

# **MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION**

**Monday 28<sup>th</sup> October 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, 25<sup>th</sup> October 2019.

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

**28 October 2019**

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

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>1</b>	<b>Development Application DA-570/2018</b>  <b>Torrens title subdivision of two (2) existing lots into four (4) lots over two (2) stages</b>  <b>LOT 1 DP 1199136</b> <b>167-175 FIFTH AVENUE, AUSTRAL</b>	<b>2-27</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>2</b>	<b>Development Application DA-803/2018</b>  <b>Boundary adjustment and stratum subdivision</b>  <b>LOT 3 DP 1208552</b> <b>350 MACQUARIE STREET, LIVERPOOL</b>	<b>28-49</b>

<b>ITEM No.</b>	<b>SUBJECT</b>	<b>PAGE No.</b>
<b>3</b>	<b>Development Application DA-575/2019</b>  <b>Temporary Use and Approval for a One-Off Council Event at Greenway Park known as 'Liverpool On a Roll' on the 9<sup>th</sup> November 2019.</b>  <b>Lot 3 DP 1052703 &amp; Lot 813 DP 866199</b> <b>Greenway Park, 200 Cowpasture Road, West Hoxton</b>	<b>50-74</b>

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

**28 October 2019**

<b>Item no:</b>	1
<b>Application Number:</b>	DA-570/2018
<b>Proposed Development:</b>	Torrens title subdivision of two (2) existing lots into four (4) lots over two (2) stages
<b>Property Address</b>	167 Fifth Avenue, Austral 175 Fifth Avenue, Austral
<b>Legal Description:</b>	Lot 1, DP 1199136 Lot 1114, DP 2475
<b>Applicant:</b>	Urbanco
<b>Land Owner:</b>	Ms K Lin Aussie Win Pty Ltd Homeunit Pty Ltd
<b>Cost of Works:</b>	Nil
<b>Recommendation:</b>	Refusal
<b>Assessing Officer:</b>	Gorana Dubroja

## **1. EXECUTIVE SUMMARY**

Council has received a Development Application (DA) seeking consent for the subdivision of two existing lots into four lots over two stages at Lot 1, DP 1199136, No.167 Fifth Avenue, Austral, and Lot 1114, DP2475, No.175 Fifth Avenue, Austral.

The site is zoned R2 – Low Density Residential pursuant to State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP) with the proposed development being permissible with consent.

The development application was not required to be notified in accordance with Liverpool Development Control Plan (LDCP) 2008, Part 1 – General Controls for all Development and no submissions have been received regarding the subject application.

The key issues associated with the assessment of the subject DA relate to the inconsistencies with SEPP (Sydney Region Growth Centres) 2006, Clause 4.1B – Residential Density and Clause 4.6 – Exceptions to Development Standards, SEPP No.20 – Hawkesbury-Nepean River (No. 2 – 1997), SEPP No. 55 – Remediation of Land, LDCP 2008 and Liverpool Growth Centres Precincts Development Control Plan, Part 2 – Precinct Planning Outcomes and Part 3 – Neighbourhood and Subdivision Design. The applicant is not considered to have satisfactorily addressed the outstanding matters associated with the proposal that relate to these plans despite being granted sufficient opportunity to do so. Due to the proposal's inconsistencies with the plans listed above, it is recommended that the application be refused.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements as the development falls into the category of departure from a development standard. The proposed development seeks a 91.21% variation to the residential density development standard, however, the applicant contends that the

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

**28 October 2019**

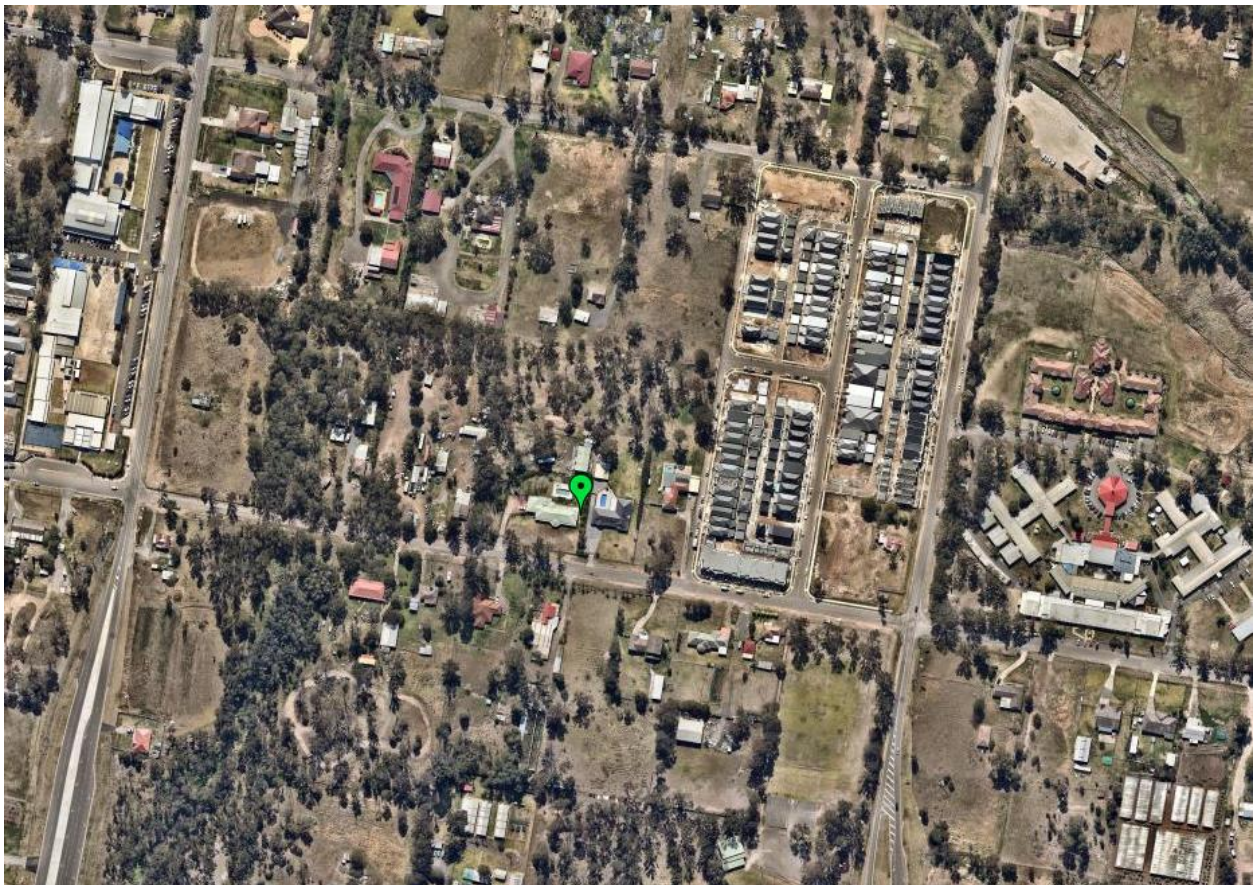
subject DA does not warrant a Clause 4.6 variation request.

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

## **2. SITE DESCRIPTION AND LOCALITY**

### **2.1 The locality**

The area is predominantly characterised by rural land uses mixed with rural-residential development. Although the locality is still characterised by detached dwellings on large lots, it is zoned R3 – Medium Density Residential and is under transition. The locality includes newly subdivided land for the purposes of detached housing types.



**Figure 1:** Locality Surrounding the 167 Fifth Avenue and 175 Fifth Avenue, Austral  
(Source: Nearmap Mapping System)



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

**28 October 2019**

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

Orientation	Description of Site
North (rear)	240 Sixth Avenue, Austral and 250 Sixth Avenue, Austral
South (front)	170 Fifth Avenue, Austral and 180 Fifth Avenue, Austral
East (side)	165 Fifth Avenue, Austral
West (side)	185 Fifth Avenue, Austral

Each of these sites feature detached dwelling houses on large lots.

## **2.2 The site**

The subject site is identified as Lot 1, DP 1199136, No.167 Fifth Avenue, Austral and Lot 1114, DP 2475, No.175 Fifth Avenue, Austral. Lot 1 has an overall site area of 6,701sqm, with a primary frontage of 40.245m to Fifth Avenue and a depth of 150.875m. Lot 1114 has an overall site area of 12,140sqm, with a primary frontage of 80.47m to Fifth Avenue and a depth of 150.875m. Lot 1 has an existing brick dwelling, metal garage, metal carport and paved driveway. Lot 1114 has an existing brick dwelling, metal garage, swimming pool, awning and gravel driveway. There is remanent vegetation on both sites, however, this is not mapped as protected vegetation.



**Figure 2:** Aerial view of 167 and 175 Fifth Avenue, Austral (Source: Nearmap Mapping System)

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

**28 October 2019**

**3. DEVELOPMENT APPLICATION BACKGROUND/HISTORY**

- The subject Development Application was lodged with Council on 30 July 2018.
- Environmental Health referral received on 15 October 2018 requiring further information regarding the removal of impacted trees and any stockpiles/debris.
- Engineering referral received on 25 October 2018 requiring further information regarding subdivision layout and future DCP road layout.
- Additional Information Letter sent out on 4 December 2018 to include further information regarding SEPP (Sydney Region Growth Centres) 2006, Clause 4.1B – Residential Density, SEPP (Sydney Region Growth Centres) 2006, Clause 4.6 Exceptions to Development Standards, and Liverpool Growth Centres Precinct Development Control Plan, Part 2 – Precinct Planning Outcomes and Part 3 – Neighbourhood and Subdivision Design.
- Meeting organised with applicant and held on 29 January 2019 which concluded that the proposal fails to comply with the desired future character of the area and a recommendation to move forward is to demonstrate future use for intended density and character of the area. The applicant was advised that any further submission of information will require a Clause 4.6 Exceptions to Development Standards to address any departure from the minimum dwelling density requirement, and information as to how the application will align with the desired future character and conform to the current ILP Road Layout.
- Applicant responded on 20 January 2019 confirming that revised documentation will be submitted to address the concerns raised by Council.
- Confirmation from Department of Planning and Environment that in order to vary Clause 4.1B, a Clause 4.6 is required.
- Applicant submitted amended Subdivisions Plans on 4 March 2019 proposing to create four (4) lots in 2 stages. Stage 1 to create two (2) super lots in the north and retain the dwellings on the residual lots, and Stage 2 to demolish the dwellings, swimming pool and septic systems.
- Applicant submitted further written information attempting to address planning, engineering and environmental health concerns.
- Applicant advised on 14 May 2019 that Council maintains its position in that a Clause 4.6 Exceptions to Development Standards is required to in order to consider any variation to Clause 4.1B – Residential Density.
- Email out to applicant on 7 June 2019 to respond to previous Council email.
- Applicant responded on 13 June stating that the provisions of the SEPP and DCP are not matters of consideration to the proposal.
- Email out to applicant on 12 August 2019 advising that the application will be going to the Liverpool Planning Panel for the 28 October 2019 meeting as the outstanding issues have not been addressed.

**4. DETAILS OF THE PROPOSAL**

The proposed development application seeks the subdivision of two (2) existing lots into four (4) lots over two (2) stages. The proposal will consist specifically of the following:

**Subdivision**

**Stage 1**

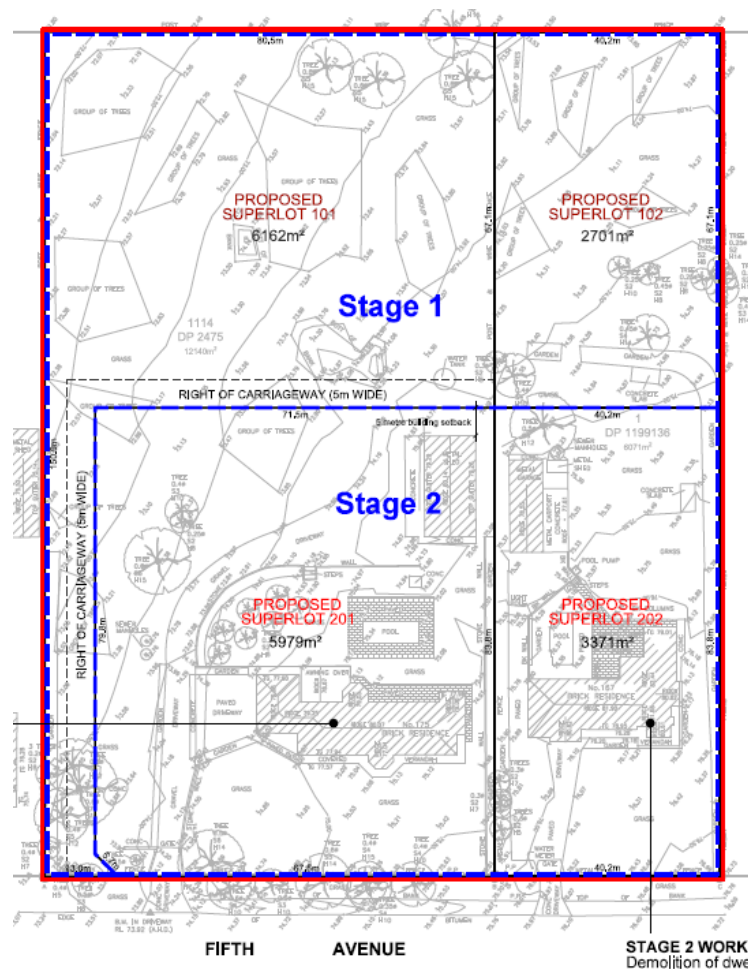
**LIVERPOOL CITY COUNCIL**  
**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

- Creation of 2 Torrens title lots within the rear northern portion of the site – Lot 101 (6,162sqm) and Lot 102 (2,701sqm); and
- Retention of dwellings on 2 Torrens title lots fronting Fifth Avenue – proposed Lot 201 (5,979sqm) and proposed Lot 202 (3,371sqm).

**Stage 2**

- Creation of 2 Torrens title lots fronting Fifth Avenue – Lot 201 (5,979sqm) and Lot 202 (3,371sqm); and
- Demolition and removal of existing dwellings, swimming pool and septic systems.



**Figure 3: Proposed Stage 1 and Stage 2 Subdivision Layout (Subdivision Plan)**

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

**28 October 2019**

**5. STATUTORY CONSIDERATIONS**

**5.1 Relevant matters for consideration**

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

- Sydney Regional Environmental Plan No.20 – Hawkesbury-Nepean River (No. 2 – 1997);
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006;
- Liverpool Development Control Plan (LDCP) 2008;
  - Part 1: General Controls for All Development; and
  - Liverpool Growth Centres Precinct Development Control Plan 2013.

Contributions Plans

- A Section 7.11 Liverpool Contributions Plan 2013 – Austral and Leppington North is not required in this instance.

**6. ASSESSMENT**

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

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

**(a) Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)**

The subject land is located within the Hawkesbury Catchment and as such the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) applies to the application.

The Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) generally aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. When a consent authority determines a development application, planning principles are to be applied (Clause 4). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 5 and Clause 6), and compliance with such is provided below.

Clause 5 General Principles	Comment
(a) the aims of this plan	The plan aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.



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

**28 October 2019**

(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy	The strategies are applied to this planning assessment in the table under Clause 6.
(c) whether there are any feasible alternatives to the development or other proposal concerned	There are considered to be no feasible alternatives to the proposed subdivision.
(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored	The proposed development consists of a subdivision of two existing lots into four lots over two stages only.
<b>Clause 6 Specific Planning Policies and Recommended Strategies</b>	<b>Comment</b>
(1) Total catchment management	Environmental Planning consideration by SEPP (Sydney Region Growth Centre) 2006 has considered the impact of the residentially zoned land within the catchment.
(2) Environmentally sensitive areas	The site is not part of an Environmentally Sensitive area as defined in this plan.
(3) Water quality	Council's Land Development Engineers have not provided comments on water quality at this stage as information requests from Council are outstanding.
(4) Water quantity	Council's Land Development Engineers have not provided comments on water quality at this stage as information requests from Council are outstanding.
(5) Cultural heritage	The site is not identified as being of or containing Aboriginal / cultural heritage.
(6) Flora and fauna	The site is identified as Bio-certified and otherwise not containing threatened species of flora and fauna deemed worthy of retention.
(7) Riverine scenic quality	Not applicable.
(8) Agriculture/aquaculture and fishing	Not applicable.
(9) Rural residential development	Not applicable.
(10) Urban development	The site has been rezoned to R3 – Medium Density Residential.
(11) Recreation and tourism	Not applicable.
(12) Metropolitan strategy	The applicant is not considered to have provided sufficient information to address the precinct plan applicable to the locality.

It is considered that insufficient information has been provided to satisfy the provisions of the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2-1997).

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

**28 October 2019**

**(b) State Environmental Planning Policy No 55 – Remediation of land**

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

The objectives of SEPP 55 are:

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

<b>Clause 7 - Contamination and remediation to be considered in determining development application</b>	<b>Comment</b>
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The applicant has not provided sufficient information regarding contamination. A Stage 1 preliminary assessment would be required in this instance.
(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	Insufficient information has been provided by the applicant regarding land contamination for Council to carry out an assessment.
(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.	Insufficient information has been provided by the applicant to conclude if remediation is required.

At this stage, insufficient information has been provided addressing the objectives and provisions of SEPP 55. Therefore, it is considered that the subject site is not suitable for the development.

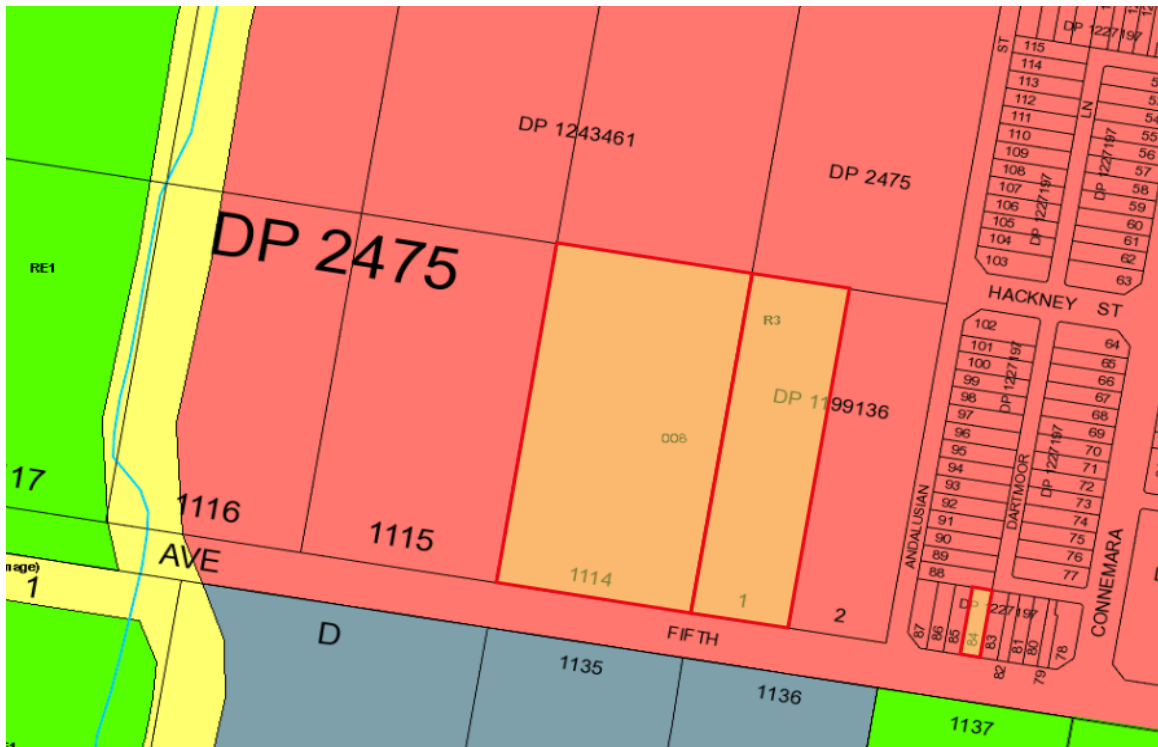
**(c) State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

**(i) Permissibility**

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

**28 October 2019**

The subject site is zoned R3 – Medium Density Residential in accordance with the SEPP (Sydney Region Growth Centres) 2006. The proposal is best defined as ‘subdivision’ which is a permissible form of development with consent pursuant to Clause 2.6 of Appendix 8 of the SEPP (Sydney Region Growth Centres) 2006.



**Figure 3: Zoning Map of 167 and 175 Fifth Avenue, Austral (Source: Geocortex Mapping System)**

**(iii) Objectives of the zone**

The objectives of the R3 – Medium Density Residential Zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.*

The proposed development is not considered to meet the objectives of the R3 – Medium Density Residential zone as it is unclear how the proposal will provide for the housing needs of the community within a medium density residential environment and as the application not sufficiently demonstrating how the housing needs of the community will be facilitated through the provision of a variety of housing types.

**(iv) Principal Development Standards**

SEPP (Sydney Region Growth Centres) 2006 contains a number of principal development

**LIVERPOOL CITY COUNCIL**

**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

standards which are relevant to the proposal, as detailed below.

<b>Appendix 8 Liverpool Growth Centres Precinct Plan Part 4 – Principle Development Standards</b>	
<b>Objectives/Controls</b>	<b>Comment</b>
<p><b>4.1 Minimum Subdivision Lot Size</b></p> <p>(1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>a) To ensure orderly and efficient use of land,</li> <li>b) to ensure a minimum lot size efficient for development,</li> <li>c) To allow for a range of lot sizes that cater for a diversity of land uses and employments activities.</li> </ul> <p>(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Precinct Plan.</p> <p>(3) The size of any lot resulting from any such subdivisions of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to the land.</p> <p>(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.</p>	<p><b>Not Applicable.</b></p> <p>The subject site is not indicated as being affected by a minimum lot size on the Lot Size Map.</p>
<p><b>4.1AA Subdivision resulting in lots between 225sqm-300sqm</b></p> <p>(1) This clause applies to land in the following zones:</p> <ul style="list-style-type: none"> <li>a) Zone R2 Low Density Residential</li> <li>b) Zone R3 Medium Density Residential</li> </ul> <p>(2) Development consent maybe granted to the subdivision of land to which this clause applies resulting in the creation of a lot that has an area of less than 300m<sup>2</sup> (but not less than 225m<sup>2</sup>) if the consent authority is satisfied that the lot will contain a sufficient building envelope to enable the erection of a dwelling house on the lot.</p> <p>(3) This clause does not apply to a subdivision that is the subject of a development application under clause 4.1AD (2) (b), 4.1AE (2) (b) or 4.1AF.</p>	<p><b>Not Applicable.</b></p> <p>No proposed subdivision resulting in the creation of lots between 225sqm-300sqm.</p>

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

**28 October 2019**

<p><b>4.1AB Minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential</b></p> <p>(1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>a) To establish minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential,</li> <li>b) to ensure that residential development in the Austral and Leppington North Precincts results in the efficient use of land and contributes to the supply of new housing in the South West Growth Centre,</li> <li>c) to ensure that residential development has adequate usable areas for buildings and open space,</li> <li>d) to ensure that residential development in the Austral and Leppington North Precincts is compatible with the character of the locality and with surrounding residential areas,</li> <li>e) to facilitate and encourage the provision of a range of residential lot types, in particular, small lot housing.</li> </ul> <p><b>Minimum lot size of development according to dwelling density of 25 dwellings per hectare:</b></p> <p>Dwelling House – 300sqm  Dual occupancy – 400sqm  Semi-detached dwelling – 125sqm  Attached dwelling – 375sqm  Multi-dwelling housing – 375sqm  Manor home – 600sqm  Residential flat building – 2,000sqm</p>	<p><b>Complies.</b></p> <p>The subject site falls into the dwelling density band of needing 25dw/Ha. Accordingly, the minimum lot size for a dwelling house is 300m<sup>2</sup>.</p> <p>The proposed lot sizes are as follows:</p> <p>Lot 101 – 6,162sqm  Lot 102 – 2,701sqm  Lot 201 – 5,979sqm  Lot 202 – 3,371sqm</p>
<p><b>4.1AD Exceptions to minimum lot sizes for dwelling houses</b></p> <p>(1) This clause applies to the following:</p> <ul style="list-style-type: none"> <li>a) A lot in Zone R2 Low Density Residential that has an area less than 300m<sup>2</sup> (but not less than 250m<sup>2</sup>) if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is 15,</li> <li>b) a lot in Zone R2 Low Density Residential that has an area less than 300m<sup>2</sup> (but not less than 225m<sup>2</sup>) if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is not less than 20,</li> <li>c) a lot in Zone R3 Medium Density</li> </ul>	<p><b>Not Applicable.</b></p> <p>No erection of dwelling houses has been proposed as part of this application.</p>



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

**28 October 2019**

<p>Residential that has an area less than 300m<sup>2</sup> (but not less than 225m<sup>2</sup>).</p> <p>(2) Despite clause 4.1AB (3), development consent may be granted to the erection of a dwelling house on a lot to which this clause applies if:</p> <ul style="list-style-type: none"> <li>a) The lot results from a subdivision to which development consent has been granted in accordance with clause 4.1AA and, in determining the development application for the erection of the dwelling house, the consent authority considers any information that it considered for the purposes of that clause in determining the development application for that subdivision, or</li> <li>b) the development application is a single development application for development consisting of both of the following: <ul style="list-style-type: none"> <li>i. the subdivision of land into 2 or more lots,</li> <li>ii. the erection of the dwelling house on one of the lots resulting from the subdivision.</li> </ul> </li> </ul>	
<p><b>4.1B Residential Density</b></p> <p>(1) The objectives of this clause are:</p> <ul style="list-style-type: none"> <li>a) To establish minimum density requirements for residential development, and;</li> <li>b) To ensure that residential development makes efficient use of land and infrastructure, and contributes to the availability of new housing, and</li> <li>c) To ensure that the scale of residential development is compatible with the character of the precinct and adjoining land.</li> </ul> <p>(2) This clause applies to residential development of the kind referred to in clause 4.1AB or 4.1AC that:</p> <ul style="list-style-type: none"> <li>a) Is carried out on land to which this Precinct Plan applies that is shown on the Residential Density Map, and</li> <li>b) Requires development consent, and</li> <li>c) Is carried out after the commencement of this Precinct Plan</li> </ul> <p>(3) The density of any residential development to</p>	<p><b>Does not comply.</b></p> <p>The subject sites have a dwelling density of 25 dwelling per hectare. The total site area of both sites is 18,213sqm. In order for the DA to meet the applicable minimum residential density, a total of 45.5 lots is required onsite. The development proposes 4 lots.</p> $6,162 + 2,701 + 5,979 + 3,371 = 18,213\text{sqm}$ $18,213 \div 10,000 = 1.8213 \times (25) = 45.5 \text{ lots}$ $4 \div 45.4 = 0.0879 \times (100) = 8.79$ $100 - 8.79 = \mathbf{91.21\% \text{ variation.}}$ <p>The proposed development seeks a 91.21% variation to the residential density development standard.</p> <p>In order for the consent authority to consider a variation to the development standard, the applicant must lodge a written request in accordance with Clause 4.6 – Exceptions to development standards.</p>

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

**28 October 2019**

<p>which this clause applies is not to be less than the density shown on the Residential Density Map in relation to that land.</p> <p>(4) In this clause:</p> <p><b>Density</b> means the net developable area in hectares of the land on which the development is situated divided by the number of dwellings proposed to be located on that land.</p> <p><b>Net developable area</b> means the land occupied by the development, including internal streets, but excluding land that is not zoned for residential purposes.</p>	
<p><b>4.3 Height of Buildings</b></p> <p>12m</p>	<p>N/A</p> <p>No dwellings proposed to be erected.</p>
<p><b>4.4 Floor Space Ratio</b></p> <p>N/A</p>	<p>N/A</p>
<p><b>4.6 Exceptions to development standards</b></p>	<p><b>Does not comply.</b></p> <p>The applicant has not submitted a written request from the applicant that seeks to justify the contravention of the residential density development standard.</p>

As demonstrated above, the proposal does not comply with the residential density targets applicable to this site of 25 dwelling per hectares. The proposal seeks a variation of 91.21% to the residential density development standard. This is not considered to meet the objectives of Clause 4.1B and therefore is not considered acceptable. The applicant has not provided a written request to vary Clause 4.1B as per Clause 4.6, which is discussed below.

#### **4.6 Exceptions to Development Standards**

As identified in the compliance table above, the proposal seeks to vary Clause 4.1B – Residential Density.

Clause 4.1B stipulates that the density of any residential development to which this clause applies is not to be less than the density showing the Residential Density Map in relation to that land. The residential density applicable to the land is 25 dwellings per hectare.

The total site area of both sites is 18,213sqm. In order for the DA to meet the applicable

minimum residential density, a total of 45.5 lots is required onsite. The development proposes 4 Torrens title lots. Therefore, the proposed development seeks a 91.21% variation to the residential density development standard. Council has requested on numerous occasions that the applicant provide a written request to vary the development standard, so that the consent authority may consider the variation. The applicant contends that a Clause 4.6 Variation written

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

**28 October 2019**

request is not required for the subject Development Application and has not been forthcoming.

On this basis Clause 4.6 is discussed below:

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

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

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

**Council Comment:** Noted.

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

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

**Council Comment:** The applicant has not submitted a written request which seeks to justify the contravention of the development standard. Accordingly, the consent authority cannot consider the variation or complete a thorough assessment of the application.

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

- a) The consent authority is satisfied that –*
  - i. The applicants written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) The concurrence of the Secretary has been obtained.*

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

**28 October 2019**

**Council Comment:** No written request which seeks to justify the contravention of the development standard submitted by the applicant.

- (5) *In deciding whether to grant concurrence, the Secretary must consider –*
- a) *Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - b) *The public benefit of maintaining the development standard, and*
  - c) *Any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if –*
- a) *The subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - b) *The subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

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

**Council Comment:** Not applicable.

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

**Council Comment:** Noted.

- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following –*
- a) *A development standard for complying development,*
  - b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
  - c) *clause* 5.4,

**Council Comment:** Noted.

It is considered that the consent authority is unable to apply a degree of flexibility to the development standard in this case and that compliance with Clause 4.1B is not unreasonable or unnecessary.

With consideration to the discussion above, the variation to Clause 4.1B is not supported in this case.

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

**28 October 2019**

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

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

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

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

The application has been assessed against the relevant controls of the LDCP 2008 and Liverpool Growth Centres Precinct Development Control Plan 2013. This is provided in the following assessment tables:

<b>LDCP 2008 Part 1 – General Controls for all Development</b>			
<b>Control</b>	<b>Required</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Section 2 – Tree Preservation</b>	Consider impact of development on existing vegetation	No trees proposed to be removed.	N/A
<b>Section 3 – Landscaping and Incorporation of Existing Trees</b>	Incorporation of existing trees into development where appropriate	No changes to existing.	N/A
<b>Section 4 – Bushland and Habitat Preservation</b>	Consider impact of development on bushland and habitats	No changes to existing.	N/A
<b>Section 5 – Bushfire Risk</b>	Land on or adjacent to bushfire prone land to comply with RFS requirements	Site is not mapped as being bushfire affected.	N/A
<b>Section 6 – Water Cycle Management</b>	Consideration of stormwater and drainage	No proposed stormwater works. Insufficient information provided regarding stormwater. Council's Land Development Engineers have not raised this as an issue.	N/A
<b>Section 7 – Development Near a Watercourse</b>	Consideration of impact to riparian corridors	N/A	N/A
<b>Section 8 – Erosion and Sediment Control</b>	Sediment Control Plan or Soil and Water Management Plan required	No construction proposed.	N/A
<b>Section 9 – Flooding Risk</b>	Flood affection of property to considered	Site is not mapped as being affected by flooding.	N/A
<b>Section 10 – Contaminated Land Risk</b>	Previous use to be considered in assessing risk	Insufficient information has been provided by the applicant to address possible contamination risks.	Does not comply.



**LIVERPOOL CITY COUNCIL**

**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

<b>Section 11 – Salinity Risk</b>	Salinity Management response required for affected properties	Site is not affected by salinity.	N/A
<b>Section 12 – Acid Sulfate Soils Risk</b>	Affected properties to consider impact of development on soils	Site is not affected by Acid Sulfate Soils.	N/A
<b>Section 13 – Weeds</b>	Noxious weeds to be removed as part of development where applicable	No weeds proposed to be removed as part of this application.	N/A
<b>Section 14 – Demolition of Existing Development</b>	Must comply with AS 2601-2001	Insufficient information has been provided regarding demolition details.	Does not comply.
<b>Section 15 – Onsite Sewage Disposal</b>	S68 Application required where connection to sewer not available	Insufficient information has been provided by the applicant to address how onsite sewer management will be preserved for the retained dwellings where the rear portion of the site is subdivision.	Does not comply.
<b>Section 16 – Aboriginal Archaeology</b>	AHIA required where items of aboriginal archaeology exist	No works proposed.	N/A
<b>Section 17 – Heritage and Archaeology</b>	Consideration of the impact on the heritage significance on any heritage buildings, sites, streetscapes or areas.	No works proposed.	N/A
<b>Section 18 – Notification of Application</b>	Multi dwellings are to be notified to adjoining properties which are located up to 75m from the subject land.	The proposed development was not required to be notified as per LDCP 2008 Part 1 – General Controls for all Development.	N/A
<b>Section 19 – Used Clothing Bins</b>	Applies to any charity bins located on either private or Council land.	No charity bins located on site.	N/A
<b>Section 20 – Car Parking and Access</b>	Parking controls for dwellings houses.	No changes to existing dwellings to be retained. Parking rates as per the Liverpool Growth Centre Precinct DCP 2013 take precedent.	N/A

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

**28 October 2019**

**Liverpool Growth Centres Precinct Development Control Plan 2013**

<b>Liverpool Growth Centres Precincts Development Control Plan 2013</b>		
<b>Development Control</b>	<b>Requirement</b>	<b>Comment</b>
<b>Part 2.0 Precinct Planning Outcomes</b>		
<b>2.2 The Indicative Layout Plan</b>	All development applications are to be generally in accordance with the Indicative Layout Plan.	<p><b>Does not comply.</b></p> <p>The proposed development no road system onsite, which is not consistent with the indicative layout plan and street network precinct outcome, and as such would likely affect the development of adjoining land and the precinct.</p> <p>The application was referred to Councils internal Land Development Engineering Department who have raised objections to the proposal regarding the road layout.</p>
<b>2.3.1 Flooding</b>	This sections contains controls related to flood prone land.	The site is not mapped as being affected by flood risk.
<b>2.3.2 Water Cycle Management</b>	This sections contains controls relating to stormwater management.	The application proposes no stormwater works.
<b>2.3.3 Salinity and Soil Management</b>	This section contains controls relating to salinity and soil management.	The applicant has provided insufficient information regarding salinity and soil management.
<b>2.3.4 Aboriginal and European Heritage</b>	This section contains controls relating to the management of Aboriginal Heritage values and to ensure areas identified as European cultural heritage sites or archaeological sites are managed.	The site is not identified to be of Aboriginal and European Heritage.
<b>2.3.5 Native Vegetation and Ecology</b>	This section contains controls relating to the conservation and rehabilitation of native vegetation.	The application does not include the removal of existing vegetation on site.
<b>2.3.6 Bushfire Hazard Management</b>	This section contains controls relating to development on bushfire prone land.	The site is not mapped as being bushfire affected.
<b>2.3.7 Site Contamination</b>	This section contains controls relating to development on	<b>Does not comply.</b>

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

**28 October 2019**

	potentially contaminated land.	The applicant has provided insufficient information regarding possible contamination risks.
<b>2.3.8 Development on and adjacent to electricity and gas easements</b>	This section contains controls to ensure that development on or adjacent to land affected by major infrastructure easement does not impact on the continued operation of the infrastructure.	The site is not located on or adjacent to electricity and gas easements.
<b>2.3.9 Noise</b>	This section contains controls relating to ensuring acoustic privacy is achieved for future residential development.	The site is not located in an acoustic sensitive area.
<b>2.3.10 Odour Assessment and Control</b>	This section relates to land deemed by Council to be affected by an odour source.	The applicant has provided insufficient information regarding possible odour risks.
<b>2.3.11 Air Quality</b>	This section contains controls relating to preserving air quality in relation to industrial and/or employment development.	The proposed development does not include industrial or employment development.
<b>2.4 Demolition</b>	This section contains controls relating to the demolition of buildings.	<b>Does not comply.</b>  Demolition is proposed as part of the application. The applicant has provided a Demolition plan. However, no Demolition Statement has been provided with the application.
<b>2.5 Crime Prevention through Environmental Design</b>	This section contains controls relating to the principles of Crime Prevention through Environmental Design.	Insufficient information has been provided to assess if the development is likely to contravene the principles of Crime Prevention through Environmental Design.
<b>2.6 Earthworks and Dam de-watering</b>	This section contains controls relating to earthworks.	No earthworks or dam de-watering proposed.
<b>3.0 Neighbourhood and Subdivision Design</b>		
<b>3.1.1 Residential Density</b>	All applications for residential subdivision and the construction of residential buildings are to demonstrate that the proposal meets the minimum residential density requirements of the relevant Precinct Plan and contributes to meeting the overall dwelling target in the relevant Precinct.	<b>Does not comply.</b>  The proposed application does not demonstrate compliance with the minimum residential density requirements. Clause 4.6 Exceptions to Development Standards has not been addressed as per SEPP (Sydney Region Growth

**LIVERPOOL CITY COUNCIL**

**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

		Centres) 2006. The proposed variation cannot be considered by Council.
	<p>Residential development is to be generally consistent with the residential structure as set out in the Residential Structure Figure in the relevant Precinct Schedule, the typical characteristics of the corresponding Density Band in Table 3-1.</p> <p><b>Extract from Table 3.1: Typical Characteristics of Residential Net Densities</b></p> <p>25-30dw/Ha</p> <ul style="list-style-type: none"> <li>- Generally located within the walking catchment of centres, corridors and/or rail based public transport.</li> <li>- Consists of predominantly small lot housing forms with some multi-dwelling housing, manor homes and residential flat buildings located close to the local centre and public transport.</li> <li>- Generally single and double storey dwellings with some 3 storey buildings.</li> <li>- Incorporates some laneways and shared driveways.</li> <li>- Be designed to provide for activation of the public domain, including streets and public open space through the orientation and design of buildings and communal spaces.</li> <li>- Mainly urban streetscape, some suburban streetscapes.</li> </ul>	<p><b>Does not comply.</b></p> <p>The proposed development is not consistent with the residential structure as it does not consist of small lot housing forms, does not provide for laneways and shared driveways, is not designed in a manner which will provide for the activation of the public domains and does not provide for a mainly urban or suburban streetscape.</p>
<b>3.1.2 Block and Lot Layout</b>	<p><b>Blocks</b></p> <p>Residential neighbourhoods are to be focused on elements of the public domain such as a school, park, retail, or community facility that are typically within walking</p>	<p><b>Does not comply.</b></p> <p>The proposed subdivision layout is not considered to provide for residential neighbourhoods which are focused on the public domain and within walking distance to</p>

**LIVERPOOL CITY COUNCIL**

**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

	<p>distance. Liverpool Growth Centre Precincts Development Control Plan Page 41.</p> <p>Subdivision layout is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and site features, place making opportunities and solar design principles.</p> <p>Pedestrian connectivity is to be maximised within and between each residential neighbourhood with a particular focus on pedestrian routes connecting to public open space, bus stops and railway stations, educational establishments and community/recreation facilities.</p> <p>Street blocks are to be generally a maximum of 250m long and 70m deep. Block lengths in excess of 250m may be considered by Council where pedestrian connectivity, stormwater management and traffic safety objectives are achieved. In areas around neighbourhood and town centres, the block perimeters should generally be a maximum of 520m (typically 190m x 70m) to increase permeability and promote walking.</p>	<p>community facilities.</p> <p>The proposed development is not considered to provide for pedestrian connectivity between neighbourhoods and pedestrian routes which connect to public transport, educational establishments, and community and recreational facilities.</p>
	<p><b>Lots</b></p> <p>Minimum lot sizes for each dwelling type will comply with the minimum lot size provisions permitted by the Sydney Region Growth Centres SEPP, summarised here as Table 3-2. In certain density bands, variations to some lot sizes may be possible subject to clauses in the Sydney Region Growth Centres SEPP.</p> <p>Minimum lot frontages applying</p>	<p><b>Does not comply.</b></p> <p>The site is characterised by the 25 dw/Ha band. In order for the development to meet the minimum dwelling density a minimum of 45.5 lots is required. The proposal is for the creation of 4 lots. This is a variation of 91.21% to the required residential density.</p>



**LIVERPOOL CITY COUNCIL**

**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

	<p>to each density band will comply with Table 3-3. Lot frontage is measured at the street facing building line as indicated in Figure 3-3.</p> <p>A range of residential lot types (area, frontage, depth, zero lot and access) must be provided to ensure a mix of housing types and dwelling sizes and to create coherent streetscapes with distinctive garden suburban, suburban and urban characters across a neighbourhood.</p> <p>In density bands <math>\leq 20dw/Ha</math> no more than 40% of the total residential lots proposed in a street block may have frontage of less than 10m wide. Note: A street block is defined as a portion of a city, town etc., enclosed by (usually four) neighbouring and intersecting streets.</p> <p>In density bands <math>\leq 25dw/Ha</math>, total lot frontage for front accessed lots greater than or equal to 7m and less than 9m should not exceed 20% of any block length due to garage dominance and onstreet parking impacts.</p> <p>Lots should be rectangular. Where lots are an irregular shape, they are to be large enough and oriented appropriately to enable dwellings to meet the controls in this DCP. Liverpool Growth Centre Precincts Development Control Plan Page 43</p> <p>Where residential development adjoins land zoned RE1 Public Recreation or SP2 Drainage, subdivision is to create lots for the dwelling and main residential entry to front the open space or drainage land.</p> <p>The orientation and configuration of lots is to be</p>	
--	---	--

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

**28 October 2019**

	<p>generally consistent with the following subdivision principles:</p> <ul style="list-style-type: none"> <li>• Smallest lots achievable for the given orientations fronting parks and open space with the larger lots in the back streets;</li> <li>• Larger lots on corners;</li> <li>• North to the front lots are either the widest or deepest lots, or lots suitable for residential development forms with private open space at the front. Narrowest lots with north to the rear.</li> </ul> <p>Preferred block orientation is established by the road layout on the Indicative Layout Plan in the relevant Precinct Schedule. Optimal lot orientation is east-west, or north-south where the road pattern requires. Exceptions to the preferred lot orientation may be considered where factors such as the layout of existing roads and cadastral boundaries, or topography and drainage lines, prevent achievement of the preferred orientation.</p> <p>An alternative lot orientation may be considered where other amenities such as views and outlook over open space are available</p>	
--	--	--

**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()(b) - The Likely Impacts of the Development**

**Natural and Built Environment**

The proposed development may have negative impacts on the natural environment as insufficient information has been provided addressing the provisions of the Sydney Regional Environmental Plan No.20 – Hawkesbury-Nepean River (No 2-1997).

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

**28 October 2019**

The built environment is likely to be negatively affected by the proposal in its current state, as it does not take into consideration the ILP road network and promotes fragmentation of land within the south west growth centre. The applicant has not demonstrated how the proposed variation to the residential density target applicable to the land is acceptable and therefore the proposal is considered contrary to the intent of the precinct plan.

**Social Impacts and Economic Impacts**

The proposal would result in negative social and economic impacts on the locality as the proposal does not demonstrate how it would provide for the housing needs of the community and how a variety of housing types would be provided. The application is for a four (4) lot subdivision, which does not comply with the minimum residential density for this site. The application does not consider the desired future character of the area and does not form part of what is envisioned for the locality and the growth centres.

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

The DA is considered to be inconsistent with the provisions of SEPP No.20 – Hawkesbury-Nepean River (No. 2 – 1997) and SEPP No. 55 – Remediation of Land and therefore the site is considered to be unsuitable for the proposed development.

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

The proposed development was not required to be notified in accordance with LDGP Part 1 – General Controls for all Development. No submissions have been received with regards to the proposal.

**(a) Internal Referrals**

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

DEPARTMENT	COMMENTS
Land Engineering	Not supported for the following reasons: <ul style="list-style-type: none"><li>• Subdivision layout not supported as all lots require a street frontage.</li><li>• Proposed subdivision layout does not align with the future DCP road layout.</li></ul>
Environmental Health	Not supported for the following reasons: <ul style="list-style-type: none"><li>• Provide amended wastewater report proposing effluent disposal in a suitable area.</li></ul>

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

The proposed development is unlikely to be in the public interest given that a thorough

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

**28 October 2019**

assessment of the DA could not be undertaken as Clause 4.6 Exceptions to Development Standards as per SEPP (Sydney Region Growth Centres) 2006 was not addressed by the applicant and due to there being numerous outstanding matters with the relevant plans and policies applicable to the proposal.

**7. DEVELOPMENT CONTRIBUTIONS**

A contribution made in accordance with the Section 7.11 Liverpool Contributions Plan 2013 – Austral and Leppington North is not required in this instance.

**8. CONCLUSION**

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, and the Environmental Planning Instruments, including the applicable State Environmental Planning Policies, Liverpool LEP 2008, LDGP 2008, Liverpool Growth Centres Precincts DCP 2013 and the relevant codes and policies of Council.

In this regard, the proposed development is likely to result in adverse impacts on the locality and is considered to be an unacceptable form of development. A Clause 4.6 written request to vary a development standard has not been provided by the applicant regarding Clause 4.1B Residential Density. Based on the assessment of the application, it is recommended that the application be refused.

**9. RECOMMENDATION**

Based on the assessment of the application in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979, it is recommended that the application be refused for the following reasons:

1. Pursuant to Section 1.3 of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the objects of the Act as it does not promote the orderly development of land.
2. Pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as the applicant has not provided a written request which seeks to justify the contravention of the development standard being Clause 4.1B.
3. Pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the objectives of the R3 – Medium Density Residential zone as per State Environmental Planning Policy (Sydney Region Growth Centres) 2006, as the development does not sufficiently demonstrate how it will provide for the housing needs of the community within a medium density residential environment and how the housing needs of the community will be facilitated through the provision of a variety of housing types.

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

**28 October 2019**

4. Pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not achieve satisfactory compliance with Clauses 5 and 6 of the Sydney Regional Environmental Plan No.20 – Hawkesbury – Nepean River (No 2-1997).
5. Pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not achieve satisfactory compliance with Clause 7 of State Environmental Planning Policy No 55 – Remediation of Land.
6. Pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not achieve the minimum residential density target specified in Clause 4.1B – Residential Density of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The proposed development is also inconsistent with the objectives of Clause 4.1B as it does not ensure that residential development makes efficient use of land and contributes to the availability of new housing and does not ensure that the scale of residential development is compatible with the character of the precinct plan.
7. Pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not achieve satisfactory compliance with Liverpool Development Control Plan 2008, Part 1 – General Controls for all Development, Section 10 – Contaminated Land Risk, Section 14 – Demolition of Existing Development and Section 15 – Onsite Sewerage Disposal.
8. Pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the controls stipulated within Liverpool Growth Centres Precinct Development Control Plan 2013, Part 2 – Precinct Planning Outcomes, Section 2.2 – The Indicative Layout Plan, Section 2.3.3 – Salinity and Soil Management, Section 2.3.7 – Site Contamination and Section 2.4 – Demolition.
9. Pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the controls stipulated within Liverpool Growth Centres Precinct Development Control Plan 2013, Part 3 – Neighbourhood and subdivision design, Section 3.1.1 – Residential Density and Section 3.1.2 – Block and Lot Layout.
10. Insufficient information has been submitted to allow Council to carry out a full assessment of the application. In this regard, an adequate response has been received to Council's request for additional information pursuant to Sections 4.15(1)(a)(iv), 4.15(1)(b) & 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
11. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

**10. ATTACHMENTS**

**1. PLANS OF THE PROPOSAL**

**28 October 2019**

The site plan is divided into four quadrants, each representing a stage of development. The top half is labeled 'Stage 1' and the bottom half is labeled 'Stage 2'. A dashed line separates the two stages, labeled 'RIGHT OF CARRIAGEWAY (5m WIDE)'. The left side of the plan is also labeled 'RIGHT OF CARRIAGEWAY (5m WIDE)'. The plan includes various features such as trees, grass, a pool, a brick residence, and a paved driveway. Dimensions and area measurements are provided for each stage and lot.

Stage	Lot	Area (m²)
Stage 1	PROPOSED SUPERLOT 101	6162
Stage 1	PROPOSED SUPERLOT 102	2701
Stage 2	PROPOSED SUPERLOT 201	5979
Stage 2	PROPOSED SUPERLOT 202	3371

28

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

**28 October 2019**

<b>Item no:</b>	2
<b>Application Number:</b>	DA-803/2018
<b>Proposed Development:</b>	Boundary adjustment and stratum subdivision
<b>Property Address</b>	350-360 MACQUARIE STREET, LIVERPOOL
<b>Legal Description:</b>	LOT 1,2 & 3 DP 1208552
<b>Applicant:</b>	MICHAEL BROWN PLANNING STRATEGIES
<b>Land Owner:</b>	LIVERPOOL CITY COUNCIL
<b>Cost of Works:</b>	Not applicable
<b>Recommendation:</b>	Approval
<b>Assessing Officer:</b>	Jasmin Klaime
<b>Determination By</b>	Local Planning Panel

## **1. EXECUTIVE SUMMARY**

### **Reasons for the Report**

The Development Application (DA) is reported to the Local Planning Panel (LPP) for consideration in accordance with the endorsed LPP Charter, as the development is lodged on behalf of Liverpool City Council and proposes a variation of more than 10% to a development standard of the Liverpool Local Environment Plan (LLEP) 2008.

### **The proposal**

The application seeks consent for boundary adjustment between existing Lots 2 & 3 of DP 1208552 in order to facilitate the provision of a public road that would connect Macquarie Street and Terminus Street within Liverpool City Centre. The proposal also includes the stratum subdivision of proposed Lot 11 over proposed Lot 12. Accordingly, three new lots are proposed as the site, being proposed Lots 11, 12 and 13.

### **The site**

The site is identified as Lot 1, 2 & 3 in DP 1208552 and is located at 350-360 Macquarie Street, Liverpool. The site is located on the north-eastern corner of Terminus Street and Macquarie Street, where these streets intersect in the southern portion of the Liverpool City Centre. The entire subject site is triangular in shape, with a total area of 4,548sqm, with a frontage of 100m to Macquarie Street and 110.67sqm frontage to Terminus Street.

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

**28 October 2019**

**The issues**

The proposed development fails to comply with Clause 4.1 – Minimum subdivision lot size of LLEP 2008, which stipulates that a minimum lot size of 1000m<sup>2</sup> is applicable to the subject site. The DA proposes Lot 13 with a lot size of 711m<sup>2</sup>, which is 289m<sup>2</sup> less than the minimum lot size and equates to a 28.9% variation to the development standard. The applicant has provided a Clause 4.6 variation to justify the non-compliance.

**Exhibition of the proposal**

The proposal was did not require notification pursuant to Liverpool Development Control Plan 2008, Part 1, Clause 18 and no submissions have been received with regards to the proposal.

**Conclusion**

The application has been assessed pursuant to the provision of the Environmental Planning and Assessment Act (EP&A Act) 1979. Based on the assessment of the application, it is recommended that the application be approved subject to the imposition of conditions. The recommended conditions are contained in Attachment 2.

**2. SITE DESCRIPTION AND LOCALITY**

**The Site**

The site is identified as Lots 1, 2 & 3 DP 1208552 at the address 350-360 Macquarie Street, Liverpool. The site is triangular in shape, with an area of 4,548sqm and a 100m frontage to Macquarie Street and another frontage to Terminus Street of 110.67sqm. The site incorporates the following uses:

- Lot 1 in DP 1208552, currently operating as a used car sale yard and D' Roost Charcoal chicken restaurant; and
- Lots 2 & 3 in DP 1208552, currently operating as a public car park.

The subject site is located 230m east of the Hume highway, 325m from the Liverpool Train Station, 560m to the Georges River, 725m from Liverpool Westfield's and is surrounded by B4 Mixed use developments. The site has a frontage to a classified road (Terminus Street) that connects Hoxton Park Road to Newbridge Road.

Lot 1 has recently been granted concept approval on the 28 June 2019 for a future mixed use development including commercial, business/retail and residential floor space, child care centre and parking. Further approval is required for the site layout, location of future buildings, vehicular access from Macquarie Street, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces. The future plans will be determined by the Sydney Western City Planning Panel.

An aerial image of the site and surrounds is provided in Figure 1 below.

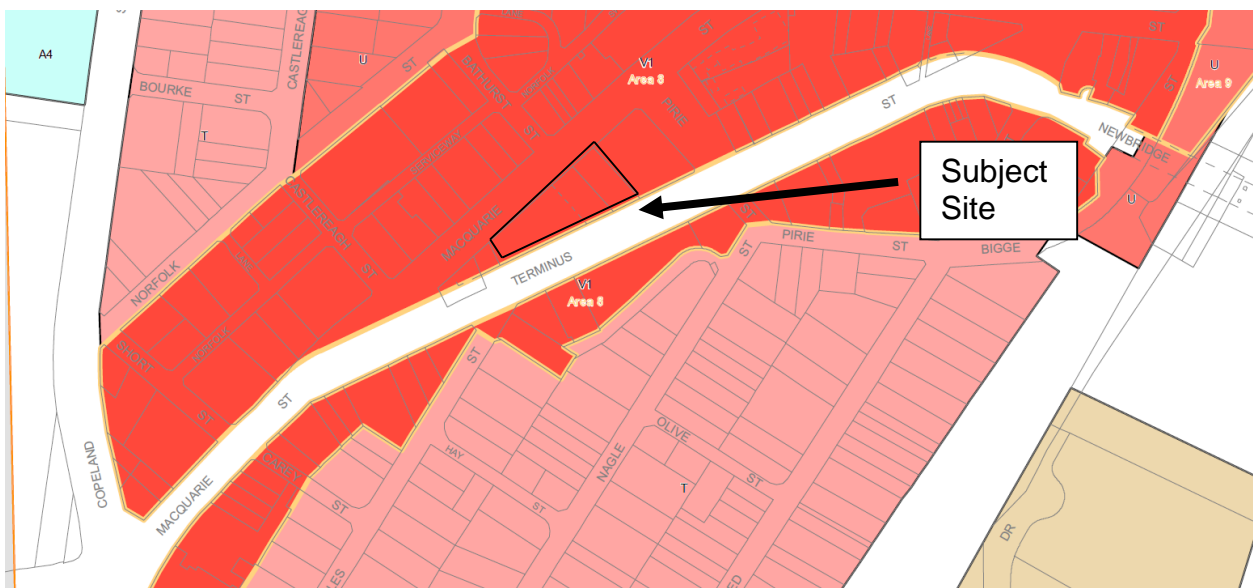


**LIVERPOOL CITY COUNCIL**  
**LOCAL PLANNING PANEL REPORT**

**28 October 2019**



**Figure 1: Locaty map. (Source: GeoCortex)**



**Figure 2: Area 8 included in amendment 52 (Source: NSW Legislation)**



LIVERPOOL CITY COUNCIL  
LOCAL PLANNING PANEL REPORT

28 October 2019



Figure 3: Aerial site image. (Source: GeoCortex)



Figure 4: Aerial site image depicting lots uses. (Source: NearMaps)



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

**28 October 2019**

**3. HISTORY**

Previous approval on the site:

- DA-1480/2012/B: *Fit-out and use of an existing building for a restaurant and takeaway shop with associated car parking and signage.*

Approved under delegated authority on the 7<sup>th</sup> of December 2012.

- DA-1257/2016: *Concept development application pursuant to section 4.22 of the Environmental Planning & Assessment Act for a future mixed use development including commercial, business/retail and residential floor space, child care centre and parking.*

*This application is for a concept approval only and seeks approval for site layout, location of future buildings, vehicular access from Macquarie Street, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces.*

This was approved on the 28 June 2019.

**4. DETAILS OF THE PROPOSAL**

**Boundary Adjustment:**

The application seeks consent for a boundary adjustment between Lots 2 and 3 in DP 1208552, by increasing Lot 2 by 5m to the east into Lot 3. This has been proposed to facilitate the creation of a road that will connect Macquarie Street through to Terminus Street in order to improve traffic movements within the city centre.

The proposed lot frontages are:

- Proposed Lot 11: 60.64m to Macquarie Street and 68.81m to Terminus Street
- Proposed Lot 12: 25m to Macquarie Street and 26.075m to Terminus Street
- Proposed Lot 13: 15.065m to Macquarie Street and 15.785m to Terminus Street

The proposed lot depths are:

- Proposed Lot 11: 37.47m to Eastern boundary and 18.68m to Western boundary
- Proposed Lot 12: 44.885m to Eastern boundary and 37.47m to Western boundary
- Proposed Lot 13: 49.365m to Eastern boundary and 44.885m to Western boundary

Table 1 depicts the lot size changes from the existing lots to the proposed lots.

Existing Subdivision Lots (DP 1208552)	Size m <sup>2</sup>
1	2808
2	808
3	932

# LIVERPOOL CITY COUNCIL

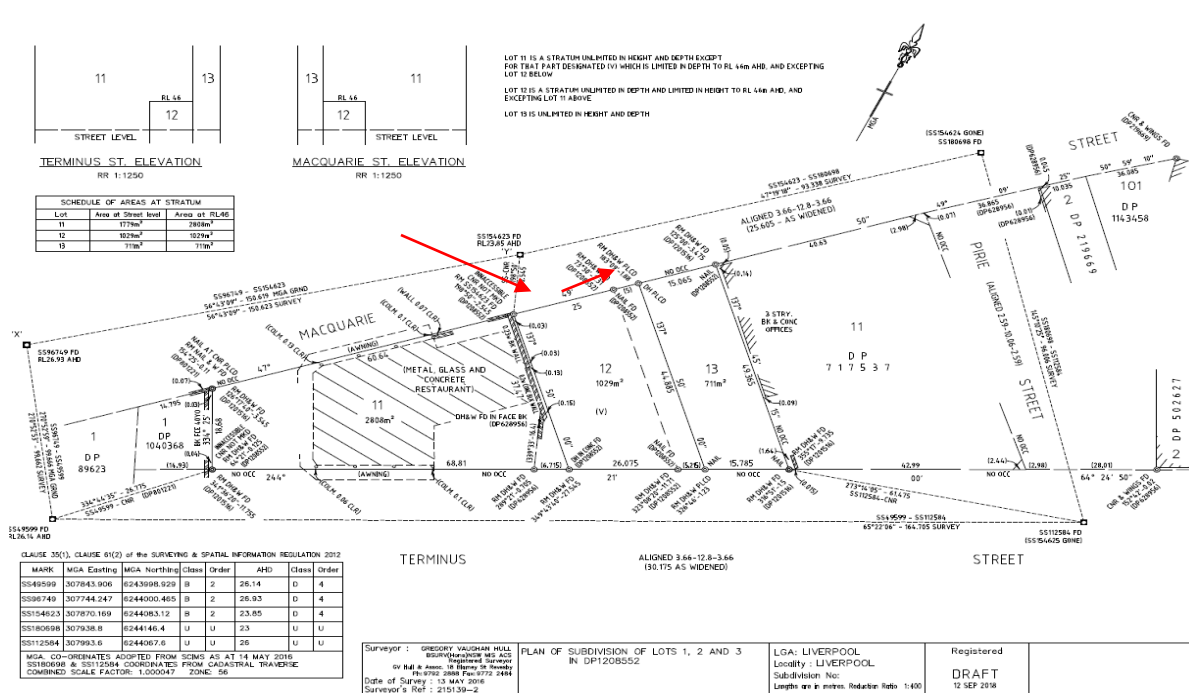
## LOCAL PLANNING PANEL REPORT

28 October 2019

Proposed Subdivision Lots	Size m <sup>2</sup>
11	2808
12	1029
13	711

**Table 1- Lot size discrepancy from previously approved and proposed lots.**

Plans of the proposed development is shown in Figure 5 below.



**Figure 5 – Subdivision Plan**

### Stratum Subdivision:

The application also includes the stratum subdivision of proposed Lot 11 over the air space of proposed Lot 12.

Proposed Lot 12 will be limited to a height of RL 46 (AHD).

Proposed Lot 11 will be unlimited in height, except under a height of RL 46 (AHD), being proposed Lot 12 below.

The depths of proposed lots 11 & 12 are limited to their frontages to Macquarie Street and Terminus Street.

## 5. STATUTORY CONSIDERATIONS

The following planning instruments, development control plan and codes or policies have been considered in the planning assessment of the subject Development Application: -

- State Environmental Planning Policy No.55 – Remediation of land

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

**28 October 2019**

- State Environmental Planning Policy (Infrastructure) 2007
- Liverpool Local Environment Plan 2008
- Liverpool Development Control Plan 2008
  - Part 1: General Controls for All Development
  - Part 4: Development in Liverpool City Centre

**6. ASSESSMENT**

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

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

**(a) State Environmental Planning Policy No 55 – Remediation of land**

Pursuant to Clause 7 of SEPP 55, the following shall be addressed:

<b>Clause 7 - Contamination and remediation to be considered in determining development application</b>	<b>Comment</b>
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	Aerial view of the subject site shows that the site has been occupied and used for business purposes since 2002. No indication of site contamination activity is prevalent.
(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	Based on the above, no further contamination assessment is considered necessary at this stage.
(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.	Based on the above, no remediation onsite is considered necessary at this stage.

With consideration to the above, the proposed development is considered to sufficiently address the provisions of SEPP 55.

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

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

**(i) Permissibility**

Subdivision is permissible with development consent as per Clause 2.6 Subdivision – consent

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

**28 October 2019**

requirements of LLEP 2008.

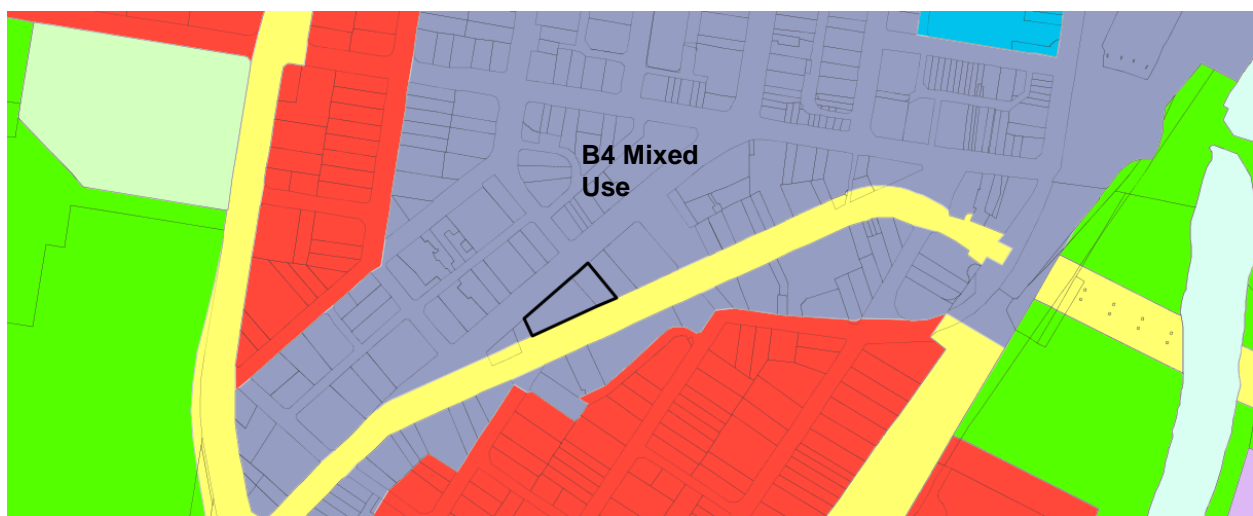
**Objectives of the zone**

The objectives of the B4 Mixed Use Zone are:

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

The proposed boundary adjustment to facilitate a future road way to improve traffic permeability in the city centre is consistent the zone objectives as it is likely to contribute to increased public amenity within the southern portion of the city centre.

An extract of the Liverpool Local Environment Plan 2008 zoning map is provided in Figure 2 below.



**Figure 6: Zoning Map (Source: Councils e-planning portal)**

**Principal Development Standards**

The LLEP 2008 with reference to amendment 52 contains a number of principal development standards which are discussed with respect to the proposal as follows: -

Development Provision	Requirement	Proposed	Comment
4.1 Minimum Subdivision Lot size	Minimum Subdivision Lot size required is 1000m <sup>2</sup>	Proposed Lot 11: 2808 m <sup>2</sup> Proposed Lot 12: 1029 m <sup>2</sup> Proposed Lot 13: 711 m <sup>2</sup>	Proposed Lot 13 does not comply, see 4.6 discussion

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

**28 October 2019**

			below
7.1 Objectives for development in Liverpool city centre	<p>Before granting consent for development on land in the Liverpool city centre, the consent authority must be satisfied that the proposed development is consistent with such of the following objectives for the redevelopment of the city centre as are relevant to that development—</p> <p>(a) to preserve the existing street layout and reinforce the street character through consistent building alignments,</p> <p>(b) to allow sunlight to reach buildings and areas of high pedestrian activity,</p> <p>(c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,</p> <p>(d) to improve the quality of public spaces in the city centre,</p> <p>(e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,</p> <p>(f) to enhance the natural river foreshore and places of heritage significance,</p> <p>(g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.</p>	<p>The boundary adjustment is likely to facilitate an additional roadway linking Macquarie and Terminus Streets, which is considered to be consistent with the objectives of clause 7.1. In particular the boundary adjustment is likely to facilitate:</p> <ul style="list-style-type: none"> <li>▪ Improved vehicle permeability within the Liverpool city centre.</li> <li>▪ Improved quality of public amenity in the city centre with additional pedestrian and cycling options.</li> <li>▪ Reduced potential for pedestrian and traffic conflicts on the Hume Highway.</li> </ul>	Considered Acceptable

Having regard to the above, the proposal is permitted in the zone and is consistent with the objectives of the zones. A Clause 4.6 Variation discussion relating to the minimum subdivision lot size for proposed Lot 13 is provided below.

**Discussion on Variation under Clause 4.6**

Clause 4.1 – Minimum subdivision lot size stipulates that:

*“the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.”*

The Lot Size Map shows that the minimum subdivision lot size for the site is 1000m<sup>2</sup>. The proposal will result in proposed Lot 13 being 711m<sup>2</sup>, which represent a deficiency of 289m<sup>2</sup> or

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

**28 October 2019**

equates to a departure of 28.9% from the development standard.

The applicant has submitted a written request to vary Clause 4.1 and this has been assessed against the provisions of Clause 4.6; as follows:

**1) Circumstances of the development**

The application seeks consent for boundary adjustment between existing Lots 2 & 3 of DP 1208552 in order to facilitate the provision of a public road that would connect Macquarie Street and Terminus Street within Liverpool City Centre. The proposal also includes the stratum subdivision of proposed Lot 11 over proposed Lot 12.

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

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised:

- *The proposed subdivision is essentially the first step to create a lot. The second step, once the land has been created, will be to construct the road connection from Bathurst Street to Terminus Street. The road connection has been part of the planning for the growth of Liverpool to ensure that motorists and pedestrians can move around the CBD effectively and minimise traffic conflicts. It is expected that the CBD will continue to grow with mainly residential apartment complexes of various heights.*
- *With the influx of new residents, employment will also be needed in the form of commercial and retail space. As such there is a need to ensure that roads within the CBD can accommodate increased traffic. Hence the need for improved connectivity and permeability. Having regard to the above we consider that the approach taken serves the objects of the Act of promoting the orderly and economic use of land.*
- *As such proposed Lot 13 is less than the required 1000m<sup>2</sup>. It would be noted that the existing Lot 2 has an area of 808m<sup>2</sup> and has now been increased to 1029m<sup>2</sup> (Lot 12) and therefore compliant, including increasing the frontage from 20m to 25m. Proposed Lot 13, however, has been reduced from 932.3m<sup>2</sup> to 711m<sup>2</sup> and the frontage from 20.065m to 15.065m.*

In response to the comments raised above, Council has provided the following further commentary as to why strict compliance with minimum subdivision lot size control is unreasonable and unnecessary in this instance and that there is sufficient planning grounds to justify the contravention of the development standard:

1. The proposal is likely to facilitate improved permeability within the Liverpool City Centre as the proposed boundary adjustment will allow sufficient land on proposed Lot 12 to provide a roadway connection between Bathurst, Macquarie and Terminus streets.
2. Existing lots 2 & 3 do not currently comply with the minimum subdivision lot size and as such it is not possible to re-distribute the boundaries between these lots without one lot being non-compliant. Accordingly, it is considered that creating a lot under the minimum



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

**28 October 2019**

lot size would not exacerbate the existing subdivision arrangement. It should be noted that increased lot size to existing Lot 2 is likely to be required for the future development intent of the ring road system in Liverpool City Centre. The boundary adjustment will transform a non-compliant lot to a compliant lot by increasing the area of existing Lot 2 from 808m<sup>2</sup> and to 1029m<sup>2</sup>.

3. It should be noted that the design of the proposed roadway is not finalised. However, a boundary adjustment that may facilitate a wider area for road and footpath networks is considered likely to contribute to the future amenity of the Liverpool City Centre.
4. The minimum lot size only applies to subdivision and not development in this part of the Liverpool City Centre. Accordingly, the development potential of proposed Lot 13 will not be completely sterilised by the proposed development and it maybe amalgamated with the adjoining lot to the east.

Considering the above, compliance with the 1000m<sup>2</sup> minimum subdivision lot size development standard is considered unnecessary in this circumstance and there is sufficient environmental planning grounds to justify the contravention due to the potential public benefit or reducing traffic congestion in the city centre.

**3) Consistency with objectives of the development standard Clause 4.1 Minimum Subdivision Lot Size**

The objectives of Clause 4.1 are as follows:

- (a) *to ensure that lot sizes are consistent with the desired residential density for different locations,*
- (b) *to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,*
- (c) *to prevent fragmentation of land which would prevent the achievement of the extent of development and nature of uses envisioned for particular locations,*
- (d) *to minimise traffic impacts resulting from any increase in the number of lots on classified roads,*
- (e) *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
- (f) *to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,*
- (g) *to ensure that lot sizes allow buildings to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views.*

It is considered that the proposed development is consistent with the objectives of this clause as the intention of the boundary adjustment and creation of an undersized allotment is to minimise traffic impacts in the southern portion of the city centre.

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

**28 October 2019**

**4) Consistency with objectives of the zone – B4 Mixed Use**

The objectives of B4 Mixed Use zone are as follows:

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

The proposed boundary adjustment to facilitate a future road way to improve traffic permeability in the city centre is consistent the zone objectives, as it is likely to contribute to increased public amenity within the southern portion of the city centre.

**5) Consistency with Clause 4.6 objectives**

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

It is considered appropriate in this instance to apply a degree of flexibility when applying the minimum subdivision lot size development standard applicable to the subject site given the above discussion. Despite the variation, the proposal is likely to provide for better road connectivity within the Liverpool City Centre and provide better traffic/pedestrian permeability. Accordingly, this is considered likely to achieve a better development outcome than requiring strict compliance with the development standard.

**6) Recommendation**

With considerations to the discussion above, the proposed variation to the Clause 4.1 “*Minimum Subdivision Lot size*” has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

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

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

The application has been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development*. The following key controls are discussed in the following table:

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

**28 October 2019**

<b>LDCP 2008 Part 1. General Controls for all Development</b>		
<b>Control</b>	<b>Required</b>	<b>Complies</b>
Section 1 – Preliminary	This plan applies to all land in Liverpool Local Government Area (LGA). The plan is known as Liverpool Development Control Plan 2008.	Noted.
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	Not applicable. No vegetation impact will arise as part of the proposal.
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	Not applicable. The proposal does involve or affect any landscaping onsite.
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	Not applicable.
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	Not applicable.  Site is no mapped as bushfire prone.
Section 6 – Water Cycle Management	Consideration of stormwater and drainage	Not applicable.
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	Not applicable.
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	Not applicable.
Section 9 – Flooding Risk	Flood affection of property to considered	Not applicable.  The site is not mapped as a flood prone area.
Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	Considered acceptable.  Existing and historical use does not warrant a land contamination assessment in this case.
Section 11 – Salinity Risk	Salinity Management response required for affected properties	Not applicable.
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils	Not applicable.  Site is not mapped as containing Acid Sulfate Soils.
Section 13 – Weeds	Noxious weeds to be removed as part of development where	Not applicable.

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

**28 October 2019**

	applicable	
Section 14 – Demolition of Existing Development	Must comply with AS 2601-2001	Not applicable.
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	Not applicable.
Section 16 – Aboriginal Archaeology	AHIA required where items of aboriginal archaeology exist	Not applicable.  No aboriginal archaeology is prevalent on site.
Section 17 – Heritage and Archaeology	Consideration of the impact on the heritage significance on any heritage buildings, sites, streetscapes or areas.	Not applicable.  Site is not associated with any heritage items.
Section 18 – Notification of Application	The application did not require notification, thus no submissions have been made.	Not applicable.  Notification was not required for the proposed development.
Section 19 – Used Clothing Bins	Applies to any charity bins located on either private or Council land.	Not applicable.
Section 20 – Car Parking and Access	Car Parking in Liverpool City Centre.	Not applicable.
Section 21 – Subdivision of Land and Buildings	Must comply with the minimum lot and width requirements and controls.  Splay corners- Minimum 6 x 6m splays for all subdivisions involving creation of a road junction.	Considered acceptable.  There are no applicable development controls for subdivision in B4 mixed use zone to which section 21 applies.  Please refer to 4.6 discussion above for the minimum subdivision lot size requirement.  There are no applicable development controls for stratum subdivision. The DA, including the stratum subdivision over a potential future roadway, has been reviewed by the Council's Traffic Section and the RMS. No objections have been received regarding the stratum of air space over proposed Lot 12 by proposed Lot 11.

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

**28 October 2019**

As per the above compliance table, the proposal is generally consistent with the applicable development controls of Part 1 of the LDCP 2008.

*Part 4 Development in Liverpool City Centre* of LDCP 2008 applies to all development in the city centre and is applicable to the subject DA. However, there are no relevant development controls within Part 4 of the DCP, which are applicable to the proposal.

**Town planning discussion**

Council currently working on upgrading traffic permeability in the city centre and have conducted on-going traffic studies since 2003. These studies have identified part of the subject site as being suitable for the creation of a public roadway that would connect Terminus, Macquarie and Bathurst Street. This roadway is likely to occur through existing lots 2 & 3 of DP 1208552. However, no ultimate design or concept plan have been finalised or provided for assessment as part of the subject DA. Discussions have been ongoing since 2015 between Council and the relevant land owners regarding acquisition of land over Lots 1, 2 & 3 of DP 1208552 to facilitate the future proposed road.

As the proposed new roadway would involve connection to state and regional roadways, the DA was referred to Roads and Maritime Services (RMS) for comment, whom have no objections to the proposal. Council's Traffic Section have been in discussion with the RMS regarding a final concept plan for the roadway in order to satisfy the requirements of both Liverpool City Council and the RMS.

While no concept design of the roadway has been finalised at this stage, it is considered prudent to initiate the boundary adjustment process as the location of proposed Lot 12 is considered to align appropriately with Bathurst Street. This decision was made by Council at a Council meeting, hence the lodgement subject DA. The stratum subdivision component of the DA has been proposed as a result of land acquisition discussions between Council and landowners associated with the subject site.

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

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

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

No special consideration for the subject DA under the regulations.

**Section 4.15(1)(a)(v) - Any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*), that apply to the land to which the development application relates**

There are no Coastal Zones applicable to the subject site.

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

**(a) Natural and Built Environment**

The proposed boundary adjustment to facilitate a future road way to improve traffic permeability

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

**28 October 2019**

in the city centre is likely to contribute to increased public amenity within the southern portion of the city centre. Accordingly, this is likely to have a positive impact on the built environment.

The stratum subdivision component of the application is considered to facilitate increased development potential on proposed Lot 11, in order to achieve the desired character of development in the locality as envisaged by the LLEP 2008.

**(b) Social Impacts and Economic Impacts**

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

As discussed previously, the DA will likely facilitate the provision of a connecting roadway between Macquarie Street and Terminus Street. In turn this is likely to have a positive social and economic impact on the city centre by reducing traffic congestion impacts.

**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
Traffic engineers	No objection to the proposal.

**(b) External Referrals**

DEPARTMENT	COMMENTS
RMS	No objection to the proposal.

**(c) Community Consultation**

The proposal did not require notification to adjoining properties in accordance with the LDCP 2008 and no submissions have received with regards to the proposal.

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

The proposal is generally considered to be in the public interest despite the variation sought to the minimum lot size variation.

**7. DEVELOPMENT CONTRIBUTIONS**

Council's contributions officer has confirmed that Section 7.11 Developer Contributions are not applicable in this instance.

**8. CONCLUSION**

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

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

**28 October 2019**

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

Based on the assessment of the application, it is recommended that the application be approved subject to the imposition of the conditions contained in Attachment 2.

**9. RECOMMENDATION**

That DA-803/2018, be approved subject to recommended conditions contained in Attachment 2.

**10. ATTACHMENTS**

- 1. Plans of the proposal**
- 2. Recommended conditions of consent**





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

**28 October 2019**

**Attachment 2: Recommended Conditions of Approval**

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

**A. THE DEVELOPMENT**

**Approved Plans**

1. Development, the subject of this determination notice, must be carried out in accordance with the following plans/reports marked as follows:
  - (a) Plan of subdivision prepared by Gregory Vaughan Hull, Reference 215139-2, dated 12 September 2018.

except where modified by the undermentioned conditions.

**B. PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

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

**Linen Plans and 88B Instruments**

2. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.

**C. ADVISORY**

- a) Sections 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979 allow you to request the consent authority to review this determination notice if you are dissatisfied with it or the conditions contained within this determination notice. This right must be exercised within six (6) months from the date of this notice with the appropriate fee.
- b) Under Sections 8.7 & 8.10 of the Environmental Planning and Assessment Act 1979 applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice of determination.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.
- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- e) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally consent lapses if the development is not commenced within five years

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

**28 October 2019**

of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.

- f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the applicant should investigate their liability under the Act.
- g) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- h) "DIAL BEFORE YOU DIG"

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

- i) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

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

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

**28 October 2019**

- l) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

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

**28 October 2019**

<b>Item no:</b>	3
<b>Application Number:</b>	DA-575/2019
<b>Proposed Development:</b>	Temporary Use and Approval for a One-Off Council Event at Greenway Park known as 'Liverpool On a Roll' on the 9 <sup>th</sup> November 2019.
<b>Property Address</b>	Greenway Park, 200 Cowpasture Road, West Hoxton
<b>Legal Description:</b>	Lot 3 DP 1052703 & Lot 813 DP 866199
<b>Applicant:</b>	Liverpool City Council
<b>Land Owner:</b>	Liverpool City Council
<b>Cost of Works:</b>	Nil
<b>Recommendation:</b>	Approved subject to conditions of consent
<b>Assessing Officer:</b>	Zeliha Cansiz

## **1. EXECUTIVE SUMMARY**

Council has received a Development Application (No. 575/2019) seeking consent for a temporary use and approval for a one-off Council Event at Greenway Park known as 'Liverpool On a Roll' on 9 November 2019.

The development application was notified for a period of 14 days from 19 September 2019 to 3 October 2019 in accordance with Liverpool Development Control Plan 2008. One (1) submission was received during the notification period generally supporting the proposal. The concerns raised relate to traffic, parking, noise and security. Following discussions between Council staff and the objector, where clarification was provided to the issues raised, the objector was satisfied with Council's response and has withdrawn the submission.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements in that the development falls into the category of conflict of interest. The application is lodged by Liverpool City Council on Council owned land.

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

## **2. SITE DESCRIPTION AND LOCALITY**

### **2.1 The site**

The subject site contains two lots, identified as Lot 3 in Deposited Plan 1052703 and Lot 813 in Deposited Plan 866199 and is known as 200 Cowpasture Road, West Hoxton - Greenway Park. The site is a corner lot located on the corner of Cowpasture Road and Greenway Drive. The site has an irregular shape with an area of 2.735 ha. The site has a primary frontage to Cowpasture Road measuring 126.43m and a secondary frontage to Greenway Drive measuring 91.18m with a corner splay of 45.5m.

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

**28 October 2019**

Currently, the section of Greenway Park where the event is proposed to take place contains dense vegetation over the site, a water course (for drainage purposes) and pedestrian footpaths. The site directly adjoins numerous public reserves known as Greenway Oval to the east. An aerial image of the site can be seen

## **2.2 The locality**

The immediate area is characterised by infrastructure, public reserves and low density development.

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

East	Public reserves and community facility known as Carnes Hill Community and Recreation Precinct including a skate park and Carnes Hill Library. This is on the opposite side of Cowpasture Rd.
West	Low density zoned land characterised by detached single and double storey dwellings with some with local infrastructure for drainage.
South	Low density zoned land characterised by detached single and double storey dwellings with some smaller scale public recreational areas.
South-East	Local centre known as Carnes Hill Market Place.
North	Low density zoned land characterised by detached single and double storey dwellings.

The site is situated in the eastern portion of West Hoxton and on the border between West Hoxton and Carnes Hill. The site is bound by Western Sydney Park Lands to the west and Cowpasture Road to the east. The site is approximately 1.25km east from Prestons Industrial Lands and 2.15km from M7 Motorway.



Figure 1: Aerial Map (Source NearMap 2019)



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

**28 October 2019**

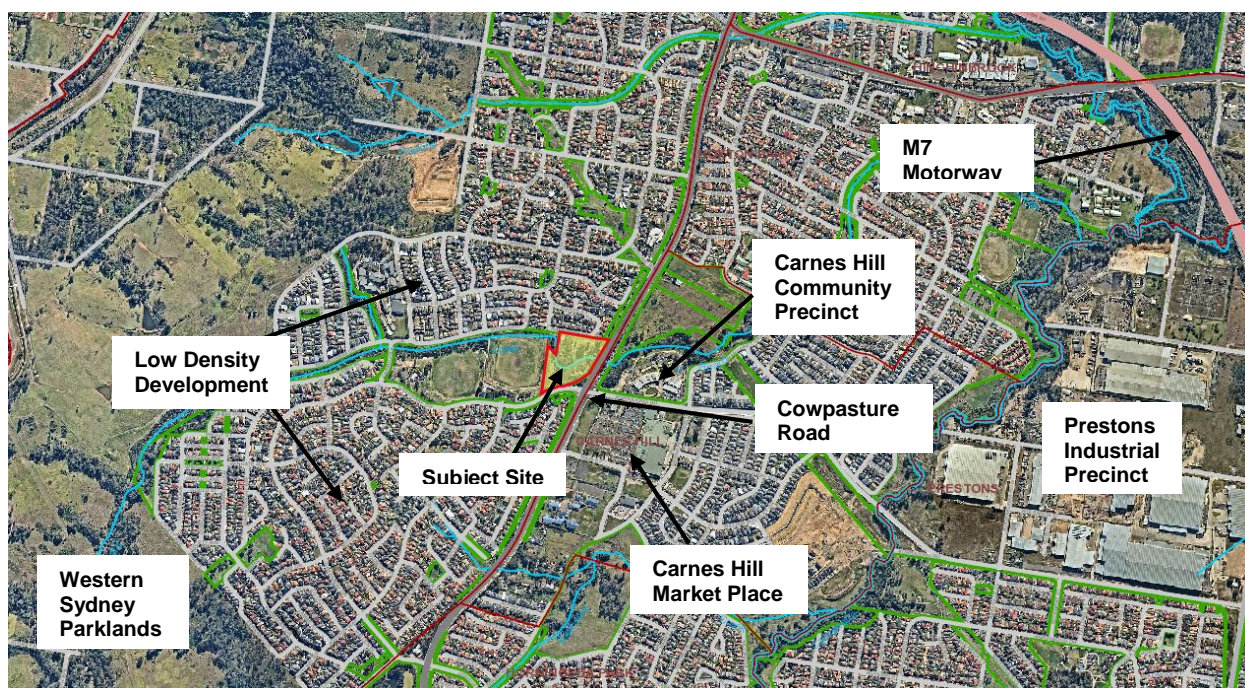


Figure 2: Locality Map (Source NearMap 2019)

### **3. BACKGROUND/HISTORY**

The first 'On a Roll' event was held by Council on the 30<sup>th</sup> March 2019 at Greenway Park. Due to popular demand by the local community, Council is seeking consent for the second event to be held at the same location on the 9<sup>th</sup> November 2019, albeit in a different part of the Park.

The subject application was lodged to Council on the 16 September 2019.

The application was notified for 14 days to affected properties within a 75m radius on 19 September 2019 to 3 October 2019.

### **4. DETAILS OF THE PROPOSAL**

The application is seeking the use of Greenway Park for the one-day event known as 'Liverpool On a Roll'. All structures proposed for the event are temporary and used for the day only. No permanent structures form part of this application.

The proposed indicative site plan consists of the following:

#### **The Event**

- The erection of marquees including: Five 3m x 24m, three 2.4m x 2.4m, one 3m x 3m and one 3m x 6m;
- 11 x food trucks;
- A beer garden area;
- Portable toilets on the north-western corner of the site accessible off Cranbrook Close;
- Garden games area;
- Temporary event fencing around the subject site;
- Temporary event fencing around exclusion zones including densely vegetated area and basin.



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

**28 October 2019**



Figure 3: Proposed Indicative Site Plan

### Operational Details

- The event will be run from 5pm to 10pm on Saturday, 9<sup>th</sup> of November 2019;
- 15 x waste bins will be provided on site for public visitors and 6 x 600L bins will be provided for the stalls. Bins will be placed on site a day before the event and picked up the next working day;
- Main entry/exit points will be off Greenway Drive (south-western corner of site) and a secondary pedestrian entry/exit point off Cranbrook Close (north-western corner of the site).
- Personnel for the venue including: 17 x ground staff; 7 x coordinator staff; 7 x cleaners 4 x volunteers; 16 x traffic management staff and 8 x waste staff.

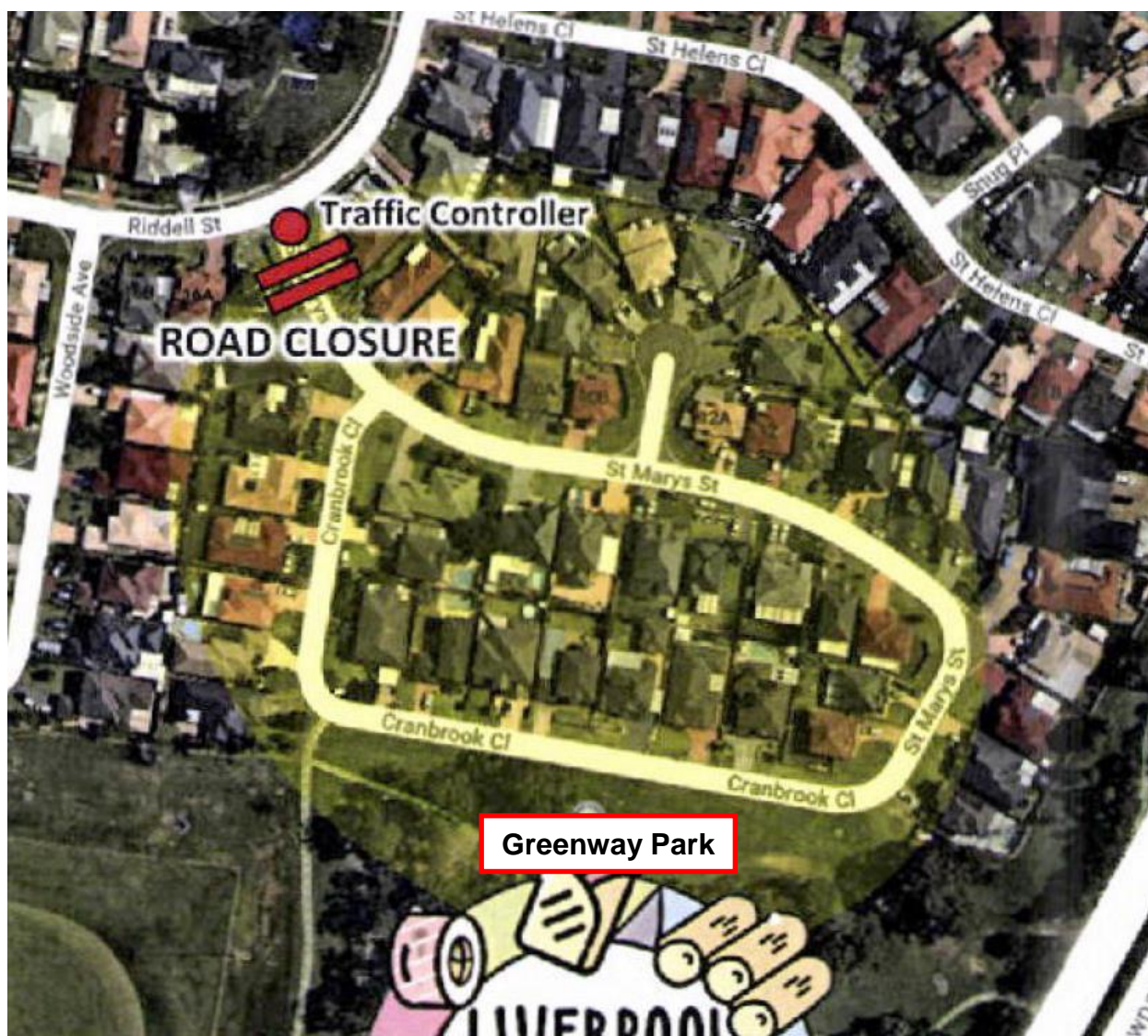
### Road Closure

- The application also proposes numerous road closures north of the site including St Marys Street and Cranbrook Close and is only accessible to residents and emergency vehicles on the day of the event. Temporary road fence and traffic control personnel will be positioned on St Marys Road off Riddle Street as seen in figure 4.



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

28 October 2019



**Figure 4: Proposed Road Closures**

**Signage**

- Temporary event signs including 2 x Variable Message Signs (VMS) located on Cowpasture Road. The VMS will be erected 1 week prior to the event. One sign will be located on the eastern side of Cowpasture Road off a large residential lot surrounded by vegetation. The remainder sign will be located on the western side of Cowpasture Road and south of Greenway Drive.



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

28 October 2019



**Figure 5: VMS Details**

## **5. STATUTORY CONSIDERATIONS**

### **5.1 Relevant matters for consideration**

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

- State Environmental Planning Policy No. 64 - Advertising and Signage;
- 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.

## **6. ASSESSMENT**

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

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

#### **(a) State Environmental Planning Policy No. 64 – Advertising and Signage**

State Environmental Planning Policy No. 64 Advertising and Signage (SEPP 64) applies to the site due to the visibility of the proposed signage from a public area. Pursuant to Clause 8 of SEPP 64, the proposed signage must be consistent with the objectives of Clause 3 (1) (a) of SEPP 64 and satisfies the assessment criteria specified in Schedule 1.

The objectives of SEPP 64 are as follows:

- “(a) to ensure that signage (including advertising):*
- (i) is compatible with the desired amenity and visual character of an area, and*
  - (ii) provides effective communication in suitable locations, and*

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

**28 October 2019**

*(iii) is of high quality design and finish,”*

The proposed temporary VMS signage is compatible in the locality, is positioned in an appropriate position within the local infrastructure zone and successfully conveys the event to the general public. In this regard, the proposed signage is consistent with the objectives of SEPP 64. Refer to Attachment 2 for a full assessment including a compliance table under SEPP 64.

**(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.

Given the nature of the proposal, the application would not have any implications on the water quality and river flows of the Georges River and its tributaries. It is considered that the proposal satisfies the provisions of the GMREP No. 2 as there are no permanent structures proposed.

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

**(i) Zoning**

The subject site is zoned RE1- Public Recreation and SP2 – Drainage pursuant to the LLEP 2008. Development and activity will take place on RE1 land only as depicted in the indicative site plan in Figure 3. An extract of the zoning map is provided in Figure 6 below.

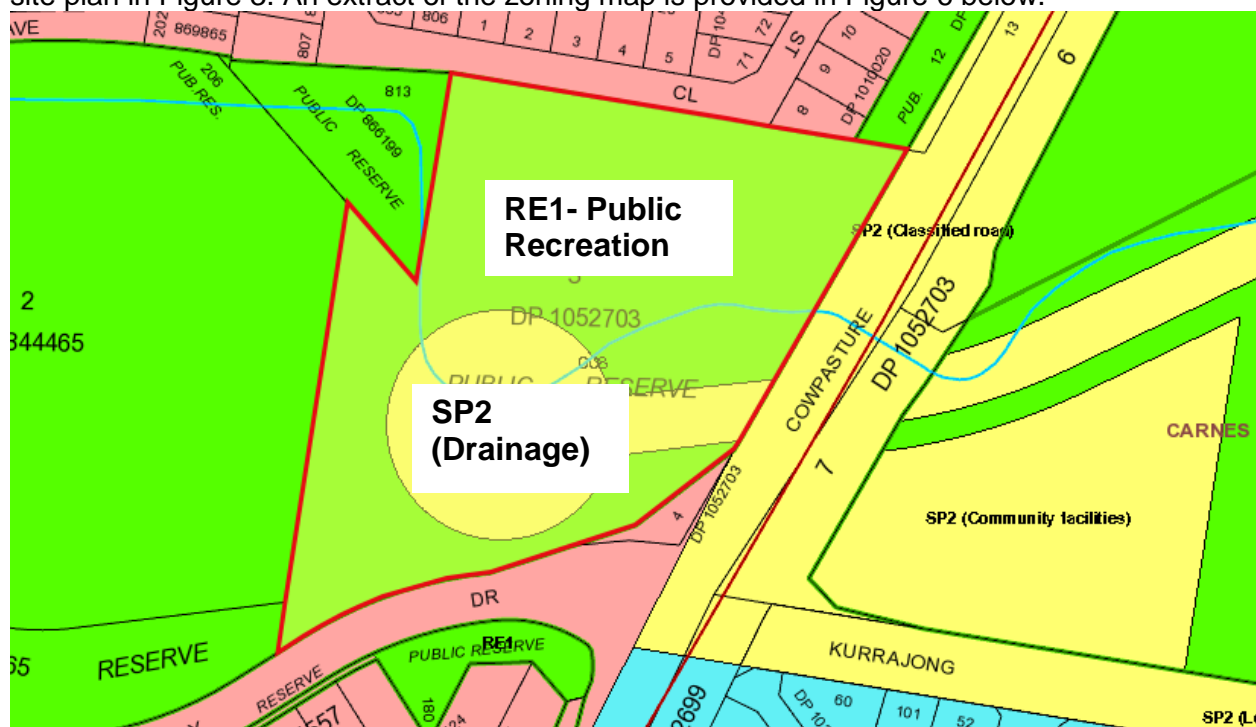


Figure 6: Zoning Map (source: Geocortex)

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

**28 October 2019**

**(ii) Permissibility**

The proposed temporary use of land for a Council event seeks permissibility under Clause 2.8 of the LLEP 2008 and is considered satisfactory in this instance.

**LLEP 2008, Clause 2.8 - Temporary Use of Land**

The proposed development is assessed as a 'temporary use of land' ancillary to the public recreation zone under the provisions of the LLEP 2008.

The proposed temporary use of land for a Council event has been made under Clause 2.8 of the LLEP 2008. Clause 2.8 relevantly reads as follows:

- (1) *The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*
- (3) *Development consent must not be granted unless the consent authority is satisfied that—*
  - (a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
  - (b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
  - (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
  - (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

The proposed one-day Council event 'Liverpool On a Roll' is considered to comply with the provisions of Clause 2.8. The one-day event is considered not have detrimental social, economic, amenity or environmental impacts and is considered to provide positive social impacts within the LGA. The event is not considered to impact on adjoining properties as measures during and before the event will be implemented including road closures and temporary fences around the park boundaries. Conditions of consent, particularly use conditions relating to noise and to ensure overall amenity of the immediate locale have been incorporated into the consent.

**(iii) Objectives of the zone**

The objectives of the **RE1- Public Recreation** zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To provide sufficient and equitable distribution of public open space to meet the needs of residents.*
- *To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.*

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

**28 October 2019**

The objectives of the **SP2 - Drainage** zone are as follows:

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

The proposal is considered to comply with the zone objectives based on merit. The proposed development will take place on the RE1- public recreation land with no activity taking place on SP2 land. The event will be temporarily used for public recreational purposes for one-day. The event will provide for temporary structures and activities at Greenway Park including marquees, activity areas and food trucks for public benefit. Proposed temporary fences will be put into place on the boundaries of the park and certain exclusion zones including the basin/watercourse and vegetation area.

**(iv) Principal Development Standards and Other Provisions**

LLEP 2008 contains a number of principal development standards. These development standards relate to developments and structures. Given the temporary nature of the proposal, the majority of the Principal Development Standards do not apply in this instance.

Provision	Requirement	Comment
7.8 Flood Planning	Controls relating flood risk.	The subject site is mapped as containing Medium and High Flood Risk. The site is also within a flood planning area. The application was referred to Council's Flood Plain Management team who raised no concerns subject to the imposition of conditions.

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

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

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

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

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development*. There are no specific LDCP provisions that apply to the subject proposal. Specific controls that relate to the development application include advertising/signage, waste management, car parking and access and notification. The application is found to achieve compliance with the provisions of the LDCP 2008, as detailed within the table in Attachment 3 of the report.

Overall, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008.

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

There are no Planning Agreements which apply to the development.

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

**28 October 2019**

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

Not applicable in this instance.

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

**Natural and Built Environment**

It is considered that the proposed development has been planned with sufficient regard to surrounding properties to ensure that any adverse amenity impact is minimised, particularly in terms of amenity and traffic. The activity proposes to implement road closures to ensure safety of the public and decreased traffic flow. There will also be appropriate measures to protect vegetated areas within the park and the basin will be fenced off to ensure the safety of the public and protection of the natural environment.

**Social Impacts and Economic Impacts**

The subject application allows for a community event to take place for one day. The event is considered not to have a commercial gain as it is a free event. It is envisaged that this would positively contribute to the social amenity of the LGA.

It is envisaged that hosting the event would provide a positive economic impact in the LGA, particularly to the general public that will visit the event on the day.

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

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

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

**(a) Internal Referrals**

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

DEPARTMENT	COMMENTS
Flooding Engineer	Approval subject to conditions of consent
Traffic	Approval subject to conditions of consent

**(b) Community Consultation**

The proposal was notified for a period of 14 days from 19 September 2019 to 3 October 2019 in accordance with LDCP 2008. One (1) submission was received in response to the public consultation process. The submission was generally favourable towards the Council event, however requested further information on certain matters. The key issues raised in the submissions relate to: traffic, parking and access; noise; and security. Council contacted the objector and provided verbal response to the issues raised. This was followed up by an email where clarification/comments were offered. The objector was satisfied that Council has adequately responded to his issues of concern and has since retracted his submission.

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

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

**28 October 2019**

The event will attract the general public to a public recreational area. Despite the issues raised by the objector, which was satisfactorily addressed, the event is generally compliant with the relevant planning controls and is generally considered to be in the public interest.

**7. CONCLUSION**

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

**8. RECOMMENDATION**

That Development Application No. 575/2019 for the temporary use and approval for a one-off Council Event at Greenway Park known as 'Liverpool On a Roll' on the 9<sup>th</sup> November 2019 be approved subject to standard conditions of consent.

**9. ATTACHMENTS**

- 1. SITE INSPECTION PHOTOS**
- 2. STATE ENVIRONMENTAL PLANNING POLICY NO. 64- ADVERTISING AND SIGNAGE COMPLIANCE TABLE**
- 3. LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 COMPLIANCE TABLE**
- 4. DRAFT CONDITIONS OF CONSENT**



**LIVERPOOL CITY COUNCIL**

**LOCAL PLANNING PANEL REPORT**

**28 October 2019**

**ATTACHMENT 1: SITE INSPECTION PHOTOS**



Figure 7: Greenway Park- Facing South



Figure 8: Greenway Park- Facing East



Figure 9: Greenway Park Entrance Feature on the corner of Cowpasture Road and Greenway Drive.



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

**28 October 2019**



Figure 10: Greenway Park- Water Basin for Drainage Restricted Zone to be fenced off.



Figure 11: Road Closure - St Marys Street



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

**28 October 2019**



Figure 12: Road Closure - Cranbrook Close

## LOCAL PLANNING PANEL REPORT

28 October 2019

## ATTACHMENT 2: SEPP 64 COMPLIANCE TABLE

Assessment Criteria	Proposal	Compliance
<b>1 Character of the area</b> <ul style="list-style-type: none"> <li>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</li> <li>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</li> </ul>	<p>There are minimal signs located along Cowpasture Road.</p> <p>The temporary VMS will provide suitable identification of the event for the general public along Cowpasture Road.</p>	Yes
<b>2 Special areas</b> <ul style="list-style-type: none"> <li>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</li> </ul>	<p>The temporary VMS is unlikely to cause amenity impacts as there are no environmentally sensitive areas and heritage areas along Cowpasture Road. Residential properties are sufficiently located away from the temporary signs and are separated by local streets.</p>	Yes
<b>3 Views and vistas</b> <ul style="list-style-type: none"> <li>Does the proposal obscure or compromise important views?</li> <li>Does the proposal dominate the skyline and reduce the quality of vistas?</li> <li>Does the proposal respect the viewing rights of other advertisers?</li> </ul>	<p>The temporary signage along Cowpasture Road will not obstruct any important views of the viewing rights of other advertisers.</p>	Yes
<b>4 Streetscape, setting or landscape</b> <ul style="list-style-type: none"> <li>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</li> <li>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</li> <li>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</li> <li>Does the proposal screen unsightliness?</li> <li>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</li> <li>Does the proposal require ongoing vegetation management?</li> </ul>	<p>The temporary sign is considered to be of an appropriate scale for Cowpasture Road which is identified as a classified Road.</p>	Yes

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

28 October 2019

<p><b>5 Site and building</b></p> <ul style="list-style-type: none"> <li>• Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</li> <li>• Does the proposal respect important features of the site or building, or both?</li> <li>• Does the proposal show innovation and imagination in its relationship to the site or building, or both?</li> </ul>	<p>The proposed temporary signs are located off-site along Cowpasture Road to notify the general public of the event at Greenway Park. The signs are appropriately situated along Cowpasture Road which will not obstruct on other sites and or properties.</p>	<p>Yes</p>
<p><b>6 Associated devices and logos with advertisements and advertising structures</b></p> <ul style="list-style-type: none"> <li>• Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</li> </ul>	<p>N/A. VMS are temporary and will be placed on 2 different locations at Cowpasture Road.</p>	<p>Yes</p>
<p><b>7 Illumination</b></p> <ul style="list-style-type: none"> <li>• Would illumination result in unacceptable glare?</li> <li>• Would illumination affect safety for pedestrians, vehicles or aircraft?</li> <li>• Would illumination detract from the amenity of any residence or other form of accommodation?</li> <li>• Can the intensity of the illumination be adjusted, if necessary?</li> <li>• Is the illumination subject to a curfew?</li> </ul>	<p>The temporary signs will be visible from Cowpasture Road and will be illuminated. A condition of consent will ensure illumination along Cowpasture Road will cease by 10pm.</p>	<p>Complies by Council.</p>
<p><b>8 Safety</b></p> <ul style="list-style-type: none"> <li>• Would the proposal reduce the safety for any public road?</li> <li>• Would the proposal reduce the safety for pedestrians or bicyclists?</li> <li>• Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</li> </ul>	<p>It is considered that the proposed signage is unlikely to result in adverse safety impacts and will be located away from pedestrian and cycle paths.</p>	<p>Yes</p>

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

**28 October 2019**

**ATTACHMENT 3: LIVERPOOL DCP 2008 COMPLIANCE TABLE**

**LDCP 2008 - Part 1 General Controls for All Development**

Development Control	Provision	Comment
Section 2: Tree Preservation	Controls relating to the preservation of trees	N/A. No trees are proposed to be removed as part of this application. There is an inclusion zone proposed that will restrict public access from heavily vegetated areas.
Section 3: Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	N/A.
Section 4: Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	N/A. There is an inclusion zone proposed that will restrict public access from heavily vegetated areas.
Section 5: Bush Fire Risk	Controls relating to development on bushfire prone land	N/A. Greenway Park is not bushfire prone.
Section 6: Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	N/A.
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.	N/A. No permanent development proposed.
Section 8: Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	N/A.
Section 9: Flooding Risk	Provisions relating to development on flood prone land.	The subject site is mapped as containing Medium and High Flood Risk. The site is also within a flood planning area. The application was referred to Council's Flood Plain Management team who raised no concerns subject to the imposition of conditions.
Section 10: Contaminated Land Risk	Provisions relating to development on contaminated land.	N/A.
Section 11: Salinity Risk	Provisions relating to development on saline land.	N/A.
Section 12: Acid Sulphate Soils	Provisions relating to development on acid	N/A.

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

28 October 2019

Development Control	Provision	Comment
	sulphate soils	
Section 13: Weeds	Provisions relating to sites containing noxious weeds.	N/A.
Section 14: Demolition of Existing Development	Provisions relating to demolition works	N/A.
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.
Section 17: Heritage and Archaeological Sites	Provisions relating to heritage sites.	N/A.
Section 18: Notification of Applications	Provisions relating to the notification of applications.	The proposal was notified for a period of 14 days from 19 September 2019 to 3 October 2019 in accordance with LDCP 2008. One (1) submission was received in response to the public consultation process. The key issues raised in the submissions relate to: traffic, parking and access; noise; and security. The concerns are addressed in Section 6.8 (b) of this report.
Section 19: Used Clothing Bins	Provisions relating to used clothing bins.	N/A.
Section 20: Car Parking and Access	There are no car parking and access rates applicable to the subject DA.	Adequate event parking will be available east of the site at Carnes Hill Recreation Centre and Carnes Hill Market Place. Disabled parking is reserved directly south of the site and will be issued to the general public requiring disabled parking bays upon request prior to the event.
Section 21: Subdivision of Land and Buildings	Provisions relating to the subdivision of land and buildings	N/A.
Section 22 & Section 23: Water Conservation and Energy Conservation	New dwellings, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	N/A.

# LIVERPOOL CITY COUNCIL

## LOCAL PLANNING PANEL REPORT

28 October 2019

Development Control	Provision	Comment
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	N/A.
	Any excavation within the zone of influence of any other building will require a Dilapidation Report	N/A.
	All filling in the vicinity of native vegetation must be local material (in order to minimise the spread of weeds).	N/A.
	Refer to the section on Salinity if cutting greater 500mm is to be undertaken.	N/A.
	No retaining wall structures will be permitted within any easements such as drainage easements. Retaining walls located on the boundary of two allotments or boundary to a public street or public reserve shall be of masonry construction. Other types of retaining wall structure may be permitted if the structure is located wholly within the property.	N/A.
Section 25: Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	A waste management plan relating to waste during and after the event was provided as part of the application and considered satisfactory. Necessary conditions will be imposed to ensure sufficient waste management.
Section 26: Outdoor Advertising and Signage	Provisions relating to signage. See SEPP 64 assessment in Section.	SEPP 64 assessment complies.
Section 27: Social Impact	Provisions relating to Social Impact Assessment.	N/A.

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

**28 October 2019**

Development Control	<b>Provision</b>	<b>Comment</b>
Assessment		

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

**28 October 2019**

## **ATTACHMENT 4 – DRAFT CONDITIONS OF CONSENT**

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

### **A. THE DEVELOPMENT**

#### **Approved Plans**

1. Development, the subject of this determination notice, must be carried out strictly in accordance with the following plans/reports marked as follows, except where modified by the undermentioned conditions:
  - a) 2019 Liverpool On a Roll Site Plan (Nov)
  - b) Event Waste Management Plan
  - c) Event Traffic Plan
  - d) Event Bump In/Out Schedule

#### **Time Limited Consent Only**

2. Approval has been granted for the use of the subject site for Council's event 'Liverpool on a Roll' for Saturday, 9<sup>th</sup> November 2019.

### **B. PRIOR TO WORKS COMMENCING**

**The following conditions relate to prior to the event:**

#### **Noise Management Plan**

3. The Application shall be supported by a Noise Management Plan that identifies and implements strategies to minimise noise from the event. The plan shall incorporate: approaches for promoting noise awareness; mitigation measures for amplified sound equipment; a complaint lodgement procedure to ensure that members of the public and local residents are able to report noise issues; an ongoing review process and a plan for responding to noise complaints.

The Noise Management Plan shall clearly specify the responsibilities of site personnel in managing noise and include a detailed list of steps taken to mitigate noise impacts. The Noise Management Plan will be endorsed and form part of the consent.

#### **Flood Evacuation Plan**

4. A flood evacuation plan prepared by appropriately qualified professional shall be developed and maintained for the site. The flood evacuation plan shall include suitable warning systems, signage and exits to ensure the safe evacuation of people during floods up to and including the Probable Maximum Flood.



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

**28 October 2019**

**Special Event Transport Management**

5. The Special Event Transport Management Plan shall be implemented in full during the operation of the event. A copy of which shall be provided to the Roads and Maritime Services and NSW Police for their information.

**Distribution of Guideline**

6. A copy of the NSW Food Authority Guidelines for Food Businesses at Temporary Events dated June 2016 and the NSW Food Authority's "Guidelines for Mobile Food Vending Vehicles" dated January 2017 and any subsequent revisions approved by the NSW Food Authority shall be distributed to each food business by the event organiser prior to the commencement of the event.

**C. CONDITIONS RELATING TO USE**

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

**Hours of Operation**

7. The hours of the event are limited to: 5pm to 10pm on 9 November 2019.
8. The event and event preparation works must be restricted to the hours provided in the 'Bump On/Out Schedule'. The organisers are to ensure that the approved hours are adequately advertised and adhered to at all times by all contractors, service providers and patrons of the event.

**Flood Evacuation**

9. The site shall be evacuated and all materials temporarily stored at the site shall be removed before any impending flood.

**Temporary Food Stall Guidelines**

10. Where food is to be prepared and/or sold temporary food stalls shall be constructed and operated in accordance with the NSW Food Authority "Guidelines for Food Businesses at Temporary Events" 2016.
11. All stall holders are required to comply with the Food Act 2003, Food Regulation 2010 and Australia New Zealand Food Standards Code as well as any relevant guidelines produced by NSW Food Authority. Furthermore, Mobile food vending vehicles operating on Council-owned and controlled land shall comply with the conditions prescribed within the Liverpool City Council Mobile Food Vehicles Policy adopted 21 February 2017.

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

**28 October 2019**

***Food Safety Supervisor***

12. A food safety supervisor is required to be appointed to every stall food that is ready-to-eat, potentially hazardous (i.e. needs temperature control) and NOT sold and served in the suppliers own package. Further information can be obtained in the Guideline to Food Safety Supervisors Requirements published by NSW Food Authority. A copy of the certificate must be presented to Council's Environmental Health Officer when requested during inspections.

**Waste Management Requirements**

13. The event organiser shall provide an adequate garbage disposal and collection service and ensure rubbish is removed from the site during and on completion of the temporary event.
14. All waste material is to be removed from the site by a registered waste contractor and disposed of at a facility licensed to receive such waste.
15. All solid waste stored on site is to be covered at all times.
16. Waste bins must be stored in designated garbage/trade refuse areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, and must not leave the site onto neighbouring public or private properties.
17. Waste and recyclable material generated from the operations of the temporary event shall be managed in a satisfactory manner that does not give rise to offensive odour or encourage pest activity. Food residues, food scraps, and waste material shall be contained in appropriate commercial waste storage bins and removed from the site once the event has finished on all applicable days. Waste shall not be permitted to accumulate on the ground near the allocated waste storage bins.
18. Adequate cleaning and waste removal must be arranged throughout the course of the event to minimise rubbish being discarded around the site and nearby streets.
19. The event organiser is responsible for the cleaning and collection of all rubbish on public streets and footpaths within 500 metres of the venue. In this regard, the event organiser shall monitor the state of roadways and footpaths within the area and shall take all necessary steps to clean up any rubbish.
20. The area shall be left in a clean and satisfactory condition following the conclusion of the event.

**Equipment Safety**

21. Food businesses must ensure that all equipment including but not limited to gas appliances and cylinders are compliant with current standards. A fire extinguisher and fire blanket shall be supplied in any vehicle or stall where cooking or heating processes occur.

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

**28 October 2019**

**Noise**

- 22. The temporary event including but not limited to public address systems and sound amplifying equipment shall not operative.
- 23. Should an authorised Council Officer or Police Officer request the sound level of any amplified music or noise source be reduced or stopped, the event organiser shall comply with this request immediately and for the duration of the event.
- 24. The event must operate consistent with the guidelines for the sale and consumption of alcohol as required by Liquor and Gaming Act. The operators of the event are to ensure that security personnel maintain order on site and ensure that the events activities do not result in any anti-social behaviour.

**D. ADVISORY**

- e) Sections 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979 allow you to request the consent authority to review this determination notice if you are dissatisfied with it or the conditions contained within this determination notice. This right must be exercised within six (6) months from the date of this notice with the appropriate fee.
- f) Under Sections 8.7 & 8.10 of the Environmental Planning and Assessment Act 1979 applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice of determination.
- g) 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.
- h) 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.
- i) 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.
- j) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the applicant should investigate their liability under the Act.
- k) 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.
- l) "DIAL BEFORE YOU DIG"

Underground assets may exist in the area that is subject to your application. In the interest of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone 1100 before excavating

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

**28 October 2019**

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.

m) **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.

- n) 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.
- o) 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.
- p) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.