

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday 30th September 2019

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

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

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

Should you wish to address the Panel, please advise Danielle Hijazi, Panel Support Officer on 8711 7627 or 1300 36 2170, by 4pm, Friday, 27th September 2019.

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

ITEM No.	SUBJECT	PAGE No.
1	<p>Development Application DA-188/2015</p> <p>Torrens title subdivision to create 47 allotments and the construction of detached dwellings on nine (9) of the proposed Torrens title lots (As amended) (Note: proposal is identified as Nominated Integrated development pursuant to Water Management Act 2000)</p> <p>Lot 400 DP 1098281 Lot 400 Strathyre Drive, Prestons</p>	2-79

ITEM No.	SUBJECT	PAGE No.
2	<p>Development Application DA-269/2019</p> <p>Boundary Adjustment to Five (5) existing lots resulting in Four (4) re-configured allotments. The lot boundary re-alignment and lot consolidation is proposed to align with the adjoining R2 Low Density Residential and RE1 Public Recreation zones. The scope of works includes minor demolition works and erection of new boundary fencing.</p> <p>The subsequent re-subdivision of land results in:</p> <ul style="list-style-type: none"> - the consolidation of part of 'Tepper Park' and Lot 1 McLean Street into 41 Kennedy Street to create Proposed Torrens Title Lot 1; - the consolidation of part of 'Tepper Park' into 39 Kennedy Street to create Proposed Torrens Title Lot 2; - the consolidation of part of Lot 1 McLean Street into 81 Lehmann Avenue to create Proposed Torrens Title Lot 4; <p>the creation of Lot 3 from the remaining land in the RE1 zone (Tepper Park), due to the zone alignment.</p> <p>Lots 1 & 2 DP 31862 Lot 24 DP 230861 Lot 1 DP 1246664 Part Lot 17 DP 31863</p> <p>39 & 41 Kennedy Street, 81 Lehmann Avenue Lot 1 Maclean Street, Part of 'Tepper Park' Liverpool</p>	79-118

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Item no:	1
Application Number:	DA-188/2015
Proposed Development:	Torrens title subdivision to create 47 allotments and the construction of detached dwellings on nine (9) of the proposed Torrens title lots (As amended) (Note: proposal is identified as Nominated Integrated development pursuant to Water Management Act 2000)
Property Address	Lot 400 Strathyre Drive, Prestons
Legal Description:	Lot 400 DP 1098281
Applicant:	JS Architects Pty Ltd
Land Owner:	Maxma Developments Pty Ltd
Recommendation:	Deferred Commencement
Assessing Officer:	George Nehme

1. Executive Summary

Council has received a Development Application (DA-188/2015) seeking consent for the Torrens title subdivision to create 47 allotments and the construction of detached dwellings on nine (9) of the proposed Torrens title lots (As amended) (Note: proposal is identified as Nominated Integrated development pursuant to Water Management Act 2000), Lot 400 Strathyre Drive, Prestons.

The site is zoned R2 – Low Density Residential pursuant to Liverpool Local Environmental Plan 2008 and the proposed development is permissible with consent.

The development application was notified and advertised for a period of 30 days from 20 May 2015 to 19 June 2015. As a consequence of amended plans the application was re-notified for 14 days from 24 August 2018 to 10 September 2018. During the notification periods a total of 10 unique submissions have been received. The concerns raised in the submissions and the response to these submissions are detailed further in this report.

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 as the application received 10 or more unique submissions by way of objection to the proposal.

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 by way of deferred commencement, subject to the imposition of conditions.

2. Site Description and Locality

2.1 The site

The site is identified as Lot 400 of DP 1098281 and is known as Lot 400 Strathyre Drive, Prestons. The site is an irregular shaped allotment with a total site area of 1.865 hectares. The site is relatively flat with a slight downslope from the north-eastern corner to the south-western corner of the site.

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The site is located within an existing established low-density residential area and is currently vacant, however contains a large extent of vegetation which is identified as Endangered Ecological Community. The site adjoins residential dwelling houses to the east, south and west and has a stormwater drainage channel to the north of the site. The site is located approximately 5.9km to the south west of the Liverpool City Centre.



Figure 1: Aerial image of the site

2.2 The Locality

The area is currently characterised by low density residential development. West of the site is the Prestons Shopping Village which includes an IGA Supermarket, newsagent, butchery, medical centre, pharmacy, real estate office, beauty salon and take-a-way food stores (amongst others).

The local area also contains a number of schools, the closest being St Catherine of Siena Catholic Primary School to the west in Dalmeny Drive, Dalmeny Public Primary School to the north (also) in Dalmeny Drive, Amity College to the north in Kurrajong Road, William Carey Christian School to the west in Camden Valley Way and John Edmondson High School in the adjoining suburb to the west Horningsea Park.

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3. Background

- The application was lodged with Council on 13 March 2015;
- Application was notified for 30 days from 20 May 2015 to 19 June 2015. During the exhibition period 4 submissions were received.
- The applicant obtained a BioBanking statement from the Office of Environment and Heritage on 3 May 2017, granting approval for the offset of the EEC identified under the Threatened Species Conservation Act 1995.
- The applicant was granted a controlled action by the Department of the Environment and Energy (reference: 2015/7627) on 21 November 2017.
- Additional information was provided on 10 August 2018, in response to the additional information required.
- The amended information incorporated amendments to the application including the proposal of 9 dwellings as part of the application.
- Consequently the application was re-notified from 24 August 2018 to 10 September 2018. During the notification period an additional 6 submissions were received.
- A final assessment of the amended plans was undertaken and it was considered the application is satisfactory and can proceed to determination.

4. Proposed Development

The development application seeks approval for the Torrens title subdivision to create 47 allotments and the construction of detached dwellings on nine (9) of the proposed Torrens title lots.

Dwellings will be constructed on Lots 3, 4, 22, 24, 27, 32, 33, 34 and 35. All dwellings will be detached and 2 storeys in height.

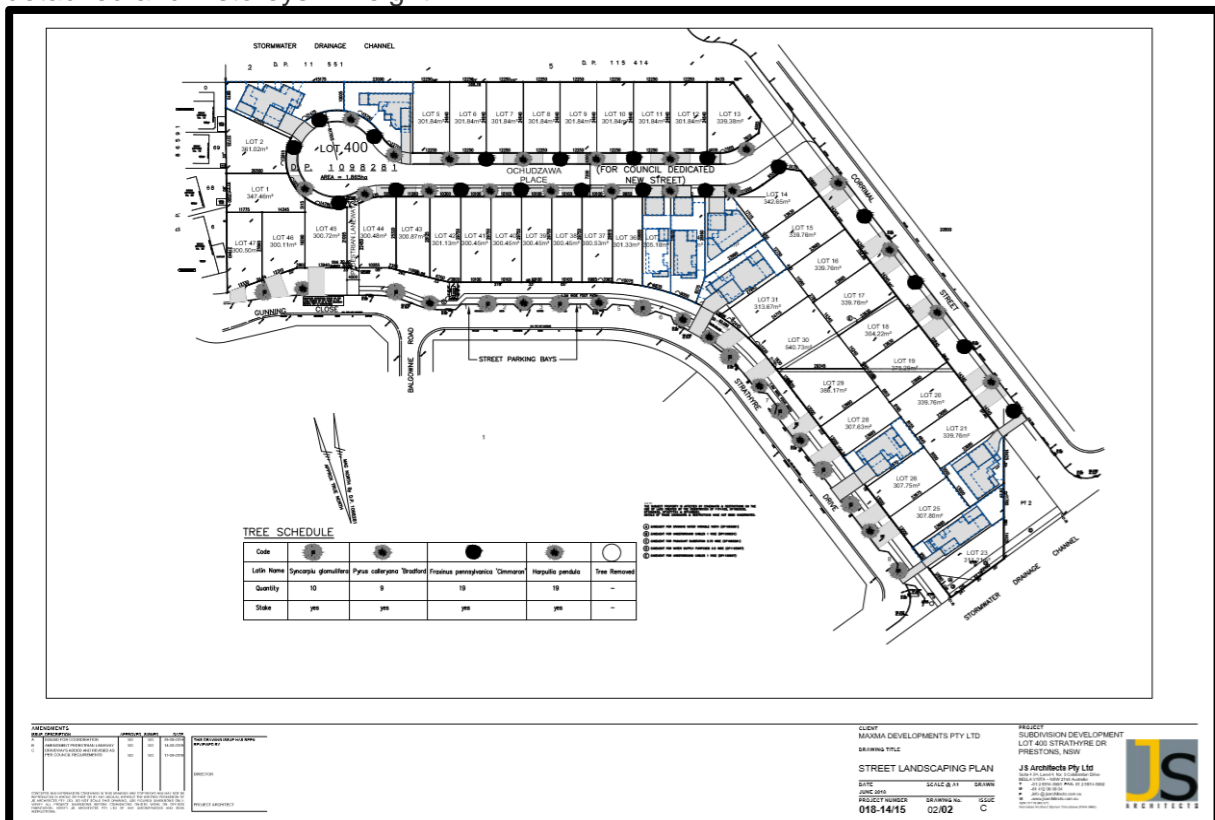


Figure 2: Proposed Site Plan

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5. Planning Assessment

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

- Environment Protection and Biodiversity Conservation Act 1999 & Threatened Species Conservation Act 1995
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- State Environmental Planning Policy (SEPP) No.55 – Remediation of Land;
- State Environmental Planning Policy (SEPP) BASIX 2004;
- Liverpool Local Environmental Plan 2008 (LLEP 2008); and
- Liverpool Development Control Plan 2008 (LDCP 2008).
 - Part 1 – General Controls for all Development
 - Part 2.2 – Carnes Hill, Hoxton Park & Prestons Residential Areas
 - Part 3.2 – Dwelling Houses on Land Greater than 400sqm in R2, R3 and R4 zones
 - Part 3.5 – Dwelling Houses on Land less than 400sqm in R2, R3 and R4 zones

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the EP&A Act as follows:

(a) Threatened Ecological Communities – Application of the Environment Protection and Biodiversity Conservation Act 1999 & Threatened Species Conservation Act 1995

The subject allotment was created as part of a subdivision approved in 2004 (DA-2467/2004). As part of the subdivision approval the subject allotment being Lot 400 had an 88B restriction imposed which stated;

“The registered proprietor for the time being of Lot 400 shall establish and retain the allotment as bushland and shall not permit the allotment to be cleared, altered or damaged except as required to remove noxious weeds or other exotic species and shall manage the allotment in accordance with the Vegetation Management Plan. A residence can be built within the building envelope as shown in Liverpool City Council approval No2467/2004”.

The subject allotment is not mapped as containing endangered ecological communities, however the site is known to contain EEC. Consequently the application was accompanied by a Flora and Fauna Assessment prepared by Ecological Australia, dated 4 December 2014.

The Flora and Fauna assessment identified that the subject site is recognised as containing two threatened ecological communities and one threatened fauna species.

The Threatened Ecological Communities (EECs) identified within the subject site are:

- Cumberland Plain Woodland (CPW) (listed under the NSW Threatened Species Conservation Act 1995 (TSC Act) and as Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest under the Environment Protection and Biodiversity Conservation Act 1999) and
- River-flat Eucalypt Forest (RFEF) listed under the TSC Act.

The one threatened fauna species that is known to occur within the site is the Cumberland Plain

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Land Snail (CPLS). This species is listed as endangered under the TSC Act.

The assessment concluded the following;

“The proposed subdivision lot layout will result in the permanent loss of up to 294 native trees, 1.41 ha of CPW and 0.22 ha of RFEF. Given that CPW is listed as a critically endangered ecological community the loss of up to 1.41 ha of vegetation listed under the TSC and EPBC Acts is considered a significant impact to this vegetation community. Subsequently an SIS is required and a referral to the Australian Government Department of the Environment (DotE) is recommended.

The proposed subdivision development may also impact on threatened fauna species which may utilise the vegetation within the study area. The removal of CPW could result in the local extinction of a small isolated CPLS population that was identified within the study area”.

Due to the identified impacts on significant vegetation the applicant applied for and was granted approval for the removal of the vegetation pursuant to the Environment Protection and Biodiversity Conservation Act 1999 for a controlled action and the Threatened Species Conservation Act 1995 through a Bio Banking arrangement. An outline of the relevant approvals obtained under the EPBC and the TSC Act is below.

1) Environment Protection & Biodiversity Act 1999.

Pursuant to Part 9 of the Environment Protection & Biodiversity Act 1999, a person must not take an action that has or is likely to have a significant impact on any of the matters of environmental significance or other protected matters, which include the removal of threatened species without approval from the Australian Government Minister for the Environment and Energy.

As previously stated the subject site is identified as containing Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest which is identified as EEC under the Environment Protection and Biodiversity Conservation Act 1999).

Consequently the applicant applied for and was granted approval for a controlled action by the Department of Environment and Energy (Reference: 2015/7627) on 21 November 2017. The link to the relevant approvals is provided below.

<http://epbcnotices.environment.gov.au/publicnoticesreferrals/>

As a condition of the approved controlled action the approval holder must not clear more than 2.29 hectares of Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest (CPW) within the proposed action area. All requirements of the approved controlled will form part of the conditions of consent.

2) Threatened Species Conservation Act 1995

As indicated previously the subject site has been identified as containing the following EEC's under the TSC Act 1995;

The Threatened Ecological Communities (EECs) identified within the subject site are:

- Cumberland Plain Woodland (CPW);
- River-flat Eucalypt Forest (RFEF) and
- One threatened fauna species that is known to occur within the site is the Cumberland Plain Land Snail - CPLS).

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The flora and fauna assessment submitted with the application concluded that there will be a significant impact on the above-mentioned species and a species impact statement (SIS) is required for the project. However in lieu of a SIS, the applicant sought to enter a Biodiversity Banking and Offset Scheme, under Part 7AA of the TSC Act 1995. The applicant was granted approval for the Biobanking Offsets on 3 May 2017 by the Office of Environment and Heritage (OEH). The requirements and conditional requirements of the OEH Bio banking approval will form part of the development consent.

Conclusion

Having regard to the above, notwithstanding the identified significance of the existing vegetation the proposed development has obtained the relevant approvals under the applicable legislation to enable the development to proceed.

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

The subject land is located within the Georges River Catchments and as such The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River applies to the application. The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries. The DA was referred to Council's Land Development engineering section who reviewed stormwater management and drainage associated with the proposal. They were supportive of the proposed development, subject to conditions. Accordingly, the proposed development is considered to meet the objectives of the SEPP and is unlikely to have a negative impact on the environmental quality of the Georges River Catchment.

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

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

Council must consider this and the likelihood of any contamination on-site and the possible impacts which may arise from any works associated with this proposal.

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The applicant submitted a Detailed Site Investigation prepared by Aargus Pty Ltd
(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 report concluded that the subject site is suitable for the proposed use.

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

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

The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the Plan. It is recommended that appropriate conditions are imposed to ensure compliance with the BASIX commitments.

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

(i) Permissibility

The subject site is zoned R2 – Low Density Residential in accordance with the Liverpool Local Environmental Plan (LLEP 2008). The proposed developments are best described as “dwellings” which is a permissible form of development with consent.

The subject proposal also involves the subdivision of land. Subdivision is a permissible form of development pursuant to Clause 2.6 of the LLEP 2008.

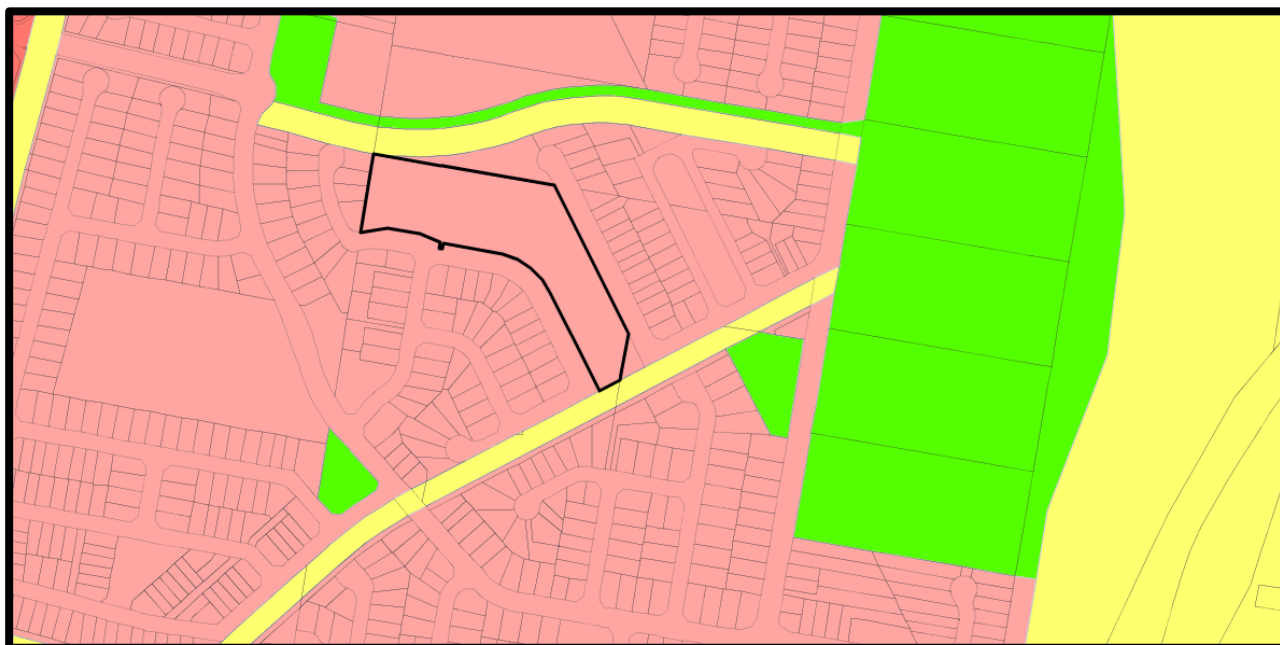


Figure 3: Zoning map of the locality surrounding the subject site

(ii) Objectives of the zone

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

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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide a suitable low scale residential character commensurate with a low dwelling density.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development is considered consistent with the objectives of the zone as it will provide for the housing needs of the community within a low-density residential environment. The proposal will provide a suitable low scale residential character within a low density environment.

(iii) Principal Development Standards

Development Provision	Requirement	Proposal	Compliance
4.1 Minimum subdivision lot size	Min 300m ²	All lots have a site area equal to or greater than 300m ²	Complies
4.3 Height of Buildings	Maximum height permitted: 8.5m	Lots 3, 4, 22, 24, 27, 32, 33, 34 & 35 are all less than 8.5m in height	Complies
4.4 Floor Space Ratio (FSR)	Maximum FSR permitted: 0.6:1	Lots 3, 4, 22, 24, 27, 32, 33, 34 & 35 have an FSR of 0.6:1 or less.	Complies
5.10 Heritage Conservation	Development Consent is required for this development pursuant to Clause 5.10(2)	Refer to assessment below;	Satisfactory
7.8 Flood Planning	Provisions for protecting life and property in flood areas	The subject site is located within the Cabramatta Creek Catchment and is affected by Low Risk Flooding. The application was reviewed by Council's Flooding Engineers and considered satisfactory subject to conditions.	Satisfactory
7.31 Earthworks	Council to consider matters listed (a)-(g)	The earthworks proposed to facilitate the development is considered appropriate and can be addressed through conditions of consent.	Complies subject to conditions

5.10 Heritage Conservation

Clause 5.10(2) of the LLEP 2008 states;

(2) Requirement for consent

Development consent is required for any of the following—

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- (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*
- (b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) *disturbing or excavating an Aboriginal place of heritage significance,*
- (e) *erecting a building on land—*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) *subdividing land—*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

Comment: The subject site is not listed as a heritage item in the LLEP 2008, is not located within the immediate vicinity of a heritage item and is not located in a heritage conservation area.

The subject site is a large parcel of undeveloped land covered with vegetation and in close proximity to ephemeral watercourses, thus increasing the likelihood of Aboriginal cultural deposits. A search of the Aboriginal Heritage information Management System found two Aboriginal sites on the allotment.

The application was consequently accompanied by an Aboriginal Archaeological Assessment, dated December 2014, prepared by Comber Consultants. The assessment made the following recommendations;

1. *An Aboriginal Heritage Impact Permit (AHIP) will be required as there are two registered Aboriginal sites (AHIMS 45-5-4319, 45-5-4320) located on the property. Archaeological testing, salvage and Aboriginal community consultation must be undertaken prior to applying for an AHIP.*
2. *Aboriginal community consultation in accordance with OEH's Aboriginal cultural heritage consultation requirements for proponents 2010 must be undertaken prior to applying for the permit.*
3. *Once the consultation has been completed archaeological testing must be undertaken in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales in consultation with the registered Aboriginal stakeholders. This must be undertaken prior to applying for the AHIP and the results submitted with the AHIP application.*

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The proposal has been reviewed by Council's Heritage Officer and it was concluded that the findings and recommendations of the assessment were supported subject to an additional condition requiring the report documenting the results of the archaeological testing and Aboriginal Consultation is to be provided to Liverpool City Council Heritage Officer.

The application was also referred to the Office of Environment and Heritage due to the potential archaeological sites identified. The OEH have provided Council with General Terms of Approval, which will be incorporated into the development consent. Therefore having regard to the above it is considered the proposal has satisfactorily addressed Clause 5.10(2) of the LLEP 2008.

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

No draft Environmental Planning Instruments.

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

Liverpool Development Control Plan 2008

LDCP 2008 Part 1 – General Controls for all Development			
Control	Required	Proposal	Compliance
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	As indicated previously in report approval has been granted under the EPBC and TSC Acts for the removal of vegetation.	Satisfactory
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	As indicated previously in report approval has been granted under the EPBC and TSC Acts for the removal of vegetation.	Satisfactory
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	As indicated previously in this report, notwithstanding the subject proposal has been set aside for the purpose of bushland appropriate approvals have been obtained to enable the offsets of the vegetation lost as a consequence of this development.	Satisfactory
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	Site is not identified as Bushfire prone land.	N/A
Section 6 – Water Cycle Management	Consideration of stormwater and drainage	Application reviewed by Council's development engineer and considered acceptable.	Complies by condition
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	Development is located within 40m of watercourse. Application referred to NSW Office of Water. GTA's issued for application.	Complies
Section 8 – Erosion and	Sediment Control Plan or Soil and	Sediment control details were submitted with the application.	Complies

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Sediment Control	Water Management Plan required		
Section 9 – Flooding Risk	Flood affection of property to considered	The subject site is located within the Cabramatta Creek Catchment and is affected by Low Risk Flooding. The application was reviewed by Council's Flooding Engineers and considered satisfactory subject to conditions.	Complies
Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	Site inspection and historic uses on the site suggest that there is no requirement for a land contamination assessment and the site is considered acceptable for this proposal.	Complies
Section 11 – Salinity Risk	Salinity Management response required for affected properties	Site is not known to be affected by salinity. Advisory condition to be applied.	Complies by condition
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils	Site is not affected by sulfate soils.	N/A
Section 13 – Weeds	Noxious weeds to be removed as part of development where applicable	Any noxious weeds will be removed as part of the commencement of the development.	Satisfactory
Section 14 – Demolition of Existing Development	Must comply with AS 2601-2001	No demolition proposed	N/A
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	Site is connected to sewer.	N/A
Section 16 – Aboriginal Archaeology	AHIA required where items of aboriginal archaeology exist	AHIP will be required as identified previously in this report. Proposal has adequately addressed LLEP 2008 in relation to Aboriginal Archaeology.	Satisfactory
Section 17 – Heritage and Archaeology	Consideration of the impact on the heritage significance on any heritage buildings, sites, streetscapes or areas.	AHIP will be required as identified previously in this report. Proposal has adequately addressed LLEP 2008 in relation to Aboriginal Archaeology.	Satisfactory
Section 18 – Notification of Application	Proposal was notified/advertised in accordance with the LDCP.	The development application was notified and advertised for a period of 30 days from 20 May 2015 to 19 June 2015. As a consequence of amended plans the application was re-notified for 14 days from 24	Complies

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		August 2018 to 10 September 2018. During the notification periods a total of 10 unique submissions have been received. The concerns raised in the submissions and the response to these submissions are detailed further in this report.	
Section 20 – Car Parking and Access	2 spaces per dwelling	All lots proposing a dwelling being lots 3, 4, 22, 24, 27, 32, 33, 34 & 35 all provide a minimum 2 spaces.	Complies
Section 21 – Subdivision of Land and Buildings	Subdivision creating lots <300sqm or <10m width shall include the dwelling house as part of the DA	All lots are equal to or greater than 300m ² . However, as a consequence of the irregular lot several Lots being lots 3, 4, 22, 24, 27, 32, 33, 34 & 35 are less than 10m wide. Therefore, these lots have provided dwelling designs that will be incorporated into the proposal.	Complies
Section 22 & 23 – Water & Energy Conservation	New dwellings, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	A compliant BASIX Certificate has been provided which outlines water and energy conservation commitments. Conditions of consent will apply to ensure compliance and implementation of the BASIX criteria within the dwellings.	Complies

DEVELOPMENT CONTROL	PROPOSAL	COMMENT
PART 2.2 – CARNES HILL, HOXTON PARK & PRESTONS		
1.1 INDICATIVE LAYOUT To be in accordance with Figure 2.	Development is designed in accordance with the Indicative Layout Plan.	Complies
2.1 STREET NETWORK AND ACCESS Subdivision plans must indicate street type.	The proposal has provided appropriately designed roads.	Complies
2.3 STREETSCAPE AND TREES Minimum of two trees per six metres of frontage	Landscaping plan provided and in accordance with DCP requirements.	Complies
2.6 Water Cycle Management	The proposed stormwater system for the site complies with the requirements of this section of the DCP.	Complies
2.7 CONTAMINATION Potential for contamination to be assessed.	A Contamination Assessment has been provided. Investigation concludes the site is suitable.. Conditions of consent shall be imposed as assessed by Council's Environmental Health Officer.	Complies

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PART 3.2 – Dwelling Houses on lots greater than 400sqm – Lots 3 and 4			
Control	Requirement	Proposed	Comment
Site Planning	Development to be compatible with local amenity / streetscape	The designs of the proposed dwellings are compatible with nearby residential properties in the immediate vicinity, despite being on smaller lots	Complies
	Dwelling layouts to be designed around slope, vegetation, and to provide solar access	Dwellings on these lots have been designed to accommodate site slope.	Complies
	Direct link to be provided from a living area to the principal POS	Rear ground floor living areas open out to the principal POS	Complies
	Building Siting, windows, balconies, fencing to consider privacy of residents and adjoining neighbours	All dwellings have been designed to account for privacy of adjoining neighbors.	Complies
	Windows of habitable rooms to be situated to reduce overlooking of neighbouring POS	The dwelling windows do not look directly into adjoining premises windows nor do they overlook POS of other allotments.	Complies
	Stormwater to be drained satisfactorily	The stormwater plans have been reviewed by Development Engineers and is satisfactory	Complies
Setbacks	Ground floor = 4.5m First floor = 5.5m	A minimum front setback of 4.5m is provided to all dwellings except and a minimum 5.5m is provided to the first floor for all dwellings.	Complies
Secondary setback (longest length boundary)	Ground & First Floor 2.5m	No dwellings have a secondary setback.	N/A
Side setback within a proposed subdivision	Ground = 900mm First = 1.2m	All dwellings provide the required side setbacks	Complies
Rear setback within a proposed subdivision	Ground Floor 4m First Floor 7m	All dwellings propose the required ground and first floor rear setbacks.	Complies

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Landscaped Areas	<p>25% of the site area to be Landscaped.</p> <p>Landscaped area for growing trees minimum 4m x 6m area in rear yard</p> <p>50% front setback shall be landscaped</p> <p>Landscaped area for growing trees minimum 3m x 3m in front setback</p>	<p>All lots provide a minimum 25% landscaped area. A minimum 4x6, provided within rear setback. A minimum 50% of the front setback is landscaped. A minimum 3x3 area provided for growing trees.</p>	Complies
Private Open Space	<p>POS to be > 70sqm</p> <p>Not within primary street setback</p> <p>To have area to dry clothes</p> <p>Shall include a Principal POS directly accessible from dwelling living area (dimension 4m x 6m)</p> <p>Principal POS to receive 3 hours sunlight to 50% of the area (21 June – from 9am to 5pm)</p>	<p>All dwellings provide a POS equal to or greater than 70m². All include an area of 4x6 and all receive 3 hours of solar access to 50% of the PPOS on 21 June.</p>	Complies
Cut and Fill	<p>Provisions to restrict changes to the natural ground levels</p> <p>Maximum cut 600mm</p>	<p>All dwellings comply with this requirement</p>	Complies
Building Design & Appearance	<p>Front Entrance to the visible to the street</p> <p>Front of Building to be articulated with porches/entries/ wall indents/balconies/verandas</p> <p>Eave overhang minimum of 400mm to be provided to 70% of the dwelling</p>	<p>All dwellings have been designed to comply with these requirements</p>	Complies

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	<p>Dwellings with 2 street frontages should address both</p> <p>Sidewalls to be articulated if continuous over 14m length</p> <p>Balconies should be constructed over garages</p> <p>Balconies should face the front only</p>		
	<p>Garage door/carports must not be > 50% of the building frontage</p> <p>Garages/carports must be The minor element of the building façade</p> <p>Garage shall be incorporated into the dwelling/roof design</p> <p>Garages/carports to be compatible with building design</p>	<p>Dwellings have been designed to accommodate this requirement.</p>	<p>Satisfactory.</p>
<p>Building Internal Design</p>	<p>Habitable rooms located to front for security and surveillance</p> <p>Living room should take advantage of northern aspect</p> <p>Access to POS from a living room</p> <p>Internal layout to allow cross ventilation</p> <p>WC/en-suites/laundries/Walk-in-robos to be located to sides and rear</p> <p>Each dwelling to provide 8m3 storage</p>	<p>Dwellings have been designed to accommodate this requirement</p>	<p>Satisfactory.</p>

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	Locate habitable rooms overlooking communal public areas where possible		
Landscaping and Fencing	Provisions for the planting of trees in landscaped areas and Fences adjoining public land on a Secondary Frontage Must be 1.2m high for 9m from the front boundary towards the rear, then can be stepped up to 1.8m, and must not be sheet metal in addressing the street	All dwellings have been designed to accommodate appropriate landscaping.	Satisfactory.
Car Parking & Access	2 Car Parking Spaces for each dwelling At least 1 car space behind the front setback Car space to be 2.5m x 5.5m	All dwellings provide the required number of parking spaces.	Complies
Amenity and Environment Overshadowing	Overshadowing – on 21 June adjoining allotment must receive 3 hours sunlight to; 50% of POS, and A living, rumpus room	All dwellings have been designed to maintain the amenity of the adjoining properties when developed.	Complies
Amenity and Environment Privacy	Minimise overlooking of neighbours by; Offsetting side windows by 1m Habitable room side windows are to have a sill height of 1.5m (road / open space excepted)	All dwellings have been designed to maintain the amenity of the adjoining properties when developed.	Complies
Acoustic Impact	Measures to protect from impact of rail and/or traffic related noises as required	N/A	N/A
Letterboxes	Sympathetic to design of buildings	Not identified on plans.	Complies by condition
Frontage works	Where there are no existing street trees in front of the site and contributions have not	There are no trees in front of the site and no specific contributions provided. As	Complies by condition

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	been collected for street tree planting it may be a condition of consent that street trees be provided in the footpath area immediately in front of the site.	such a street tree will be required to be planted in front of the site.	
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PART 3.5 – Dwelling Houses on lots less than 400sqm – Lots 22, 24, 27, 32, 33, 34 & 35			
Control	Requirement	Proposed	Comment
Site Planning	Development to be compatible with local amenity / streetscape	The designs of the proposed dwellings are compatible with nearby residential properties in the immediate vicinity, despite being on smaller lots	Complies
	Dwelling layouts to be designed around slope, vegetation, and to provide solar access	Dwellings on these lots have been designed to accommodate site slope.	Complies
	Direct link to be provided from a living area to the principal POS	Rear ground floor living areas open out to the principal POS	Complies
	Building Siting, windows, balconies, fencing to consider privacy of residents and adjoining neighbours	All dwellings have been designed to account for privacy of adjoining neighbors.	Complies
	Windows of habitable rooms to be situated to reduce overlooking of neighbouring POS	The dwelling windows do not look directly into adjoining premises windows nor do they overlook POS of other allotments.	Complies
	Stormwater to be drained satisfactorily	The stormwater plans have been reviewed by Development Engineers and is satisfactory	Complies
Setbacks	Ground floor = 4.5m First floor = 5.5m	A minimum front setback of 4.5m is provided to all dwellings except and a minimum 5.5m is provided to the first floor for all dwellings.	Complies
Secondary setback (longest length boundary)	Ground & First Floor 2.5m	No dwellings have a secondary setback.	N/A
Side setback within a proposed subdivision	Ground & First Floor 900mm	All dwellings provide a minimum 900mm side setback	Complies

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Rear setback within a proposed subdivision	Ground Floor 4m First Floor 7m	All dwellings propose the required ground and first floor rear setbacks.	Complies
Zero lot line	N/A	No dwellings propose a zero lot line	N/A
Landscaped Areas	25% of the site area to be Landscaped. Landscaped area for growing trees minimum 4m x 5m area in rear yard. 50% front setback shall be landscaped. Landscaped area for growing trees minimum 3m x 3m in front setback	All lots provide a minimum 25% landscaped area except for Lot 32. A minimum 4m x 5m provided in rear yard provided for planting trees. A 3mx3m in front yard is provided for all dwellings. Due to the irregular shape of the existing lot, some of the resultant Torrens title Lots have narrow frontages and would need to provide a large expanse of the frontage for the purpose of a driveway. As such Lot 32, is unable to provide the required 25% landscaping in this instance.	Satisfactory
Private Open Space	POS to be > 60sqm Not within primary street setback To have area to dry clothes Shall include a Principal POS directly accessible from dwelling living area (dimension 4m x 6m) Principal POS to receive 3 hours sunlight to 50% of the area (21 June – from 9am to 5pm)	All dwellings provide a POS equal to or greater than 60m ² . All include an area of 4x6 and all receive 3 hours of solar access to 50% of the PPOS on 21 June.	Complies
Cut and Fill	Provisions to restrict changes to the natural ground levels Maximum cut 600mm	All dwellings comply with this requirement	Complies
Building Design & Appearance	Front Entrance to the visible to the street	All dwellings have been designed to comply with these requirements	Complies

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	<p>Front of Building to be articulated with porches/entries/ wall indents/balconies/verandas</p> <p>Eave overhang minimum of 400mm to be provided to 70% of the dwelling</p> <p>Dwellings with 2 street frontages should address both</p> <p>Sidewalls to be articulated if continuous over 14m length</p> <p>Balconies should be constructed over garages</p> <p>Balconies should face the front only</p>		
	<p>Garage door/carports must not be > 50% of the building frontage</p> <p>Garages/carports must be The minor element of the building façade</p> <p>Garage shall be incorporated into the dwelling/roof design</p> <p>Garages/carports to be compatible with building design</p>	<p>Dwellings have been designed to accommodate this requirement.</p>	<p>Satisfactory.</p>
<p>Building Internal Design</p>	<p>Habitable rooms located to front for security and surveillance</p> <p>Living room should take advantage of northern aspect</p> <p>Access to POS from a living</p>	<p>Dwellings have been designed to accommodate this requirement</p>	<p>Satisfactory.</p>

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	<p>room</p> <p>Internal layout to allow cross ventilation</p> <p>WC/en-suites/laundries/Walk-in-robres to be located to sides and rear</p> <p>Each dwelling to provide 8m3 storage</p> <p>Locate habitable rooms overlooking communal public areas where possible</p>		
Landscaping and Fencing	<p>Provisions for the planting of trees in landscaped areas and</p> <p>Fences adjoining public land on a Secondary Frontage</p> <p>Must be 1.2m high for 9m from the front boundary towards the rear, then can be stepped up to 1.8m, and must not be sheet metal in addressing the street</p>	All dwellings have been designed to accommodate appropriate landscaping.	Satisfactory.
Car Parking & Access	<p>2 Car Parking Spaces for each dwelling</p> <p>At least 1 car space behind the front setback</p> <p>Car space to be 2.5m x 5.5m</p>	All dwellings provide the required number of parking spaces.	Complies
Amenity and Environment Overshadowing	<p>Overshadowing – on 21 June adjoining allotment must receive 3 hours sunlight to;</p> <p>50% of POS, and</p> <p>A living, rumpus room</p>	All dwellings have been designed to maintain the amenity of the adjoining properties when developed.	Complies
Amenity and Environment Privacy	<p>Minimise overlooking of neighbours by;</p> <p>Offsetting side windows by 1m</p> <p>Habitable room side windows</p>	All dwellings have been designed to maintain the amenity of the adjoining properties when developed.	Complies

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	are to have a sill height of 1.5m (road / open space excepted)		
Acoustic Impact	Measures to protect from impact of rail and/or traffic related noises as required	N/A	N/A
Letterboxes	Sympathetic to design of buildings	Not identified on plans.	Complies by condition
Frontage works	Where there are no existing street trees in front of the site and contributions have not been collected for street tree planting it may be a condition of consent that street trees be provided in the footpath area immediately in front of the site.	There are no trees in front of the site and no specific contributions provided. As such a street tree will be required to be planted in front of the site.	Complies by condition

Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

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

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

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia and the safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

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

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Heads of Consideration	Comment
Built Environment	The proposed development, as amended, is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is considered to be of an appropriate scale and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate residential development which is not considered an over-development and is consistent with the desired future built character of the locality.
Natural Environment	All assessments submitted with the application has identified a significant impact on the existing natural environment on the site, in particular the impact on the identified EEC's on the site. However as identified in this report the applicant has obtained the relevant approvals under the EPBC and TSC Acts to offset the detrimental impact on the natural environment.
Social Impacts	The application is unlikely to cause detrimental social impacts, being consistent with the current low density character of the area. The proposal will enable a development that will provide for the future housing needs of the community.
Economic Impacts	The proposal is likely to result in a positive economic impact in the locality through the capital investment of the development.

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

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

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Development Engineer	Approval subject to conditions of consent
Traffic Engineer	Approval subject to conditions of consent
Environmental Health	Approval subject to conditions of consent
Flooding	Approval subject to conditions of consent

(b) External Referrals

The following comments have been received from External Agencies

DEPARTMENT	COMMENTS
Office of Water	GTA's issued
Office of Environment and Heritage	GTA's Issued and Bio banking Offset Credits approved
Department of Environment and Energy	Controlled Action Issued

(b) Community Consultation

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The development application was notified and advertised for a period of 30 days from 20 May 2015 to 19 June 2015. As a consequence of amended plans the application was re-notified for 14 days from 24 August 2018 to 10 September 2018. During the notification periods a total of 10 unique submissions have been received. The concerns raised in the submissions and the response to these submissions are detailed further in this report.

Issue 1: Parking, Traffic

Comment: As part of the application a traffic impact assessment was provided, prepared by Transport and Traffic Planning Associates. The traffic report concluded that the proposed road system will be appropriate and compliant with the DCP, the provision of vehicle access and servicing will be satisfactory and that there will be no adverse traffic implications. The application was reviewed by Council's traffic department and considered satisfactory. Given the additional dwellings likely to be serviced off Strathyre Drive, it was recommended that indent parking bays be provided along the street frontage. Accordingly the application has been amended to provide for the indent parking bays along Strathyre Drive.

Issue 2: Removal of Trees

Comment: It is acknowledged that the subject allotment contains EEC species. However as indicated previously in this report, the applicant has obtained the relevant approvals from the Department of Environment and Energy and the Office of Environment and Heritage to allow the proposed development to proceed and the removal of the vegetation to be undertaken.

Issue 3: Stormwater Concerns as a consequence of the additional development

Comment: The additional stormwater impact was reviewed by Council's Land Development and considered satisfactory subject to conditions of consent. Given the proximity to the stormwater channel the application was also referred to the NSW Office of Water and General Terms of Approval have been issued.

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

The proposal is generally compliant with the relevant planning controls and is generally considered to be in the public interest.

6. Developer Contributions

Contributions have been applied to the development in accordance with Liverpool Contributions Plan 2009 (Hoxton Park, Carnes Hill and Prestons Release Areas).

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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, Liverpool LEP 2008, LDCP 2008, and the relevant codes and policies of Council.

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

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

8. Recommendation

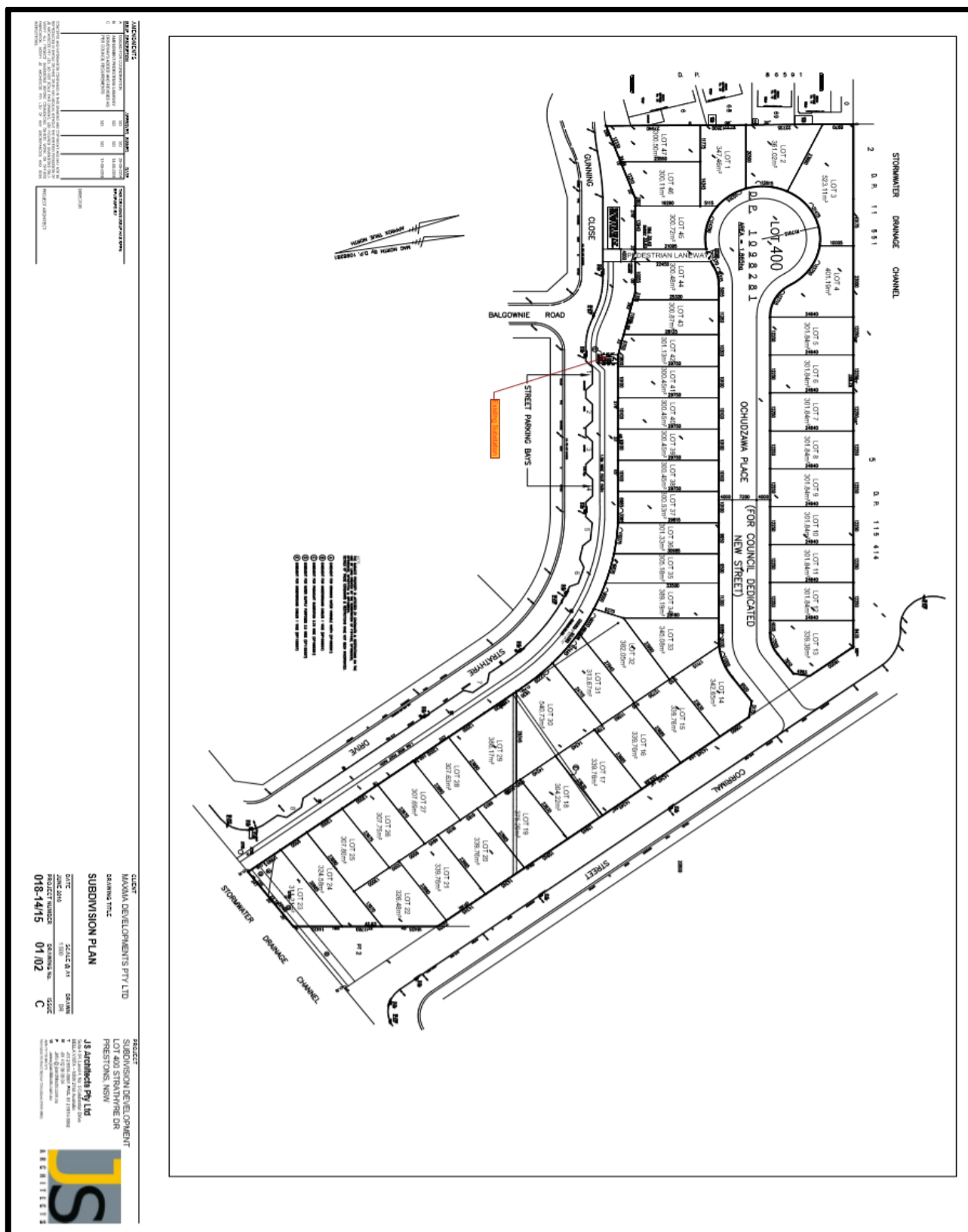
That Development Application DA-188/2015 be approved subject to conditions of consent.

9. Attachments

- 1. Plans of the Proposal**
- 2. Draft Conditions of Consent**

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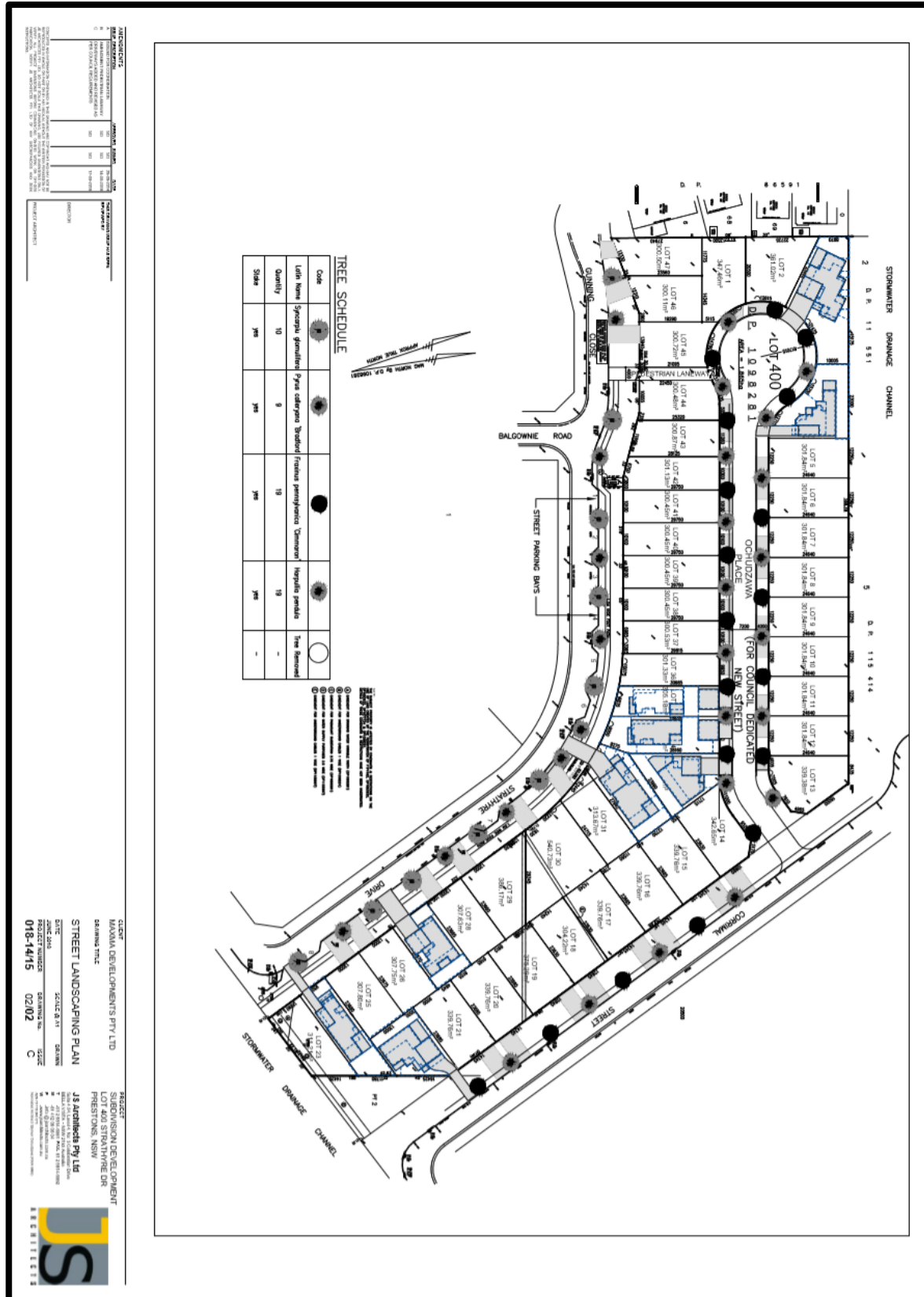
SUBDIVISION PLAN



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SUBDIVISION PLAN WITH DWELLINGS



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ATTACHMENT 2: DRAFT CONDITIONS OF CONSENT

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

PART 1:

DEFERRED COMMENCEMENT

Development consent shall be deferred pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, until the submission to Council of:

1. An application for an amendment to the existing 88B instrument is to be submitted and approved by Liverpool City Council for the removal of the of the existing restriction/easement relating to the retention of the subject site for the purpose of bushland specifically identified as follows;

TERMS OF EASEMENT, PROFIT A PRENDRE, RESTRICTION, OR POSITIVE COVENANT NUMBERED 3 IN THE PLAN

“The registered proprietor for the time being of Lot 400 shall establish and retain the allotment as bushland and shall not permit the allotment to be cleared, altered or damaged except as required to remove noxious weeds or other exotic species and shall manage the allotment in accordance with the Vegetation Management Plan. A residence can be built within the building envelope as shown in Liverpool City Council approval No2467/2004”.

The revised 88B Instrument is to be submitted to the Land and Property Information. Evidence is to be provided that the revised 88B instrument has been registered.

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PART 2:

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

A. THE DEVELOPMENT

Approved Plans

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

Plan Name	Plan Number	Date	Revision	Prepared By
Architectural Plans – Lot 03	#B-001/#005 to #B-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 04	#C-001/#005 to #C-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 22	#D-001/#005 to #C-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 24	#E-001/#005 to #E-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 27	#F-001/#005 to #F-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 32	#G-001/#005 to #G-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 33	#H-001/#005 to #H-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 34	#I-001/#005 to #I-005/#005	22/06/2018	B	JS Architects
Architectural Plans – Lot 35	#J-001/#005 to #J-005/#005	22/06/2018	B	JS Architects
Subdivision Plan	01/02	17-09-2018	C	JS Architects
Street Landscaping Plan	02/02	17-09-2018	C	JS Architects

Report Name	Date	Reference	Prepared By
Traffic Impact Assessment	December 2014	191/2014	Transport and Traffic Planning Associates
Aboriginal Archaeological Assessment	16/12/2014	B.2014	Comber Consultants
Geotechnical Investigation Report	22/12/2014	GS6083-1A	Aargus
Detailed Site Investigation	16/12/2014	ES6083/2	Aargus

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2. The development must provide for a physical sewerage connection to each created allotment to enable the method of sewage disposal by gravity reticulation mains to either, Sydney Water branch and trunk sewers or Sydney Water point of treatment. Council will not accept any temporary facilities to service the site, including pump-out wet-wells.

Construction Certificates for Dwellings

3. Individual Construction Certificates are required for each of the approved dwelling houses in this development consent when the land subdivision has been completed before dwelling construction.

Works at no cost to Council

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

Compliance with Controlled Action

5. All conditions of the controlled action issued by the Department of the Environment and Energy, reference 2015/7627, dated 21 November 2017 shall be complied with prior, during, and at the completion of construction. A copy of the controlled action are attached to this decision notice.

General Terms of Approval

6. All General Terms of Approval issued by the Office of Environment and Heritage shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 4 June 2015. A copy of the General Terms of Approval are attached to this decision notice.
7. All General Terms of Approval issued by the Department of primary Industries Office of Water, shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 22 June 2015. A copy of the General Terms of Approval are attached to this decision notice.

Compliance with BioBanking Statement Conditions

8. All conditions of the Biobanking Statement issued by the Office of Environment and Heritage, dated 3 May 2017 shall be complied with prior, during, and at the completion of construction. A copy of the BioBanking Statement is attached to this decision notice.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

SECTION 7.11 PAYMENT (Liverpool Contributions Plan 2009 – Hoxton Park, Carnes Hill and Prestons Release Areas

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9. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2009 – Hoxton Park, Carnes Hill and Prestons Release Areas

The total contribution is **\$1,968,999.00** and will be adjusted at the time of payment in accordance with the contributions plan.

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

Fee Payments

10. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

- (a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery.
- (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
- (c) Long Service Levy – based on 0.35% of the cost of building work where the costing of the CC is \$25,000 or more.

Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

These fees are reviewed annually and will be calculated accordingly.

11. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

Building Compliance

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

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

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National Construction Code

13. All aspects of construction shall comply with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:
- (a) Complying with the Deemed to Satisfy Provisions; or
 - (b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

Site Development Work

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

Notification

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

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

S138 Roads Act – Minor Works in the public road

16. Prior to the issue of a Construction Certificate a S138 Roads Act application/s, including payment of fees shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:
- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
 - Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Liverpool City Council's specifications.

Note: Approvals may also be required from the Roads and Maritime Service (RMS) for classified roads.

S138 Roads Act – roadworks requiring approval of civil drawings

17. Prior to the issue of a Construction Certificate for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with Liverpool City Council (being the

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Roads Authority under the Roads Act), for provision of (Road & Drainage Works), (Connection to new Corrimal Street for both road pavement and stormwater connections)

Engineering plans are to be prepared in accordance with the development consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works, Austroad Guidelines and best engineering practice.

Note: Where Liverpool City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.

Construction Certificate for Subdivision Works

18. Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that engineering plans are consistent with the approved concept plan/s lodged for development approval, prepared by prepared by Neilly Davies Consulting Engineers, reference number 20878S8-VT, revision-C, dated 25-10-2018 and that all subdivision works have been designed in accordance with conditions of this consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

The subdivision works may include but are not limited to the following:

- Stormwater drainage including water quantity and quality treatment measures
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Overland flowpaths
- Flood control measures
- Traffic facilities including roundabouts, intersection treatments, car parks, bus stops, cycleways, pathways etc.
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works
- All works required for conversion of the proposed sediment basin to a bio retention function
- All works required for the decommissioning temporary OSD systems including pipe removal, basin filling and works to existing pit structures if required

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Road Design

19. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works and the following criteria;

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Road No.	Road Reserve Width	Carriageway Width	Verge	Footpath (1.5m wide)	ESA
New Road No. 1	15.2	7.2	4.0	1.5	3 X 10 ⁵

Stormwater Concept Plan

20. A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Neilly Davies Consulting Engineers, reference number 20878S8-VT, revision-C, dated 25-10-2018
- (a) The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.
 - (b) Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and shall accompany the application for a Construction Certificate. The plan shall indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finish surface levels and sizes of all pipes.
 - (c) Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

Retaining Walls on Boundary

21. All retaining walls shall be of masonry construction and must be wholly within the property boundary, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage works along common boundaries shall not compromise the structural integrity of any existing structures.

Where a retaining wall exceeds 600mm in height, the wall shall be designed by a practicing structural engineer and a construction certificate must be obtained prior to commencement of works on the retaining wall

No Loading on Easements

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

Inter-allotment Drainage

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23. Inter-allotment drainage shall be provided for all lots that are unable to be drained by gravity to the street system. Inter-allotment drainage is to be constructed with a pit located immediately within the lot boundary of each lot created by the subdivision at the lowest point in the line or a maximum pit spacing of 40m.

Floodplain Engineer Conditions of Consent

24. Prior to the issue of a Construction Certificate, detailed design plans, drawings and reports are required to be submitted to Council for review and approval demonstrating the following:
- (a) There shall be no adverse overland flooding impact on adjoining site from the development. Existing storm runoff on to the site from upstream/adjoining sites shall not be disturbed and be accommodated in to the proposed stormwater system.
 - (b) Post-developed flow discharges from the site shall be no greater than the pre-developed (100%impervious catchment) flows of the site. An OSD shall be provided on the site to controls post development flow discharges from the site. Detailed design calculation and hydrologic/hydraulic modelling analysis of the OSD along with an assessment report shall be submitted for Council assessment and approval.
 - (c) There shall be no adverse overland flooding impact on existing creeks due the proposed work. Undertake detailed catchment analysis and overland flood assessment for range of storm events with 2D flood modelling preferably using Council's tuflow model of Cabramatta Creek Flood Study 2011. Prepare flood maps for pre/post development and demonstrate that post developed flows will have no adverse flood impact on adjoining creeks for range of storm events including the 20%, 5% & 1%AEP flood event.
 - (d) Major/minor system shall comply Council design requirement. Major system (roads) shall comply flood depth criteria ($d < 0.2\text{m}$) and velocity*depth ($vd < 0.4$) safety criteria up to the 1%AEP flood. Demonstrate that existing adjoining roads will have no adverse impact from additional (if any) storm runoff from the development.
 - (e) Detailed concept design plans/drawings, hydrologic/hydraulic modeling of the OSD, overland flood assessment report with flood mapping, electronic copies of flood models with result files shall be submitted to Council for assessment.
 - (f) Future habitable floor levels shall be no lower than the 1% AEP flood plus half a metre freeboard.
 - (g) Future structures shall be constructed from flood compatible building components below the 1% AEP flood plus half a metre freeboard.

Traffic Management and Road Works

25. A traffic management plan is to be submitted to Liverpool City Council's Traffic Committee for approval. Works within the road reserve shall not commence until the traffic management plan has been approved.
26. The traffic management plan is to be prepared by an accredited designer and submitted to and stamp approved by Council via a standard Section 138 Roads Act Permit application available at Council's customer service counter. The stamped approved Roads Act Permit

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is to be obtained by the PCA. A copy of the stamped approved Roads Act Permit and traffic management plan is to be available on the works site for inspection at any time by an authorised Council officer.

Traffic, Access, Car Parking and Manoeuvring – General

27. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development, are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Liverpool City Council's Development Control Plan.

Road Safety Audit

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

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

Traffic and Parking Facilities Endorsement

29. Detailed designs and locations of all indent parking bays, pram ramps, linemarking, signposting and pedestrian crossing facilities if any is to be submitted to Liverpool City Council's Traffic and Transport Department for review and endorsement. The final design of the indent bays is to be endorsed by the Liverpool Local Traffic Committee prior to the issue of the Construction Certificate.

Provision of Services

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

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

31. Written clearance from Endeavour Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.
32. Prior to the issue of a Construction Certificate, the PCA shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the requirements of:
- The Telecommunications Act 1997:

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- The NBN Co's standard specifications current at the time of installation, for a fibre ready facility.

For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

33. The applicant is to arrange with the appropriate service provider for any above ground service riser or access point to be constructed clear of any proposed or existing pedestrian footways, and if possible, located in recessed unobtrusive locations. Should any service provider require and/or insist the applicant/developer build a service riser that would create an obstruction and pose a potential safety hazard, then the applicant/developer should refer the request to Council for negotiation directly with the Service Network Authority.
34. The applicant is to obtain approval from relevant service authorities in relation to authority assets that may require adjustment and or relocation in order to complete the works required by this consent.

Services

35. All services required to adequately service the development are to be shown on the engineering drawings submitted for the CC approval including duct configurations, road crossings, water and sewer services, electrical services and light columns positions.

Dilapidation Report

36. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development on all existing public roads adjoining the site is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 20m either side of the development.

Street Names

37. All proposed street names must be confirmed with Council's Strategic Planning Department prior to the issue of a Construction Certificate.

Heritage Conditions

38. An Aboriginal Heritage Impact Permit (AHIP) will be required as there are two registered Aboriginal sites (AHIMS 45-5-4319, 45-5-4320) located on the property. Archaeological testing, salvage and Aboriginal community consultation must be undertaken prior to applying for an AHIP.
39. Aboriginal community consultation in accordance with OEH's *Aboriginal cultural heritage consultation requirements for proponents 2010* must be undertaken prior to applying for the permit.

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40. Once the consultation has been completed archaeological testing must be undertaken in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* in consultation with the registered Aboriginal stakeholders. This must be undertaken prior to applying for the AHIP and the results submitted with the AHIP application.
41. A copy of the report documenting the results of archaeological testing and Aboriginal consultation should be provided to Liverpool City Council's Heritage Officers.

C. PRIOR TO WORKS COMMENCING

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

Construction Certificates

42. Detailed Civil engineering plans and specifications relating to the work shall be endorsed with a Construction Certificate, in accordance with Section 4.19 of the Act, and a copy registered with Council.
43. Detailed engineering plans and specifications relating to the work shall be endorsed with a Construction Certificate, in accordance with Section 4.19 of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
44. Any Construction Certificate that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.
45. Where this consent requires both engineering and building works to be undertaken, a separate construction certificate shall be issued for each category of works i.e., a separate Civil Engineering Construction Certificate and a separate Building Construction Certificate.

Building Compliance

46. Prior to the commencement of any building works, the following requirements must be complied with:
 - a) A Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
 - b) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - c) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate; and
 - d) A principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the Home Building Act 1989, and the PCA and Council

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are to be notified accordingly; and

- d) The principal contractor or owner builder must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority; and
- e) At least two days notice must be given to the Council, in writing, prior to commencing any works

Matters to be addressed prior to commencement of Subdivision Works

47. Work on the subdivision shall not commence until:

- (a) a Construction Certificate (if required) has been issued,
- (b) a Principal Certifying Authority has been appointed for the project, and
- (c) any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement is to be submitted to Liverpool City Council two (2) days prior to commencement of engineering works or clearing associated with the subdivision.

Environmental Management

48. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:

- (a) Measures to control noise emissions from the site;
- (b) Measures to suppress odours and dust emissions;
- (c) Selection of traffic routes to minimise residential noise intrusions;
- (d) Soil and sediment control measures;
- (e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
- (f) Community consultation.

Waste Classification and Disposal of Contaminated Soil and Material

49. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and certified consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, in particular the NSW EPA Waste Classification Guidelines, prior to off-site disposal.

All Waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to the Principal Certifying Authority within 30 days of the waste being disposed of.

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All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage, and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

Residential Building Work

50. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*), must not be commenced until such time as a contract of insurance is in force in accordance with Part 6 of that Act.
51. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be commenced unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit,

Note: A certificate supporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part.

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

Site Notice Board

53. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
- (a) The name, address and telephone number of the principal certifying authority for the work; and
 - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Unauthorised entry to the premises is prohibited.

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Site Facilities

54. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.
55. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

Exportation of Waste

56. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act and NSW DECCW, (EPA) 'Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes'. The classification of the material is essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non-liquid waste advice should be sought from the DECCW (EPA).

Sydney Water

57. Prior to commencement of dwelling construction works, the approved plans must be processed and approved by Sydney Water.

Sediment & Erosion Control

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

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

D. DURING CONSTRUCTION

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

Building Compliance

59. The building works must be inspected by the *Principal Certifying Authority*, in accordance with sections 6.5 (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance

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with the relevant standards of construction, Council's development consent and the construction certificate.

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

60. A sign must be erected and maintained in a prominent position on the site, which contains the following details:
- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
 - name, address and telephone number of the *Principal Certifying Authority*
 - a statement stating that 'unauthorised entry to the work site is prohibited'.

Hours of Construction Work and Deliveries

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

Security Fence

62. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction.

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

Identification Survey Report

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

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

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

Traffic Management

64. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RMS Traffic Control at Worksites Manual and the RMS Interim Guide to Signs and Markings.

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- 65. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
- 66. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.
- 67. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

Construction Requirements

- 68. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.

General Site Works

- 69. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
- 70. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
- 71. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
- 72. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 73. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.
- 74. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.

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- 75. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
- 76. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor, licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of in accordance with DECCW (EPA) requirements.
- 77. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
- 78. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- 79. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

Waste

- 80. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
- 81. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water, to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

Earthworks

- 82. All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

- 83. Council will not permit contaminated material to be capped and contained beneath public roads and footpath areas.

Soil Testing

- 84. Soil Testing is to be carried out to enable each lot to be classified according to AS 2870 "Residential Slabs and Footings".

Car Parking Areas

- 85. The design of car-parking spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.
- 86. 'No Stopping' parking restrictions in lane way and at intersections are to be provided in accordance with the DCP and AS 2890.

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Unexpected Heritage Finds

87. All relevant on-site staff and contractors should be made aware of their statutory obligations for heritage under NSW National parks and Wildlife Act 1974 and the NSW Heritage Act 1977. They are to be informed of what the potential heritage on the site will be and the significance of the heritage. The site supervisor is to maintain a record of who has completed the heritage induction and this is to be provided to Council prior to Issue of Occupation Certificate.
88. If Aboriginal object/s are identified during works, then all works in the immediate area must cease and the area secured. The Office of Environment and Heritage must be notified by ringing the Enviroline 131 555. No works are to commence until authorisation has been received from the Office of Environment and Heritage and the appropriate permits have been obtained.
89. In the event that skeletal remains are uncovered, work must cease immediately in that area and the area secured. NSW Police must be contacted and no further action taken until written advice has been provided by the NSW Police. If the remains are determined to be of Aboriginal origin, the Office of Environment and Heritage must be notified by ringing the Enviroline 131 555 and a management plan prior to works re-commencing must be developed in consultation with relevant Aboriginal stakeholders.
90. Copies of all Aboriginal Archaeological assessments and reports (including summary excavation and analysis reports) are to be provided to Liverpool City Council, Liverpool City Library and the relevant Local Aboriginal Land Councils.

Contamination

91. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
92. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
 - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
 - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.

External Treatment of Buildings

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- 93. Any external lighting is to incorporate full cut-off shielding and is to be mounted so as to not cause any glare or spill over light nuisance within the development, neighbouring properties or road users.
- 94. The windows of all first floor bathrooms, W.C. and en-suites shall be fitted with translucent obscure glazing to the satisfaction of the PCA.

Display of Street Numbers

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

Mail-boxes

- 96. The mailboxes for the studio dwellings are to be located along the front boundary of the lots and must each have their own keys for private access. Mailboxes for the secondary dwellings are not to be located along the rear lanes.
- 97. The letter boxes for each allotment are to be consistent with the design and colours and materials for the development.

Waste Management Plan

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

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

Vegetation

- 99. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
- 100. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
- 101. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.

Street Lighting

- 102. Street lighting is to be provided for all new and existing streets within the proposed subdivision to Liverpool City Council's standards.

The developer shall submit a Public Lighting Design Brief to Council for approval for the provision of street lighting on all new public roads dedicated to Council. A street lighting design plan must be prepared by an accredited service provider for approval prior to construction. All street lighting must comply with the electricity service provider Street

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Lighting Policy and illumination requirements and Council's Street Lighting policy.

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

E. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Subdivision Certificate by Council:

Completion of subdivision works

103. Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Liverpool City Council for any outstanding works.

Liverpool City Council clearance – Roads Act/ Local Government Act

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

Subdivision Compliance documentation

105. Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority:
- (a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Design Guidelines. Electronic copies of the WAE shall be provided in PDF format and a DXF format to Council along with two hard copies of the WAE plans,
 - (b) The WAE drawings shall clearly indicate the 1% Annual Exceedence Probability flood lines (local and mainstream flooding),
 - (c) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges,
 - (d) CCTV footage in DVD format to Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Inspections are to be carried out in accordance with the Conduit Inspection Reporting Code of Australia WSA 05-2006. Any damage that is identified is to be rectified in consultation with Liverpool City Council,

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- (e) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries,
- (f) Documentation for all road pavement materials used demonstrating compliance with Council Design Guidelines and Construction Specification,
- (g) Structural Engineer's construction certification of all structures.

Stormwater Compliance

106. Prior to the issue of a Subdivision Certificate the Principal Certifying Authority shall ensure that the On-site detention system/s and Stormwater pre-treatment system/s;
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

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

Linen Plans & 88B

107. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and four (4) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.
108. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.
109. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Council's standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.
110. The final plan of subdivision must be supported by an 88B Instrument. This instrument must burden the Proposed Lots 3, 4, 22, 24, 27, 32, 33, 34 and 35 with a restriction as to user that the dwellings to be erected on these Lots are to be sited and constructed in accordance with the stamped approved building drawings and this Notice of Determination (DA-188/2015) issued by Council. Any costs associated with the preparation and checking of the instrument are to be borne by the applicant. The preparation of an 88B Instrument will not be required if construction of the dwellings has reached a stage where all brickwork is a minimum 500mm above finished floor level and the construction is in accordance with the Development Consent and the Construction Certificate.

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111. Where common drainage lines or other drainage lines are required, a drainage easement shall be created in accordance with Council's minimum widths as scheduled in Council's Design Specification for Subdivisions (as amended).
112. Correct notation concerning easements is required. The prepared 88B Instrument should be forwarded initially to Council. The land value of the easement and costs associated with checking the instrument are to be borne by the applicant. Part 2 of the 88B Instrument shall contain a provision that the easement may not be extinguished or altered without the written consent of Council.
113. Where registration of lots occurs prior to the construction of dwellings, a Restriction as to User is to be created requiring the dwellings on each lot to be constructed in accordance with the approved plans listed in this consent.

Service Providers

114. The following documentation is to be provided prior to the release of the Occupation Certificate.
- a) Written evidence (Section 73 Certificate) is to be submitted to the PCA prior to the issue of the subdivision certificate.
 - b) Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.
 - c) Written certification from the relevant service providers that the telecommunications infrastructure is installed in accordance with:
 - The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connections of optic fibre technology telecommunications

Construction of Dwellings

115. Prior to the issue of the Subdivision Certificate, construction of the dwellings is required to have reached a stage where all brickwork is a minimum 500mm above finished floor level and the construction is in accordance with the development consent and the CC's.

Rectification of Damage

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

Any rectification works within existing public roads will require a Roads Act application. The

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application is to be submitted and approved by Liverpool City Council prior to such works commencing.

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

Street Naming

118. Prior to the issue of a Subdivision Certificate, an application for proposed street names must be lodged with and approved by Liverpool City Council and the signs erected on-site.

The proposed names must be in accordance with Council's Street Naming Policy.

Notes: Allow eight (8) weeks for notification, advertising and approval.

Bond for Final Wearing Course

119. Prior to the issue of the Subdivision Certificate, a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Liverpool City Council.

The final layer of asphalt on all roads shall not to be placed without the written consent of Council (Consent will generally be provided when 80% of the housing within the subdivision has been completed).

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

The final AC layer may be requested by Council where it is deemed appropriate that the final AC layer be undertaken.

Maintenance Bond

120. Prior to the issue of nominate a Subdivision Certificate a maintenance bond is to be lodged with Liverpool City Council for All civil works

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

121. A maintenance bond in the form of a bank guarantee or cash bond (\$TBA), shall be lodged with Council prior to the issue of a subdivision certificate. The bond shall cover maintenance and any damage to roads, drainage lines, public reserves or other council property or works required as a result of work not in accordance with Council's standards, and /or development consent conditions. The bond will be held by Council for a minimum period of 6 months from the date of Council's acceptance of final works.

Footpaths

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

F. PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Occupation Certificate by Council:

Issue of Subdivision Certificate

123. Prior to the issue of an Occupation Certificate for the approved dwellings on proposed Lots 3, 4, 22, 24, 27, 32, 33, 34 and 35, evidence of registration of the Torrens title subdivision that creates these lots with the Land and Property Information service shall be submitted to the satisfaction of the Principal Certifying Authority.

Liverpool City Council clearance – Roads Act/ Local Government Act

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

Building Compliance

125. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.
126. Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Council with the occupation certificate.
127. In accordance with section 4.17 of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, in relation to *residential building work*, the requirements of the *Home Building Act 1989* must be complied with.

Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council.

Registration of Lots

128. Prior to the issue of an Occupation Certificate for any of the dwellings, evidence is to be submitted to the PCA indicating the registration of the approved lots with the LPI Service / NSW Registry, on which the dwellings were approved, as shown on approved plans.

Landscaping

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

BASIX

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

Garbage Services

131. The owner/developer of the site is to contact Liverpool City Council – Sustainable Environment section to determine the required number of waste/garbage bins for the dwellings as well as serving requirements. These waste/garbage bins are to be kept within the curtilage of each dwelling, except before and after collection days.

Rectification of Damage

132. Prior to the issue of an Occupation Certificate, any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be rectified at no cost to Liverpool City Council.
133. Any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

G. GENERAL CONDITIONS

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

Landscaping

134. Landscaping shall be maintained in accordance with the approved plan, in a healthy state and in perpetuity by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

Waste Storage Area

135. Waste bins must be kept within the curtilage of each dwelling. Bins must not be stored or allowed to overflow into landscaped areas or the rear lanes, must not obstruct the entry/exit of the driveway, and must not leave the site onto neighbouring, public or private properties.

H. ADVISORY

- a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Sections 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 6 months after the date on which the application is taken to have been determined.

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- b) If you are dissatisfied with this decision, Sections 8.7, 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which the application is taken to have been determined.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.
- d) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- e) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- f) **“DIAL BEFORE YOU DIG”**

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

- g) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

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

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

- h) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- i) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

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ATTACHMENT 2: Controlled Action – Department of the Environment and Energy

LIVERPOOL CITY COUNCIL
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Australian Government
Department of the Environment and Energy

EPBC Ref: 2015/7627

Mr Michael Ma
Director
Maxma Developments Pty Ltd
Suite 1, 443 Chapel Road
BANKSTOWN NSW 2200

Dear Mr Ma

Decision on approval
Residential subdivision of land at Lot 400 Strathyre Road, Prestons, NSW

I am writing to you in relation to your proposal to develop a residential subdivision of land at Lot 400 Strathyre Road, Prestons, NSW (EPBC 2015/7627).

I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to Maxma Developments Pty Ltd. The details of my decision are attached. The proposal must be undertaken in accordance with the conditions specified in the approval.

I would appreciate your assistance by informing me when you start the action, provide the information specified in the conditions, and who will be the contact person responsible for the administration of the approval decision.

Please note, any plans required as conditions of approval will be regarded as public documents unless you provide sufficient justification to warrant commercial-in-confidence status.

You should also note that this EPBC Act approval does not affect obligations to comply with any other laws of the Commonwealth, state or territory that are applicable to the action. Neither does this approval confer any right, title or interest that may be required to access land or waters to take the action.

The Department has an active audit program for proposals that have been referred or approved under the EPBC Act. The audit program aims to ensure that proposals are implemented as planned and that there is a high degree of compliance with any associated conditions. Please note that your project may be selected for audit by the department at any time and all related records and documents may be subject to scrutiny. Information about the Department's compliance monitoring and auditing program is enclosed.

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If you have any questions about this decision, please contact the assessment officer, Jamie Machin, by email to Jamie.machin@environment.gov.au, or telephone 02 6275 2303 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely



Dane Roberts
Acting Assistant Secretary
Assessments (NSW, ACT) & Waste Branch

21 November 2017

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Australian Government
Department of the Environment and Energy

Approval

**Residential subdivision of land at Lot 400 Strathyre Road, Prestons, NSW
(EPBC 2015/7627)**

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted Maxma Developments Pty Ltd

proponent's ACN 169 382 316

proposed action The subdivision of land at Lot 400 Strathyre Road, Prestons, NSW, to accommodate residential development and associated infrastructure.

[See EPBC Act referral 2015/7627]

Approval

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	Approve

conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 30 November 2031.

Decision-maker

name and position Dane Roberts
Acting Assistant Secretary
Assessments (NSW, ACT) & Waste Branch

signature

date of decision

21/11/2017

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Conditions attached to the approval

1. The approval holder must not clear more than 2.29 hectares of **Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest (CPW)** within the **proposed action area**.
2. To compensate for the loss of **CPW, Grey-headed Flying-fox and Swift Parrot habitat** at the **proposed action area**, prior to the **commencement** of the action, the approval holder must purchase and retire no less than 65 **BioBanking Credits** for **CPW**, as defined under the **EPBC Act** and associated policies.
3. Following the retirement of credits as required under condition 2, the approval holder must submit a **BioBanking Credit Retirement Report** to the Department as evidence of compliance, prior to **commencement** of the action.
4. To compensate for the loss of **CPW, Grey-headed Flying-fox and Swift Parrot habitat** at the **proposed action area**, the approval holder must ensure that the **BioBanking Agreement(s)** for the **BioBank site(s)** secured, includes:
 - a. specific reference to **CPW** at the **proposed action area** impacted by the proposed action;
 - b. a description of the management measures that will be implemented;
 - c. performance indicators for evaluating the management of the **BioBank site(s)**;
 - d. corrective measures and contingency measures (including evaluation measures) that will be used in the event that performance indicators are not met.
5. As evidence of compliance with Condition 4, the approval holder must provide the Department with a copy of the **BioBanking Agreement(s)**, prior to the commencement of the action.

Administrative conditions

6. Within 14 days after the **commencement** of the action, the approval holder must advise the **Department** in writing of the actual date of **commencement**.
7. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, and make them available upon request to the **Department**. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
8. Within three months of every 12 month anniversary of the **commencement** of the action, the approval holder must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published. Reports must remain published for the life of the approval. Reports must continue to be published until such time as advised by the **Minister** in writing.

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9. Upon the direction of the **Minister**, the approval holder must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the **commencement** of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
10. If, at any time after five (5) years from the date of this approval, the approval holder has not **commenced** the action, then the approval holder must not **commence** the action without the written agreement of the **Minister**.

Definitions

BioBanking scheme – is the Biodiversity Banking and Offsets Scheme established under section 127B of the Threatened Species Conservation Act 1995 (New South Wales) for the compensation of biodiversity impacts.

BioBanking Agreement – has the meaning given under the BioBanking Scheme.

BioBanking Credit Retirement Report – has the meaning given under the BioBanking Scheme.

BioBank site(s) – has the meaning given under the BioBanking Scheme.

BioBanking Statement – has the meaning given under the BioBanking Scheme.

Biobanking Credits – has the meaning given under the BioBanking Scheme.

Commencement / Commencement of the action – the first instance of physical activity to implement the action on site including any preparatory works (excluding fences and signage), earthworks, clearing of vegetation, erection of any onsite temporary structures / building compound facilities.

CPW – Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community is listed as critically endangered under the EPBC Act.

Department – the Commonwealth Department responsible for administering the EPBC Act.

EPBC Act – the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Grey-headed Flying-fox – the Grey-headed Flying-fox (*Pteropus poliocephalus*) is a vulnerable species under the EPBC Act.

Swift Parrot – the Swift Parrot (*Lathamus discolor*) is a critically endangered species under the EPBC Act.

Minister – the Minister responsible for the administration of the EPBC Act and including a delegate of the Minister.

Preliminary documentation – means the final assessment documentation provided to the Department, being the final preliminary documentation package prepared by the proponent's ecologist Biosis and dated 20 April 2017.

Proposed action area – refers to Lot 400 DP1098281 and the Strathyre Drive and Corrimal Street road verges as shown in ANNEXURE A.

Retire / Retirement of credits – has the meaning given under the BioBanking Scheme.

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Annexure A



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ATTACHMENT 3: GTA's Office of Environment and Heritage



**Office of
Environment
& Heritage**

Our reference: DOC15/160268
Contact: Fran Scully (02) 9995 6830

Received By

10 JUL 2015

[Signature]

Lina Kakish
Manager
Development Assessment
Liverpool City Council
Locked Bag 7064
Liverpool BC
NSW 1871

Dear Ms Kakish

I refer to your letter dated 11 May 2015 to the OEH referring the integrated development application for the Lot 400 DP1098281, Lot 400 Strathyre Drive, Prestons, NSW 2170 (DA-188/2015) for comment. While this letter was sent to the Heritage Division, OEH understands that the referral was for consideration of Aboriginal cultural heritage under the National Parks and Wildlife Act 1974.

OEH has reviewed the information provided, including the Aboriginal Archaeological Assessment by Comber Consultants (December 2014). OEH notes that the Executive Summary of the Aboriginal Archaeological Assessment states that Liverpool City Council advised that as two registered archaeological sites are located within the development site a Due Diligence Assessment should be undertaken. Please note, as there are registered Aboriginal sites within the development site, undertaking a Due Diligence assessment is inappropriate. A full archaeological assessment should be undertaken in order to identify if other Aboriginal objects are present within the development site, if Aboriginal objects will be harmed by the proposed development and propose appropriate management and mitigation measures for these objects.

Further, recommendation 1 on Page 30 of the Aboriginal Archaeological Assessment states that "Archaeological testing, salvage and community consultation must be undertaken prior to applying for an AHIP". Please note, archaeological salvage can only take place once an AHIP has been issued and if it is a condition of that AHIP.

OEH provides the following Aboriginal Cultural Heritage general terms of approval:

- There are two registered sites within the development area, AHIMS #45-5-4319 (SD-AS-001) and #45-5-4320 (SD-IF-001). Both sites will be harmed by the proposed development. Therefore a s90 Aboriginal Heritage Impact Permit (AHIP) must be sought and granted for these objects prior to the commencement of works. Appropriate management and mitigation for harm must form part of the AHIP application.
- The AHIP application must be accompanied by appropriate documentation and mapping as outlined on page 6 of *Applying for an Aboriginal Heritage Impact Permit, Guide for Applicants*. This documentation includes a full Aboriginal Cultural Heritage Assessment with appropriate management and mitigation measures for any Aboriginal objects known, or likely to be, within the development area, including opportunities for *in-situ* conservation, if warranted.

PO Box 644 Parramatta NSW 2124
Level 6, 10 Valentine Avenue Parramatta NSW 2150
ABN 30 841 387 271
www.environment.nsw.gov.au

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- Consultation with the Aboriginal community undertaken as part of an AHIP application must be in accordance with the *Aboriginal Cultural Heritage Community Consultation Requirements for Proponents 2010*.

If you have any further questions in relation to this matter, please contact Fran Scully, Archaeologist, on (02) 9995 6830.

Yours sincerely

S. Harrison 04/06/15

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region
Office of Environment and Heritage

LIVERPOOL CITY COUNCIL
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ATTACHMENT 4: GTA's Office of Water



**Department of
Primary Industries
Office of Water**

Contact: Mohammed Ismail
Phone: 02 8838 7535
Fax: 02 9895 7501
Email: mohammed.ismail@dpi.nsw.gov.au
Our ref: 10 ERM2015/0404
Our file: 9054286
Your ref: DA2015/188

The General Manager
Liverpool City Council
Locked Bag 7064
LIVERPOOL BC NSW 1871

Attention: Lina Kakish

22 June 2015

Dear Lina

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA2015/188
Description of proposed activity: Subdivision to create 47 allotments
Site location: Lot 400 Strathyre Drive Prestons

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find the Office of Water's General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au
Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 | Locked Bag 5123, Parramatta NSW 2124 | E
water.enquiries@dpi.nsw.gov.au | ABN 72 189 919 072
Template Ref: CAA04 - Version 1.1 - June 2015

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-2-

- The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- The Office of Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, the Office of Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to the Office of Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from the Office of Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > Controlled activities

The Office of Water requests that Council provide a copy of this letter to the applicant.

The Office of Water also requests that Council provides the Office of Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Mohammed Ismail
Water Regulation Officer
NSW Department of Primary Industries
Office of Water
Water Regulatory Operations, Water Regulation Unit

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General Terms of Approval

for work requiring a controlled activity approval
under s91 of the Water Management Act 2000


Number	Condition	File No: 9054296
Site Address:		Lot 400 Strathgrye Drive Prestons
DA Number:		DA2015/188
LGA:		Liverpool City Council
Plans, standards and guidelines		
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2015/188 and provided by Council. Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.	
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.	
3	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.	
4	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.	
5	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.	
6	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.	
7	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.	
END OF CONDITIONS		

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ATTACHMENT 4: BioBanking Statement Conditions


Statement ID: 25



BioBanking
Biodiversity Banking and Offsets Scheme

Part 7A of the Threatened Species Conservation Act 1995

BioBanking statement	Statement ID 25
	<p>Annexure A: maps Map 1: Site map (23/11/2015) Map 2: Development proposal (02/02/2015) Map 3: Vegetation zones (25/11/2015)</p> <p>Accredited assessor's ID 0173</p> <p>Accredited assessor's name Callan Wharfe</p> <p>BioBanking credit calculator version Version 4.0</p>



**Office of
Environment
& Heritage**

LIVERPOOL CITY COUNCIL
LOCAL PLANNING PANEL REPORT

30 September 2019

Statement ID: 25

Section 1: BioBanking statement issued to

Name	Maxma Developments Pty Ltd
ABN	42 169 382 316
Address	Suite 1, 443 Chapel Road, Bankstown
Postcode	2200

Section 2: Development site

Address	Lot 400 Strathyre Drive, Prestons, NSW 2170	
Lots and DP	Lot 400 DP 1098281	
Local Government Area	Liverpool	
Site reference	Easting: 303230 AMG zone: 56	Northing: 6241169 Reference system: GDA 94
Maps	Map 1: Site map (23/11/2015) Map 2: Development proposal (02/02/2015) Map 3: Red flag area and species polygon for Cumberland Plain Land Snail (25/11/2015)	
Brief description of development	<p>The proposed development is the subdivision of Lot 400 DP 1098281 (Lot 400 Strathyre Drive, Prestons) to create approximately 47 residential lots. The land is zoned R2 – Low Density Residential under the Liverpool Local Environmental Plan 2008. The Project will include the construction of infrastructure and services associated with residential subdivisions, including roads, footpaths, street lights, water and sewerage connections.</p> <p>The proposed development requires the removal of 1.86 hectares of native vegetation, comprising 1.67 hectares of Cumberland Plain Woodland CEEC and 0.19 hectares of River-flat Eucalypt Forest EEC. The proposed development will also remove 1.24 hectares of habitat for Cumberland Plain land snail.</p>	

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Statement ID: 25

Section 3

I, the Chief Executive of the Office of Environment and Heritage issue this BioBanking statement on the basis that the development specified above, combined with the credit retirement requirements and on-site measures set out in section 4 of this statement, will improve or maintain biodiversity values in accordance with section 127ZL of the *Threatened Species Conservation Act 1995*. This determination is made on the basis of an assessment of the impact of the development on biodiversity values in accordance with the BioBanking Assessment Methodology.


Anthony Lean
Chief Executive
Office of Environment and Heritage
Date 3 MAY 2017

LIVERPOOL CITY COUNCIL
LOCAL PLANNING PANEL REPORT

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Statement ID: 25

Section 4

Conditions applicable to this BioBanking statement

The conditions as set out in Schedule 1 and Schedule 2 are applicable to this BioBanking statement.

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Statement ID: 25

Schedule 1

Conditions relating to on-site measures

The development to which this BioBanking statement applies as described in Section 2, must be undertaken in accordance with the following on-site measures:

Prescriptions for mitigation of potential impacts of construction activities on retained native vegetation and habitat are to be addressed in a site-specific Construction Environmental Management Plan (CEMP). The CEMP must be submitted to the consent authority prior to the issuing of the construction certificate. Physical development works must not commence until the consent authority has approved the CEMP. The CEMP must be prepared taking account of conditions 1 to 7 below.

1. The CEMP must identify and map areas of retained native vegetation, and any construction areas where there is some potential for accidental encroachment, as 'No Go Zones'. These areas are to be fenced on-site with appropriate exclusion fencing. Fencing is to include appropriate signage such as 'No Go Zone' or 'Environmental Protection Area'. All retained vegetation must be fenced within an Environmental Protection Area to prevent encroachment from the construction works.
2. An Ecological Management Plan (EMP) is to be prepared and included in the CEMP. The EMP must outline measures for the staged removal of vegetation from the development site to mitigate impacts on fauna. Staged removal involves clearing of understorey vegetation and non-hollow-bearing trees in Stage 1 and removal of hollow-bearing trees in Stage 2. There is to be a minimum of 24 to 48 hours between Stage 1 and Stage 2. Tree felling is to be attended by a suitably equipped and experienced ecologist to catch and release displaced fauna. The ecologist will work in conjunction with the machinery operator to identify the most benign method of dislodging fauna and for felling trees. Any fauna rescued during vegetation clearance is to be assessed for injuries and, if unharmed, subsequently released into suitable nearby habitat. This may require holding fauna until dusk for release in accordance with relevant animal ethics licensing and standards. If any fauna are injured during vegetation clearing they are to be taken promptly for treatment to a nearby veterinarian or wildlife carer.
3. All material stockpiles, vehicle parking and machinery storage must be located within areas proposed for clearing. At no time are materials to be stored in areas of retained native vegetation.
4. Sediment and erosion control measures should be implemented prior to construction works commencing (e.g. silt fences, sediment traps), to protect the drainage channels to the north and to the south. These control measures should conform to relevant guidelines, should be maintained throughout the construction period and should be carefully removed following the completion of works.
5. Four noxious weeds were recorded within the study area. All vegetation cleared across the study area, apart from trees to be mulched, are to be disposed of at an appropriate facility that is capable of handling and managing noxious weeds.
6. Where appropriate native vegetation cleared from the study area should be mulched for re-use on the site to stabilise bare ground.
7. The construction site must be regularly wet down whilst works are ongoing to minimise dust generation.

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Schedule 2

Credit retirement conditions

General

- 2.1 The credits set out in Table 1 below must be retired to ensure that the development to which this BioBanking statement relates improves or maintains biodiversity values.
- 2.2 All credits required by this statement to be retired in respect of the development to which this BioBanking statement applies must be retired at the same time.

Ecosystem credit retirement conditions

- 2.3 The specified number of ecosystem credits in Table 1 must be retired to offset the impacts of the development on the Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion (ME020) plant community type indicated on Map 3 in Annexure A to this statement (**Map 3**). The ecosystem credits must be in respect of any one or more of the plant community types within the IBRA subregions listed in Table 1. The credits must be retired before physical work can commence on the development site.

Table 1 Ecosystem credits required for the Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion (ME020) plant community type indicated on Map 3

Number of ecosystem credits	52
IBRA sub-region	Cumberland - Sydney Metro and any IBRA subregion that adjoins the IBRA subregion in which the development occurs
Plant community type(s) that can be used to offset the impacts from development	Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion (ME020)

- 2.4 The specified number of ecosystem credits in Table 2 must be retired to offset the impacts of the development on the Forest Red Gum - Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion (ME018) plant community type indicated on Map 3 in Annexure A to this statement. The ecosystem credits must be in respect of any one or more of the plant community types within the IBRA subregions listed in Table 2. The credits must be retired before physical work can commence on the development site.

Table 2 Ecosystem credits required for Forest Red Gum - Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion (ME018) plant community type indicated on Map 3

Number of ecosystem credits	6
IBRA sub-region	Cumberland - Sydney Metro and any IBRA subregion that adjoins the IBRA subregion in which the development occurs
Plant community type(s) that can be used to offset the impacts from development	Forest Red Gum - Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion (ME018)

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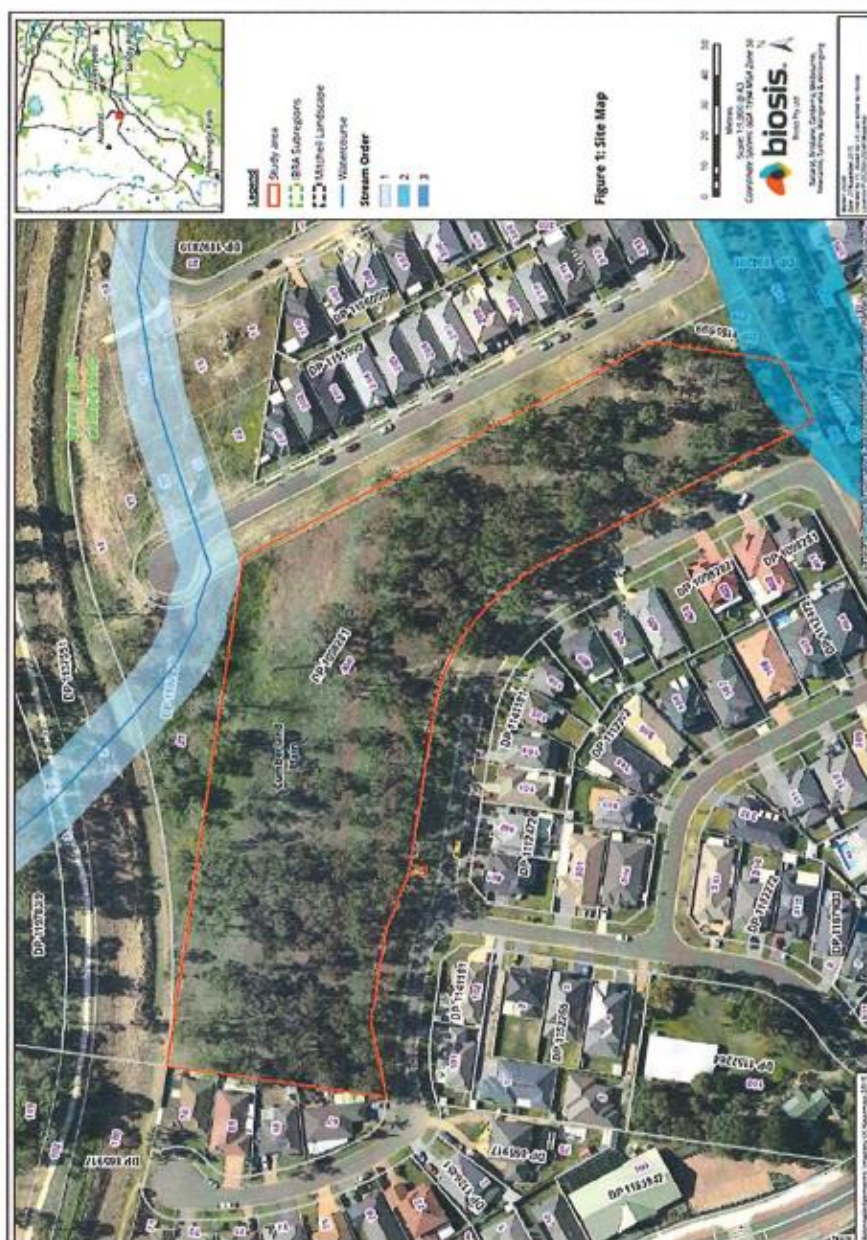
Species credit retirement conditions

2.5 The development requires 16 species credits for the Cumberland Plain land snail. The 16 species credits must be retired to offset the impacts of the development on the Cumberland Plain land snail species indicated on Map 3 in Annexure A to this statement (**Map 3**). The species credits must be retired before physical work can commence on the development site.

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ANNEXURE A

Map 1: Site map (23/11/2015)

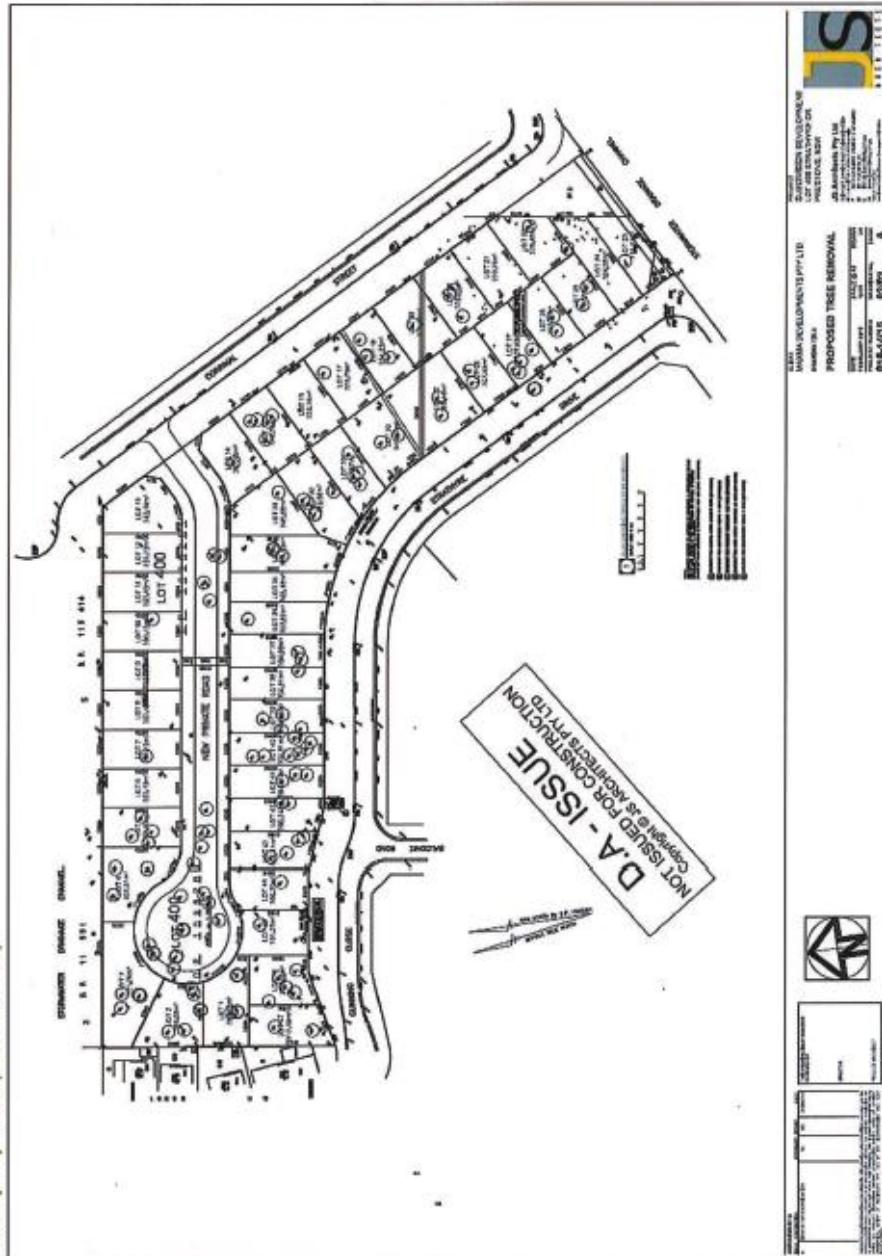


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Map 2: Development proposal (02/02/2015)



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Map 3: Red flag area and species polygon for Cumberland Plain land snail (25/11/2015)



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Information about this BioBanking statement

Development to which this BioBanking statement applies

This BioBanking statement has been issued in respect of the proposed development as described in Section 2 of this statement. The BioBanking statement has been issued on the basis of an assessment of the direct and indirect impacts on biodiversity values from the proposed development shown on map 1. A revised BioBanking statement will be required from the OEH where there are changes to the proposed development or development footprint that impact on biodiversity values.

Modifying the BioBanking statement

If the proposed development to which this BioBanking statement applies is modified so that there is a different impact on biodiversity values, the applicant must apply to the OEH to modify the BioBanking statement. An applicant is not required to apply for a modified BioBanking statement if a consent authority is satisfied that any modification to the proposed development will have no impact on biodiversity values. However, the consent authority may require an updated BioBanking statement that is consistent with the information provided within the development application.

Exemption from threatened species assessment

The development to which this BioBanking statement applies is taken to be development that is not likely to significantly affect any threatened species, population or ecological community, or its habitat, and is therefore exempt from complying with the threatened species assessment requirements under Parts 4 and 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

No additional assessment of impact on biodiversity values required

Where a BioBanking statement has been issued and supplied to a consent authority, the authority is not required to take into consideration the likely impact or effect of the development on biodiversity values.

BioBanking statements and the *Environmental Planning & Assessment Act 1979*

If this BioBanking statement is provided to a consent authority or a determining authority prior to the determination of an application under the EP&A Act, the authority must, if it determines to approve the application, include a condition that requires the conditions of this statement to be complied with.

Duration of BioBanking statement

Unless an extension is granted by the OEH, this BioBanking statement will lapse within two years of the date of issue if the proposed development to which this statement applies has not been approved under the EP&A Act.

Retiring biodiversity credits

To retire the biodiversity credits specified in the BioBanking statement, an application must be submitted to the OEH using the application forms available from the website <http://www.environment.nsw.gov.au/biobanking/forms.htm> and accompanied by the prescribed fee.

If an application to retire credits is successful, the OEH will issue a credit retirement report to the applicant and the relevant consent or determining authority that summarises the class and number of credits that were retired. This information will also be available from the BioBanking statement

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register within the BioBanking public registers. Physical works on site cannot commence until confirmation is received from the OEH that the credits have been retired.

Enforcement options for breach of a BioBanking statement

If this BioBanking statement is incorporated into a development consent under Part 4 of the EP&A Act or the approval of an activity to which Part 5 of the EP&A Act applies, the holder of the statement must comply with any credit retirement condition and/or condition relating to on-site measures. Failure to comply with a condition of consent or approval *may be* an offence under the EP&A Act or other legislation under which the approval is granted.

Where a person fails to comply with a credit retirement condition, the Minister may direct the person to retire biodiversity credits within a specified time. Failure to comply with a direction by the Minister without reasonable excuse is an offence, the maximum penalty for which is \$1,100,000.

Other relevant provisions of the *National Parks and Wildlife Act 1974*

Significant penalties can be imposed by a court if a person harms, or causes or permits the harm to threatened species, or knowingly damages or causes or permits damage to threatened species habitat unless it was essential for the carrying out of development in accordance with a consent or approval within the meaning of the EP&A Act. Interim protection orders may be issued in certain circumstances to protect threatened species and threatened species habitat.

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ATTACHMENT 5: Section 7.11 Payment Form

**CONTRIBUTIONS PURSUANT TO SECTION 7.11 OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT, 1979**

**SECTION 7.11 PAYMENT (Liverpool Contributions Plan 2009 – Hoxton Park, Carnes
Hill and Prestons Release Areas**

Note to the applicant: When remitting payment as specified in the Conditions of Consent to the approval, this Form must be submitted with your payment.

These figures have been calculated to the June 2019 CPI Quarter and will be adjusted at the time of payment in accordance with the conditions of consent.

APPLICATION NO.: DA-188/2015

APPLICANT: JS Architects Pty Ltd

PROPERTY: Lot 400 Strathyre Drive Prestons

PROPOSAL: Torrens title subdivision to create 47 allotments and the construction of detached dwellings on nine (9) of the proposed Torrens title lots (As amended) (Note: proposal is identified as Nominated Integrated development pursuant to Water Management Act 2000)

<u>FACILITIES</u>	<u>AMOUNT (\$)</u>	<u>JOB NO.</u>
Central Library Extensions	\$7,920	GL.10000001870.10112
Powerhouse	\$6,794	GL.10000001870.10114
Whitlam Centre Extensions	\$11,669	GL.10000001869.10110
District Community Facilities - Land	\$8,517	GL.10000001870.10070
District Community Facilities - Works	\$54,710	GL.10000001870.10070
Local Community Facilities - Works	\$32,281	GL.10000001870.10065
District Recreation - Land	\$102,940	GL.10000001869.10064
District Recreation - Works	\$51,642	GL.10000001869.10064
Local Recreation - Land	\$647,189	GL.10000001869.10063
Local Recreation - Works	\$219,499	GL.10000001869.10063
District Transport Facilities - Land	\$66,171	GL.10000001865.10055
District Transport Facilities - Works	\$109,304	GL.10000001865.10055
Local Transport Facilities		
East of Bernera Road - Land	\$149,639	GL.10000001865.10057
East of Bernera Road - Works	\$102,239	GL.10000001865.10057
District Drainage - Land	\$145,417	GL.10000001866.10042

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District Drainage - Works	\$25,268	GL.10000001866.10042
Local Trunk Drainage		
Prestons Central - Land	\$87,183	GL.10000001866.10045
Prestons Central - Works	\$88,334	GL.10000001866.10045
Streetscape - Land	\$20,145	GL.10000001871.10074
Streetscape - Works	\$5,824	GL.10000001871.10074
Administration	\$13,886	GL.10000001872.10073
Professional and Legal Fees	\$12,428	GL.10000001872.10072
TOTAL	\$1,968,999	

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

RECORD OF PAYMENT

Total Amount paid: _____

Date: _____

Receipt No.: _____ **Cashier:** _____

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Item no:	2
Application Number:	DA-269/2019
Proposed Development:	<p>Boundary Adjustment to Five (5) existing lots resulting in Four (4) re-configured allotments. The lot boundary re-alignment and lot consolidation is proposed to align with the adjoining R2 Low Density Residential and RE1 Public Recreation zones. The scope of works includes minor demolition works and erection of new boundary fencing.</p> <p>The subsequent re-subdivision of land results in:</p> <ul style="list-style-type: none"> - the consolidation of part of 'Tepper Park' and Lot 1 McLean Street into 41 Kennedy Street to create Proposed Torrens Title Lot 1; - the consolidation of part of 'Tepper Park' into 39 Kennedy Street to create Proposed Torrens Title Lot 2; - the consolidation of part of Lot 1 McLean Street into 81 Lehmann Avenue to create Proposed Torrens Title Lot 4; - the creation of Lot 3 from the remaining land in the RE1 zone (Tepper Park), due to the zone alignment.
Property Address	39 & 41 Kennedy Street, Liverpool 81 Lehmann Avenue, Liverpool Lot 1 Maclean Street, Liverpool (closed road), and Part of 'Tepper Park'
Legal Description:	Lots 1 & 2 DP 31862 Lot 24 DP 230861 Lot 1 DP 1246664 Part Lot 17 DP 31863
Applicant:	Burton and Field Pty Ltd (Steven Sampson)
Land Owners:	Coptic Orthodox Church (NSW) Property Trust Liverpool City Council
Cost of Works:	\$15,000.00
Recommendation:	Approval subject to conditions of consent
Assessing Officer:	Ivan Kokotovic

1. EXECUTIVE SUMMARY

This Development Application (DA) seeks consent for the;

Boundary Adjustment to Five (5) existing lots resulting in Four (4) re-configured allotments. The lot boundary re-alignment and lot consolidation is proposed to align with the adjoining R2 Low Density Residential and RE1 Public Recreation zones. The scope of works includes minor demolition works and erection of new boundary fencing.

The land subject to the boundary adjustments, lot consolidation and subsequent re-subdivision is zoned R2 Low Density Residential under Liverpool Local Environmental Plan 2008 (LLEP), for which the proposed development is permissible with consent. The RE1 zoned land is not

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subdivided over.

The key issues assessed within the proposed development relate to ensuring Council Park Maintenance Crew access and non-obstruction of structures on the over-land flow path of proposed Lot 1, which is a requirement of restrictions over the land to be transferred with the proposed re-subdivision.

The proposal was not required to be placed on public exhibition in accordance with LDCP.

Due to the application proposing the re-subdivision of land owned by Liverpool City Council, it is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979, and the assessment has concluded that the proposal is generally satisfactory and achieves compliance with the relevant planning controls relevant to the proposal including LLEP 2008, and LDCP.

2. SITE DESCRIPTION AND LOCALITY

2.1 Site Description

The site comprises the entirety of 4 existing allotments entirely in R2 zoned land and the R2 zoned part of a lot known as 'Tepper Park'. The land is identified as being;

- 39 & 41 Kennedy Street, Liverpool (Lots 1 & 2 DP 31862)
- 81 Lehmann Avenue, Liverpool (Lot 24 DP 230861)
- Lot 1 Maclean Street, Liverpool (closed road) (Lot 1 DP 1246664)
- Part of 'Tepper Park' (Part Lot 17 DP 31863)

The land is highly irregular in shape, comprising an area of 3311.8sqm, with a consolidated front boundary along Kennedy Street, McLean Street and Lehmann Avenue to the east of 94.23m, and a rear boundary to the west with 'Tepper Park' of 74.74m.

Adjoining the site to the north and south are lots with residential dwellings and to the west is 'Tepper Park' which is within the 'Elouera Bushland Reserve' which is associated with Cabramatta Creek.

The site is east facing and is generally flat with a minor slope falling from east to west towards Cabramatta Creek. The site is identified as being low to medium risk flood prone as well as being within a Bushfire prone buffer zone with the nearest hazard within 10m to the west in the public reserve.

Existing on-site currently:

- a single storey detached dwelling and associated outbuildings at 81 Lehmann Avenue, Liverpool;
- a single storey detached dwelling and associated outbuildings at 39 Kennedy Street, Liverpool;
- a Place of Public Worship (Saint George & Prince Theodorus Coptic Orthodox Church) at 39 Kennedy Street, Liverpool;

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- a formalised paved closed road with kerb and gutter to one side, which has previously been subdivided and acquired by the adjoining owners of the Coptic Church.
- landscaped turf (no tree vegetation) in the area zoned R2 in part of 'Tepper Park'.



Figure 1: Aerial view of site

A site inspection was carried out on 29 May 2019, and no works as proposed had commenced at the site.

Site Inspection Photos



1. Front of the Coptic Church (41 Kennedy St)



2. Front of Lot 1 Maclean Street to 'Tepper Park'.

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3. 'Tepper Park' pedestrian access



4. Proposed rear boundary of Lot 2.

2.2 Locality Description

The subject development site is located along the western-most district of Liverpool along its boundary with the suburb of Ashcroft. Contextually, the site is approximately 450m south of Elizabeth Street (main east-west road corridor through the locality) and 1.2km west of Liverpool City Centre and 2km west of Liverpool Rail Station. The locality surrounding the site comprises of low density residential land to the east, north and south and the public reserve known as 'Elouera Bushland Reserve' associated with Cabramatta Creek immediately to the west. The site is also in proximity to the Liverpool Cemetery. The land is within the Georges River Catchment draining through the public reserve land directly to its tributary, Cabramatta Creek.

An aerial photograph of the locality and photographs of the immediate development is provided below:

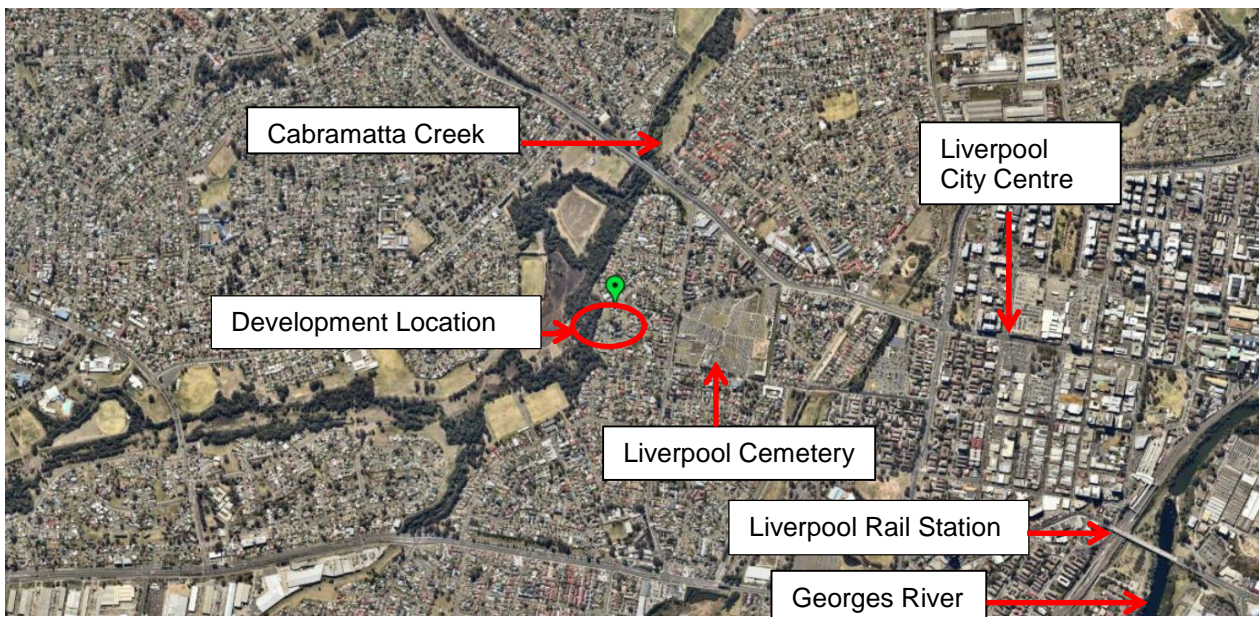


Figure 2: Locality surrounding the proposal.

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2.3 Site Constraints

<p>Are there any constraints or affectation on the site:</p> <ul style="list-style-type: none"> - Bushfire - Flooding - Heritage Items - Aboriginal heritage - Environmentally Significant Land - Threatened Species/ Flora/ Habitat/ Critical Communities - Acid Sulphate Soils - Aircraft Noise - Flight Paths - Railway Noise - Road Noise/ Classified Road - Significant Vegetation - Contamination 	<ul style="list-style-type: none"> - The site is entirely Bushfire Risk Affected (buffer zone). - The site is Low to Medium Risk Flood Affected. - The site potentially contains moderate saline soils.
<p>Are there any restrictions on title? Attach 88B instrument to the report</p>	<ul style="list-style-type: none"> - Existing Lot 1 McLean Street (closed road) is affected by multiple easements and restrictions being; <ul style="list-style-type: none"> (A) EASEMENT FOR DRAINAGE OF WATER 2.5 WIDE AND VARIABLE WIDTH (VIDE DP 1246664) (B) EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH (VIDE DP 1246664) (C) RIGHT OF ACCESS 7.5 WIDE AND VARIABLE WIDTH (VIDE DP 1246664) (D) RESTRICTION ON THE USE OF LAND (UNOBSTRUCTED OVERLAND FLOW) (VIDE DP 1246664) (E) EASEMENT FOR WATER SUPPLY PURPOSES 2.5 WIDE AND VARIABLE WIDTH (VIDE DP 1246664) (F) EASEMENT FOR ACCESS AND DRAINAGE PURPOSES 6 WIDE AND VARIABLE WIDTH (VIDE DP 1246664) (G) DRAINAGE EASEMENT VARIABLE WIDTH (VIDE DP 31862) (P1) POSITIVE COVENANT (VIDE DP 1246664) <p>View Attachment 2 of the Report.</p>

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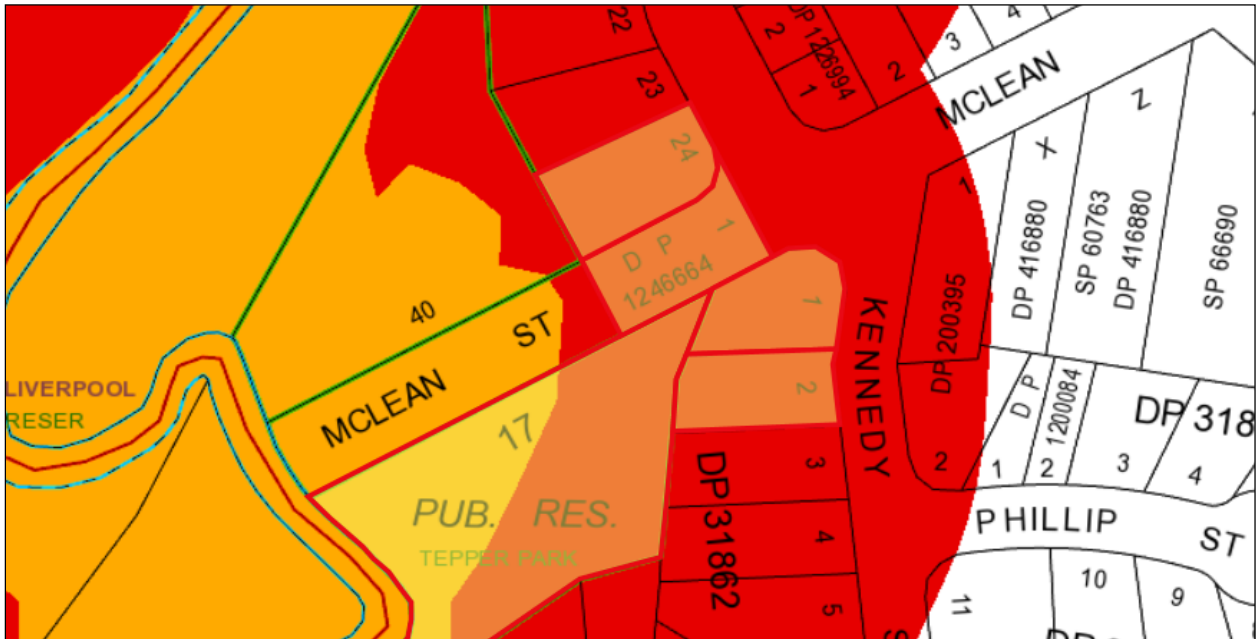


Figure 3: Bushfire Prone Map extract

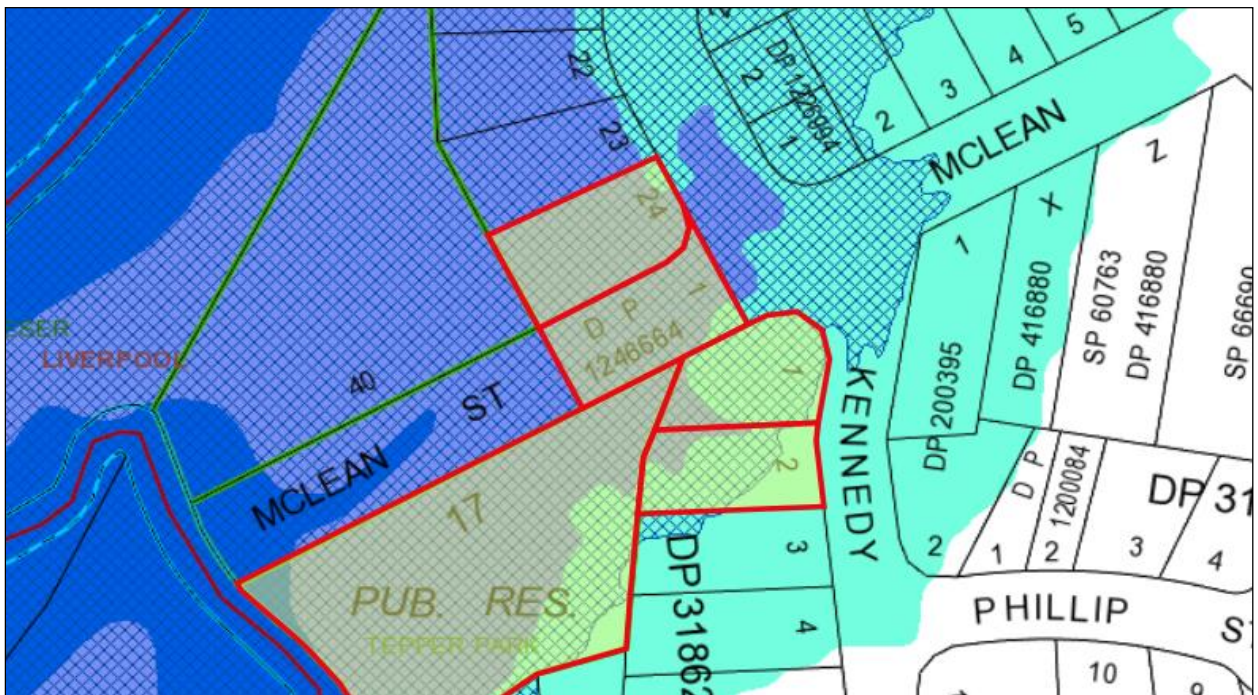


Figure 4: Flood Risk Map extract

3. Background

3.1 Background and DA History

- Council's Property Section created the McLean Street road reserve (Lot 1) as part of a road closure application under the Roads Act 1993, and subdivision application to have the land excised into a separate lot. The Subdivision Certificate was issued on 23 August 2018 creating Lot 1 DP 1246664. The road closure was endorsed by Council and received support as gazetted in NSW State Government gazette No.100 of 28 September 2018.

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- The current DA was lodged 3 May 2019 and the sale of the land was settled in late May 2019.
- Council's Development Assessment and Land Development Engineers sought additional information relating to the demolition of an awning and the formalising of drainage from proposed Lot 4, to the Public Reserve.
- The applicant has submitted details of how drainage of Proposed Lot 4 can be formalised via a proposed easement (H) to drain water over proposed Lot 1, to discharge into Council's reserve via existing easement (A).

4. Details of the Proposed Development

The proposed development seeks consent for the:

Boundary Adjustment to Five (5) existing lots resulting in Four (4) re-configured allotments. The lot re-alignment and lot consolidation is proposed to align with the adjoining R2 Low Density Residential and RE1 Public Recreation zones. The scope of works includes minor demolition works and erection of new boundary fencing.

Specifically, the proposal consists of the following;

Demolition

Demolition of an awning structure and associated concrete slab which is located encroaching over the boundary between proposed Lots 1 and 2.

Construction

Construction of 1.8m high palisade / security fencing with supporting brick piers to a 2.1m height, in the following locations:

- Along the frontage of Lot 1 adjacent to Kennedy Street and McLean Street.
- Along the rear boundary of Lot 1 with the Public Reserve.

Both fences are provided with pedestrian gates and double vehicle access gates.

Note: the fencing is required to be open due to the flood / overland flow affectation of the site requiring waters to flow through during flood and stormwater events.

Boundary Adjustment and re-subdivision

- Proposed Torrens Title Lot 1 is created by the consolidation of part of 'Tepper Park' and McLean Street into 41 Kennedy Street
- Proposed Torrens Title Lot 2 is created by the consolidation of part of 'Tepper Park' and part of 52 McLean Street into 41 Kennedy Street.
- Proposed Torrens Title Lot 2 is created by the consolidation of part of McLean Street into 81 Lehmann Avenue.
- Proposed Lot 3 is created from the remaining land in the RE1 zone (Tepper Park), due to the zone alignment.

Site Access

Vehicular access to the lots is as follows:

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- Proposed Lot 1 via Kennedy Street Frontage with rear access to the public reserve for emergency access during bushfire or floor events if required;
- Proposed Lot 2 via Kennedy Street as existing;
- Proposed Lot 4 via Lehmann Avenue as existing;
- Proposed Lot 3 (Tepper Park), can be accessed by pedestrians via RE1 zoned reserve land located 120m to the north of the subject land.

Site Servicing

Standard conditions of consent will ensure the created lots are provided with the standard site service utilities required for residential land.

Note: the land currently utilised as the extension to McLean Street (closed road) is not proposed to be developed by this DA. This land has significant restrictions over it as it is an overland flow path and has many easements for drainage and access which benefit Liverpool City Council and Sydney Water. These easements are to be transferred to the proposed Lot 1.

Further, as the land is not being developed and use is not changing (existing hard surface pavement), it is considered any contamination of the not be required to be remediated to facilitate this proposed re-subdivision. Rather a restriction shall be placed on the title requiring any further development of the site require development consent in which likely site remediation is required.

Extracts of the proposed plans are shown below.

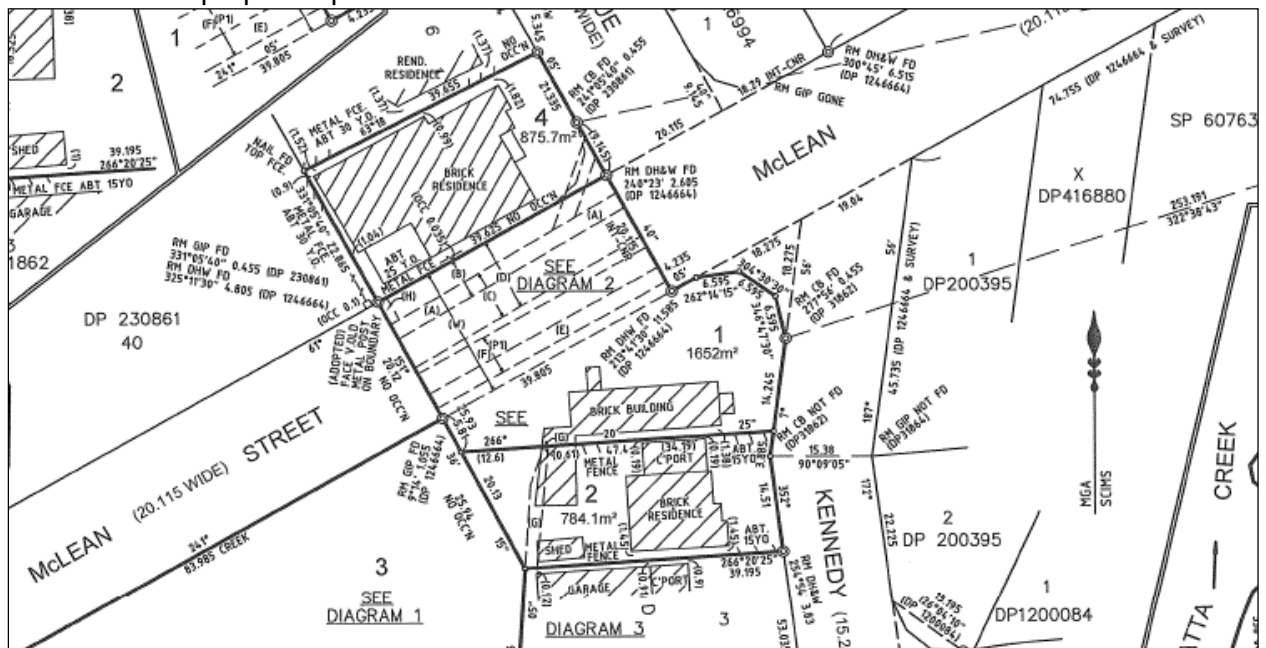


Figure 5: Proposed Boundary adjustment and re-subdivision of land.

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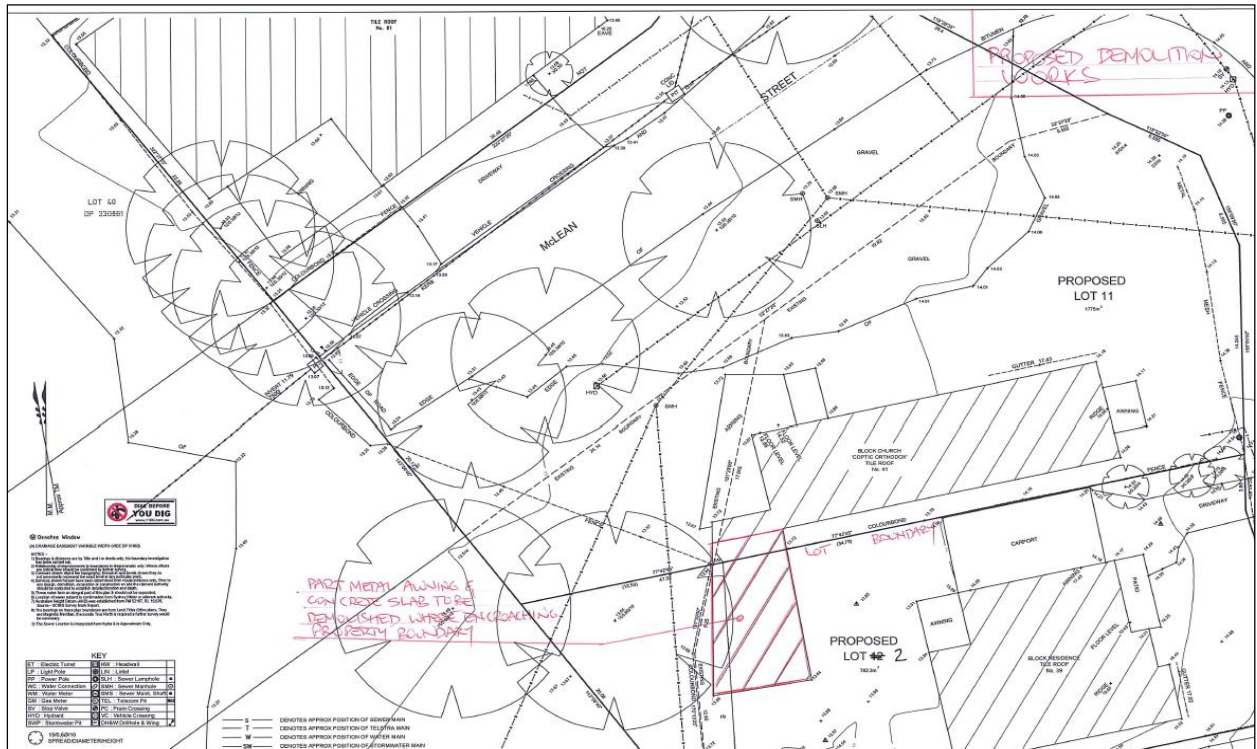


Figure 6: Proposed Demolition Plan (marked up in red)

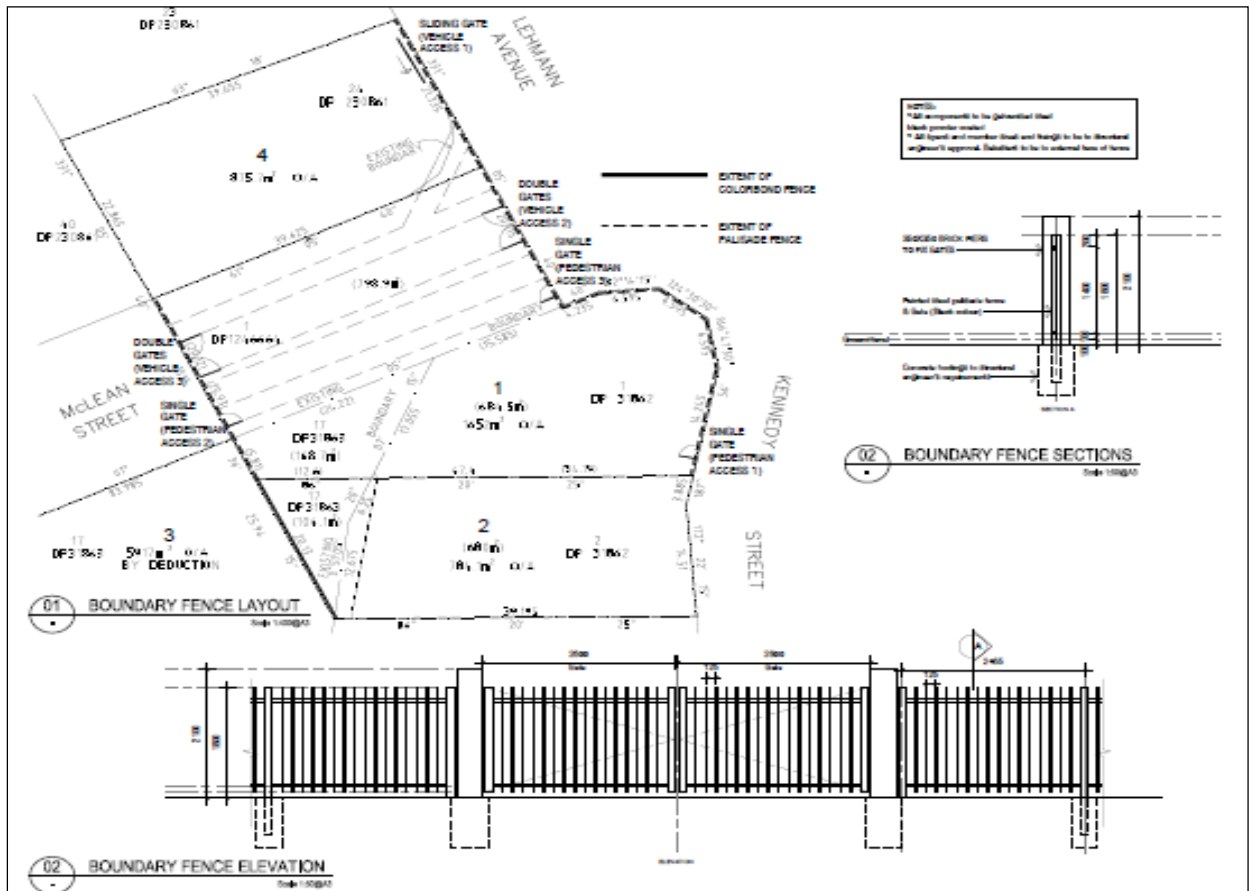


Figure 7: Boundary Fencing Plan

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5. STATUTORY CONSIDERATIONS

Relevant matters for consideration

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

- State Environmental Planning Policy No. 55 – Remediation of Land;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development;
 - Part 3.8: Non-residential development in residential zones

6. ASSESSMENT

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

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

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

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

Although the land over which is located the existing dwellings and church is unlikely to be contaminated due to previous long-term ongoing use, Council must consider the likelihood of any contamination on-site in particular with respect to the land previously used as a road in McLean Street (previously issued a Subdivision Certificate) and that used as part of 'Tepper Park'.

Consideration has been given to this issue.

As the proposed boundary adjustments do not result in any specific works apart from demolition of an awning / slab and construction of light-weight fencing, it is considered the proposed scope of works would not ordinarily attract the need to remediate a contaminated site in entirety, given that the use of the site effectively remains consistent with its zoning. Further, it is considered conditions of consent requiring compliance with contamination standards for any ancillary work be applied for enforcement should any unlikely finds be uncovered during any works.

Even so, it is considered prudent to require a restriction over Lots 1 and 2 from further wholesale development without evidence that the site can be developed / used in an uncontaminated environment.

Council is satisfied that the land is suitable for ongoing residential and Place of Public Worship use, and that any ancillary works to enable the proposed subdivision are appropriate in this

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instance.

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

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

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

When a consent authority determines a development application, planning principles are to be applied (Clause 7(b)). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 8 and Clause 9), and compliance with such is provided within Attachment 3 of this report.

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to appropriate sedimentation and erosion controls being implemented during demolition and fence construction works, as otherwise, the condition of storm-water discharge remains unchanged from the existing scenario, and as overland flow-paths are not interrupted.

(c) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned R2 Low Density Residential pursuant to the LLEP 2008. An extract of the zoning map is provided in Figure 6 below.



Figure 8: Zoning Map extract.

(ii) Permissibility

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Proposed development within the R2 zone is categorised as subdivision which is permitted with development consent pursuant to Clause 2.6 of the LEP.

(iii) Objectives of zone

Objectives of the R2 Low Density Residential Zone are;

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide a suitable low scale residential character commensurate with a low dwelling density.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal generally satisfies the above objectives of the R2 zone as it does not cause any of the above objectives to be unachievable.

(iv) Principal Development Standards and Provisions

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

Clause	Provision	Comment
Part 4 Principal Development Standards		
2.6 Subdivision requirements	Provisions to meet consent	All lots meet minimum lot sizes and no secondary dwellings are located on site
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	Complies by condition Development consent is sought for the demolition of an awning and concrete slab.
4.1 Minimum Lot Size	Area D = 300sqm	Complies 784.1sqm minimum (Lot 2)
4.3 Height of Buildings (as per HOB Map)	8.5m	N/A (none proposed)
4.4 Floor Space Ratio (as per FSR Map)	0.5:1	N/A (none proposed)
5.1 Relevant Acquisition Authority	Allocates the relevant acquisition authority for certain land identified in this LEP	The site is not affected by any Land subject to compulsory acquisition
5.10 Heritage conservation	Provisions to conserve Heritage Items, significance, archaeological sites and aboriginal objects and places of heritage significance	The site does not contain and is not in the vicinity of any European heritage significance, and is unlikely to contain any aboriginal cultural

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5.11 Bushfire Hazard Reduction	Bushfire reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent	heritage. The site is identified as Bushfire Prone and was referred to the RFS for comment, as an integrated authority requiring to provide approval to the development subject to the Rural Fires Act 1997. The RFS has provided comments indicating that the development is supportable and that no conditions are required to apply to the land.
7.13 Minimum Lot width in Zones R1, R2, R3 and R4	(3) Minimum 10m width resulting from subdivision	Complies
7.31 Earthworks	No earthworks proposed.	N/A

It is considered that the proposal satisfies the provisions of the Liverpool LEP.

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

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

Development Control	Provision	Comment
Part 1 General Controls for all Development		
Section 2. Tree Preservation	Controls relating to the preservation of trees	N/A (none proposed to be removed)
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	N/A (none proposed)
Section 4 Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	N/A The site is not identified as containing an endangered ecological community of trees listed under the TSC Act 1995, nor of any endangered fauna.
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	Complies The land is bushfire affected and the proposed development has received support from RFS.
Section 6. Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage	Complies by condition The proposal was reviewed by Council's Land Development Engineers who have commented that existing stormwater connection to Council

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	concept plan is to be submitted.	infrastructure is sufficient.
Section 7. Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	Not Applicable The subject site is not within 40m of a watercourse.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies by condition Any consent for works attracts requirements for erosion and sediment control plans to be implemented during any works.
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Complies by condition The proposal was reviewed by Council's Floodplain Engineers who have provided a condition of consent ensuring that all fencing in the overland flow path allow waters to travel through.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies by condition It has been assessed that the land does not require remediation at this time, and any subsequent development of the land is likely to require some remediation or demonstrate otherwise.
Section 11. Salinity Risk	Provisions relating to development on saline land.	N/A Scope of works does not warrant a Salinity Management Response,
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	N/A The development site is not identified as containing Acid Sulfate Soil.
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	N/A The site is not identified as containing noxious weeds.
Section 14. Demolition of Existing Development	Provisions relating to demolition works	Complies by condition Standard conditions apply for the demolition of awning and concrete slab.
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	N/A
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	N/A The site is unlikely to contain any Aboriginal Cultural Heritage.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	N/A Council's mapping does not identify any heritage item on-site or in the vicinity of the site.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The application was not required to be advertised nor notified.
Section 19. Used	Provisions relating to used	N/A

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Clothing Bins	clothing bins.	The DA does not propose used clothing bins.
Section 20. Car Parking and Access	Rates for Car Parking	N/A Proposed developed does not generate the need for additional parking.
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land, buildings and roads and stormwater works Section 21.4 specifies development required for Residential zones (except R5)	Complies by condition The proposed boundary adjustment does not attract the required the delivery of development and infrastructure outcomes as required for subdivision development as no additional lots are created. A restriction by condition of consent will be created over Lot 1 to ensure any re-development / re-subdivision of that land includes the likely construction of Council's footpath in McLean Street in front of the site.
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Not Applicable Not applicable for subdivision only.
Section 24. Landfill	All fill applied should be Virgin Excavated Natural Material (VENM), as defined by the NSW Department of Environment and Climate Change. Any fill involving material other than VENM is subject to referral to the State Government as potential Integrated Development or contaminated land assessment	Not Applicable (none proposed)
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies by condition A waste management plan has been submitted.
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
27. Social Impact Assessment	The DCP requires a comprehensive Social Impact Assessment (SIA) for Residential Apartment Buildings which contain affordable housing.	Not Applicable Council's Community Planner was not required to review the application, and an SIA was not required.
28. Shopping Trolleys	This section applies to any development that will provide shopping trolleys for customers.	Not Applicable

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Development Control	Provision	Comment
Part 3.8 Non-Residential Development in Residential Zones – Section 6 – Places of Public Worship		
Section 6.5. Landscaping and Fencing	Controls relating Fencing: <ul style="list-style-type: none"> - Side and Rear fencing shall be 1.8m in height and be of high grade material when adjoining a park - Front fences can be a maximum of 1.2m in height and shall be 30% transparent. 	Variation – complies on merit <ul style="list-style-type: none"> - Proposed rear fencing complies - Front fencing proposed with 1.8m high palisade / security design with 2.1m high support pylons. <p>In assessing the proposal against the controls and objectives of the controls it is considered the fencing is reasonable as follows:</p> <ul style="list-style-type: none"> i) a clear transition between public and private areas is provided ii) the fence provides a visual element within the streetscape iii) the fence is more than 30% transparent enabling safe sight lines and natural surveillance between the private and public land. iv) the materials proposed are non-reflective and minimise opportunities for graffiti.

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

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

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the BCA and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

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

Natural and Built Environment

The proposed development is unlikely to create a detrimental impact on the natural environment surrounding the subject site due the minimal scope of works.

The proposed development is unlikely to create any adverse impacts on the surrounding built environment due the minimal scope of works.

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Social Impacts and Economic Impacts

The proposal is unlikely to create any adverse impacts and instead results in the appropriate aligning of zone and allotment boundaries enabling a more efficient use of land consistent with the objectives and desired locality outcomes.

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

The proposal generally complies with the relevant planning controls and the site is considered to be suitable for the proposed development.

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

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Development Engineer	Approval subject to conditions of consent
Floodplain Engineer	Approval subject to conditions of consent
Landscape Officer	Approval with no objections
Parks Co-ordinator	Approval with no objections
Property Services	Approval with no objections
Strategic Planning	Approval with no objections
Traffic Engineer	Approval subject to conditions of consent

(b) External Referrals

The following comments have been received from External Departments:

DEPARTMENT	COMMENTS
RFS NSW	Approval with no objections

(c) Community Consultation

The proposal was not required to be placed on public exhibition and was not notified in accordance with LDCP 2008, and no objections were submitted to Council.

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

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

7. DEVELOPMENT CONTRIBUTIONS

Not Applicable as no additional residential allotments proposed.

8. CONCLUSION

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

The proposed development is unlikely to result in any adverse impact upon the locality and is considered to be worthy of support specifically in providing a logical development which augments existing residences and Place of Public Worship, compatible with the desired future character of the locality, while being unlikely to negatively impact upon public reserve land.

9. RECOMMENDATION

That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979, Development Application DA-269/2019 be approved subject to conditions of consent.

10. ATTACHMENTS

- 1. PLANS OF THE PROPOSAL**
- 2. 88B INSTRUMENT FOR LOT 1 DP1246664**
- 3. CONDITIONS OF CONSENT**

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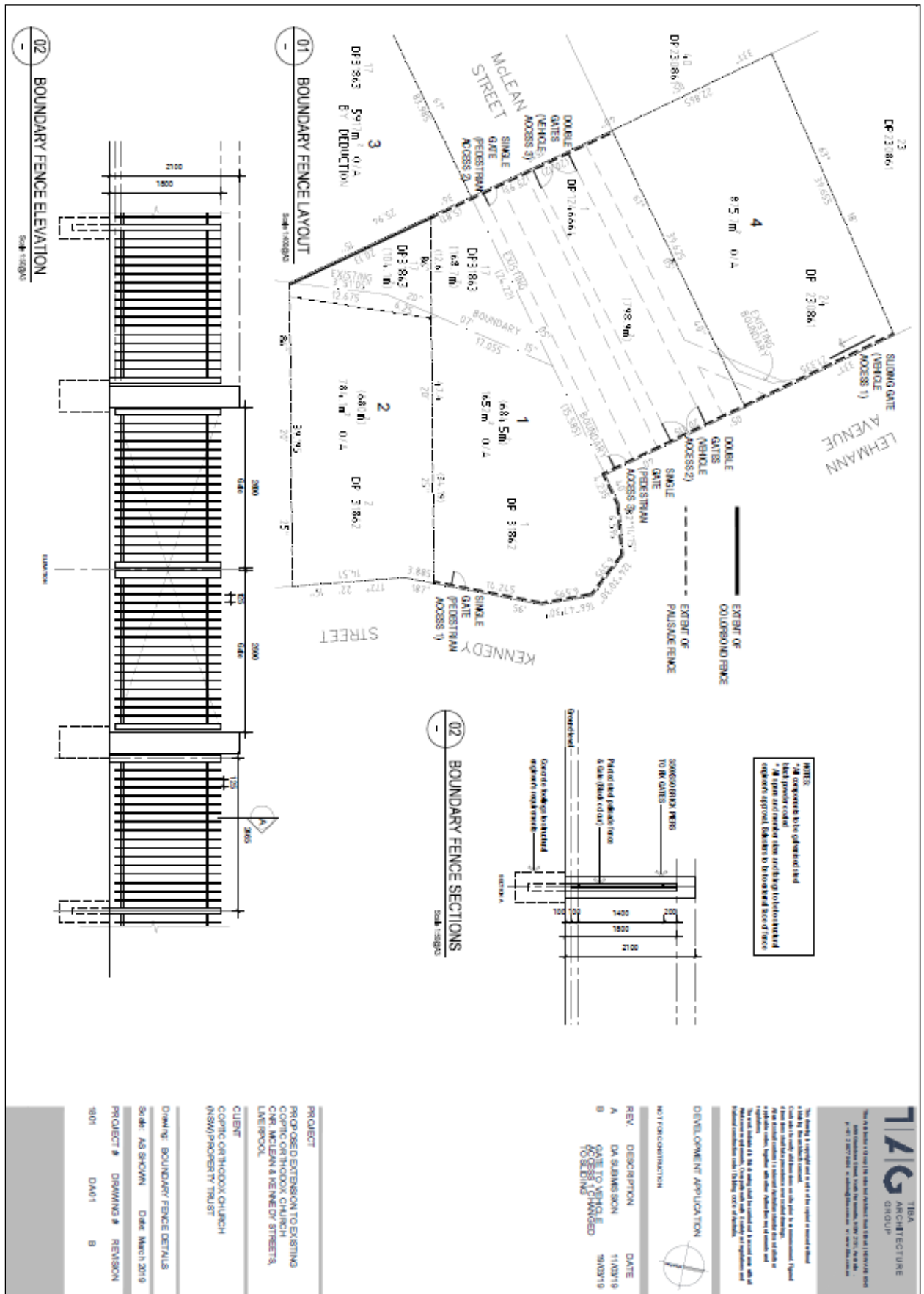


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ATTACHMENT 2: 88B INSTRUMENT FOR LOT 1 DP1246664

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO
SECTION 88B, CONVEYANCING ACT, 1919**

Lengths are in metres

(Sheet 1 of 8 sheets)

PLAN

DP1246664

Subdivision of part of Lehmann Avenue & McLean Street for Title Issue and Road Closure under the Roads Act 1993 (Comprised in Vol.9828 Fol.30) and for First Title creation and Road Closing under Roads Act 1993 and for Easement creation. Certificate Number: SC-102/2019. Dated: 23/08/19.

Full name and address of
the proprietors of the land:

Liverpool City Council
33 Moore Street
LIVERPOOL NSW 2170

PART 1

SCHEDULE OF LOTS ETC. AFFECTED

Number of Items	Identity of Easement or Restriction to be created and referred to in the plan	Lot Burdened	Lot / Authority Benefited
1.	Easement for Drainage of Water 2.5 wide and variable width (A)	1 LOT 24 DP230861	Liverpool City Council
2.	Easement for Drainage of Water variable width (B)	1	Liverpool City Council
3.	Right of Access 7.5 wide and variable width (C)	1	Liverpool City Council
4.	Restriction on the Use of Land (Unobstructed Overland Flow) (D)	1	Liverpool City Council
5.	Easement for Water Supply Purposes 2.5 wide and variable width (E)	1	Sydney Water Corporation
6.	Easement for Access and Drainage Purposes 6 wide and variable width (F)	1	Sydney Water Corporation
7.	Positive Covenant (P1)	1	Sydney Water Corporation
8.	Positive Covenant (P2)	1	Liverpool City Council
9.	Positive Covenant (P3)	1	Liverpool City Council

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919

Lengths are in metres

(Sheet 2 of 8 sheets)

PLAN

DP1246664

Subdivision of part of Lehmann Avenue & McLean Street for Title Issue and Road Closure under the Roads Act 1993 (Comprised in Vol.9828 Fol.30) and for First Title creation and Road Closing under Roads Act 1993 and for Easement creation.
Certificate Number: SC102/2018 Dated 23/08/2018

PART 2

1. Terms of Easement Firstly and Secondly referred to in the abovementioned plan

The terms are set out in Part 7 of Schedule 4A of the *Conveyancing Act 1919*.

2. Terms of Easement Thirdly referred to in the abovementioned plan

The terms are set out in Part 11 of Schedule 4A of the *Conveyancing Act 1919*.

3. Terms of Restriction Fourthly referred to in the abovementioned plan

1. The registered proprietor of the burdened lot must not:
 - (a) do any act, matter or thing which would prevent the overland flowpath from operating in a safe and efficient manner.
 - (b) make or permit or suffer the making of any alterations or additions to the overland flowpath.
 - (c) allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the overland flowpath.
 - (d) erect any boundary or internal fencing that crosses the overland flowpath except fencing that is
 - (i) open mesh style within 500mm of finished ground level;
 - (ii) fencing with the mesh openings designed to provide a minimum 80% clear area;
 - (iii) fencing that provides a minimum clear opening of 100mm to ground level,except with the prior express written consent of the Authority Benefitted.
2. For the purposes of this restriction "overland flowpath" means the works constructed on the land (including all access pavements, pipes, drains, kerbs, pits, grates and surfaces designed to convey stormwater through the site).
3. The registered proprietor of the burdened lot must not permit or allow any work or development on the lot burdened provided that work or development may be undertaken on the lot burdened where:
 - (a) detailed plans of the proposed work or development have been provided to the Authority Benefitted; and
 - (b) the Authority Benefitted has agreed in writing to the proposed work or development.


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**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS
ON THE USE OF LAND INTENDED TO BE CREATED PURSUANT TO
SECTION 88B, CONVEYANCING ACT, 1919**

Lengths are in metres

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PLAN

DP1246664

Subdivision of part of Lehmann Avenue & McLean Street for Title Issue and Road Closure under the Roads Act 1993 (Comprised in Vol.9828 Fol.30) and for First Title creation and Road Closing under Roads Act 1993 and for Easement creation. Certificate Number: ~~SC 104/1018~~ Dated: ~~23/8/18~~

4. This restriction may be imposed under Section 88D *Conveyancing Act 1919* as the Benefitted Authority is the owner of the burdened lot at the date of registration of the Plan and it is intended to be created under Section 88D *Conveyancing Act 1919* for the purposes of Section 88B(3)(d) *Conveyancing Act 1919*.

4. Terms of Easement Fifthly referred to in the abovementioned plan

An Easement for Water Supply Purposes in Terms set out in Part 1 of Memorandum 5736755 filed in the Office of Land and Property Information New South Wales.

The Terms of this Easement are to be read in conjunction with the Terms of the Easement for Access and Drainage Purposes and the Positive Covenant Sixthly and Seventhly referred to in the abovementioned Plan.

5. Terms of Easement Sixthly referred to in the abovementioned plan

An Easement for Access and Drainage Purposes in Terms set out in Part 2 of Memorandum 5736755 filed in the Office of Land and Property Information New South Wales.

The Terms of this Easement are to be read in conjunction with the Terms of the Easement for Water Supply Purposes and the Positive Covenant Fifthly and Seventhly referred to in the abovementioned Plan.

6. Terms of Positive Covenant Seventhly referred to in the abovementioned plan

A Positive Covenant in Terms set out in Part 3 of Memorandum 5736755 filed in the Office of Land and Property Information New South Wales.

The Terms of this Positive Covenant are to be read in conjunction with the Terms of the Easement for Water Supply Purposes and the Easement for Access and Drainage Purposes Fifthly and Sixthly referred to in the abovementioned Plan.


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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919

Lengths are in metres

(Sheet 4 of 8 sheets)

PLAN

DP1246664

Subdivision of part of Lehmann Avenue & McLean Street for Title Issue and Road Closure under the Roads Act 1993 (Comprised in Vol.9828 Fol.30) and for First Title creation and Road Closing under Roads Act 1993 and for Easement creation.
Certificate Number: ~~SC-102/2018~~ Dated: 23/06/18

7. Terms of Positive Covenant Eighthly referred to in the abovementioned plan

1. The registered proprietor of the burdened lot must erect and maintain fencing and gates on the boundaries of the lot burdened except the boundary with Lot 24 DP230861 and Lot 1 DP31862 in accordance with the following specifications and requirements:
 - (a) 2 swing gates 1.5 metres wide each are required at each entrance point (being the boundary with McLean Street to the east and the boundary with McLean Street to the west which is unformed road at Cabramatta Creek);
 - (b) at each set of gates a slide bolt lock box with Council's WPN Key only permissible must be installed;
 - (c) the fencing and gates may be either:
 - i. cyclone security chain wire mesh (PVC coated) with top and bottom rails;
 - ii. palisades fencing, with either top and bottom rails or security spear top (powder-coated); or
 - iii. such other type of fencing as the Authority Benefitted may approve in writing prior to construction.
 - (d) the posts for the fencing must be galvanised steel powder-coated;
 - (e) the height of fencing and gates must be either 1.8 metres or 2.4 metres;
 - (f) the fencing and gates must be black in colour.
2. Prior to any work on the fencing and gates, including the location of the gates, the design and specifications will be required to be submitted to Council for approval prior to construction.
3. This positive covenant may be imposed under Section 88D *Conveyancing Act 1919* as the Benefitted Authority is the owner of the burdened lot at the date of registration of the Plan and it is intended to be created under Section 88D *Conveyancing Act 1919* for the purposes of Section 88B(3)(d) *Conveyancing Act 1919*.
4. This positive covenant does not apply while Liverpool City Council is the registered proprietor of the lot burdened.

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1919

Lengths are in metres

(Sheet 5 of 8 sheets)

PLAN

DP1246664

Subdivision of part of Lehmann Avenue & McLean Street for Title Issue and Road Closure under the Roads Act 1993 (Comprised in Vol.9828 Fol.30) and for First Title creation and Road Closing under Roads Act 1993 and for Easement creation. Certificate Number: SC402/2018 Dated: 23/8/18.

8. Terms of Positive Covenant Ninthly referred to in the abovementioned plan

1. On the removal of the existing water main marked "w" in the abovementioned plan, the registered proprietor of the lot burdened must promptly erect and maintain a hydrant point on the burdened lot for use by the fire services including NSW Fire and Rescue and NSW Rural Fire Service.
2. This positive covenant may be imposed under Section 88D *Conveyancing Act 1919* as the Benefitted Authority is the owner of the burdened lot at the date of registration of the Plan and it is intended to be created under Section 88D *Conveyancing Act 1919* for the purposes of Section 88B(3)(d) *Conveyancing Act 1919*.
3. This positive covenant does not apply while Liverpool City Council is the registered proprietor of the lot burdened.

Name of authority empowered to release, vary or modify the Easements FIRSTLY, SECONDLY, THIRDLY and FOURTHLY referred to in the abovementioned plan.

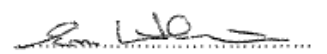
The COUNCIL OF THE CITY OF LIVERPOOL provided that all such releases, variations and modifications are carried out at the expense of the persons seeking same.

Name of authority empowered to release, vary or modify the Easements FIFTHLY AND SIXTHLY AND THE POSITIVE COVENANT SEVENTHLY referred to in the abovementioned plan.

Sydney Water Corporation provided that all such releases, variations and modifications are carried out at the expense of the persons seeking same.

Name of authority empowered to release, vary or modify the Positive Covenant EIGHTLY AND NINTHLY referred to in the abovementioned plan.

The COUNCIL OF THE CITY OF LIVERPOOL provided that all such releases, variations and modifications are carried out at the expense of the persons seeking same.


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ATTACHMENT 3: CONDITIONS OF CONSENT

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

A. THE DEVELOPMENT**Approved Plans**

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

Plan Name	Plan Number	Date	Revision	Prepared By
Demolition Plan (marked in red)	---	24/05/2018	-	Burton and Field
Plan of Subdivision	S2695/70795RC2	16-01-2019	-	Blake Trudgeon
Site Drainage Detail (marked in red)	---	7/01/2019	-	Burton and Field
Fencing Detail	1801 / DA-01	March 2019	B	TIBA Architecture Group

Report Name	Date	Reference	Prepared By
Bushfire Assessment Report	15 th April 2016	160985	Building Code & Bushfire Hazard Solutions Pty Ltd
Waste Management Plan	---	70795_WMP	---

Works at no Cost to Council

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

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions shall be complied with prior to issue of a CC by the PCA:

Fee Payments

3. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the DA/CC. The following fees are applicable:
 - (a) Damage Inspection Fee;
 - (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve; and
 - (c) Long Service Levy – based on 0.35% of the cost of building work.

These fees are reviewed annually and will be calculated accordingly

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Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

Site Development Work

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

BCA Compliance

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

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

6. In accordance with Section 4.16(11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:
 - (a) Complying with the Deemed to Satisfy Provisions; or
 - (b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

7. Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 1.4 of the EP&A Act means any physical activity involved in the erection of a building and includes but is not limited to, the placement of any site shed/s or builders facilities, site grading, retaining walls, excavation, cutting trenches, installing formwork and steel reinforcement or, placing of plumbing lines.

Notification

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

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- (b) The name and permit of the owner-builder who intends to do the work.

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

S138 Roads Act – Minor Works in the public road

9. Prior to the issue of a Construction Certificate a S138 Roads Act application/s, including payment of fees shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:
- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
 - Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Liverpool City Council's specifications.

S68 Local Government Act – Stormwater Drainage Works

10. Prior to the issue of a Construction Certificate, the Principal Certifying Authority and / or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including the payment of application and inspection fees, has been lodged with, and approved by Liverpool City Council for *Construction of an interallotment stormwater drainage system to service the proposed Lot 4 and connection into the existing drainage system.*

Engineering plans are to be prepared in accordance with the development consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works and best engineering practice.

Traffic Design

11. Detailed design plans for the roads including swept path analysis, line markings and sign posting in accordance with the DCP and AS2890 is to be submitted to Council's Traffic and Transport Section for review and approval.

Fence Design Control

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12. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that plans and details and plans have been provided demonstrating and confirming the following:
- a) The construction of the front and rear fence with a 0mm setback to the front and rear boundaries with Council's road reserve.
 - b) That no elements of the front and rear fence open into Council's road and park reserves.
 - c) That the fence structure is certified by a suitably qualified engineer.
 - d) That all new fences within the high risk flood extent including western boundary fences of 39 and 41 Kennedy Street and Lot 1 McLean Street and eastern side boundary fences of Lot 1 McLean Street and 81 Lehmann Avenue shall be permeable open type fences.

C. PRIOR TO WORKS COMMENCING

The following conditions shall be complied with prior to works commencing on the subject site:

Building/Compliance

13. Prior to the commencement of any building works, the following requirements must be complied with:
- (a) Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
 - (b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
 - (c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - (d) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate; and
 - (e) The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.

Notification/Principal Certifying Authority

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14. Written notice of intention shall be given to the owners or the adjoining allotments of land, outlining the particulars of the work, which involves:
- a) Any excavation below the base of the footings of a building on an adjoining allotment of land.
 - b) The notice shall be given seven (7) days prior to the commencement of work.

Site Notice Board

15. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
- (a) The name, address and telephone number of the principal certifying authority for the work;
 - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Unauthorised entry to the premises is prohibited.

Sediment and Erosion Control Measures

16. Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Landcom's publication "Managing Urban Stormwater – Soils and Construction (2004)" – also known as "The Blue Book". Measures must include, as a minimum:
- (a) Siltation fencing;
 - (b) Protection of the public stormwater system; and
 - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

Demolition Works

17. Any structures that straddle the new proposed boundary shall be removed.
- Prior to the demolition of any structures on the site, the land must be investigated for the presence of asbestos. All asbestos must be removed and disposed of in accordance with all regulatory requirements, including those of WorkCover NSW and the Environment Protection Authority.
18. Demolition works shall be carried out in accordance with the following:
- (a) Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable

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expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- (b) Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- (c) The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.

Demolition Inspections

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

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

Waste Classification

- 20. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act and NSW DECCW, (EPA) 'Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes'. The classification of the material is essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non-liquid waste advice should be sought from the DECCW (EPA).

Site Facilities

- 21. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:

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- (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
 - (c) be a temporary chemical closet approved under the Local Government Act 1993.
22. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

Notification of Service Providers

23. The approved development must be approved through the 'Sydney Water Tap In' service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. A receipt must be provided to Council.

Please refer to the website www.sydneywater.com.au for more information.

D. DURING CONSTRUCTION

The following conditions shall be complied with during construction:

Building Inspections

24. The building works must be inspected by the Principal Certifying Authority, in accordance with sections 109E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.
25. The Principal Certifying Authority must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceedings to the subsequent stages of construction or finalisation of the works (as applicable).
26. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.

Security Fence

27. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction.

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

Hours of Construction Work

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

Construction Noise

29. Construction noise shall not exceed the management levels defined within the Interim Construction Noise Guideline published by the NSW Department of Environment and Climate Change dated July 2009.

General Site Works

30. Building operations shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
31. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
32. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
33. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor, licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of in accordance with DECCW (EPA) requirements.

Waste Management Plan

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

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

Contamination

35. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental

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Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).

36. Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination must be notified to Council and the accredited certifier immediately after discovery. A Section 4.55 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

Traffic Management

37. Any works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RMS's Traffic Control at Worksites Manual and the RMS's Interim Guide to Signs and Markings.
38. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
39. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.

E. PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

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

Building/Compliance

40. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that any works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Liverpool City Council.
41. Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Council with the Subdivision Certificate.

Roadworks

42. All signposting and road marking is to be completed to Liverpool Council requirements, at no expense to Liverpool Council or Roads and Maritime Services.

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Rectification Works

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

F. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Subdivision Certificate by Council.

Demolition of Building

44. The existing building located across the proposed boundary of Lots 1 and 2 must be demolished and removed from the site without nuisance prior to the release of the Subdivision Certificate.

Liverpool City Council clearance – Roads Act/ Local Government Act

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

Restriction as to User and Positive Covenant

46. Prior to the issue of an Subdivision Certificate, all restrictions as to user and positive covenant relating to easements over existing Lot 1 DP 1246664, are to be transferred to Lot 1 approved by this consent, and shall be registered on the title of the property.

The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Council's Design and Construction Guidelines and Construction Specification for Civil Works.

47. A Restriction as to User over Proposed Lot 1 is to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

No further development of the lot burdened is to take place unless it is approved by a Development Consent. Such approval is likely to require, but not be restricted to, site remediation and construction of road (footpath, street lighting, kerb and gutter) and drainage works in Mclean Street.

48. A Restriction as to User over Proposed Lot 1 is to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

Fences within the high risk flood extent including western boundary fences and eastern boundary fences shall be permeable open type fences.

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49. A Restriction as to User over Proposed Lot 2 is to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

No further development of the lot burdened is to take place unless it is approved by a Development Consent. Such approval is likely to require site remediation.

50. A Restriction as to User over Proposed Lot 2 is to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

Fences within the high risk flood extent including western boundary fences shall be permeable open type fences.

51. A Restriction as to User over Proposed Lot 4 are to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

Fences within the high risk flood extent including western boundary fences and eastern boundary fences shall be permeable open type fences.

Linen Plans and 88B Instruments

52. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument (where proposed).
53. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.
54. The final plan of subdivision must be supported by an 88B Instrument, approved by Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Council's standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.

G. GENERAL CONDITIONS

The following general conditions shall be complied with at all times:

55. The operator of the development (Place of Public Worship) on Lot 1, must not permit the reversing of vehicles onto or away from the road reserve, including any garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with AS 2890.1 Parking Facilities – Off Street Car Parking.

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- 56. All sign posting is to be maintained in good condition at all times, to the satisfaction of Council.
- 57. No consent is expressed or implied for the attaching of signage, covering over or filling in of any part of the transparent fence as approved, such as to cause a visual obstruction from the road reserve into the subject premises.

H. ADVISORY

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

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r) "DIAL BEFORE YOU DIG"

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

s) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

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

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

- t) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- u) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- v) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or applicant's agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.