crescent has not been identified as an area of recorded incidents as per the TfNSW Crash Statistics as seen in the below snippet.

	Road Users by LGA: Liverpool Degree of casualty ● Killed ● Seriously Injured ● Moderately Injured ● Minor/Other Injured  Based on the estimated traffic generation as per the Traffic Report, Council does not deem the proposal to cause adverse road safety impacts to the extent that developments such as these cannot proceed. If the application were to be supported, standard construction traffic management plans would be conditioned accordingly.
Issue 9 – Zoning characterization and lack of community consultation	The site has been zoned R4 High Density Residential since the implementation of the Liverpool Local Environment Plan 2008 (LLEP 2008). It is to be noted however that the Liverpool Local Environment Plan is currently under review awaiting Gateway Determination from the Department of Planning. The Planning Panel report (RZ-8/2022) identified the lack of community consultation during the transition from Liverpool Local Environment Plan 1997 to LLEP 2008 and states the following: <i>The development of the LLEP 2008 occurred when Liverpool City Council (Council) was under administration, involved minimal community consultation and was not informed by the community's strategic vision for the Local Government Area (LGA). Notably, the Plan proposed a significant increase in residential density in suburban areas, which proportionally is aligned with the available local infrastructure. The majority of the extensive development potential in the Plan is yet to be realised, largely due to the poor application of these controls and associated feasibility issues as identified in the Liverpool Local Housing Strategy.</i>
Issue 10 – unsuitability of area as “accessible”	In accordance with the State Environmental Planning Policy (Housing) 2021, an accessible area is defined as the following. (d) 800m walking distance of a public entrance to - iii. a railway station, or iv. a wharf from which a Sydney Ferries ferry service operates, or (e) 400m walking distance of - iii. a public entrance to a light rail station, or iv. for a light rail station with no entrance - a platform of the light rail station, or (f) 400m 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 1 bus per hour servicing the bus stop between - iii. 6am and 9pm each day from Monday to Friday, both days inclusive, and iv. 8am and 6pm on each Saturday and Sunday The Jardine Park, Old Kurrajong Road bus stop is the closest to the subject site, being 230m away on the northern side of Old Kurrajong Road and 280m away on the southern side. Bus Services are available between the nominated time periods as per Transport for New South Wales's schedules.
Issue 11 – Lack of adequate infrastructure to support such development	It is noted within the LEP review that the transition to LLEP 2008 involved a <i>“significant increase in residential density in the suburban areas, which proportionally misaligned with the available local infrastructure and has not been delivered to date”</i>. Council acknowledges that the existing infrastructure in Casula may not be sufficient to service similar forms of development within the R4 High Density Residential portion of Casula if every lot were to develop to similar extent as the subject development proposal. As such the LEP review has outlined amendments to better suit the level of infrastructure available. It is to be noted however that as the subject development application has already been lodged prior to any amendment of the current LLEP 2008, the proposed amendments do not affect any current Development Applications under assessment by Council or appeal processes. It is also to note that this development is the first of its nature within this locality.

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

The Development Application should be refused because approval of the proposed development (in its current form) would not be in public interest, and it will set an undesirable precedent for inappropriate overdevelopment within the R4 High Density Residential zone and therefore would not satisfy Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*

7. DEVELOPMENT CONTRIBUTIONS

Development contributions have not been applied to the development in accordance with the Liverpool Contribution Plan 2018 – Established Areas, as the application is recommended for refusal in this instance.

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.

Based on the assessment of the application, it is recommended that the application be refused for the reasons discussed in this report

9. RECOMMENDATION

That Development Application DA No 550/2024 be refused based on the following reasons.

1. The proposal in its current format does not satisfactorily demonstrate that the development achieves satisfactory compliance with Clause 68 (2)(d), Clause 69 (1)(f) & (h) and Clause 69 (2)(a),(b),(c) &(f) of the State Environmental Planning Policy (Housing) 2021 pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b), 4.15(1)(c) & 4.15 (e) of the Environmental Planning and Assessment Act 1979.
2. The proposal in its current format does not satisfactorily demonstrate that the development achieves satisfactory compliance with Part 1 of the Liverpool Development Control Plan 2008 in particular Section 6 'Water Cycle Management', Section 27 'Social Impact Assessment' and Section 29 'Safety and Security' pursuant to Sections 4.15(1)(a)(ii), 4.15(1)(b), 4.15 (c) and 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.
3. Inadequate information has been submitted with the proposed development in order to satisfy the provisions of State Environmental Planning Policy – Biodiversity and Conservation 2021, Chapter 6 Water Catchments, pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
4. The proposed development in its current format has failed to demonstrate that the proposed development would not have an adverse impact on the built environment and natural environment, pursuant to Sections 4.15(1) (a)(iv), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
5. Insufficient information has been submitted to sufficiently demonstrate that the works proposed are satisfactory and will not have detrimental impacts in relation to the suitability of the site, pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

6. The proposed development is not considered to be acceptable having regard to the concerns raised from internal referrals within Council, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
7. It is considered that in the circumstances of the subject application, approval of the proposed development (in its current form) would not be in the public interest, and it will set an undesirable precedent for inappropriate overdevelopment within the R4 High Density Residential zone and therefore would not satisfy Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*
8. Accordingly, the proposed development is inconsistent with Clause 1.3 (b), (c), (d) and (g) of the Environmental Planning and Assessment Act 1979

ATTACHMENTS

1. Assessment against Liverpool DCP Part 1 (Under separate cover)
2. Architectural Plans (Under separate cover)
3. DEP 13th February 2025 - Minutes of Meeting (Under separate cover)
4. Clause 4.6 variation request (Under separate cover)
5. Refusal Reasons (Under separate cover)
6. SOFAC Filed 6 March 2025 (Confidential)

Item Number:	4
Application Number:	DA-439/2024
Proposed Development:	Proposed change of use to a depot for part of the site and minor additional works.
Property Address	77 Governor Macquarie Drive, Chipping Norton
Legal Description:	Lot 38 DP 17311
Applicant:	Charlotte Brabant
Land Owner:	Evolution MIT Services Pty Ltd
Cost of Works:	\$730,400
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Joseph Abukhader

1. Executive Summary

Council is in receipt of a development application DA-439/2024 seeking review by the Liverpool Local Planning Panel (LLPP) for a proposed change of use to a depot for part of the subject site to be operated for 24 hours seven days a week, with minor additional site works. The area at the subject site that contains the proposed development is located in the north-western and eastern portion of the site known as Tenancy 1B and Tenancy 2 and has an approximate area of 32,000m².

The developable area is zoned as E4 General Industrial pursuant to the Liverpool Local Environmental Plan (LLEP) 2008. The proposed use is permitted in the zone subject to consent. The proposed use has been operating from the subject site with previous consent from Liverpool City Council (DA-145/2015).

The original application was referred to the Liverpool Local Planning Panel (LLPP) in accordance with the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 06 May 2024*, as the development falls in the category of:

Contentions of Development

Development that:

(b) in any other case – is the subject of 10 or more unique submissions by way of objection

Pursuant to Section 8.3(5) of the *Environmental Planning and Assessment (EP&A) Act 1979*, the review of a determination or decision made by a local planning panel is also to be conducted by the panel.

The Development Application was required to be notified to properties within a 100m radius in accordance with the Liverpool Community Engagement Strategy and Participation Plan 2022. The proposal was notified from 20 October 2024 to 07 November 2024. Thirteen (13) unique submissions were received objecting to the proposal. The issues of concern raised in the submissions can be summarised as follows:

- Noise generated during operational hours
- Dust pollution
- Shipping container storage height
- Drainage
- Traffic impacts in the locality
- Soil contamination
- Hours of operation
- Floodlighting
- Storage of Hazardous items
- Safety concerns

Despite the matters raised in the objections the applicant has amended the application and has agreed to a series of conditions of consent that are likely to mitigate the environmental impacts of the proposal and resolve objectors' concerns. In addition to this, it is recommended that the application be approved subject to a trial period of 12 months to ensure that the proposal is complying with the conditions of approval and operating the premises in an acceptable manner.

The development has been assessed in accordance with the Liverpool Development Control Plan (LDCP) 2008, Part 1 – Controls for all development and Part 7 – Development in Industrial Areas. The development is consistent with the applicable development controls contained in the LDCP 2008.

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

2. Site and Surrounds

The subject site is identified as Lot 38 DP 17311 and is located at 77 Governor Macquarie Drive, Chipping Norton. The site has a frontage to Governor Macquarie Drive of 100.6m and side boundaries of 412.5m. The site is a regular lot shape and has an area of approximately 41,490m².

The site is bounded on the northern, eastern and southern boundaries by industrial developments, mostly characterised by smaller scale industrial activities and warehouses. The site fronts Governor Macquarie Drive to the west and there is a low density residential area located opposite Governor Macquarie Drive, approximately 40m from the site. Figure 1 represents the subject site in context of the locality.



Figure 1: Aerial View of subject site and surrounding area

3. Background and DA History

The following is a list of applications related to the subject site, from Council's record systems:

DA No.	Lodged	Proposed Development	Determined
DA-786/1995	Council does not have accessible records of these developments	Use of site for parking trucks and machinery and use of the existing dwelling by the site supervisor as a residence and office.	Approved on 07 April 1995
DA-909/1995	Council does not have accessible records of these developments	Use of site for the storage and sale of trucks. Approved	Approved on 28 April 1995
DA-451/1996	Council does not have accessible records of these developments	Land filling.	Approved on 08 January 1996
DA-436/1997	Council does not have accessible records of these developments	Erection of a Service Station/Convenience Store	Approved on 06 July 1998

DA-716/1998	Council does not have accessible records of these developments	Erection of an Office, Factory and Warehouse	Approved on 06 July 1998
DA-1785/2000	Council does not have accessible records of these developments	Demolition of storage Yard	Approved on 22 May 2000
DA-1895/2012	13 November 2011	use of the site for the purposes of a container depot	Refused on 26 August 2015
DA-145/2015	26 February 2015	Use of part of the subject premises as a Truck Depot to be operated 24 hours seven days a week, with associated site works.	Approved on 23 March 2018
DA-1072/2014	3 December 2014	Modification to Development Consent DA-145/2015 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to amend the terms of the consent including the deletion of the temporary trial period, alterations to parking layout, new site shed and modification to conditions of consent	Approved on 12 May 2015
DA-145/2015/A	03 January 2019	Modification to DA-1072/2014 pursuant to Section 96(1A) of the Environmental Planning & Assessment Act. The application seeks modifications to conditions relating to landscaping, right-of-carriageway, hours of operation, installation of a LPG tank	Withdrawn
DA-145/2015/B	01 April 2019	<i>Modification to Development Consent DA-145/2015 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to facilitate continued operation of truck depot and minor alterations to parking layout, proposed site shed and modification of a range of conditions.</i>	Withdrawn on 17 April 2019
PL-12/2019	2019	Pre-lodement DA for expansion of existing truck depot approved under DA-145/2015	Advice Provided
PL-4/2021	2021	Pre-Lodgement for confirmation of the Town Planning Compliance Review that was previously supplied to Liverpool City Council	Advice provided

		which notes that based on the activities being undertaken on site, we submit that the activities are consistent with the underlying consent (DA-145/2015) for the use of the subject premises as a Truck Depot.	
DA-810/2021	23 July 2021	Change of use to a transport depot	Refused on 18 August 2021
DA-439/2024	11 October 2024	Proposed change of use to a depot for part of the site and minor additional works.	Subject Currently assessment application under

4. Proposed Development

The development application seeks consent for the proposed change of use to a depot for the portion of the Site shown as Tenancy 1B and 2 in the architectural drawings (Figure 2) as well as minor additional works.

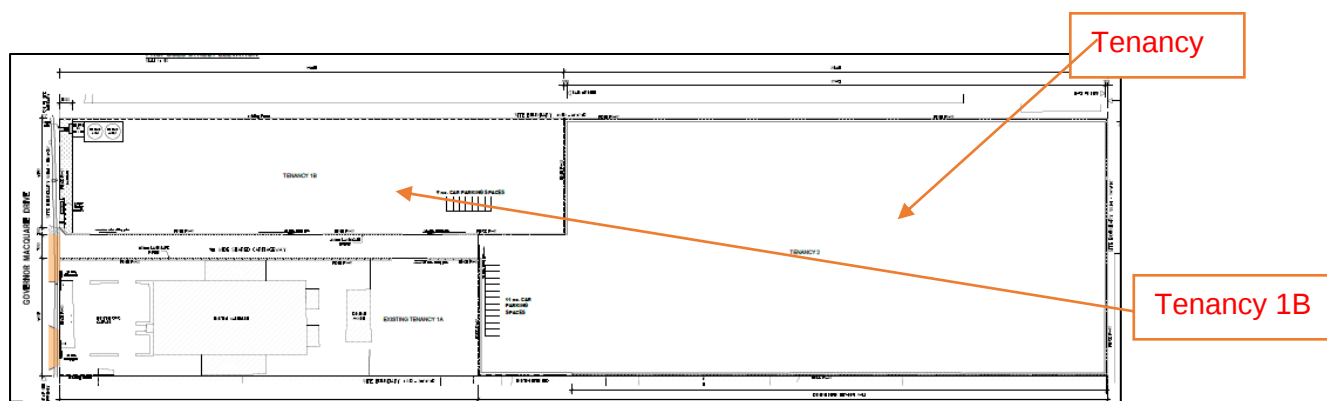


Figure 2: Architectural Site Plan (Source: Concept Y Architects 2024)

The details of the proposed development are provided below:

- Landscaping including:
 - Frontage planting
 - Interplanting around existing trees
 - Upgrading of planting on the northern section frontage planting to match the southern section frontage planting
- Proposed new and replacement fencing and gates with a proposed height of 2.1m high.
- Proposed lighting including 24 pole lights as:
 - 5 pole lights of 8m in height are proposed along the carriage way.
 - 19 pole light of 15m in height are proposed within Tenancy 2.
- Proposed hydraulic services installing a new hydrant system with pump room and tanks including:
 - new inground hydrant pipework;
 - hydrant pump room; and
 - hydrant tanks (above ground).
- The use shall operate 24 hours, seven days a week.

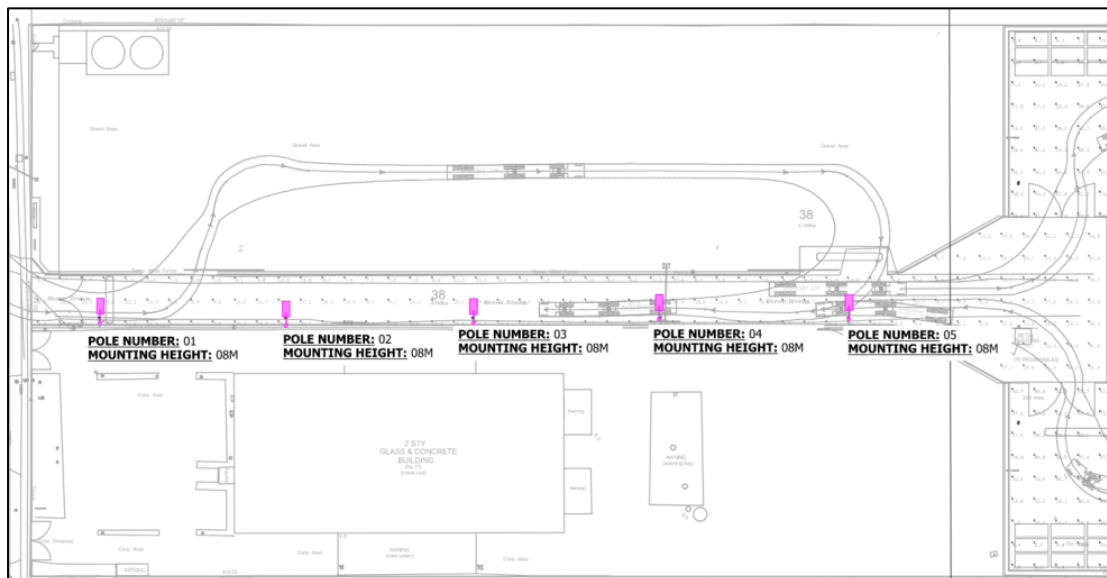


Figure 3: Location Plan for 5 Pole Lights (Source: Clever Engineering 2024)

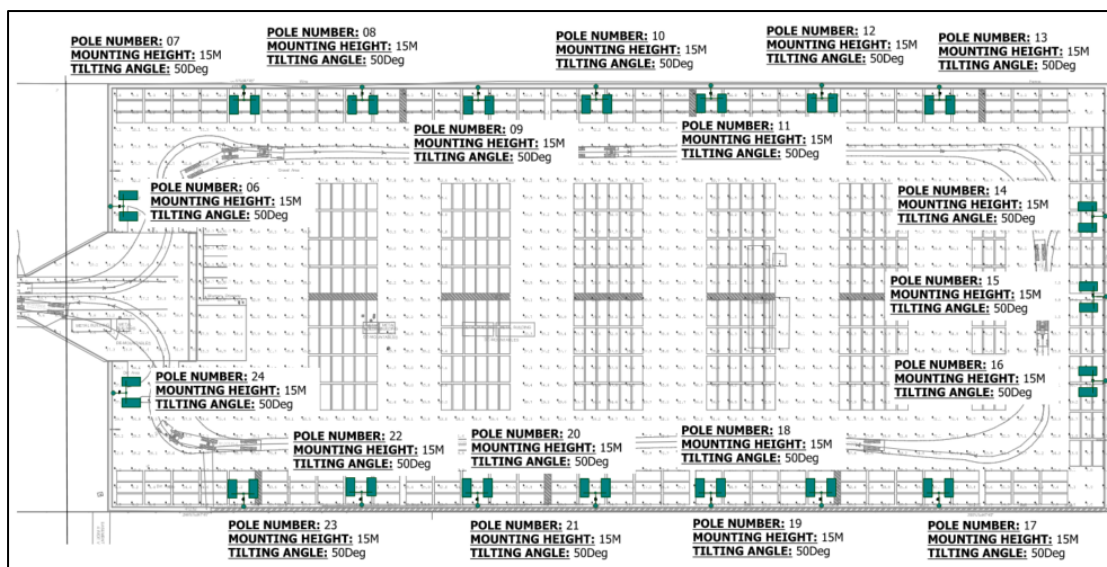


Figure 4: Location Plan for 19 Pole Lights (Source: Clever Engineering 2024)

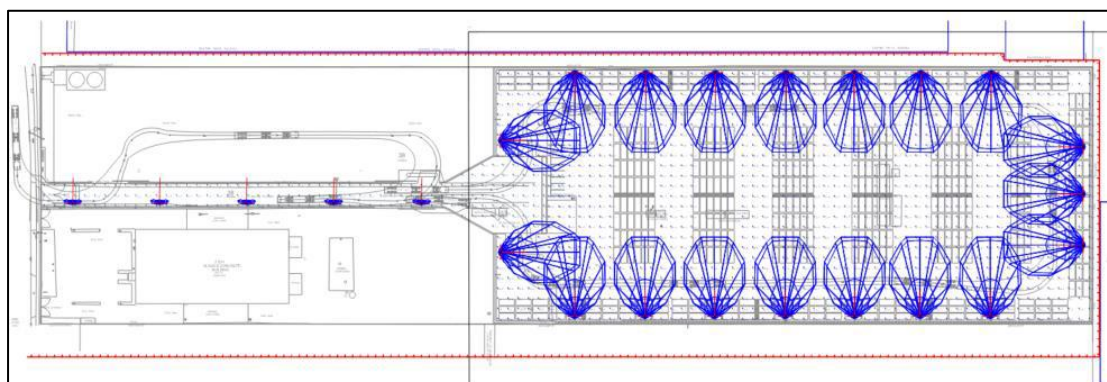


Figure 5: Proposed location plan for lighting poles (Source: Clever Engineering 2024)



Figure 8: Site Inspection (Location of proposed lighting on site) (Note: Image shows distance for proposed lighting on site appropriately setback from residents)



Tenancy
1B

Figure 9: Site Inspection (Driveway and Tenancy 1B)

5. Planning Assessment

The following planning instruments have been considered in the planning assessment of the subject Development Application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Liverpool Local Environmental Plan 2008
- Liverpool Development Control Plan 2008;
 - Part 1: General Controls for All Development; and
 - Part 7: Development in Industrial Areas

(a) State Environmental Planning Policy (Biodiversity and Conservation) 2021

The subject land is located within the Georges River Catchment and as such Chapter 6 Water Catchments of the SEPP, applies to the application. The Biodiversity and Conservation SEPP generally aims to protect the environment of the Georges River

Catchments by ensuring that biodiversity values are protected and preserved and that water quality impacts of future land uses are considered in a state, regional, and local context.

As DA-439/2024 sought consent only for a change of use and minor additional works, concept stormwater management and drainage plans associated with the proposal were not required. Whilst there is no increase in impervious surfaces proposes, the site is impacted by flooding and as such, the application was referred to Council's Flooding Engineering department who reviewed the proposed development and are supportive subject to conditions of consent.

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

Part 6.2 Development in Regulated Catchments	
Division 2 Controls on Development Generally	Comment
6.6 Water Quality and Quantity (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following— (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway, (b) whether the development will have an adverse impact on water flow in a natural waterbody (c) whether the development will increase the amount of stormwater run-off from a site, (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse, (e) the impact of the development on the level and quality of the water table, (f) the cumulative environmental impact of the development on the regulated catchment (g) whether the development makes adequate provision to protect the quality and quantity of ground water. (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development	The proposed development relates to a change of use to a truck depot and minor additional work. This will not impact on the existing water flow of the site.

ensures— (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and (b) the impact on water flow in a natural waterbody will be minimised.	
6.7 Aquatic Ecology	This clause is not applicable as there is no aquatic ecology present on site.
6.8 Flooding (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems. (2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not— (a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or (b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.	The proposal is on flood-affected land. The subject site has a low chance of flooding. The proposed development was referred to council's internal flooding engineers who reviewed the proposal and supported subject to conditions of consent.
6.10 Total catchment management In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.	The development is not considered to be of a scale which would impact upon the adjacent downstream local government area. Therefore, no consultation is required.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP (Biodiversity and Conservation) 2021.

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

Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, a consent authority is unable to grant development consent unless it has considered whether the land is

contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out. The proposed modifications give rise to the following considerations:

Pursuant to the above SEPP, Council must consider:

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

Aerial images from year 2002 found on Council's GeoCortex GIS system illustrates the presence of industrial activities, which suggests the site has principally been used for industrial purposes for at least the past 15 years. Council's internal record and customer request system (pathway) includes no records of any dumping or contamination complaints or activities associated with the subject site.

The proposed development was referred to Council's Environmental Health Officers for review of the Preliminary Site Investigation (Preliminary Site Investigation & Acid Sulfate Soil Assessment, JK Environments, 19 August 2024) submitted as part of DA-439/2024. Council's Environmental Health Officer advised that the proposed development is supported subject to conditions of consent.

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

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The subject site has been occupied for industrial activities since 2002 as shown on Councils aerial mapping system.
(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	Council's Environmental Health section reviewed the PSI and raises no objections regarding contamination, subject to conditions of consent.
(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.	Any recommendations in the PSI will be imposed as part of the approved documents.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP (Resilience and Hazards) 2021.

(c) State Environmental Planning Policy (Transport and Infrastructure) 2021

SEPP (Transport and Infrastructure) 2021 is applicable to the development, as the subject site has frontage to a classified road and has been considered as part of the assessment of this application. The general aim of the SEPP is to facilitate effective delivery of infrastructure across the State. The proposal is satisfactory with respect to provisions of the SEPP, of which the key provisions are as follows:

Traffic Safety, Road Congestion and Parking Implications

The SEPP specifically requires Council, to take into consideration the safety, efficiency and ongoing operation will not be adversely affected by the development. The proposal, along with its accompanying Traffic Report (Traffic Impact Assessment Report, Navianto Group, 18 September 2024), was considered by Council's internal Traffic Department. It is considered that the projected increase is unlikely to detrimentally impact on the current levels of service of the intersection and there are sufficient parking spaces for the proposed land use. The proposal is acceptable with respect to any traffic impacts on the surrounding locality and specifically the immediate road network

The proposal, being a *depot* land use, does not trigger clause 2.122 Traffic-generating development requirement for the Council to give written notice to Transport for NSW, as such the proposal was not referred to Transport for NSW.

It is considered that the proposal satisfies the provisions of the Transport and Infrastructure SEPP.

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

(i) Permissibility

The subject land is zoned E4 General Industrial as per the Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposed development is most appropriately defined as a "Depot", which is permissible within the E4 zone.

- A "depot" is defined under the LLEP 2008 as:

"depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building"

The objectives of the E4 zone are as follows:

(ii) Objectives of the zone

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

	any 2 zones. The relevant distance is 10 metres from any zone boundary.		
Clause 5.9 – Preservation of Trees or Vegetation	Councils consent is required prior to the removal of any existing trees of vegetation.	N/A No trees proposed for removal.	N/A
Clause 5.10 – Heritage Conservation	Council may, before granting consent to any development on land within the vicinity of land upon which a heritage item is situated, or a conservation area may require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned	N/A The subject site is not in proximity to any heritage items.	N/A
Clause 7.6 Environmentally significant land	Consider impacts of development on environmentally significant land, bed and banks of waterbody, water quality and public access to foreshore.	N/A The subject site is not located on environmentally significant land nor considered to impact any nearby environmentally significant land.	N/A
Clause 7.8 Flood Planning	Site is identified as flood affected.	Development has been assessed by Council's Flood Engineers who raise no objections to the proposal, subject to conditions	Complies
Clause 7.7 Acid Sulphate Soils	Site is classified as Class 2.	No works are proposed to occur below the Natural Ground Level.	Complies
Clause 7.41	Depots in Zones E4 If development for the	The site is partially identified as within	Assessment below

	purposes of a depot is permitted under this Plan on land identified as "Area B" on the Land Zoning Map, the total site area must not exceed 2,000 square metres.	'Area B' on the land zoning map, as such Council. Refer to discussion below.	
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Clause 4.6 Exceptions to Development Standards (Variation to Clause 7.41 Certain Developments in Zones E4 and E5)

Clause 7.41 (1) of the LLEP 2008 States:

Depots in Zones E4 If development for the purposes of a depot is permitted under this Plan on land identified as "Area B" on the Land Zoning Map, the total site area must not exceed 2,000 square metres.

The subject proposal is a change of use to a depot for part of the land that is in the E4 zoning. However, the subject site is identified as "Area B" on the land zoning map which can be seen in the below figure.

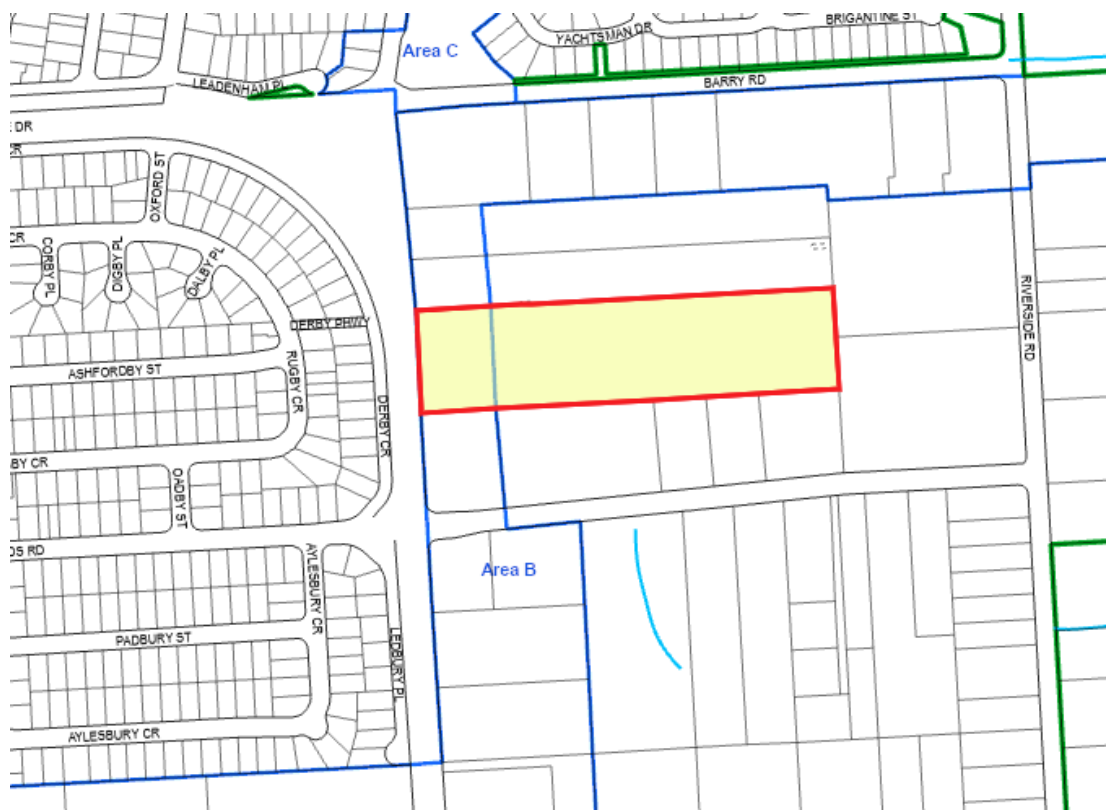


Figure 8: Site partially identified as Area B (LLEP 2008)

Changes to Clause 4.6 (3)

It is noted that as of 1 November 2023 the NSW government introduced changes to Clause 4.6. The subject application was lodged on 17 September 2023, therefore these changes will not be applicable. Notably there is no longer the need for an applicant to provide a written request to vary a development standard built into this clause, however, the consent authority is now required to be satisfied the applicant has demonstrated that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention. Previously consent authorities were not required to be satisfied with these tests.

Note: Applicant's are still required to provide with any DA involving the contravention of development standard, a document which argues the above mentioned tests, as per Clause 35B of the Environmental Planning and Assessment Regulations 2021, which stipulates the following:

35B Additional requirements for development applications involving contravention of development standards

- (1) This section applies to a development application that proposes, in accordance with a relevant EPI provision, development that contravenes a development standard imposed by any environmental planning instrument.*
- (2) The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that—*
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*
- (3) In this section—*

relevant EPI provision means—

 - (a) clause 4.6 of a local environmental plan that adopts the provisions of the Standard Instrument, or*
 - (b) an equivalent provision of another environmental planning instrument.*

Clause 4.6 (3) Assessment:

Clause 4.6 (3) requires the consent authority to be satisfied the applicant has demonstrated that-

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

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

(a) That compliance with the development standard is unreasonable or unnecessary.

Applicant Response:

It is noted that the application before Council is for the proposed change of use to a depot for part of the Site and minor additional works. The Site is existing and no change is proposed to the total site area as part of the current application. The Statement of Environmental Effects submitted in support of the application has demonstrated that any impacts associated with the application can be appropriately mitigated. Having regard for the above, it is considered that Clause 7.41 does not reasonably apply to the current application.

Council Comment:

The subject site is split across two different zones, and the total area requirement of 2,000 square metres for a depot is an inflexible condition that does not account for the zoning context and the specific characteristics of the land. Since the site is not entirely within Area B, which is the area identified for depot use under the plan, the application of this standard to the entire site is both unreasonable and irrelevant in this case. The zoning split suggests that the development standards may be misapplied across the whole site, as part of the land may fall under a zone where depot use is either not restricted or subject to different criteria. Thus, applying the 2,000 square metre limit to the entire site, especially when it is divided between two zones, does not reflect the realities of the land's zoning and is unnecessary in these circumstances. It would be more appropriate to assess the land based on its actual zoning and intended use.

An existing depot has operated on this site since 2015, which indicates that the land has been in use for the very purpose the development standard governs for many years without any known adverse impacts. The fact that the depot has been functioning successfully for an extended period suggests that strict adherence to the 2,000 square metre limit is unnecessary, as the historical use of the land demonstrates that the depot can operate effectively without causing any harm to the environment, surrounding land uses, or the community. Given this long-standing use of the land for depot purposes, requiring compliance with this development standard now seems unreasonable, as the site has proven capable of supporting a depot use in excess of the prescribed size without resulting in negative consequences. Furthermore, the council's lack of agreement with the application of this development standard reinforces the point that, in this case, the 2,000 square metre restriction is not needed to achieve the intended outcomes of the development controls.

Since the depot has been in operation for several years and no significant issues have arisen during that time, such as traffic concerns, environmental impact, or community disturbance, it can be argued that the 2,000 square metre development standards does not serve a meaningful purpose in the current context. The site has already demonstrated that it can accommodate the depot function without causing adverse impacts, and therefore, enforcing a limit on the site area would be unreasonable and unnecessary.

Given that the council has expressed disagreement with the application of this development standard, it further supports the view that compliance with the 2,000 square metre limit is not essential or appropriate in this case. If the governing body recognizes that this standard is

not particularly necessary for this specific site or type of development, it should be taken as an indication that a more flexible approach should be applied.

In conclusion, due to the fact that the site is split across two zones, the historical use of the land as a depot since 2015 without any apparent issues, and the council's disagreement with the standard's necessity, compliance with the 2,000 square metre development standard is unreasonable and unnecessary in this instance. The proposal to allow the depot to continue operating and expanding beyond this limit is consistent with the site's historical use and the surrounding zoning context and would not lead to any adverse impacts. Therefore, a relaxation or exemption from this standard is justified in these particular circumstances

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

Applicant Response:

It is noted that the application before Council is for the proposed change of use to a depot for part of the Site and minor additional works. The Site is existing and no change is proposed to the total site area as part of the current application. The Statement of Environmental Effects submitted in support of the application has demonstrated that any impacts associated with the application can be appropriately mitigated. Having regard for the above, it is considered that Clause 7.41 does not reasonably apply to the current application.

Council Comment:

In response to the statement that there are sufficient environmental planning grounds to justify contravening the development standard, it is important to highlight that the proposed development is fully compliant with the council's Development Control Plan (DCP), as clearly outlined in the accompanying report. The development meets all relevant requirements and aligns with the intended land use and character of the area, ensuring that it operates within the framework established by the DCP.

Furthermore, the proposed development also satisfies the objectives of the E4 zone, which include providing a range of industrial, warehouse, logistics, and related land uses, while ensuring the efficient and viable use of land for industrial purposes. By facilitating the continued operation of the depot, the development supports employment opportunities and promotes compatible land uses within the industrial zone. It also works to minimize any potential adverse effects of industrial activity on other land uses, as well as providing necessary facilities and services that meet the needs of businesses and workers.

The development aligns with the broader goal of encouraging land uses that complement and support heavy industrial zones, without detracting from activity centres. The nature of the proposed development, including its expansion of an existing, well-established depot, is in keeping with the objectives of the zone, as it fosters economic activity while preserving compatibility with surrounding industrial uses.

Given that the development is consistent with the objectives of the E4 zone, adheres to the requirements set forth in the DCP, and does not pose any significant environmental or planning concerns, it is considered that there are sufficient grounds to justify any contravention of the development standard. The proposed development represents an acceptable and appropriate form of development within the zone and will contribute positively to the local economy and industrial infrastructure.

Recommendation

The proposed variation to Clause 7.41 – Certain Developments in Zones E4 and E5 is supported, as the proposal:

- Demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- Provide sufficient environmental planning grounds to justify contravening the development standard.
- The proposal is consistent with the objectives of the zone or standard and therefore is in the public interest.

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

There are no applicable draft Environmental Planning Instruments.

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

Liverpool Development Control Plan 2008

- The proposed development is applicable to the Liverpool Development Control Plan 2008. The following key controls are discussed in the following table:

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
2. Tree Preservation	This control does not apply to species, populations or communities listed under the provisions of the Threatened Species Conservation Act (TSC) 1995.	Not applicable
3. Landscaping	Landscape Plan provided as part of the application.	Complies
4. Bushland and Fauna Habitat Preservation	The subject site is not listed as habitat preservation land and does not appear to contain any threatened species vegetation. Accordingly, this section does not apply.	Not applicable
5. Bushfire risk	The subject site is not located within a bushfire prone area.	Not applicable
6. Water Cycle Management	The proposed development does not propose any new buildings. The subject site will use the existing water cycle management.	Not applicable
7. Development near creeks and rivers	The development site is not within close proximity to a water course.	Not applicable

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
8. Erosion and sediment control	The applicant has not provided sediment control plans.	To be conditioned.
9. Flooding risk	The subject site is identified as being flood affected and the DA has been assessed by Council's Flood Engineers who raised no objection to the proposal.	Complies
10. Contamination land risk	The proposal is for a use that is for industrial purposes and the site has historically been used for industrial purposes. Accordingly, the proposed development is considered acceptable with regards to the contamination.	Complies
11. Salinity risk	The Salinity Map for Western Sydney (2002) identifies the site in an area of 'moderate' salinity.	Complies
12. Acid sulfate soils risk	The development site is identified as containing the potential for acid sulphate soils to occur. Site is classified as Class 2. No works are proposed to occur below the Natural Ground Level.	Complies
13. Weeds	No weeds identified on the subject site.	Yes
14. Demolition of existing development	No demolition proposed as part of the development application.	Not applicable
15. On-site sewerage disposal	The subject site does not require on-site sewerage disposal as the area has access to sewer.	Not applicable
16. Aboriginal archaeology	No items of Aboriginal Archeological significance identified on the subject site. Standard unexpected finds conditions imposed.	Not applicable
17. Heritage and archaeological sites	The development site is not identified as a heritage item or located within close proximity to a heritage item.	Not applicable
18. Notification of applications	The proposal was notified from 20 October 2024 to 07 November 2024. Thirteen (13) unique submissions	Yes

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
	were received objecting to the proposal During the exhibition period twelve submission were received. The issues raised within the submissions are discussed further within the report.	
20. Car Parking & Access Transport depot: means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking. Traffic Report Required to assess parking demand	The application was accompanied by a traffic report which addresses the car parking and access of the subject site. The proposal was reviewed by Council's internal Traffic and Transport department, who raised no objection.	Complies, subject to condition.
21. Water conservation	The proposed development does not propose any new buildings. The subject site will use the existing water conservation.	Yes
22. Energy conservation	N/A	Not applicable
25. Waste disposal and re-use facilities	Conditions of consent to be imposed stipulating the provision of appropriate waste disposal facilities during construction and appropriate sediment erosion control measures be implemented during construction.	Complies by condition
26. Outdoor advertising Signage controls in e4 zone; A maximum of one freestanding, pole or pylon sign per building or site applies	A proposed pylon sign is less than 5sqm in area, with its dimensions being 0.4mx1.5m. However the proposed freestanding pylon sign is 6m in height but will be conditioned to be at a maximum height of 5m.	Complies by condition.

PART 7 – DEVELOPMENT IN INDUSTRIAL AREAS		
the site is to be landscaped at ground level.	frontage which are proposed to be retained, and further planting has been proposed. The proposed landscape area is 1% of the site area (440s.q.m). Due to the site being extremely large with a size of 41,190s.q.m an assessment against the objectives of the control results in this departure complying on merit. Ultimately, the proposed landscaping areas provided at the front of the site reduces the visual impact of the industrial building and carparking spaces, which ultimately results in an attractive streetscape character along Governor Macquarie Drive's industrial area.	merit.
2) A development must provide a landscaped area along the primary frontage of a minimum width of 10m for sites greater than 4,000sqm	The proposed development provides a landscaped area along the primary setback with a width of approximately 41m.	Complies
6. Building Design Streetscape & Layout The controls of the clause are as follows: Lighting 1) Lighting must be provided to the external entry path, common lobby, driveway, and car park to a building using vandal resistant, high mounted light fixtures. 2) The lighting in a car park must conform to AS 1158.1, 1680, and 2890.1.	Proposed lighting as part of the minor additional works. The proposal was referred to Councils internal Environmental Health and Traffic/Transport department who assessed the application and supported it subject to conditions.	Complies

PART 7 – DEVELOPMENT IN INDUSTRIAL AREAS		
3) External lighting to an industrial development must give consideration to the impact of glare on the amenity of adjoining residents. Facilities The siting of a telecommunication facility, aerial, satellite dish, plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must integrate with the architectural features of the building to which it is attached; or be sufficiently screened when viewed from the street and neighbouring residential zoned land. Service Areas Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view.	Noted Noted	Not applicable Complies, subject to conditions.
7. Landscaping and fencing	Fencing with a height of 2m is existing on the subject site. Therefore, no fencing is proposed as part of this subject application.	Complies
8. Car parking and access Controls: 1) The layout of driveways to loading docks must enable heavy vehicles to: -enter and exit in a forward	The applicant has submitted a traffic and parking study that demonstrates that the largest vehicles servicing the site will be able to manoeuvre onsite to designated areas and enter and exit the site in a forward direction. Council's internal Traffic and Transport	Complies

PART 7 – DEVELOPMENT IN INDUSTRIAL AREAS		
direction, -Park within designated loading areas	department raised no objection to the proposed development.	
9. Amenity and Environmental Impact The Controls of this clause are as follows: External Industrial Activities 1) External processes in an industrial area and storage of materials will not be permitted along a Classified Road frontage or a road frontage opposite a residential area. 2) Storage and processing of motor vehicles, concrete, soil, glass and other similar components or materials shall be totally screened by fencing and dense landscaping (refer to Landscaping and Fencing and Section 4 Landscaping and Existing Trees in Part 1.1). 3) The maximum height of a stockpile for the recycling of motor vehicles, concrete, soil, glass and other similar components or materials shall be 6m.	No storage of goods at frontage only vehicle parking. Not applicable. Not applicable	Complies by condition. Not applicable Not applicable

PART 7 – DEVELOPMENT IN INDUSTRIAL AREAS		
Noise In order to comply with the Protection of the Environment Operations Act 2008 it may be necessary to construct external works. Mounding, planting and/or noise barriers may be permitted to reduce the impact of noise levels, provided that this does not compromise any other provision in the DCP..	Acoustic Report lodged with application. Council's Environmental Health department have reviewed the report and accept the findings and recommendations, subject to condition of approval to ensure acoustic practices and noise management are conducted onsite in order to reduce potential acoustic impacts to the adjacent residential area.	Complies
Hazardous materials and hazardous operation Certain industrial processes are identified as Designated Development under the Environmental Planning and Assessment Act 1979. It will be necessary to contact the NSW Department of Planning for their requirements for the preparation of an environmental impact statement.	The proposal does not trigger designated development.	Not Applicable
Hours of operation Development which would have an adverse impact on adjoining or nearby residential areas will be limited to 7 am to 6 pm Monday to Friday and 7 am to 12 pm on Saturday and no work to	The applicant has submitted an Acoustic Report in order to support the 24-hour use of Tenancy 2. These reports have been reviewed by Council's Environmental Management section who have raised no objection to the reports subject to the imposition of recommendations by way of conditions of consent. Furthermore, consent will be issued as a 12-	Complies by condition.

PART 7 – DEVELOPMENT IN INDUSTRIAL AREAS		
be undertaken on Sundays.	month trial in order for the use to be assessed again and re-notified to ensure the impacts of the development have been appropriately mitigate by the applicant. Tenancy 1B will operate from 7am to 4:30pm, Monday to Friday.	
11. Change of use of existing buildings	The current use of the site is for industrial use. The proposed change of use to a depot will also remain an industrial use. The change of use is not for the existing buildings.	Complies
a) Where a change of use is proposed to an existing development that will result in a significant impact on adjoining or nearby properties or on traffic movements may not be permitted.	Council's internal traffic department have assessed the application and supported it subject to conditions of consent.	Complies
b) Where the new use requires more car parking than is currently provided, it shall where possible increase the car parking and loading provisions to meet the requirements of the DCP, subject to compliance with other provisions of the DCP.	Council's internal traffic department have assessed the application and supported it subject to conditions of consent.	Complies

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

• **Section 4.15(1)(a)(iv) – The Regulations**

The proposal is satisfactory with respect to provisions contained in the EP&A Regulation 2000.

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

(a) The Likely Impacts of the Development on the Natural Environment

The proposed development is not considered to detrimentally impact the natural environment or surrounding sites nor cause harm to any flora and fauna species. Appropriate conditions of approval have been implemented to ensure the development does not have any significant impacts on the natural environment.

(b) The Likely Impacts of the Development on the Built Environment

The proposed development is considered to be an appropriate form of development given the desired character of the site and is unlikely to adversely impact on the built environment with the inclusion of environmental design and operational measures at the site.

(c) The Likely Social & Economic Impacts of the Development in the Locality

The proposed development has been operating at the subject site without approval for approximately 7 of years. When the subject DA was notified, 13 objections were received from properties in the adjoining western residential area objecting to the unauthorised use of the site as a truck depot. These objections raised issues with regards to noise pollution, dust pollution, night time activities, exhaust pollution, storage of dangerous goods at the site in parked vehicles, inappropriate use in IN2 zone, and added congestion to Governor Macquarie Drive.

Due to the assessment of this application and the recommendations to impose particular environmental related conditions, the likely impacts of the proposal to the locality are considered to be mitigated. Notwithstanding this, it is also recommended that the DA be approved for a trial period of 12 months, so that Council may ensure that the applicant has complied with the environmental measures imposed on the truck depot and its operations. In this regard, the development is considered acceptable with regards to likely impacts to the locality at this stage until further review in 12 months. This will also allow the use of the site to be renotified to the locality and adjoining properties the chance to comment on the trial approved truck depot.

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

Considering the applicant's development application has been amended in an attempt to address Council's concerns, the site is considered suitable for the proposed development.

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

(a) Internal Comments

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

Department	Comments
Development Engineering	Satisfactory, subject to conditions of consent.
Traffic	Satisfactory, subject to conditions of consent.
Environmental	Satisfactory, subject to conditions of consent.

Health	
Flood Engineering	Satisfactory, subject to conditions of consent.

(b) External Comments

Not applicable.

(c) Community Consultation

The Development Application was required to be notified to properties within a 100m radius in accordance with the Liverpool Community Engagement Strategy and Participation Plan 2022. The proposal was notified from 20 October 2024 to 07 November 2024. Thirteen (13) unique submissions were received objecting to the proposal. The issues of concern raised in the submissions can be summarised as follows:

Issue raised	Comments
Issue 1: Noise generated during operational hours.	The proposal was supported by an acoustic report that recommends an acoustic fence be built along the side and rear boundaries. Council's Environmental Health Officer reviewed the report, and its recommendations and requirements will be required to be carried out as a condition of consent. Additional conditions of consent will also be imposed to maintain acoustic amenity.
Issue 2: Dust Pollution	A condition will be imposed as part of the consent that requires the entire truck depot to be fully sealed with concrete/ bitumen or similar material that is able of withstanding the movements of the trucks servicing the site. In this regard, any dust that may be resulting from the currently unsealed site would be contained under the required sealing.
Issue 3: Shipping container storage height	The applicant has provided a plan of management and will operate the site in a safely manner. This has been addressed through the implementation of Condition G956.
Issue 4: Drainage	The subject site has existing drainage which will not be impacted as part of this proposed development.
Issue 5: Traffic impacts in the locality.	A Traffic Impact Assessment was submitted with the application, detailing the impact of the development upon traffic in the locality. Council's Traffic Management Team have reviewed the report and are supportive, subject to the imposition of conditions of consent. The applicant provided a Naviant Group Transport Planning and Traffic Engineers dated 21 March 2025, which supported the use of the site as a depot and assessment the impact of the development on Governor Macquarie Drive. The traffic assessment was reviewed by Council's Traffic Engineers who supported the assessment and its conclusions. The traffic assessment concludes that the proposal would not result in any detrimental impact on the surrounding road network as the increase in trips is similar to the daily variation in traffic volumes.
Issue 6: Soil Contamination	The proposal is accompanied by a Preliminary Site Investigation. Council's Environmental Health Officer has reviewed the report and raised no objections regarding Soil Contamination.
Issue 7: Hours of operation	The rear end of the site known as Tenancy 2 will be operating 24hours per day 7 days a week. The rear portion is approximately 70m setback from the frontage.

	Council's Environmental Health team have provided support for the acoustic assessment and raise no objections to the findings and support the recommendation to use the rear portion of the site. Notwithstanding this support, it is also recommended that the DA be approved as a 12 month trial only to ensure the findings of the acoustic report and ensure the recommendation for night time/ early morning operation are sufficient to mitigate acoustic impacts to the locality. The complaints handling procedure prepared by the acoustic consultants is also considered to give surrounding uses the opportunity to raise issues during the use of the site for Councils review after the trial period.
Issue 8: Floodlighting	Proposed detailed light-plans have been provided as part of this application. They have been reviewed by Council's internal building and environmental health departments who raised no objection.
Issue 9: Storage of Hazardous items	The applicant provided a response to this contention, dated 14 February 2025, and confirmed that the use is for a depot only and there is no storage of dangerous or hazardous goods at the site. Accordingly a condition will be imposed that prohibits any vehicles to be parked at the site that carry loads containing any dangerous or hazardous goods and that does not allow the storage of any such goods at the development site.
Issue 10: Safety Concerns (exhaust pollution)	At this stage there is no evidence to confirm that the use of the site as a depot would cause exhaust pollution that is detrimental to human health beyond the pollution associated with the use of Governor Macquarie Drive and industrial activities in the locality. It should be noted that depots are permitted in the E4 - General industrial zone. Accordingly, the depot is considered an appropriate use in this location and is not considered to have exhaust pollution beyond other uses in the zone and existing traffic movements along Governor Macquarie Drive.

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

The development, as amended, is considered to be in the public interest based on the findings of this report.

6. Developer Contributions

Contributions are applicable to this site as per the Liverpool Contributions plan 2018 Established Areas with a total of \$7,304 required to be paid to Council.

7. Conclusion

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

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

8. Recommendation

That Development Application DA No 439/2024 be approved subject to conditions.

ATTACHMENTS

1. Draft Notice of Determination (Under separate cover)
2. LDCP Table (Under separate cover)
3. Plans and Documents (Under separate cover)
4. Response to Clause 7.41 LLEP (Under separate cover)