

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday 16th December 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, 13th December 2019.

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

ITEM No.	SUBJECT	PAGE No.
1	<p>Development Application DA- DA-24/2017</p> <p>Stage 1: Subdivision of the site to create 3 superlots (being superlot 1, 2 and 3);</p> <p>Stage 2: Subdivision of superlot 2 into residue lots (for future residential lots, drainage reserves and a public reserve/open space for dedication to Council); site remediation works, bulk earthworks, road, and drainage and infrastructure construction and connect to services and pedestrian bridge.</p> <p>The proposed works are designated development pursuant to the Environmental Planning and Assessment Regulation 2000, for the purposes of contaminated soil treatment works.</p> <p>The proposed development is Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 and requires concurrence from:</p> <ul style="list-style-type: none">- NSW Environment Protection Authority pursuant to the Protection of the Environment Operations Act 1997;- NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997; and- NSW Department of Primary Industries – Water pursuant to the Water Management Act 2000- NSW Roads Martine Services – Pursuant to SEPP (Infrastructure) 2007 <p>Lots 70 DP 1065574 146 NEWBRIDGE ROAD, MOOREBANK</p>	3-114

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ITEM No.	SUBJECT	PAGE No.
2	<p>Development Application DA-563/2017</p> <p>Demolition of two existing dwellings and construction of a 9-storey residential flat building containing 17 residential apartments (4 x 1 bedroom, 7 x 2 bedroom and 6 x 3-bedroom) above a basement car park and associated strata subdivision. The application is made under State Environmental Planning Policy (Affordable Rental Housing) 2009 .</p> <p>LOT 71 DP 440211 9-11 MILL ROAD, LIVERPOOL</p>	115-195

ITEM No.	SUBJECT	PAGE No.
3	<p>Development Application DA-666/2018</p> <p>Demolition of existing structures and construction of a 5-storey shoptop housing development containing 2 ground level commercial spaces with 21 residential apartments on top, above basement carpark and associated landscaping.</p> <p>LOT 62 DP 221267 27-29 MORGAN STREET, MILLER</p>	196-306

ITEM No.	SUBJECT	PAGE No.
4	<p>Development Application DA-611/2018</p> <p>Construction of a waste storage room at Carnes Hill Community Centre.</p> <p>PART LOT 100 DP 1204810 CARNES HILL COMMUNITY PRECINCT, 600 KURRAJONG ROAD, CARNES HILL</p>	307-331

ITEM No.	SUBJECT	PAGE No.
5	<p>Development Application DA-659/2019</p> <p>Demolition of existing structures.</p> <p>LOT 231 DP 635209 LIVERPOOL CHILD & PARENT STRESS CENTRE, 68 SPEED STREET, LIVERPOOL</p>	332-353

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Item no:	1
Application Number:	DA-24/2017
Proposed Development:	<p>Staged subdivision of the site:</p> <p>Stage 1: Subdivision of the site to create 3 superlots (being superlot 1, 2 and 3);</p> <p>Stage 2: Subdivision of superlot 2 into residue lots (for future residential lots, drainage reserves and a public reserve/open space for dedication to Council); site remediation works, bulk earthworks, road, and drainage and infrastructure construction and connect to services and pedestrian bridge.</p> <p>The proposed works are designated development pursuant to the Environmental Planning and Assessment Regulation 2000, for the purposes of contaminated soil treatment works.</p> <p>The proposed development is Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 and requires concurrence from:</p> <ul style="list-style-type: none">- NSW Environment Protection Authority pursuant to the Protection of the Environment Operations Act 1997;- NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997; and- NSW Department of Primary Industries – Water pursuant to the Water Management Act 2000- NSW Roads Martine Services – Pursuant to SEPP (Infrastructure) 2007
Property Address	146 Newbridge Road, Moorebank
Legal Description:	Lots 70 DP 1065574
Applicant:	Mirvac Homes Pty Ltd
Land Owner:	Tanlane Pty Ltd
Cost of Works:	\$10,021,576.00
Recommendation:	Deferred Commencement
Assessing Officer:	Peter Oriehov

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-24/2017) proposing subdivision, bulk earthworks, site remediation and construction of roads and drainage, over two (2) stages at 146 Newbridge Road, Moorebank

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The development site is described as Lot 7 DP 1065574, No. 146 Newbridge Road, Moorebank.

The developable area is zoned B6 Enterprise Corridor; R3 Medium Density Residential; and RE2 Private Recreation under Liverpool Local Environment Plan (LLEP) 2008.

The proposal was advertised under the provisions of Liverpool Development Control Plan 2008 between 22 February 2017 and 24 March 2017. Three (3) submissions have been received in respect of the proposed development.

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

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979. Therefore, it is recommended that the application be determined by way of deferred commencement.

2. SITE DESCRIPTION AND LOCALITY

2.1 Site Description

The subject site is described as Lot 70 in DP 1254895 No. 146 Newbridge Road, Moorebank and is located on the eastern edge of the Liverpool Local Government Area (LGA). The site is irregular in shape and has an area of 22.274Ha (or 222,740m²) and has a street frontage of approximately 161.5 metres to Newbridge Road.

Currently the development site is occupied by a discontinued recycling facility and contains stockpiled soils and construction materials. The site was used as a recycling facility and includes sand extraction by dredge and contains large dredge ponds and reject material from the sand washery. The northern portion of the site is largely cleared with bare sand, gravel and unpaved access roads. The southern portion of the site is mostly occupied by stockpiles of materials and a dredge pond.

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Figure 1 – Aerial photograph of the site

2.2 The Locality

The site is located approximately 27km south-west of Sydney, 4km east of the Liverpool CBD, 1.45km north east of the Moorebank centre and 1.6km south of the Chipping Norton local centre.

The land uses and development within the immediate vicinity of the site is provided below:

Surrounding land uses are described as follows:

North:

- The northern boundary fronts Newbridge Road and is identified as a classified road;
- On the northern side of Newbridge Road is the Chipping Norton Industrial area which consists of storage premises, business premises, general industrial uses such as warehousing and wholesale supplies.

West:

- The site directly adjoins an access handle for Lot 6 DP 1065574 (approximately 900m) in length from Newbridge Road) and natural vegetation to the west.
- West of Brickmakers Drive consists of residential precinct known as Georges Fair.

East:

- To the east of the precinct includes Georges River, Davy Robinson reserve, boat ramp, and public car park;

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- On the eastern side of Davy Robinson Drive consist of low density residential dwellings.

South:

- To the south of the site is zoned E2 – Environmental Conservation.

An aerial photograph of the locality is provided below

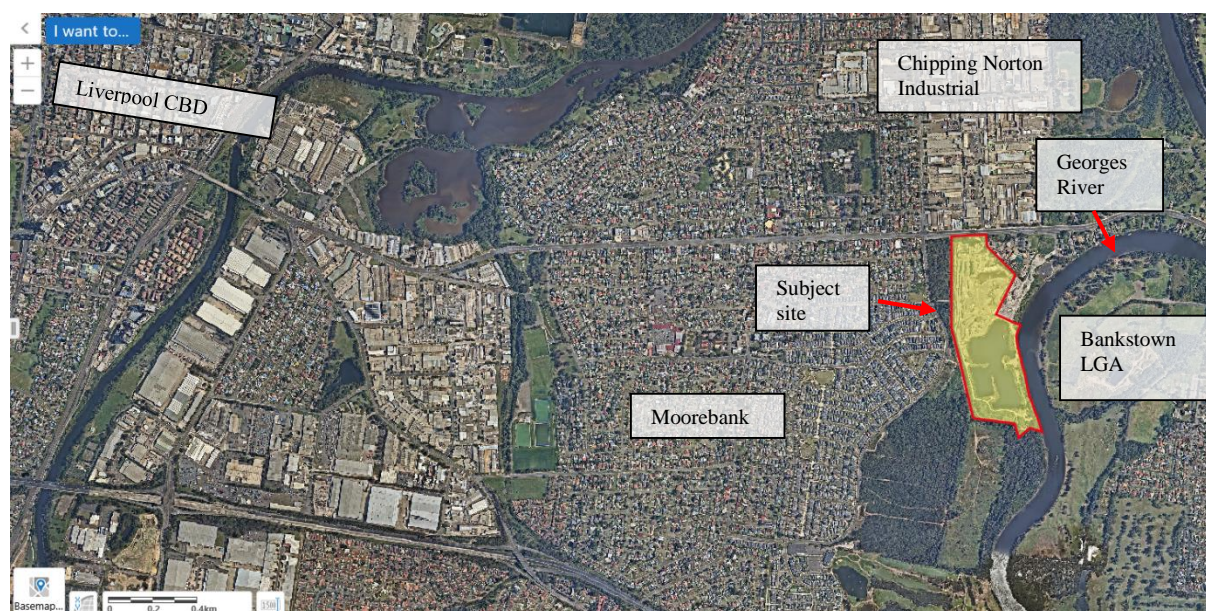


Figure 2 – Aerial photograph of the locality

2.3 Site Constraints

The subject site has number of constraints, which are listed below:

Potential Site Constraints	Site Constraints
<ul style="list-style-type: none"> • Flooding • Heritage Items • Aboriginal heritage • Environmentally Significant Land • Threatened Species/Flora/Habitat/Critical communities • Acid Sulphate Soils • Aircraft Noise • Flight Paths • Road Noise/Classified Road • Significant Vegetation • Contamination 	<ul style="list-style-type: none"> • A portion of the site zoned RE1 Public Recreation is subject to land acquisition by Liverpool City Council for local open space; • The sites have been identified as 'flood prone area' and 'flood prone land'; • The sites are identified as Acid Sulfate Soil Class 2, 3 and 5 land by the LLEP 2009; • The site is impacted by the 'Foreshore building line' • The site is identified as 'Environmentally Significant Land'; • The site is adjacent to Newbridge Road which is identified as a Classified Road. Clause 7.22(3) of LLEP 2008 prevents Council from granting consent to development for a dwelling unless the dwelling is at

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	<p>least 50m from the boundary of the land that adjoins a classified road.</p> <ul style="list-style-type: none">• The site is contaminated requiring remediation, which is required to be completed prior to the issue of any Subdivision Certificate, as will be conditioned on the consent for this DA.• The site was identified as Integrated Development pursuant to Section 4.46 of Environmental Planning & Assessment Act 1979. The application was referred to NSW Department of Industry and a General terms of Approval was provided.• The site was identified as Integrated Development pursuant to Section 4.46 of Environmental Planning & Assessment Act 1979. The application was referred to NSW Rural Fire Service and a General terms of Approval was provided.• The site was identified as Integrated Development pursuant to Section 4.46 of Environmental Planning & Assessment Act 1979. The application was referred to NSW Roads Maritime and Services and a General terms of Approval was provided.
Are there any restrictions on title?	N/A

3. BACKGROUND

- A Pre-DA meeting held with Liverpool City Council on 20 January 2016;
- The subject DA was lodged with Council on 23 January 2017;
- The DA was advertised in the Liverpool Leader for a period of 14 days from 22 March 2017 to 24 March 2017. Three (3) submissions were received during the notification period.

3.1 Background and DA History

Planning Proposals

RZ-10/2006

- A planning proposal (RZ-10/2006) was submitted to Council on 31 January 2006 to rezone the site described as 146 Newbridge Road, Moorebank. The rezoning application was approved by Council on 26 February 2006.

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RZ-2/2015

- A planning proposal (RZ-2/2015) was submitted to Council to amend the LLEP with the following proposals:
 - Amend the Liverpool Local Environmental Plan (LLEP) to enable residential uses on Georges Cove Marina which comprises 17 terrace dwellings on the private marina clubhouse site and 108 apartments in the maritime building;
 - Adjust the boundary of the R3 Medium Density Residential zoned portion of the site to correct a misalignment between the boundaries of the two sites. The proposal also seeks to adjust the boundary between the R3 Medium density residential zone portion of the site, and the RE2;
- The planning proposal relates to DA-846/2012 which was approved by the Sydney West Joint Regional Planning Panel for the erection of a maritime building, wet berth for 186 small craft berths, construction of a private marina club house and construction of three car parking areas;
- On 31 August 2016, Council resolved to support proposed amendments;
- On 9 March 2017, the Department of Planning & Environment issued Gateway Determination;
- On 8 June 2017 Moorebank Recyclers Pty Ltd lodged an appeal against the Gateway Determination in the NSW Land and Environment Court. The appeal was dismissed on 21 December 2017 and subsequently appealed in the Court of Appeal, where it was adjudged that the land contamination issues were not properly addressed pursuant to Clause 6 of SEPP 55.
- As a result of the judgement, the Council decision to support the planning proposal in principle to seek a Gateway determination and the Gateway Determination issued by the Department of Planning & Environment were declared to be 'invalid'.

RZ-5/2018

- On 6 July 2018, a planning proposal was submitted to Council seeking consent to enable residential development within the land zoned RE2 Private Recreation by amending Part 7 Division 2 and Schedule 1 (Additional permitted uses) of the Liverpool Local Environmental Plan 2008.

The rezoning application is under assessment.

RZ-9/2017

- On 18 October 2017, a planning proposal was submitted to Council seeking consent to amend the Floor Space Ratio and Height of Buildings and permitted uses on site.

The rezoning application is under assessment.

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RZ-1/2019

- On 13 February 2019, a planning proposal was submitted to Council seeking consent for a zone boundary adjustment to extend the R3 Medium Density Residential Zone boundary southwards to incorporate the site (a further approximate 0.41 ha of land currently zoned as RE2 Private Recreation). This will enable future subdivision of the R3 area and allow for nine additional residential allotments on the land which would otherwise remain unused within the Moorebank Cove Residential Estate.

Development Applications

DA-1552/2006

- On 07 June 2006, a development application was submitted to Council seeking consent for the construction of a road bridge. The development application was approved by Council on 24 April 2007.

DA-1552/2006/A

- On 22 May 2007, a modification application to DA-1552/2006 was lodged. The application was approved by Council on 24 May 2007.

DA-1552/2006/B

- On 21 January 2014, a modification application to DA-1552/2006 was lodged seeking consent to amend the design of the bridge to maintain consistency with court orders. The modification application was approved on 30 July 2014.

DA-609/2011

- On 8 December 2010, A development application was submitted to Council seeking consent for construction of a marina comprising a maritime building housing, 250 dry berths, a function centre and associated kiosks, tourist, entertainment/recreational and club facilities; a wet berth facility for 186 small craft consisting of a marina basin, rock protection of the basin and foreshore including embellishment and revegetation of the river foreshore, construction of recreational facilities on the foreshore including bike paths, BBQ facilities and shelters, installation of floating berths and walkways, installation of a 60,000 litre petrol tank and a 30,000 litre diesel tank and fuel pumping facilities, installation of sewage pump out facilities and emergency berthing access; three separate car parks providing 489 car spaces; construction of a private club house on the northern portion of the land; and construction of associated infrastructure.

The development application was withdrawn on 15 August 2011.

DA-846/2012

- On 6 March 2012, a development application was submitted to Council seeking consent for construction of marina comprising of dry berth facility providing 250 berths for small craft; function centre, kiosk, and tourist, entertainment, recreation and club facilities.

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The development application was approved by Joint Regional Planning Panel (JRPP) on 22 August 2014. A third party appealed the JRPP decision and on 18 March 2015 determined the JRPP's decision to be invalid.

DA-61/2014

- On 4 February 2014, a development application was submitted to Council seeking consent or the use of a road bridge (approved under DA-1552/2006) to enable vehicular access to a marina development (under DA-846/2012).

The development application was approved by Council on 8 August 2014.

DA-61/2014/A

- On 22 April 2016, a modification application was submitted to Council seeking consent to change the description of proposed development to the approved DA (1552/2006).

On 11 July 2016, the modification application was approved by Council. However, was deemed to be invalid because there was no owner's consent to the modification application.

DA-222/2015

- On 25 March 2015, a development application was submitted to Council seeking consent for the construction of a retaining wall along the western boundary and removal of vegetation at 124 and 146 Newbridge Road, Moorebank.

The development application was approved by Council on 17 February 2016;

DA-781/2015

- On 17 August 2015, a development application was submitted to Council seeking development approval for the construction and operation of a Marina on part Lot 6 DP 1065574, 146 Newbridge Road, Moorebank. The proposal consists of the following:
 - Maritime building located near the western boundary of the marina site, and includes:
 - A dry berth facility providing 250 berths for small craft;
 - A function centre, tourist, entertainment and creational and club facilities, and
 - A petrol tank (60,000L) and diesel tank (60,000L).
- A wet berth facility for 186 small craft (including causal berths) which will consist of:
 - A marina basin;
 - Rock protection of the basin and foreshore including embellishment and revegetation of the river foreshore;
 - Construction of public recreational facilities on the foreshore including bike paths;
 - Floating berths and walkways;
 - Fuel pumping facilities;

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- Sewage pump-out facilities, and
 - Emergency berth access.
 - Three external car parking areas and basement car parking providing a total of 637 spaces;
 - A private marina clubhouse on the northern portion of the private recreation zoned land; and
 - Site Infrastructure including power, water and sewerage.
- The development application was approved by Joint Regional Planning Panel on 29 September 2016;
- A third party appeal by Moorebank Recyclers Pty Ltd was lodged with the Land and Environment Court. On 28 February 2018, the Land and Environment Court refused DA-781/2015 due to access and inadequate consideration given to contamination on-site.
- On 14 December 2018 the DA refusal was upheld in the Supreme Court NSW Court of Appeal.

DA-1126/2015

- On 18 November 2015, a development application was submitted to Council seeking consent for bulk earthworks including fill and retaining walls for future residential and commercial development and removal of trees at 124 and 146 Newbridge Road, Moorebank.

DA-1126/2015 was withdrawn on 12 June 2018.

DA-110/2016

- On 16 February 2016, a development application was submitted to Council seeking consent for subdivision of the site into three (3) Torrens title lots.

DA-110/2016 was withdrawn on 2 June 2016.

DA-510/2016

- On 27 May 2016, a development application was submitted to Council seeking consent for the construction of a retaining wall at 146 Newbridge Road, Moorebank.

DA-510/2016 was approved on 5 October 2016.

DA-319/2018

- On 18 April 2018, a development application was submitted to Council seeking consent for 13 lot community title subdivision including the construction of residential dwellings.

The application is currently under assessment.

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DA-580/2018

- On 31 July 2018, a development application was submitted to Council seeking consent for 9 lot community title subdivision including the construction of residential dwellings.

The application is currently under assessment.

DA-611/2018

- On 8 August 2018, a development application was submitted to Council seeking consent for construction and operation of a marina.

The application is currently under assessment.

DA-843/2018

- On 6 November 2018, a development application was submitted to Council seeking consent for proposed stratum subdivision of Lot 6 in DP 1065574 into two lots and use of both the road bridge, and link road over lots 309 & 310 in DP 118048. The purpose of stratum subdivision is to facilitate the construction of the link road and road bridge approved under DA-1552/2016 and to enable dedication of the bridge and link road to LCC as a public road.

The application is currently under assessment.

MP05 0157

- A major projects application was submitted to the Department of Planning & Environment seeking approval to construct and operate a recycling facility to process up to 500,000 tonnes per year of masonry construction and demolition waste.

The application was approved by the Planning Assessment Commission on 11 September 2015.

In November 2015, Liverpool City Council and the owner of an adjoining premises appealed the commission's decision through the Land & Environment court. The decision to approve the concrete recycling plant was upheld by the Land & Environment Court.

Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) pursuant to Section 7.4 (formerly known as Section 93F) of the *Environmental Planning and Assessment Act 1979* was agreed to between Liverpool City Council and Tanlane Pty Ltd, dated 11 June 2008.

The VPA applies to the subject site and contains a series of contributions/works which are summarised as follows:

- Embellishment of river foreshore land;

- Dedication of river foreshore land to Council subject to an easement for maritime vessel access as well as two easements for the drainage of water;
- Development of a Vegetation Management Plan;
- Completion of works described in the Vegetation Management Plan;
- Conduct maintenance works described in the Vegetation Management Plan;
- Construction of passive recreation facilities on the river foreshore land;
- Dedication of a drainage channel;
- Construction and dedication of a road bridge over drainage channel, embankment and road to Brickmakers Drive;
- Construction and dedication of pedestrian access to Newbridge Road and a pedestrian path within the public verge along the entire length of the land frontage to Newbridge Road;
- Dedication of an easement over land for access for the purpose of allowing Council to undertake maintenance to the river foreshore land.

The proposed subdivision will facilitate future road dedication to Council to ensure the commitments within the approved VPA are executed. Furthermore, the VPA also applies to the proposed marina which is currently being assessed (under DA-611/2018).

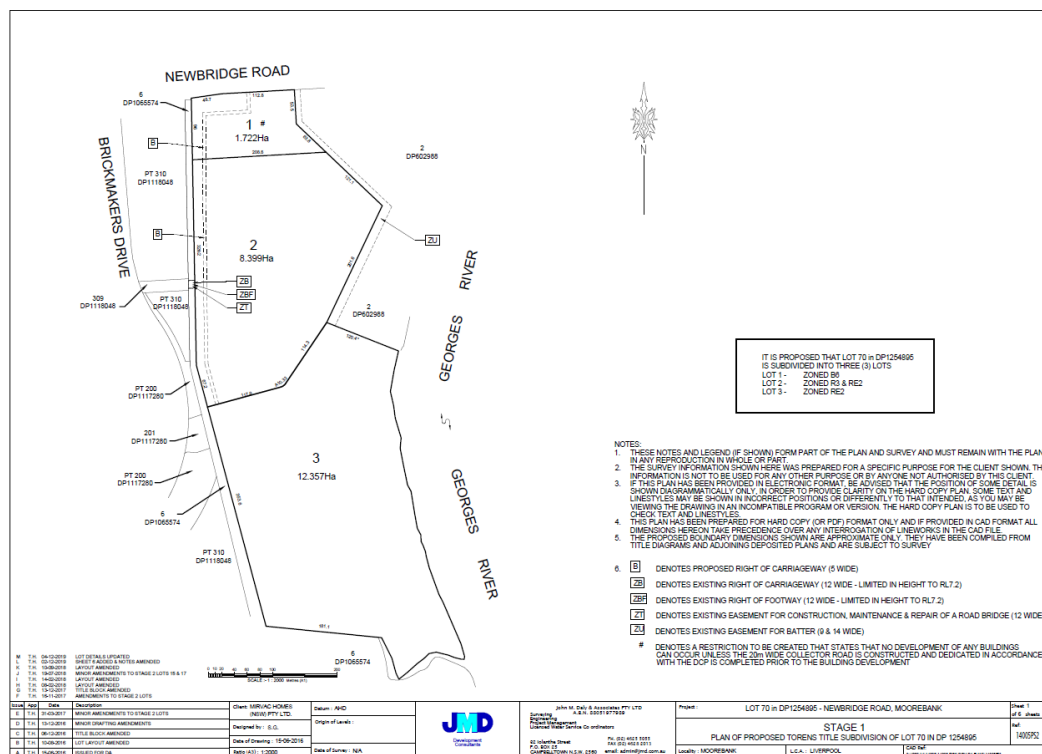


Figure 3: Three (3) lot subdivision at 146 Newbridge Road, Moorebank

4. DETAILS OF PROPOSED DEVELOPMENT

The application proposes three (3) lot subdivision that will take place in two stages. Stage 1 involves the subdivision of the site area into three super lots that are consistent with the boundaries of the existing land uses comprising of:

- Lot 1 – B6 Zone – Enterprise Corridor;

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- Lot 2 – R3 Zone – Medium Density Residential;
- Lot 3 – RE2 Zone – Private Recreation

Stage 2 of the project includes:

- Subdivision of lot 2 and 3 to create 19 lots for:
 - Future residential use as community title;
 - Drainage reserves that will be dedicated to Liverpool City Council; and
 - Open space that will be dedicated to Liverpool City Council
- Bulk Earthworks across the whole of lot 2 and in parts of lot 1 and lot 3 where drainage works will be constructed, including:
 - Site remediation works;
 - Cut and fill; and
 - Importation and placement of VENM.
- Construction of supporting infrastructure in lot 2 and parts of lot 1 and lot 3 that include:
 - Extension of the western retaining wall in the west of the site area;
 - Nine roads to be dedicated to LCC;
 - Services to support residual lots;
- Preservation of lot 1 for the development of uses supported by the B6 zone and;
- Preservation of lot 3 to facilitate the future marina development.
- Evacuation and access bridge.

Nine roads will be constructed within Super Lot 2 and dedicated to LCC. These roads are identified within the detailed subdivision plans as roads 1, 2, 3, 4, 5, 7, 9, 11 and 12.

A small part of Road 2 will be constructed in Super Lot 3/Residual Lot 21. Road design has been undertaken in consultation with LCC and will be in accordance with LCC's road design standards. The roads will serve for both local access and as collector roads, providing access to the local road network for future residential dwellings in Super Lot 2 and traffic generated by the Georges Cove Marina in Super Lot 3/Residual Lot 21.

Road design details will be prepared as part of the application for a Construction Certificate. Following completion of the works described in this EIS, access to the road network within the project area will be provided via a link road and bridge to Brickmakers Drive to the west. The bridge is foreshadowed in the LCC DCP and will be constructed under DA 1552/2006B.

Future road access points to the north through Super Lot 1 and to the east through Lot 2 DP 602988 are anticipated, but these are outside the scope of this project. Traffic generation for the project and anticipated future developments within the project area.

5. STATUTORY CONSIDERATIONS

Relevant matters for consideration

The relevant planning instruments/policies have been considered in the planning assessment of the subject Development Application: -

- State Environmental Planning Policy No.55 – Remediation of Land;
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas;
- State Environmental Planning Policy (Infrastructure) 2007;

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- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.
- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 2.10 – Development in Moorebank East

6. ASSESSMENT

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

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

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

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

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

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to site appropriate sedimentation and erosion controls during construction. The development will have minimal impact on the Georges River Catchment.

(b) State Environmental Planning Policy No. 19 – Bushland in Urban Areas

State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) applies to the proposal. The general aims of the policy are to protect and preserve bushland within the urban areas and maintain its value to the community as part of the natural heritage and its aesthetic value and recreational, educational and scientific resource.

SEPP No. 19 includes the following relevant definition:

***“Bushland”** means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristic of the natural vegetation.*

To the North and South, the bridge site (Lot 309) adjoins land zoned E2 Environmental Conservation under LLEP 2008. However, this application relates only to the use of the road bridge approved under DA-1552/2006 as modified.

Accordingly, the provisions of SEPP No. 19 are considered to have been satisfactorily addressed.

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

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

The proposed development involves a change of use on land previously used for mining, extractive industries and land filling activities. Table 1 of the contaminated land planning guidelines identifies mining and extractive industries and landfills as potentially contaminating activities which require further consideration in accordance with Clause 7 of *SEPP No 55- Remediation of Land*. This statutory requirement stipulates that the consent authority must consider a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The proposed development is integrated development and requires an Environmental Protection license (EPL) under Schedule 1 of the Protection of the Environment Operations (POEO) Act 1997 as the activity has the capacity to disturb more than an aggregate area of 3 hectares of contaminated soil. Therefore, the NSW Environment Protection Authority is the appropriate regulatory authority for the contaminated soil treatment.

Ultimately, EPA had Issued of General Terms of Approval for Staged Community Title Subdivision 146 Newbridge Road, Moorebank, NSW, 2170- DA-24/2017 (DOC19/593156) dated 12th July 2019, (also seen in attachment 7)

The following contamination assessments were prepared and submitted to Council which in turn were ultimately referred to Council's Environment and Health section whom have supported the proposal subject to conditions:

Super Lots 1 and 2

- Report on Preliminary Contamination Assessment Proposed Residential Development 146 Newbridge Road, Moorebank (Project 30410) prepared by Douglas Partners Pty Ltd dated May 2002;
- Report to Benedict Industries Pty Ltd on Stage 1 Environmental Site Assessment for Proposed Residential Development at 146 Newbridge Road, Moorebank NSW (Report Ref: E26930KB rpt, Final) prepared by Environmental Investigation Services dated 19 December 2013;
- Detailed Site Investigation Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.03, Document No. R.001.Rev2) prepared by Douglas Partners Pty Ltd dated 2nd September 2016;
- Remediation Action Plan Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5) prepared by Douglas Partners Pty Ltd dated 15th December 2017;
- Site Audit Statement 264B prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018;

- Site Audit Report 264B by Dr Ian Swane Remediation Strategy for Proposed Residential Development with Community Title at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018;
- Revised Site Audit Report Appendices accompanying 'Site Audit Report 264B by Dr Ian Swane Remediation Strategy for Proposed Residential Development with Community Title at 146 Newbridge Road, Moorebank NSW 2170' (Document No. 1, Revision Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018; and
- Draft Long Term Environmental Management Plan Moorebank Cove Residential Site Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.007.Rev3) prepared by Douglas Partners Pty Ltd dated 6th March 2018.

Super Lot 3/Residual Lot 21

- Preliminary Investigation of Contamination Proposed Georges Cove Marina (Report J14149RP1, Version 1) prepared by EMGA Mitchell McLennan Pty Limited dated 28 July 2015;
- Supplementary Preliminary Investigation Proposed Georges Cove Marina (Report J14149RP1, Version V3) prepared by EMM Consulting dated 11th March 2016;
- Remediation Action Plan Proposed Georges Cove Marina (Report J14149RP1, Version V2) prepared by EMM Consulting dated 11 March 2016;
- Landfill Gas Monitoring, November 2018 proposed Rezoning (Area 1) and Georges Cove Marina (Area 2) 146 Newbridge Road, Moorebank (Project 71459.10, 71459.10.R.004.Rev 2) prepared by Douglas Partners Pty Ltd dated 28th February 2019;
- Site Audit Statement No. 282 prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 27th April 2019; and
- Site Audit Report 282 by Dr Ian Swane Remediation Strategy for Proposed Georges Cove Marina Development at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision: Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 27th April 2019.

The Preliminary Site Investigation Proposed Rezoning (Area 1) and Georges Cove Marina (Area 2) 146 Newbridge Road, Moorebank (Project 71459.10, Document No. R.001.Rev1, File name 71459.10.R.001.Rev1.PSI, Revision 1) prepared by Douglas Partners Pty Ltd dated 28th May 2018 applies to Super Lots 1, 2 and 3.

Stage 1 - Preliminary Contamination Assessment

Douglas Partners Pty Ltd reported that metal concentrations (As, Cd, Cr, Cu, Hg, Ni and Zn) were within the NSW EPA's Health-Based Investigation Levels for residential sites with gardens and accessible soils. Of concern, marginal exceedances were recorded for Pb at the site. However, it should be noted that the site assessment criteria was derived from guidelines which have since been superseded by the National

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Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

Exceedances of the phytotoxicity based guideline were also noted for cadmium (Cd). Even so, the consultant indicated that possible phytotoxicity effects were unlikely due to the depth of contamination. Subsoils were not considered to be impacted by TRH, BTEX, PAH PCB, OCP or OPP contamination. Based upon their analytical findings, Douglas Partners Pty Ltd considered that the site may be deemed suitable for the proposed residential development provided that additional environmental testing was completed to fully characterise the site and evaluate potential groundwater and soil gas issues.

Stage 2 – Detailed Site Investigation

Douglas Partners Pty Ltd were engaged to prepare a Detailed Site Investigation for the proposed residential development at 146 Newbridge Road, Moorebank NSW. The site comprises part (generally the northern half) of Lot 7 DP 1065574 and has a total area of approximately 9 hectares. Previous geotechnical and environmental investigations generally confirmed the presence of fill containing construction and demolition waste of varying thickness up to 11.5 metres at the southern central portion of the site.

The scope of works for the Detailed Site Investigation included further characterisation of soil, soil gas/landfill gas, groundwater and surface water. Twenty-six boreholes were drilled in the study area, including three which intersect the water table for groundwater/gas monitoring well installation and seven to the target gas interval for landfill gas monitoring well installation. Selected soil samples were analysed by a NATA accredited laboratory for: priority metals (As, Cd, Cr, Cu, Pb, Mn, Hg, Ni and Zn); total recoverable hydrocarbons (TRH); BTEX; polycyclic aromatic hydrocarbons (PAH); organochlorine pesticides (OCP); organophosphorus pesticides (OPP); polychlorinated biphenyls (PCB); total phenols; total cyanide; asbestos; pH and cation exchange capacity.

Soil results

Douglas Partners Pty Ltd reported exceedances for metal concentrations, TRH, BTEXN, PAH and PCBs. Detectable concentrations of OCP and total cyanide were below the adopted site assessment criteria. OPP and total phenol concentrations were below the laboratory reporting limit and below the adopted assessment criteria.

Landfill Gas Results

Based upon the four monitoring events, a worst case characteristic gas situation of 3 was consistently recorded which indicated a moderate risk category.

On 22nd August 2017, Douglas Partners Pty Ltd completed landfill gas sampling with reference to their Sampling and Analysis Quality Plan, Validation Monitoring (Project No. 71459.06, Document No. R.004.Rev2) prepared by Douglas Partners Pty Ltd dated 15th May 2017.

According to Douglas Partners Pty Ltd, overall site-wide methane concentrations appeared to have reduced since the remedial efforts in 2015 and 2016. The consultant confirmed that validation monitoring must be continued to confirm this trend and installation and monitoring at some fixed landfill gas wells could be considered at key

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locations in the future to better correlate the fixed well monitoring data and the probe system monitoring data.

Trace Non-Methane Organic Compounds

Detected concentrations of trace non-methane organic compounds (NMOC) were below published screening criteria.

Trial Remediation Excavations

Results obtained for landfill gas wells JKBH/MW107a and JK107b indicate a trending increase in methane concentrations. Douglas Partners Pty Ltd reported that further monitoring is required to assess the impact of the trial remediation excavations.

Groundwater Results

Douglas Partners Pty Ltd identified exceedances in groundwater for ammonia, chloride, sulphate, arsenic, chromium, copper, lead, manganese, nickel and zinc and dieldrin. Although chlorpyrifos was detected in groundwater in 2013, it was not identified during the latest monitoring.

Surface Water Results

Exceedances were recorded for surface water samples containing ammonia, sulphate, nitrate, copper, manganese and zinc. Detectable concentrations of dieldrin at SW1 and SW2 were below the adopted investigation levels.

Based on the findings of this investigation, Douglas Partners Pty Ltd concluded that the site could be made suitable for the proposed residential development subject to the preparation and implementation of a suitable Remediation Action Plan as per their recommendations.

Stage 3 – Remediation Action Plan

The Remediation Action Plan (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5) prepared by Douglas Partners Pty Ltd dated 15th December 2017 outlines the remediation strategy for the proposed residential development at 146 Newbridge Road, Moorebank NSW. Douglas Partners Pty Ltd confirmed that the site will be audited by Dr Ian Swane, NSW EPA accredited site auditor to verify the land's suitability for the proposed residential land use.

The goal of the remediation is to render the site suitable for residential land use (Residential A) in accordance with the remediation acceptance criteria derived from the NEPM 1999 (as amended 2013). The extent of remediation required at the site includes:

- Removal of localised soil contamination 'hotspots' or the placement of a physical barrier (e.g. capping) to prevent the exposure of receptors (human and ecological) to soil contamination;
- Incorporation of the relevant measure(s) or system element(s) into dwelling construction to achieve a CGS of 3 and a gas protection score of 4.5. This will

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also be relevant to any associated infrastructure in which landfill gas can accumulate, such as services, hardstand areas etc. Open landscaped areas are not considered likely to pose a risk as any landfill gas (methane) which finds its way to the surface through the proposed capping system in these areas will dissipate (dilute and disperse) into the atmosphere to levels which do not pose a significant risk and as such will not pose a hazard or cause any reduction in amenity to site users;

- Excavation and removal of major sources of methane gas generation at the site (where practicable);
- Excavation and removal of sources of major groundwater contamination at the site (where practicable);
- Construction of a 3m thick cap to cover and preclude exposure to remaining contamination or aesthetic impacts arising from buried waste;
- Removal of hazardous building waste if present when demolishing existing or former structures; and
- Removal of abandoned buried services (if any).

Preferred Remediation Option

Following a review of available options, the preferred remediation strategy is:

- Soil – containment of the impacted soil on-site beneath an engineered barrier (Option 5) coupled with the selective excavation and removal of hotspots from buried fill;
- Landfill gas – removal of all unacceptable landfill gas sources (already being undertaken) and installation of engineered landfill gas mitigation measures for each proposed structure (e.g. venting and gas resistant membranes beneath concrete slabs) (Options 3 and 5). This option has the added benefit of the selective removal of some waste from deep fill areas impacting groundwater quality;
- Groundwater and surface water- monitoring of the dredge pond and Georges River water quality during remediation and construction for a period of 12 months from the date of the RAP;
- Removal of hazardous building materials from former building areas; and
- Removal of buried services that may contain asbestos/wastes.

Surface water and groundwater monitoring is proposed during site remediation. The preferred remediation strategy for landfill gas comprises passive gas management measures. The revised Remediation Action Plan was updated to state that the Long Term Environmental Management Plan would be included in the Community Management Statement for the Community Title estate. Douglas Partners Pty Ltd concluded that remediation of the site in accordance with this Remediation Action Plan would render the site suitable for the proposed residential development.

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Sampling and Analysis Quality Plan, Validation Monitoring

A 'Sampling and Analysis Quality Plan, Validation Monitoring Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.004.Rev2) prepared by Douglas Partners Pty Ltd dated 15th May 2017 was submitted to Council for review. This plan provides details for the validation and monitoring program for landfill gas, groundwater and surface water quality to be implemented under the RAP for the duration of the project remediation and construction period.

The results of the monitoring programs will be incorporated and assessed in the site validation report prepared at the end of the Stage 3 remediation work. The Sampling and Analysis Quality Plan, Validation Monitoring states that it will be impractical for landfill gas monitoring to occur after the housing estate has been established, as mentioned in the CIRIA guideline.

Bi-monthly (once every two months) surface water monitoring is proposed for a period of twelve months from the date of issue of this report. However, additional monitoring will be required if the collected data indicates increasing trends. As outlined above, no ongoing monitoring is envisaged in the post construction environment apart from the Long Term Environmental Management Plan.

Site Audit Statement 264B prepared by Ian Swane & Associates Pty Ltd dated 23rd January 2018

The contaminated land planning guidelines state that accredited site auditors can assist a planning authority by commenting on or verifying information provided by a proponent in relation to site assessment. In addition, the Guidelines confirm that engaging a site auditor can also provide greater certainty about the information on which the planning authority is basing its decision, particularly where sensitive uses are proposed on land that may be contaminated and a statement about the suitability of the site is required.

As a general principle, a Site Audit is only necessary when the planning authority:

- believes on reasonable grounds that the information provided by the proponent is incorrect or incomplete;
- wishes to verify the information provided by the proponent adheres to appropriate standards, procedures and guidelines; and
- does not have the internal resources to conduct its own technical review.

Given the complexity of the Application, Council's Environmental Health Section requested for the proponent to engage a NSW EPA Accredited Site Auditor to review the submitted technical documentation to ensure that sufficient information was available to address the statutory requirements of *SEPP No 55- Remediation of Land*.

Based upon his assessment, Dr Ian Swane certified that the nature and extent of contamination was appropriately determined at the site and the remediation plan ('Remediation Action Plan Proposed Residential Development 146 Newbridge Road, Moorebank' (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5)) prepared by Douglas Partners Pty Ltd dated 15th December 2017 is appropriate for site remediation.

Site Audit Report 264B by Dr Ian Swane Remediation Strategy for Proposed Residential Development with Community Title at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision Final) prepared by Ian Swane & Associates Pty

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Ltd dated 23rd January 2018

This Site Audit Report presents the findings of a Statutory Site Audit for the proposed Moorebank Cove Residential Estate (the 'Site') located in the northern section of the Benedict Sand & Gravel Moorebank site. The purpose of this site audit report was to determine whether the: nature and extent of contamination had been appropriately determined; the Remedial Action Plan (RAP) was appropriate for a proposed residential land use; and the site can be made suitable for the proposed residential land use with Community Title if it was remediated in accordance with the RAP.

The Site Auditor confirmed that the revised Remediation Action Plan (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5) prepared by Douglas Partners Pty Ltd dated 15th December 2017 addressed the requirements of *SEPP No. 55- Remediation of Land*. Additionally, the Site Auditor believed that the preferred remediation strategy for contaminated soils met NSW EPA endorsed guidelines. The Site Auditor also confirmed that the proposed 3m cap would provide sufficient physical separation between residential users and underlying contamination.

The Site Auditor concluded that the nature and extent of the contamination was appropriately determined and the site could be made suitable for the intended land use if remediated in accordance with the revised Remediation Action Plan prepared by Douglas Partners Pty Ltd dated 15th December 2017 and recommended conditions.

Draft Long Term Environmental Management Plan Moorebank Cove Residential Site Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.007.Rev3) prepared by Douglas Partners Pty Ltd dated 6th March 2018

Council was provided with a revised 'Draft Long Term Environmental Management Plan Moorebank Cove Residential Site Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.007.Rev3) prepared by Douglas Partners Pty Ltd dated 6th March 2018. The draft Long Term Environmental Management (LTEMP) indicates that Council would manage long-term responsibilities associated with roads and public open spaces, whilst the Community Association would manage long-term responsibilities associated with housing lots. The revised LTEMP now includes additional information (Table E2 and Section 12) which clearly explains Council's responsibilities in relation to the management of roads and public open space at the site. It is recommended that Council's Risk Management Section is consulted in relation to the proposed long-term management responsibilities.

General Terms of Approval issued by NSW Environmental Protection Authority

Council received General Terms of Approval for the 'staged community title subdivision' at 146 Newbridge Road, Moorebank NSW dated 12th July 2019 from the NSW EPA. Following the NSW EPA's earlier decision to refuse issuing the General Terms of Approval, it has since determined that it can remake its decision pending the submission and assessment of additional information from the proponent.

Within the latest correspondence, the NSW EPA assessed the site remediation component of the proposal and provided general terms of approval for this work. The NSW EPA confirmed that they have not assessed whether the land will be suitable for residential development. As a result, the NSW EPA warned that any assessment of the suitability of the site for the proposed land-use will need to be undertaken by Council.

It shall be noted that Council is relying upon the Site Audit Statements 264B and 282

prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018 and 27th April 2019 respectively which confirm the site's suitability for the proposed residential use subject to remediation.

If the Local Planning Panel decides to grant development consent for this proposal, the conditions in Attachment A of the General Terms of Approval must be incorporated into the consent. Should the development consent be granted, the proponent will need to make a separate Application with all supporting information to the NSW EPA to obtain an Environment Protection Licence or vary the existing Environment Protection Licence for the site.

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	See discussion above
(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 upon the Site Auditor's and consultants' findings, the land is contaminated and will be suitable after remediation for the proposed development. The Site Auditor concluded that the nature and extent of the contamination was appropriately determined and the site could be made suitable for the intended residential land use if remediated in accordance with the revised Remediation Action Plan prepared by Douglas Partners Pty Ltd dated 15 th December 2017, Remediation Action Plan Proposed Georges Cove Marina (Report J14149RP1, Version V2, Final) prepared by EMM Consulting dated 11 th March 2016 and conditions of the Site Auditor.

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<p>(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.</p>	<p>The land requires remediation to be made suitable for the proposed land use. Council's Environmental Health Section is satisfied that the land subject to this Application will be remediated in accordance with the revised Remediation Action Plan prepared by Douglas Partners Pty Ltd dated 15th December 2017, Remediation Action Plan Proposed Georges Cove Marina (Report J14149RP1, Version V2, Final) prepared by EMM Consulting dated 11th March 2016 and conditions of the Site Auditor before the land is used for its intended purpose. Contamination underlying the clean soil cap will need to be managed by means of a Long-Term Environmental Management Plan (LTEMP).</p>
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Based upon the Site Auditor's advice, it is believed that the Applicant submitted sufficient information for Council to address Clauses 7(1), 7(2), 7(3) and 7(4) of *State Environmental Planning Policy No. 55- Remediation of Land*.

(d) State Environmental Planning Policy (Infrastructure) 2007

The aim of the policy is to facilitate the effective delivery of infrastructure across the State by:

- a) *Improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- b) *Providing greater flexibility in the location of infrastructure and service facilities, and*
- c) *Allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- d) *Identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*

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- e) *Identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- f) *Providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- g) *Providing opportunities for infrastructure to demonstrate good design outcomes.*

The subdivision of land was identified as traffic generating development under Schedule 3 of SEPP (infrastructure) 2007. The development application was referred to Roads Maritime Services for comment and conditions were provided as seen in attachment 8.

(e) Liverpool Local Environmental Plan 2008

(i) Zoning

The developable area is zoned B6 – Enterprise Corridor, R3 – Medium Density Residential and RE2 – Private Recreation under Liverpool Local Environmental Plan 2008.

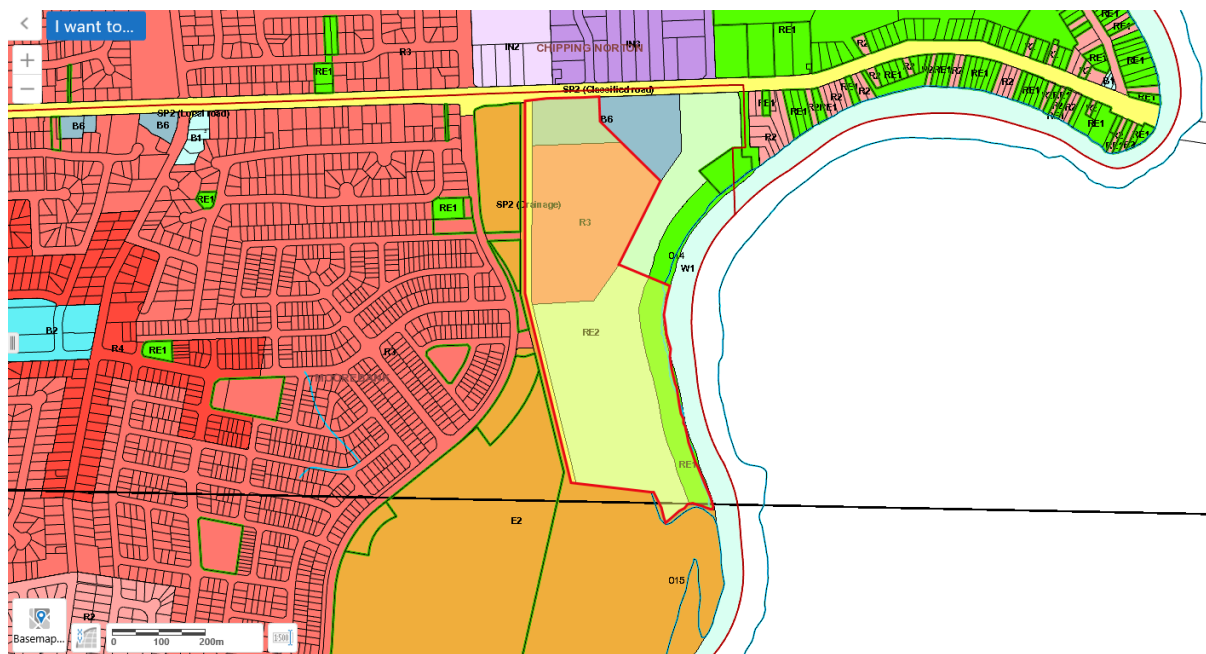


Figure 3: Zoning of the site.

(ii) Permissibility

The proposed development is best described as bulk earthworks, road construction, subdivision and remediation of land.

“Earthworks means excavation or filling

Subdivision of land is a permissible form of development as per Clause 2.6 of the LLEP 2008.

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(iii) Objectives of the zone

The objectives of the B6 – Enterprise Corridor zone are as follows:

- (a) To promote businesses along main roads and to encourage a mix of compatible uses;*
- (b) To provide a range of employment uses (including business, office, retail and light industrial uses);*
- (c) To maintain the economic strength of centres by limiting the retailing activity;*
- (d) To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres;*
- (e) To ensure residential development is limited to land where it does not undermine the viability or operation of businesses;*
- (f) To provide for residential uses, but only as part of a mixed use development.*

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

- (a) To provide for the housing needs of the community within a medium density residential environment;*
- (b) To provide a variety of housing types within a medium density residential environment;*
- (c) To enable other land uses that provide facilities or services to meet the day to day needs of residents;*
- (d) To provide for a concentration of housing with access to services and facilities;*
- (e) To provide for a suitable visual transition between high density residential areas and lower density areas;*
- (f) To ensure that a higher level of residential amenity is achieved and maintained.*

The objectives of the RE2 – Private Recreation zone are as follows:

- (a) To enable land to be used for private open space or recreational purposes;*
- (b) To provide a range of recreational settings and activities and compatible and uses;*
- (c) To protect and enhance the natural environment for recreational purposes;*
- (d) To enable land uses that are compatible with, and complimentary to, recreational uses.*

The proposal seeks consent for construction of roads, site infrastructure, remediation of land and subdivision which is to form preliminary works to the provision of future

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Moorebank Cove Residential Precinct.

(iv) Principal Development Standards and Provisions

The application has also been considered against the relevant provisions and principal development standards of the LLEP 2008, which are listed in the table below:

Clause	Provision	Comment
Clause 4.1 Minimum Subdivision Lot Size	The site is identified as containing a minimum lot size of 300m ² and 10,000m ² .	Does not Comply – See discussion below The minimum lot size for proposed lot 1 is 2000m ² . Which complies. The minimum lot size for proposed lot 2 is 300m ² . Which complies. The minimum lot size for proposed lot 3 is 10,000m ² . Refer to Clause 4.6.
Clause 5.1 – Relevant Acquisition Authority	The objective of clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired.	Complies The proposal includes works to land identified on the Land Acquisitions Map and is considered consistent with the future acquisition requirements under Clause 27.
Clause 6.5 – Public Utility Infrastructure	Development consent must not be granted for development unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required	Complies The proposal includes the provision for installation of electrical, water, sewer, telecommunications and gas services to facilitate future development stages. The proposed works are consistent with the objectives of the State Significant SEPP.

Clause 7.6 - Environmental Significant Land	Is the site identified as Environmentally Significant Land	Complies Works involving the rain garden are occurring on land identified as being ESL. The application was accompanied by an ecological assessment which concluded that the construction of the proposed residential development on the Moorebank Cove residential site is not likely to cause any significant ecological impacts. There are no TECs listed under the EPBC Act within the Moorebank Cove residential site and therefore no impacts will occur.
Clause 7.7 - Acid Sulfate Soils	Class 1, 2, 3, 4 or 5.	Class 2, 3 and 5 As part of the Phase 1 and 2, confirmed that Any areas of the site requiring further deep excavations that will disturb potential acid sulfate soil (PASS) will require an acid sulfate soil (ASS) investigation. We understand from Benedict that no further deep excavations are proposed
Clause 7.8 – Flood Planning	Provisions relating to flood planning	Complies This aspect has been received by Council's Flooding Engineers who have raised no issues subject to conditions.
Clause 7.31 Earthworks	Council to consider matters listed (a)-(g)	Complies by condition

Clause 4.6 Exception to development standards

As identified in the compliance table above, the application proposes variations to Clause 4.1 Minimum subdivision lot size. These are discussed below.

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Variation to Clause 4.1 – Minimum subdivision lot size

Clause 4.1(2) of the LLEP 2008, stipulates that:

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 plan.

The minimum lot size for proposed lot 3, which is zoned RE2 – Private Recreation is 10,000m². The development proposes to encroach on the RE2 with a total area of 4100m². As a result there is a shortfall of 5,900m².

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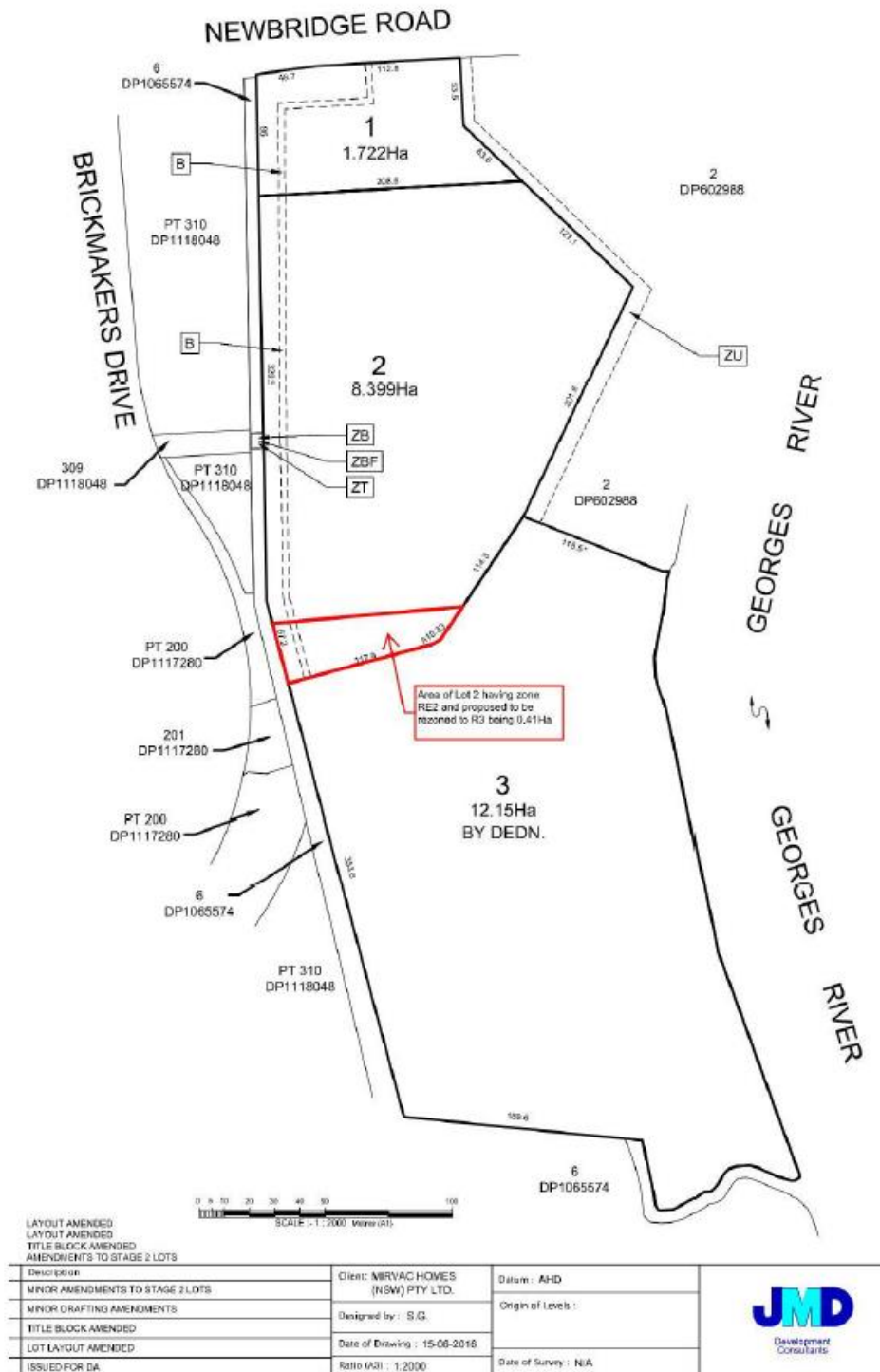


Figure 4: The lot as seen in the red outline proposes to encroach on the RE2 zone.

As seen in the figure above, the proposal does not comply with the minimum subdivision requirement of 10,000m² required as per Clause 4.1 of LLEP 2008. The applicant has provided a written request to vary the minimum lot size.

The submitted written request to vary Clause 4.1 has been assessed against the provisions of Clause 4.6, and is discussed below.

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The objectives and pertinent considerations of Clause 4.6 of the LLEP 2008, as they relate to the subject DA, 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.*
 - (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) That there are sufficient environmental planning grounds to justify contravening the development standard.*
 - (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) The consent authority is satisfied that:*
 - (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- 1) 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 follows:

Reason for variation 1

This annexure is a written request to vary the minimum lot size standard for the area of RE2 within Super lot 2 in the above diagram is to facilitate the Community Title development of the estate. This is a result of the Community Land Development Act not allowing additional land to include in the Community Title scheme after it has commenced.

Super lot 2 and the resultant proposed Lot 16 will facilitate future development of the site and will be subject to a separate development application. Compliance with the development standard is unreasonable in this instance, as this development application is only to facilitate future development applications for residential development.

The lot size of proposed Lot 16 will not preclude residential development occurring at the site (subject to future DA) that would not be consistent with the objectives, development standards and controls for development within this precinct.

In response to the applicant's comments listed above, Council has provided the following commentary as to why compliance with applicable minimum lot size development standard is considered unreasonable and unnecessary in this instance:

- The future development that will occur as a result of the subdivision of Lot 16 will be consistent with the objectives of the clause, as it will encourage the high quality urban form proposed. The proposed lots will ensure maximum exposure to sunlight and solar access, with a built form consistent with the local character.

Despite the shortfall from the minimum lot size development standard, it is in the public interest as it will facilitate the future provision of residential housing in the Moorebank East precinct which is consistent with both local and regional strategies and long term vision for the Moorebank East locality.

The applicant has provided the following comments addressing whether there are sufficient environmental planning ground to justify contravening the development standard, as follows:

- *There are sufficient environmental planning grounds to justify the contravening of the minimum lot size standard for proposed Lot 16 as a result of the subdivision of Super lot 2 as shown by it being consistent with the objectives of the lot size clause as noted in the following:*
 - *It maintains the same desired residential density for the locality;*
 - *The proposal is able to accommodate detached homes that are able to demonstrate compliance with objectives and controls of the LLEP and DCP by maintaining adequate levels of natural lighting and ventilation, privacy, visual amenity and spatial separation from the neighbouring properties, which is considered to provide future occupants with a better urban outcome;*
 - *The subject area is not along a classified road;*
 - *The subdivision pattern of the greater Moorebank locality generally consists of rectangular allotments with detached dwellings (as evident in Georges Fair and existing Moorebank dwellings). By creating detached homes and duplexes, the future housing product of the development will appear consistent with the dwelling typology of greater Moorebank, whilst still achieving the urban density and diversity in housing product; and*
 - *As a separate Development Application will be made for the residential of proposed Lot 16 for approval by Council.*

In response to the comments raised above, Council has provided the following commentary as to why there are insufficient planning grounds to justify contravening the development standard in this instance:

- The applicant's test for environmental planning grounds is reliant on consistency with Section 4.15 of the Act. Part of this requires the consideration of any environmental planning instrument. In the case of this DA the development is required to be consistent with the relevant SEPPs, LEPs and DCPs. The proposed development complies with provisions of SEPP, LEP and DCP and it is therefore considered that the development is consistent with Section 4.15 of the Act. Accordingly, the applicant

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has demonstrated that there are sufficient planning ground to justify contravening the minimum subdivision lot size.

2) Consistency with objectives of the development standard Clause 4.1 Minimum Subdivision Lot Size.

The objectives of Clause 4.1 and assessment are as follows:

(1) The objectives of this clause 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*

The proposed development is considered to be consistent with all of the objectives of Clause 4.1 of the LLEP 2008 in that:

- The future development that will occur as a result of the subdivision of Lot 16 will be consistent with the objectives of the clause, as it will encourage the high quality urban form proposed. The proposed lots will ensure maximum exposure to sunlight and solar access, with a built form consistent with the local character. Furthermore, Lot 16 will be a residue lot and will accommodate for public open space or community facilities which is permissible in the RE2 zone.

For the reasons above, the proposed development is considered to be consistent with the objectives of Clause 4.1 of LLEP 2008.

3) Consistency with objectives of the zone – RE2 Private Recreation

The objectives of the RE2 – Private Recreation zone are as follows:

- *To enable land to be used for private 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 enable land uses that are compatible with, and complimentary to, recreational uses.*

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The proposed development is considered to be not inconsistent with all of the objectives of the RE2 Zone.

4) 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 variation in minimum subdivision lot size given the above discussion. Based on that discussion it is considered that a better outcome would be achieved with the encroachment to allow for development of public open space or a community facilities to service the R3 Medium Density Residential to the North of the site.

5) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.1 “Minimum Subdivision Lot Size” adequately address Clause 4.6 (3) and is in the public interest in this instance.

Flooding Planning – Further Discussion

The proposed development is located on the floodplain of the Georges River. While the development is located on low risk flood zone, the surrounding area is affected by high risk flooding. The only access road to the development is via the proposed bridge from Brickmakers Drive. For flood events greater than the 1% AEP, Brickmakers Drive will be inundated by floodwaters and access will not be available. Therefore, complete evacuation of the residents is necessary before the access road becomes inaccessible.

The proposed Mirvac development in Area C will consist of 179 two storey residences all with a minimum floor and road level greater than RL 6.1m AHD (being the 100 yr ARI flood level plus 500mm freeboard) which is the Flood Planning Level. The finished road and floor levels will continually rise from RL 6.1m AHD on the south eastern edge of the development to the west reaching levels around RL 10m AHD as approved by the LEC and DA 1552/2006 at the proposed link road bridge which provides car access to Brickmakers Drive. All residences will be two stories. Approximately 92% of the houses will have second storey floor levels above the Probable Maximum Flood (PMF) level of RL 10.4m AHD. The development will be under a Community Title which imposes a management structure responsible for the safety and well being of this community and would be used to manage the flood evacuation procedures.

In addition to these measures, the residential development is proposed to be subdivided as a community title subdivision. As such, the development and residents will be subject to a Community Management Statement, Community By-Laws and be controlled by a Community Manager.

It is evident from the above assessment that Area C has an acceptable Flood Emergency Response Plan based on SES recommendations for evacuation and the proposed elevated pedestrian bridge. Council’s Flood Engineers have reviewed and supported the evacuation strategy, subject to conditions of consent

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

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

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

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

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development and Part 2.10 Development in Moorebank East*.

The tables below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

Part 1 General Controls for all development		
Control	Provision	Comment
Section 2 – Tree Preservation	Controls relating to the preservation of trees	Complies The application proposes the removal of vegetation due to the bulk earthworks. This vegetation is not considered to be significant.
Section 3 – Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues with the design.
Section 4 – Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Complies The Ecological Assessment, prepared by ENM Consulting, dated 14 December 2016, was reviewed by Council's sustainable environment natural resource planner, who raised no issues subject to conditions.
Section 5 - Bush Fire Risk	Controls relating to development on bushfire prone land	Complies General Terms of Approval

		have been issued by the NSW Rural Fire Service (dated 15 December 2017).
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.	Complies This aspect has been reviewed by Council's Engineers, who have raised no issues subject to conditions.
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.	Complies General Terms of Approval have been provided by the NSW DPI – Water (dated 6 June 2017).
Section 8 - Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9 – Flooding Risk	Provisions relating to development on flood prone land.	Complies The site is affected by flooding greater than the 1% annual exceedance probability. The application was referred to Council's Flooding Engineers, who have supported the application subject to conditions.
Section 10 - Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies See SEPP 55 discussion above.
Section 11 - Salinity Risk	Provisions relating to development on saline land.	Not Applicable The development site is identified as containing a low salinity potential. Therefore, a salinity management response plan is not required.

Section 12 – Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not Applicable The site is not identified as containing the potential for acid sulphate soils.
Section 13 - Weeds	Provisions relating to sites containing noxious weeds.	Not Applicable The site is not identified as containing noxious weeds.
Section 14 – Demolition of Existing Developme nt	Provisions relating to demolition works	Not Applicable Demolition works are not proposed.
Section 15 – On Site Sewage Disposal	Provisions relating to OSMS.	Not Applicable OSMS is not proposed.
Section 16 - Aboriginal Archaeolog y	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.	Complies A preliminary due diligence Aboriginal heritage assessment of the Moorebank Cove residential site was conducted by Mary Dallas Consulting Archaeologists (MDCA) to determine whether further archaeological investigations may be required in relation to the proposed development. The report concluded that the proposed development is unlikely to impact Aboriginal heritage items as the Moorebank Cove residential site was not found to contain any evidence of past Aboriginal use and has very low likelihood for any surviving deposits of Aboriginal stone artefacts.
Section 17 - Heritage and Archaeologi cal Sites	Provisions relating to heritage sites.	Complies The Moorebank Cove residential site was comprehensively surveyed in 2003 (Heritech Consulting 2003) and the following artefacts assessed:

		<ul style="list-style-type: none"> - a small domestic 'hardiplank' cottage on the north east corner on Newbridge Road; - workshops and maintenance sheds; - concrete storage bins; - crushing/sizing/dredging plant; and - miscellaneous equipment. <p>Heritech Consulting visited the site again in June 2016. This confirmed the outcome of the previous assessment. The items located during the 2003 assessment, with the exception of the cottage, have since been removed. The cottage not within the Moorebank Cove residential site. Further, Heritech Consulting have concluded that it does not possess any heritage significance. A 2016 search of the State Heritage register and inventory found no items of heritage significance were recorded within the Moorebank Cove residential site.</p> <p>There are no items possessing any level of heritage significance on social, scientific, aesthetic or historic grounds so there will be no impact on historic heritage.</p>
Section 18 - Notification of Applications	Provisions relating to the notification of applications.	Complies <p>The application was notified in accordance with the requirements of designated development and the LDGP 2008.</p>
Section 19 – Used Clothing	Provisions relating to used clothing bins.	Not Applicable <p>The DA does not propose</p>

Bins		used clothing bins.
Section 20 - Car Parking and Access	Provisions relating to car parking and access	Not Applicable
Section 21 - Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Complies
Section 22 – Water Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Not Applicable
Section 23 – Energy Efficiency	Dwellings to comply with <i>SEPP– Building Sustainability Index (BASIX)</i> . A complying BASIX report is to be submitted with all development applications containing residential activities	Not Applicable
Section 25 - Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies A comprehensive waste management plan has been provided and considered acceptable.
Section 26 – Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
Section 27 - Social Impact Assessment	A social impact comment is required for residential subdivision greater than 20 dwellings.	Complies Recommended to be provided as part of this development rather than individual developments.
Part 2.10 Development in Moorebank East		
Control	Provision	Comment
Section 2.1 Street Network	Subdivision of the land shall be in accordance with Figure 2.	Does not comply The proposed road layout is inconsistent with Councils Indicative Layout Plan. However, the proposed layout is a much more effective design and achieves a better outcome in terms of solar access and

		orientation.
	Subdivision of the land shall incorporate a link road between Brickmakers Drive and Davy Robinson Drive as shown on Figure 2. The link road shall be a minimum 20m wide and be able to accommodate a bus route.	Complies Link road provided between Brickmakers Drive and Davy Robinson Drive and is able to accommodate a busy route. This is supported through swept path analysis.
	Street sections are to comply with Figures 3 – 4.	Complies Street sections are generally in accordance with the sections provided. Council's Land Development Engineers and Traffic Engineers have also reviewed the detailed road designs and provided support.
	Flood free access via a road bridge from Brickmakers Drive shall be provided prior to any subdivision of Lot 7 DP 1065574.	Complies Conditions of consent will be imposed to ensure that the road bridge as approved under Development Consent No. DA-1552/2016 is constructed prior to issue of a subdivision certificate.
	The street network is to be clearly legible with signposts showing street names and property numbers.	Conditions of consent will be imposed to ensure compliance
	Street layouts at key locations are to be designed to ensure pedestrian safety.	Complies Pedestrian and Cycleway plan submitted.
	Kerb ramps are required at all intersections where footpaths are provided.	Complies by condition
	Footpaths must be provided along at least one side of every street.	Complies by condition
	A street network plan is to be submitted for all subdivision applications showing street and intersection types and any other proposed street treatments.	Complies by condition Intersection treatment is required at Brickmakers drive and the Link Road. Sidra modelling also required but have not been provided as part of the application.

	Local streets shall front open space and avoid back fences to open space and other public areas.	
	All plans must indicate street types and intersection treatments.	Complies by conditions Intersection treatment is required at Brickmakers drive and the Link Road. Sidra modelling also required but have not been provided as part of the application.
	A direct road connection is to be provided from the Road Bridge through the Residential to the private open space.	Complies A direct road connection from the road bridge to the private open space will be provided via the link road Brickmakers Drive and Davy Robinson Drive.
	A pedestrian access shall be provided from land in the R3 zone through the B6 zone through to Newbridge Road.	Complies by conditions Pedestrian plan to show access from land in the R3 zone to the B6 zone.
	Barrier kerbs shall be used: <ul style="list-style-type: none"> - On any street frontage to open space - At all intersections (between the potential driveway location on one frontage to the potential driveway location on the alternate street frontage). Driveways are not to be located within 6m of the tangent point of any intersection. <ul style="list-style-type: none"> - Barrier kerb shall be installed for the entire length of bus zones and for 10m on the approach of the bus stop. 	Complies by condition
	Roll kerbs may be used in other locations to the above.	Complies by condition
Section 2.2	Vehicle access to	Complies by condition

Pedestrian and Cyclist Amenity	development is to be designed and located to minimise conflicts with pedestrians and cyclists on footpaths, particularly along high volume pedestrian streets.	Pedestrian and cycleway plan submitted demonstrating vehicle access minimises conflicts with pedestrian and cyclists on footpaths.
	Wherever practicable, vehicle access to developments is to be a single crossing, perpendicular to the kerb alignment.	Complies by condition
	Where practical, pedestrian and cycle paths in open spaces to take advantage of street lighting and allow for casual surveillance by residents and drivers. Where this is not practical, paths should be well – lit and visible from the road.	Complies Pedestrian and cyclway plan submitted.
	Pedestrian and cycle paths are to link the key facilities within and outside the area, such as the open space network.	Complies Pedestrian and cyclway plan submitted.
	Shared pedestrian/cycle links, cycle ways public roads and lanes are to be clearly and frequently signposted to indicate their shared status.	Complies Pedestrian and cyclway plan submitted.
	Designated cycle lanes on streets are to be clearly indicated by line – markings on the road surface and/or by signs beside the road.	Complies Pedestrian and cyclway plan submitted.
	Shared pedestrian and cycle paths are to be a minimum of 2.5m wide.	Complies 3m proposed
	Designated pedestrian – only paths are to be a minimum of 1.5m wide.	Complies Pedestrian and cyclway plan submitted.
	Pedestrian and Cycle facilities in public spaces are to be safe, well lit, clearly defined, functional and accessible to all. An appropriate level of pedestrian lighting to	Complies Pedestrian and cyclway plan submitted.

	ensure security and contribute to the legibility of streets.	
	Pedestrian and cycle paths, and pedestrian refuge islands are to be designed to be fully accessible by all in terms of access points and gradients, in accordance with AS 1428:1-4.	Complies Pedestrian and cyclway plan submitted.
Section 2.3 Streetscape and Street Trees	Street furniture is to be incorporated into the design of all public spaces and should be consistent in design and style.	Complies A street tree master plan has been provided and is considered acceptable.
	Street furniture is to be located so as not to impede mobility in accordance with AS 1428:1 - 4.	Complies by condition
	The location and detailing of all proposed street furniture is to be indicated on the Landscape Plan, to be submitted with the DA.	Complies by condition
	<u>Street Tree Planting</u> Street trees shall be required to be planted in conjunction with the creation of a new street or the extension of an existing street.	Complies Street tree plan submitted
	One street tree shall be planted for each residential dwelling created.	Complies Street tree provided in front of each residential lot.
	The street trees shall be planted prior to the release of the subdivision certificate.	Complies by condition
	The trees shall be provided with protection to ensure their survival during the construction of buildings in the street.	Complies by condition
	Trees and shrubs on individual streets must be of a uniform species. On streets adjacent to bushland, species indigenous to the area	Complies by condition

	must be planted.	
	Intensive planting shall be provided along the Link Road between the R3 and B6 zones.	Partially Complies Street tree plan shows intensive planting proposed on the link road in the R3 zone. Intensive planting at the B6 zone have not been provided.
Section 2.4 Open Space	Direct public access (pedestrian/ bicycle) should be provided from the residential zone east through the private recreation zone, to the Georges River Foreshore reserve.	Complies Pedestrian and cycleway plan provided
	A shared pedestrian/cycleway access should also be provided, along the western boundary of the RE2 zone, to the Georges River foreshore reserve.	Complies Pedestrian and cycleway plan provided
	Local parks provided within the residential area, should be a focal point for development and activity.	Complies Local park proposed in R3 residential area and is a focal point for development south to the site which includes a proposed marina.
	Ensure that development which surrounds open space is orientated towards the park to offer casual surveillance.	Complies Indicative layout plan submitted illustrates lots adjacent to open space includes building envelopes orientated towards the park.
	Perimeter streets should be provided to all parks on at least three sides of the park. Where a street frontage is not provided the development must front the park to provide surveillance.	Complies Park proposed as part of subdivision in stage 2.
	Sufficient lighting to be provided within local parks.	Complies by condition
Section 2.5 Views and View Sharing	Higher Density lots should be located to best utilise potential view.	Complies The proposed subdivision of the site into three super lots and further subdivision of

		Super Lot 2 will allow for future development which maximises access to key viewpoints in the area and view sharing.
	View corridors out of or into the site should be identified, maintained and improved where possible.	Complies Proposed residential include low density single and double storey dwellings which enables view corridors to be identified and maintained.
	Buildings along the southern and eastern edge of the residential zone must be no wider than 35m and separated from other buildings by at least 10m.	Not applicable Proposed development includes subdivision and does not include development of buildings.
Section 2.6 Foreshore Access	A 10m wide access shall be dedicated free of charge to Council to link a public road with the land in the RE1 zone along the Georges River foreshore at the northern end of Lot 7 DP 1065574 to permit access by the public and Council maintenance vehicles.	Complies Access to public open space areas with frontage to the Georges River will be provided and dedicated to LCC for public use as required by the VPA
	A right of way access shall be provided free of charge to Council to link a public road with the land in the RE1 zone along the Georges River foreshore at the southern end of Lot 7 DP 1065574 to permit access by Council maintenance vehicles.	Does not comply There is no plan to indicate link road
Section 2.7 Drainage	The site should be generally drained east toward the Georges River, rather than to the drain on the western side of the site.	Complies This aspect has been reviewed by Council's Land Development Engineers who have raised no issues, subject to conditions.
	An onsite detention basin is required to avoid any increase in peak stormwater discharge from the drain on the western boundary of the property.	Complies Stormwater plan submitted and supported by Council Development Engineers

	Use gross pollutant traps and water quality control ponds to remove suspended sediment, nutrients and bacteria.	Complies Stormwater plan submitted and supported by Council Development Engineers
Section 2.8 Removal of Fill	Any Development Application on Corner Lot 2 DP 602988 is to include provisions for the removal of 35,000m ³ of fill from the area indicated in Figure 6.	Complies by condition
3.1 Subdivision, Frontage and Allotment Size	25% of lots must be 300sqm or greater	Revised master plan to demonstrate compliance
	At least 25% of lots must be less than 300sqm	Complies Lots under 300m ² = 53%
	Any lot greater than 400sqm should have a frontage of at least 12m.	Complies Proposed residue lots have frontage greater than 12m.
	All development needs to be in accordance with Council's adopted residential subdivision design principles.	Partially complies
	<u>Dwelling Mix</u> A maximum of 216 Dwellings are permitted on the site.	Complies R3 residential zone has a maximum of 178 lots.
	Subdivision, lot sizes and orientation are to address the principles in Figures 7 and 8.	Revised master plan to demonstrate compliance
	Lot sizes and dimensions are to take into account the slope of the land to minimise earthworks/retaining wall construction and the retention of existing trees.	Complies
	Minimum allotment width is 6m.	Partially complies Lots with widths under 6m 9-13 – 4.09m 9-02 – 2.5m 9-01 – 2.5m

	Any application for subdivision creating allotments of 6m width must be accompanied by an application for a dwelling house on each of those allotments.	Complies Indicative layout lot plan submitted showing building envelopes on lots.
	On east-west lots, houses and private open space are to be sited generally in accordance with Figure 9. A maximum of 216 Dwellings are permitted on the site.	Partially complies
3.2 Site Planning	The dwelling layout must be designed around the site attributes such as slope, existing vegetation, land capability and/or solar access (See Figure 10).	Not applicable
3.3 Setbacks	Dwelling houses shall be setback in accordance with Table 1. Front setback: Ground Floor: 4.5m First floor: 5.5m Secondary setback: Ground Floor 2.5m First Floor 2.5m	Not applicable
3.4 Landscaped Area and Private Open Space	A minimum of 20% of the site area shall consist of Landscaped Area, this may include lawn, deep rooted trees, garden beds and mulched areas.	Not applicable
3.5 Cut and Fill, Building Design, Streetscape and Layout	<u>Cut and Fill of Land</u> The maximum cut on a site must not exceed 600mm.	Not applicable
3.6 Landscaping and	A minimum of one tree is to be provided within the front setback area of every	Not applicable

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Fencing	residential dwelling. This may include existing trees that are to be retained within the front setback area. Newly planted trees are to have a minimum pot size of five litres.		6.4 <u>Section 4.15(1)(a)(iii) – Planning Agreement</u>
3.7 Car Parking and Access	Two car parking spaces shall be provided for each dwelling.	Not applicable	
3.8 Amenity and Environmental Impact		Not applicable	
3.9 Site Services	To ensure that the required services are provided and are easily protected or maintained.	Not applicable	

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Tanlane Pty Ltd had elected to enter into a Voluntary Planning Agreement (VPA) with Liverpool Council for this development proposal.

Schedule 3 of the VPA provides a program for the provision of the various works required to be completed under the terms of the VPA. Embellishment of River Foreshore Land are required prior to the creation of the seventy fifth (75th) residential lot within the development. The requirements of the VPA in relation to the subdivision should also be applied to this application. A condition to this effect is recommended.

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

In accordance with Part 6, Division 3 of the Environmental Planning and Assessment Regulations, the application was referred to the Rural Fires Service as the application is Integrated Development under S100B of the Rural Fires Act. General Terms of Approval were issued for the development with conditions.

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

(a) Natural Environment

Impacts on the natural environment have been assessed as part of the development application. It was found that the proposal is unlikely to create a detrimental impact on the natural environment surrounding the subject site, or to any endangered and non-endangered species of flora and fauna.

(b) Built Environment

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is considered to be of an appropriate scale and unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will facilitate residential development consistent with the desired future built character of the locality.

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(c) Social Impacts and Economic Impacts

The proposed subdivision would result in a positive economic impact in the locality through the capital investment value of the development and the creation of construction jobs and long term social benefits due to the provision of housing to meet the needs of the community.

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

The proposed development is in keeping with the zones objectives and is compatible with the anticipated future character within Moorebank

The proposed development is generally considered to be suitable for the site. The development complies with the relevant provisions of the Liverpool Local Environmental Plan and Development Control Plans, and will facilitate the future residential development of the land consistent with the desired future built character of the locality.

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

(a) Internal Referrals

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

Department	Comments
Building	Supported, subject to conditions.
Development Engineering	Supported, subject to conditions.
Environmental Health	Supported, subject to conditions.
Heritage Advisor	Supported, subject to conditions.
Traffic and Transport	Supported, subject to conditions.
Community Planning	Supported.
Landscaping	Supported, subject to conditions.
Waste	Supported.
Flood Engineer	Supported, subject to conditions.

(b) External Referrals

The DA was referred to the following external Public Authorities for comment:

Authority	Comments
Sydney Water	Application supported, subject to recommendations.
Endeavour Energy	Application supported, subject to recommendations.
RMS	Application supported, subject to conditions.
NSW Rural Fire Service	Application supported, subject to General Terms of Approvals.
Natural Resource	Application supported, subject to General Terms of

Access Regulator	Approvals.
NSW Environmental Protection Authority	Application supported, subject to General Terms of Approvals.

(c) Community Consultation

The application was advertised. Three (3) submissions were received objecting to the DA. Submissions involved a number of themes and are summarised below:

Submissions/Object or concerns	Council Response
Flooding In the event of such a flood, if there is any damage, or injury, or death, to any persons, or person, or property! Who will take responsibility?, it is this reason, we the residents, would like to view, & receive, in writing assurances from council that such a event, meaning flood!, the resident will not be at risk,, or unable to be compensated, financially, for any damages being to property or personally in the event, there is such a flood, dose Liverpool council & MIVAC have?	The subject development is intended to cater for 179 two storey residences, through subsequent applications, all with a minimum floor and road level greater than RL 6.1m AHD (being the 100 yr ARI flood level plus 500mm freeboard) which is the Flood Planning Level. The finished road and floor levels will continually rise from RL 6.1m AHD on the south eastern edge of the development to the west reaching levels around RL 10m AHD as approved by the LEC and DA 1552/2006 at the proposed link road bridge which provides car access to Brickmakers Drive. All residences will be two stories. Approximately 92% of the houses will have second storey floor levels above the Probable Maximum Flood (PMF) level of RL 10.4m AHD. The development will be under a Community Title which imposes a management structure responsible for the safety and well being of this community and would be used to manage the flood evacuation procedures.
Support for application In line with this progress, DA 24/2017 marks the end of extractive industry, and a move towards responsible community living. In an area already consisting of the Georges Fair residential community, the newly developed Brighton Lakes Golf and Recreation Club and surrounding housing, and the soon to be	Council notes the support for the proposed development.

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constructed Georges Cove Marina, DA 24/2017 represents the future for living in the great south west.	
Contamination The impact of contamination of the site the subject of the application has not been assessed in accordance with the requirement of SEPP 55 – remediation of land; and The impact of contamination of the part of the site the subject of the application on the proposed marina development on the southern part of the site has not been assessed.	See above comments as outlined in SEPP 55 – Remediation of Land. Based upon the Site Auditor's advice, it is believed that the Applicant submitted sufficient information for Council to address Clauses 7(1), 7(2), 7(3) and 7(4) of <i>State Environmental Planning Policy No. 55- Remediation of Land</i> .

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

Given the assessment undertaken, the proposed subdivision is considered to be in the public interest and therefore is recommended for approval subject to the satisfaction of the deferred commencement. In addition to the social and economic benefit of the proposed development, it is considered to be in the public interest.

7. Development Contributions

Contribution are not applicable to the subject application which seeks consent for the proposed subdivision.

8. Conclusion

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

- Conditions of consent will be imposed to minimise any potential detrimental environmental impacts resulting from the development.
- The proposed development is appropriate for the site and approval is in the public interest, subject to the satisfaction deferred commencement requirements.

9. Recommendation

That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act,

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ATTACHMENT 1 – PLANS OF THE PROPOSAL

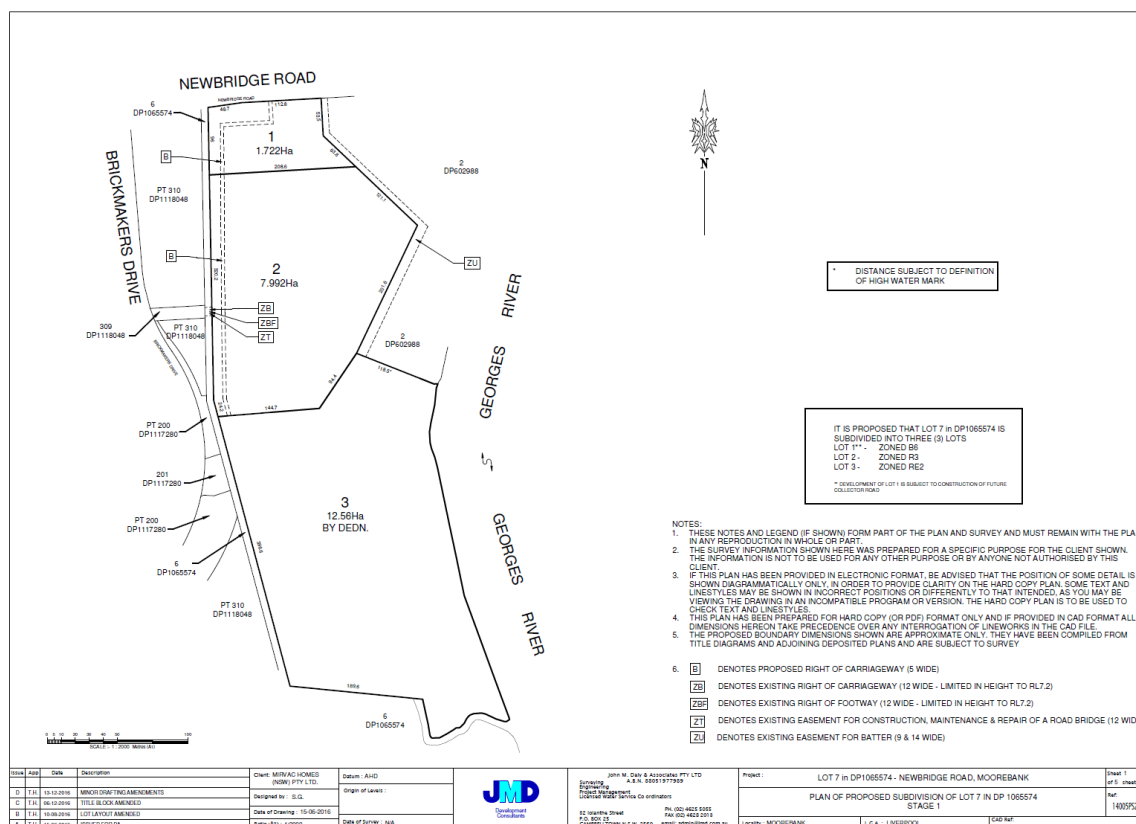


Figure 1: Stage 1 - Subdivision layout of 146 Newbridge Road, Moorebank

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ATTACHMENT 2 - CONDITIONS OF APPROVAL

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

PART 1

DEFERRED COMMENCEMENT

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

Flooding

1. It is to be demonstrated that the proposed pedestrian evacuation bridge is accessible by wheel chair for disable people at both ends of the access way. The applicant is required to design the pedestrian bridge to allow disabled access in accordance with the relevant Australian Standards. The detailed design of the pedestrian evacuation bridge shall be submitted for council's review and must obtain council's acceptance and approval.
2. Flood modelling shall be undertaken to demonstrate that the ground levels of the landing area of the pedestrian access across Brickmakers Drive on the public reserve is at or above the 1 in 2000 year ARI flood level. Surveyed plan from a registered surveyor shall be submitted to demonstrate that the minimum elevation of the landing area of the pedestrian evacuation route is at 7.0m AHD and from there rising ground to 10.4m AHD or PMF level and above is achieved.

Design

3. The design of the pedestrian evacuation bridge is to be endorsed by Liverpool City Councils. Evidence is to be provided that the design has been reviewed and endorsed by Liverpool City Council's Manager Development Assessment.
4. The design of the pedestrian evacuation bridge is to be certified by appropriately qualified structural engineer indicating that it is structurally safe and also able to adequately provide pedestrian evacuation during a flood event.
5. A design for the embellishment of Paine Park is to be prepared and endorsed by Liverpool City Council's. Evidence is to be provided that the design has been reviewed and endorsed by Liverpool City Council's Manager Development Assessment. The cost of the embellishment works are to be borne of the developer.

Owners Consent

6. Written owners consent is to be provided to the developer and submitted to Council for the construction of the pedestrian evacuation bridge and any associated works.

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Geotechnical Report

7. The submission of a final geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer, to the Certifying Authority prior to the issue of the Construction Certificate.

The report must cover, but not limited to the following:

- a) The developer be requested to review the ground improvement design given the concerns expressed above. In particular, addition of surcharge over the 3 m thick bridging layer should be considered.
- b) A program of settlement and differential settlement instrumentation be stipulated together with a minimum period of monitoring and review prior to removal of surcharge and building construction.
- c) Certain high risk zones (e.g. where the existing fill is thick and/or its thickness varies rapidly such as around borehole JK10 and JK14), house foundations may require piling.
- d) A review of piling requirements for house foundations may extend beyond that described above subject to review of the settlement and differential settlement monitoring results during the preload/surcharge period.
- e) Adopt non-building zones in deep fill areas (e.g. play grounds) or adopt piled foundations in medium rise development in such zones to provide potentially more economically acceptable solutions.

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

PART 2

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

A. THE DEVELOPMENT

Approved Plans

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

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Prepared by	Drawing No:	Title	Issue	Date
JMD Development Consultants	14005E30	Overall plan of Road No. 1 Extension into B6 Lot	D	16/09/2019
JMD Development Consultants	14005PS2	Stage 1 Plan of Proposed Torrens title subdivision of Lot 70 DP 1254895	D	16/09/2019
JMD Development Consultants	14005PS2	Stage 2 Plan of Proposed Community title subdivision of Lot 2 in DP (Unreg) & Creation of Easements in Lots 1 & 3 in DP (Unreg) – Overall Plan	L	02/12/2019
JMD Development Consultants	14005PS2	Stage 2 Plan of Proposed Community title subdivision of Lot 2 in DP (Unreg) & Creation of Easements in Lots 1 & 3 in DP (Unreg) – Plan 1 of 3	L	02/12/2019
JMD Development Consultants	14005PS2	Stage 2 Plan of Proposed Community title subdivision of Lot 2 in DP (Unreg) & Creation of Easements in Lots 1 & 3 in DP (Unreg) – Plan 2 of 3	L	02/12/2019
JMD Development Consultants	14005PS2	Stage 2 Plan of Proposed Community title subdivision of Lot 2 in DP (Unreg) & Creation of Easements in Lots 1 & 3 in DP (Unreg) – Plan 3 of 3	L	02/12/2019
JMD Development Consultants	14005E35	Swept Path Analysis	A	10/09/2019
JMD Development Consultants	14005E30	Road No. 1 (Collector Road) – Longitudinal Sections, Typical Sections & Pavement Details within the land zoned B6	C	16/09/2019
JMD Development Consultants	14005PS2	Plan of Proposed Subdivision of Lots 1, 2 & 3 in DP (Unreg) of	E	31/03/2017

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		Proposed Subdivision of Lot 70 in DP 1254895		
JMD Development Consultants	14005E3S	Pedestrian Pathway and Cycle plan	A	10/09/2019
JMD Development Consultants	14005E6	Overall Plan	E	19/05/2017
JMD Development Consultants	14005E6	Soil & Water Management Plan	G	19/02/2018
JMD Development Consultants	14005E6	Tree Removal Plan	E	13/12/2017
JMD Development Consultants	14005E6	Site Plan with bulk earthworks & capping thickness	E	13/12/2017
JMD Development Consultants	14005E6	Plan of Works – Sheet 1 of 3	H	19/02/2018
JMD Development Consultants	14005E6	Plan of Works – Sheet 2 of 3	G	19/02/2018
JMD Development Consultants	14005E6	Plan of Works – Sheet 3 of 3	F	13/12/2017
JMD Development Consultants	14005E6	Road No. 1 – Longitudinal Sections, Typical Section & Pavement Details	C	13/12/2017
JMD Development Consultants	14005E6	Road No. 2 – Longitudinal Sections, Typical Section & Pavement Details	E	19/05/2018
JMD Development Consultants	14005E6	Road No. 3 – Longitudinal Sections, Typical Section & Pavement Details	E	19/02/2018
JMD Development Consultants	14005E6	Road No. 4, 5, & 9 – Longitudinal Sections, Typical Section & Pavement Details	D	13/12/2017
JMD Development Consultants	14005E6	Road No. 7 – Longitudinal Sections, Typical Section & Pavement Details	H	19/02/2018
JMD Development Consultants	14005E6	Bridge General Arrangement Drawing	D	19/02/2018
JMD Development	14005E6	Road No. 11 & 12 – Longitudinal Sections,	B	07/11/2016

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Consultants		Typical Section & Pavement Details		
JMD Development Consultants	14005E6	Benching & Retaining wall plan	H	19/02/2018
JMD Development Consultants	14005E6	Profile Section of RW No. 100 (CH0.0 to CH150)	C	13/12/2017
JMD Development Consultants	14005E6	Profile Section of RW No. 100 (CH150.0 to CH300.0)	B	07/11/2016
JMD Development Consultants	14005E6	Profile Section of RW No. 100 (CH300.0 to CH450.0)	B	07/11/2016
JMD Development Consultants	14005E6	Profile Section of RW No. 100 (CH450.0 to CH570.0)	C	07/11/2016
JMD Development Consultants	14005E6	Longitudinal Section for Retaining Wall No. 502 (Ch 0 to Ch 154.369)	C	13/12/2017
JMD Development Consultants	14005E6	Longitudinal Sections for retaining wall No. 502 (Ch 154.369 to End) & Retaining Walls No. 503 & No. 504.	C	13/12/2017
JMD Development Consultants	14005E6	Raingarden No. 1 (Northern Raingarden)	B	07/11/2016
JMD Development Consultants	14005E6	Raingarden No. 2 (Southern Raingarden)	B	07/11/2016
JMD Development Consultants	14005E6	Traffic Facilities Plan	A	07/11/2016
JMD Development Consultants	14005E6	Link Road/Collector Road Intersection	D	15/02/2018
Green Tree Design	LS001	Street Tree Design	B	16/11/16

Reports/Documents

- Moorebank Cove Residential Development Construction Dust Impact Assessment (Ref: AS122065, Revision Final) prepared by Ramboll Environ dated 15th December 2016;
- Remediation Action Plan Proposed Georges Cove Marina (Report J14149RP1, Version V2) prepared by EMM Consulting dated 11 March 2016;

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- Fill Management Protocol Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.07, Document No. R.003.Rev1) prepared by Douglas Partners Pty Ltd dated 20th December 2016;
 - Sampling and Analysis Quality Plan, Validation Monitoring Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.004.Rev2) prepared by Douglas Partners Pty Ltd dated 15th May 2017;
 - Remediation Action Plan Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5) prepared by Douglas Partners Pty Ltd dated 15th December 2017;
 - Site Audit Statement 264B prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018;
 - Site Audit Report 264B by Dr Ian Swane Remediation Strategy for Proposed Residential Development with Community Title at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018;
 - Interim Advice for Statutory Site Audit 264 – 146 Newbridge Road, Moorebank Review of Douglas Partners (3 April 2019) Report on Buried Services Design (SA264_190403c_Interim Advice) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 3rd April 2019;
 - Review of Buried Services Design Drawings Proposed Residential Development 146 Newbridge Road, Moorebank (Project 71459.09, R.025.Rev1, JRR) prepared by Douglas Partners Pty Ltd dated 3rd April 2019;
 - Site Audit Statement No. 282 prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 27th April 2019;
 - Site Audit Report 282 by Dr Ian Swane Remediation Strategy for Proposed Georges Cove Marina Development at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision: Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 27th April 2019;
 - EPA Issue of General Terms of Approval for Staged Torrens Title Subdivision 146 Newbridge Road, Moorebank, NSW, 2170- DA-24/2017 (DOC19/593156) dated 12th July 2019; and
 - Moorebank Cove Residential Development- Stage 1 and 2 146 Newbridge Road, Moorebank, Noise and Vibration Impact Assessment (Report J16137RP#1, Version 4, Final) prepared by EMM Consulting dated 19th August 2019.
 - Landfill Closure Management Plan – Benedict Sands 146 Newbridge Road, Moorebank, prepared by Douglas Partners (project no: 71459.09) dated October 2019.
 - Traffic Assessment prepared by EMM, (report no: J15054RP1) dated 14 December 2016.

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- Due Diligence Aboriginal Heritage Assessment, prepared by Mary Dallas Consulting Archaeologists, dated 7th December 2016.
 - Amended Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd, (Assessment no: B162725-2) dated 19 December 2016.
 - Construction Dust Impact Assessment, prepared by Ramboll Environ, (reference no: AS122065) dated 15 December 2016.
 - Water Quality Assessment, prepared by JMD Development Consultants, (reference no: 14005) dated 20 November 2016.
 - Ecological Assessment, prepared by EMM, (report no: J16050ARP3), dated 14 December 2016.
 - Noise and Vibration Impact Assessment, prepared by EMM, (report no: J16137RP#1) dated 19 August 2019.

Stage Development

2. The development must be carried out over the proposed stages as follows:
 - a. Stage 1

Subdivision of the site area into three lots;

- b. Stage 2

Subdivision of Lot 2 to create 19 residue lots and include site remediation, bulk earthworks and construction of drainage and infrastructure and pedestrian bridge.

Works at no cost to Council

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

Legal Agreement

4. The pedestrian evacuation bridge is to be maintained in the care and control of the body corporate of the subject community title development. A legal agreement is to be entered into with the developer and the appropriate road authority for the maintenance and upkeep of the evacuation bridge in perpetuity to the satisfaction of Liverpool City Councils Manager Development Assessment.
5. Plans are to be submitted confirming that the road levels and minimum ground floor levels of all future dwellings are at or above 6.1m AHD and the finished road and floor levels shall continually rise from 6.1m AHD on the south eastern edge of the development to the west, reaching levels around 10m AHD in accordance with the flood report from Tooker and Associates dated 26th November 2019.

Excavation Works

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6. All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration. In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, is not permitted.

General Terms of Approval

7. All General Terms of Approval issued by Department of Primary Industry - Water, shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 6 June 2017. A copy of the General Terms of Approval are attached to this decision notice, see Attachment 1.
8. All General Terms of Approval issued by NSW Rural Fire Service, shall be complied with prior, during, and at the completion of subdivision, as required in accordance with the General Terms of Approval dated 15 December 2017. A copy of the General Terms of Approval are attached to this decision notice, see Attachment 2.

General Terms of Approval

9. All General Terms of Approval issued by NSW Environmental Protection Authority, shall be complied with prior, during, and at the completion of Subdivision and remediation, as required in accordance with the General Terms of Approval dated 12 July 2019. A copy of the General Terms of Approval are attached to this decision notice, see Attachment 3.

Endeavour Energy Comments

10. All comments provided by Endeavour Energy shall be complied with prior, and at the completion of construction. A copy of the Endeavour Energy comments are attached to this decision notice.

Sydney Water Comments

11. All comments provided by Sydney Water shall be complied with prior, and at the completion of construction. A copy of the Sydney Water comments are attached to this decision notice.

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

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

Voluntary Planning Agreement

12. The development shall be undertaken in accordance with any applicable terms and conditions of the Voluntary Planning Agreement applicable to this site executed by Tanlane PTY LTD and Liverpool City Council (Document No. 58 33 9164 AJS:JRT) or any subsequent amendments to the abovementioned Voluntary Planning Agreement.

Fee Payments

13. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid.

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Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

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

Flood Emergency Plan

14. A flood emergency response plan shall be developed and maintained in consultation with the SES for the entire site. The flood emergency response plan shall include a suitable flood warning system that has specific evacuation triggers and communication mechanisms for emergency evacuation of all areas, signage and exits to ensure the fail-safe evacuation of people during floods up to and including the Probable Maximum Flood. The flood emergency response plan shall be submitted and approved by Liverpool City Council Manager of DA prior to the issue of a construction certificate. The flood warning system shall include the following:
- a. Water level monitoring system at Georges River to monitor overtopping of river banks near the site.
 - b. Suitable arrangements to alert all occupants of the entire site.
 - c. Necessary arrangement for site evacuation before the site becomes fully isolated by floodwaters.

The flood warning system shall be put in operation prior to, during and after a flood to manage activities including evacuation arrangements for all occupants of the site.

Provision of Services

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

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

16. Written clearance from Endeavour Energy, stating that electrical services can be available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.

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17. Prior to the issue of the a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following of the Telecommunications Act 1997
- (a) For a fibre ready facility, the NBN Co's standard specifications current at the time of installation, and
 - (b) For a line that is to connect a lot to telecommunication infrastructure external to the premises, the line shall be located underground.

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

S138 Roads Act – Minor Works in the public road

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

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

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

Retaining Walls on Boundary

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

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

S138 Roads Act – Roadworks requiring approval of civil drawings.

20. Prior to the issue of the relevant Construction Certificate for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Liverpool City Council (being the Roads Authority under the Roads Act), for provision of road work treatment in Buchan Avenue and Soldier Parade Intersection.

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

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

Construction Certificate for Subdivision Works

21. Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by JMD Development Consultants, reference number 14005E6, revision E, dated 19.05.2017 (26 Sheets) and that all subdivision works have been designed in accordance with conditions of this consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

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

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

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

Road design criteria table

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

Road No.	Road Reserve Width	Carriageway Width	Verge	Footpath (1.5m wide)	ESA
1	20 & Varies	12 & 7	6.5 & 4 & varies	2.5	2 x 10 ⁶

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2	20 & Varies	7	6.5 & 4 & varies	2.5 & 1.5	3 x 10 ⁵
3	15.2	7.2	4	1.5	3 x 10 ⁵
4	15.2	7.2	4	1.5	3 x 10 ⁵
7	15.2	7.668	3	3 (full width)	2 x 10 ⁶
9	15.2	7.2	4	1.5	3 x 10 ⁵
11	7	6	0.5	0	3 x 10 ⁵
12	7	6	0.5	0	3 x 10 ⁵

Road Safety Audit

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

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

Stormwater Concept Plan

24. A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by JMD Development Consultants, reference number 14005E6, revision E, dated 19/05/2017 (26 Sheets).
- (a) The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.
 - (b) Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and shall accompany the application for a Construction Certificate. The plan shall indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finish surface levels and sizes of all pipes.
 - (c) Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

No Loading on Easements

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

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Water Quality

26. Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that details of a stormwater pre-treatment system have been provided on the stormwater plans and that the design meets pollutant retention criteria in accordance Council's Development Control Plan.

The Construction Certificate must be supported by:

- (a) Specification & installation details of the stormwater pre-treatment system;
- (b) The approval of an operation and maintenance manual/ schedule for the stormwater pre-treatment system

A copy of the approved operation and maintenance manual/ schedule shall be submitted to Liverpool City Council with notification of the Construction Certificate issue.

Inter-allotment Drainage

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

Additional Engineering Requirements

28. Additional pram ramps must be provided within the site at all proposed intersections. Details must be submitted and approved by Council prior to the issue of any Construction Certificate.

Traffic, Access, Car Parking and Manoeuvring

29. The proposed development shall have no adverse flooding impact in the vicinity as indicated in the flood impact assessment reports by Cardno (NSW/ACT) Pty Ltd (Ref: 59916196:BCP/bcp, Flood Impact Assessment Stage 2 DA for Moorebank Cove Site, Newbridge Road, Moorebank, dated: 15 July 2016 and Flood Impact Assessment for Retaining Wall Construction, Moorebank Cove Development, Newbridge Road, Moorebank, dated: 04 August 2016).
30. There shall be no net loss of floodplain storage volume below the 1% AEP flood.
31. The approximate volume of filling below the 1% AEP flood by the proposed development shall be no more than 16,800 cum.

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32. The flood compensatory excavation shall be undertaken as indicated in the NPC (National Project Consultants) letter report, dated: 10 May 2017. The cut and filling shall be carried out as indicated in drawings by JMD Pty Ltd (Ref: 14005E16; Moorebank Cove – Stage 2, Newbridge Road, Moorebank; Sheet 1 of 3 Sheets to Sheet 3 of 3 Sheets; Issue: C; dated: 09/05/2017).
 33. The existing drainage channel running on the north and then along the western boundary shall not be disturbed and shall be maintained at its natural state.
 34. The headwall of the existing box culvert across Newbridge Road and the drainage channel on the north of the site shall be maintained and the stormwater flow through the box culvert shall be managed as indicated in the drawing by JMD Pty Ltd (Ref: 14005E6; Moorebank Cove – Stage 2, Newbridge Road, Moorebank; Sheet 24 of 26 Sheets; Issue: B; dated: 07/11/2016).
 35. Detailed design of the proposed roundabout at Link Rd / Collector intersection, showing turning paths and demonstrating compliance with the relevant Road Design Standards is to be submitted to Council's Traffic and Transport Section for approval.
 36. Detailed design plans for the proposed access roads, intersection treatments, pedestrian/cycle facilities traffic calming facilities including traffic controls, swept path analysis, line markings and sign posting demonstrating compliance with the Council's DCP and AS2890 are to be submitted to Traffic and Transport Section and Local Traffic Committee consideration and Council's approval.
 37. Detailed designs of the interim with two lanes in each direction, and ultimate layout with traffic control signals at the Brickmakers Drive/Link Road intersection are to be submitted to Council's Traffic and Transport Section and the RMS for approval.
 38. Detailed design of the proposed traffic signals at Brickmakers Drive/Link Road intersection and associated TCS plan is to be submitted to Roads and Maritime Services (RMS) for approval.
 39. A security bond is to be lodged with Council for installation of traffic signals at Brickmakers Drive/Link Road intersection, if the RMS approval for the signals is not granted.
 40. Detailed design of temporary turning heads at all dead ends.
 41. Engage a Level AP3 Street Light Designer to nominate street lighting category in accordance AS 1158, and design the required street light to Council and Endeavor Energy requirements.

Traffic management plan

42. A traffic management plan is to be submitted to Liverpool City Council's Traffic & Transport Section for approval by Council's Traffic Committee. Works within the road reserve shall not commence until the traffic management plan has been approved.

The traffic management plan is to be prepared by an accredited designer and submitted to and stamp approved by Council via a standard Section 138 Roads Act Permit application available at Council's customer service counter. The stamped approved Roads Act Permit is to be obtained by the PCA. A copy of the stamped approved

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Roads Act Permit and traffic management plan is to be available on the works site for inspection at any time by an authorised Council officer.

Emergency Access

43. Emergency access road shall be designed to provide reliable access to the subdivision for vehicles and pedestrians during a Probable Maximum Flood (PMF) event. Engineering details of the emergency access road, including transitions to existing watercourse upstream and downstream of the works shall be provided with the detailed civil design. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.

Flood Warning Signs

44. The developer shall provide flood warning signs at each end of the proposed entry road (Road 1). This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

On-site Detention

45. On-site water quality treatment facilities shall be provided to ensure that stormwater runoffs leaving the site comply with Council's water quality standards. The treatment facilities shall capture all gross pollutants and liquid contaminants from the stormwater before discharging into the river. Water quality treatment works shall be designed using MUSIC modelling software and the water quality treatment system performance shall be verified using Council's MUSIC link. Detailed design and drawings of water quality treatment facilities including water quality modelling report and electronic copy of MUSIC model developed for the site shall be submitted for Council's review and approval.

Construction Environmental Management Plan (CEMP) (As amended)

46. Prior to issue of a construction certificate, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Principal Certifying Authority for approval. The environmental site management measures must remain in place and be maintained throughout the period of the development. The CEMP must address all environmental aspects of the development's construction phases, and include, where relevant, but not be limited to, the following:
- Asbestos Management Plan;
 - Project Contact Information;
 - Site Security Details;
 - Timing and Sequencing Information;
 - Site Soil and Water Management Plan;
 - Noise and Vibration Control Plan;
 - Dust Control Plan;
 - Air Monitoring;
 - Odour Control Plan;
 - Health and Safety Plan;
 - Waste Management Plan;
 - Incident Management Contingency;
 - Unexpected Finds Protocol; and

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- Landfill gas management during earthworks and construction.

The CEMP must be kept on site for the duration of the works and must be made available to Council Officers upon request.

Geotechnical Report – Construction Certificate

47. The submission of a final geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer, to the Certifying Authority prior to the issue of the Construction Certificate.

The report must cover, but not be limited to the following:

- a) Extent and stability of proposed embankments including those acting as retarding basins;
- b) Recommended Geotechnical testing requirements;
- c) Required level of geotechnical supervision for each part of the works as defined under AS3798-Guidelines on Earthworks for Commercial and Residential Developments;
- d) Compaction specification for all fill within private subdivisions;
- e) The level of risk to existing adjacent dwellings as a result of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent dwellings, high risk areas shall be identified on a plan and the engineering's plans shall be amended to indicate that no vibratory rollers shall be used within that zone;
- f) The impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation.
- g) The preferred treatment of any unstable areas within privately owned allotments; and
- h) Requirement for subsurface drainage lines.
- i) Overall suitability of the engineering plans for the proposed development; and
- j) No FRC pipes are located in areas subject to groundwater or potential for prolonged saturation.

Geotechnical Supervision

48. A Suitability Qualified Geotechnical Engineer must supervise all filling within the development.

Asset Management – Roads, Drainage and Landscaping

49. Prior to issue of the Construction Certificate the following documentation must be submitted to the Principal Certifying Authority (Council) for approval.
- a) The length, square metre and cost of constructed roadworks to be dedicated as public road;
 - b) An itemised list of the size, length and type of pipe, associated pits and water quality features in the proposed drainage system to be handed over to Council (not including common drainage lines or inter-allotment drainage);
 - c) Itemised list of street signs and street furniture including their current cost;
 - d) Itemised list of plantings in public areas. and
 - e) Maintenance schedule of landscape works and civil works and costs to Council associated with the ongoing maintenance of the work;

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No adverse Run-off Impacts on Adjoining Properties

50. The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Recommendations of Acoustic Report

51. The recommendations provided in the approved acoustic report shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the CC application.

C. PRIOR TO WORKS COMMENCING

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

Notification

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

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

Site Development Work

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

Site Notice Board

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

Facilities

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

Each toilet must:

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- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- (c) be a temporary chemical closet approved under the Local Government Act 1993.

Notification of Service Providers

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

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

Dial Before You Dig

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

Construction Traffic Management Plan

58. A Construction Traffic Management Plan (CTMP) prepared by a qualified traffic and transport practitioner detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to works commencing.

Traffic Control Plan

59. Prior to commencement of works a Traffic Control Plan including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Liverpool City Council.

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60. Approval under Section 138 of the Road Acts, for the road works and any associated road occupation permits are to be obtained from the Council Land Development, and Transport & Transport Sections.
61. The level 3 designer is to obtain Council's endorsement of the NOCC (Notice of changes in Charges) from Council and Endeavour Energy approval for the street lighting.

Dilapidation report

62. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Newbridge Road and Brickmakers Drive is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 20m either side of the development.

Matters to be addressed prior to commencement of Subdivision Works

63. Work on the subdivision shall not commence until:
- a Construction Certificate (if required) has been issued,
 - a Principal Certifying Authority has been appointed for the project, and
 - any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

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

Waste Classification and Disposal of Contaminated Soil and Material

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

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

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

Construction Noise

65. Prior to the commencement of any construction works, the Applicant must ensure that the following is available for the life of the Development:

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- (a) a postal address to which written complaints may be sent;
- (b) an email address to which electronic complaints may be transmitted; and
- (c) a telephone contact line to enable complaints associated with the Development to be registered by the community.

Sediment & Erosion Control

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

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

D. DURING CONSTRUCTION

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

Hours of Construction Work and Deliveries

67. Construction work/civil work/demolition work, including the delivery and export of materials from the site is only permitted on the site between the hours of 7.00 am to 8.00 pm Monday to Friday, 7.00 am to 5.00 pm Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

Security Fence

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

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

General Site Works

69. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
70. All approved road works and street lighting within the road reserve should be undertaken at no cost to Council.
71. Construct the approved road works and line marking scheme.

General Site Works - Sediment

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

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Erosion and sediment control

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

Street Lighting

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

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

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

75. Install Endeavour Energy approved Street Lighting.

Major Filling/ Earthworks

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

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

Soil testing – Subdivisions

77. Soil Testing is to be carried out to enable each lot to be classified according to AS2870 *"Residential Slabs and Footings"*.

Works within the road reserve

78. All works within the road reserve are to be at the applicant's cost and all signage is to be in accordance with the RMS Traffic Control at Worksites Manual and the RMS Delineation Guideline.

If a works zone is required, an application must be made to Council's Traffic and Transport Section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.

Notice must be given to Council's Traffic and Transport Section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.

Applications must be made to Council's Traffic and Transport Section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other

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relevant information.

Removal of dangerous and/or hazardous waste

79. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW. The removal of such material shall be carried out in accordance with the requirements of SafeWork NSW and the material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

Waste Management

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

Contamination

81. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).

Site Remediation Works (as amended)

82. The site must be remediated in accordance with:
- k) Remediation Action Plan Proposed Residential Development 146 Newbridge Road, Moorebank' (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5) prepared by Douglas Partners Pty Ltd dated 15th December 2017;
 - l) Site Audit Statement 264B prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018;
 - m) Site Audit Report 264B by Dr Ian Swane Remediation Strategy for Proposed Residential Development with Community Title at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018;
 - n) Remediation Action Plan Proposed Georges Cove Marina (Report J14149RP1, Version V2, Final) prepared by EMM Consulting dated 11th March 2016;
 - o) Site Audit Statement No. 282 prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 27th April 2019;
 - p) Site Audit Report 282 by Dr Ian Swane Remediation Strategy for Proposed Georges Cove Marina Development at 146 Newbridge Road, Moorebank NSW 2170 (Document No. 1, Revision: Final) prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 27th April 2019;
 - q) State Environmental Planning Policy No. 55 – Remediation of Land;

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- r) National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and
- s) The guidelines in force under the Contaminated Land Management Act 1997.

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

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

Imported Fill Material (as amended)

83. All imported fill material for the upper 1.6m cap shall comply with the Fill Management Protocol Proposed Residential Development 146 Newbridge Road, Moorebank (Project No. 71459.07, Document No. R.003.Rev1) prepared by Douglas Partners Pty Ltd dated 20th December 2016 and shall satisfy the following criteria:
- All imported soil/rock materials must be geotechnically suitable as determined by a geotechnical engineer;
 - All imported soil/rock materials must be VENM under the NSW EPA (2014) Waste Classification Guidelines and the Protection of the Environment Operations (POEO) Act 1997;
 - No Excavated Natural Material (ENM) or other exempted waste material is to be accepted onto the site; and
 - No Acid Sulphate Soil / Potential Acid Sulphate Soil is to be accepted onto the site.

Certificates proving that the imported material is VENM must be provided to the Principal Certifying Authority and Site Auditor prior to filling. Certificates are to be provided to Council Officers if and when requested.

Fill imported onto the site must be compatible with the existing soil characteristic for site drainage purposes.

No non-VENM waste material shall be imported to the site under an Environmental Protection Licence (EPL) granted for the site without the prior written approval of the Site Auditor.

Record Keeping of Imported Fill

84. Records of the following accepted waste derived fill material must be submitted to the Principal Certifying Authority at the completion of earth works:
- a. the course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
 - b. the course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration; and
 - c. The results of any chemical testing undertaken on fill material.

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Unidentified Contamination

85. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be immediately notified to Council and the Principal Certifying Authority in writing.

A Section 4.55 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

Stockpile Management Plan

86. All works shall Comply with recommendations stipulated in the Stockpiled Material Management Plan prepared by JBS&G (Report Reference: 54499/117394 Rev 0, dated 31 August 2018).

Should any contamination be identified, remediation works are to be undertaken in compliance with:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and
- The guidelines in force under the Contaminated Land Management Act 1997.

Air Quality – Dust Screens

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

Air Quality – Stabilisation

88. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the Principal Certifying Authority may direct that such work is not to proceed.

Air Quality – Vehicle Movement

89. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.

Pollution Control – Site Operations

90. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to water pollution.

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Pollution Control – Truck Movements

91. The loading and unloading of all vehicles associated with the development must be undertaken within the property boundary of the premises subject to this consent.

Measures must be implemented to prevent tracking of sediment by vehicles onto roads.

Vehicle loads must be covered when entering and exiting the site with material.

Stockpiles

92. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

Asbestos Removal

93. Asbestos and asbestos containing material shall be removed by a licenced asbestos removalists and all work must be in accordance with the requirements of the Worksafe NSW. Asbestos and asbestos containing materials shall be disposed of in accordance with requirements of NSW Environmental Protection Authority. All waste receipts for the disposal shall be retained and made available to Council upon request.

Aboriginal Relics/ Artefacts

94. If any Aboriginal relics/artefacts are uncovered during the course of any construction works including demolition, work is to cease immediately. Government agencies shall be contacted and no further work shall be undertaken until relevant assessments/approvals/ salvage excavation has been undertaken and permission is given by the relevant authorities to re commence works.

Vegetation

95. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.
96. Any works or activities shall adhere to the recommendations outlined in the approved Flora and Fauna Report prepared for the site.
97. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
98. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.

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Erosion Control - Measures

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

Erosion Control - Maintenance

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

Environmental Protection Licence

101. The treatment of contaminated soils at the site triggers NSW Environment Protection Authority (EPA) licensing requirements under category 15 in Schedule 1 of the *Protection of the Environment Operations Act 1997*. Site remediation shall be undertaken in accordance with the Environment Protection Licence issued by the NSW Environment Protection Authority for the schedule activity.
102. Conditions imposed by the Site Audit Statement 264B prepared by Dr Ian Swane, Ian Swane & Associates Pty Ltd dated 23rd January 2018 shall be complied with at all times.
103. Conditions imposed by the Site Audit Statement No. 282 prepared by Dr Ian Swain, Ian Swane & Associates Pty Ltd dated 27th April 2019 shall be complied with at all times.

Recommendations of Acoustic Report

104. All recommendations within the approved acoustic report shall be implemented and complied with at all times.

Waste Management

105. Waste and recyclable material shall be managed in a satisfactory manner that does not give rise to offensive odour or encourage pest activity. All waste material shall be regularly removed from the premises. Waste shall not be permitted to accumulate near the waste storage bins.
106. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties.
107. Construction and demolition works shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
108. A permanent record of receipts for the removal of both liquid and solid waste from the site shall be kept and maintained up to date at all times. Such record shall be made available to the Consent Authority and Liverpool City Council's Officers upon request.
109. Construction noise shall not exceed the management levels defined within the Interim Construction Noise Guideline published by the NSW Department of Environment and Climate Change dated July 2009;

110. A Complaints Handling Register shall be maintained for the duration of construction works at the subject premises. The Complaints Register is to be kept by the Site Manager or other suitable staff members and include the following:

- (a) the date and time, where relevant, of the complaint;
- (b) the means by which the complaint was made (telephone, mail or email);
- (c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
- (d) the nature of the complaint;
- (e) any action(s) taken in response to the complaint, including any follow-up contact with the complainant;
- (f) if no action was taken in relation to the complaint, the reason(s) why no action was taken; and
- (g) allocate an individual "complaint number" to each complaint received.

The Complaints Register must be made available for inspection when requested by Liverpool City Council.

Car Parking Areas

111. Car parking spaces and driveways must be constructed of a minimum of two coat finish seal or better. The spaces must be clear of obstructions and columns, permanently line marked and provided with adequate manoeuvring facilities. The design of these spaces must comply with Council's *DCP 2008*, and *Australian Standard 2890.1 Parking Facilities – Off Street Car Parking*.

All car parking areas to be appropriately line marked and sign posted in accordance with the approved plans. All customer/visitor/staff parking areas are to be clearly signposted limiting car parking for customers/visitors/staff only. The applicant is to cover the costs of installation and maintenance of the signage.

The on-site parking spaces shown in the approved plans must be identified in accordance with A.S.2890.1 *Parking Facilities – Off-Street Car Parking*.

Traffic Management

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

113. If a Works Zone is required, an application is to be made to Council's Traffic & Transport Section for approval. The application form can be found at

114. Applications must be made to Council's Traffic & Transport Section for temporary road closures. Applications prepared by a suitably qualified person, are to specify the date and times of proposed closures, traffic control plans, insurances and any other relevant information. This activity may require a seven (7) days advance notice to be installed near the site and/or advertisement in local newspapers and websites to Council's satisfaction.

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E. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Subdivision Certificate for the Community Title Subdivisions for the residential lots by Council:

Completion of subdivision works

115. Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Liverpool City Council for any outstanding works.
116. All roadworks, line markings and signposting, street light and landscaping are to be completed to Liverpool Council requirements, at no expense to Liverpool Council or Roads and Maritime Services.

Waste Collection Trial

117. A trial of a standard waste collection vehicle (up to 10m in length) travelling within the precinct is to be conducted prior to the release of a Subdivision Certificate. Any improvements required as a result of the trial is to be provided at the developer's cost prior to the release of Subdivision Certificate.

Section 73 Certificate

118. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Liverpool City Council clearance – Roads Act/ Local Government Act

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

Flood Engineering

120. Overland flows from adjoining areas running through the site shall be managed and the proposed developments shall not have any adverse impact on the adjoining properties.
121. On-site water quality management measures shall be undertaken to ensure that stormwater runoffs leaving the site comply with Council's water quality standards.

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122. Survey plan by a registered surveyor showing finished surface levels at fill areas along with necessary volume calculations shall be submitted to Council. Survey certificate and the calculation shall confirm that the volume of filling below the 1% AEP flood is no more than 16,800 cum.

Stormwater Compliance

123. Prior to the issue of a Subdivision Certificate the Principal Certifying Authority shall ensure that stormwater pre-treatment system/s, overland flow path works, and flood control works:
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

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

Restriction as to User and Positive Covenant

124. Prior to the issue of a Subdivision Certificate a restriction as to user and positive covenant relating to the On-site detention system/s and Stormwater pre-treatment system/s works shall be registered on the title of the property that forms part of this application.

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

125. Prior to the issue of an Occupation Certificate of the 1st dwelling on any residue lot approval under subject DA or any Occupation Certificate for a dwelling on a subsequent lot resultant from this approval, the pedestrian bridge is to be constructed, certified and operational.

Rectification of Damage

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

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

Linemarking & Signage

127. Prior to the issue of a Subdivision Certificate and installation of regulatory/advisory linemarking and signage, plans are to be lodged with Liverpool City Council and approved by the Local Traffic Committee.

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Note: Allow eight (8) weeks for approval by the Local Traffic Committee.

Street Naming

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

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

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

Subdivision Compliance documentation

129. Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority: Nominate

- a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Design Guidelines. Electronic copies of the WAE shall be provided in PDF format and a DXF format to Council along with two hard copies of the WAE plans;
- b) The WAE drawings shall clearly indicate the 1% Annual Exceedence Probability flood lines (local and mainstream flooding);
- c) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges;
- d) CCTV footage in DVD format to Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Inspections are to be carried out in accordance with the Conduit Inspection Reporting Code of Australia WSA 05-2006. Any damage that is identified is to be rectified in consultation with Liverpool City Council;
- e) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries;
- f) Documentation for all road pavement materials used demonstrating compliance with Council Design Guidelines and Construction Specification;
- g) Structural Engineer's construction certificate of all structures; and
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Council's Design Guidelines and Construction specifications. The report shall include:

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- i. Compaction reports for road pavement construction;
- ii. Compaction reports for bulk earthworks and lot regrading;
- iii. Soil classification for all residential lots; and
- iv. Statement of Compliance.

Linen Plans & 88B

130. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument (where proposed).
131. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release
132. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Councils standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.
133. Where common drainage lines or other drainage lines are required, a drainage easement shall be created in accordance with Council's minimum widths as scheduled in Council's Design Specification for Subdivisions (as amended).
134. Correct notation concerning easements is required. The prepared 88B Instrument should be forwarded initially to Council. The land value of the easement and costs associated with checking the instrument are to be borne by the applicant. Part 2 of the 88B Instrument shall contain a provision that the easement may not be extinguished or altered without the written consent of Council.
135. All residences shall be two story buildings and minimum floor levels of second story floor level shall be above the probable maximum flood (PMF) level of 10.4m AHD.

Site Contamination Validation Report (as amended)

136. After completion of the remedial works, a copy of the Validation Report shall be submitted to Liverpool City Council, Principal Certifying Authority and Appropriate Regulatory Authority. This Report shall be prepared in compliance with the Guidelines for Consultants Reporting on Contaminated Sites (OEH, 2011), and must:
 1. describe and document all works performed,
 2. include results of validation testing and monitoring,
 3. include validation results of any fill imported on to the site,
 4. outline how all agreed clean-up criteria and relevant regulations have been complied with, and
 5. include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

All work required by the Environment Protection Licence issued by the NSW

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Environment Protection Authority shall be completed and documented in the site validation report prepared by the Environmental Consultant to enable the Site Auditor to independently check whether compliance was achieved and/or to assess the significance of any non-compliance.

Service Providers

137. The following documentation is to be provided prior to the release of the subdivision certificate:
- a. Written evidence of suitable arrangements with Sydney Water (Section 73 Compliance Certificate) for the supply of water and sewerage services to the development is to be submitted to the PCA prior to the issue of a Subdivision Certificate. Council will not issue a Subdivision Certificate unless the method of sewerage disposal is by gravity reticulation mains to either Sydney Water branch and trunk sewers or Sydney Water point of treatment. Council will not accept any temporary facilities to service the site, including pump-out wet-wells.
 - b. Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.
 - c. Written certification from the relevant service providers that the telecommunications infrastructure is installed in accordance with:
 - i. The requirements of the Telecommunications Act 1997;
 - ii. For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - iii. For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

Footpath

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

Dilapidation Report

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

Bond for final wearing course

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

The final layer of asphalt on all roads shall not to be placed without the written consent

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of Council (Consent will generally be provided when 80% of the housing within the subdivision has been completed).

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

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

Maintenance Bond

141. Prior to the issue of a Subdivision Certificate a maintenance bond is to be lodged with Liverpool City Council for Road and Drainage. The value of the bond shall be determined in accordance with Liverpool City Council's Bond Policy. The bond will be administered in accordance with this policy.

Bonds

142. A maintenance bond in the form of a bank Guarantee or cash bond (\$TBA), shall be lodged with Council prior to the issue of a Subdivision Certificate. The bond shall cover maintenance and any damage to roads, drainage lines, public reserves or other council property or works required as a result of work not in accordance with Council's standards, and /or development consent conditions. The bond will be held by Council for a minimum period of 12 months from the date of Council acceptance of final works.

Additional Engineering comments

143. The proposed road and pedestrian evacuation bridge access to the site from Brickmakers Drive must be completed to the satisfaction of the Council.

Site Audit Statement and Site Audit Report

144. After construction of the cap and completion of the remedial works and site validation for Stage 1 and 2 works, a Section B5 Site Audit Statement and Site Audit Report shall be prepared by a NSW EPA accredited Site Auditor in accordance with the Contaminated Land Management Act 1997 and approved Guidelines made thereunder including the 'Guidelines for the NSW Site Auditor Scheme (3rd Edition) published by the NSW Environment Protection Authority dated October 2017.

The Site Audit Statement and Site Audit Report shall be submitted to Liverpool City Council, Principal Certifying Authority and Appropriate Regulatory Authority for review. The Site Audit Statement and Site Audit Report must verify compliance with the approved 'Remediation Action Plan Proposed Residential Development 146 Newbridge Road, Moorebank' (Project No. 71459.06, Document No. R.001.Rev 5, Revision 5) prepared by Douglas Partners Pty Ltd dated 15th December 2017 and 'Remediation Action Plan Proposed Georges Cove Marina' (Report J14149RP1, Version V2, Final) prepared by EMM Consulting dated 11th March 2016 and the final Landfill Closure Management Plan as agreed by the EPA.

The Site Audit Statement and Site Audit Report must also confirm the suitability of the remedial action and validation methods. The Site Audit Statement and Site Audit Report must determine if the land can be made suitable for a particular use (or uses) if the site is remediated or managed in accordance with a specified plan. Conditions on the Site

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Audit Statement shall form part of the consent. Compliance with the design objectives for assets such as roads and verges shall be demonstrated by the Site Audit Statement after their construction as part of the site earthworks program.

145. Together with the registration of the approved plan of subdivision, the Applicant shall create a covenant registered over each lot which establishes the Long-Term Environmental Management Plan on the title to land under Section 88B of the Conveyancing Act 1919. The restriction shall be transferred to any future lot in the event that the lots are further subdivided. The Long-Term Environmental Management Plan shall also be enforced in perpetuity by the operation of a by-law included in Part 5 of the community management statement that:
- a) Attaches the Long-Term Environmental Management Plan;
 - b) Requires the community association and each owner and occupier in the community scheme to comply with the Long-Term Environmental Management Plan;
 - c) Requires the consent of Council to an amendment of the by-law; and
 - d) Includes any other conditions required by Council (Long-Term Environmental Management Plan by-law).
146. Details of the wording of the accompanying 88B instrument must be submitted to and approved by Liverpool City Council prior to registration of the covenant with the Land and Property Information Service. The restriction shall specify that the extraction of groundwater is prohibited and development consent is required from Liverpool City Council for any future excavations deeper than 2.5 metres below ground level (bgl).
147. A community management statement must be approved by the Consent Authority and must not be inconsistent with any development approval.
148. All costs associated with the creation of the covenant and community management statement shall be borne by the Applicant.
149. Evidence of the creation and registration of the covenant with the Land and Property Information Service (in the form approved by Council) must be provided to Liverpool City Council to satisfy this condition.

Long-Term Environmental Management Plan

150. A Long-Term Environmental Management Plan (LTEMP) shall be prepared by a suitably qualified environmental consultant and provide a site-specific framework for managing and mitigating contamination for the life of the proposal. The LTEMP shall make provisions for auditing the effectiveness of the proposed environmental protection measures and procedures for the management and maintenance of the cap and landfill gas mitigation systems. Procedures for scenarios where the capping or landfill gas mitigation systems need to be penetrated and reinstated must also be included in the LTEMP.

The LTEMP shall require periodic inspection by an environmental / geotechnical consultant to confirm that the overall integrity of the cap has not been compromised and that the capping system and gas mitigation systems remain functional and comply with the requirements of the LTEMP.

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The Community Association on behalf of individual house owners of the Community Title scheme shall be responsible for the implementation of the LTEMP. Council is not responsible for the overall administration of the Plan or its implementation. The LTEMP shall be submitted to Liverpool City Council with any future Development Application for residential development which will be subject to separate Approval.

Flood Affection Certificate

151. The submission of a report from a suitably qualified and experienced civil (hydrology) engineer to the Principal Certifying Authority is required, prior to the issue of the Subdivision Certificate. This report is required to certify that the 'as-constructed' subdivision and associated works will not have any detrimental effects to adjoining properties or upon the subject land with respect to the loss of flood storage, changes in flood levels and alteration of flood conveyance, as a result of flooding or stormwater run-off.

Evacuation Management

152. The development excluding roads to be dedicated to LCC shall be under the Community Title and shall impose a management structure responsible for the safety and wellbeing of the occupants of the area and shall be used to manage the flood evacuation procedure. Evidence that the appropriate management structures to manage flood evacuation procedures are in place and endorsed by Liverpool City Council Manager Development Assessment prior to the issue of a Subdivision Certificate.

Final Geotechnical Report – Subdivision Certificate

153. The submission of a final geotechnical report by a suitably qualified and experienced geotechnical consultant to the Principal Certifying Authority, prior to the issue of the Subdivision Certificate. The report shall include, but is not necessarily limited to:
- a. All earthwork operations;
 - b. The suitability of each allotment for residential development. In this regard each lot shall be given a classification in accordance with AS2870.1 - Residential Slabs and Footings;
 - c. A fill plan showing extent and depth of fill;
 - d. Certification that all earthworks within the site have complied with the Subdivision Code. This shall include appropriate test results, and test location diagram and date of testing;
 - e. Certification that all recommendations contained in geotechnical reports lodged in support of this development have been satisfied;
 - f. The exact extent of any restricted building zones or any other restrictions affecting any of the allotments. Particular attention shall be paid to the location of subsurface drainage lines, which shall be burdened with a restriction-as-to-user within the Section 88B Instrument;
 - g. Identification of all land affected by landslide or instability constraints (if applicable); and
 - h. No FRC pipes are located in areas subject to groundwater or potential for prolonged saturation.

Certification – Geotechnical

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154. A suitably qualified geotechnical engineer must supervise all filling activity. The geotechnical engineer shall provide written certification that the completed landfilling or land re-shaping works are in compliance with the approved plans and specifications. The certification shall include appropriate test results, a test location diagram and date of testing.

Public Reserve Embellishment Works of Paine Park

155. Prior to the issue of a subdivision certificate all embellishment works endorsed under this determination is to be completed.

F. GENERAL CONDITIONS

The following conditions generally relate to the development:

Waste

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

Environment

157. Activities undertaken at the premises shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.

Lighting

158. Illumination of the site is to be arranged in accordance with the requirements and specifications of Australian Standard 4282:1997 so as not to impact upon the amenity of the occupants of adjoining and nearby premises.
159. The approved Long-Term Environmental Management Plan (LTEMP) shall be complied with at all times.
160. The subdivision of the residual residential lots and construction of residential development including but not limited to the design, completion and testing of building-specific gas mitigation systems is not approved as part of this development consent. As the site is to be developed progressively, discrete site audits will be required in relation to each stage of the proposed development. In future, the Applicant will be required to engage a NSW EPA accredited Site Auditor to issue Interim Advice, Site Audit Statements and Site Audit Reports for purposes specified in the Contaminated Land Management Act 1997.

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G. ADVISORY

- a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 82A of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 12 months after the date on which the application is taken to have been determined.
- b) If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which the application is taken to have been determined.
- c) In accordance with Section 95 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 two (2) years of the date of this notice.
- d) “DIAL BEFORE YOU DIG” DIAL 1100
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 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.
- e) 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.

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

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- h) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the 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.

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ATTACHMENT 3 – SYDNEY WATER REQUIREMENTS



5 May 2017

Our Ref: 162271

Marcus Jennejohn
Senior Development Planner
Liverpool City Council
Locked Bag 7064
Liverpool BC NSW 1871

RE: DA-24/2017 – 146 Newbridge Road, Moorebank

Dear Marcus,

Thank you for notifying Sydney Water of the development application listed above. We have reviewed the application and provide the following comments for your consideration.

Water

- To service the subdivision a watermain extension will be required from the existing DN300 main in Newbridge Road.
- A link Brickmakers Drive could be provided as a contingency supply to the subdivision. This would need to be DV'd under normal system operation, close to the Brickmakers Drive connection.
- The existing watermains in Brickmakers Drive and Newbridge Road are fed from two different supply zones.
- Amplification of approximately 580m of the existing 100mm main located in Newbridge Road will be required to provide water to this development (see picture below). The new size is to be 300mm. This amplification combined with further amplifications will cater for this and other growth in the western part of the Milperra reservoir zone. Without the amplification/s, areas within Chipping Norton will experience poor pressure.
- The accredited WSC/Designer will need to ensure that the submitted design is sized and configured according to the Water Supply Code of Australia WSA 03-2011-3.1 (Sydney Water Edition - 2012). Evidence of Code compliance should be attached with the design.

Wastewater

- The subdivision will require extensions off the 375mm wastewater main adjacent to Newbridge Rd.
- The proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

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Sydney Water E-Planning

Sydney Water has an email address for planning authorities to submit statutory or strategic planning documents for review. This email address is urbangrowth@sydneywater.com.au.

Further advice and requirements for this proposal are at attachment 1 (overleaf). If you require any further information, please contact Manwella Hawell of Growth Planning and Development on 02 8849 4354 or e-mail manwella.hawell@sydneywater.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Paul Mulley".

Paul Mulley
Manager, Growth Planning & Development

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Attachment 1

Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Building Plan Approval

The developer must have the building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).

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ATTACHMENT 4 – ENDEAVOUR ENERGY REQUIREMENTS

I refer to Council's letter of 16 February 2017 regarding Development Application DA-24/2017 at 146 NEWBRIDGE ROAD, MOOREBANK NSW 2170 (LOT 7 DP 1065574) for 'Staged Torrens title subdivision consisting of: Stage one - subdivision of one lot into three lots Stage two - subdivision of two lots into twenty one lots, bulk earthworks, site remediation, supporting infrastructure and construction of roads'. Submissions needed to be made to Council by 9 March 2017 From Council's 'ePlanning' portal I note the application is 'Status: Application Under Assessment'. I apologise for the late submission but trust that Endeavour Energy's recommendations and comments will still be considered.

As shown in the below site plan from Endeavour Energy's G/Net master facility model:

- There are no easements over the site benefitting Endeavour Energy (indicated by red hatching).
- Low voltage overhead power lines to the road verge / roadway.
- Low voltage and 11,000 volt / 11 kV and 33,000 volt / 33 kV high voltage overhead power lines on the opposite side of the road.

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. Generally (depending on the scale and/or features selected), low voltage is indicated by blue dashed lines and high voltage by red dashed lines. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the Electricity Supply Act 1995 (NSW).

The following site plan from Endeavour Energy's G/Net master facility model shows there are 'Work Polygons' (shown by the coloured highlighting and/or hatching of the lot) over the site indicating enquiries and applications for proposed contestable works projects with Endeavour Energy's Network Connections Branch for electricity supply to the development for urban subdivision. As such, Endeavour Energy's Network Connections Branch are managing the conditions of supply to the Rouse Hill Town Centre with the proponent and their authorised service provider (ASP). However the applicant will need to contact Endeavour Energy's Network Connections Branch via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm if this development application:

- Includes any contestable works projects that are outside of the existing approved / certified works.
- Results in an electricity load that is outside of the existing Supply / Connection Offer requiring the incorporation of the additional load for consideration. This is due to load being based on a desktop assessment using an After Diversity Maximum Demand (AMMD) where demand is aggregated over a large number of customers providing an ADMD for the site / per lot. Depending on the actual development proposed for the site, the ADMD provided may not be sufficient.

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Subject to the foregoing, Endeavour Energy has no objections to the Development Application. Its further recommendations and comments are as follows:

- Vegetation Management

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The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Only low growing shrubs not exceeding 3.0 metres in full grown height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant. Landscaping that interferes with electricity infrastructure may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

- Dial before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the *Dial before You Dig* 1100 service in accordance with the requirements of the Electricity Supply Act 1995 (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Public Safety

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynsw/safety/safety+brochures>

- Emergency Contact

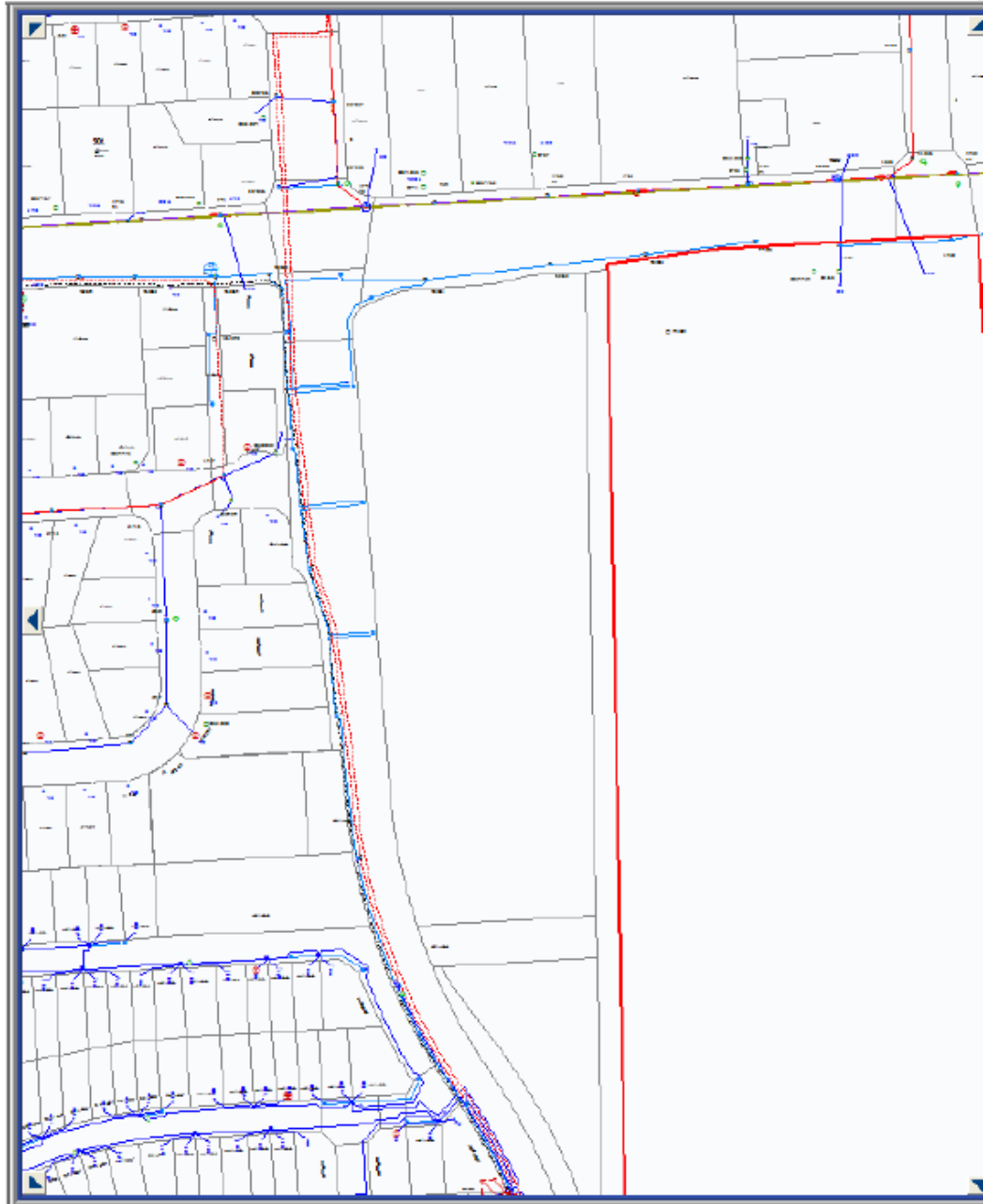
In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note Emergencies Telephone is 131 003 which can be contact 24 hours/7 days.

Could you please pass on the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. As I am working on different projects across the company's franchise area, to ensure a response contact by email is preferred.

Yours faithfully
Cornelis Duba
Development Application Review
Network Environment & Assessment
T: 9853 7896
E: cornelis.duba@endeavourenergy.com.au
51 Huntingwood Drive, Huntingwood NSW 2148
www.endeavourenergy.com.au

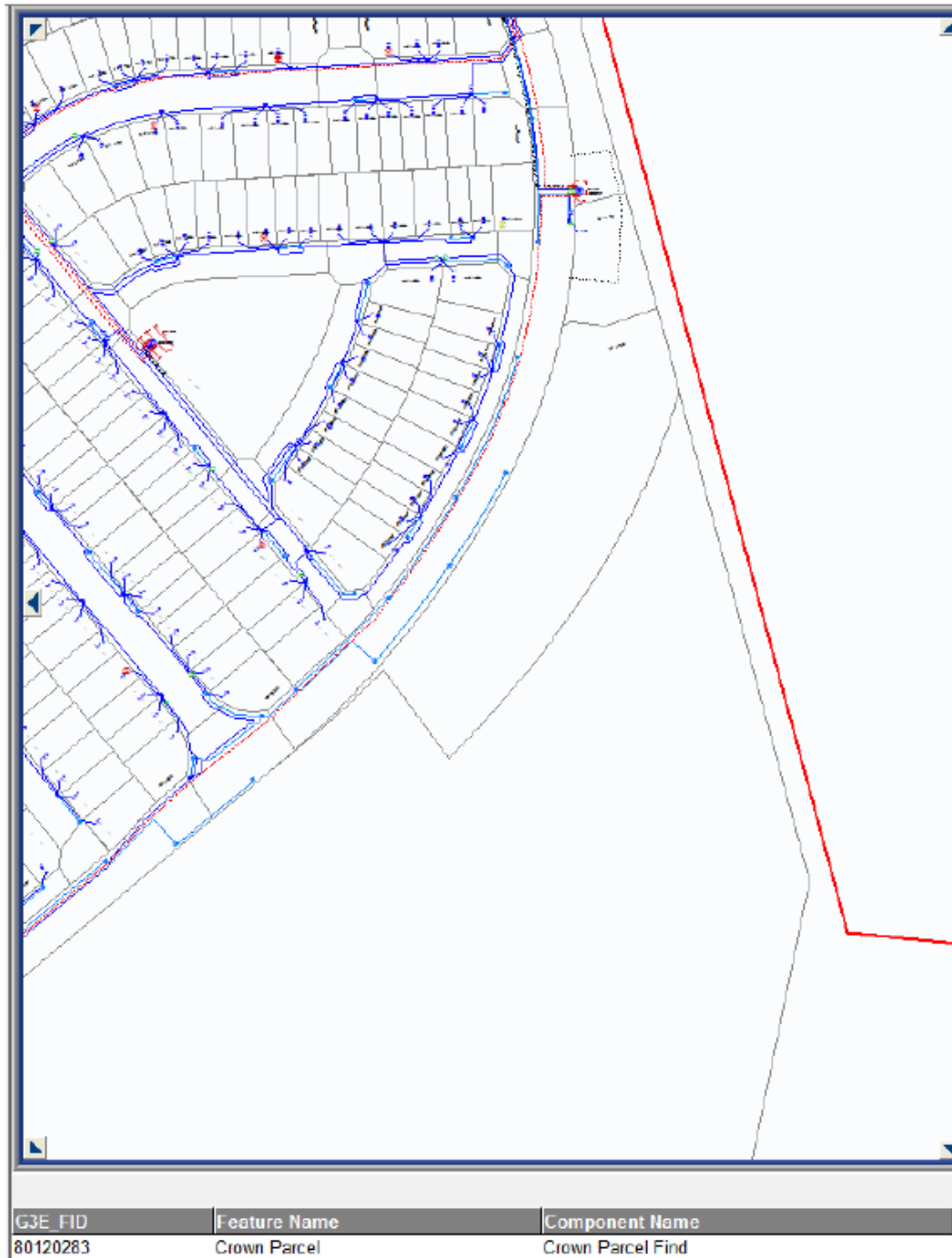
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ATTACHMENT 5 – NSW RURAL FIRE SERVICE

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: pes@rfs.nsw.gov.au

Facsimile: 8741 5433



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

Your Ref: DA-24/2017
Our Ref: D17/539
DA17022206149 MA

ATTENTION: Marcus Jennejohn

15 December 2017

Dear Sir/Madam

Integrated Development for 7//1065574 146 Newbridge Road Moorebank NSW 2170

I refer to your letter dated 16 February 2017 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

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2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

- Public road access shall comply with the performance criteria as outlined within section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.
- The proposed pedestrian access from the temporary turning head at the end of Road No. 1 to Newbridge Road shall be a secondary access for fire fighting resources until such time the link road connection to Davy Robinson Drive is completed.

General Advice – consent authority to note

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' may be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

This bush fire safety authority is issued on the basis of further information supplied to the NSW RFS in response to our correspondence dated 29/6/2017.

For any queries regarding this correspondence please contact Matthew Apps on 1300 NSW RFS.

Yours sincerely



Nika Fomin
Manager, Planning and Environment Services (East)

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

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ATTACHMENT 6 – NSW NATURAL RESOURCE ACCESS REGULATOR



**Department of
Primary Industries
Water**

Contact: Mohammed Ismail
Phone: 02 8838 7535
Fax: 02 8895 7501
Email: mohammed.ismail@dpi.nsw.gov.au
Our ref: 10 ERM2017/0179
Our file: 9055009
Your ref: DA2017/24

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

Attention: Marcus Jennejohn

6 June 2017

Dear Sir

Re: Integrated Development Referral – General Terms of Approval

Dev Ref: DA2017/24

**Description of proposed activity: Stage one subdivision of one lot into three lots
stage two subdivision of two lots into twenty one lots bulk earthwork**

Site location: 148 Newbridge Road Moorebank

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

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

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

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

www.water.nsw.gov.au

Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 | Locked Bag 5123, Parramatta NSW 2124 | water.enquiries@dpi.nsw.gov.au

Template Ref: CAA04, Version 1.2 – July 2015

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

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

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

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

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

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

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

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

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

Yours Sincerely



Mohammed Ismail
Water Regulation Officer
Water Regulatory Operations, WR Operations - Hunter, Sydney & South Coast
NSW Department of Primary Industries – DPI Water

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General Terms of Approval
for work requiring a controlled activity approval
under s91 of the *Water Management Act 2000*

Number	Condition	File No: 9055009
Site Address:	148 Newbridge Road Moorebank	
DA Number:	DA2017/24	
LGA:	Liverpool City Council	
Plans, standards and guidelines		
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2017/24 and provided by Council.</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified DPI Water (formerly the NSW Office of Water) must be notified to determine if any variations to these GTA will be required.</p>	
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>	
3	<p>The consent holder must</p> <ul style="list-style-type: none">(i) carry out any controlled activity in accordance with approved plans and(ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.	
4	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.</p>	
5	<p>The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.</p>	
6	<p>The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.</p>	
END OF CONDITIONS		

www.water.nsw.gov.au

Macquarie Tower, 10 Valentine Avenue, Parramatta NSW 2150 | Locked Bag 5123, Parramatta NSW 2124 | water.enquiries@dpi.nsw.gov.au
Template Ref: CAA04 Version 1.1 – June 2015

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ATTACHMENT 7 – NSW ENVIRONMENT PROTECTION AUTHORITY



DOC19/593156
Sender's ref

Ms Kiersten Fishburn
Chief Executive Officer
Liverpool City Council
Liverpool NSW 2170

Attention: Mr Rodger Roppolo

Dear Ms Fishburn

**EPA Issue of General Terms of Approval for Staged torrens title subdivision
146 Newbridge Road, Moorebank, NSW, 2170 - DA-24/2017**

I refer to the development application DA-24/2017 and supporting information received by the NSW Environment Protection Authority (EPA) on 6 March 2017. Mirvac Homes (NSW) Pty Ltd (the proponent) propose to treat contaminated soil at Lot 7 DP 1065574, 146 Newbridge Road, Moorebank for the eventual redevelopment of the site for residential use. The treatment of contaminated soils at the site triggers EPA licensing requirements under category 15 in Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act).

On 4 May 2018 the EPA issued Notice No. 1560508 refusing to issue general terms of approval under section 4.47 of the *Environmental Planning and Assessment Act 1979* the application.

The EPA notes that since 4 May 2018 Liverpool City Council has not determined DA-24/2017.

Following the EPA's decision on 4 May 2018 the EPA has received further information from the proponent. The EPA has since determined that it can remake its decision pending the submission and assessment of additional information from the proponent.

The additional information from the proponent has now provided sufficient information for the EPA to now make an adequate assessment of the proposal and has determined that it is able to issue general terms of approval for the proposal.

What work is the EPA issuing general terms of approval for ?

The EPA has assessed the remediation/contaminated soil treatment aspect of the proposal and has provided general terms of approval for this work at Attachment A. The EPA has not assessed whether the land will be suitable for residential development. Any assessment of the suitability of the site for the proposed landuse will need to be undertaken by Council.

The EPA has not assessed if the proposal will provide a stable platform for the proposed residential and associated infrastructure (such as telecommunication pits, pipelines for cables, gas and water supply lines). This should be assessed by structural engineers or similarly qualified persons. Council should be aware that any subsidence of the ground could also damage the gas mitigation controls

Phone 131 555	Fax +61 2 9995 5999	PO Box A290	59-61 Goulburn St
Phone +61 2 9995 5555	TTY 133 677	Sydney South	Sydney NSW
(from outside NSW)	ABN 43 692 285 758	NSW 1232 Australia	2000 Australia

info@epa.nsw.gov.au
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and allow gas to build up under the proposed residential structures. Should Council approve DA-24/2017 these issues will need to be addressed through conditions imposed by Council as part of the long-term management of the site and consideration should be given to the regulatory framework to ensure that the long term management of the site is maintained and the commitments provided by the proponent can be implemented and maintained, including after the EPA's environment protection licence has been surrendered.

Council should also consider how residential infrastructure such as underground cabling, gas and water mains will be protected from being damaged by potential subsidence or how potential gas migration into these structures/pits will be managed to prevent the build-up of gas in an enclosed space.

We note that as the EPA will not have an ongoing regulatory role for this proposal once the environment protection licence is surrendered, there is a need for clear responsibility of the ongoing management of this land with respect to gas generation and mitigation. The EPA recommends Council consider:

- what appropriate mechanisms need to be put in place to address potential gas generation and mitigation;
- to identify who should be responsible for managing these risks and protecting the community; and
- placing a note on the section 10.7 certificate detailing that the property is located over potentially gas generating fill and that the excavation of the land is restricted.

If Liverpool City Council decides to grant development consent for this proposal, the conditions in Attachment A must be incorporated into the consent. These general terms of approval relate to the works as proposed in the documents and information currently provided to the EPA. In the event that the development is modified by the proponent prior to the granting of consent, it will be necessary to consult with the EPA about the modified application before the Council considers issuing a development consent. This will enable the EPA to determine whether its general terms of approval need to be further updated considering the changes.

Environment Protection Licence

Should the development consent be granted the proponent will also need to make a separate application with all supporting information to the EPA to obtain an environment protection licence or vary the existing environment protection licence for the site. The environment protection licence must be granted prior to works that require a licence commencing on site.

Attachment B has conditions that will be made part of an environment protection licence should one be issued for this proposal. Council may also consider adding any of these conditions to the consent.

I would also like to advise the proponent that in accordance with Part 5.7A of the POEO Act and the Protection of the Environment Operations (General) Amendment (Pollution Incident Response Management Plans) Regulation 2012, a Pollution Incident Response Management Plan must be prepared and implemented prior to commencing any works authorised by an environment protection licence. This plan must be submitted with any application for an Environment Protection Licence.

Given the EPA's regulatory role in the proposed works and their connection with the foreshore, any proposed remediation of the foreshore should be completed in close consultation with the EPA and an EPA-accredited site auditor during both the development application stage, the carrying out of the contaminated soil treatment and the capping works.

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If you have any questions or wish to discuss this matter further, please contact Rob Hogan on (02) 9995 5760 or Trevor Wilson on (02) 9995 5646.

Yours sincerely

 12/1/2019

Greg Sheehy
Director Waste Compliance Section
Environment Protection Authority

Attachment A – General Terms of Approval

The EPA recommends that the following conditions of consent are included for the proposed works:

Construction

1. Prior to commencing construction of the landfill cap, the applicant must engage a site auditor accredited under the *Contaminated Land Management Act 1997* (CLM Act) to review the Remediation Action Plan (RAP) and Landfill Closure Management Plan (LCMP) and issue a Section B site audit statement certifying that the site can be made suitable for the proposed land-use if remediated in accordance with the RAP and that the LCMP is appropriate for the purpose of managing the closure of the landfill in accordance with the NSW EPA *Environmental Guidelines – Solid Waste Landfills – Second Edition 2016*.
2. Site capping, construction quality assurance (CQA) reporting, and landfill gas monitoring must be undertaken by the applicant in accordance with the requirements of the Environment Protection Licence issued by the EPA for the works (if any), the LCMP and the RAP.
3. Following construction of the cap, the provision of the CQA report to the EPA and the collection of sufficient validation monitoring data, the applicant must complete capping completion / validation reporting to meet the LCMP/RAP and any conditions stated in the first Section B site audit statement referenced in condition 1 above.
4. Prior to commencement of construction of dwellings, the applicant must design building specific gas mitigation systems and engage a site auditor accredited under the CLM Act to issue a second Section B site audit statement certifying:
 - a. the building specific gas mitigation systems are appropriate for the purpose of protecting future users of the site from hazardous ground gases and the landfill cap construction;
 - b. validation reporting is satisfactory; and
 - c. the site has been remediated and managed in accordance with the approved RAP and LCMP.
5. Prior to commencement of construction of dwellings, and following the issue of the second site audit statement in condition 4 above, the applicant must finalise the Long Term Environmental Management Plan (LTEMP) and engage a site auditor accredited under the CLM Act to issue a third Section B site audit statement certifying that the LTEMP will be an effective means of ensuring:
 - the environment is protected;
 - both onsite and offsite users are not exposed to contamination remaining on the site; and
 - the site remains suitable for the proposed use.
6. Following completion and testing of building-specific gas mitigation systems to validate the systems will protect future users of the site from hazardous ground gases, the applicant must engage a site auditor accredited under the CLM Act to issue a Section A2 site audit statement certifying suitability of the land for the proposed land use subject to compliance with the approved LTEMP.

Other

7. All reports submitted in relation to contaminated land management must be prepared, or reviewed and approved, by a 'certified consultant' who is a consultant certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist

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Contaminated Site Assessment and Management (CPSS CSAM) scheme. The quality information section of a report submitted, is to include the details of the consultant's certification, which should include a personalised electronic seal for either the CEnvP(SC) scheme or CPSS CSAM scheme.

8. The following guidance, as relevant, should be considered when assessing contamination within the project footprint:
 - NSW EPA Sampling Design Guidelines
www.epa.nsw.gov.au/resources/clm/95059samppdline.pdf
 - Guidelines for the NSW Site Auditor Scheme (3rd edition) 2017
<https://www.epa.nsw.gov.au/publications/contaminatedland/17p0269-guidelines-for-the-nsw-site-auditor-scheme-third-edition>
 - Guidelines for Consultants Reporting on Contaminated Sites, 2011
www.epa.nsw.gov.au/resources/clm/20110650consultantsglines.pdf
 - The National Environment Protection (assessment of contamination) Measures 2013 as amended.
9. The applicant must ensure the proposed development does not result in a change of risk in relation to any pre-existing contamination on the site so as to result in significant contamination.
10. The EPA should be notified under section 60 of the CLM Act for any contamination identified which meets the triggers in the *Guidelines for the Duty to Report Contamination*
(www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf)
11. The proponent must develop and implement a site-specific project website, prior to the commencement of works.
 - This website must include but not be limited to:
 - ☐ general information about the proposal
 - ☐ contact details
 - ☐ the premises' Pollution Incident Response Management Plan (PIRMP)
 - ☐ monitoring data, in accordance with section 66(6) of the *Protection of the Environment Operations Act 1997*.

Attachment B – Conditions for the EPA Licence

Administrative conditions

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the Landfill Closure Management Plan (agreed version to be finalised with the EPA);
- Remediation Action Plan (as amended to ensure consistency with agreed LCMP)

A2. Fit and Proper Person

A2.1 The proponent must, in the opinion of the EPA, be a fit and proper person to hold a licence under the *Protection of the Environment Operations Act 1997*, having regard to the matters in s.83 of that Act.

Limit conditions

L1. Pollution of waters

L1.1 Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation of the development, section 120 of the *Protection of the Environment Operations Act 1997* must be complied with in and in connection with the carrying out of the development.

L2. Concentration limits

L3. Waste

L3.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, re-processing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*.

L3.2 Condition **L3.1** only applies to the storage, treatment, processing, re-processing or disposal of waste at the premises if it requires an environment protection licence under the *Protection of the Environment Operations Act 1997*.

L3.3 The licensee must assess, classify and manage any waste generated at the premises in accordance with the NSW EPA's Waste Classification Guidelines, as in force from time to time.

L3.4 If waste is transported from the premises, the licensee must ensure that the waste is transported by a waste transporter authorised to transport such waste and that the waste is transported to a place that can lawfully accept the waste.

L3.5 Any material proposed to be classified as Excavated Natural Material (ENM) must be validated.

Hours of operation

L4.1 Work at the premises must only be conducted between 7am to 6pm Monday to Friday, 8am to 1pm on Saturdays, and at no time on Sundays or Public Holidays.

Operating conditions

O1. Odour

Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours are permitted. Odour conditions may or may not be imposed for any licence provided, dependant on review of the Air Quality Management Plan as detailed in the Special Conditions of these General Terms of Approval.

O2. Dust - general

O2.1 The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.

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- O2.2** Activities occurring in or on the premises must be carried out in a manner that will prevent or minimise dust generation and emissions from the site, including windblown and traffic generated dust.
- O2.3** The licensee must ensure that trafficable routes and areas are clearly defined and stabilised.
- O2.4** All trafficable areas and vehicle manoeuvring areas in or on the premises must be maintained, at all times, in a condition that will minimise or prevent the generation, or emission from the premises, of wind-blown or traffic generated dust.
- O2.5** All vehicles leaving the site must pass through an operational wheel wash facility.
- O2.6** The loads of all trucks must be securely fixed, covered, and sealed at all times, except during loading and unloading.

O3. Dust control

O3.1 The proponent must ensure that any vehicle or plant exiting an emissions control enclosure must be inspected. Where necessary, the vehicle or plant must be washed down or cleaned so that contaminated material is not tracked outside the enclosure.

O4. Stormwater/sediment control

O4.1 Prior to works commencing the proponent must prepare a comprehensive Water Management Plan (WMP). The WMP must include but not be limited to:

- a) soil erosion and sediment control measures for uncontaminated and remediated areas that comply with Managing Urban Stormwater – Soils and Construction, Volume 1.
- b) soil erosion and sediment control measures appropriate for a contaminated site that ensure stormwater from contaminated areas are transferred to the onsite water treatment plant and are not permitted to contaminate clean areas or discharge to waters.
- c) surface water controls around the perimeter of the site, such as diversion drains and an impermeable site perimeter control, designed to store greater than the largest rainfall event ever recorded in the local area.
- d) design calculations and sizing for all water diversion controls and sediment basin(s) on site.
- e) plan drawings showing the locations for soil erosion and sediment control practices for the site during all stages of remediation.
- f) written text detailing the installation, monitoring and maintenance requirements for all the soil erosion and sediment control practices.
- g) drawings of any engineering structures such as sediment basin(s) and water diversion structures, including design standards and management regimes to return the system to design capacity following rainfall events.

O5. Waste management

O5.1 The only waste material that is permitted to be applied to land at the premises is virgin excavated natural material (VENM).

Monitoring and recording conditions

M1 Monitoring records

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act 1997*, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the licence must be:

- 1) in a legible form, or in a form that can readily be reduced to a legible form;
- 2) kept for at least 4 years after the monitoring or event to which they relate took place; and
- 3) produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected:

- a) the date(s) on which the sample was taken;
- b) the time(s) at which the sample was collected;
- c) the point at which the sample was taken; and
- d) the name of the person who collected the sample.

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Reporting conditions


R1.1 The proponent must provide an annual return to the EPA in relation to the development as required by any licence under the *Protection of the Environment Operations Act 1997* in relation to the development. In the return the proponent must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable.

R2.1 The proponent must advise the EPA if the concentration of any parameter exceeds the applicable limit at any sampling point, within twenty-four (24) hours of receiving any final analytical results.

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ATTACHMENT 8 – NSW ROADS MARITIME SERVICES

 Transport Roads & Maritime Services	
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30 August 2017

Our Reference: SYD17/00257/03 (A18739409)
Council Ref: DA-24/2017

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

Attention: Rodger Roppolo

Dear Sir/Madam,

**ADDITIONAL INFORMATION FOR STAGE 1 SUPRERLOT SUBDIVISION, STAGE 2
RESIDENTIAL SUBDIVISION AND INFRASTRUCTURE WORKS – 146 NEWBRIDGE ROAD,
MOOREBANK**

Reference is made to Council's correspondence dated 8 June 2017, regarding the abovementioned application which was referred to Roads and Maritime Services (Roads and Maritime) for comment.

Roads and Maritime has reviewed the additional information and provides the following conditions to be included in any consent issued by Council:

1. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Newbridge Road boundary.
2. Access is denied across the property boundary to Newbridge Road. Service vehicles accessing the proposed northern raingarden are to not access Newbridge Road. The concrete maintenance access cannot be located within the Newbridge Road road reserve and is not to connect to the existing footpath.
3. The proposed right of carriageway easement over the existing left-in/left-out vehicular access to Newbridge Road is not supported and should be removed from the submitted plans.
4. The existing driveway on Newbridge Road is to be removed and replaced with kerb and gutter to match the existing, prior to the release of the Subdivision Certificate.

The removal of the existing vehicular access and reinstatement with kerb and gutter on Newbridge Road shall be in accordance Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 |
PO Box 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 131 782

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Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the release of the Subdivision Certificate.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

5. Detailed design plans and hydraulic calculations of any changes to Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Details should be forwarded to suppiah.thillai@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.

6. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Newbridge Road.
7. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Newbridge Road during construction activities.
8. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.
9. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.

Any inquiries in relation to this Application can be directed to Malgy Coman on 8849 2413 or development.sydney@rms.nsw.gov.au.

Yours sincerely



Rachel Cumming
Senior Land Use Assessment Coordinator
Network Sydney – West Precinct

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Item no:	2
Application Number:	DA-563/2017
Proposed Development:	Demolition of two existing dwellings and construction of a 9-storey residential flat building containing 17 residential apartments (4 x 1 bedroom, 7 x 2 bedroom and 6 x 3-bedroom) above a basement car park and associated strata subdivision. The application is made under State Environmental Planning Policy (Affordable Rental Housing) 2009.
Property Address	9-11 Mill Road, Liverpool
Legal Description:	LOTS 70 & 71 DP 440211
Applicant:	GEGE Constructions Pty Ltd
Land Owner:	MRS R M S AL-ZUHAIRI (9 Mill Road) & MR M A M AL-ZOHAIRY (11 Mill Road)
Cost of Works:	\$3,353,408
Recommendation:	Refusal
Assessing Officer:	Glenn Ford – Senior Development Planner

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-563/2017) seeking consent for the demolition of two existing dwellings and construction of a 9-storey residential flat building containing 17 residential apartments (4 x 1 bedroom, 7 x 2 bedroom and 6 x 3-bedroom) above a basement car park and associated strata subdivision. The application is made under State Environmental Planning Policy (Affordable Rental Housing) 2009 at 9-11 Mill Road, Liverpool.

The site is zoned R4 High Density Residential under Liverpool Local Environmental Plan 2008 and the proposed development is permissible with consent.

The DA was not notified in accordance with Council's Notifications Policy and no submissions were received.

Following an initial assessment by Council officers and the Liverpool Design Excellence Panel, the applicant was advised to amend their plans. Revised plans were presented to the DEP in April 2018 but the Panel still raised issues with the design.

The key issues associated with the proposal relate to:

- The small size and narrow width of the development site and how it impacts on the design of the development;
- The proposed development is inconsistent with SEPP 65 Design Principles and with Parts 2F, 3B, 3C, 3F, 3H, 3J, 4F(c), 4G and 4W of the Apartment Design Guide.

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- The proposed development is inconsistent with Clauses 7.4 and 7.5 of Liverpool Local Environmental Plan 2008 and Sections 20 and 25 in Part 1 of LDCP 2008 and Sections 2, 3, 4, 6, and 8 in Part 3.7 of LDCP 2008 and Sections 2.1, 4.3 in Part 4 of LDCP 2008.

The applicant has reviewed Council's concerns and prepared a new schematic design which addresses the issue that have been raised by Council and the Design Excellence Panel. The new design which has been prepared by a new architect appears to provide a better responsive outcome but as it differs significantly from its predecessor, Council requested the applicant to withdraw this application and submit a new DA specifically for new design.

The applicant has declined to withdraw DA-563/2017 and Council has resolved to determine it in its current form.

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 categories of departure from development standards and sensitive development.

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, for reasons as outlined in this report.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The site is legally known as Lot 70 and Lot 71 DP 440211 with a street address of 9 – 11 Mill Road, Liverpool. The site is trapezoid in shape and has a total area of 702.31m². It has frontage of 24.601m to Mill Road and a depth of 37m along its western boundary and 26.54m along its eastern boundary. The site has a cross-fall of approximately 1.5m to 2.5m generally sloping from the western side of the property towards the east and south.

The site is currently occupied by two detached dwelling houses (one on each lot), associated outbuildings and garden vegetation. An aerial photograph of the subject site is provided below.



Figure 1: Aerial view of the site (red edged). Just out of view to the south is Al Amanah College in Speed Street and the road connection to the Shepherd Street precinct.

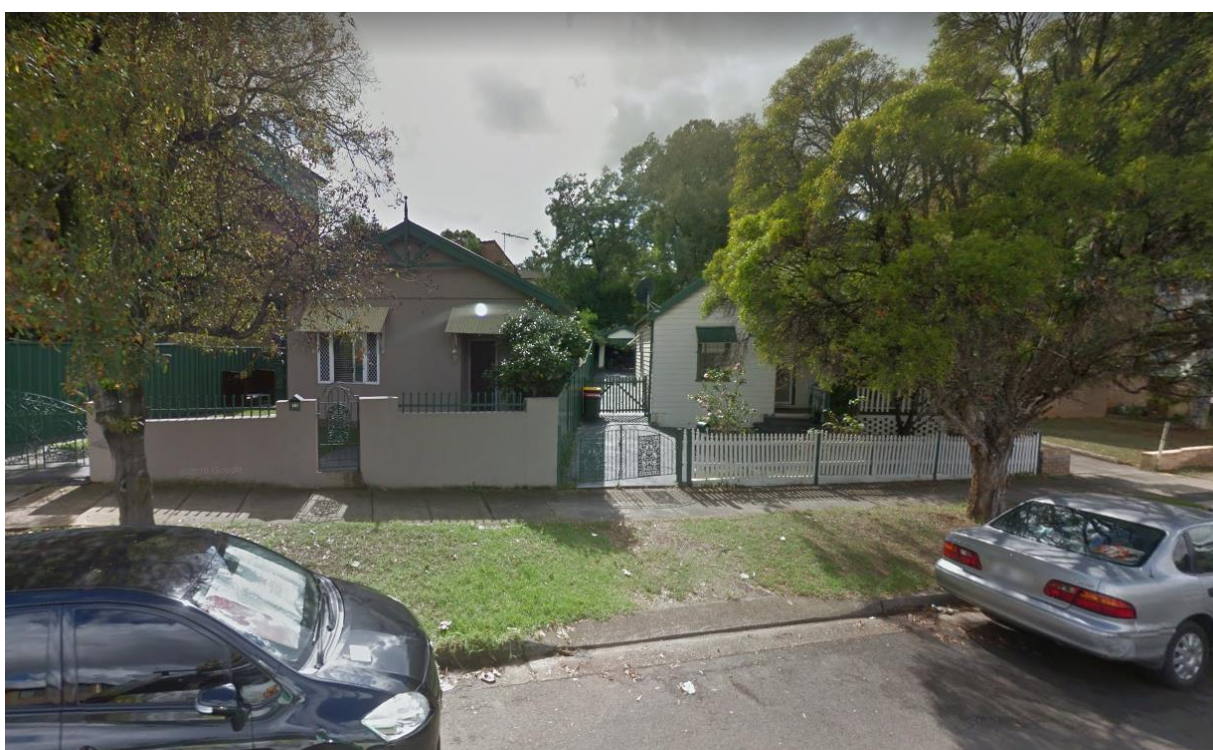


Figure 2: Street view of existing houses on 11 Mill Road (left) and 9 Mill Road (right)

2.2 The locality

The site is approximately 700m from the southern commercial edge of Liverpool City Centre. It is located at the southern edge of a precinct containing residential flat buildings which range in age, height, character and quality. The majority of RFBs are strata subdivided including all buildings that adjoin the development site. Given that the adjoining properties have developed over many years, the height and densities present vary considerably. As shown in

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Figure 3, the site is located between two 4 storey RFB (3 x units and 1 x car parking) and near a modern 10 storey RFB at the corner of Mill Road and Speed Street. Existing development behind the site ranges from 2 storeys to 4 storeys in height. The rear of the development site immediately adjoins the communal open space of a townhouse development fronting nearby Nagel Street.

The development site is two remaining single storey dwelling houses in the R4- High Density Residential precinct. Very recently, the value of the buildings as representing past building styles in Liverpool has been recognised. However, Council resolved to not pursue heritage listing of the dwelling houses.

Development opposite the site (to the south) reflects a scale less than permitted under the prevailing R4–High Density Residential zoning with a variety single and two-storey dwellings on smaller lots. Immediately to the south of these homes is the campus of Al Amanah College.

The nearest commercial and retail development is that associated with Liverpool CBD, approximately 700 to 800m to the north of the site. The site is calculated to be 800m walking distance from the public entrance to Liverpool Railway Station.



Figure 3: Context: Site (shown flagged) is located at the southern edge of a high density zone adjoining Liverpool Central Business District.

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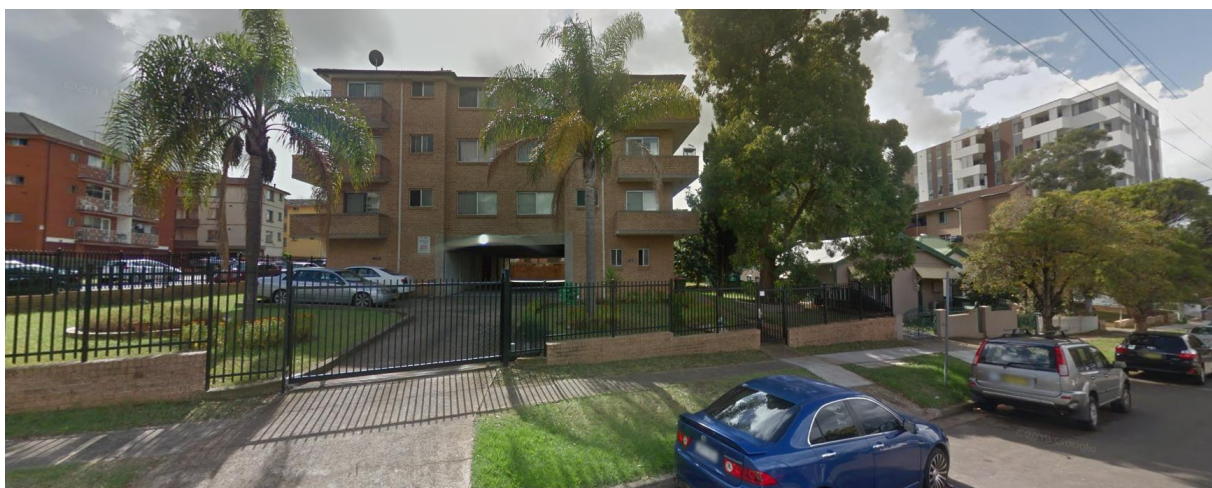


Figure 4: The development site is immediately adjoined by RFBs ranging in height from 2 storeys to 4 storeys.



Figure 5: The development site contains the last two dwelling houses in the high density zone on the southern side of Liverpool CBD.

3. BACKGROUND INFORMATION

Schemes for redevelopment of the subject site have been presented to Council and its Design Excellence Panel (DEP) prior to DA-563/2017 being lodged on 27 July 2017.

Presentations to the DEP have been made on five occasions, being 30 November 2015, 6 February 2016, 16 June 2016, 12 April 2018 and most recently 15 August 2019.

The DA was on a Stop-the-Clock notification from 27 July 2017 to 4 December 2017 awaiting a Design Verification Statement for the proposed development.

As part of a separate process during 2017 and 2018, Council was considering the built heritage of Liverpool Local Government Area. At its meeting of 28 March 2018, Council gave consideration to a report on the matter which included a discussion of 9 and 11 Mill Road as potential items of heritage significance. Council resolved to:

- (1) Receive and note the Minutes of the Heritage Advisory Committee Meeting held on 5 February 2018; and

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- (2) Direct the CEO not to issue an interim heritage order in relation to 9 and 11 Mill Road.

As such, it was proposed to take no further action to heritage list either dwelling house on the development site.

Advice was received on 6 April 2018 which presented a path of travel plan showing that the site is within 800m of Liverpool Railway Station. Confirmation of the distance to the railway station was required to show that the site was located in an “accessible area” under State Environmental Planning Policy (Affordable Rental Housing) 2009. The site is not within 400m of any bus stop which satisfies Clause 4(1) of the ARHSEPP so relies on access to Liverpool Railway Station to capture the affordable housing bonus available under the SEPP.

The scheme for DA-563/2017 was presented to the DEP on 12 April 2018 and is the subject of this report. Concerns and issues raised by the Panel are discussed in Section 3.1 below.

In response to concerns raised by the DEP and by Council, the applicant proposes a new scheme for the site. The new design for the site has been prepared by a new architect and is different to the earlier schemes. In particular, the Affordable Rental Housing element has been deleted along with 5 units and 3 storeys. The ground floor comprises studio units only with a recognition that more compact and affordable accommodation is required for the expanding population of tertiary students attending the new university campuses now located in Liverpool. The vehicle entry for the basement has been relocated and the general response to the new approach is positive from the DEP.

However, at the time of presentation, the applicant was reluctant to finalise all supporting documentation for the project without endorsement of the Design Excellence Panel for the new scheme. Because the new scheme differs markedly from DA-563/2017, Council recommended that the current DA be withdrawn and a fresh DA be submitted for the new scheme prepared by the new design team which was positively received by the Panel.

The applicant has advised that they do not wish to withdraw DA-563/2017 and wishes to amend the DA for determination.

However, at this time, the information pertinent to the DA is for a scheme that is not supported by Council or the DEP and the application will therefore be determined using the information submitted to date.

3.1.1 Design Excellence Panel - 12 April 2018

A Residential Flat Building design for the subject site has been considered by Council’s Design Excellence Panel (DEP) in one form or another on five occasions. DA-563/2017 was presented to the DEP on 12 April 2018.

The main issues raised by the panel from the meeting of 12 April 2018 are presented below:

The Design Excellence Panel made the following comments in relation to the project:

- *The Panel thanks the proponent for bringing the scheme back to the Panel for its consideration. The presentation helped the Panel to better understand the evolution of the scheme.*

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- *The Applicant's architect was unable to attend the meeting, due to ill health but provided a letter to the DEP to allow his building designer to present to the panel. This was accepted by the Panel.*
- *Applicant advised that this is the third time that the matter has come before the Panel and the scheme has been amended in response to the issues raised by the Panel.*

Comment:

The Panel concluded that not all issues raised in previous DEP meetings have been satisfactorily addressed in the submitted design.

- *Liverpool LEP sets the maximum FSR on this site at 2.0:1. The applicant proposes to include a SEPP affordable housing component, resulting in a total FSR for the scheme of 2.37:1. The site is rather small and does not comply with the minimum allotment size for an RFB of 1000m² as required by the LEP. On the basis of the size and the constraints of the site and the characteristics of the immediate context, the Panel does not believe that the site is capable of accommodating additional floor area above that allowed by the LEP. This is evidenced by various non-compliances with the ADG including building separation.*
- *The Panel previously requested that the FSR be reduced to comply with the maximum permitted under the LEP, however, it is noted that the Applicant continues to pursue additional FSR under the ARHSEPP, notwithstanding the various problems resulting from excessive density on this small site.*
- *The lack of sufficient rear yard area, ground level communal open space and continuous deep soil zones are not supported by the Panel.*

Comment:

As noted by the DEP, the site is constrained by its area, shape and enclosure by established residential flat development. The achievement of bonus floor space under the ARHSEPP compromises other aspects of design quality required under SEPP 65 which ultimately will impact on the amenity of future residents of this building and neighbouring RFBs.

- *The Panel recommends that more of the basement car park should be located directly beneath the footprint of the building in order to allow opportunities to provide continuous deep soil zones along the side and rear boundaries.*
- *The ability of the proposed circular ramp for the basement parking to adequately allow vehicles to enter and exit the basement carpark without conflict is questioned. However, this is a matter to be resolved by the Council's Traffic Engineering Section.*

Comment:

The basement entry and design is problematic in terms of the workability and safety of the access. The extent of the basement footprint impacts on deep soil areas for the site.

- *The general principle of 2 units per floor with living areas and balconies facing the street and rear is considered to be a good design response for the site, given its small size and orientation.*

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Comment:

The general floor layout for each is supported having regard the orientation, slope and constraints of the site.

- *It is noted that the proposal is within the allowable building height limit, however, the site is surrounded by 3-4 storey Residential Flat Buildings and there appears to be little likelihood of these existing developments being re-developed in the near future. As such, the proposal should re-designed to better respond to its existing development context.*
- *A review of the proposed apartment sizes indicates that the units are significantly larger than the recommended minimum apartment sizes stipulated in the ADG (which would seem to be at odds with the inclusion of affordable housing). These large apartment sizes contribute to the excessive mass and bulk to the building. If the building is judiciously calibrated by reducing unit sizes, the proposal may be able to provide the required ADG setbacks, thus, addressing, at least in part, the critical amenity issues of visual and acoustic privacy associated with the current proposal.*
- *The Panel notes that the setbacks to the side and rear boundaries do not comply with the ADG. Notably, the same setbacks are provided for the first four stories as well as for levels 5-7. For the first 4 storeys, the side setbacks should be 3m for non-habitable rooms/blank walls and 6m for habitable rooms/balconies and 4.5m and 9m for Levels 5-7. Design solutions that may assist include stepping and/or angling side walls so that bedroom windows look to the front or rear only, and eliminating side returns on the front and rear facing balconies. As for the rear setback it should be a minimum of 6m (first 4 storeys) and 9m above to the outer balcony edges, as required by the ADG. The non-compliance with the ADG in respect to setbacks/building separation is problematic, in that it results in amenity issues with adjoining sites and for future residents of the subject proposal.*

Comment:

As noted by the Panel, the site area and location means that the setbacks do not comply with the ADG. The development relies on compromising the objectives and controls of SEPP 65 and the ADG in this regard.

- *In response to a question from the applicant, the Panel advised that high level openings to habitable rooms would still create acoustic issues. Assuming the windows are openable for natural ventilation, they would perform acoustically the same way as normal size windows. Whilst high level openings may resolve potential visual privacy issues, they create amenity concerns in that they restrict views out for room occupants.*
- *The applicant should explore design options that optimise vistas out of the apartments without creating privacy issues to adjoining RFBs.*
- *The Panel requested that consideration should be given to providing natural light to the common circulation and lobby area on each floor to improve amenity. However, this is a lesser concern given only two units per floor and the Panel recognises that such a change may have significant implications on the design of the apartments.*
- *The entry to the building may create visual/acoustic privacy issues for the ground level apartment adjacent to the main building entry path (U1), which has its living area and*

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balcony facing the path). The Applicant should explore alternative access path alignments to address this issue.

Comment:

The above comments present options that may be explored to address concerns raised by the DEP and to provide a design that is more acceptable to the Panel.

General

Note: All SEPP 65 apartment buildings must be designed by an architect and their registration number is to be on all drawings. The architect is to attend the DEP presentations.

Quality of construction and Material Selection

Consideration must be given by the applicant to the quality of materials and finishes. All apartment buildings are to be made of robust, low maintenance materials and be detailed to avoid staining weathering and failure of applied finishes. Render is discouraged.

CLOSING COMMENT:

Not all issues raised in the previous DEP Minutes have been satisfactorily addressed by the Applicant. The proposal is not acceptable and must be referred to the Design Excellence Panel again.

Comment:

Given the above comments, the proposal is not considered to satisfactorily address the matters raised by the DEP.

3.1.2 Design Excellence Panel – 15 August 2019

In response to concerns raised by the DEP in April 2018 and by Council, the applicant proposes a new scheme for the site. The new design for the site has been prepared by a new architect and is different to the earlier schemes. At this stage, a schematic presentation has been made to the DEP at its meeting of 15 August 2019 with a generally positive response.

The changes include reducing the height and density of the proposed building to make it better fit on the subject site. This has included deleting the Affordable Rental Housing element from the scheme but retains and increases the number of studio apartments to target an expanding need for student accommodation in Liverpool. Five units and 3 storeys have been deleted in the new scheme. The vehicle entry for the basement has been relocated and the design reworked. Overall the DEP has responded positively to the new scheme, but requires the scheme to be referred to the DEP again once it is further developed and additional information provided.

As identified above, Council requested that DA-563/2017 be withdrawn and a new DA submitted for the new design. The applicant has declined to withdraw the current DA which now forms the subject of this report.

4. DETAILS OF THE PROPOSAL

The application proposes:

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- Demolition of two dwelling houses
- Construction of a 9-storey residential flat building containing 17 residential apartments

The application is lodged pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.

- The proposed RFB provides the following apartment mix:
 - i. 1 Bedroom studio: 3 (17.65%)
 - ii. 1 Bedroom: 1 (5.88%) Total 1 bedroom: 4(23.53%)
 - iii. 2 Bedroom: 7 (41.18%)
 - iv. 3 Bedroom: 6 (35.29%)

The Ground Level will accommodate 4 x 1 bedroom units around a shared core, while Levels 1 to 7 will each have 2 units (mix of 2 & 3 bedroom) off the shared core. Level 8 is a 3 x bedroom penthouse unit and Level 9 is the roof top terrace (common open space). All level are served by a lift and stairs.

It is proposed that 40% of the apartments be made under the ARH SEPP. That is, 40% of units (i.e. 7 of 17 dwellings) will be set aside for rental for 10 years. At this stage, the application does not identify which units are proposed to be allocated as affordable housing pursuant to the provisions of ARHSEPP.

Further details of the proposal are provided as follows:

- The development includes two levels of basement car parking that includes:
 - i. 19 residential parking spaces;
 - ii. 5 motorbike spaces and 8 bicycle parking spaces;
 - iii. Bin room; and
 - iv. Residential storage areas.
- A garbage storage room is proposed within the basement of the proposed RFB. Collection of bins will be managed by the private contractor who will administer kerbside pick-up.
- Vehicular and pedestrian access will be provided as follows:
 - i. Vehicular access is proposed via a single width circular driveway to and from Mill Road.
 - ii. Main pedestrian access to the building is provided directly from Mill Road at ground level
- The development includes landscaping of the site which includes large and small plantings within deep soil zones and plantings with planter boxes and on structures.

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- Roof top communal open space. Figures provided for ground level communal open space include planted areas and pathways which provide limited opportunity for any activity other than access). The area for useable COS is calculated to be approximately 80m² at ground level and 135m² on the roof top – which when combined gives 215m² or 30.6% of the site area.
- Strata subdivision of the development is proposed.

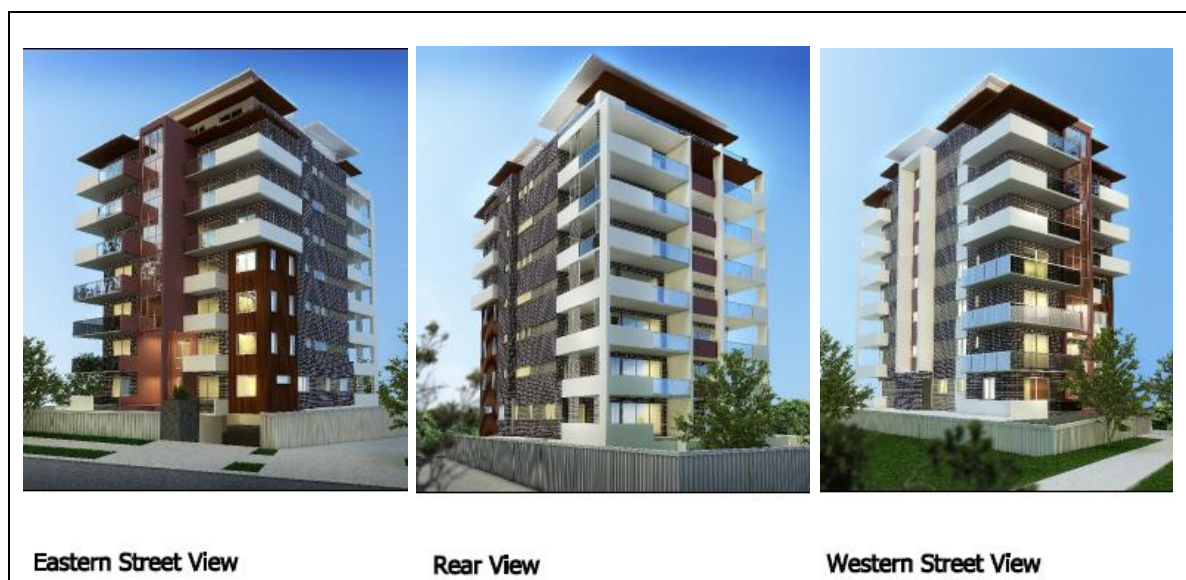


Figure 6: 3D drawings of the proposed development

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- (a) State Environmental Planning Policy (Affordable Rental Housing) 2009;
- (b) State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- (c) State Environmental Planning Policy No.55 – Remediation of Land;
- (d) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- (e) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- (f) Liverpool Local Environmental Plan 2008

Draft Environmental Planning Instruments

- There are no applicable Draft EPIs applying to the proposal.

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 3.7 – Residential Flat Buildings in the R4 zone
 - Part 4 – Development in Liverpool City Centre

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Contributions Plans

- Liverpool Contributions Plan 2009 applies to the subject development.

5.2 Zoning

The site is zoned R4-High Density Residential under Liverpool Local Environmental Plan 2008 as shown in Figure 7 below.

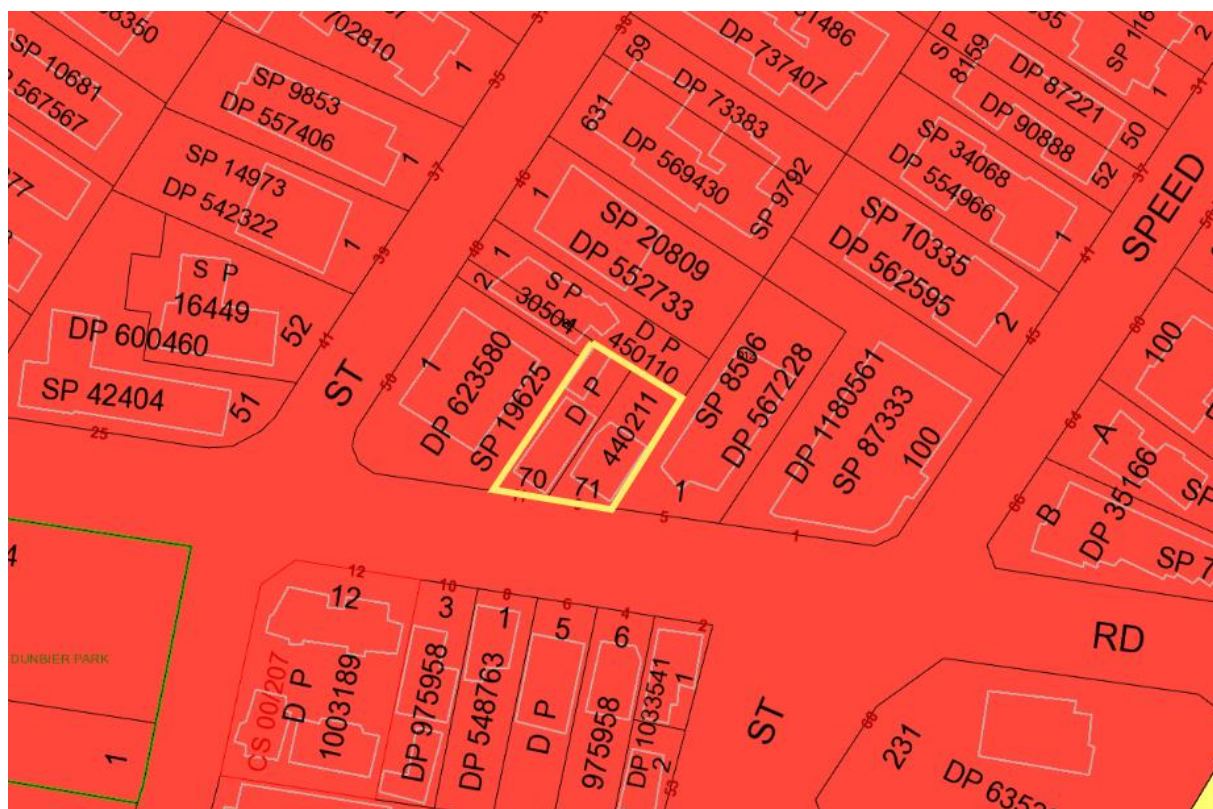


Figure 7: Zoning Map with site highlighted in yellow

5.3 Permissibility

The proposed development is defined as a *Residential flat building*, which is a permissible land use within the R4 High Density Residential zoning, subject to consent.

5.4 Minimum Lot Size

Clause 4.1 of LLEP 2008 prescribes a minimum subdivision lot size of 1000m² for the R4 – High Density Residential zone. The subject site comprises 2 existing lots which together measure 703.21m² in area. As the site is surrounded by established residential flat buildings (which have been strata subdivided), any opportunity to amalgamate with adjoining properties to create a larger development lot than exists is severely limited.

As such, the site is accepted as being viable for development for a residential flat building although the design proposed needs to take clear account of the constraints to development presented by a small, narrow and enclosed parcel of land.

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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 2000* as follows.

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

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

The SEPP (ARH) 2009 is the applicable Environmental Planning Instrument as it contains specific provisions in relation to the proposed development, being residential flat building. The application has been assessed against the relevant provisions of this SEPP and compliance tables are contained in Attachment 2 of this report.

The development proposal generally satisfies the provisions of Clause 10 of SEPP (ARH) 2009, as follows:

Clause 10 Development to which Division applies

- (1) *This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:*

Comment:

The proposal is for a residential flat building development.

- (a) *the development concerned is permitted with consent under another environmental planning instrument, and*

Comment:

The proposal is located in a R4 High Density Residential Zone where residential flat buildings are permissible.

- (b) *the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.*

Comment:

The site does not contain a heritage item and is not subject to any interim heritage order.

The site is located within 800m walking distance of Liverpool Railway Station and is therefore considered to be in an “accessible area” for the purposes of the ARHSEPP. Consideration can be given to a design that includes affordable housing as defined in the SEPP. A plan submitted by the applicant identifying the path of travel is shown in Figure 8 below.

The application has been assessed against the relevant provisions of the ARHSEPP and compliance tables and comments are contained in ATTACHMENT 2 of this report.

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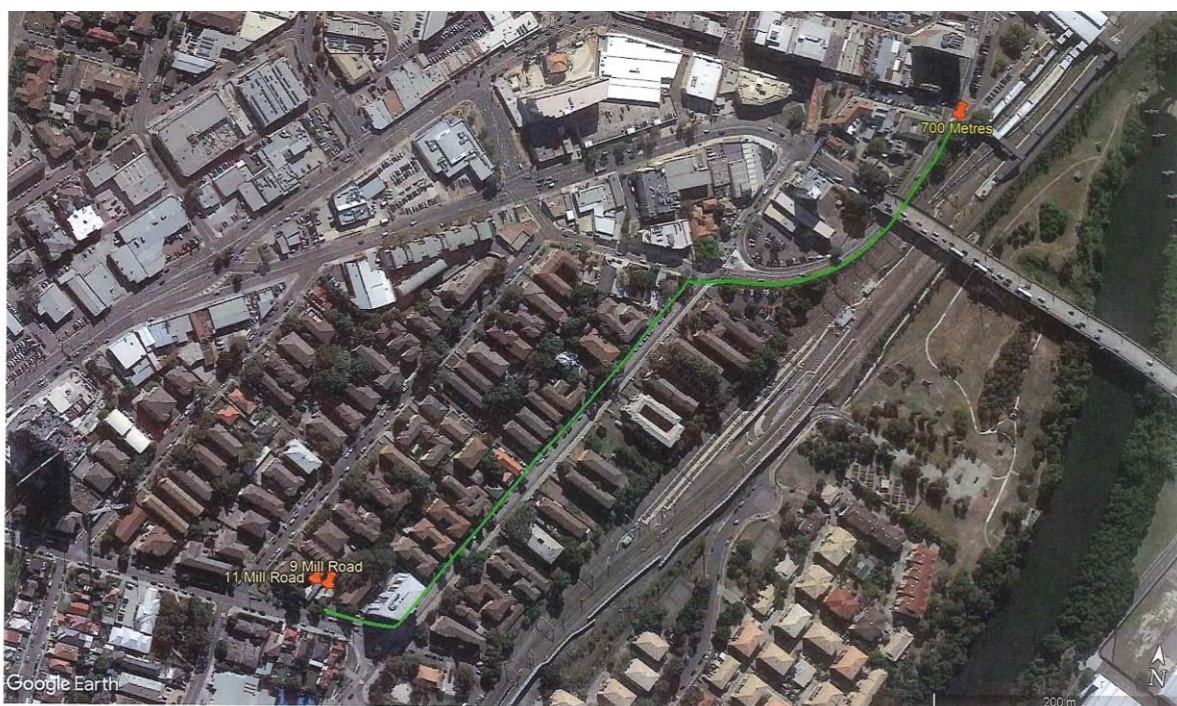


Figure 8: Walking path of travel between the site and Liverpool Railway Station.

(b) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guidelines

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential flat development. SEPP 65 requires the consent authority to consider the development against 9 key design quality principles and against the guidelines of the ADG. The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

The following table provides an assessment of the proposal in accordance with the 9 key design quality principles of SEPP 65, as follows:

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i>	The proposed development is a residential flat building in an area zoned high density residential development. However, as the last site to be redeveloped from low density housing in this precinct (north of Mill Road), the site has inherent size and width limitations.
<i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i>	However, the building type proposed is considered to be an overdevelopment of the site that is not designed in a manner that is consistent with the desired character of high density in this locality.
<i>Consideration of local context is important for all</i>	It is considered that the proposal is

Design Quality Principle	Comment
<i>sites, including sites in established areas, those undergoing change or identified for change.</i>	inappropriate for the context and should be redesigned to better address the constraints of the site.
Design Principle 2 – Built form and scale	
<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The height and floor space ratio of the building meets the maximum controls available under LEP 2008 and ARHSEPP but this produces a bulk and scale that exceeds the capability and suitability of the small enclosed site.</p> <p>The built form of the proposal was considered by the DEP and found to be unsatisfactory.</p> <p>As such, it cannot be determined that the built form and scale of the development is consistent with the design principles of SEPP 65.</p>
Design Principle 3 – Density	
<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The built form of the proposal was considered by the DEP and found to be unsatisfactory particularly with regard to non-compliance with setbacks and building separation.</p> <p>It is considered that the proposed development is too dense for the constrained site notwithstanding the provisions of the ARHSEPP which permits additional GFA on the basis of the site being 800m from a railway station.</p> <p>As such, it cannot be determined that the built form and scale of the development is consistent with the design principles of SEPP 65.</p>
Design Principle 4 – Sustainability	
<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable</i></p>	<p>The proposed development will result in overshadowing of neighbouring properties to the south during mid-winter and privacy impacts due to reduce setbacks and building separation.</p> <p>The design of the proposed development is considered to appropriately respond to the northern aspect. Also, a majority of the apartments will achieve natural ventilation</p>

Design Quality Principle	Comment
<i>materials and deep soil zones for groundwater recharge and vegetation</i>	requirements of the ADG. Given the above, the proposed development is considered to provide a potentially good outcome for the site but at the cost of impacts on established development and waiving of requirements that would ordinarily apply to RFB development.
Design Principle 5 – Landscape	
<i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i>	The proposed landscape plan has merit but again relies on the acceptance of a constrained site. The main communal open space will be provided as a rooftop area which is a new insertion into an established high density locality and therefore potentially creates privacy and amenity issues for surrounding unit dwellers.
<i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i>	It is considered that a better landscaping outcome can be obtained when the setback, building separation and deep soil zones issues are satisfactorily resolved.
<i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.</i>	
Design Principle 6 – Amenity	
<i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i>	The development does not provide adequate separation distance between the proposed building and the side and rear boundaries. The proposed development is likely to result in additional overshadowing to adjoining sites and is considered to result in a sub-optimal amenity outcome for neighbouring dwellings in terms of solar access and open space.
<i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i>	
Design Principle 7 – Safety	
<i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces</i>	The current application proposes access to basement parking level is unsatisfactory in terms of location, width and its circuitous

Design Quality Principle	Comment
<p><i>that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>design.</p> <p>As such, for the current application, it cannot be determined that the development will not compromise the safety of future occupants and pedestrians.</p>
Design Principle 8 – Housing Diversity and Social Interaction	
<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p>The proposed mix provides variety and includes adaptable units.</p> <p>Accordingly, the development meets this Design Principle but based on compromising other principles discuss above.</p>
Design Principle 9 – Aesthetics	
<p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The architectural quality of the proposal was considered by the DEP and found to be unsatisfactory. It is considered that the proposed development, the current building design lacks proper articulation and suggestions were made by the Panel to address its concerns.</p>

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the Apartment Design Guide (ADG). The following table provides an assessment of the proposal against the relevant provisions of the ADG.

Provisions	Comment																																																						
2E Building depth																																																							
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation	Complies The proposal responds to the general principal of building depth design in ensuring the minimum requirements for solar access and natural ventilation for the development are met. However, the connection between the living areas and sleeping areas of units on Floors 1 to 6 is by a corridor around the common lobby area, inhibiting direct penetration of natural light beyond the middle of Units 5 to 16.																																																						
2F Building separation																																																							
Minimum separation distances for buildings are: <u>Up to four storeys (up to approximately 12m):</u> <ul style="list-style-type: none">• 12m between habitable rooms/balconies• 9m between habitable and non-habitable rooms• 6m between non-habitable rooms <u>Five to eight storeys (up to approximately 25m):</u> <ul style="list-style-type: none">• 18m between habitable rooms/balconies• 12m between habitable and non-habitable rooms• 9m between non-habitable rooms <u>Nine storeys and above (over 25m):</u> <ul style="list-style-type: none">• 24m between habitable rooms/balconies• 18m between habitable and non-habitable rooms• 12m between non-habitable rooms Note: Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes separation equally between sites.	Does not comply <table><tr><th colspan="3">LEVELS Ground & 1</th></tr><tr><th>Boundary</th><th>Balconies</th><th>Outer wall - Habitable</th></tr><tr><td>Western side</td><td>3.5m</td><td>5m</td></tr><tr><td>Eastern side</td><td>2.45m</td><td>3m</td></tr><tr><td>Northern rear</td><td>3.5m</td><td>6m</td></tr></table> <table><tr><th colspan="3">LEVELS 2-7</th></tr><tr><th>Boundary</th><th>Balconies</th><th>Outer wall - Habitable</th></tr><tr><td>Western side</td><td>3.5m</td><td>5m</td></tr><tr><td>Eastern side</td><td>2.45m</td><td></td></tr><tr><td>Northern rear</td><td>3.5m</td><td>6m</td></tr><tr><td></td><td></td><td></td></tr><tr><th>Boundary</th><th>Outer wall Living</th><th>Outer wall Bedroom face</th></tr><tr><td>Eastern side</td><td>3m</td><td>2.45m</td></tr></table> <table><tr><th colspan="3">LEVEL 8</th></tr><tr><th>Boundary</th><th>Balconies</th><th>Outer wall – Bedroom face</th></tr><tr><td>Western side</td><td>5m</td><td>6.3m</td></tr><tr><td>Eastern side</td><td>3.3m</td><td>4.3m</td></tr><tr><td>Northern rear</td><td>3.5m</td><td>6m</td></tr></table>	LEVELS Ground & 1			Boundary	Balconies	Outer wall - Habitable	Western side	3.5m	5m	Eastern side	2.45m	3m	Northern rear	3.5m	6m	LEVELS 2-7			Boundary	Balconies	Outer wall - Habitable	Western side	3.5m	5m	Eastern side	2.45m		Northern rear	3.5m	6m				Boundary	Outer wall Living	Outer wall Bedroom face	Eastern side	3m	2.45m	LEVEL 8			Boundary	Balconies	Outer wall – Bedroom face	Western side	5m	6.3m	Eastern side	3.3m	4.3m	Northern rear	3.5m	6m
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Provisions	Comment		
	Boundary	Outer wall - Habitable	Outer wall - Living
	Western side	--	5m
	Eastern side	--	3m
	Northern rear	6.5m	
	Nothing over 25m high except part of a wall of the roof top terrace.		
	Significant variations to building separations are sought for the proposal based on the narrow width of the site. It is preferred that the required separations be retained for the benefits they provide for amenity and privacy and to set the new building on site so that any redevelopment of adjoining sites that may occur in future is not compromised in terms of the building separations that will be applied.		
3A Site analysis			
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Complies A detailed site analysis plan has been provided. However, the site constraint presented by the small site and the enclosure of existing development has not been responded to satisfactorily.		
3B Orientation			
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	Complies for site / Impacts for neighbours to south		
Overshadowing of neighbouring properties is minimised during mid-winter.	The design takes good advantage of the northerly orientation to provide solar access to most units on the development site.		
Solar Access to living rooms, balconies and private open spaces of neighbours should be considered.	Shadow diagrams for mid-winter show shadows extending over established development to the south of Mill Road but specific details are not provided on the affected properties. The impact would be diminished in any case, if the building had less height, in keeping with the constraints of the site.		
If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond the minimums contained in section 3F Visual Privacy			
Overshadowing should be minimised to the south or downhill by increased upper level setbacks.			

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Provisions		Comment										
A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.												
3C Public Domain Interface												
<p>Transition between private and public domain is achieved without compromising safety and security.</p> <p>Amenity of the public domain is retained and enhanced.</p>		<p>Does not comply</p> <p>Council controls prescribe a front setback of 4m to 4.5m (Part 4 of LDGP). The setbacks provide a range from approximately 2.5m to 5.1m across the face of the building which appear to reflect the setback of the existing houses on site rather than the new control.</p> <p>Of more concern is the relationship of the vehicle entry to the basement from street level with the reduced setback. A deeper front setback is warranted.</p>										
3D Communal and public open space												
<p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p> <p>Communal open space should be co-located with deep soil areas.</p> <p>Where communal open space cannot be provided at ground level, it should be provided on a podium or roof</p>		<p>Complies</p> <p>Accessible Communal Open Space is split between an area of approximately 80m² at the rear of the site with a northern orientation and a roof top terrace measuring 143m² (including edge planting). Both have good solar access but the ground level space has limited potential for general use given its location adjacent to balconies for units on the northern face of the building. However, the roof top terrace covers the equivalent of 20% of the site area and the ground level area is equivalent to 11% of the site. The ground level section is co-located with the deep soil zone at the rear of the site.</p>										
3E Deep soil zones												
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="3">7%</td></tr> <tr> <td>650m² to 1500m²</td><td>3m</td></tr> <tr> <td>Greater than</td><td>6m</td></tr> </tbody> </table>		Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² to 1500m ²	3m	Greater than	6m	<p>Complies</p> <p>The proposal provides 110m² of deep soil zone, which is 15% of the site area. The included deep soil zones have minimum dimensions of 3m and are fragmented around the edges of the site.</p>
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)										
Less than 650m ²	-	7%										
650m ² to 1500m ²	3m											
Greater than	6m											

Provisions			Comment
1500m ²			
Greater than 1500m ² with significant cover	6m		
3F Visual Privacy			
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Does not comply
			As for Section 2F above, compliant building separations are sought to provide better privacy and amenity outcomes.
			Parts of the building above 25m are minor and consist of a wall structure associated with the roof top terrace.
			DEP comments:
			<i>Notably, the same setbacks are provided for the first four stories as well as for levels 5-7. For the first 4 storeys, the side setbacks should be 3m for non-habitable rooms/blank walls and 6m for habitable rooms/balconies and 4.5m and 9m for Levels 5-7. Design solutions that may assist include stepping and/or angling side walls so that bedroom windows look to the front or rear only, and eliminating side returns on the front and rear facing balconies. As for the rear setback it should be a minimum of 6m (first 4 storeys) and 9m above to the outer balcony edges, as required by the ADG. The non-compliance with the ADG in respect to setbacks/building separation is problematic, in that it results in amenity issues with adjoining sites and for future residents of the subject proposal.</i>
Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.			
New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include:			
• site layout and building orientation to minimise privacy impacts (see also section 3B Orientation)			
• on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4)			
Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1 when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)			
Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.			As above.
3G Pedestrian Access and Entries			

Provisions	Comment
Building entries and pedestrian access connects to and addresses the public domain	Complies Building entries are clearly identifiable and separate from private areas.
Access, entries and pathways are accessible and easy to identify	
Large sites provide pedestrian links for access to streets and connection to destinations	
3H Vehicle Access	
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Does not comply Vehicle access point is considered to be unsatisfactory due to the narrow and curved design of the access ramp to the basement. A superior design has been demonstrated by the applicant which relocates the entry/ exit to the western side of the site.
3J Bicycle and Car Parking	
For development in the following locations: - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	Not satisfactory No on-grade car parking is proposed. The number of spaces complies but the proposed basement access is unsatisfactory in terms of driveway location, the width and circuitous nature of access. A reduced basement footprint should be considered. DEP COMMENT: <i>The Panel recommends that more of the basement car park should be located directly beneath the footprint of the building in order to allow opportunities to provide continuous deep soil zones along the side and rear boundaries.</i> <i>The ability of the proposed circular ramp for the basement parking to adequately allow vehicles to enter and exit the basement carpark without conflict is questioned.</i>
Parking and facilities are provided for other modes of transport	
Car park design and access is safe and secure	
Visual and environmental impacts of underground car parking are minimised	
Visual and environmental impacts of on-grade car parking are minimised	
Visual and environmental impacts of above ground enclosed car parking are minimised	
4A Solar and Daylight Access	
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	Complies Seventeen units are proposed with 13 having dual aspects and 15 have northerly exposure. 16 units should receive 2 hours sunlight

Provisions	Comment	
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter	between 9am and 3pm during mid-winter and equates to 88.24% of the units. Units 1 and 2 have a southerly aspect and will receive limited sunlight.	
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter		
Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms		
4B Natural Ventilation		
All habitable rooms are naturally ventilated	Complies All 17 apartments are shown to be capable of being naturally cross ventilated.	
The layout and design of single aspect apartments maximises natural ventilation		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed		
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		
4C Ceiling Heights		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Complies All storeys are provided with 2.7m floor to ceiling heights.	
Minimum ceiling height		
Habitable rooms		2.7m
Non-habitable		2.4m
For 2 storey apartments		2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces		1.8m at edge of room with a 30 degree minimum ceiling slope
If located in mixed use areas		3.3m from ground and first floor to promote future flexibility of use
Ceiling height increases the sense of space in		

Provisions		Comment										
apartments and provides for well-proportioned rooms												
Ceiling heights contribute to the flexibility of building use over the life of the building												
4D Apartment Size and Layout												
Apartments are required to have the following minimum internal areas:		Complies <ul style="list-style-type: none">All studio units are $\geq 35\text{m}^2$All 1 bedroom / studio units are $\geq 50\text{m}^2$All 2 bedroom units are $\geq 70\text{m}^2$All 3 bedroom unit are $\geq 90\text{m}^2$ <p><u>The bedroom for Unit 1 needs to be enlarged to be a minimum of 3m x 3m.</u></p>										
<table><thead><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr></thead><tbody><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></tbody></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p>		Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	
Apartment Type	Minimum Internal Area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		Complies <p>Habitable rooms are provided with windows of sufficient glass areas.</p>										
Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Complies <p>Habitable rooms are generally limited to 2.5 x the ceiling height.</p>										
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Complies										
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)		Complies <p>Bedrooms are of sufficient size <u>except Unit 1</u>. This bedroom area needs to be slightly enlarged by at least 0.6m².</p>										
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Complies <p>Bedrooms have a minimum dimension of 3m <u>except Unit 1</u>. Width of this bedroom needs to be slightly enlarged by at least 0.2m.</p>										
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments		Complies <p>Sufficient widths are provided to living rooms/dining rooms.</p>										
4E Private Open Space and Balconies												
All apartments are required to have primary balconies as follows:		Complies <p>All apartments provide the minimum required</p>										

Provisions			Comment														
<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3 bedroom</td><td>12m²</td><td>2.4</td></tr></table>	Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4	balcony areas and depths.	
Dwelling Type	Minimum Area	Minimum Depth															
Studio	4m ²	-															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3 bedroom	12m ²	2.4															
The minimum balcony depth to be counted as contributing to the balcony area is 1m																	
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m			Not Applicable														
4F Common Circulation and Spaces																	
The maximum number of apartments off a circulation core on a single level is eight			Complies Single lift core provided. Maximum 4 units are proposed off one lift. Most levels have only 2 units per lift lobby.														
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40			Not applicable														
Daylight and natural ventilation should be provided to all common circulation spaces that are above ground. Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors			Does not comply The lift lobby area does not has windows in an external wall or access to natural ventilation.														
4G Storage																	
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling Type</th><th>Storage Size Volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3 bedroom</td><td>10m³</td></tr></table>			Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	Insufficient information Storage facilities are shown in the proposed basement but insufficient information is provided to determine if a minimum of 136m ³ of separate, accessible, functional and secure storage space is provided and how it will be managed. A redesign of the basement is also required to address unsatisfactory internal access issues, adequate storage provision needs to be factored into the new design.				
Dwelling Type	Storage Size Volume																
Studio	4m ³																
1 bedroom	6m ³																
2 bedroom	8m ³																
3 bedroom	10m ³																
At least 50% of the required storage is to be located within the apartment.																	
4H Acoustic Privacy																	
Noise transfer is minimised through the siting of buildings and building layout			Complies The development is in accordance with the														

Provisions	Comment
Noise impacts are mitigated within apartments through layout and acoustic treatments	objectives.
4K Apartment Mix	
A range of apartment types and sizes is provided to cater for different household types now and into the future	Complies 4 x 1 bedroom units = 23.53% 7 x 2 bedroom units = 41.18% 6 x 3 bedroom units = 35.29% The proposal has a suitable mix of units arranged to provide a variety of options for future residents
The apartment mix is distributed to suitable locations within the building	
4L Ground Floor Apartments	
Street frontage activity is maximised where ground floor apartments are located	Satisfactory Access to the street for ground floor apartments is provided from an internal lobby with a secure door.
Design of ground floor apartments delivers amenity and safety for residents	
4M Facades	
Building facades provide visual interest along the street while respecting the character of the local area	Does not comply The design of the building façade does not provide appropriate transition from the bottom four storeys to the top five storeys.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies A roof top terrace is proposed to provide communal open space for future occupants.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Can comply A Landscape plan has been provided that indicates that appropriate landscaping can be provided for the site when other design issues are resolved.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Can comply A Landscape plan has been provided that indicates that appropriate landscaping can be provided for the site when other design issues are resolved.
Plant growth is optimised with appropriate selection and maintenance	
Planting on structures contributes to the quality and amenity of communal and public open spaces	

Provisions	Comment
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies The development provide adaptable units in accordance with the Australian Standard AS 4299-1995 <i>Adaptable Housing</i> .
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable The DA does not proposed a mixed use development.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Not Applicable Awnings are provided to entries for wet weather protection.
Signage responds to the context and desired streetscape character	Not Applicable Building address signage will be integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design.	Complies The proposal is accompanied by a BASIX Certificate and NatHERS Certification which show acceptable levels of water and energy efficiency can be achieved. The proposal provides for good solar access and cross ventilation overall.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies The proposal is accompanied by a BASIX Certificate and NatHERS Certification which show acceptable levels of water and energy efficiency can be achieved.
Urban stormwater is treated on site before being discharged to receiving waters	Can Comply Stormwater Concept Plans have been

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Provisions	Comment
	submitted which show that the site can be satisfactorily drained with appropriate and water quality protection.
Flood management systems are integrated into site design	Not applicable
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Does not comply Waste storage facilities are proposed to be provided in the basement and to be maintained by an appointed caretaker. More details are required on storage of waste bins and the means by which they will be presented for collection. Given that the site is already narrow and will have reduced street frontage, the presentation of 34 bins for collection will present a challenge. An appropriate management plan for Waste Management is required.
Domestic waste is minimised by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Can comply The selection of appropriate materials can ensure that the development can meet these objectives.
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

Clause 7 of SEPP 55 states:

- (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*
 - (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*
 - (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*

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be remediated before the land is used for that purpose.

The land is currently used only for residential purposes and has been since before the existing lots were registered in 1955. The dwelling house on 9 Mill Road estimated to be nearly 100 years old and the land will have been used for residential purposes for just as long. There is no reason to suspect that the land is contaminated or requires specific remediation or works beyond those that will be required in accordance with standard conditions attached to any consent issued (if applicable).

The DA is accompanied by a Geotechnical and Salinity Assessment Report which does not identify any significantly unusual ground conditions. With consideration to this and the above information, there is no evidence to suggest that the land has been or is contaminated and a formal land contamination assessment is considered to not be necessary.

Given the above, SEPP 55 considerations have been addressed and the land is considered suitable for its continued use for residential purposes.

(d) State Environmental Planning Policy (BASIX) 2004

The proposal is accompanied by a valid BASIX Certificate (Certificate No. 825430M) prepared for the proposed development and identifying that water efficiency, energy efficiency and thermal comfort targets can be met.

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

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries. The site is located approximately 460m from the Georges River with Light Horse Park in between.

The application was referred to Council's Land Development Engineering section as part of the assessment of the proposal. Council's Land Development Engineer raised no objections to the stormwater management plan for the proposed development subject to the attachment of appropriate conditions.

(f) Liverpool Local Environmental Plan 2008

(v) Permissibility

The proposed development is for a *residential flat building*, which is defined as follows:

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The proposed development satisfies the definition of a *residential flat building* as it is a building which contains more than 3 dwellings.

(vi) Objectives of the zone

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The objectives of the R4 – High Density Residential zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The proposal to construct a residential flat building in the R4 zone is in keeping with the objective of the zone. It is the form in which the development is proposed to be delivered that is questionable.

(vii) Principal Development Standards

The LLEP 2008 contains a number of principal development standards which are relevant to the proposal. Assessment of the application against the relative standards is provided below.

Clause	Provision	Comment
Clause 2.7 Demolition	The demolition of a building or work may be carried out only with development consent	Complies Development consent is sought for the demolition of the existing buildings on the development site.
Clause 4.1 Minimum Subdivision Lot Size	The size of any lot resulting from a subdivision of land is not to be less than 1,000m ² .	Existing parcel is 702.31m² with no opportunity for amalgamation. The proposed development comprises a residential flat building on an existing lot of less than 1,000m ² This clause of the LLEP applies to the minimum lot size created by subdivision. The site is made up of two existing lots which when consolidated will create a new lot with an area of 702.31m ² which is 297.69m ² (29.77%) less than the minimum lot size. Consolidation is a form of subdivision but the application of clause 4.1 is generally not taken to apply to new lots created by this process. However, the reality is that a much smaller site than 1,000m ² presents significant challenges towards providing satisfactory design outcomes.

		<p>It is therefore important to consider the design against the objectives of the control.</p> <p>The minimum subdivision lot size ensures that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls. Having regard to the site and its locality, the clause indicates that any lot less than 1000m² is the minimum required to develop the site for the purpose of high density residential i.e. residential flat building.</p> <p>These parcels are the last remaining parcel on the north side of Mill Road in this section that have not be redeveloped as a residential flat building. There are no practical opportunities to amalgamate with the adjoining multi-storey, strata subdivided RFBs. On this basis, it is accepted the site as presented cannot be easily be enlarged in an acceptable time frame.</p> <p>For Council to consider any application on the site, it needs to be satisfied that any development is suitable for the site and locality.</p> <p>In its current form, it is considered that proposal results in a development that maximises the yield of dwellings on the site without due consideration to the impact on adjoining sites in terms of building separation, streetscape character and open space.</p> <p>As reflected in the comments of the Design Excellence Panel elsewhere in this report, it is considered that the development design requires changes to form a high density residential form that is suitable for the site and its locality.</p>
Clause 4.3 Height of Buildings	Maximum height of 35m	<p>Complies</p> <p>A building height of 26.8m is proposed measured to the top of the roof terrace from existing ground level.</p>
Clause 4.4	Maximum FSR of 2.4:1 based	Complies

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Floor Space Ratio	on the ARHSEPP bonus.	The development provides a FSR of 2.37:1
Clause 4.6 Exceptions to development standards	Provisions relating to exceptions to development standards	Not Applicable
Clause 5.9 Preservation of trees and vegetation	Maintain significant vegetation on sites	<p>Satisfactory</p> <p>Separate Arborist reports have been submitted for trees on the development site and for street trees in Mill Road. The reports support removal of the trees based on current condition and health.</p> <p>A Landscape Plan is proposed which will provide new trees and shrubs on the site.</p>
Clause 5.10 Heritage Conservation	Provisions relating to heritage sites.	<p>Satisfactory</p> <p>The site is not identified as a heritage item or a draft heritage item and is not in the immediate vicinity of a heritage item.</p> <p>The dwelling house on 9 Mill Road was considered to be of local heritage interest and was investigated and presented to Council for consideration. Council resolved not to place a heritage order on the site.</p>
Clause 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</p>	<p>Satisfactory</p> <p>For the most part, the proposed development satisfies the objectives for the whole of the city centre or does not adversely impact on their achievement.</p> <p>With regard item (b), Mill Road in this vicinity is not considered to be an area of high pedestrian activity compared to more central locations within the commercial precincts of the CBD.</p>

	<p>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>Clause 7.4</p> <p>Building separation in Liverpool City Centre</p>	<p>(1) The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.</p> <p>(2) Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least—</p> <p>(a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and</p> <p>(b) 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone</p>	<p>Does not comply</p> <p>See Section 2F of the ADG under SEPP 65</p>

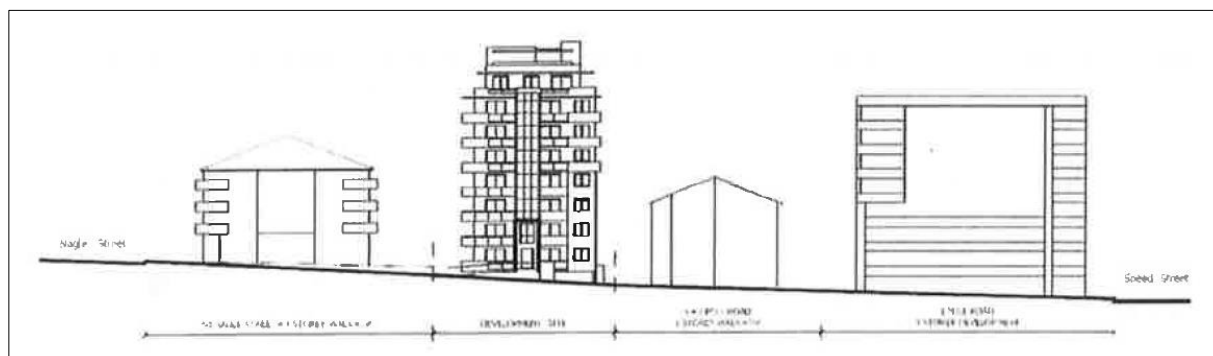
	<p>R4 High Density Residential, and</p> <p>(c) 18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential...</p>	
<p>Clause 7.5 Design Excellence</p>	<p>(1) The objective of this clause is to deliver the highest standard of architectural and urban design.</p> <p>(2) Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.</p> <p>(3) In considering whether development exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,</p> <p>(c) whether the proposed development detrimentally impacts on view corridors,</p> <p>(d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),</p> <p>(e) any relevant requirements of applicable development control plans,</p>	<p>Does not Comply</p> <p>It is considered that the proposed development does not exhibit design excellence in its current form.</p>

	<p>(f) how the proposed development addresses the following matters—</p> <p>(i) the suitability of the site for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</p> <p>(viii) the achievement of the principles of ecologically sustainable development,</p> <p>(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,</p> <p>(x) the impact on, and any proposed improvements to, the public domain.</p>	
Clause 7.14 Minimum Building Street Frontage	Minimum building street frontage of 24m	<p>Complies for frontage length</p> <p>The site has a frontage of 24.601m but the maximum width of the site is 22.05m.</p>
Clause 7.31 Earthworks	Provisions relating to bulk earthworks	<p>Complies</p> <p>No earthworks proposed other than those ancillary to the development being excavation for the proposed basement and associated ground works</p>

Based on the above assessment, the proposed development has been designed to meet the relevant controls in LLEP2008.

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

No draft Environmental Planning Instruments applies to the site.

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

The application has been assessed against the controls of the LDCP 2008 being:

- Part 1 - *General Controls for all Development*; and
- Part 3.7 - *Residential Flat Buildings in the R4 Zone*; and
- Part 4 - *Development in Liverpool City Centre*.

The tables below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2. Tree Preservation	Controls relating to the preservation of trees	Satisfactory Separate Arborist reports have been submitted for trees on the development site and for street trees in Mill Road. The reports support removal of the trees based on current condition and health.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Satisfactory A Landscape Plan was submitted with the DA that proposes new planting for the site.
Section 4 Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.
Section 5.	Controls relating to	Not Applicable

Development Control	Provision	Comment
Bush Fire Risk	development on bushfire prone land	The development site is not identified as being bushfire prone land.
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.	Satisfactory A stormwater drainage concept plan was submitted with the DA and was reviewed by Council's Land Development Engineer. It is considered that the site can be suitably drained.
Section 7. Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, requiring controlled activity approval from the NSW Office of Water.	Not Applicable The development site is not near a water course.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Can be conditioned Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during any construction phase.
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Not Applicable The development site is not affected by flooding.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Satisfactory It is considered that the land is unlikely to be contaminated and that the ground conditions will be suitable for the development.
Section 11. Salinity Risk	Provisions relating to development on saline land.	Addressed by Condition The development site is identified as containing a moderate salinity potential. Standard condition can be attached to any consent to manage salinity at the construction stage.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not Applicable The development site is not identified as containing the potential for acid sulphate soils. .
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	Not Applicable The site is not identified as containing noxious weeds.
Section 14.	Provisions relating to	Can be conditioned

Development Control	Provision	Comment
Demolition of Existing Development	demolition works	For any development involving demolition, conditions of consent can be attached to ensure demolition works are carried out in accordance with relevant Australian Standards
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	Not Applicable OSMS is not proposed or required.
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.	Not Applicable The site is highly disturbed and in an established urban precinct. . As such, it is unlikely that it would contain Aboriginal Archaeology.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	Satisfactory The site is not identified as a heritage item or a draft heritage item and is not in the immediate vicinity of a heritage item. The dwelling house on 9 Mill Road was considered to be of local heritage interest and was investigated and presented to Council for consideration. Council resolved not to place a heritage order on the site.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	DA was not notified.
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 20. Car Parking and Access	Residential Development Car Parking Requirements: <ul style="list-style-type: none"> • 1 space per one bedroom; • 1.5 spaces per two bedroom units; • 2 spaces per three or more bedroom dwelling; • 1 space per 4 units or part thereof, for visitors • One service bay 	Complies with ARHSEPP but not with Council's LDCP The following parking is required: 4 x 1 bedroom units @ 1 space = 4 7 x 2 bedroom units @ 1.5 = 10.5 6 x 3 bedroom units @ 2 spaces = 12 17 units require 5 visitor spaces A total of 32 spaces required under LDCP. Only 19 car parking spaces have been provided in accordance with the ARHSEPP.

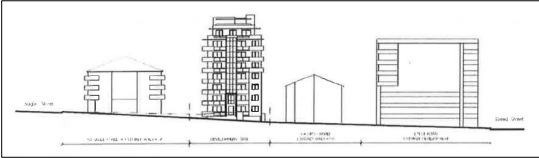
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Development Control	Provision	Comment
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not Applicable The DA does not propose the subdivision of land.
Section 22. Water Conservation and Section 23 Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies A valid BASIX Certificate has been provided with the DA and NatHERS Certification.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Can comply Waste storage facilities are provided and will be maintained by the caretaker. More detail is required on storage areas and management procedures proposed noting that a redesign of the basement is also required to address unsatisfactory internal access issues.
Section 27. Social Impact Assessment	A social impact comment (SIC) shall be submitted for residential flat buildings greater than 20 units or affordable rental housing.	Satisfactory A separate Social Impact Comment has not been provided with DA but the social aspects of the affordable housing have been sufficiently addressed in the Statement of Environmental Effects for the DA.

LDCP 2008 Part 3.7: Residential Flat Buildings in the R4 Zone

Development Control	Provision	Comment
Frontage and Site Area		
	Minimum lot width of 24m	Does not comply The maximum lot width is 22.05m and the width reduces from about 10m away from Mill Road down to zero because the site has an angled frontage relative to the depth of the lot. The variation is 1.95m or 8.13%. As such, while the width of the lot at Mill Road is less than 24m, the length of the frontage across the lot is 24.05m.
Site Planning		

	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies Earthworks proposed are to construct a basement, vehicle access and stormwater drainage – all which are directly associated with construction of the proposed building.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	Solar access complies The building has been designed to optimise northern exposure of units in the building.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Does not comply The vehicular access and parking arrangements are not satisfactory.
	Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	Does not comply The development is not in accordance with the objectives of the zone and provides for an inappropriate built form due to overdevelopment, poor urban design outcomes and excessive height. 
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate	Satisfactory Stormwater issues have been reviewed by Council's technical officers and the site can be adequately drained.
	The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	Does not comply As demonstrated within this report, the development does not demonstrate compliance with several aspects of SEPP 65 and the ADG.

Setbacks		
Front Setback	Front setback of 5.5m is required by Part 3.7 of LDCP. Front setback of 4-4.5m is required by Part 4 of LDCP. Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.	Does not comply A variable front setback ranging from 2.5m to 5.1m is proposed. The front is south facing and does not proposed awnings
Side Setback	Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, Level 1, Level 2 and Level 3 Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m	Does not comply with LDCP controls / Does not comply with ADG controls The side and rear setbacks of the development have been proposed in accordance with the ADG associated with SEPP 65 which takes precedence over the LDCP 2008.
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all building heights	
Landscaped Area and Private Open Space		
Landscaped Area	A minimum of 25% of the site area shall be landscaped area.	Complies More than 25% of site area is proposed to be landscaped
	A minimum of 50% of the front setback area shall be landscaped area	Complies Architectural plans indicate that a majority of the front setback area to Mill Road will be landscaped.
	Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.	Complies Architectural plans indicate that landscaped areas are proposed around the parts of site not designated for other purposes.

	Promote landscape health by supporting a rich variety of vegetation types and sizes.	Satisfactory A variety of species and specimens are proposed.
Open Space	Provide communal open space, which is appropriate and relevant to the context and the building's setting.	Satisfactory Ground level communal open space will be provided at the rear of the site but it is located adjacent to the balconies of Units 3 and 4. An alternative area of COS that is accessible to all residents and separated from individual units is proposed as a roof top terrace on top of the building.
	Where communal open space is provided, facilitate its use for the desired range of activities by: <ul style="list-style-type: none"> - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking. 	Satisfactory The combination of COS at ground level and on the roof top will provide options for use by residents as an adjunct to balcony areas attached to each unit.
	Locate open space to increase the potential for residential amenity.	Does not comply The main communal open space at ground level will be provided at the rear of the site and will interface with the balconies of Units 3 and 4 (Ground floor rear) and be overlooked (from varying heights). This arrangement compromises the privacy afforded to future occupants of the ground floor units and may discourage use of the COS in this location, or alternately, it may impact on the residential amenity of the lower level units. The roof top terrace provides potential for a space that does not directly interface with individual units but given the height of the proposed building relative to its neighbours, its use may impact on the privacy and amenity of

		surrounding residences.
Private Open Space	Private open space shall be provided as follows: - 10m ² for a dwelling size less than 65m ² - 12m ² for a dwelling size over 65m ²	Complies Private open space requirements are provided in accordance with the requirements of the ADG.
	Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor.	Not Applicable
	Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like.	Complies The POS acts as an extension of internal living rooms.
	Private open space should be clearly defined for private use.	Complies The POS is clearly defined.
Building Design, Style and Streetscape		
Building Appearance and Streetscape	Objectives of the controls are as follows: a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which define and enhance the public domain and desired street character. d) To ensure that building elements are integrated into the overall building form and facade design.	Does not comply The architectural quality of the proposal was considered by the DEP and found to be unsatisfactory. As identified in the body of this report, a schematic design addressing the issues raised by the DEP has been prepared but it is not the subject of this assessment. However, it demonstrates that the issues of concern can be suitably resolved to provide a satisfactory outcome.
Roof Design	Objectives of the controls are: a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings; b) To integrate the design of	Complies The proposed roof design contributes positively to the design of the building.

	the roof into the overall facade, building composition and desired contextual response; c) To increase the longevity of the building through weather protection.	
Building Entry	Objectives of the controls are: a) To create entrances which provide a desirable residential identity for the development. b) To orient the visitor. c) To contribute positively to the streetscape and building facade design.	Complies The building has a single centrally located pedestrian entry.
Balconies	Objectives of the controls are: a) To ensure that balconies contribute positively to the façade of a building. b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents. c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings. d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address.	Complies Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.
Daylight Access	Objectives of the controls area: a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development. b) To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours. c) To provide residents with the ability to adjust the quantity of daylight to suit their needs.	Complies The proposed development is designed in a manner that seeks to maximise solar access and light to the apartments.

Internal Design	Objectives of the controls are: a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties.	Complies The building has been designed to take advantage of the northern aspect.
Ground Floor Dwellings	Objectives of the controls are: a) To contribute to the desired streetscape of an area and to create active safe streets. b) To increase the housing and lifestyle choices available in dwelling buildings.	Can comply Subject to redesign of the vehicle access and provisions of compliant front setbacks, the ground floor units at the front of the sites can be designed in a manner that contributes to the desired streetscape and create active safe streets.
Security	Objectives of the controls are: a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings. b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders. c) To ensure buildings are safe and secure for residents and visitors. d) To contribute to the safety of the public domain.	Complies The entrance to the building is clearly defined, causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.
Natural Ventilation	Objectives of the controls are: a) To ensure that dwellings are designed to provide all habitable rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants. b) To provide natural ventilation in non-habitable rooms, where possible. c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning.	Complies All apartments will have direct access to natural ventilation.

Building Layout	Objectives of the controls are: a) To provide variety in appearance. b) To provide increasing privacy between dwellings within the building. c) To assist with flow through ventilation. d) To improve solar access.	Addressed by controls All these matters have been considered in the assessment of the proposal under other planning controls and guidelines.
Storage Areas	A secure storage space is to be provided for each dwelling with a minimum volume of 8m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement or garage.	Insufficient information Storage facilities are shown in the proposed basement but insufficient information is provided to determine if a minimum of 136m ³ of separate, accessible, functional and secure storage space is provided and how it will be managed. Noting that a redesign of the basement is also required to address unsatisfactory internal access issues, adequate storage provision needs to be factored into the new design.
	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Storage areas within the basement of the building will adequately lit.
Landscaping and Fencing		
Landscaping	Objectives of the controls are: a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape. b) To ensure that the relation of landscape design is appropriate to the desired proportions and character of the streetscape. c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development. a) To retain existing mature trees within the site in a way which ensures their ongoing	Landscaping Plan submitted.



	<p>health and vitality.</p> <p>b) To provide privacy, summer shade and allow winter sun.</p> <p>c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality.</p> <p>d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.</p>	
Planting on Structures	<p>a) To contribute to the quality and amenity of communal open space on podiums and internal courtyards.</p> <p>b) To encourage the establishment and healthy growth of trees in urban areas.</p>	A Landscape Plan has been submitted which shows that planting will be provided on and over structures including in the perimeter of the roof top terrace.
Fencing	<p>Maximum height of front fence is 1.2m. The front fence may be built to a maximum height of 1.5m if the fence is setback 1m from the front boundary with suitable landscaping in front of the proposed fence.</p> <p>Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.</p> <p>The front fence must be 30% transparent.</p> <p>Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.</p> <p>Boundary fences shall be lapped and capped timber or metal sheeting.</p>	<p>Not applicable as no front fence is proposed.</p> <p>Can comply Fencing can be provided as required.</p>
Car Parking and Access		
Car Parking	Visitor car parking shall be clearly identified and may not be stacked car parking.	<p>Does not comply Visitor parking has not been provided.</p>

	Visitor car parking shall be located between any roller shutter door and the front boundary.	The provision of car parking is calculated based on the ARHSEPP which does not require visitor parking. Here is no opportunity to provide car parking in the location nominated by the DCP.
	Pedestrian and driveways shall be separated.	Complies Pedestrian access and driveways are separated.
	Driveways shall be designed to accommodate removalist vehicles.	Does not comply Driveway has not been designed to accommodate larger vehicle types.
	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.	Not applicable or suitable A curved driveway is not considered to be a safe or satisfactory option for this site.
	Give preference to underground parking	Complies Underground parking is proposed.
Pedestrian Access	Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts.	Complies Pedestrian entries are clearly defined and accessible.
Amenity and Environmental Impact		
Over-shadowing	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least:	More information required The submitted shadow diagrams show that the adjoining RFBs on the north side of Mill Road should receive the required

	<ul style="list-style-type: none"> - One living, rumpus room or the like; and - 50% of the private open space. 	midwinter solar access but the plans are inadequate as they do not demonstrate the extent of overshadowing during the winter solstice for properties on the south side of Mill Road.
Privacy	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> a) To locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents. b) To avoid any external impacts of a development, such as overlooking of adjoining sites. c) To provide reasonable levels of visual privacy externally and internally, during the day and at night. d) To maximise outlook and views from principal rooms and private open space. 	<p>Variable compliance</p> <p>Dealt with under ADG provisions and affected by building separation variances.</p>
Acoustic Impact	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> a) To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings. 	<p>Complies</p> <p>Council's Environment and Health Officer has advised that the recommendations of the submitted Environmental Noise Impact Assessment prepared by Day Design (Report no: 6178-1.1R (dated 15 May 2017) is satisfactory should provide a satisfactory outcome for the proposed development.</p>
Site Services		
	<p>Objectives of the controls are:</p> <ul style="list-style-type: none"> a) To ensure that the required services are provided. b) To ensure that the services provided are easily protected or maintained. 	<p>Can comply</p> <p>Services will be available. Details have not be provided at DA stage and would be conditions in any consent</p>

LDCP 2008 Part 4: Development in Liverpool City Centre

Controls	Comment	Compliance
PART 4 – LIVERPOOL CITY CENTRE		
Application	The subject site is located in the Liverpool City Centre	Provisions within the

		DCP apply
2.1 Building Form Building to Street Alignment and Street Setbacks	<p>The Design Excellence Panel has reviewed the building design as submitted and advised that the scheme presented was not acceptable.</p>	Not acceptable
Front Setback: Street building alignment and street setbacks are to comply with the attached figure (next column) Requires: 4-4.5m landscaped setback to Mill Road.	 <p>4-4.5m landscaped setback</p> <p>Front setback varies from 2.5m to 5.1m and is staggered across the site frontage.</p>	Does not comply
Street Frontage Height: The street frontage height of buildings must comply with the minimum and maximum heights above mean ground level on the street front as shown in the attached figure (next column). Required: 15-25m to Mill Road.	 <p>Street frontage height between 15m-25m required (5-7 storeys)</p> <p>The maximum height of the building is just over 25m. There is no articulation or setback for the height of the building at 15m at the front of the site. However, a more important articulation for the proposed building in this context is along the side boundaries to achieve better building separation from neighbouring RFBs.</p>	Does not comply but variation is supported if better building separations along the side boundaries can be achieved.
Building Depth and Bulk: Maximum GFA per floor plate	<p>The maximum GFA for the floor plates is calculated as approximately 250m².</p>	Complies

is 500m ² and maximum building depth is 18m.	The maximum building depth for units is 18m	
Side and Rear Setbacks: Ground to 12m - Side 3m to non-habitable rooms and 6 to habitable rooms Rear 6m to both non-habitable and habitable rooms	The ADG controls for building separation prevail for building separation. For the western side of the site, the minimum setback to the balcony edge is 3.5m and 3.8m but only 5m to habitable rooms. For the eastern side of the site, the minimum setback to the balcony edge is 3m and between 2.65m and 3m to habitable rooms.	Do not comply
2.3 Site Cover and Deep Soil Zones Developments with a residential component in all zones, except the Commercial Core, must include a deep soil zone. The deep soil zone shall comprise no less than 15% of the total site area (or proportionate to the percentage of residential uses in a mixed-use development). It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.	Development provides deep soil zones on site calculated as 15% but fragmented over the site due to minimum width requirement of 3m.	Complies numerically but fragmented.
2.3 Landscape Design 1) Landscaped areas are to be irrigated with recycled water. 2) Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.	It is not feasible to provide the supply of water for landscaping will not be from recycled source. Landscape species can include preferred species	Complies.
3.4 Safety and Security	Specific consideration of Safer by Design principles	Satisfactory

Address “Safer-by-Design” principles to the design of public and private domain, and in all developments (including the NSW Police “Safer by Design” crime prevention though environmental design (CPTED) principles).		
4.3 On Site Parking Except as separately provided for in the <i>Liverpool LEP 2008</i> , on site vehicle and bicycle parking is to be provided in accordance with...the LDCP.	Parking numbers can comply with reduced ARHSEPP requirements. Access to basement is not safe or satisfactory.	Numbers comply with ARHSEPP. Revised access required
5.1 Energy Efficiency and Conservation Residential 1) New dwellings, including dwellings within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with <i>State Environmental Planning Policy – Building Sustainability Index (BASIX)</i> . A complying BASIX report is to be submitted with all development applications containing residential activities.	BASIX Certificate and NatHERs documentation provided and considered acceptable.	Complies
5.2 Water Conservation Residential: New dwellings, including dwellings within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with <i>State Environmental Planning Policy – Building Sustainability Index (BASIX)</i> .	BASIX Certificate and NatHERs documentation provided and considered acceptable.	Complies

5.3 Reflectivity	To be conditioned with any consent.	Can comply
Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.		
5.4 Wind Mitigation	A Wind Effects Report is not required as the building is less than 35m high.	Complies
A Wind Effects Report is to be submitted with the DA for all buildings greater than 35m in height.		
5.5 Noise	The DA included an acoustic report which was reviewed by Council's Environmental Health officer and is considered to be satisfactory.	Satisfactory
An acoustic report is required for all noise affected locations ... to demonstrate that appropriate noise attenuation and barrier planning is to be implemented.		
5.6 Waste	Waste storage facilities are provided and will be maintained by the caretaker. More detail is required on storage areas and management procedures proposed noting that a redesign of the basement is also required to address unsatisfactory internal access issues.	Can comply
Residential development		
Provision must be made for the following waste generation in accordance with Table 4 Waste.		
6.1 Housing Choice and Mix	The proposed housing mix is satisfactory.	Complies
To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size:		
- studio and one bedroom units must not be less than 10% of the total mix of units within each development,		
- three or more bedroom units must not to be less than 10% of the total mix of units within each development,		

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As per the above DCP compliance tables, the development satisfies many aspects of DCP but is also inconsistent with development controls which seek to protect privacy and amenity for future residents.

6.4 Section 4.15 (1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

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

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

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

(a) Natural and Built Environment

The site is not considered to be of a size that is large enough to accommodate the size and scale of development proposed. While the proposal can meet compliance with planning controls such as maximum height and maximum floor space ratio, this is achieved by compromising other design parameters that apply to quality design under SEPP 65 and the ADG. As identified by Council's Design Excellence Panel, non-compliance with the ADG in respect to setbacks and building separation is problematic in that it results in amenity issues with adjoining sites and for future residents of the subject proposal.

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

The site is not considered suitable to accommodate a residential flat building at the height and density proposed. As a remnant site in the R4 - High Density Residential zone, it has an area of only 702.31m² and an effective width of 22.05m which does not meet Council's minimum requirement. An angled frontage means that the minimum frontage requirement of 24m is met but at for its full depth, the site is approximately 2m narrower than required. It has no additional area to compensate for this discrepancy. As such, it is considered that the site is not suitable for the proposed development as presented and is not in keeping with the desired character for the locality as it is unlikely to preserve and maintain the amenity of the adjoining residential properties.

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

(d) Internal Referrals

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

Department	Comments
Building	No objection subject to standard conditions of consent.

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Development Engineering	Stormwater concept plans are generally satisfactory. Strata subdivision plans not provided for assessment.
Traffic and Transport	Proposed development does not comply with AS and DCP. The entry ramp to the basement is not satisfactory and should be relocated and redesigned. Provision of car parking does not comply with Council's DCP requirements.
Heritage	Development on the site was referred to Council which resolved not to consider listing it as an item of heritage significance.
Environment and Health	No objections subject to conditions.

(e) Community Consultation

As per Council's Notifications Policy, the development application was not notified and no submissions were received.

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

Approval of the application is not considered to be in the public interest, for the reasons outlined in this report.

7. SECTION 7.11 CONTRIBUTIONS

The proposed development is not supported. Contributions are not required in this instance. However, in the event the application was approved contributions would be applied.

8. CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of the ARHSEPP, SEPP 65, LLEP 2008 and LDCP 2008.

The proposed development generally meets the numeric controls in the ARHSEPP and LLEP 2008 but only by compromising on Design Principle within SEPP 65 and the Apartment Design Guide, as identified in this report.

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

- The small size and narrow width of the development site and how it impacts on the design of the development;
- The proposed development is inconsistent with SEPP 65 Design Principles and with Parts 2F, 3B, 3C, 3F, 3H, 3J, 4F(C), 4G and 4W of the Apartment Design Guide.
- The proposed development is inconsistent with Clauses 7.4 and 7.5 of Liverpool Local Environmental Plan 2008 and Sections 20 and 25 in Part 1 of LDCP 2008 and Sections 2, 3, 4, 6, and 8 in Part 3.7 of LDCP 2008 and Sections 2.1, 4.3 in Part 4 of LDCP 2008.

It is considered that the applicant has been provided with more than sufficient time to satisfactorily respond to the issues of concern to Council and Council's Design Excellence

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Panel. To date, Council has yet to receive a satisfactory resolution to these concerns, notwithstanding the schematic design presented to the DEP for consideration.

Accordingly, it is recommended that the application be refused.

9. RECOMMENDATION

It is recommended that Development Application DA-563/2017 for the demolition of existing structures and construction of a 9 storey residential flat building with basement parking at 9-11 Mill Road, Liverpool be refused for the following reasons:

1. The proposed development does not achieve satisfactory compliance with the provisions of SEPP 65 (Design Principles) and the Apartment Design Guide and Liverpool Development Control Plan pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. The width of the site is considered to be inadequate for the proposed development as the site does not comply with the minimum lot width control in Section 2 of Part 3.7 of the LDCP 2008, pursuant to Section 4.15(1)(a)(iii) and 4.15(1)(a)(c) of the Environmental Planning and Assessment Act 1979.
3. The proposed building separation distances are inadequate and do not comply with the SEPP 65 Design Principles and Objectives 2F and 3F of the ADG relating to building separation and visual privacy, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
4. The proposed development is not accompanied by satisfactory shadow diagrams that show the shadow impact of the proposed development to surrounds during mid-winter. The design of the proposed development does not minimise overshadowing of neighbouring properties during mid-winter and therefore does not comply with SEPP 65 Design Principles, Objective 3B of the ADG and Section 9 in Part 3.7 of LDCP 2008, pursuant to Section 4.15(1)(a)(i), (iii) and (b) of the Environmental Planning and Assessment Act 1979.
5. The proposed development is considered to result in adverse visual impacts on the desired future streetscape character in the area given the lack of separation and articulation provided in upper section of the building. The development is therefore inconsistent with the SEPP 65 Design Principles, Objective 4M of the ADG and Section 25 in Part 1 of the LDCP, pursuant to Section 4.15(1)(a)(i), (iii) and (b) of the Environmental Planning and Assessment Act 1979.
6. The proposed development has not been designed with adequate provision for storage in the apartments. The proposed development is therefore inconsistent with Objective 4G of the ADG, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
7. The proposed basement parking is unsatisfactorily designed resulting in vehicle manoeuvring issues and is not consistent with Objective 3J of the ADG, Section 10 in Part

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- 1 of LDCP 2008 and Section 8 in Part 3.7 of LDCP 2008, pursuant to Section 4.15(1)(a)(i), (iii) and (b) of the Environmental Planning and Assessment Act 1979.
8. Insufficient information has been provided on proposed waste management for the proposed development and in that regard the proposed development is not consistent with Objective 4W of the ADG and Section 25 in Part 1 of LDCP 2008, pursuant to Section 4.15(1)(a)(i), (iii) and (b) of the Environmental Planning and Assessment Act 1979.
9. For the above reasons, approval of the application is not in the public interest, pursuant to Section 4.15(1)(e) of the EP & A Act 1979.

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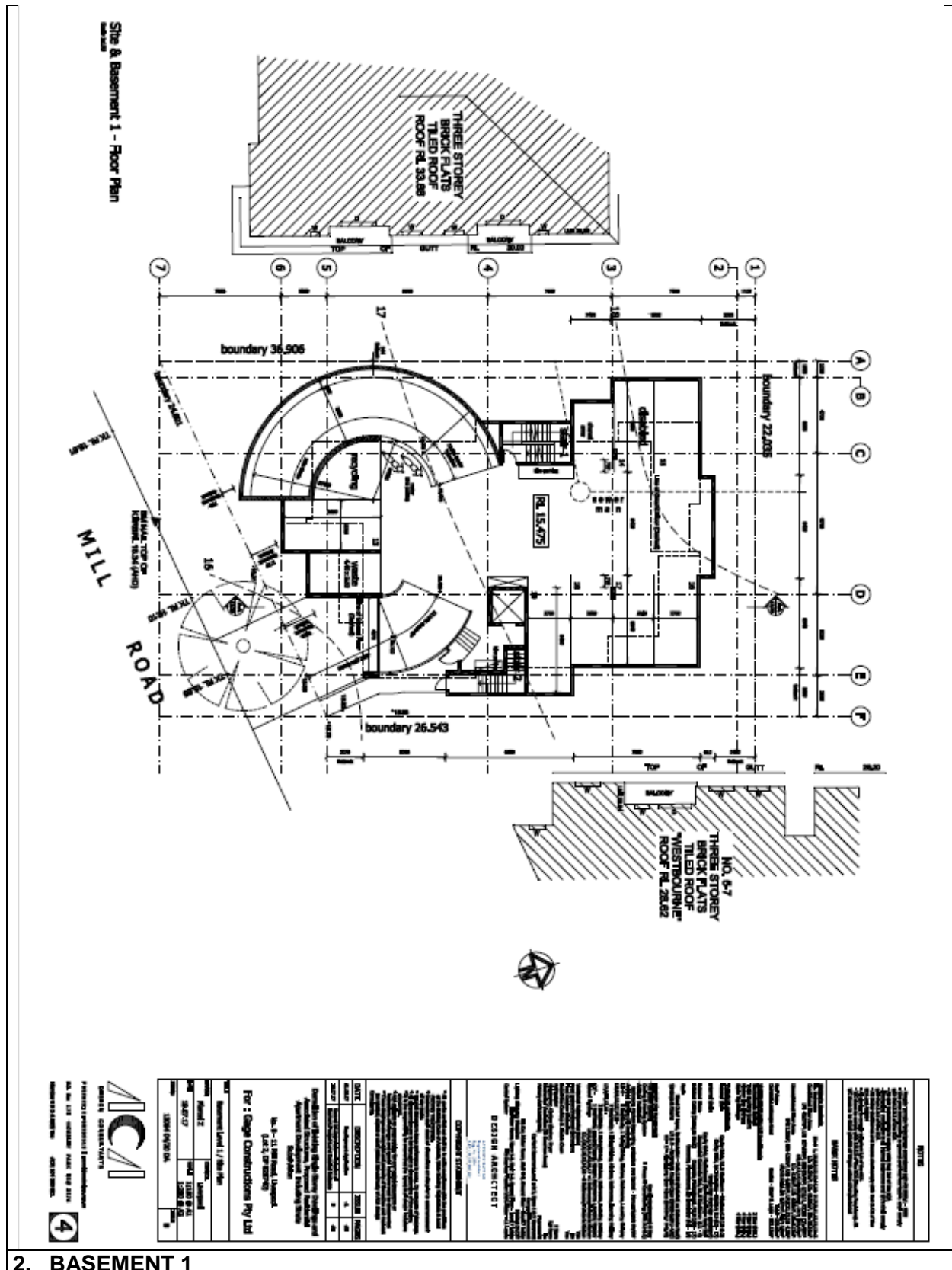
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9. ATTACHMENTS

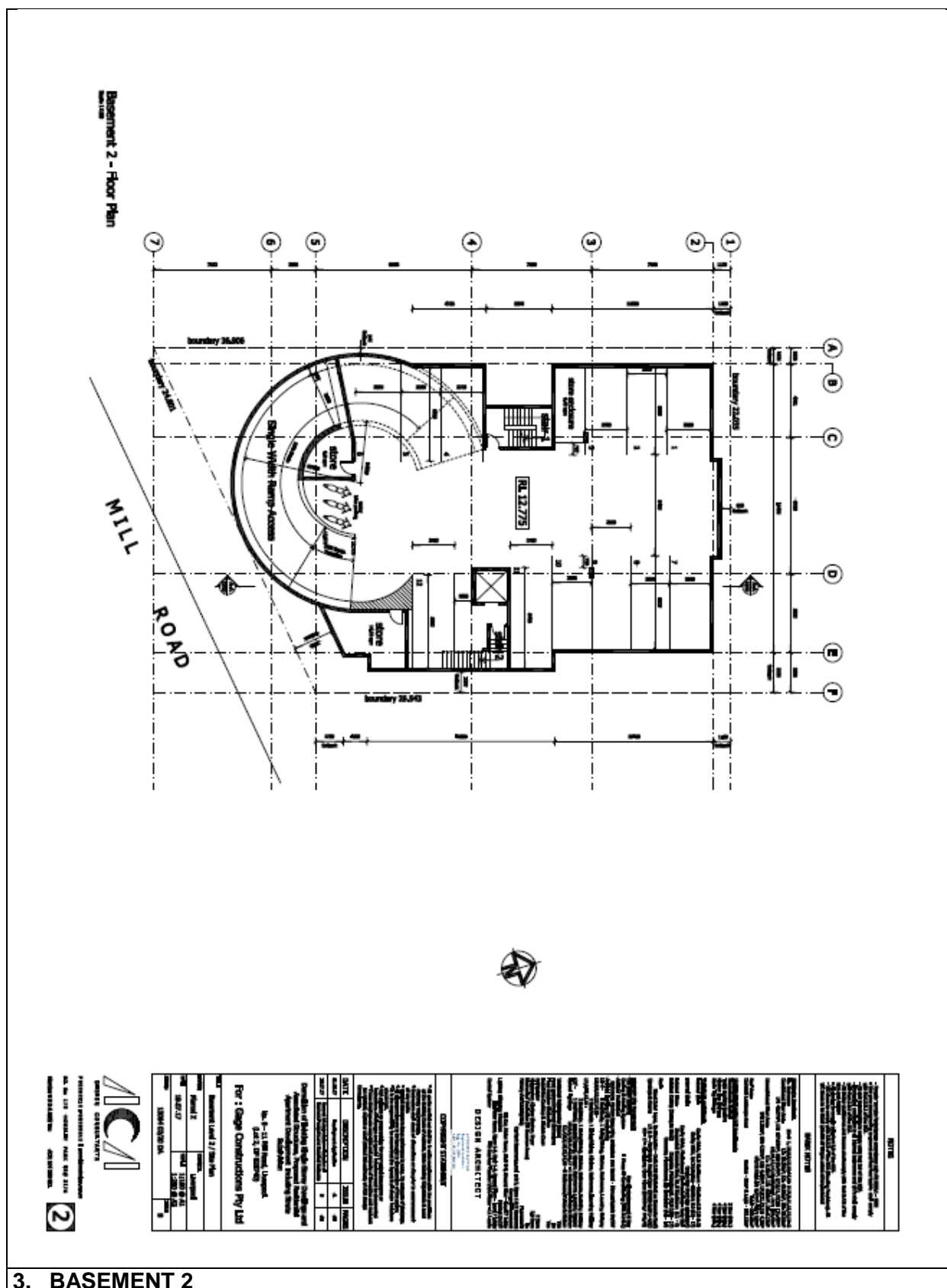
- 1. Plans of the proposal**
- 2. ARHSEPP Compliance Table**

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2. BASEMENT 1



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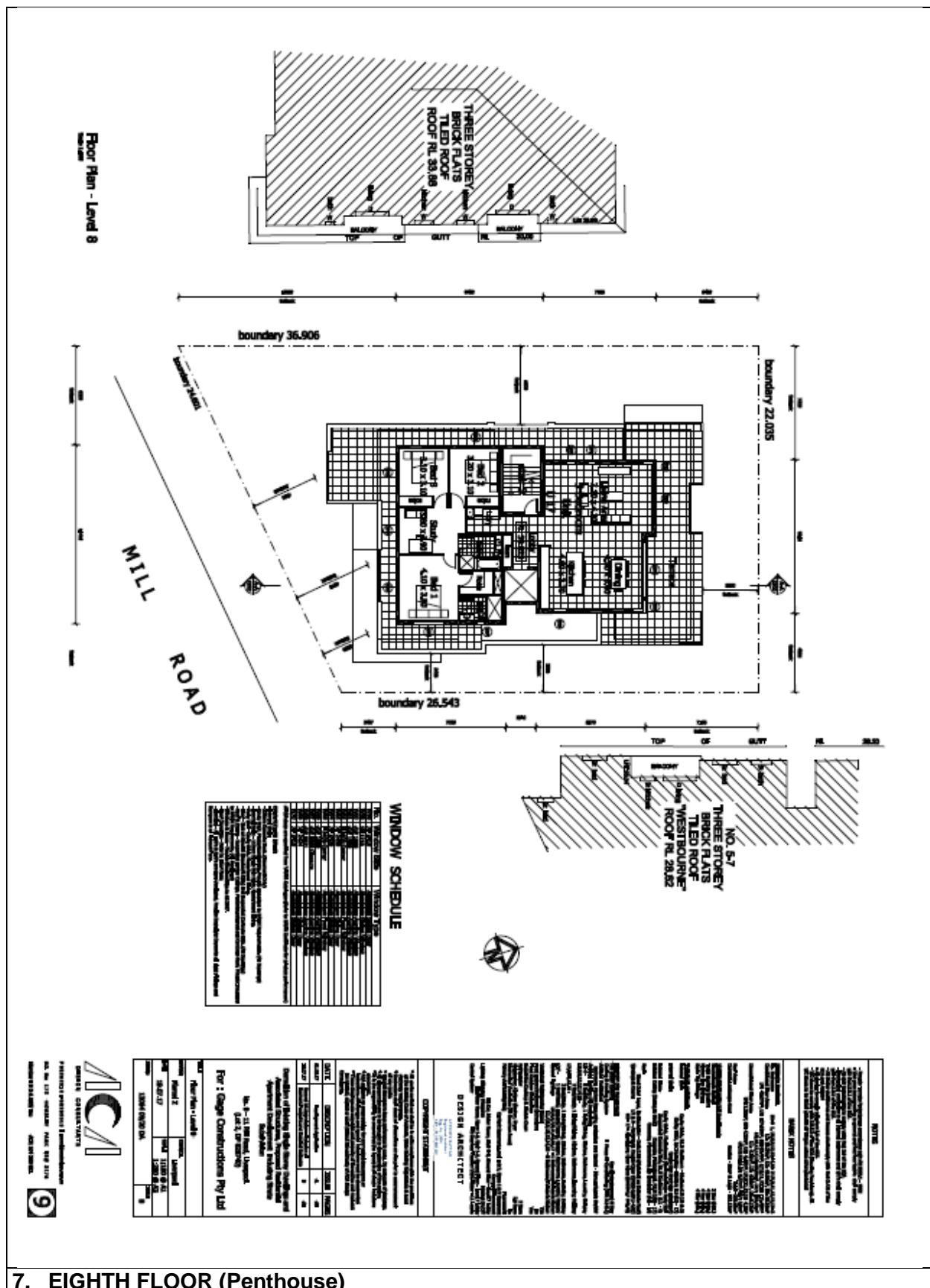
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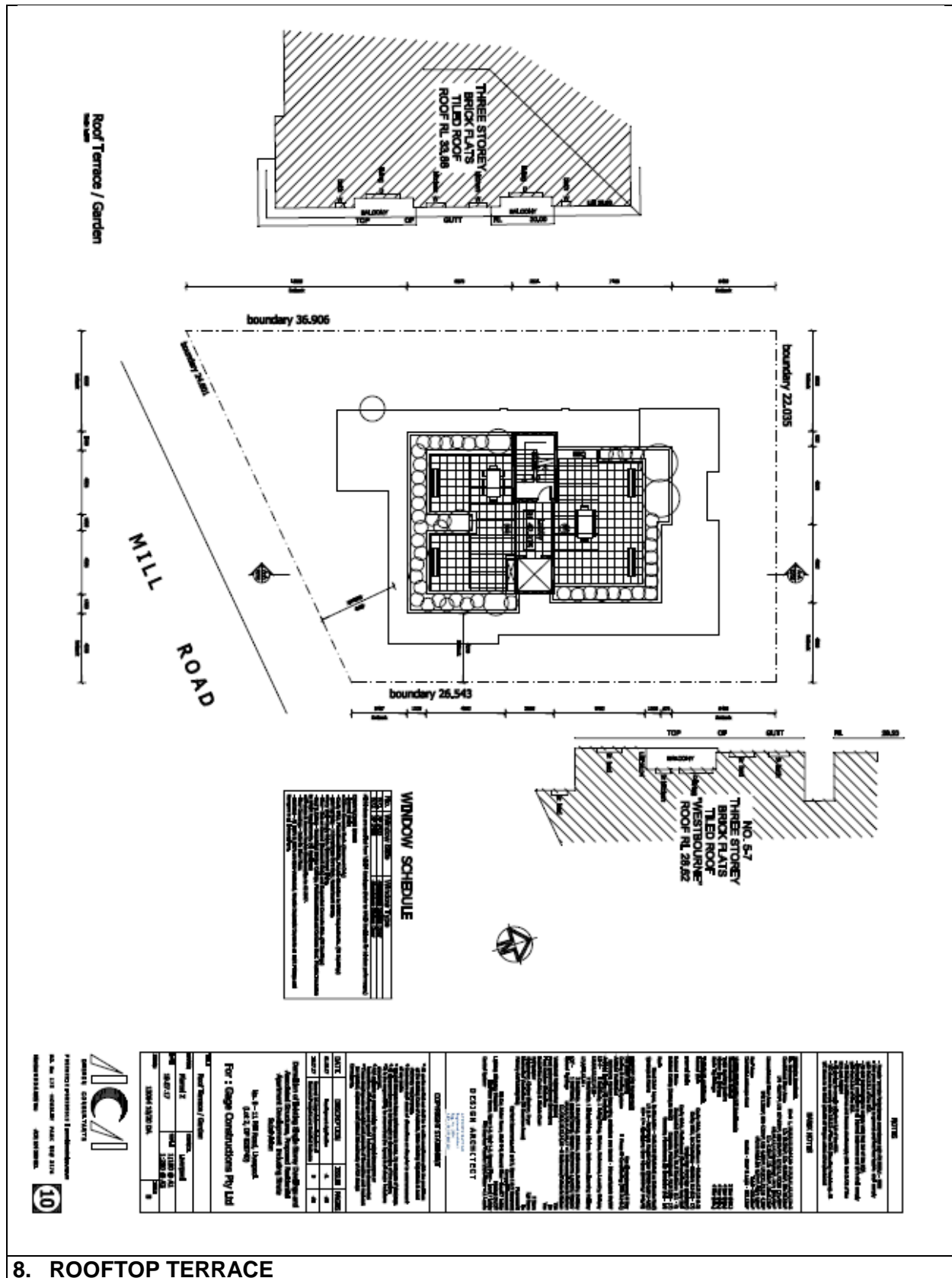
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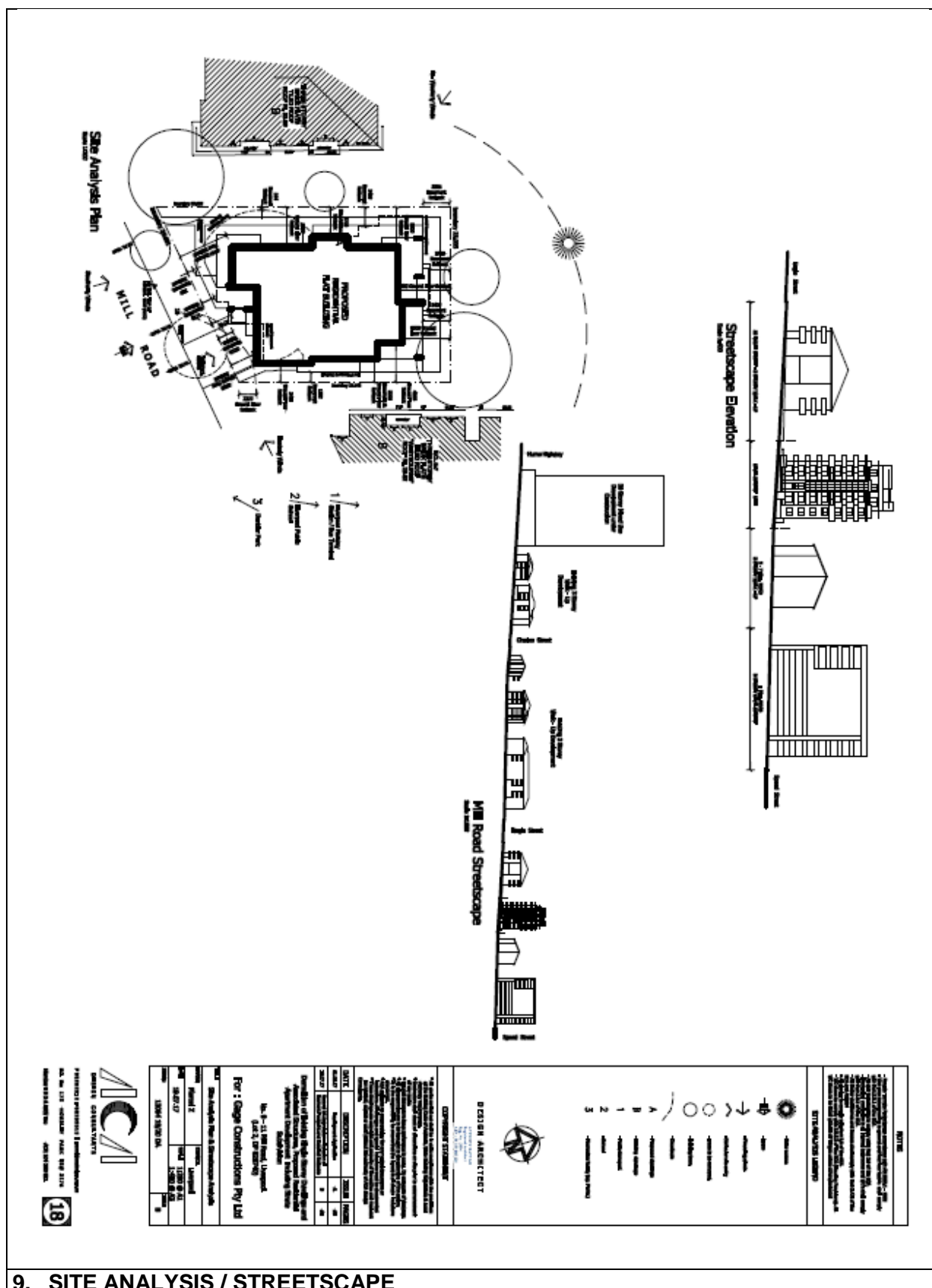


7. EIGHTH FLOOR (Penthouse)

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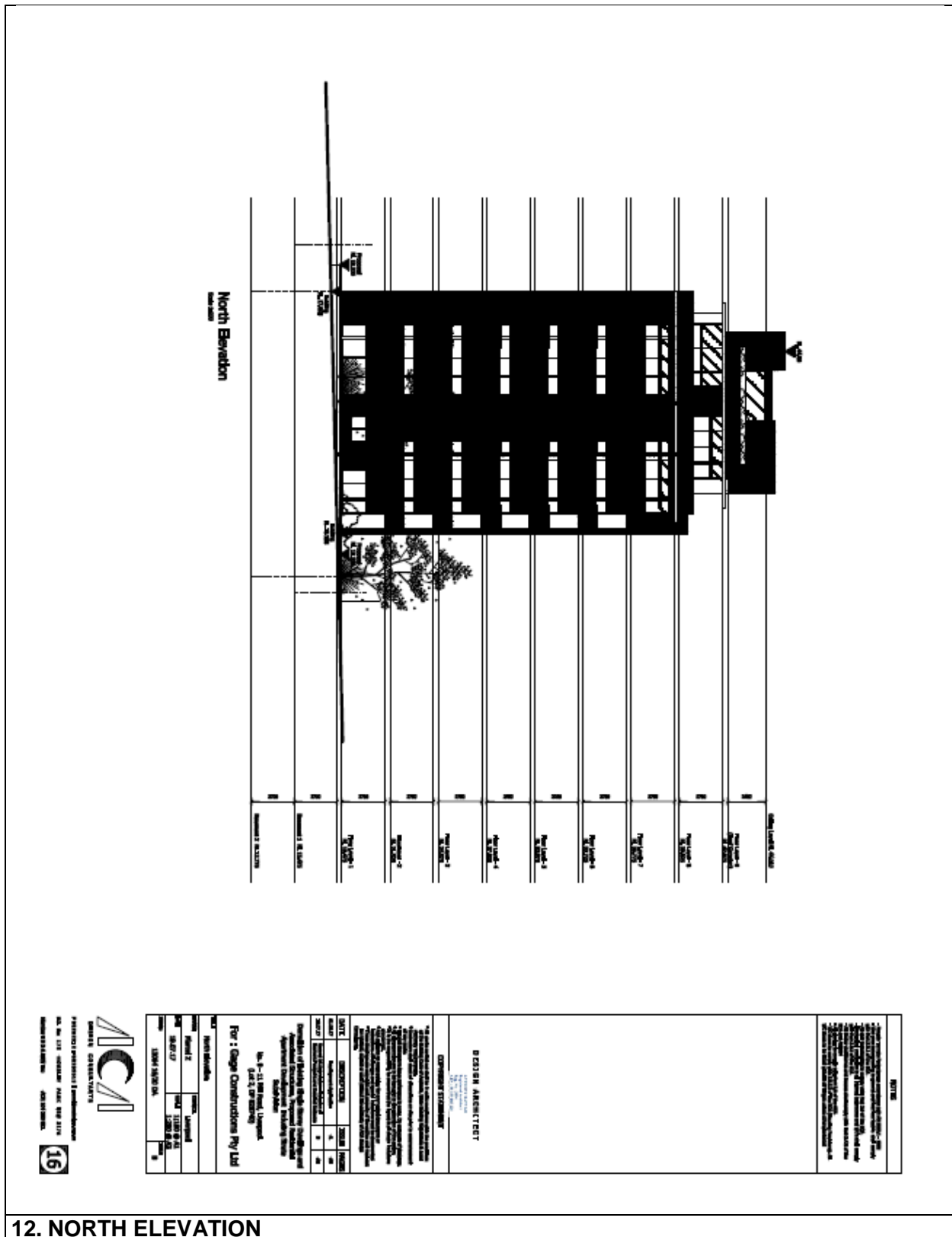






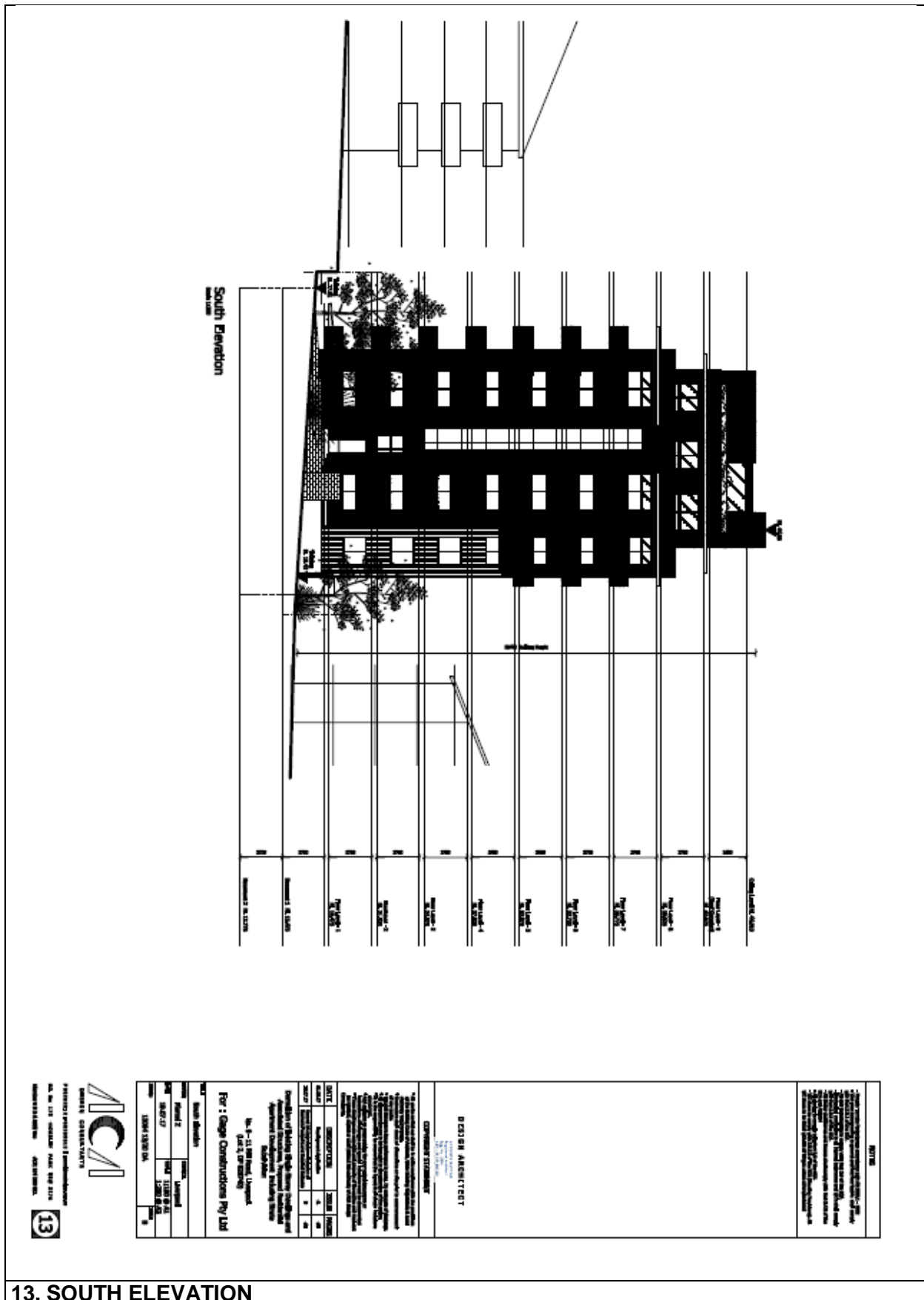
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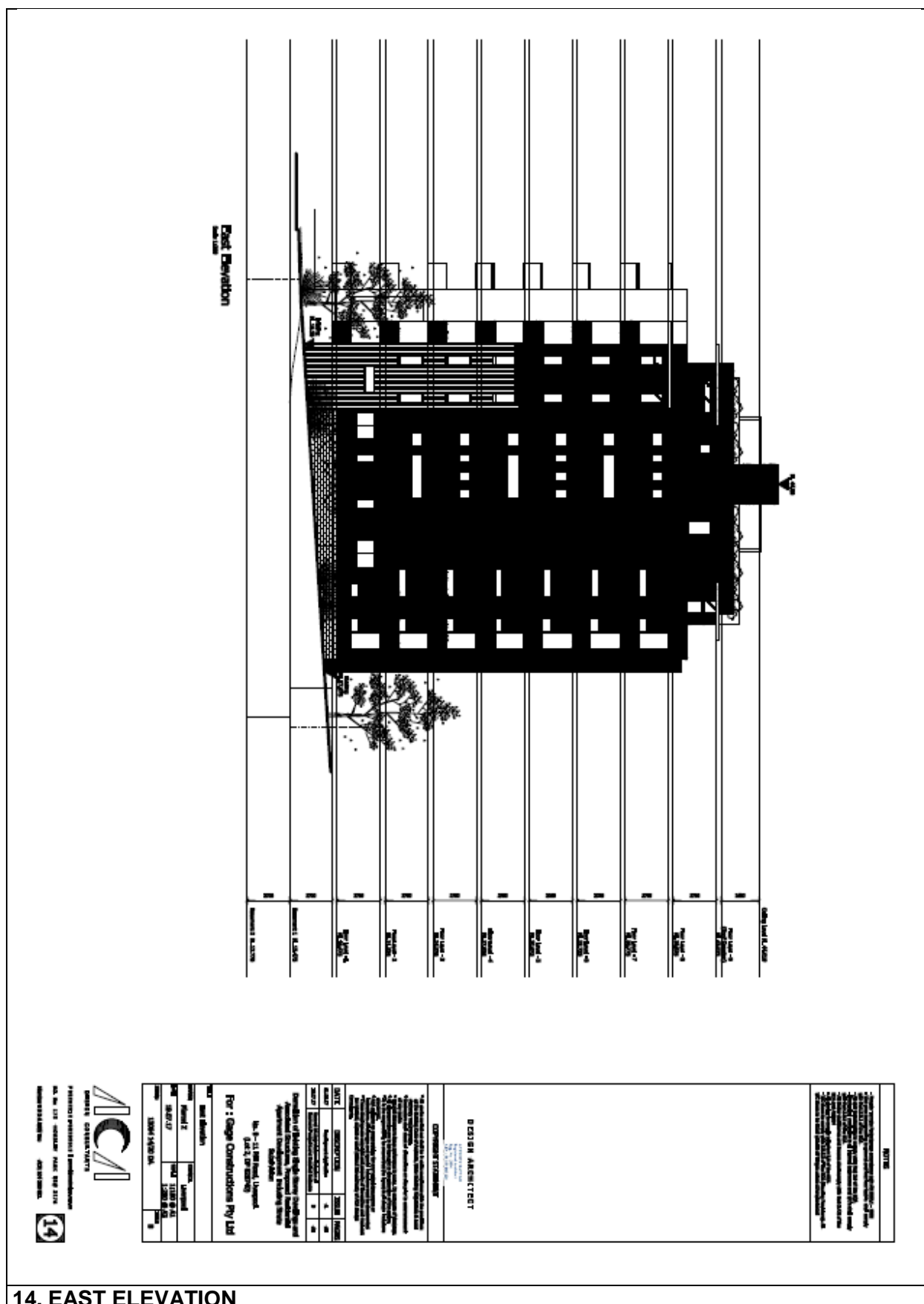
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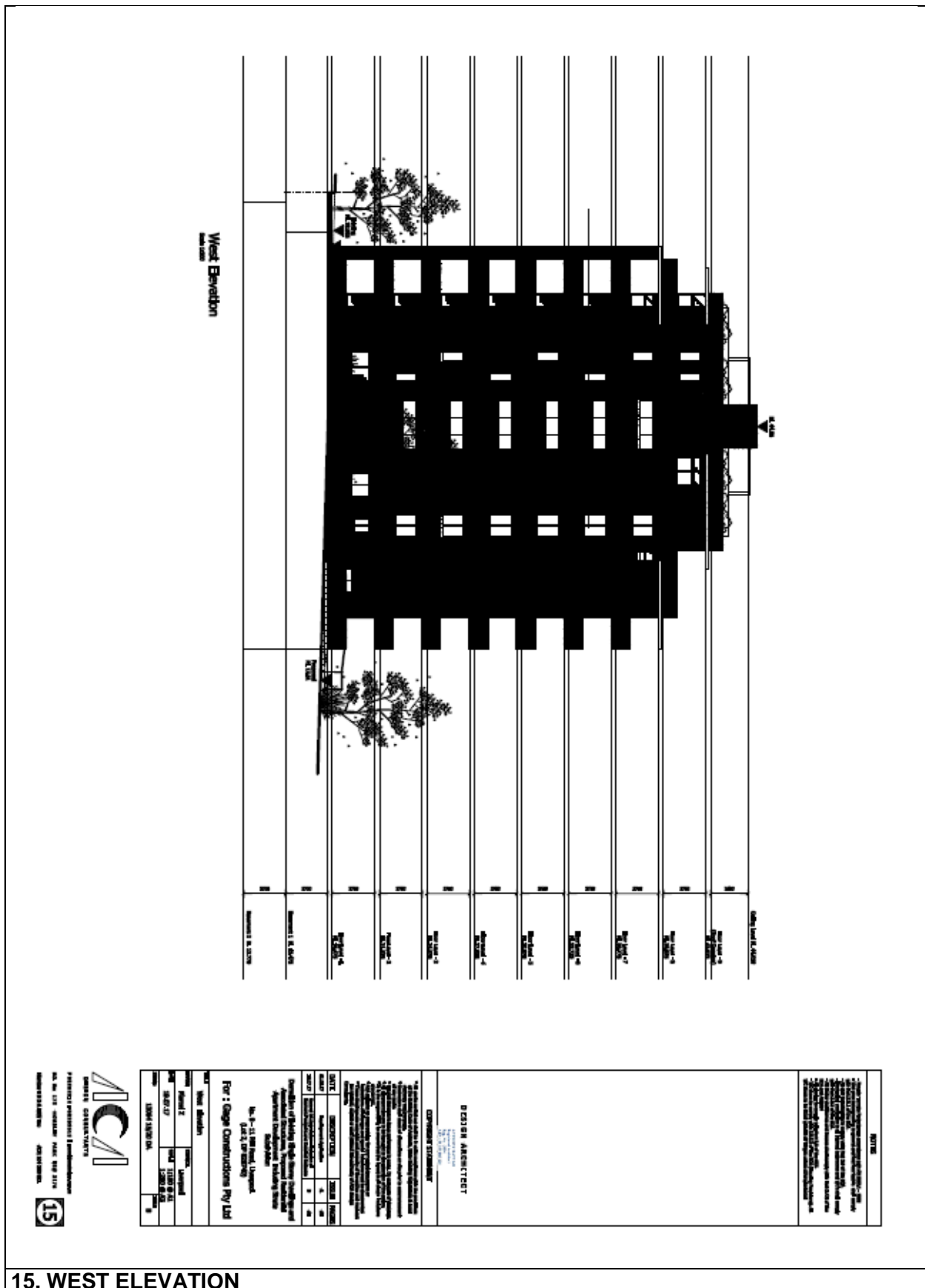
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15. WEST ELEVATION

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Section A-A

[illegible]

17. ADAPTABLE FLOOR PLANS

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ATTACHMENT 2 – ARHSEPP COMPLIANCE TABLE

Provision	Comment
Part 2 New Affordable Rental Housing Division 1 In Fill Affordable Housing	
Clause 10 Development to which Division Applies	
<p>(1) <i>This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</i></p> <p>(a) <i>the development concerned is permitted with consent under another environmental planning instrument, and</i></p> <p>(b) <i>the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.</i></p>	<p>Complies</p> <p>The proposed development is permitted with consent under the LLEP 2008.</p> <p>The site does not contain a heritage item.</p>
<p>(2) <i>Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</i></p> <p><i>In the definition within Clause 4(1) of the ARHSEPP, “accessible area” includes land that is within 800 metres walking distance of a public entrance to a railway station.</i></p>	<p>Complies</p> <p>The site is considered to be within 800m walking distance of Liverpool Railway Station</p> <p>However, the site is not within 400m walking distance of a compliant bus stop or bus service.</p>
Complies	
<p>(1) <i>This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</i></p>	<p>Complies</p> <p>It is proposed to provide 40% of the Gross floor area as affordable housing units. This will equate to 7 units.</p>
<p>(2) <i>The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</i></p> <p>(a) <i>if the existing maximum floor space ratio is 2.5:1 or less:</i></p> <p>(i) <i>0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</i></p> <p>(ii) <i>Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</i></p> <p><i>AH is the percentage of the gross floor area of the development that is used for affordable housing.</i></p>	<p>Complies</p> <p>The maximum FSR permitted in the LLEP 2008 is 2:1.</p> <p>The development seeks a FSR of 2.4:1 to allow 40% of the units to be affordable housing.</p> <p>The GFA from a FSR of 2:1 = 1404.62m²</p> <p>The GFA from FSR of 2.4:1 = 1685.54m²</p> <p>The proposed development achieves a GFA of 1670m² which is a FSR of 2.37:1.</p>

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$Y = AH \div 100$	The additional GFA = 280.92m ²
Clause 14 Standards that cannot be used to refuse consent	
<p><i>(1) Site and solar access requirements</i> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	
<p><i>(b) Site Area</i> if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p>Complies The site has an area of 702.31m².</p>
<p><i>(c) landscaped area: if:</i></p> <ul style="list-style-type: none"> <i>(i) in the case of a development application made by a social housing provider—a minimum 35m² of landscaped area per dwelling is provided, or</i> <i>(ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,</i> 	<p>Does not comply 30% of the site is an area of 210.7m².</p> <p>The plans indicate that 162.12m² of the site is open for landscaping including paving. This represents 23% of the site – a shortfall of 7%.</p> <p>A roof top terrace measuring 43.7m² is proposed to compensate for the shortfall at ground level. It is considered that the rooftop terrace does not serve the purpose intended for landscaping and cannot be included in a calculation for this purpose.</p>
<p><i>(d) Deep Soil Zones</i> In relation to that part of the site area that is not built on, paved or otherwise sealed:</p> <ul style="list-style-type: none"> <i>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and</i> <i>(ii) each area forming part of the deep soil zone has a minimum dimension of 3m, and</i> <i>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</i> 	<p>Complies Proposal provides approximately 110m² which can be deep spoil area and represents 15% of the site area.</p> <p>Areas that do not have a dimension of 3m are excluded.</p>
<p><i>(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i></p>	<p>Complies The site has a northerly aspect and the proposal has been designed to meet this requirement for 15 units facing to the north.</p> <p>The proposal has also been designed to comply with the provisions of the ADG and thus SEPP 65 – Design Quality of Residential Apartment Development to ensure that more than</p>

	70% of units of the development provide a minimum of 2 hours of solar access.
<p><i>(2) General</i> <i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
<p><i>(a) parking</i></p> <p><i>(ii) ...0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms</i></p>	<p>Compliant with ARHSEPP</p> <p>If calculated under ARHSEPP control only, the proposed development requires the following parking:</p> <ul style="list-style-type: none"> • 4 x 1 bedroom @ 0.5 space = 2; • 7 x 2 bedroom @ 1 space = 7; • 6 x bedroom @ 1.5 spaces = 9 <p>A total of 18 spaces is required.</p> <p>The submitted design provides 19 spaces.</p>
<p><i>(b) dwelling size</i> <i>if each dwelling has a gross floor area of at least:</i></p> <p><i>(i) 35m² in the case of a bedsitter or studio, or</i></p> <p><i>(ii) 50m² in the case of a dwelling having 1 bedroom, or</i></p> <p><i>(iii) 70m² in the case of a dwelling having 2 bedrooms, or</i></p> <p><i>(iv) 95m² in the case of a dwelling having 3 or more bedrooms.</i></p>	<p>Compliant</p> <p>Apartment sizes comply with these requirements.</p>
<p><i>(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2)</i></p>	<p>Not Applicable</p> <p>Variations and non-compliances are not supported.</p>
Clause 16 Continued Application of SEPP 65	
<p><i>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</i></p>	<p>Non-compliant</p> <p>An assessment under SEPP 65 has been carried out and the proposal is found to be unsatisfactory with aspects provisions of that SEPP. Further discussion is provided elsewhere within this report.</p>
Clause 16A Character of Local Area	
<p><i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is</i></p>	<p>Can comply / Tower style development is not favoured</p> <p>The immediate locality is zoned R4 – High Density Residential development. The area to the north, west and east of the site is occupied by residential flat buildings from several different decades (reflecting the different planning</p>

<p><i>compatible with the character of the local area.</i></p>	<p>controls that applied at the time).</p> <p>The immediately adjoining RFBs are 2 to 4 storeys in height and a building form more in keeping with this height would be preferred. However, the current height of building control allows for a maximum height of 35m so the proposed building is compliant with that controls but given the small site and context, it is considered to be out of character with established development.</p>
<p>Clause 17 Must Be Used for Affordable Housing for 10 Years</p>	
<p><i>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</i></p>	
<p><i>(a) for 10 years from the date of the issue of the occupation certificate:</i></p> <ul style="list-style-type: none"> <i>(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</i> <i>(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</i> <p><i>(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</i></p>	<p>Can be conditioned</p> <p>More information is required with regard to the allocation of units as affordable housing and this can be managed by the attachment of conditions of consent to any consent.</p>

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Item no:	3
Application Number:	DA-666/2018
Proposed Development:	Construction of a 5-storey mixed-use development comprising 2 ground floor commercial suites, 25 residential units (including 12 affordable housing units), one level of basement parking and associated landscaping works. The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.
Property Address:	27-29 Morgan Street, Miller
Legal Description:	Lots 61 & 62 DP 221267
Applicant:	Masters Empire Group
Land Owner:	A. Shamoon and S. & T. Akaveka
Cost of Works:	\$7,191,741
Recommendation:	Approval
Assessing Officer:	Adam Flynn

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-666/2018) seeking consent for the construction of a 5-storey mixed-use development comprising 2 ground floor commercial suites, 25 residential units (including 12 affordable housing units), one level of basement parking and associated landscaping works, at 27-29 Morgan Street, Miller.

The site is zoned R4 High Density Residential pursuant to LLEP 2008, and the proposed development is permissible with consent.

In accordance with the LDGP 2008, the application was notified for a 14 day period, from 3 October 2018 to 18 October 2018. Three submissions were received in relation to the proposed development during the public consultation process. The issues raised within the submissions are discussed within the report.

The main issues identified in the assessment relate to the following:

1. The FSR originally proposed exceeded the LEP requirements. The application was revised to include the provision of affordable rental housing, which given the bonus FSR allowed under that SEPP, has overcome this issue.
2. The original proposal included the full extent of the ground floor as commercial floorspace. This was not considered to be compliant with the restrictions for 'neighbourhood shops' (the only retail use permitted in residential zones), or considered to be a suitable use in this area.

The scheme has been revised to provide two small neighbourhood shops units, which are considered to comply.

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3. Overshadowing to the property to the south is of concern. It is acknowledged that given the zoning the site to the south may be redeveloped in the future, but at present the proposal would place the dwelling in shadow for most of the day on 21 June. However, the proposal complies with zoning, FSR, and height limits, and on balance is considered acceptable.
4. Inconsistencies with the Apartment Design Guide (ADG) relating to building layouts and design. Through a series of amendments to the design of the building made by the applicant since lodgement of the DA the proposal is considered to have adequately addressed these inconsistencies and therefore is considered acceptable with regards to the ADG.

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 sensitive development.

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

2. SITE DESCRIPTION AND LOCALITY

2.4 The site

The subject site is located on the western side of Morgan Street, and is located approximately 500m directly north of Hoxton Park Road. The development site is comprised of 2 lots being Lots 61 & 62 DP 221267, and is identified as 27-29 Morgan Street, Miller. The site is irregular in shape with a combined frontage to Morgan Street of 28.9m, and an area of 1,285m². The site sits just to the south of Morgan Park, on the bend in the road.

The site currently contains two single-storey dwellings, one on each of the lots.

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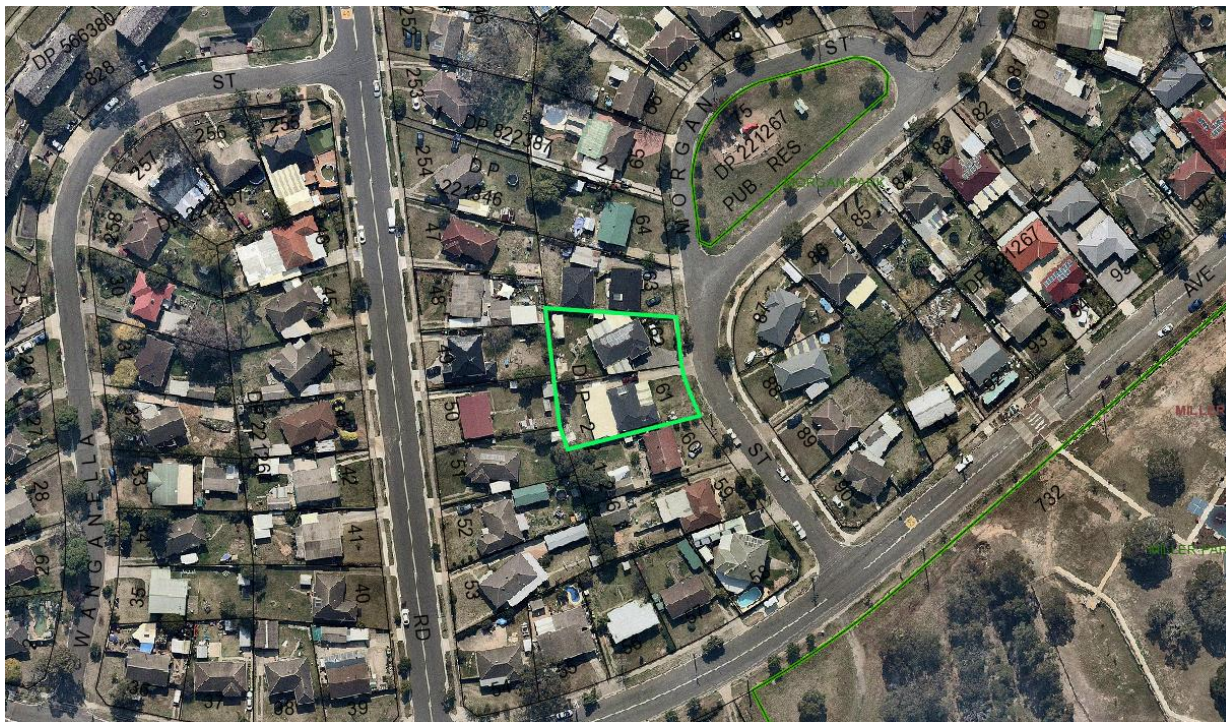


Figure 1: Aerial Photograph

2.5 The locality

The site sits to the north of Cabramatta Avenue and the Cabramatta Creek, with Hoxton Park Road further to the south, as indicated in figure 2. Morgan Park lies almost opposite the site to the north, and Miller Park is 200m to the south on Cabramatta Avenue. Miller Public School is 250m to the north, and Miller Technology High School 400m to the east. The Miller TAFE campus is 400m to the southwest. The Liverpool-Parramatta Transitway is 400m to the west.

The locality within the immediate vicinity of the subject site is of a low to medium residential scale, with a number of educational uses in the area, with residential properties being predominantly single-storey detached dwellings.

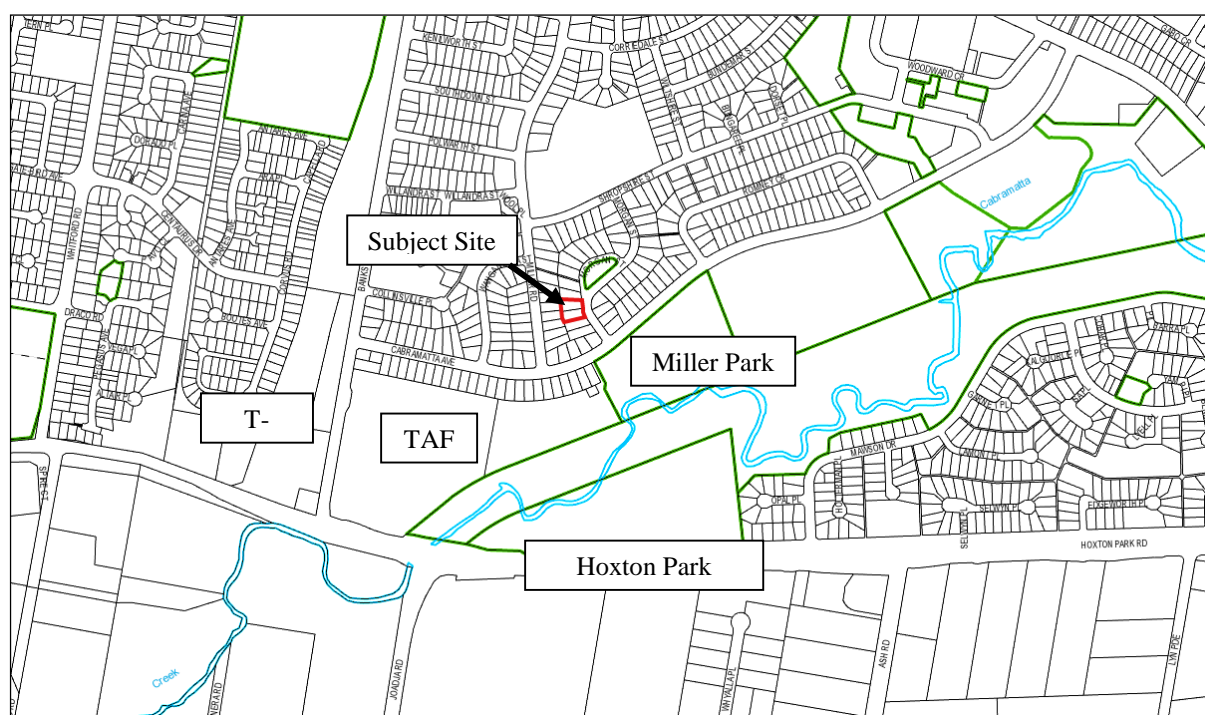


Figure 2: Context

3. BACKGROUND

3.1 Design Excellence Panel

The proposal was presented to Council's Design Excellence Panel (DEP) on 13 December 2018 following the lodgement of the DA, and again on 11 April 2019 following revisions after the first DEP meeting. The proposal was then reviewed electronically by the panel on 28 October following further revisions.

The DEP provided the following final comments in relation to this proposal:

- In earlier reviews the importance of landscape documentation was highlighted together with the need to engage a landscape architect to prepare appropriate drawings. The material received does not include any landscape documentation which will be important to ensure that the environmental setting of the proposed development is appropriately considered and in particular the west-facing communal space is appropriately shielded in terms of both hard and soft landscape elements.

Comment: A comprehensive landscaping plan has been prepared and will be secured via condition.

- The presentation to the public domain requires appropriate landscape documentation particularly given that this project will set a precedent for development in the area.

Comment: A comprehensive landscaping plan has been prepared and will be secured via condition.

- There is no indication of the quantum of open space and how such space sits against the requirements of ADG.

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Comment: Landscaping extends to 37.8% of the site, which exceeds the ADG requirement.

- A question remains about the FSR calculation - the supporting material implies that the two neighbourhood shop elements and circulation areas (a total of 242.73 sqm) have been excluded from the calculation to determine the Affordable Housing FSR bonus. The SEPP defines the bonus calculation as a percentage of the space allocated for Affordable Housing set against the gross floor space of the project. Accordingly there is a need to cross-check that the FSR has not been exceeded particularly given the comments in prior Design Excellence Panel reviews about respecting the FSR control for the site.

Comment: The provision of affordable housing has been increased to provide for a greater FSR bonus under the ARH SEPP, and the FSR is now compliant.

- The Panel acknowledges that Council officers have reached a compromise on the use, with over half of the ground floor now given over to residential, and retaining two small commercial units to the front of the site. These are to be 'Neighbourhood Shops' which are the only business use permitted in the R4 Zone, which have a size limit of 100m²; the DEP understands this is complied with.

Comment: Noted.

- In the current package there is no evidence of compliance with the DEP's earlier advice regarding sustainability measures – Item 4.4 in the minutes for the 11.04.2019 DEP meeting calls for inclusion of photovoltaics and rainwater harvesting. Neither has been addressed despite a large, unshadowed roof area.

Comment: The plans submitted specify an allowance for photovoltaic panels on the roof. This can be secured via a condition.

- It is unclear from the current plans how the issues of garbage movement raised by the DEP have been addressed – movement of garbage from residential floors to ground floor and storage/handling of bulk waste on collection days.

Comment: Waste will be managed on site in accordance with a waste management plan.

It is considered that the applicant has adequately addressed the matters raised by the DEP. In that regard, the proposed development is considered to provide design excellence.

4. DETAILS OF THE PROPOSAL

Development consent is sought for a 5-storey mixed-use development, consisting of the following:

- 2 commercial (neighbourhood shop) units at ground floor level
- 25 residential units (2 x studios, 7 x 1-bed, 13 x 2-bed, and 3 x 3-bed)
- 12 affordable units provided under the ARH SEPP 2009 (34% of floor area)
- 1 basement level providing 26 car parking spaces (including 1 accessible space), motorbike and bicycle spaces
- Basement storage and garbage areas
- New driveway and associated hard surfacing
- Landscaping, including landscaped areas at ground level

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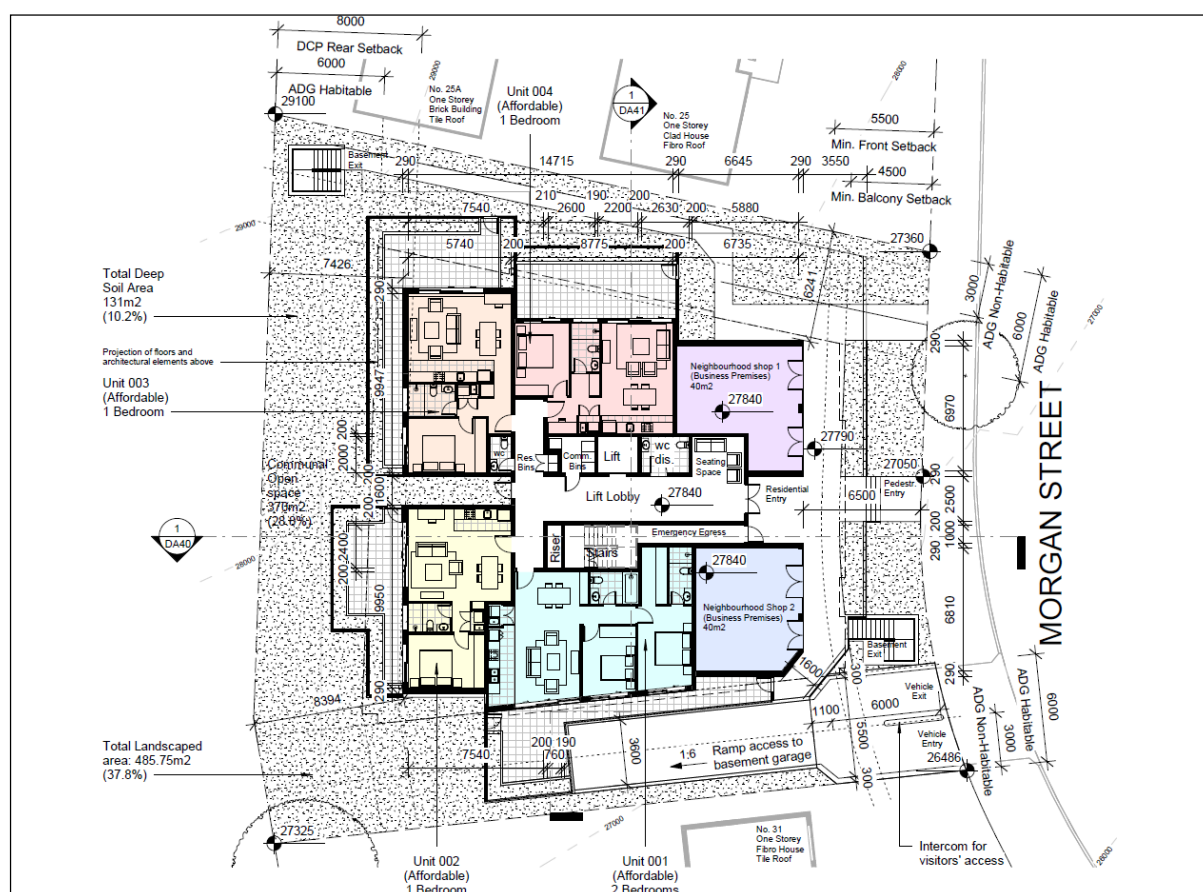


Figure 3: Site Layout

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Liverpool Local Environmental Plan 2008

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 3.7 – Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre)
 - Part 3.8 – Non-Residential Development in Residential Zones

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Contributions Plans

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

6. ASSESSMENT

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

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

(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guidelines

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential flat development, of which a residential flat building is considered to be categorised as. SEPP 65 requires the consent authority to consider the development against 9 key design quality principles and against the guidelines of the ADG. The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65. The following table provides an assessment of the proposal in accordance with the 9 key design quality principles of SEPP 65, as follows:

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.	<i>The proposal is for a residential flat development. Located within an ‘up-zoned’ area of R4 zoning, the proposed development is considered likely to bring increased streetscape amenity to the local community. The development incorporates an active street frontage design that is considered to contribute to the community by generating a point of visual interest that interacts and compliments the area.</i>
Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	<i>The development site is located in a highly serviced area with access to a variety of public transport services, educational services, employment opportunities, commercial/retail services, recreation facilities and community uses.</i> <i>Accordingly, the proposed intensification of the site, from two dwellings to 25 residential apartments, will facilitate the increased accessibility of services to future occupants of Liverpool City Centre.</i> <i>As building forms for adjacent sites have been modelled, it is considered to appropriately respond to the neighbourhood</i>

Design Quality Principle	Comment
	<i>and streetscape character; both existing and desired.</i>
Design Principle 2 – Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The bulk of the proposed development is consistent with the controls set out in the LEP 2008 and LDGP 2008. The building is situated within the site boundaries and is set back from Morgan Street.</i></p> <p><i>The height of the building is less than that identified in the LLEP 2008, being 5 storeys overall.</i></p> <p><i>Building mass is also articulated and stepped to reduce the perceived bulk of the development.</i></p>
Design Principle 3 – Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>This application proposes an FSR of 1.52:1 for this site which complies with the maximum densities set out in the LLEP 2008 and ARH SEPP (2009).</i></p> <p><i>The proposed density will benefit the public by enabling the proposed building to respond to the future character of the R4 zone and the yield will facilitate a high-quality design outcome at the site. In this location, a well-designed residential flat development is likely to attract greater investment to the locality.</i></p> <p><i>High densities are also considered to be sustainable within this area as they are supported by the site's proximity to employment, transport and public open space.</i></p>
Design Principle 4 – Sustainability	
<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and</p>	<p><i>The development is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide.</i></p> <p><i>Apartment layouts are optimally designed for a passive response to solar design principles and cross ventilation as outlined</i></p>

Design Quality Principle	Comment
<p>passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</p>	<p><i>in the Apartment Design Guide.</i></p> <ul style="list-style-type: none"> - <i>All corner and cross through apartments are naturally ventilated.</i> - <i>Minimum 60% of apartments are cross-ventilated;</i> - <i>Minimum 70% of apartments have the required solar access in winter;</i> - <i>The development includes adequate amounts of deep soil zones.</i>
Design Principle 5 – Landscape	
<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><i>Minimal street planting exists to the front of the site, but two new feature trees are proposed to the site frontage as part of the application. This will be further complimented through additional planting within the site boundaries along Morgan Street.</i></p> <p><i>Apartments have been provided with private open space in excess of SEPP 65 requirements. Communal open space will incorporate barbecue facilities and seating. The landscaped communal open space also incorporates a mix of active and passive landscape spaces.</i></p> <p><i>The proposed landscape plans have been reviewed by Council's Landscape officer who, has supported the planting selections and use of species.</i></p>
Design Principle 6 – Amenity	

Design Quality Principle	Comment
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>The development provides the following mix of units:</i></p> <ul style="list-style-type: none"> - 8% studio apartments - 28% 1-bedroom apartments - 52% 2-bedroom apartments - 12% 3-bedroom apartments <p><i>The units are designed to the Universal Design standards, including the 10% requirement for adaptable housing.</i></p> <p><i>Apartments comply with storage requirements and additional storage areas are located in the basement carparking levels. These levels also have the capacity to accommodate parking for bicycles.</i></p> <p><i>Communal open spaces will provide passive and active recreational opportunities including: raised garden beds and benches for seating, grassed, paved and planted surfaces, shaded, sunny and feature-lit areas.</i></p> <p><i>Balcony sizes generally exceed those required by the Apartment Design Guide to ensure quality private open space for residents.</i></p> <p><i>Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.</i></p>
Design Principle 7 – Safety	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The building design openly addresses the street and has been carefully designed to ensure safe access to and egress from the buildings by ensuring direct sight lines to the residential lobby from the street.</i></p> <p><i>The thresholds between public, communal and private areas are clearly defined to ensure a sense of ownership between the public and private domains.</i></p> <p><i>Upper floor apartments will provide passive surveillance of the street and opportunity for night-time activation. Apartments overlook</i></p>

Design Quality Principle	Comment
	<p><i>communal open spaces providing passive surveillance to improve safety and the development has been designed to avoid blind corners and hidden spaces.</i></p> <p><i>Secure parking for residents is located within the basement with clear and direct lift access to the apartments. The entrance to the parking area is minimised to maximise street activation and surveillance.</i></p>
Design Principle 8 – Housing Diversity and Social Interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The proposed development provides housing choice through varied apartment sizes. The communal open spaces and public street interface will encourage social interaction amongst residents and the community.</i></p> <p><i>The ground floor commercial units and the interface between the streetscape have been carefully designed to enhance street activation.</i></p> <p><i>The provision of studios and one bedroom apartments in the development will provide for a more affordable entry point into the housing market.</i></p> <p><i>The units are designed to be adaptable to the needs of people with disabilities and to facilitate intergenerational changes and changing lifestyles.</i></p> <p><i>Variety in sizing, aspect and outlook within apartment types will result in some price differentiation.</i></p> <p><i>Dedicated residential communal open spaces are provided at ground floor to support the communal life of the building. These spaces have direct access from the circulation core.</i></p>
Design Principle 9 – Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design</p>	<p><i>The street façade has been designed to give a consistent and pleasing appearance to Morgan Street. The interplay of building materials, including a composition of white</i></p>

Design Quality Principle	Comment
uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	<i>and grey render, metal cladding, glass balustrades, aluminium shutters and decorative framing assists in creating a visually varied façade without cluttering the overall building appearance.</i> <i>The design response ensures an appropriate provision for the future desired character of the area as a high density residential area.</i>

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. The following table provides an assessment of the proposal against the relevant provisions of the ADG:

Provisions	Comment
2E Building depth	
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation	Complies Building depths are generally 7-10m.
2F Building separation	
Note: Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes separation equally between sites.	Noted.
<u>Up to four storeys (approximately 12m):</u> <ul style="list-style-type: none"> 12m between habitable rooms/balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms 	Compliance: 12m separation to northern, southern and western boundaries between habitable rooms/ balconies from ground to level 3.
<u>Five to eight storeys (approximately 25m):</u> <ul style="list-style-type: none"> 18m between habitable rooms/balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms 	<i>Complies on merit:</i> 17.6m to northern and southern boundaries between balconies at level 4. A small portion (up to 0.4m) of the upper level balconies protrude into the separation requirement to the front of the site. The variation allows for more useable balcony space at the upper level, and a more uniform building design. Given the minor nature of the variations, and the location towards the very front of the site, this is considered to be

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Provisions	Comment
	<p>acceptable in this instance.</p> <p>Complies: 15m to northern and southern boundaries from blank (non-habitable) walls at level 4.</p> <p>Complies: 18m separation to western boundary between habitable rooms/balconies at level 4.</p> <p>Complies: 16m to western boundary from blank (non-habitable) walls at level 4.</p>
3A Site analysis	
<p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</p>	<p>Complies A detailed site analysis plan has been provided.</p>
3B Orientation	
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p><i>Complies on merit</i> The building type is appropriate for the streetscape.</p> <p>It is noted that there would be significant overshadowing of the private open space of to the property to the south as a result of this development. However, the property to the south is also zoned R4 and could be expected to take advantage of the 'up-zoning' of the area and be redeveloped in a similar fashion to this proposal.</p> <p>The applicant has submitted an indicative scheme for that site showing that it can be similarly redeveloped while meeting the solar access requirements of the ADG.</p> <p>Given the context of the site and the type of development envisaged by the R4 zoning, the impact on that site is considered to be acceptable in this instance.</p>
3D Communal and public open space	

Provisions			Comment
Communal open space has a minimum area equal to 25% of the site			Complies
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)			Approximately 370m ² of communal open space is provided at ground floor level, which is 28% of the site area.
Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting			The communal open space is considered achieve sufficient solar access between 9am and 3pm mid-winter.
			The communal open space allows for a range of activities with BBQ facilities, rest areas and recreational spaces.
3E Deep soil zones			
Deep soil zones are to meet the following minimum requirements:			Complies
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Proposal provides 135m ² of deep soil zone, which is 10% of the site area.
Less than 650m ²	-	7%	The deep soil zones have minimum dimensions of 3m.
650m ² to 1500m ²	3m		
Greater than 1500m ²	6m		
Greater than 1500m ² with significant tree cover	6m		
3F Visual Privacy			
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Compliance: 6m separation between habitable rooms/balconies and northern, southern and western boundaries from ground to level 3.
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	
Up to 12m (4 storeys)	6m	3m	
12m to 25m (5-8 storeys)	9m	4.5m	<i>Complies on merit:</i> 8.6m to northern and southern boundaries between balconies at level 4.
			A small portion (up to 0.4m) of the upper level balconies protrude into the separation requirement to the front of the site. The variation allows for more useable balcony space at the upper level, and a more uniform building design. Given the minor nature of the variations, and the location towards the very front of

Provisions	Comment
	<p>the site, this is considered to be acceptable in this instance.</p> <p>Complies: 7.5m to northern and southern boundaries from blank (non-habitable) walls at level 4.</p> <p>Complies: 9m separation to western boundary between habitable rooms/balconies at level 4.</p> <p>Complies: 8m to western boundary from blank (non-habitable) walls at level 4.</p>
3G Pedestrian Access and Entries	
Building entries and pedestrian access connects to and addresses the public domain	Complies Pedestrian access and entries complies with the objectives of the ADG.
Access, entries and pathways are accessible and easy to identify	
Large sites provide pedestrian links for access to streets and connection to destinations	
3H Vehicle Access	
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Complies Vehicle access points are located to achieve safety and minimize conflict.
3J Bicycle and Car Parking	
<p>For development in the following locations:</p> <ul style="list-style-type: none">- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p>	Complies with conditions Bicycle and car parking can be provided in accordance with the requirements of the LDCP 2008.
Parking and facilities are provided for other modes of transport	

Provisions	Comment
Car park design and access is safe and secure	
Visual and environmental impacts of underground car parking are minimised	
Visual and environmental impacts of on-grade car parking are minimised	
Visual and environmental impacts of above ground enclosed car parking are minimised	
4A Solar and Daylight Access	
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	Complies 25 Units proposed. 84% of units (21) will receive 2 hours sunlight. 4 units (16%) are unlikely to receive direct sunlight.
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter	Although this is 1% above the requirement, this is overruled by the ARH SEPP which allows up to 30% of units to not receive direct sunlight.
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	
4B Natural Ventilation	
All habitable rooms are naturally ventilated	Complies 17 units (68%) are cross-ventilated. Those that are single aspect are naturally ventilated. The maximum depth of a unit is 10m.
The layout and design of single aspect apartments maximises natural ventilation	
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	
4C Ceiling Heights	

Provisions		Comment
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:		Complies 3100mm floor to floor heights provided with 350mm slabs. This is consistent with the recommendations of the DEP and 2750mm floor ceiling heights are achieved.
Minimum ceiling height		
Habitable rooms	2.7m	
Non-habitable	2.4m	
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use	
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms		
Ceiling heights contribute to the flexibility of building use over the life of the building		
4D Apartment Size and Layout		
Apartments are required to have the following minimum internal areas:		Complies <ul style="list-style-type: none">All studio units > 35m²All 1 bedroom units are >= 50m²All 2 bedroom units are > 70m² and > 75m² with 2 bathroomsAll 3 bedroom units are > 95m² with 2 bathrooms
Apartment Type	Minimum Internal Area	
Studio	35m ²	
1 bedroom	50m ²	
2 bedroom	70m ²	
3 bedroom	90m ²	
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.		
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		Complies Habitable rooms are provided with windows of sufficient glass areas.

Provisions		Comment															
Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Complies Habitable room depths are all less than 2.5 x the ceiling height.															
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Complies Kitchens are less than 8m from a window.															
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)		Complies Bedrooms are of sufficient size.															
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Complies Bedrooms have a minimum dimension of 3m.															
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments 		Complies on merit Sufficient widths are provided to living rooms/dining rooms.															
4E Private Open Space and Balconies																	
<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom</td><td>10m²</td><td>2m</td></tr> <tr> <td>3 bedroom</td><td>12m²</td><td>2.4</td></tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>		Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4	Complies The development provides for sufficient balcony areas and with adequate depths.
Dwelling Type	Minimum Area	Minimum Depth															
Studio	4m ²	-															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3 bedroom	12m ²	2.4															
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.		Complies The four units at ground floor level have courtyard amenity space in excess of 15m ² and minimum width of 3m.															
4F Common Circulation and Spaces																	
The maximum number of apartments off a circulation core on a single level is eight.		Complies Maximum 6 apartments per floor (single core).															

Provisions		Comment										
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.		Not applicable The building is 5-storeys in height										
4G Storage												
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling Type</th><th>Storage Size Volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3 bedroom</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>		Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	Complies In excess of half of the required storage space is provided within units. The applicant has also provided storage in basement, but this is not allocated to individual units at this stage.
Dwelling Type	Storage Size Volume											
Studio	4m ³											
1 bedroom	6m ³											
2 bedroom	8m ³											
3 bedroom	10m ³											
4H Acoustic Privacy												
Noise transfer is minimised through the siting of buildings and building layout		Complies Bathrooms and kitchens have been clustered together where possible and also located near corridors where possible, which assist in mitigating noise levels to quieter rooms such as bedrooms. Acoustic building requirements shall be included at the construction stage in order to mitigate acoustic disturbances between apartments.										
Noise impacts are mitigated within apartments through layout and acoustic treatments												
4K Apartment Mix												
A range of apartment types and sizes is provided to cater for different household types now and into the future		Complies The proposal provides a suitable mix of units spread across the different floors of the building.										
The apartment mix is distributed to suitable locations within the building												
4L Ground Floor Apartments												
Street frontage activity is maximised where ground floor apartments are located		Complies The proposal provides commercial units at the ground floor fronting the street, which will help activate the street frontage. The ground floor units have good amenity, and will be secure in terms of access.										
Design of ground floor apartments delivers amenity and safety for residents												

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Provisions	Comment
4M Facades	
Building facades provide visual interest along the street while respecting the character of the local area	Complies The overall design including building façade has been supported by the DEP.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies The roof is not the dominant feature, a parapet wall style is used which minimises expressions of roof forms. The development provides provision for photovoltaic panels on the roof, so is in accordance with these objectives.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Complies An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Landscape Officer who has raised no objections to the landscape design.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Complies The DA has been reviewed by Council's Landscape Officer who has raised no objections to the landscape design. Large planting is proposed within the communal open space area to the rear, which can be easily maintained.
Plant growth is optimised with appropriate selection and maintenance	
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies All above ground apartments are accessed by a lift and include wide corridors which is suitable for wheel chair access. A ramp is provided at the entry of the building, also allowing wheel chair access to Ground Floor apartments. 10% of units are adaptable.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	

Provisions	Comment
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Complies The proposal provides commercial units at the ground floor fronting the street, which will help activate the street frontage.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	The upper residential floors are well integrated into the overall design of the building.
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Complies Covered entrances are provided to the commercial and residential entries that are integrated into the design of the building.
Signage responds to the context and desired streetscape character	Complies Building address signage would be integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design.	Complies The development has been submitted with a BASIX certificate. This will also form a condition of consent.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies Potable water use is minimized and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.
Urban stormwater is treated on site before being discharged to receiving waters	Complies This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.

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Provisions	Comment
Flood management systems are integrated into site design	Not applicable The site is not on flood prone land.
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Complies Waste storage facilities are provided and will be maintained by the caretaker.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Complies The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

Clause 7 of SEPP 55 states:

- (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*
 - (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*
 - (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.*

For the purposes of this Clause, the “land concerned” is:

- (a) *land that is within an investigation area,*
- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The applicant submitted a Stage 1 Site investigation prepared by Alliance Geotechnical. The report concludes the site could be made suitable for the proposed use subject to the management of fill materials that are of concern and the controlled demolition of the dwellings, due to the potential presence of asbestos.

An Asbestos Clearance Inspection Report was further submitted, which concluded the removal works were completed to a satisfactory standard.

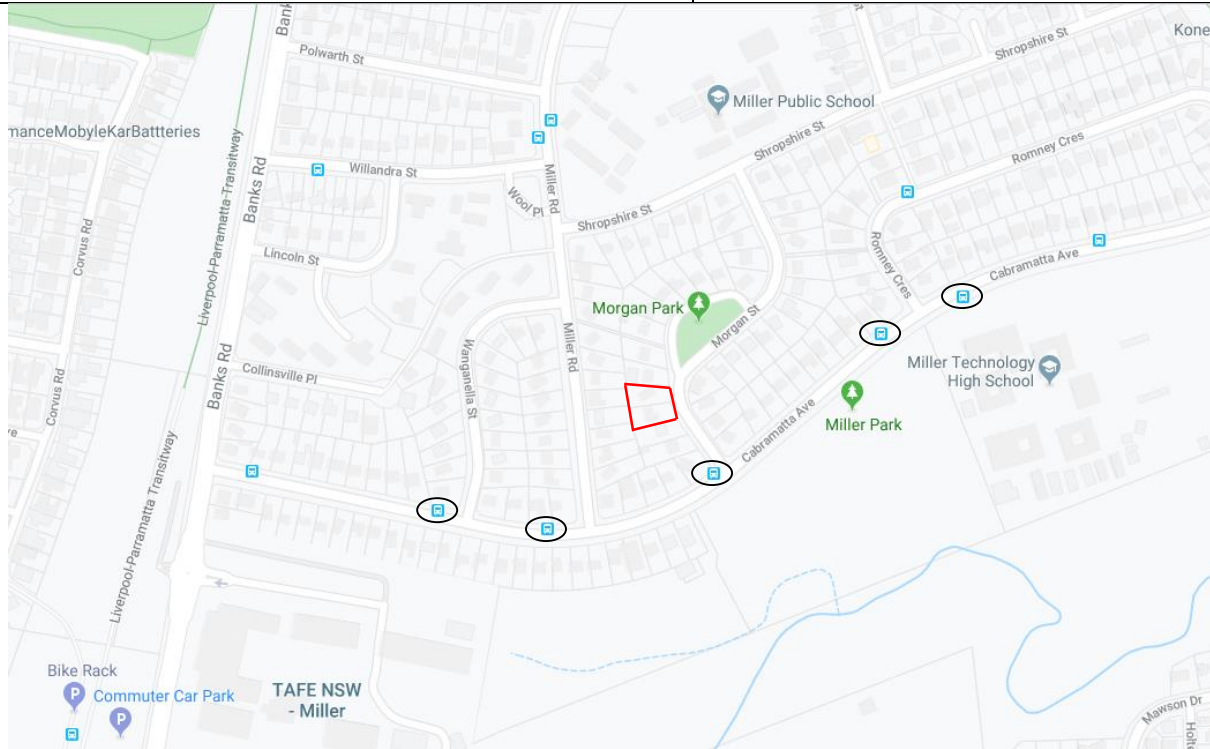
Council's Environmental Health Section has reviewed the submitted documentation and is satisfied that the land subject to this Application will be made suitable for the proposed development prior to it being used for its intended purpose. The use of fill, and any potential unidentified contamination will be controlled via conditions of consent. Council's aerial imagery indicates that the lots have been used for residential purposes for an extended period of time. However, Alliance Geotechnical Pty Ltd reported that the land had been previously used for agricultural purposes. When considering the most recent residential land use, the Application does not involve a change of use on land previously used for a purpose referred to in Table 1 of the contaminated land planning guidelines.

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

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

The DA has been lodged pursuant to the SEPP (Affordable Rental Housing) 2009. The proposal demonstrates full compliance with the relevant provisions, as detailed below:

Provision	Comment
Part 2 New Affordable Rental Housing – Division 1 In-Fill Affordable Housing	
Clause 10 Development to which Division Applies	
(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if: <ul style="list-style-type: none"> (c) the development concerned is permitted with consent under another environmental planning instrument, and (d) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State 	Complies The development is permitted with consent under the LLEP 2008 and the site does not contain a heritage item.

Heritage Register under the Heritage Act 1977.	
<p>(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</p> <p>'accessible area' means land that is within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday</p>	<p>Complies</p> <p>The site is 400m from a number of bus stops with services that operate within the parameters specified in the SEPP (see below). These stops are serviced by the 802 bus (amongst others), with the 802 having a frequency of at least 1 bus an hour from 0600-2100 weekdays and 0800-1800 weekends.</p>
	
Clause 13 Floor Space ratio	
<p>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p>	<p>Complies</p> <p>It is proposed that 34% of the gross floor area of the development will be utilised for the purpose of in-fill affordable housing.</p>
<p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p>	<p>Complies</p> <p>The site has a maximum FSR under the LLEP of 1.2:1. A bonus of 0.34 is afforded under Division 1, Clause 13 of the SEPP (Affordable Rental Housing) 2009.</p> <p>Accordingly, the permissible FSR on</p>

<p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p>$Y = AH \div 100$ - AH is the percentage of the gross floor area of the development that is used for affordable housing</p>	<p>the site is 1.54:1</p> <p>The development proposes an FSR of 1.52:1.</p>
Clause 14 Standards that cannot be used to refuse consent	
<p><i>(1) Site and solar access requirements</i></p> <p><i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
<p>(b) Site Area</p> <p>if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p>Complies</p> <p>The development site has an area of 1,284m².</p>
<p>(c) landscaped area: if:</p> <p>(iii) in the case of a development application made by a social housing provider—a minimum 35m² of landscaped area per dwelling is provided, or</p> <p>(iv) in any other case—a minimum of 30% of the area of the site is to be landscaped,</p>	<p>Complies</p> <p>The development provides for approximately 485m² of landscaped area which equates to 37%.</p>
<p>(d) Deep Soil Zones</p> <p>In relation to that part of the site area that is not built on, paved or otherwise sealed:</p> <p>(iv) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and</p> <p>(v) each area forming part of the deep soil zone has a minimum dimension of 3m, and</p> <p>(vi) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>	<p>Complies</p> <p>Approximately 10.5% (135m²) of the site area is a deep soil zone.</p> <p>While this is less than the 15% required under this SEPP, it complies with the requirements of the ADG.</p> <p>In excess of two thirds of the deep soil zone is located within the rear portion of the site.</p>
<p>(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>Complies</p> <p>84% of units within the development receive 3 hours of solar access or more.</p>
<p><i>(2) General</i></p> <p><i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	

<p>(a) parking</p> <p>(ii) in any other case – at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.</p>	<p>Complies</p> <p>0 for the studio units 0.5 x 7 x 1-bed units = 3.5 1 x 13 x 2-bed units = 13 1.5 x 3 x 3-bed units = 4.5 = 23</p> <p>A total of 23 spaces are required for the residential aspect of the proposal.</p> <p>A total of 27 spaces are proposed, which allows one or two spaces for the commercial units as required.</p>
<p>(b) dwelling size</p> <p>if each dwelling has a gross floor area of at least:</p> <p>(v) 35m² in the case of a bedsitter or studio, or</p> <p>(vi) 50m² in the case of a dwelling having 1 bedroom, or</p> <p>(vii) 70m² in the case of a dwelling having 2 bedrooms, or</p> <p>(viii) 95m² in the case of a dwelling having 3 or more bedrooms.</p>	<p>Complies</p> <p>The apartments comply with the minimum size requirements.</p>
<p>Clause 16 Continued Application of SEPP 65</p>	
<p>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</p>	<p>Complies</p> <p>An assessment of SEPP 65 has been carried out and is found to be satisfactory. Further discussion is provided within this report.</p>
<p>Clause 16A Character of Local Area</p>	
<p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<p>Complies</p> <p>The subject site comprises 2 lots, and is surrounded by a mixture of dwelling types lower in height than the proposal.</p> <p>Whilst the surrounding development is generally of a lower height than the 5-storeys proposed, the site is zoned R4, which allows for residential flat buildings, and in this location up to a height of 18m.</p> <p>As such, the proposed development generally complies with these requirements and therefore is considered to be in accordance with the desired future character of the area.</p>

Clause 17 Must Be Used for Affordable Housing for 10 Years	
<i>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</i>	
<p>(a) for 10 years from the date of the issue of the occupation certificate:</p> <p>(iii) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</p> <p>(iv) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</p> <p>(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</p>	<p>Complies</p> <p>To ensure that the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing; conditions of consent have been imposed.</p>

(d) State Environmental Planning Policy (BASIX) 2004

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

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

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

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

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.

(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. A Stormwater concept plan also outlines proposed sediment and erosion control measures.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of the catchment.
(f) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential development and is considered appropriate for the site.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is not affected by acid sulphate soils.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site does not contain flood affected land.
(4) Industrial discharges	Not applicable. The site has been used for residential purposes.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy, and the site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

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It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to site remediation and appropriate sedimentation and erosion controls during construction. Accordingly, the development will have minimal impact on the Georges River Catchment.

(f) Liverpool Local Environmental Plan 2008

(i) Zoning

The site is zoned R4 High Density Residential pursuant to LLEP 2008 as depicted in the figure below.

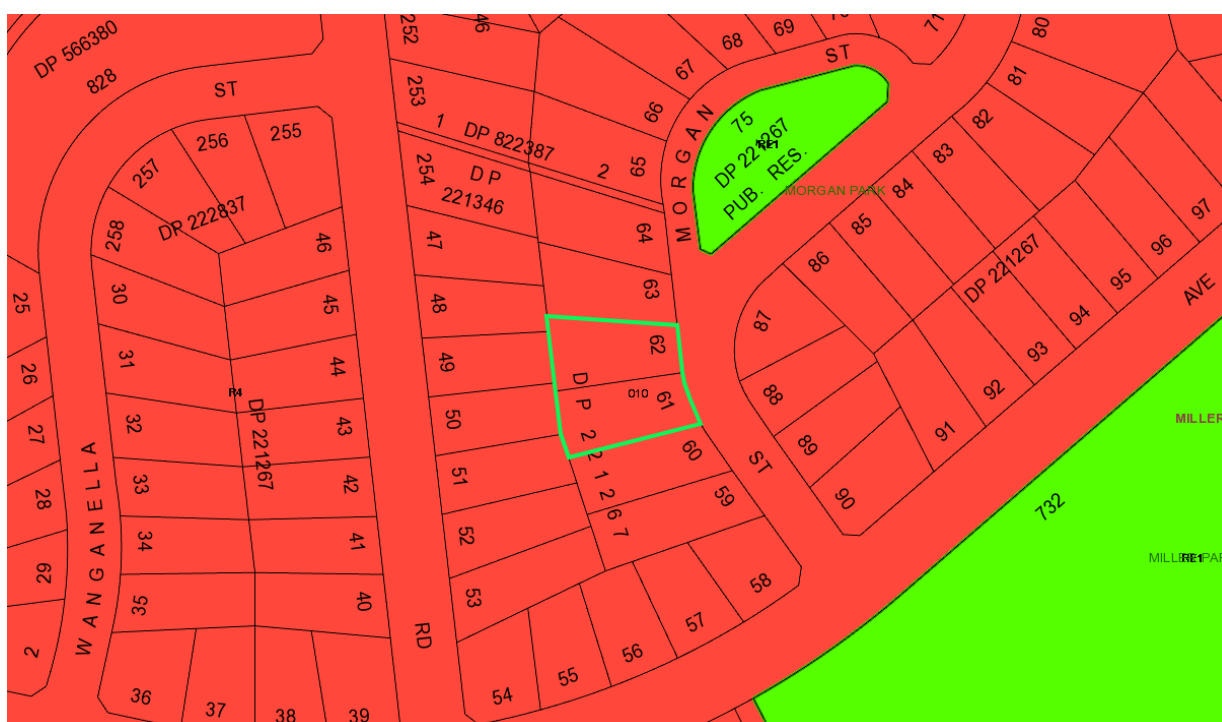


Figure 4: Zoning Map

(ii) Permissibility

The proposed development is for *mixed use development*, which means a building or place comprising 2 or more different land uses.

The proposed development is a mixed-use development as it comprises two permissible land uses, being a **residential flat building** and **neighbourhood shops**.

A *residential flat building* is defined as:

A building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The commercial element is considered as a *neighbourhood shop*, which is defined as:

A premises used for the purposes of selling general merchandise such as foodstuffs,

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personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include neighbourhood supermarkets or restricted premises.

The proposal meets the definition of neighbourhood shops as the commercial floor area is less than 100m², as required by clause 5.4 of the LLEP.

As such, the proposal for a mixed-use development comprising a residential flat building and neighbourhood shops is considered permitted development, with consent, in the R4 zone.

(iii) Objectives of the zone

The objectives of the R4 – High Density Residential zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The proposed development would meet and satisfy the above stated objectives. Specifically, the building will provide a total of 25 dwellings with a good mix of dwellings, and the site is located in an area identified for urban renewal and transformation, in close proximity to transport links, community, education and commercial facilities.

(iv) Principal Development Standards

The LLEP 2008 contains a number of principal development standards which are relevant to the proposal. Assessment of the application against the relative standards is provided below.

Clause	Provision	Comment
Clause 2.7 Demolition Requires Development Consent	The demolition of a building or work may be carried out only with development consent.	Complies Demolition of the existing dwellings is included within this application, and will be controlled with conditions of consent.
Clause 4.3 Height of Buildings	Maximum height of 18m	Complies A maximum height of 17.3m is proposed.
Clause 4.4 Floor Space Ratio	Maximum FSR of 1.2:1 (plus bonus FSR of 0.34:1 under ARH SEPP for 1.54:1 total)	Complies FSR of 1.52:1 is proposed
Clause 5.4 Controls relating to miscellaneous permissible uses	(7) Neighbourhood shops - If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square	Complies The commercial units proposed at ground floor level have an area of 80m ² .

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	metres.	
Clause 7.14 Minimum Building Street Frontage	Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres: <ul style="list-style-type: none"> - any residential flat building. 	Complies Street frontage exceeds 28m.

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

No draft Environmental Planning Instruments applies to the site.

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

The application has been assessed against the controls of the LDCP 2008, particularly Part 1 *General Controls for all Development*; and Part 4 *Development in Liverpool City Centre*.

The tables below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2 - Tree Preservation	Controls relating to the preservation of trees	Complies There are several non-significant trees located on site that will be removed as part of the proposal. The application was reviewed by Council's Landscape Officer who raised no concern with the proposal.
Section 3 - Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues with the design. The Landscape Plan proposes a variety of planting along the street frontages, communal open space and podiums.
Section 4 - Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not applicable The development site is not identified as containing any native flora and fauna.
Section 5 - Bush Fire Risk	Controls relating to development on bushfire	Not applicable The development site is not identified as

Development Control	Provision	Comment
	prone land.	being bushfire prone land.
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.	Complies This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues subject to conditions.
Section 7 - Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	Not applicable The development site is not within close proximity to a water course.
Section 8 - Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9 - Flooding Risk	Provisions relating to development on flood prone land.	Not applicable The development site is not affected by flooding.
Section 10 - Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed earlier within this report, the site is considered suitable for the development.
Section 11 - Salinity Risk	Provisions relating to development on saline land.	Complies The development site is identified as containing a moderate salinity potential. Therefore, a salinity management response plan will be required by condition.
Section 12 - Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not applicable The site is not affected by acid sulphate soils
Section 13 - Weeds	Provisions relating to sites containing noxious weeds.	Not applicable The site is not identified as containing noxious weeds.
Section 14 - Demolition of Existing Development	Provisions relating to demolition works	Complies Demolition of the existing dwellings is covered by this application.
Section 15 - On Site Sewage Disposal	Provisions relating to OSMS.	Not applicable OSMS is not proposed.
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.	Not applicable Based on the location and the last uses of the site it is unlikely that there is a likelihood of archaeological finds or relics.
Section 17 -	Provisions relating to heritage	Not applicable

Development Control	Provision	Comment
Heritage and Archaeological Sites	sites.	Based on the location and the last uses of the site it is unlikely that there is a likelihood of archaeological finds or relics.
Section 18 - Notification of Applications	Provisions relating to the notification of applications.	Complies The application was notified for 14 days in accordance with this policy.
Section 19 - Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 20 - Car Parking and Access	Residential Development Car Parking Requirements: <ul style="list-style-type: none"> - 1 space per 1-bed apartments (or studio) - 1.5 spaces per 2-bed apartment - 2 spaces per 3-bed apartment - 1 space per 4 units or part thereof, for visitors 	Complies The following parking is required: <ul style="list-style-type: none"> - 9 x 1-bed units require 9 spaces - 13 x 2-bed units require 19.5 spaces - 3 x 3-bed units require 6 spaces - 7 visitor spaces required A total of 42 spaces required for the residential element 26 parking spaces are provided for residential units and visitors The proposal falls short of the DCP parking requirements by 16 spaces. However, the parking is in accordance with the requirements of the ARH SEPP, which takes precedence in this instance.
	All other development: 1 space per 100m ² of floor area.	Complies 80m ² of commercial floorspace proposed, 1 space required. 1 proposed.
	Provision is to be made for motorcycle parking at the rate of 1 motorcycle space per 20 car spaces	Complies A total of 27 parking spaces are provided which equates to 2 motorcycle spaces. A minimum of 2 motorcycle spaces can be provided in the basement area.
	Provide 2% of the total demand generated by a development, for parking spaces accessible, designed and appropriately signposted for use by persons with disabilities.	Complies A total of 1 space of the 27 parking spaces shall be accessible. 1 accessible space has been provided.
	1 bicycle space per 2 units, with 1 space per 10 units for visitors.	Complies (with condition) A total of 16 bicycle spaces are required. Cycle parking is provided in the basement, but conditions will be added ensuring the DCP bicycle parking requirements are met.

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Development Control	Provision	Comment
Section 21 - Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not applicable The DA does not propose the subdivision of land.
Section 22 and Section 23 - Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies Conditions of consent will be imposed to ensure compliance with the BASIX commitments.
Section 24 - Landfill	Minimisation of cutting and filling, not in conjunction with a DA.	Not applicable Cut and fill included with DA.
Section 25 - Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies During Construction: A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction. On-going Waste Management: The development includes a waste storage area on Basement Level 1 for waste collection and storage. The building has been designed to include waste chutes from the services cores on each level to the waste storage room on Basement Level12. Bins will be wheeled to the front for collection and will be collected from Forbes Street.
Section 26 - Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
Section 27 - Social Impact Assessment	A comprehensive social impact comment shall be submitted for residential flat buildings greater than 20 units.	A social impact comment was submitted as part of the proposal, and no issues are raised with regards to social matters.

LDCP 2008 Part 3.7: Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre)

Development Control	Provision	Comment
1. Preliminary	Objectives are to provide controls for residential development to ensure that it achieves a high standard of urban design, that is	Complies As discussed above, the development secure quality design and provides a variety of housing choice.

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Development Control	Provision	Comment
	compatible with the amenity and character of the area, and to provide for a variety of housing choice within residential areas with Liverpool.	
2. Frontage and Site Area	The minimum lot width is 24m	Complies Lot width exceeds 28m.
3. Site Planning	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies The proposal is designed in line with the site's topography.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design.	Complies The building is sited centrally which allows efficient use of space. BASIX and sustainability requirements are met by the proposal.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Complies Safe access is provided to the building and parking
	Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	Complies Whilst the surrounding development is generally of a lower height than the 5-storeys proposed, the site is zoned R4, which allows for residential flat buildings, and in this location up to a height of 18m. As such, the proposed development generally complies with these requirements and therefore is considered to be in accordance with the desired future character of the area.
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate.	Complies The proposal has been assessed by Council's Engineers, who raise no objection, subject to the imposition of conditions.
	The development will need to satisfy the requirements of State Environmental Planning	Complies The proposal meets the requirements of SEPP65.

Development Control	Provision	Comment
	Policy No 65—Design Quality of Residential Flat Development.	
4. Setbacks	Front setback: 5.5m	Complies Building set back 5.5m
	Verandahs, eaves, etc, may encroach on the setback by 1m	Complies Front balconies set back 4.5m
	Side and rear setback: < 10m – Side 3m; Rear 8m > 10m – Side 8m; Rear 8m	Complies on merit The building does not strictly comply with these requirements, but complies with the separation distances required by the ADG.
5. Landscaped Area and Private Open Space	A minimum of 25% of the site area shall be landscaped area.	Complies The development provides for approximately 485m ² of landscaped area which equates to 37%.
	A minimum of 50% of the front setback area shall be landscaped area.	Complies In excess of 50% of the front setback is landscaped.
	Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.	Complies The basement car parking has been pulled in from the edges of the site to allow for landscaping, including of the front and side setbacks.
	Promote landscape health by supporting for a rich variety of vegetation type and size.	Complies The proposed landscape plans have been reviewed by Council's Landscape officer who, has supported the planting selections and use of species
	Increase the permeability of paved areas by limiting the area of paving and/or using pervious paving materials.	Complies Paving across the landscaped areas is minimised.

Development Control	Provision	Comment
	Provide communal open space, which is appropriate and relevant to the context and the building's setting. Where communal open space is provided, facilitate its use for the desired range of activities by: - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking.	Complies Communal open space will incorporate barbecue facilities and seating. The landscaped communal open space also incorporates a mix of active and passive landscape spaces. It is orientated to receive afternoon sun, and is of a size to allow for a range of uses.
	Locate open space to increase the potential for residential amenity.	Complies The communal open space is to the rear, helping to limit impacts on amenity.
	Private open space shall be provided for each dwelling. Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor. Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like. Private open space should be clearly defined for private use.	Complies Private open space is provided to each unit in accordance with the ADG, including courtyards at ground floor, and balconies on the upper floors.
	Clothes drying facilities must be provided at a rate of 5 lineal m of line per unit. Clothes drying areas should not be visible from a public place and should have solar	Complies Internal drying areas are proposed.

Development Control	Provision	Comment
	access.	
6. Building Design, Streetscape and Layout	Building Height: 18m	Complies Building 17.3m in height.
Building Appearance and Streetscape	Residential Flat Buildings shall comply with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, and should consider the Residential Flat Design Code.	Complies The proposal meets the requirements of SEPP65 and the ADG.
	Building facades shall be articulated and roof form is to be varied to provide visual variety.	Complies Articulation and interest are provided to all elevations.
	The pedestrian entrance to the building shall be emphasised.	Complies Entry points to the building are emphasised by the projecting elements above the entrance points.
	A sidewall must be articulated if the wall has a continuous length of over 14m.	Complies Side walls are all articulated.
	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street	Complies The vehicle entrance is to the southern boundary of the site.
	Driveway walls adjacent to the entrance of a basement car park are to be treated so that their appearance is consistent with the basement or podium walls.	Complies The entrance to the basement is of the same design and materials as the main building.
	Sensitive design of basement car parking areas can assist in ensuring that podiums and vehicle entry areas do not dominate the overall design of the building or the streetscape and optimise areas for deep soil planting.	Complies The basement entry is minimal and does not dominate the front elevation.

Development Control	Provision	Comment
	The integration of podium design should be an integral part of the design of the development, and as far as possible should not visibly encroach beyond the building footprint.	Not applicable. No podium proposed.
	A master antenna shall be provided for any development of more than three dwellings and be located so that it is not visible from the street or any public open space.	Complies with conditions.
	Consider the relationship between the whole building form and the facade and / or building elements. The number and distribution of elements across a façade determine simplicity or complexity. Columns, beams, floor slabs, balconies, window openings and fenestrations, doors, balustrades, roof forms and parapets are elements, which can be revealed or concealed and organised into simple or complex patterns.	Complies The building has been designed with attention to detail, and has been reviewed by the DEP, who support the design and features of the building
	<p>Compose facades with an appropriate scale, rhythm and proportion, which respond to the building's use and the desired contextual character. This may include but are not limited to:</p> <ul style="list-style-type: none"> - Defining a base, middle and top related to the overall proportion of the building. - Expressing key datum lines in the context using cornices, a change in materials or building set back. - Expressing the internal layout of the building, for example, vertical bays or its structure, such as party wall-divisions. - Expressing the variation in 	

Development Control	Provision	Comment
	<p>floor-to-floor height, particularly at the lower levels.</p> <ul style="list-style-type: none"> - Articulating building entries with awnings, porticos, recesses, blade walls and projecting bays. - Selecting balcony types which respond to the street context, building orientation and residential amenity. - Cantilevered, partially recessed, wholly recessed, or Juliet balconies will all create different facade profiles. - Detailing balustrades to reflect the type and location of the balcony and its relationship to the façade detail and materials <p>Design facades to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls, depending on the facade orientation.</p> <p>Express important corners by giving visual prominence to parts of the facade, for example, a change in building articulation, material or colour, roof expression or increased height.</p> <p>Co-ordinate and integrate building services, such as drainage pipes, with overall facade and balcony design.</p> <p>Co-ordinate security grills/screens, ventilation louvres and car park entry doors with the overall facade design</p>	
Roof Design	<p>Relate roof design to the desired built form. This may include:</p> <ul style="list-style-type: none"> - Articulating the roof, or breaking down its massing on large buildings, to minimise 	<p>Complies</p> <p>The roof is flat in form, and of a low scale, with the provision for the installation of photovoltaic panels.</p>

Development Control	Provision	Comment
	<p>the apparent bulk or to relate to a context of smaller building forms.</p> <ul style="list-style-type: none"> - Using a similar roof pitch or material to adjacent buildings, particularly in existing special character areas or heritage conservation areas. - Minimising the expression of roof forms gives prominence to a strong horizontal datum in the adjacent context, such as an existing parapet line. - Using special roof features, which relate to the desired character of an area, to express important corners. 	
	<p>Design the roof to relate to the size and scale of the building, the building elevations and three-dimensional building form. This includes the design of any parapet or terminating elements and the selection of roof materials.</p>	
	<p>Design roofs to respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to sun access.</p>	
	<p>Minimise the visual intrusiveness of service elements by integrating them into the design of the roof. These elements include lift over-runs, service plants, chimneys, vent stacks, telecommunication infrastructures, gutters, downpipes and signage.</p>	
	<p>Where habitable space is provided within the roof optimise residential amenity in the form of attics or penthouse dwellings.</p>	
Building Entry	<p>Improve the presentation of the development to the street by:</p>	<p>Complies Entrances are noticeable and the access way is prominent to Morgan Street.</p>

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	<ul style="list-style-type: none"> - Locating entries so that they relate to the existing street and subdivision pattern, street tree planting and pedestrian access network. - Designing the entry as a clearly identifiable element of the building in the street. - Utilising multiple entries-main entry plus private ground floor dwelling entries-where it is desirable to activate the street edge or reinforce a rhythm of entries along a street. 	
	Provide as direct a physical and visual connection as possible between the street and the entry	
	Achieve clear lines of transition between the public street, the shared private, circulation spaces and the dwelling unit.	
	Ensure equal access for all	Complies A ramp provides access to the building, where lifts provide access within the building.
	Provide safe and secure access by: <ul style="list-style-type: none"> - Avoiding ambiguous and publicly accessible small spaces in entry areas. - Providing a clear line of sight between one circulation space and the next. - Providing sheltered well-lit and highly visible spaces to enter the building, meet and collect mail. 	Complies Safe and secure access is provide to the building, with clear entry points to the residential and commercial elements of the development.
	Generally provide separate entries from the street for: <ul style="list-style-type: none"> - Pedestrians and cars. - Different uses, for example, for residential and commercial users in a mixed-use development. - Ground floor dwellings, where applicable. 	Complies The proposal provides separate vehicle and pedestrian access points.

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	Provide and design letterboxes to be convenient for residents and not to clutter the appearance of the development from the street by: - Locating them adjacent to the major entrance and integrated into a wall, where possible. - Setting them at 90 degrees to the street, rather than along the front boundary.	Complies Letterboxes will located internally.
Balconies	Balconies may project up to 1m from the façade of a building.	Complies The balconies project 1m from the front faced of the building.
	Balustrades must be compatible with the façade of the building.	Complies Glass balustrades are used, which are suitable given the design of the building.
	Ensure balconies are not so deep that they prevent sunlight entering the dwelling below.	Complies Balconies of a depth to allow solar access.
	Design balustrades to allow views and casual surveillance of the street.	Complies Balconies provide views and surveillance to the street.
	Balustrades on balconies at lower levels shall be of solid construction. Solid or semi solid louvres are permitted.	Complies on merit Sliding shutters will allow for privacy to balconies where required.
	Noise attenuation measures on balconies facing a Classified Road should be considered.	Not applicable Site does not front a classified road.
	Balconies should be located on the street frontage, boundaries with views and onto a substantial communal open space.	Complies Balconies are all on the external facades of the building.
	Primary balconies should be: - Located adjacent to the main living areas, such as living room, dining room or kitchen to extend the dwelling living space; - Sufficiently large and well proportioned to be functional and promote indoor/outdoor	Complies Balconies are off main living spaces and are of good sizes and dimensions to be fit for purpose.

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	living. A dining table and two chairs (smaller dwelling) and four chairs (larger dwelling) should fit on the majority of balconies in any development.	
	Consider secondary balconies, including Juliet balconies or operable walls with balustrades, for additional amenity and choice in larger dwellings, adjacent to bedrooms or for clothes drying, site balconies off laundries or bathrooms.	Not applicable.
	Design and detail balconies in response to the local climate and context thereby increasing the usefulness of balconies. This may be achieved by: - Locating balconies facing predominantly north, east or west to provide solar access. - Utilising sunscreens, pergolas, shutters and operable walls to control sunlight and wind. - Providing balconies with operable screens, Juliet balconies or operable walls/sliding doors with a balustrade in special locations where noise or high winds prohibit other solutions - along rail corridors, on busy roads or in tower buildings - choose cantilevered balconies, partially cantilevered balconies and/or recessed balconies in response to daylight, wind, acoustic privacy and visual privacy.	Complies Balconies designed in accordance with climate and context requirements.
	Provide primary balconies for all dwellings with a minimum depth of 2m.	Complies All main balconies have minimum width of 2m.
	Ensuring balconies are not so deep that they prevent sunlight entering the dwelling below.	Complies All balconies allow for adequate solar access.

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	Design balustrades to allow views and casual surveillance of the street while providing for safety and visual privacy. Design considerations may include: - Detailing balustrades using a proportion of solid to transparent materials to address sight lines from the street, public domain or adjacent development. Full glass balustrades do not provide privacy for the balcony or the dwelling's interior, especially at night. - Detailing balustrades and providing screening from the public, for example, for a person seated looking at a view, clothes drying areas, bicycle storage or air conditioning units	Complies Balconies provide views and surveillance to the street.
	Operable screens increase the usefulness of balconies by providing weather protection, daylight control and privacy screening.	Complies Shutters provided to balconies.
Daylight Access	Plan the site so that new residential flat development is oriented to optimise northern aspect.	Complies The building maximises the northern orientation.
	Ensure direct daylight access to communal open space between March and September and provide appropriate shading in summer.	Complies The communal open space receives adequate daylight, with the opportunity for shading.
	Optimise the number of dwellings receiving daylight access to habitable rooms and principal windows. Ensure daylight access to habitable rooms and private open space, particularly in winter - use skylights, clerestory windows and fanlights to supplement daylight access.	Complies Main rooms and windows receive daylight in accordance with the ADG and ARH SEPP requirements.
	Promote two-storey and	Not applicable.

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	mezzanine, ground floor dwellings or locations where daylight is limited to facilitate daylight access to living rooms and private open spaces.	
	Ensure single aspect, single-storey dwellings have a northerly or easterly aspect - locate living areas to the north and service areas to the south and west of the development. Avoid south facing dwellings.	Complies on merit The number of units receiving direct daylight and sunlight is accordance with the ADG and ARH SEPP requirements.
	Design for shading and glare control, particularly in summer: - Using shading devices, such as eaves, awnings, colonnades, balconies, pergolas, external louvres and planting. - Optimising the number of north-facing living spaces. - Providing external horizontal shading to north-facing windows. - Providing vertical shading to east or west windows.	Complies Shutter provided to balconies.
	Consider higher ceilings and higher window heads to allow deeper sunlight penetration.	Complies Ceilings are in line with the minimum requirements of the ADG.
	On west facing windows, vertical louvre panels or sliding screens protect from glare and low afternoon sun.	Complies Shutter provided to balconies.
	On north facing windows, projecting horizontal louvres admit winter sun while shading summer sun.	Complies Shutters provided to balconies.
Internal Design	All staircases should be internal.	Complies Stairways are internal.
	Minimise the length of common walls between dwellings.	Complies Common walls are minimised through the development.
	Basement car parking shall be located beneath the building footprint.	Complies on merit Basement car parking is located below the building where possible.
	Where possible natural ventilation shall be provided to basement car parking.	Complies The basement will have the ability to be ventilated naturally.

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	Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings	Complies The building has been designed in accordance with the ADG building separation requirements.
	Minimise the location of noise sensitive rooms such as bedrooms adjoining noisier rooms such as bathrooms or kitchens or common corridors and stairwells.	Complies Noise generating rooms are clustered where possible.
	Where a site has frontage to a Classified Road, locate bedrooms away from the front of the site.	Not applicable.
	Where common walls are provided they must be carried to the underside of the roof and be constructed in accordance with Part F5 of the Building Code of Australia.	Complies with conditions.
	Locate active use rooms or habitable rooms with windows overlooking communal/public areas.	Complies Habitable rooms overlook open space where possible.
Ground Floor Dwellings	Design front gardens or terraces, which contribute to the spatial and visual structure of the street while maintaining adequate privacy for dwelling occupants. This can be achieved by animating the street edge, for example, by promoting individual entries for ground floor dwellings.	Complies The landscaping to the front of the site will provide an attractive frontage to the street.
	Create more pedestrian activity along the street and articulate the street edge by: <ul style="list-style-type: none"> - Balancing privacy requirements and pedestrian accessibility. - Providing appropriate fencing, lighting and/ or landscaping to meet privacy and safety requirements of occupants while contributing to a pleasant streetscape. - Utilising a change in level from the street to the private garden or terrace to minimise 	Complies The ground floor commercial units will assist in providing an active frontage.

Development Control	Provision	Comment
	<p>site lines from the streets into the dwelling for some dwellings.</p> <p>- Increasing street surveillance with doors and windows facing onto the street.</p>	
	<p>Ground floor dwellings are special because they offer the potential for direct access from the street and on-grade private landscape areas. They also provide opportunities for the dwelling building and its landscape to respond to the streetscape and the public domain at the pedestrian scale. Ground floor dwellings also support housing choice by providing accessibility to the elderly and/or disabled and support families with small children. Optimise the number of ground floor dwellings with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site. Provide ground floor dwellings with access to private open space, preferably as a courtyard.</p>	<p>Not applicable</p> <p>Ground floor dwellings do not front the street.</p>
Security	<p>Entrances to buildings should be orientated towards the front of the site and facing the street.</p> <p>The main entrance to dwellings or other premises should not be from rear lanes and should be designed with clear directions and signage.</p>	<p>Complies</p> <p>The entrance to the building is orientated to the street, with no rear accesses proposed.</p>
	<p>Blank walls in general that address street frontages or public open space are discouraged. Where they are unavoidable building elements or landscaping must be used to break up</p>	<p>Complies</p> <p>No blank walls are proposed.</p>

Development Control	Provision	Comment
	large expanses of walls. In some cases an anti-graffiti coating will need to be applied to the wall to a height of 2 metres.	
	Minimise the number of entry points to buildings.	Complies Only one entry point is proposed for the residential elements, and two for the commercial units.
	Reinforce the development boundary to strengthen the distinction between public and private space by: - Employing a level change at the site and/or building threshold (subject to accessibility requirements). - Signage. - Entry awnings. - Fences, walls and gates. - Change of material in paving between the street and the development	Complies The building steps up from the street to provide a distinction from the street/footpath.
	Optimise the visibility, functionality and safety of building entrances by: - Orienting entrances towards the public street. - Providing clear lines of sight between entrances, foyers and the street. - Providing direct entry to ground level dwellings from the street rather than through a common foyer. - Direct and well-lit access between car parks and dwellings, between car parks and lift lobbies and to all unit entrances.	Complies Entrances are noticeable and the access way is prominent to Morgan Street.
	Improve the opportunities for casual surveillance by: - Orienting living areas with views over public or communal open spaces, where possible. - Using bay windows and balconies, which protrude beyond the main facade and enable a wider angle of vision to the street.	Complies The commercial units and the upper floor balconies will provide for casual surveillance.

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - Using corner windows, which provide oblique views of the street. - Providing casual views of common internal areas, such as lobbies and foyers, hallways, recreation areas and car parks. 	
	<p>Minimise opportunities for concealment by:</p> <ul style="list-style-type: none"> - Avoiding blind or dark alcoves near lifts and stairwells, at the entrance and within indoor car parks, along corridors and walkways. - Providing well-lit routes throughout the development. - Providing appropriate levels of illumination for all common areas. - Providing graded illumination to car parks and illuminating entrances higher than the minimum acceptable standard. 	<p>Complies</p> <p>The access points are well laid out and well lit, and do not provide opportunities for concealment.</p>
	<p>Control access to the development by:</p> <ul style="list-style-type: none"> - Making dwellings inaccessible from the balconies, roofs and windows of neighbouring buildings. - Separating the residential component of a development's car parking from any other building use and controlling car park access from public and common areas. - Providing direct access from car parks to dwelling lobbies for residents. 	<p>Complies</p> <p>The only access point to the residential element is from the main entrance. Car parking is limited to residents and staff, with access from the car park directly to the dwellings available.</p>
Natural Ventilation	<p>Utilise the building layout and section to increase the potential for natural ventilation. Design solutions may include:</p> <ul style="list-style-type: none"> - Facilitating cross ventilation by designing narrow building depths and providing dual aspect dwellings, for 	<p>Complies</p> <p>Cross ventilation and natural ventilation is in accordance with the ADG requirements.</p>

Development Control	Provision	Comment
	example, cross through dwellings and corner dwellings. - Facilitating convective currents by designing units, which draw cool air in at lower levels and allow warm air to escape at higher levels, for example, maisonette dwellings and two-storey dwellings.	
	Provide narrow building depths to support cross ventilation.	Complies Dwellings depths are in line with the ADG requirements.
	Avoid single-aspect dwellings with a southerly aspect.	Complies on merit Although some such dwellings are proposed, the number is limited and in accordance with ADG requirements.
Building Layout	The layout of dwellings within a residential flat building should minimise the extent of common walls.	Complies Common walls are minimised through the development.
Storage Areas	A secure storage space is to be provided for each dwelling with a minimum volume 8 m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement or garage. Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Storage is provided in accordance with ADG requirements.
7. Landscaping and Fencing	The setback areas are to be utilised for canopy tree planting. The landscape design for all development must include canopy trees that will achieve a minimum 8 m height at maturity within front and rear setback areas.	Complies Canopy trees are proposed in the front and rear setbacks.
	Landscape planting should be principally comprised of native species to maintain the character of Liverpool and provide an integrated streetscape appearance.	Complies The planting plan is made up of predominantly native species.
	Species selected in	

Development Control	Provision	Comment
	environmentally sensitive areas should be indigenous to the locality. However, Council will consider the use of deciduous trees	
	The landscaping shall contain an appropriate mix of canopy trees, shrubs and groundcovers. Avoid medium height shrubs (600 – 1800mm) especially along paths and close to windows and doors.	Complies A mixture of plant types and sizes is proposed.
	Landscaping in the vicinity of a driveway entrance should not obstruct visibility for the safe ingress and egress of vehicles and pedestrians.	Complies Minimal landscaping is proposed in the vicinity of the driveway.
	Tree and shrub planting along side and rear boundaries should assist in providing effective screening to adjoining properties.	Complies Hedges are proposed along side and rear boundaries.
	Landscaping on any podium level or planter box shall be appropriately designed and irrigated. Landscaping on podium levels and planter boxes should be accessible from habitable areas of dwellings or elsewhere as appropriate for gardener access in other forms of development.	Not applicable.
	The development must be designed around significant vegetation on the site. It is important to retain significant vegetation to maintain an existing streetscape and enhance the visual appearance of new dwellings.	Not applicable There is no existing significant vegetation.
	Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry.	Complies Canopy trees will provide shade
	Where landscaping is used to control overlooking, species selected are to be a kind able	Not applicable.

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	to achieve privacy within 3 years.	
	Any tree with a mature height over 8m should be planted a minimum distance of 3m from the building or utility services.	Complies Trees over 3m from building.
	<p>Contribute to streetscape character and the amenity of the public domain by:</p> <ul style="list-style-type: none"> - Relating landscape design to the desired proportions and character of the streetscape. - Using planting and landscape elements appropriate to the scale of the development. - Mediating between and visually softening the bulk of large development for the person on the street. <p>Planting design solutions include:</p> <ul style="list-style-type: none"> - Trees for shading low-angle sun on the eastern and western sides of a dwelling. - Trees that do not cast a shadow over solar collectors at any time of the year. - Deciduous trees for shading of windows and open space areas in summer. <p>methods.</p> <ul style="list-style-type: none"> - Providing appropriate drainage. - Design planters to support the appropriate soil depth and plant selection by: - Ensuring planter proportions accommodate the largest volume of soil possible. Minimum soil depths will vary depending on the size of the plant. However, soil depths greater than 1.5 m are unlikely to have any benefits for tree growth. - Providing square or rectangular planting areas rather than long narrow linear areas. 	<p>Complies</p> <p>An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Landscape Officer who has raised no objections to the landscape design.</p>

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	<p>Design landscape which contributes to the site's particular and positive characteristics, for example by:</p> <ul style="list-style-type: none"> - Enhancing habitat and ecology. - Retaining and incorporating trees, shrubs and ground covers endemic to the area, where appropriate. - Retaining and incorporating changes of level, visual markers, views and any significant site elements <p>Design for optimum conditions for plant growth by:</p> <ul style="list-style-type: none"> - Providing soil depth, soil volume and soil area appropriate to the size of the plants to be established. - Providing appropriate soil conditions and irrigation 	<p>Complies</p> <p>An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Landscape Officer who has raised no objections to the landscape design.</p>
Fencing	<p>The maximum height of a front fence is 1.2m.</p> <p>The maximum height of side boundary fencing within the setback to the street is 1.2m</p>	<p>Not applicable</p> <p>No front fence proposed.</p>
	<p>Fences and walls must be a maximum of 1.8m in height, and constructed of masonry, timber and/or landscaped.</p>	<p>Complies with condition</p>
	<p>For side walls or fences along the secondary frontage, a maximum height of 1.2m is required for the first 9m measured from the front boundary, the remaining fence / wall may then be raised to a maximum of 1.8m. The secondary setback is the longest length boundary.</p>	<p>Not applicable</p> <p>No secondary frontage.</p>
	<p>Boundary fences shall be lapped and capped timber or metal sheeting.</p>	<p>Complies with condition</p>

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8. Car parking and access	Visitor car parking shall be clearly identified and may not be stacked car parking. Visitor car parking shall be located between any roller shutter door and the front boundary.	Complies Visitor car parking not required by ARH SEPP.
	Pedestrian and driveways shall be separated.	Complies Separate access points provide.
	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.	Complies Vehicle access along the southern boundary of the site.
	Give preference to underground parking, whenever possible by: <ul style="list-style-type: none"> - Retaining and optimising the consolidated areas of deep soil zones. - Facilitating natural ventilation to basement and sub-basement car parking areas, where possible. - Integrating ventilation grills or screening devices of car park openings into the facade design and landscape design. - Providing safe and secure access for building users, including direct access to residential dwellings, where possible. - Providing a logical and efficient structural grid. There may be a larger floor area for basement car parking than for upper floors above ground. Upper floors, particularly in slender residential buildings, do not have to replicate basement car parking widths. 	Complies Basement parking proposed.
	Where above ground enclosed parking cannot be	Not applicable. No above ground parking proposed.

Development Control	Provision	Comment
	<p>avoided, ensure the design of the development mitigates any negative impact on streetscape and street amenity by:</p> <ul style="list-style-type: none"> - Avoid exposed parking on the street frontage. - Hiding car parking behind the building facade. Where wall openings (windows, fenestrations) occur, ensure they are integrated into the overall facade scale, proportions and detail. 	
	<p>Promote equity by:</p> <ul style="list-style-type: none"> - Ensuring the main building entrance is accessible for all from the street and from car parking areas. - Integrating ramps into the overall building and landscape design. - Design ground floor dwellings to be accessible from the street, where applicable, and to their associated private open space. 	<p>Complies Ramp provides to access building.</p>
	<p>Maximise the number of accessible and adaptable dwellings in a building by:</p> <ul style="list-style-type: none"> - Providing more than one accessible entrance where a development contains clusters of buildings. - Separating and clearly distinguish between pedestrian accessways and vehicle accessways. - Locating vehicle entries away from main pedestrian entries and on secondary frontages. 	<p>Complies Adaptable units proposed.</p>
9. Amenity and Environmental Impact	<p>Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least:</p> <ul style="list-style-type: none"> - One living, rumpus room or the like; and 	<p>Complies on merit It is noted that there would be significant overshadowing of the private open space of to the property to the south as a result of this development. However, the property to the south is also zoned R4 and could be expected to take advantage of the 'up-</p>

Development Control	Provision	Comment
	- 50% of the private open space.	<p>zoning' of the area and be redeveloped in a similar fashion to this proposal.</p> <p>The applicant has submitted an indicative scheme for that site showing that it can be similarly redeveloped while meeting the solar access requirements of the ADG. Given the context of the site and the type of development envisaged by the R4 zoning, the impact on that site is considered to be acceptable in this instance.</p>
	<p>Building siting, window location, balconies and fencing should take account of the importance of the privacy of on site and adjoining buildings and outdoor spaces.</p> <p>Windows to habitable rooms should be located so they do not overlook such windows in adjoining properties, other dwellings within the development or areas of private open space.</p>	<p>Complies</p> <p>The building complies with the ADG separation requirements.</p>
	<p>Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties.</p>	<p>Complies</p> <p>Hedge/tree planting is proposed along the boundaries.</p>

Development Control	Provision	Comment
	<p>Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to dwellings by:</p> <ul style="list-style-type: none"> - Balconies to screen other balconies and any ground level private open space. - Separating communal open space, common areas and access routes through the development from the windows of rooms, particularly habitable rooms. - Changing the level between ground floor dwellings with their associated private open space, and the public domain or communal open space. <p>Use detailed site and building design elements to increase privacy without compromising access to light and air by:</p> <ul style="list-style-type: none"> - Offsetting windows of dwellings in new development and adjacent development windows. - Recessed balconies and/or vertical fins between adjacent balconies. - Solid or semi-solid balustrades to balconies - louvres or screen panels to windows and/or balconies. - Fencing. - Vegetation as a screen between spaces. - Incorporating planter boxes into walls or balustrades to increase the visual separation between areas. - Utilising pergolas or shading devices to limit overlooking of lower dwellings or private open space. 	<p>Complies</p> <p>The building complies with the ADG separation requirements.</p>
	Noise attenuation measures should be incorporated into building design to ensure acoustic privacy between on-site and adjoining buildings.	Complies with conditions
	Buildings having frontage to a	Not applicable.

Development Control	Provision	Comment
	Classified Road or a railway and impacted upon by rail or traffic related noises must incorporate the appropriate noise and vibration mitigation measures into the design in terms of the site layout, building materials and design, orientation of the buildings and location of sleeping and recreation areas.	
	The proposed buildings must comply with the Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance.	Complies with conditions
	Arrange dwellings within a development to minimise noise transition between dwellings by: <ul style="list-style-type: none"> - Locating busy, noisy areas next to each other and quieter areas next to other quiet areas, for example, living rooms with living rooms, bedrooms with bedrooms - Using storage or circulation zones within an dwelling to buffer noise from adjacent dwellings, mechanical services or corridors and lobby areas - Minimising the amount of common walls with other dwellings. - Design the internal dwelling layout to separate noisier spaces from quieter spaces by grouping uses within a dwelling - bedrooms with bedrooms and service areas like kitchen, bathroom, and laundry together. 	Complies with conditions
10. Site Services	Letterboxes shall to be provided for each dwelling on site, easily accessible from the street, able to be securely	Complies Letterboxes proposed inside the building.

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	locked and provided in accordance with Australia Post's requirements.	
	Residential numbering should be attached to the letterbox so that it is clearly visible from the street frontage. Numbers should be 75mm in height, reflective and in contrast to the backing material.	Complies with condition.
	Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site.	Complies A waste management plan will be secured via condition.
	Any structure involving waste disposal facilities shall be located as follows: Setback 1 m from the front boundary to the street. Landscaped between the structure and the front boundary and adjoining areas to minimise the impact on the streetscape. Not be located adjacent to an adjoining residential property.	Complies Waste facilities are located in the basement.
	Where a footpath, road shoulder or new or enlarged access driveway is required to be provided this shall be provided at no cost to Council.	Complies with condition.
	Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure.	Complies with condition.
	Where there are no existing street trees in front of the site and contributions have not been collected for street tree planting it may be a condition of consent that street trees be provided in the footpath area immediately in front of the site.	Not applicable.

LDCP 2008 Part 3.8: Non-residential Development in Residential Zones
5. Neighbourhood Shops and Shop-Top Housing

Development Control	Provision	Comment
5.1 Subdivision, Frontage and Lot Size	The lot should have a sufficient frontage to cater for parallel car parking of 3 motor vehicles.	Complies The site frontage is 28m, which is sufficient for the parking of three cars, including the vehicle access to the site.
5.2 Site Planning	The Neighbourhood Shops and Shop Top Housing layout must be designed around the site attributes such as slope, existing vegetation, land capability and/or solar access	Complies The proposal is designed in line with the site's topography.
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate.	Complies The proposal has been assessed by Council's Engineers, who raise no objection, subject to the imposition of conditions.
	Neighbourhood Shops and Shop Top Housing will not be permitted in streets with a carriageway width of 6.5m or less or cul-de-sacs.	Complies Morgan Street is over 6.5m wide.
5.3 Setbacks	Front setback: 5.5m	Complies Front setback is 5.5m
5.4 Building Design, Streetscape and Layout	Entrances to a Neighbourhood shops and Shop Top Housing should be orientated towards the front of the site facing the street.	Complies The entrance to the building is orientated to the street.
	Blank walls addressing the street frontage and other public places should be avoided.	Complies No blank walls are proposed.
5.5 Car Parking and Access	One employee car parking space is to be located on-site without affecting approved	Complies One space is provided for the commercial units.

Development Control	Provision	Comment
	residential parking. Parking must not interfere with pedestrian access into the shop.	
	The street(s) to which Neighbourhood shops and Shop Top Housing has frontage must be; - Drained, constructed kerb to kerb with hard surface carriageway to Council's construction standards. - Sufficient width to allow for a kerbside parking aisle in front of the Neighbourhood shops and Shop Top Housing, and two – way traffic flow.	Complies Morgan Street suitably serviced and constructed.
	Neighbourhood shops and Shop Top Housing sites must be a sufficient distance from the nearest intersection, to ensure that traffic generated from the shop will not create a traffic hazard.	Complies Proposal set back from intersection.
	The street verge to which Neighbourhood shops and Shop Top Housing has frontage must be clear of above ground utilities and infrastructure, such as established bus stops, public telephone installations and service pillar-boxes.	Complies No utilities or infrastructure to the street frontage.
5.6 Amenity and Environmental Impact	Amenity impacts to be assessed	Complies Amenity impacts assessed in the report above.
	External lighting of Neighbourhood shops and Shop Top Housing is to be of a low-level incandescence. The lighting is to be constructed and shielded in a manner that directs illumination away from all nearby properties. Neighbourhood Shop lighting is to be consistent with the approved hours of operation. However, low-level all-night	Complies with conditions

Development Control	Provision	Comment
	security lighting is permissible.	
	Generally the hours of operation of a Neighbourhood Shop is to be restricted to between 7am and 7pm weekdays, and 8am and 7pm weekends, subject to Council approval.	Complies with conditions
5.7 Site Services	Waste disposal facilities shall be provided for development. These shall be located adjacent to the driveway entrance to the site.	Complies A waste management plan will be secured via condition.
	Any structure involving waste disposal facilities shall be located as follows: - Setback 1m from the front boundary to the street. - Landscaped between the structure and the front boundary and adjoining areas to minimise the impact on the streetscape. - Not be located adjacent to an adjoining residential property.	Complies Waste facilities are located in the basement.
	Letterboxes shall be located along the front boundary and be clearly visible and accessible from the street.	Complies Letterboxes proposed inside the building.
	The street number of a site must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the site.	Complies with conditions
	Where a footpath, road shoulder or new or enlarged access driveway is required to be provided this shall be provided at no cost to Council.	Complies with conditions
	Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council	Complies with conditions

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Development Control	Provision	Comment
	infrastructure.	
	Where there are no existing street trees in front of the site and contributions have not been collected for street tree planting it may a condition of consent that street trees be provided in the footpath area in front of the site.	Not applicable

6.4 Section 4.15(1)(a)(iia) – Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

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

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

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

(b) Natural and Built Environment

Built Environment

It is considered that the proposed development will have minimal impact on the built environment given that it is located within the R4 Zone which is zoned for high density residential development. Therefore, it is considered to be consistent with the current and future character of the locality, especially as the building has been redesigned to comply, in the most part, with the ADG.

The proposed scheme is considered to be an appropriate design, which is responsive to the location and the orientation of the site. The development satisfactorily addresses Morgan Street with built form that would interact with this space. The proposal has been designed with adequate regard to the western, northern and southern adjoining sites and has been redesigned since lodgement to reduce impacts to these properties where reasonable.

Natural Environment

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause any adverse impact to the natural environment.

(c) Social Impacts and Economic Impacts

The development is likely to result in a positive social impact within the locality. The provision of communal open space in varied locations throughout the site will promote social interaction among building occupants. The development provides bicycle parking which will encourage users to engage in outdoor activities and increased movement.

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The development will result in a positive economic impact, through the provision of employment generated during the construction of the development and the on-going building maintenance. The development will result in increased housing availability within a high density residential zone.

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

The site is considered to be suitable for the proposed development. The proposal is generally compliant with the provisions of LLEP 2008 and LDCP 2008 as outlined in this report. The identified variations have been considered and are supported as they do not result in any adverse impacts to the locality. Overall the development is considered to satisfy the relevant controls for site selection.

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

(f) Internal Referrals

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

Department	Comments
Building	No objections, subject to conditions.
Engineering	No objections, subject to conditions.
Environmental Health	No objections, subject to conditions.
Landscaping	No objections, subject to conditions.
Traffic and Transport	No objections, subject to conditions.
Waste Management	No objections, subject to conditions.

(g) External Referrals

No external referrals were required.

(h) Community Consultation

In accordance with the LDCP 2008, the application was notified for a 14 day period, from 3 October 2018 to 18 October 2018. Three submissions were received in relation to the proposed development during the public consultation process. The issues raised in the submission, and a response to each, are summarised as follows:

- i) The road width is not sufficient to deal with high density development.

Comment: Morgan Street has a carriageway width of over 6.5m, which is the requirement in the DCP that allows for development such as this.

- ii) Overshadowing.

Comment: As discussed above, it is noted that there would be significant overshadowing of the private open space of to the property to the south as a result of this development. However, the property to the south is also zoned R4 and could be expected to take advantage of the 'up-zoning' of the area and be redeveloped in a similar fashion to this proposal. This property did not make a submission on the application.

- iii) Noise.

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Comment: The proposal is for a residential flat building with small neighbourhood shop units. The commercial units are of a small scale and are unlikely to create any significant noise issues, and the hours of these will be limited to ensure there are no wider effects. The residential element of the proposal is not likely to cause any additional noise effects from that expected within a residential zone.

Construction hours will be controlled via condition.

iv) Loss of privacy.

Comment: The proposal meets the setback and separation requirements of the ADG, which serves to mitigate, among other things, the impact on the privacy of neighbouring properties.

v) Parking.

Comment: As discussed in the above report, the proposed development meets the parking requirements set out in the ARH SEPP, and has been assessed by Council's Traffic section, who have raised no issues with the application.

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

The proposed development is consistent with the zoning of the land and would represent a high quality development for Liverpool. The development provides additional housing opportunities within close proximity to employment opportunities and public transport.

In addition to the social and economic benefit of the proposed development, it is considered to be in the public interest.

7. SECTION 7.11 CONTRIBUTIONS

Section 7.11 of the Act is applicable to the development. The applicable contribution amount for the subject proposal is **\$68,722**.

8. CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built form is consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.
- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

9. RECOMMENDATION

For the above reasons, the proposed development is considered to be satisfactory and DA-666/2018 is recommended for approval, subject to conditions.

10. ATTACHMENTS

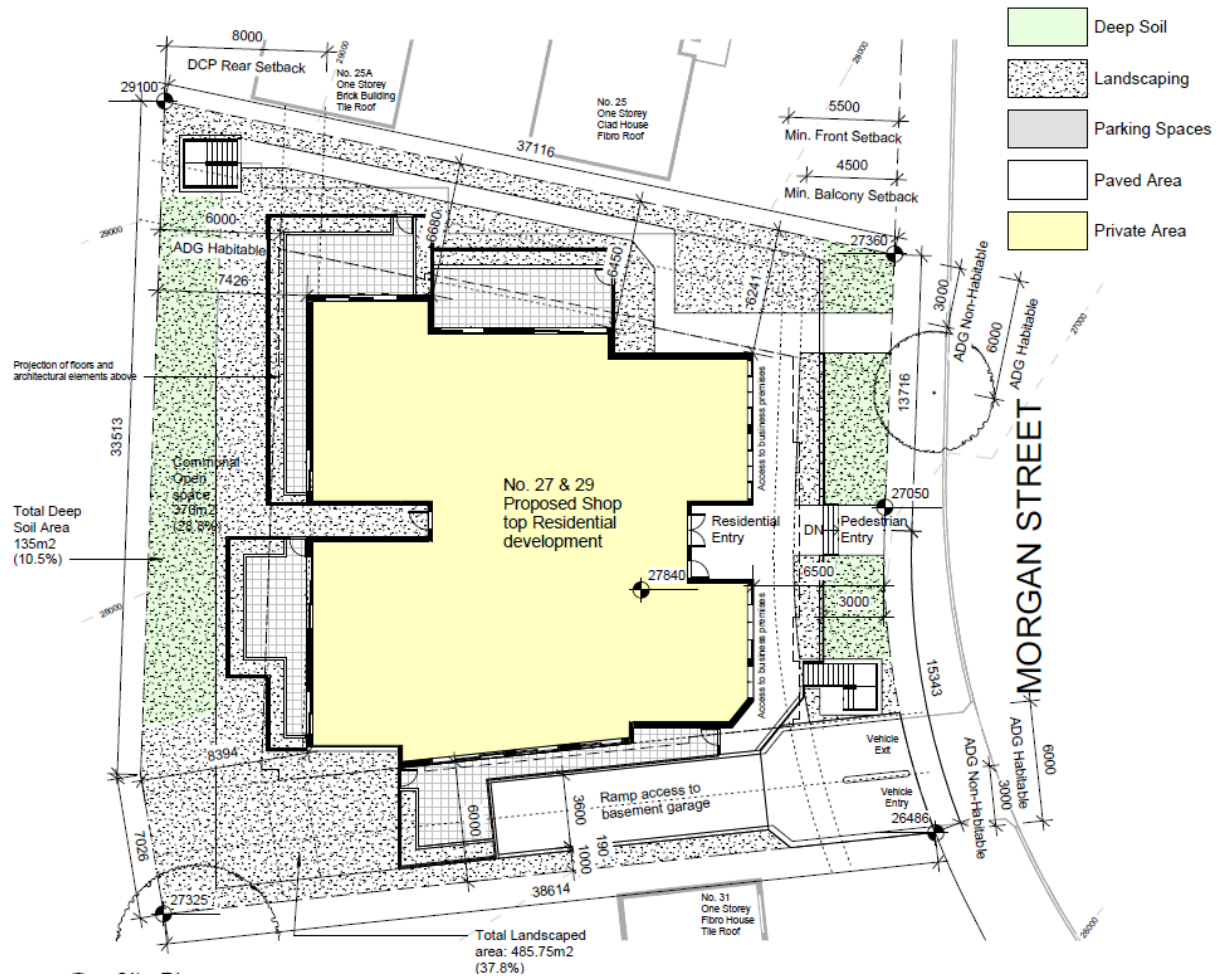
- 1. Plans of the proposal**
- 2. Recommended Conditions of Consent**

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ATTACHMENT 1: PLANS OF THE PROPOSAL

Site Plan



Architectural site plan for a residential development on Morgan Street. The plan shows four units: Unit 001 (2 Bedrooms, blue), Unit 002 (1 Bedroom, yellow), Unit 003 (1 Bedroom, pink), and Unit 004 (1 Bedroom, light blue). It also includes two neighbourhood shops (purple), a lift lobby, and various setbacks and dimensions. Key features include a ramp access to a basement garage, a central open space, and landscaping areas. The plan is bounded by Morgan Street to the east and various setbacks to the north and south.

Units and Premises:

- Unit 001 (Affordable) 2 Bedrooms
- Unit 002 (Affordable) 1 Bedroom
- Unit 003 (Affordable) 1 Bedroom
- Unit 004 (Affordable) 1 Bedroom
- Neighbourhood Shop 1 (Business Premises) 40m²
- Neighbourhood Shop 2 (Business Premises) 40m²

Setbacks and Dimensions:

- DCP Rear Setback: 6000
- Min. Front Setback: 3550
- Min. Balcony Setback: 4500
- ADG Habitable: 6000
- ADG Non-Habitable: 3000

Other Features:

- Total Deep Soil Area: 131m² (10.2%)
- Projection of floors and architectural elements above
- Central Open Space: 370m² (28.9%)
- Total Landscaped area: 485.75m² (37.8%)
- Ramp access to basement garage (1:6)
- Intercom for visitors' access

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Level 1 – 2 Plan



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Level 3 Plan



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Level 4 Plan



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East & West Elevations



East Elevation



West Elevation

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North & South Elevations



North Elevation

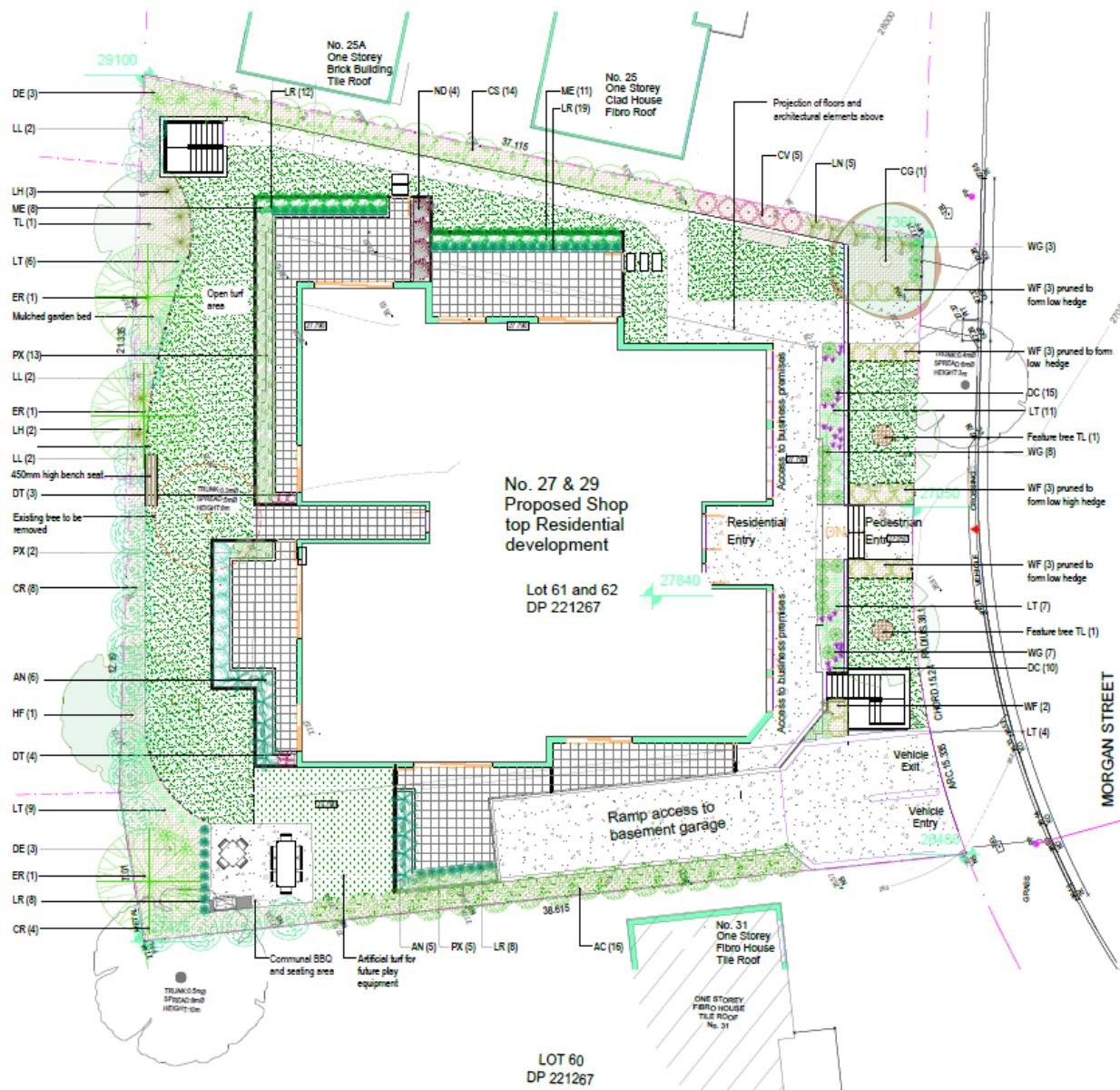


South Elevation

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Landscape Plan



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ATTACHMENT 2: RECOMMENDED CONDITIONS OF CONSENT

CONDITIONS:

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

A. THE DEVELOPMENT

Approved Plans

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

Plan Name	Plan Number	Rev	Date	Prepared By
Site Plan	DA02	N	18/11/2019	Fab Siqueira Architect
Floor Plans - Existing	DA03	N	18/11/2019	Fab Siqueira Architect
Floor Plans – Proposed (Ground Floor)	DA10	N	18/11/2019	Fab Siqueira Architect
Floor Plans – Proposed (Levels 1 & 2)	DA11	N	18/11/2019	Fab Siqueira Architect
Floor Plans – Proposed (Level 3)	DA12	N	18/11/2019	Fab Siqueira Architect
Floor Plans – Proposed (Level 4)	DA13	N	18/11/2019	Fab Siqueira Architect
Floor Plans – Proposed (Basement)	DA14	N	18/11/2019	Fab Siqueira Architect
Roof Plan	DA15	N	18/11/2019	Fab Siqueira Architect
Unit Plans (001, 002)	DA16	N	18/11/2019	Fab Siqueira Architect
Unit Plans (003, 004)	DA17	N	18/11/2019	Fab Siqueira Architect
Unit Plans (101, 201, 102, 202)	DA18	N	18/11/2019	Fab Siqueira Architect
Unit Plans (104, 204, 304, 103, 203)	DA19	N	18/11/2019	Fab Siqueira Architect
Unit Plans (105, 205, 305, 106, 206)	DA20	N	18/11/2019	Fab Siqueira Architect
Unit Plans (301, 302)	DA21	N	18/11/2019	Fab Siqueira Architect
Unit Plans (303, 306, 401)	DA22	N	18/11/2019	Fab Siqueira Architect
Unit Plans (402, 403)	DA23	N	18/11/2019	Fab Siqueira Architect
Elevations (East)	DA30	N	18/11/2019	Fab Siqueira Architect
Elevations (West)	DA31	N	18/11/2019	Fab Siqueira Architect
Elevations (North)	DA32	N	18/11/2019	Fab Siqueira Architect
Elevations (South)	DA33	N	18/11/2019	Fab Siqueira Architect
Streetscape Elevation	DA34	N	18/11/2019	Fab Siqueira Architect
Material Schedule	DA35	N	18/11/2019	Fab Siqueira Architect
Perspectives	DA36	N	18/11/2019	Fab Siqueira Architect
Glazed Door & Window Schedule	DA37	N	18/11/2019	Fab Siqueira Architect
Section 1	DA40	N	18/11/2019	Fab Siqueira Architect

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Section 2	DA41	N	18/11/2019	Fab Siqueira Architect
Draft Strata Plan (Ground Floor)	DA50	N	18/11/2019	Fab Siqueira Architect
Draft Strata Plan (Level 1)	DA51	N	18/11/2019	Fab Siqueira Architect
Draft Strata Plan (Level 2)	DA52	N	18/11/2019	Fab Siqueira Architect
Draft Strata Plan (Level 3)	DA53	N	18/11/2019	Fab Siqueira Architect
Draft Strata Plan (Level 4)	DA54	N	18/11/2019	Fab Siqueira Architect
Draft Strata Plan (Basement)	DA55	N	18/11/2019	Fab Siqueira Architect
Landscape Plan (and plant schedule)	L-01	F	18/07/2019	Space Landscape Design
Survey Plan	151265-765	1	27/02/2018	OSUM Surveying
Storm Water Note	C00	F	15/11/2019	ABCON Engineers
Basement Floor Plan	C01	F	15/11/2019	ABCON Engineers
Ground Floor Plan	C02	F	15/11/2019	ABCON Engineers
Sediment Control Plan	C021	F	15/11/2019	ABCON Engineers
Catchment Plan	C022	F	15/11/2019	ABCON Engineers
Level 1 Plan	C03	F	15/11/2019	ABCON Engineers
Level 2 Plan	C04	F	15/11/2019	ABCON Engineers
Level 3 Plan	C05	F	15/11/2019	ABCON Engineers
Level 4 Plan	C06	F	15/11/2019	ABCON Engineers
Roof Plan	C07	F	15/11/2019	ABCON Engineers
Stormwater Details	C08	F	15/11/2019	ABCON Engineers
Drains Model Output	C09	F	15/11/2019	ABCON Engineers

Report Name	Date	Reference	Prepared By
Statement of Environmental Effects	August 2019	18133	E-Planning
SEPP 65 Design Verification Statement	August 2019	Issue C	Fab Siqueira Architect
Parking and Traffic Impact Assessment Report	27 July 2019	P1809 Version D	Greys Consulting
Waste Management Plan	July 30 2019	19074W Version F02	Salt3
BASIX Certificate	19 August 2019	945085M_02	E-Planning
DA Acoustic Report	2 July 2019	11356 R01v3	PKA Acoustic Consulting
Stage 1 Preliminary Site Investigation	26 September 2018	7975-ER-1-1	Alliance Geotechnical
Geotechnical Investigation Report	27 April 2018	ESWN-PR-2018-229	ESWNMAN
Asbestos Clearance Inspection Report	13 December	2312 Version 2	EnviroX Consulting

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	2018		
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Works at no cost to Council

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

Comply with EP&A Act

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

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

Substation

4. Should a Pad-mount Electrical Substation be required and is required to be located outside the building envelope, the location and any associated fire separation walls must comply with Endeavour Energy Substation Design Instruction Document No SDI 104 (Current Version).

Prescribed condition

5. In accordance with Section 4.17(11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that all building work must be carried out in accordance with the applicable Performance Requirements of the *National Construction Code*. Compliance with the Performance Requirements can only be achieved by:
 - a) Complying with the Deemed to Satisfy Provisions, or
 - b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

6. All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration.

In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, is not permitted.

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

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

Section 7.11 Payment

7. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2009 - Established Areas as amended.

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The total contribution is **\$68,722** and will be adjusted at the time of payment in accordance with the contributions plan.

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

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

Payment must be accompanied by the attached form.

Fee Payments – Land Development

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

The following fees are applicable and payable:

- a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery,
- b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve, and
- c) Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

These fees are reviewed annually and will be calculated accordingly.

Access

9. Access must be provided to the building for people with a disability in accordance with the relevant requirements of the Building Code of Australia, Disability (access to Premises – Buildings) Standard 2010 and Australian Standard – AS1428.1 (2009), Design for Access and Mobility – General requirements for new building work, to the satisfaction of the Certifying Authority.

Notification

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

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

Fire Safety - Cladding

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11. Prior to issue of a construction certificate the certifier must be satisfied that all proposed attachments, cladding material and systems forming part of external walls comply with the NCC BCA and relevant Australian Standards. The certifier must be able to demonstrate compliance with evidence of suitability as per clause A2.2 of the BCA for all products/systems proposed.

S138 Roads Act – Minor Works in the public road

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

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

Access, Car Parking and Manoeuvring – General

13. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Liverpool City Council's Development Control Plan.
14. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that:
- (a) Off street access and parking complies with AS2890.1,
 - (b) Sight Distance at the street frontage has been provided in accordance with AS 2890.1,
 - (c) All cars can enter and exit the site in a forward direction
15. Detailed design plans for the access driveways and car park including swept path analysis, line markings and sign posting in accordance with the DCP and AS2890 is to be submitted to Traffic and Transport Section for review and approval.

Street Lighting

16. An assessment of adequacy of existing street lighting along the frontage of development site is to be submitted to Council's Traffic and Transport Section for review. A public lighting design brief in accordance with Council's and Endeavour Energy specifications along all the roads fronting the development site should be submitted to Council Traffic and Transport Section for review if additional street lighting is required.

Construction Environmental Management Plan

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17. Prior to issue of a construction certificate, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Principal Certifying Authority for approval. The environmental site management measures must remain in place and be maintained throughout the period of the development. The CEMP must address all environmental aspects of the development's construction phases, and include, where relevant, but not be limited to, the following:
- a) Asbestos Management Plan;
 - b) Project Contact Information;
 - c) Site Security Details;
 - d) Timing and Sequencing Information;
 - e) Site Soil and Water Management Plan;
 - f) Dust Control Plan;
 - g) Waste Management Plan;
 - h) Incident Management Contingency; and
 - i) Unexpected Finds Protocol.

The CEMP must be kept on site for the duration of the works and must be made available to Council Officers upon request.

Construction Traffic Management Plan

18. A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council's Traffic and Transport Section for approval prior to the issue of a Construction Certificate.

The CTMP is to outline the need for a Road Occupancy Permit issued by Council or Road Occupancy Permit issued by the Transport Management Centre. Works within the road reserve shall not commence until the construction traffic management plan has been endorsed.

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

Asbestos Clearance Certificate

20. Following the removal of fill and hazardous materials, an asbestos clearance certificate prepared by a qualified occupational hygienist for AEC01 and AEC02 as per the Stage 1 Preliminary Site Investigation' (Report No: 7975-ER-1-1, Rev 0) prepared by Alliance Geotechnical Pty Ltd dated 26th September 2018 shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

Recommendations of Acoustic Report

21. The recommendations provided in the approved acoustic report titled DA Acoustic Report 27-29 Morgan Street, Miller (ID: 11356 R01v3, File: PKA11356 R01v3 Acoustic Report) prepared by PJ Knowland Pty. Ltd. t/a PKA Acoustic Consulting dated 2nd July 2019 shall be implemented and incorporated into the design and construction of the development and be shown on plans accompanying the Construction Certificate application.

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The construction methodology and plans accompanying the Construction Certificate application shall be assessed and certified in writing by a suitably qualified acoustic consultant to verify conformance with the requirements of the aforementioned acoustic report. The written certification from the suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Construction Noise, Vibration Assessment and Management Plan

22. A site-specific Construction Noise, Vibration Assessment and Management Plan prepared by a suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

The Construction Noise, Vibration Assessment and Management Plan must include an assessment of expected noise impacts and detail feasible work practices to be adopted to avoid, remedy or mitigate construction noise and vibration impacts.

The Construction Noise, Vibration Assessment and Management Plan shall be consistent with the 'Interim Construction Noise Guideline' published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009 and include, but not necessarily be limited to the following information:

- Identification of nearby residences and other noise sensitive land uses;
- Assessment of expected noise impacts;
- Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts;
- Strategies to promptly deal with and address noise complaints;
- Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment);
- Methods for receiving and responding to complaints about construction noise;
- Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts; and
- Reference to relevant licence and consent conditions.

The Construction Noise, Vibration Assessment and Management Plan must be made available for inspection when requested by the PCA or Liverpool City Council

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Mechanical Plant and Equipment

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23. Mechanical plant and equipment shall be selected in consultation with a suitably qualified acoustic consultant in accordance with the recommendations of the approved acoustic report titled 'DA Acoustic Report 27-29 Morgan Street, Miller' (ID: 11356 R01v3, File: PKA11356 R01v3 Acoustic Report.docm) prepared by PJ Knowland Pty. Ltd. t/a PKA Acoustic Consulting dated 2nd July 2019.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Retaining Walls on Boundary

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

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

On-site Detention

25. On-Site Detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by ABCON Engineers, reference 18027 Revision F, dated 15/11/2019.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the on-site detention system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the on-site detention system has been designed in accordance with Liverpool City Council's Design Guidelines and Liverpool City Council's On-Site Stormwater Detention policy and Technical Specification.

Stormwater Discharge – Basement Car parks

26. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3:2003 and Council's Stormwater Drainage Design Specifications for pump out systems for basement carparks.

No Loading on Easements

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

Dilapidation report

28. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Morgan Street is to be submitted to Liverpool City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 15m either side of the development.

Dilapidation report Private Property (Excavations)

29. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

Provision of Services

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

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

31. Written clearance from Endeavour Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.
32. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

33. The applicant is to arrange with the appropriate service provider for any above ground service riser or access point to be constructed clear of any proposed or existing pedestrian footways, and if possible, located in recessed unobtrusive locations. Should any service provider require and/or insist the applicant/developer build a service riser that would create an obstruction and pose a potential safety hazard, then the applicant/developer should refer the request to Council for negotiation directly with the Service Network Authority.

Design Verification Statement

34. In accordance with the EP&A Regulation and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Apartment Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
- (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
 - (b) That the qualified designer has designed or directed the design of the subject development; and
 - (c) That the plans and specifications lodged with the CC achieve or improve the design quality of the development for which the subject development consent was granted, having regard to the design principles set out in Part 2 of SEPP 65.
- Note: The design verification statement must provide an explanation of the design in terms of the design quality principles set out in Part 2 of SEPP 65.

Crime Prevention Through Environmental Design

35. The following Crime Prevention Through Environmental Design principles are to be incorporated into the building and the Construction Certificate documentation.

- (a) Back to base alarm systems shall be installed;
- (b) Basement parking areas shall be painted a light colour;
- (c) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be implemented;
- (d) 'Way finding' signage should be utilised at all major interchanges such as lifts and stair wells;
- (e) Lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard AS 1158. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant, especially external lighting; and
- (f) Access to the parking levels of the building shall be controlled via a security controlled device.

Waste Storage Area – Construction

36. All waste management facilities shall comply with the Liverpool Development Control Plan 2008. Prior to the issue of a Construction Certificate, detailed floor and section plans shall be submitted to and approved by the Principal Certifying Authority for the waste storage area/s. The plans shall identify the location of the waste storage area/s and incorporate the following requirements:
- a) Sufficient space for access by residents, storage and easy manoeuvring of bins;
 - b) The area is to be fully enclosed and include a solid roof and concrete or cement rendered walls coved to the floor;
 - c) A concrete floor graded to an approved sewer connection comprising a sump and galvanised fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer;
 - d) Adequate ventilation to the external air by natural or mechanical means;
 - e) The door to the room must be tight fitting and self-closing;
 - f) A hose cock adjacent to the garbage storage area to facilitate cleaning of bins and the storage area. If the hose cock is located inside the waste storage area, it shall not protrude into the space indicated for the placement of bins;
 - g) Sufficient lighting to permit usage at night; and
 - h) Should garbage chutes be integrated into the design of the building, operational instructions shall be located prominently next to the chute.

Any modifications to the construction of the waste storage area require Council's prior written Approval.

Garbage Services

37. Prior to the issue of a Construction Certificate, a revised waste management plan (WMP) must be submitted, noting that all the features provided for the bin storage rooms for both the residential and commercial parts of the building are to be as per the requirements of the Liverpool DCP 2008, Section 25, 'Waste Disposal and Re-use Facilities'.

It must also note that all intermediate waste storage spaces on each level must have durable, easily washable walls and floors, be adequately lit and ventilated, and be equipped with relevant signage including graphical content allowing the residents to determine which materials are recyclable and which are general waste.

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Prior to submission of the revised WMP, the model of bin tug to be supplied by the developer must be checked and confirmed in the light of the volume and expected maximum weight of the bins to be moved, plus the 1:6 basement ramp gradient.

Waste Storage Area

38. Any bin bays must be:

- (a) Provided with mechanical ventilation,
- (b) Provided with a hose cock for hosing the garbage bin bay and a sewered drainage point in or adjacent to the bin storage area. The drainage point should have a fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer. If the hose cock is located inside the bin storage bay, it is not to protrude into the space indicated for the placement of bins,
- (c) Provided with sufficient light to permit usage at night,
- (d) Allocated with sufficient space within the bin bay to allow for access to all required bins by residents and waste collectors, as well as manoeuvring of bins within the bay and for the removal and return of bins by the waste collector,
- (e) Bin bay signs are available from Council,
- (f) Provided with signage to be prominently displayed in each bin bay, or waste service room, as appropriate indicating that:
 - i. Garbage is to be placed wholly within the garbage bins provided,
 - ii. Only recyclable materials accepted by Council are to be placed within the recycling bins,
 - iii. The area is to be kept tidy,
 - iv. A phone number for arranging disposal of bulky items, and
 - v. Graphic illustrative content to be 50%.

C. PRIOR TO WORKS COMMENCING

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

Demolition Works

39. Demolition works shall be carried out in accordance with the following:

- a) Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials,
- b) Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council, and
- c) The handling or removal of any asbestos product from the building/site must be carried out by a SafeWork NSW licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be

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handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with SafeWork NSW requirements.

Construction Certificates

40. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

Construction Certificate

41. Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 1.4 of the *Environmental Planning and Assessment Act, 1979* means any physical activity involved in the erection of a building and includes but is not limited to, the placement of any site shed/s or builders facilities, site grading, retaining walls, excavation, cutting trenches, installing formwork and steel reinforcement or, placing of plumbing lines.
42. Prior to the commencement of any building works, the following requirements must be complied with:
- (a) Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*,
 - (b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,
 - (c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment,
 - (d) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and
 - (e) The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.

Site Development Work

43. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be commenced unless the principal certifying authority for the development to which the work relates has been given written notice of the following information:
- a) In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that

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Act,

- b) in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

Notification of Service Providers

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

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

Sediment & Erosion Control

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

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

Waste Classification

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

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

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

Hazardous Materials Survey

- 47. A Hazardous Materials Survey of the dwellings referred to as AEC02 in the Stage 1 Preliminary Site Investigation' (Report No: 7975-ER-1-1, Rev 0) prepared by Alliance

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Geotechnical Pty Ltd dated 26th September 2018 shall be undertaken by a qualified occupational hygienist prior to any works commencing on-site. The findings of the Hazardous Materials Survey shall be presented as a report submitted to and approved by the Principal Certifying Authority (PCA) prior to commencement of works.

Environmental Management

48. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. Measures must include, as a minimum:
- (a) Siltation fencing;
 - (b) Protection of the public stormwater system; and
 - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

Waste Bins

49. Prior to any work, including demolition or site clearing beginning on site, all domestic waste bins that have been issued by Liverpool Council to either 27 or 29 Morgan Street and which are currently at either of those premises must be returned to Liverpool Council. Call Council on 1300 36 2170 to arrange for the removal of the domestic bins and so their removal can be noted.

D. DURING CONSTRUCTION

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

Building Work

50. The building works must be inspected by the Principal Certifying Authority, in accordance with Sections 6.5 (3) of the Environmental Planning & Assessment Act 1979 and Clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.
51. The Principal Certifying Authority (PCA) must specify the relevant stages of construction to be inspected and a satisfactory inspection must be carried out, to the satisfaction of the PCA, prior to proceeding to the subsequent stages of construction or finalisation of the works.

Identification Survey Report

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

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until the PCA has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

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

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

Site Works

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

Excavation

55. In the event the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) protect and support the adjoining premises from possible damage from the excavation,
 - b) where necessary, underpin the adjoining premises to prevent any such damage, and
 - c) a and b above does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
 - d) retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer.

Toilet Facilities

56. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
- a) be a standard flushing toilet connected to a public sewer, or
 - b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) be a temporary chemical closet approved under the *Local Government Act 1993*.

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Craning and Hoardings

- 57. Lifting or craning materials over a public footway or roadway is not permitted unless a "B" class construction hoarding has been installed in compliance with work cover authority requirements.
- 58. If the work is likely to cause pedestrian or vehicular traffic in a public area to be obstructed or rendered inconvenient; or if craning of materials is to occur across a public or road reserve area, a separate Road Occupancy Certificate and/or Hoarding approval must be obtained from Liverpool City Council prior to undertaking the works.

Switchboards

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

Site Facilities

- 60. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

Security Fence

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

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

Hours of Construction Work

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

General Site Works

- 63. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
- 64. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.
- 65. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as

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the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.

- 66. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
- 67. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated “spoil” material.
- 68. All earthworks shall be undertaken in accordance with AS 3798 and Liverpool City Council’s Design Guidelines and Construction Specification for Civil Works.

Erosion and sediment control

- 69. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
- 70. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 71. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
- 72. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

Construction Noise, Vibration Assessment and Management Plan

- 73. The approved site-specific Construction Noise, Vibration Assessment and Management Plan prepared in accordance with condition 22 shall be implemented, adhered to and maintained at all times during the construction period.

Construction Noise and Vibration

- 74. Noise and vibration associated with excavation, demolition and construction activities shall comply with the management levels detailed within the ‘Interim Construction Noise Guideline’ published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009 and acceptable vibration values prescribed within the Environmental Noise Management Assessing Vibration: A Technical Guideline (Department of Environment and Conservation, 2006).

All feasible and reasonable noise and vibration mitigation measures shall be implemented and any activities which may exceed the construction noise management levels and vibration criteria shall be identified and managed in accordance with the approved Construction Noise, Vibration Assessment and Management Plan.

Complaints

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75. A Complaints Handling Register shall be maintained for the duration of construction works at the subject premises. The Complaints Register is to be kept by the Site Manager or other suitable staff members and is to include the following:
- a) the date and time, where relevant, of the complaint;
 - b) the means by which the complaint was made (telephone, mail or email);
 - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) any action(s) taken in response to the complaint, including any follow-up contact with the complainant;
 - f) if no action was taken in relation to the complaint, the reason(s) why no action was taken; and
 - g) allocate an individual "complaint number" to each complaint received.

The Complaints Register must be made available for inspection when requested by Liverpool City Council.

Car Parking Areas

76. Car parking spaces and driveways must be constructed of a minimum of two coat finish seal or better. The spaces must be clear of obstructions and columns, permanently line marked and provided with adequate manoeuvring facilities. The design of these spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.

All car parking areas to be appropriately line marked and sign posted in accordance with the approved plans. All customer/visitor/staff parking areas are to be clearly signposted limiting car parking for customers/visitors/staff only. The applicant is to cover the costs of installation and maintenance of the signage.

The on-site parking spaces shown in the approved plans must be identified in accordance with A.S.2890.1 Parking Facilities – Off-Street Car Parking.

Traffic Management

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

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80. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

Contamination

81. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).

Fill

82. Filling material must be limited to the following:
- a) Virgin excavated natural material (VENM)
 - b) Excavated natural material (ENM) certified as such in accordance with *Protection of the Environment Operations (Waste) Regulation 2014*; and/or
 - c) Material subject to a Waste Exemption under Clause 91 and 92 *Protection of the Environment Operations (Waste) Regulation 2014* and recognised by the NSW Environment Protection Authority as being "fit for purpose" with respect to the development subject of this application.

Certificates proving that the material imported is ENM or VENM must be provided to the Principal Certifying Authority prior to filling. Certificates are to be provided to Council officers if and when requested.

Fill imported on to the site must be compatible with the existing soil characteristic for site drainage purposes.

83. Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:
- (a) The course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
 - (b) The results of a preliminary contamination assessment carried out on any fill material used in the development.
 - (c) The results of any chemical testing of fill material.

Unidentified Contamination

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

Air Quality

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- 85. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
 - 86. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
 - 87. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.

Ventilation

- 88. The premises shall be ventilated in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 & 2).

Water Quality

- 89. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

Environment

- 90. The use of the premises shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.

Drainage Connection

- 91. Prior to the connection of private drainage to Council's drainage system, an inspection is to be carried out by Liverpool City Council's Development Engineering Unit. A fee will be charged in accordance with Council's adopted Fees and Charges, and is to be paid prior to the inspection.

Major Filling/Earthworks

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

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

Waste Management Plan

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

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

Demolition and Construction Waste

94. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.
95. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW. The removal of such material shall be carried out in accordance with the requirements of SafeWork NSW and the material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.
96. All demolition, excavation and construction wastes must be separated as they are generated and kept in separate spoil piles, bays, builder's site bins and/or skips.
97. All lightweight or granular demolition, excavation or construction waste, e.g. wrapping, packaging materials, bags, insulation, sand, soil etc., must be kept fully enclosed at all times to prevent it from becoming displaced by the wind in strong wind conditions or from washing into sewers, storm drains or creeks, or onto adjacent properties or public land during wet weather.
98. Access arrangements for the various bin storage spaces must ensure that only residents can gain access to the residential waste bins and that only the staff and agents of the commercial shops can gain access to the commercial waste bins.

E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

Certificates

99. The premises shall not be utilised until an OC is issued by the PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.
100. Details of *critical* stage inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Council with the occupational certificate.
101. A single and complete Fire Safety Certificate, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate.
102. The Principal Certifying Authority (Building) and/or the Accredited Certifier (Subdivision) shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that

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the works as constructed comply fully with the required condition of consent being acted on by the certifier.

Affordable Rental Housing

103. A restriction shall be registered, before the date of the issue of the Occupation Certificate, against the title of the property on which development is to be carried out, in accordance with Section 88E of the Conveyancing Act 1919, in the following terms:

Terms of the Restriction on Use:

The restriction applies for ten (10) years from the date of issue of the Occupation Certificate pursuant to Notice of determination of Development Application No. 559/2018 issued by Liverpool City Council.

The restrictions are:

- (a) A minimum of 12 apartments (units 001, 002, 003, 004, 103, 104, 106, 203, 204, 206, 303, and 306) will be used for the purposes of affordable housing as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009;
- (b) All recommendation that is used for affordable housing will be managed by a registered community housing provider;
- (c) Name of authority empowered to release, vary or modify the above restriction is Liverpool City Council; and
- (d) Evidence is to be submitted to Liverpool City Council that restrictions (a) and (b) have been complied with prior to the issue of an Occupation Certificate.

Fire Safety – Cladding

104. Prior to issuing an occupation certificate the Principal Certifying Authority must be satisfied that suitable evidence has been provided to demonstrate that the external wall cladding material and system is consistent with the consent documentation, NCC and relevant Australian Standards.

Landscaping

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

Crime Prevention Through Environmental Design

106. Prior to the issue of an Occupation Certificate the following Crime Prevention Through Environmental Design principles are to be incorporated into the building:
- (a) Back to base alarm systems shall be installed;
 - (b) Basement parking areas shall be painted a light colour;
 - (c) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be implemented;

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- (d) 'Way finding' signage should be utilised at all major interchanges such as lifts and stair wells;
- (e) Lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard AS 1158. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant, especially external lighting; and
- (f) Access to the parking levels of the building shall be controlled via a security controlled device.

Liverpool City Council clearance – Roads Act/ Local Government Act

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

Works as executed - General

108. Prior to the issue of an Occupation Certificate, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Liverpool City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

Stormwater Compliance

109. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:
- a) On-site detention system/s;
 - b) Stormwater pre-treatment system/s;
 - c) Overland flowpath works; and
 - d) Basement Carpark pump-out system
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

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

Restriction as to User and Positive Covenant

110. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:

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

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Rectification of Damage

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

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

Footpaths

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

Access and car parking

113. Access driveways, aisle and car park, line markings and sign posting delivered in accordance with the endorsed design plans. Disabled parking provision to comply with Australian Standards Part 6.

Dilapidation Report

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

Recommendations of Acoustic Report

115. Upon completion of works and prior to the issue of an Interim or Final Occupation Certificate, written certification prepared by a suitably qualified acoustic consultant shall be submitted to and approved by the Principal Certifying Authority (PCA). The written certification prepared by the suitably qualified acoustic consultant shall confirm that the development complies with all requirements and recommendations detailed within the approved acoustic report titled DA Acoustic Report 27-29 Morgan Street, Miller (ID: 11356 R01v3, File: PKA11356 R01v3 Acoustic Report.docm) prepared by PJ Knowland Pty. Ltd. t/a PKA Acoustic Consulting dated 2nd July 2019. The acoustic consultant shall confirm that the development or use is capable of operating in accordance with the design criteria.

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Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Validation Report

116. Prior to issue of the Occupation Certificate, a detailed Validation report shall be submitted to Council and the Principal Certifying Authority in accordance with the recommendations of the Stage 1 Preliminary Site Investigation' (Report No: 7975-ER-1-1, Rev 0) prepared by Alliance Geotechnical Pty Ltd dated 26th September 2018. The Report must be prepared in accordance with:
- a) *NSW Contaminated Land Planning Guidelines (1998)*;
 - b) Relevant EPA guidelines, noting in particular the *NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites*; and
 - c) *National Environmental Protection (Assessment of Site Contamination) Measure 1999* (as amended 2013).

The Validation Report must be prepared, or reviewed and approved by a suitably qualified contaminated land consultant who is certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme. The front cover of the report must include details of the consultant's certification.

The Validation report must verify that the site has been made suitable for the proposed land use setting following excavation works across AEC01 and controlled demolition of AEC02.

Mechanical Ventilation Certification

117. Upon completion of works and prior to the issue of an Interim or Final Occupation Certificate, a Mechanical Ventilation Certificate of Completion and Performance prepared by a professional engineer or other suitably qualified person shall be submitted to the Principal Certifying Authority (PCA) for their review and approval. The certification shall be accompanied by details of the tests carried out in relation to ventilation and acoustics and confirm that the systems comply with the approved plans, specifications, Building Code of Australia and Australian Standard AS 1668 Parts 1 and 2.

Noise Management Plan

118. A Noise Management Plan shall be prepared under the supervision of a suitably qualified acoustic consultant for the operation of the car park, driveway and associated areas. The Noise Management Plan shall be consistent with the recommendations of the approved acoustic report and must identify and implement strategies to minimise noise from the proposed development and incorporate: approaches for promoting noise awareness by occupiers and visitors; 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.

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The Noise Management Plan shall clearly specify responsibilities for managing noise and include a detailed list of steps taken to manage potential noise impacts. This documentation shall be submitted to the PCA and Council for review and approval prior to issue of an Interim or Final Occupation Certificate.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Redundant Laybacks

119. The redundant laybacks are to be removed and the kerb and gutter restored to the Councils standard.

Design Verification Statement

120. In accordance with the Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Apartment Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA assessing the development, upon completion of all works subject of this consent and its accompanying CC. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
- (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
 - (b) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the CC, having regard to the design principles set out in Part 2 of SEPP 65.

BASIX

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

Garbage Services

122. Since no provision is to be made in the waste storage area for sufficient space for a green waste bins to store garden waste from the property, then the following restriction as to user shall also be placed on the title of the property at the applicant's expense, and this restriction cannot be altered or removed without Council's consent:

'Liverpool City Council does not supply green (garden) waste removal services to this property, nor any waste bins associated with the removal of garden waste. The responsibility for the removal and legal disposal of any green waste rests entirely with the maintenance contractor appointed by the proprietors of the property.'

Lot Consolidation

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123. All separate lots shall be consolidated. The applicant shall provide evidence that the linen plan for the required lot consolidation, endorsed by Council, has been registered with the Land Titles Office. This shall be provided to Council prior to the issue of an OC.

F. CONDITIONS RELATING TO USE

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

Affordable Housing

124. A minimum of 34% the gross floor area of the development (12 units) is to be used for the purposes of affordable housing for 10 years from the date of issue of the OC. In addition, all accommodation that is used for affordable housing shall be managed by a registered community housing provider.

Note: Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument. A household is taken to be a very low income household, low income household or moderate income household if the household:

- (a) Has a gross income that is less than 120 per cent of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or
- (b) Is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.

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

Car Parking/Loading

125. A total of **26** off street car parking spaces must be provided onsite. A minimum of 1 spaces must be designed and signposted/marked for the specific use of persons with a disability.
126. All parking areas shown on the approved plans must be used solely for this purpose.
127. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, with the exception of garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with AS 2890.1 Parking Facilities – Off Street Car Parking.

Graffiti

128. Any graffiti carried out on the property shall be removed, within 48 hours, at full cost to the owner/occupier of the site.

Waste Management

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- 129. All waste products associated with the use of the commercial premises are to be placed in containers and stored within the building.
- 130. All solid waste stored on site is to be covered at all times. Furthermore, all solid and liquid waste is to be removed from the site by a registered waste contractor.
- 131. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
- 132. Waste bins must be stored in designated garbage/ trade refuse areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of the building, and must not leave the site onto neighbouring public or private properties.

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

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

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

- (a) Garbage is to be placed wholly within the garbage bins provided,
 - (b) Only recyclable materials accepted by Council are to be placed within the recycling bins,
 - (c) The area is to be kept tidy,
 - (d) A phone number for arranging disposal of bulky items, and
 - (e) Graphic illustrative content to be 50%.
- 133. Sufficient space shall be provided within each dwelling for the storage of a minimum of one day's waste and recycling.
 - 134. In conjunction with the proprietors of the building, the operators of both shops must engage, and keep engaged at all times whilst the shops are operating, the services of a commercial waste contractor to remove all wastes associated with those businesses. The shops must only use the commercial waste bins provided for the purpose, stored in the ground floor commercial waste room.
 - 135. After the issue of an Occupation Certificate, but prior to residents/tenants commencing moving in, Council is to be contacted on 1300 26 2170 to determine the required number of residential 660 litre waste and recycling bins for that portion of the development and to make arrangements for the delivery of those bins to the property. The waste bins noted in the WMP as being supplied to the individual units must also be supplied at this point.

Note: Council will supply only those 660 litre waste bins that will be tipped directly to the Council contractor's waste truck, all other bins required for waste transfer and buffering of waste collection must be supplied by the proprietors of the property. Likewise, any bin hitches that may be required to move the bins must be supplied, fitted and

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maintained privately.

136. After the issue of an Occupation Certificate, but prior to the commencement of the commercial operations of the shops, all general waste and recycling bins within those areas must be in place and ready for use.
137. Residential 660 litre waste bins are to be presented to the kerbside by agents of the building management no earlier than the evening before collection, bins will be emptied by Council's waste contractors and are to be replaced promptly in the waste storage area, no later than 24 hours after emptying. Commercial bins will be emptied by private contractors according to the arrangement reached with the commercial tenants and building management.
138. The bin lifter and the bin tug provided by the developer are to be kept maintained in an operable condition. The bin lifter must be used at all times when 240 litre bins are being decanted into 660 litre bulk bins and the bin tug must be used any time that 660 litre bins are being taken to or from the kerbside, either before or after emptying.
139. The bin lifter and bin tug must only be used by individuals who have received appropriate training in their use, and must be kept secure from the building occupants.
140. The recyclable waste streams from within the various areas if the building are to be kept separate from the general waste stream at all times, and recyclables must remain loose and unbagged. This detail must be included in the waste management procedures to be documented and followed by the building management and the cleaners/maintenance staff.
141. All bulky household waste must be retained within households. For the removal of this type of waste, a booking must be made with Council by calling 1300 36 2170. The bulky household waste that has been booked to be removed may only be placed at the kerbside the evening before the date that Council has set as the pick-up date.

Landscaping

142. Landscaping shall be maintained in accordance with the approved plan, in a healthy state and in perpetuity by the existing or future owners and occupiers of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

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

Goods in Building

143. All materials and goods associated with the use shall be contained within the building at all times.

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Unreasonable Noise and Vibration

144. The development, including but not limited to the operation of vehicles, mechanical plant and equipment, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance, particularly from machinery, plant, vehicles, warning sirens, public address systems and the like.

In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by a suitably qualified acoustic consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the consultant's recommendations and any additional requirements to the satisfaction of Liverpool City Council.

Note: 'Suitably qualified acoustic consultant' means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

Noise – General

145. Noise associated with the use of the premises, including mechanical plant and equipment, shall not give rise to any one or more of the following:
- a) The use of the premises including the cumulative operation of any mechanical plant, equipment, public address system or other amplified sound equipment shall not give rise to the emission of 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.
 - b) The operation of any mechanical plant, equipment, public address system or other amplified sound equipment installed on the premises shall not cause:
 - i. The emission of noise as measured over a 15 minute period (L_{Aeq} (15 minute)) that exceeds the L_{A90} (15 minute) background noise level by more than 5 dB(A) when measured at the most affected residential boundary. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the NSW Environment Protection Authority's 'Noise Policy for Industry' (2017);
 - ii. An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2016 Acoustics – Recommended design sound levels and reverberation times for building interiors;
 - iii. 'offensive noise' as defined by the Protection of the Environment Operations Act 1997; and
 - iv. Transmission of vibration to any place of different occupancy greater than specified in AS 2670.

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Noise and Environmental Emissions

146. The use of the site shall not give rise to the emission into the surrounding environment of gases, vapours, dusts, odours or other impurities which are a nuisance, injurious or prejudicial to health.
147. Any alarm installed on the site is to be “silent back to base” type.
148. No persons, such as those commonly known as ‘spruikers’ shall operate either with or without sound amplification equipment for the purpose of advertising the use of the premises, the sale and availability of goods, services, entertainment or the like.

Noise Management Plan

149. The approved Noise Management Plan for the car park, driveway and associated areas prepared in accordance with condition 118 shall be complied with at all times.

Use of air conditioner/s on residential premises

150. Any air conditioner/s used on the residential premises shall comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017 and shall not:
- a) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - i. before 8:00am or after 10:00pm on any Saturday, Sunday or public holiday; or
 - ii. before 7:00am or after 10:00pm on any other day; or
 - b) cause “offensive noise” as defined by the Protection of the Environment Operations Act 1997; or
 - c) emit a sound pressure level as measured over a 15 minute period (L_{Aeq} (15 minute)) at the boundary of any other residential property, at a time other than those specified in (i) and (ii) above, which exceeds the background (L_{A90} (15 minute)) by more than 5 dB(A).

Deliveries

151. Vehicles servicing the site shall comply with the following requirements:
- a) All vehicular entries and exits shall be made in a forward direction.
 - b) All vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.

Lighting

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

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Use

153. Separate development consent is required for the fit-out, construction and use of all commercial and retail premises.

Washing on Balconies

154. The hanging of washing, including any clothing, towels, bedding or other article of a similar type on any balcony shall not be visible from any street.

G. ADVISORY

- i) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 8.2 of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 12 months after the date on which the application is taken to have been determined.
- j) If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which the application is taken to have been determined.
- k) 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.
- l) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- m) 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.
- n) "DIAL BEFORE YOU DIG" DIAL 1100

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

- o) 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

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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.

- p) The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required by other conditions of this consent.
- q) 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 effect 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.
- r) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- s) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the 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.

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SECTION 7.11 PAYMENT FORM

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

Liverpool Contribution Plan 2009 (Established Areas)

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

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

APPLICATION NO.: DA-666/2018

<u>Facilities</u>	<u>Amount (\$)</u>	<u>Job No.</u>
Whitlam Centre Extensions	\$3,343	GL.10000001869.10110
Central Library Extensions	\$2,269	GL.10000001870.10112
Powerhouse	\$1,956	GL.10000001870.10114
District Community Facilities		
Central	\$3,087	GL.10000001870.10099
District Recreation		
Central	\$11,448	GL.10000001869.10093
Local Recreation		
Miller Area	\$45,791	GL.10000001869.10096
Administration	\$829	GL.10000001872.10104
<u>TOTAL</u>	<u>\$68,722</u>	

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

RECORD OF PAYMENT

Total Amount paid: _____

Date: _____

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

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Item no:	4
Application Number:	DA-611/2019
Proposed Development:	Construction of a waste storage room at Carnes Hill Community Centre
Property Address	Carnes Hill Community Precinct, 600 Kurrajong Road, Carnes Hill
Legal Description:	Lot 100 DP 1204810
Applicant:	Liverpool City Council
Land Owner:	Liverpool City Council
Cost of Works:	\$123,000
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Lucas McLagan

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA) seeking consent for the construction of a waste storage room at Carnes Hill Community Centre, 600 Kurrajong Road, Carnes Hill

The site is zoned RE1 Public Recreation (69.4%), SP2 Infrastructure – Community Facilities and SP2 Infrastructure – Drainage (24.5%), R2 Low Density Residential (4.8%) and R3 Medium Density Residential (1.3%) pursuant to Liverpool Local Environmental Plan 2008. The proposed development will be within the portion of the site zoned SP2 Infrastructure – Community Facilities, within which the proposed development is permissible with consent.

The development application was not required to be placed on public exhibition in accordance with Liverpool Community Participation Plan 2019, and no submissions have been received with regards to the proposal.

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, as the land owner is Council.

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

2. SITE DESCRIPTION AND LOCALITY

2.1 The locality

The area is characterised by low to medium density residential development and is within an established area.

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

South (front)	Kurrajong Road, Carnes Hill
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North (rear)	295 - 315 Cowpasture Road, Carnes Hill
East (side)	Margret Dawson Drive, Carnes Hill
West (side)	Cowpasture Road, Carnes Hill



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

2.2 The site

The subject site is identified as Lot 100 in DP 1204810 and is known as Carnes Hill Community Precinct, 600 Kurrajong Road, Carnes Hill. The site has a primary frontage to Kurrajong Road to the south of 300m, 335m to Cowpasture Road to the west and 461m to Margret Dawson Drive.

The site is currently occupied by the Carnes Hill Community & Recreation Precinct which includes the Carnes Hill Library, Skate Park and Michael Clarke Recreation Centre. The site is adjacent to Carnes Hill Marketplace and Greenway Park.

The proposal is located in the south-western portion of the site on the western side of the Carnes Hill Library, adjacent to the existing cool room and south-western carpark.

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

3. BACKGROUND/HISTORY

The subject DA was lodged with Council on 30 September 2019. Additional Information was requested on 23 October 2019 for the applicant to provide a Waste Management Plan and Sediment & Erosion Control Plan. The requested information was provided on 31 October 2019 that satisfied Council's requirements;

The following is a list of Development Applications relating to the subject site:

Application No.	Lodged	Proposed Development	Determined
DA-1786/2012	09/11/2012	The construction and operation of a community facility consisting of an indoor leisure centre, public library, community centre and public open space.	Approved 04/07/2013
DA-1786/2012/A	20/08/2014	Section 96 application to modify Carnes Hill Recreation Centre. Amendment to the lower ground floor and ground floor layout of the library/community centre building. Relocation and expansion of café and outdoor seating area on ground floor of library. Changes to library/community centre façade.	Approved 18/09/2014
DA-1786/2012/B	19/07/2016	Modification to DA-1786/2012 pursuant to section 96 (1A) of the Environmental Planning & Assessment Act. The modification proposes 1) amend street address to include Primary Address 2 Margaret Dawson Drive, Carnes Hills, 2) Operational hours. 3) Alcohol free	Approved 28/07/2016

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		zones/prohibitive areas.	
DA-678/2016	26/07/2016	Community Celebration event (free) to open the newly built Carnes Hill Community & Recreation Precinct on Saturday 30 July 2016 from 10am to 4pm.	Approved 28/07/2016
DA-267/2017	19/04/2017	Temporary event in outdoor spaces of the Carnes Hill Community & Recreation Precinct for "Pop-up Cinema Night" in April and May 2017.	Approved 28/04/2017
DA-590/2017	08/08/2017	Construction of an awning for existing café at Carnes Hill Community Centre.	Approved 25/09/2017
<i>DA-611/2019 (Subject DA)</i>	<i>30/09/2019</i>	<i>Construction of a waste storage room at Carnes Hill Community Centre</i>	<i>Application Under Assessment</i>

4. DETAILS OF THE PROPOSAL

The development application seeks consent for the construction of a waste storage room at Carnes Hill Community Centre. The specifications of the proposed bin enclosure are as follows:

- Enclosure: Length: 6.11m, Width: 4.91m, Height 3.0m, Area: 30m²
- Concrete Slab: 9.75m x 4.91m with fall to central stormwater drain.
- Materials: Austral Bricks - "Whitsunday" and Colorbond Roofing - "Monument" and "Shale Grey".

The proposed bin enclosure will be located adjacent to the Carnes Hills Function Centre. The proposed bin enclosure is considered to be an ancillary structure.

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. 55 – Remediation of Land;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP);
- Liverpool Local Environmental Plan (LLEP) 2008;
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development; and
 - Part 2.2: Carnes Hill, Hoxton Park & Prestons Residential Release Areas.

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

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Environmental Planning and Assessment Regulation 2000, as follows:

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

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

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

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

When a consent authority determines a development application planning considerations are to be applied (Clause 4(1)). Accordingly, a table summarising the matters for consideration in determining a development application (Clause 5 and Clause 6), and compliance with such is provided below (see Attachment 2).

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

(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.

Considering the existing historical use of the property as a community precinct, no obvious site contamination is evident, and a land contamination assessment is not considered necessary, and therefore a land contamination assessment is not considered to be necessary.

(c) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned RE1 Public Recreation (69.4%), SP2 Infrastructure – Community Facilities & SP2 Infrastructure - Drainage (24.5%), R2 Low Density Residential (4.8%) and R3 Medium Density Residential (1.3%) pursuant to the LLEP 2008. The proposed development will be located within the SP2 Infrastructure – Community Facilities portion of the site. An extract of the zoning map is provided in Figure 3 below.

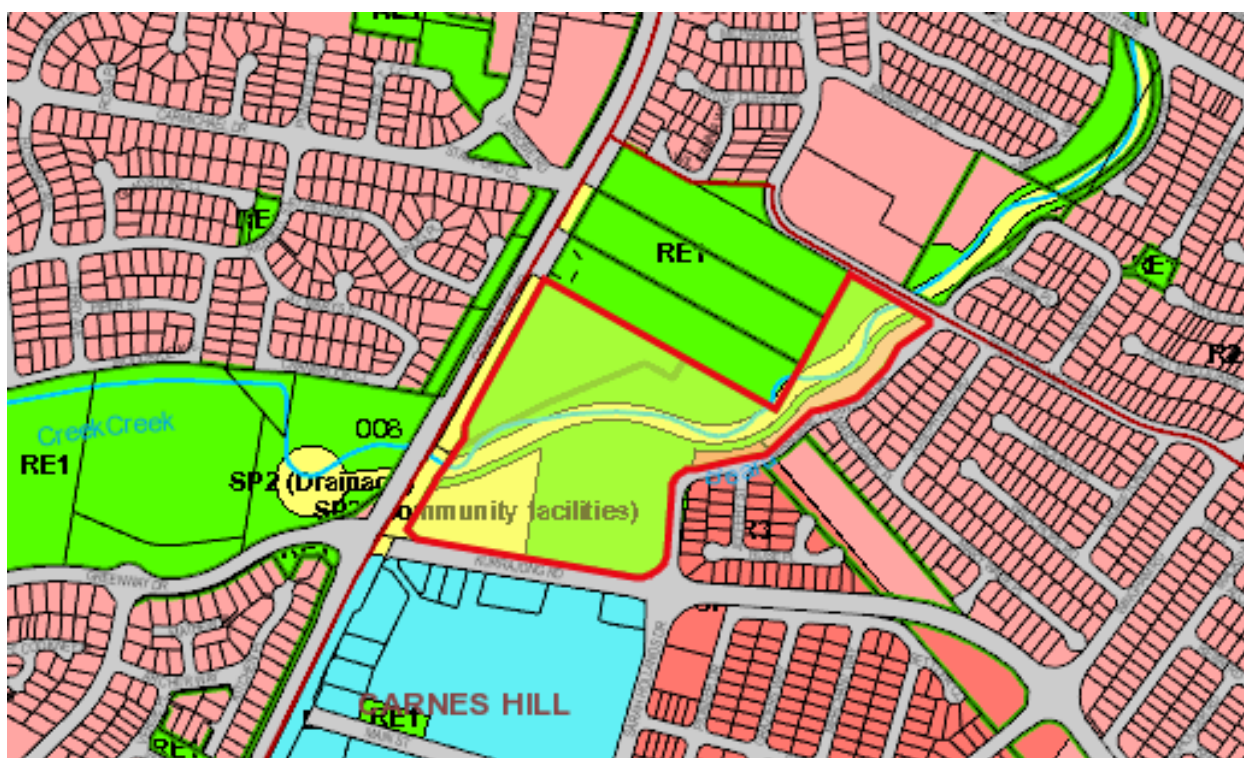


Figure 3: Zoning Map (source: Geocortex)

(ii) Permissibility

The proposed development is appropriately defined by the standard instrument as an ancillary use to a “Community Facility”, which is a permissible form of development with consent. The proposed development is identifiable as being subordinate to the existing Community Facility.

“Community Facility means a building or place—

- a) owned or controlled by a public authority or non-profit community organisation, and
- b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”

(iii) Objectives of the zone

The objectives of the SP2 Infrastructure zone are:

- To enable land to be used for private 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 enable land uses that are compatible with, and complimentary to, recreational uses.

It is considered that the proposal is a permissible type of development within the SP2 Infrastructure zone and is generally consistent with the above zone objectives.

(iv) Principal Development Standards

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

Development Provision	Requirement	Proposed	Comment
4.3 Height of Buildings	Nil.	Proposed Height: 3.0m	N/A
4.4 Floor Space Ratio	Nil.	N/A	N/A.
5.11 Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The NSW RFS were contacted during the assessment process and they confirmed no comment or bushfire assessment was necessary for the proposal.	N/A
7.8 Flood Planning	<p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the</p>	The proposed development is located within the 1% Flood Planning Area. The application was referred to Council's Flooding Department, who raised no objections to the proposed development, subject to conditions of consent.	YES

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	community as a consequence of flooding, and (f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with the Floodplain Development Manual.		
7.31 Earthworks	Earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Minimal cut and fill as part of the proposed development.	YES

As demonstrated in the above compliance table, the proposed development is consistent with the provisions of LLEP 2008.

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

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

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

(a) Liverpool Development Control Plan (LDCP) 2008

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development and Part 2.2 Carnes Hill, Hoxton Park & Prestons Residential Release Areas*.

The development is found to achieve full compliance with the provisions of the LDCP 2008, as detailed within the tables in Attachment 3 of the report.

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

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

There are no Planning Agreements which apply to the development.

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

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

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

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Natural and Built Environment

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

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is considered to be of an appropriate scale and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole.

It is considered that the proposed development has been designed with sufficient regard to surrounding properties to ensure that any adverse amenity impact is minimised.

Social Impacts and Economic Impacts

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

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	Supported, subject to conditions of consent
Engineering	Supported, subject to conditions of consent
Building	Supported, subject to conditions of consent

(b) External Referrals

Nil.

(c) Community Consultation

The proposal was not required to be advertised/notified in accordance with the Liverpool Community Participation Plan 2019, and no submissions were received.

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

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The proposed development is considered to be in the public interest.

7. DEVELOPMENT CONTRIBUTIONS

Development Contributions are not applicable to the proposed development.

8. CONCLUSION

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

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

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

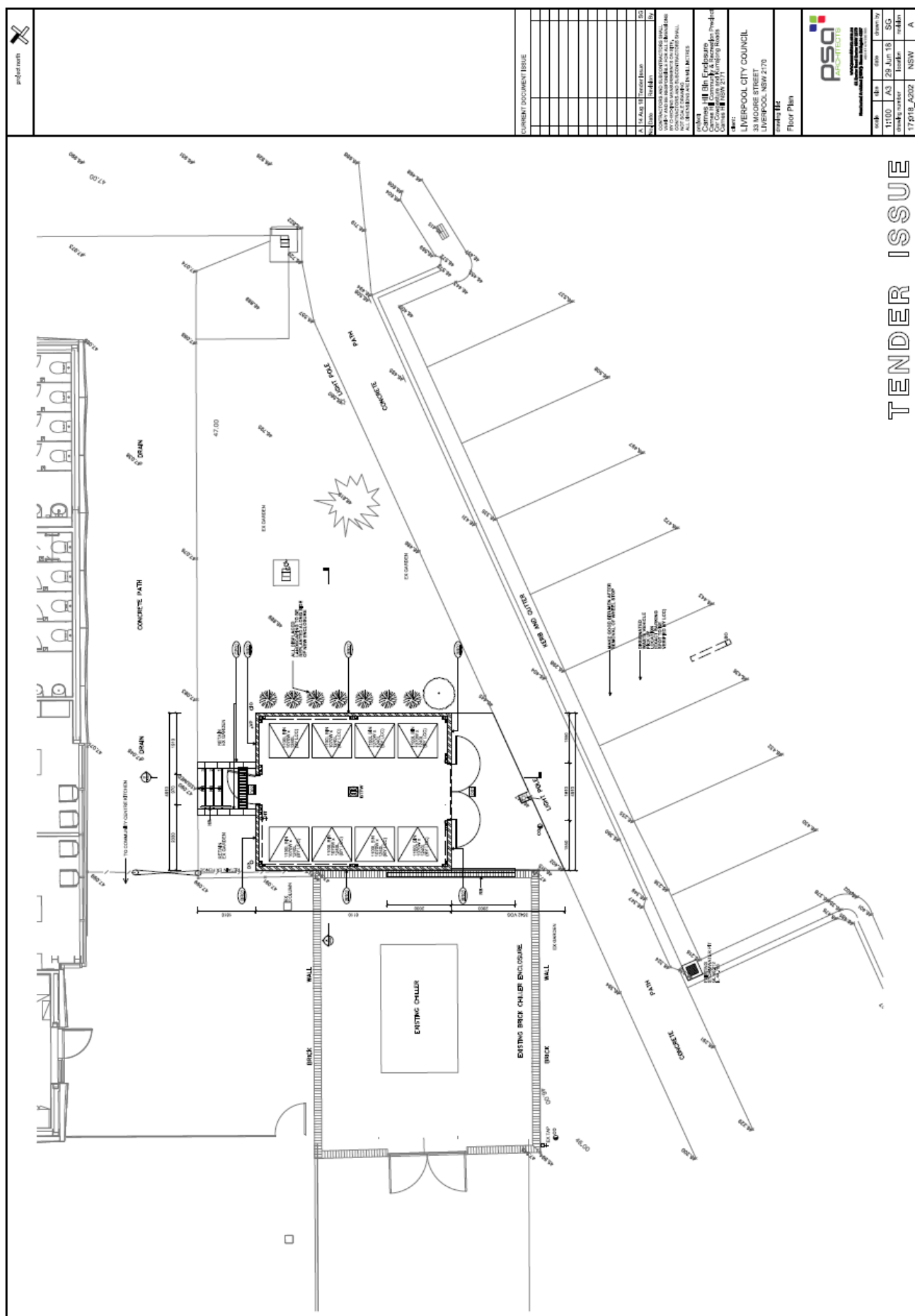
9. RECOMMENDATION

That Development Application D.A. No. 611/2019 be approved subject to conditions of consent.

10. ATTACHMENTS

- 1. PLANS OF THE PROPOSAL**
- 2. GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO. 2 – GEORGES RIVER CATCHMENT (DEEMED SEPP) COMPLIANCE TABLE**
- 3. DCP COMPLIANCE TABLE**
- 4. DRAFT CONDITIONS**

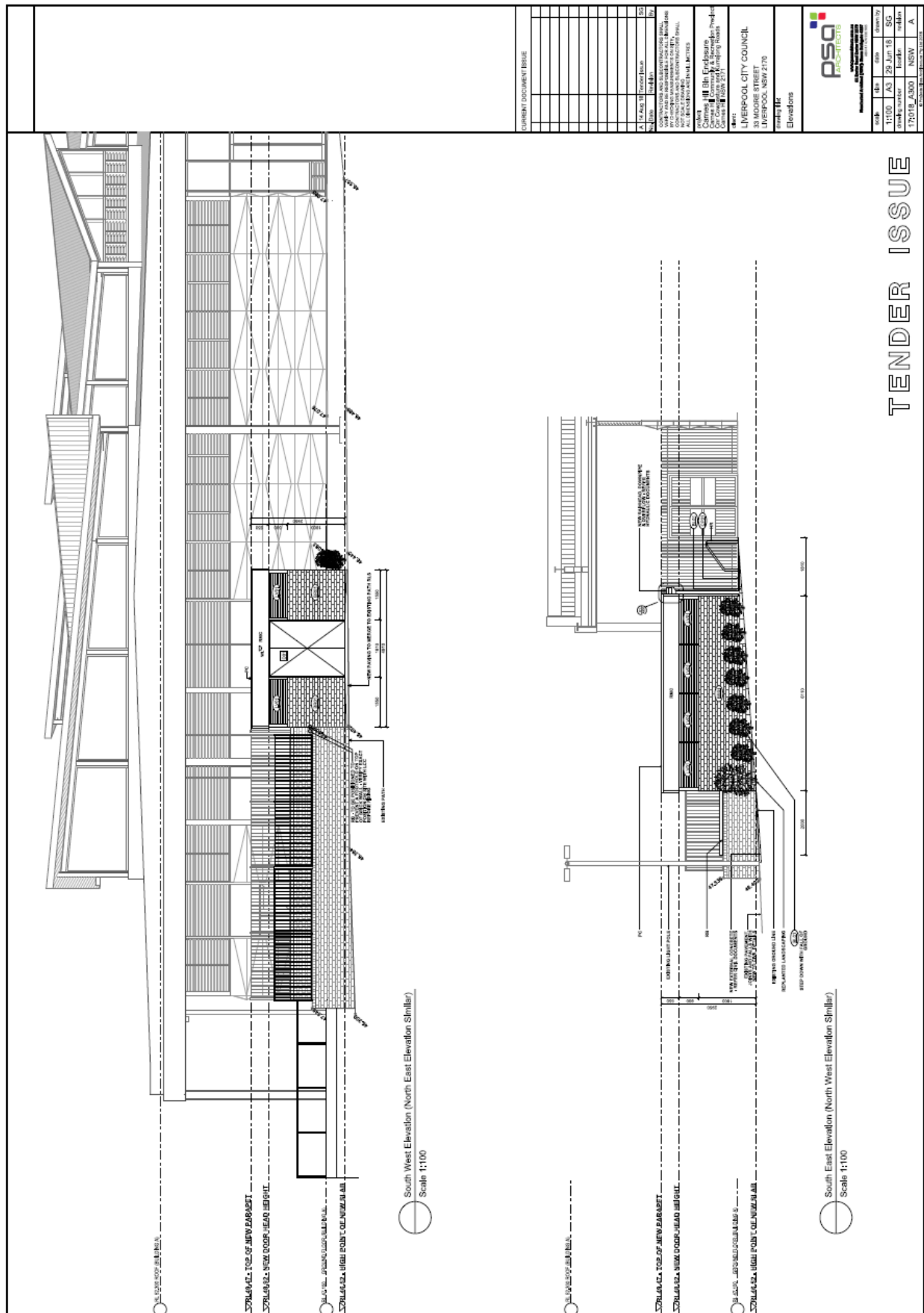
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**ATTACHMENT 2 – GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN
NO. 2 – GEORGES RIVER CATCHMENT (DEEMED SEPP)**

Clause 8 General Principles	Comment
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	Stormwater concept plan reviewed by Council's Engineers. Minimal affects.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	A Stormwater concept plan submitted and reviewed by Council's development engineers. Minimal impact.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	Consistent with the strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	Not required to be referred.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No.
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing Acid Sulfate Soils.
(2) Bank disturbance	No bank disturbance.
(3) Flooding	The land is flood prone. Application has been reviewed by Council's Flooding Department who raised no objections to proposed development, subject to conditions of development consent.
(4) Industrial discharges	Not applicable.
(5) Land degradation	An erosion and sediment control plan to minimise erosion and sediment loss required prior to CC.
(6) On-site sewage management	Not applicable.

(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Stormwater Concept Plan submitted.
(10) Urban development areas	Not in an urban development area.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control to be implemented in construction.
(13) Wetlands	Not applicable.

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	Complies. Minor vegetation to be relocated to allow for the construction of the bin enclosure.
Section 3: Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies. Minor vegetation to be relocated to allow for the construction of the bin enclosure.
Section 4: Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Complies. Development is considered to have minimal impact on surrounding bushland and habitats.
Section 5: Bush Fire Risk	Controls relating to development on bushfire prone land	N/A The subject site is mapped as being bushfire affected, however the proposed location of the bin enclosure is outside of the bushfire affected area. Contact with RFS confirmed that a referral was not required.
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.	Complies. Council's Land Development Engineer has reviewed this proposal and has no objection to stormwater management associated with the proposal, subject to conditions of development consent.
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.	Complies. The location of the proposed bin enclosure is not considered to be within close proximity to a watercourse.
Section 8:	Erosion and sediment control	Complies. Sediment Control Plan provided

Development Control	Provision	Comment
Erosion and Sediment Control	plan to be submitted.	with DA-611/2019
Section 9: Flooding Risk	Provisions relating to development on flood prone land.	N/A. The subject site is flood affected, however the proposed location of the bin enclosure is not flood affected. Council's Flooding Department have reviewed the application who raised no objections, subject to conditions of development consent.
Section 10: Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies. Existing and historical use of the subject allotment does not warrant a land contamination assessment.
Section 11: Salinity Risk	Provisions relating to development on saline land.	Complies. Condition of consent may be included on a consent requiring design to respond to salinity.
Section 12: Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	N/A. The site is not mapped as containing acid sulfate soils.
Section 13: Weeds	Provisions relating to sites containing noxious weeds.	N/A. No noxious weeds have been identified on the subject site.
Section 14: Demolition of Existing Development	Provisions relating to demolition works	N/A. No demolition proposed.
Section 15: On Site Sewage Disposal	Provisions relating to OSMS.	N/A. Site is connected to the sewer.
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. No known items of aboriginal archaeology are present on the subject property.
Section 17: Heritage and Archaeological Sites	Provisions relating to heritage sites.	N/A. The subject site is not associated with any heritage items.
Section 18: Notification of Applications	Provisions relating to the notification of applications.	N/A. The proposal was not required to be notified consistent with the Liverpool Community Participation Plan 2019. No submissions were received.
Section 19: Used Clothing Bins	Provisions relating to used clothing bins.	No charity bins located within the subject property.
Section 20:	Determines how many car	Existing:

Development Control	Provision	Comment
Car Parking and Access	parking spaces are required for the development.	<p>168 Parking Spaces 4 Accessible Spaces 8 Motorcycle Spaces 20 Bicycle Spaces</p> <p>The proposed bin enclosure will be located adjacent to the existing carpark for the community facility. One (1) parking space will be removed to provide a designated collection point. Parking on the site will remain compliant with the provisions of LDCP Part 1, Section 20.</p>
Section 25: Waste Disposal and Re-use Facilities	Bin bays are to be well ventilated and screened to a minimum height of 1.5m by a structure and landscaping.	Vents are provided on the eastern wall of the proposed bin enclosure which will allow appropriate ventilation. Vegetation will be included that is capable of providing a screen with a minimum height of 1.5m.
	Construction materials are to be compatible with the proposed development and adjoining development. Bin bays or waste service rooms are to be sufficiently open and well lit to allow safe use after dark	The proposed bin enclosure will use materials that are consistent with the finishes of the existing community facility. The inclusion of vents on the eastern wall and three (3) access doors allow the bin enclosure to be sufficiently open. Condition may be imposed to ensure adequate lighting is provided for the bin enclosure.
	A hose cock for hosing the garbage bin bay and a sewerage drainage point are to be provided in or adjacent to the bin storage area.	A hose tap, vent pipe, down pipe and inspection opening will be installed. The slab of the proposed bin enclosure incorporates a grated sewage drain in the centre of the floor. Basket trap will also capture any internal water runoff from the bin storage area. Condition may be imposed to ensure adequate hygiene is maintained.
	Bin bays are to be adjacent to a street frontage, or if not possible then at a designated point adjacent to the common access driveway provided sufficient level areas (<5% grade) is available for bin collection to be carried out, away from vehicle ramps and steps.	The proposed bin enclosure will be located adjacent to the existing carpark for the community facility. One (1) parking space will be removed to provide a designated collection point. Parking on the site will remain compliant with the provisions of LDCP Part 1, Section 20.

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LDCP Part 2.2 Carnes Hill, Hoxton Park & Prestons Residential Release Areas

Control	Requirement	Comment
Street Network	Provide for the safe and efficient movement of traffic and pedestrians with particular regard to the provision of clear and safe access routes for people who have a disability	Complies. The proposed development will have little to no impact on pedestrian and vehicular access to the Carnes Hills Community Precinct.
Open Space	<p>The provision of open space shall be consistent with the maps, which show:</p> <ul style="list-style-type: none"> ○ size and location of major open space areas for active recreation and the retention of native bushland; ○ location of open space along the creek systems; and ○ notional location of neighbourhood open space. 	Complies. The proposed development will not impact the existing provision of open space at the Carnes Hills Community Precinct.

ATTACHMENT 4 – DRAFT CONDITIONS

A. THE DEVELOPMENT

1. Approved Plans

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

Plan Name	Prepared By	Drawing/ Sheet Number	Issue/ Revision	Project Number	Date
Slab Plan	PSA Architects	A201	A	17:018	29/06/18
Roof Plan	PSA Architects	A205	A	17:018	29/06/18
Elevations	PSA Architects	A300	A	17:018	29/06/18
Sections	PSA Architects	A400	A	17:018	29/06/18

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Demolition Plan	PSA Architects	A200	A	17:018	29/06/18
Schedule of Finishes	PSA Architects	1, 2	A	17:018	16/08/18
Stormwater Management Plan & Details	Woolacotts	H1, H2, H3	1	18-103	21/06/18

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

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

2. Fee Payments - Land Development

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

The following fees are applicable and payable:

- d) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery,
- e) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve, and
- f) Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

These fees are reviewed annually and will be calculated accordingly.

3. Prescribed Condition

In accordance with Section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that all building work must be carried out in accordance with the applicable *Performance*

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Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:

- a) Complying with the Deemed to Satisfy Provisions, or
- b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

4. Site Development Work

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

5. Notification

The certifying authority must advise Council, in writing of:

- a) The name and contractor licence number of the licensee who has contracted to do or intends to do the work, or
- b) The name and permit of the owner-builder who intends to do the work.

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

6. Stormwater Concept Plan

A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Woolacotts, reference number 18-103 (SW1), revision 1, dated 09/08/18.

- a) The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.
- b) Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

C. PRIOR TO WORKS COMMENCING

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

7. Construction Certificates

Prior to the commencement of any building works, the following requirements must be complied with:

- a) Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*,

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- b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,
- c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment,
- d) A Principal Certifying Authority (PCA) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and
- e) The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.

8. Construction Certificates

Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

9. Sediment & Erosion Control

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

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

10. Commencement of building works

Building work shall not commence prior to the issue of a Construction Certificate. Building work as defined under Section 1.4 of the *Environmental Planning and Assessment Act 1979* means any physical activity involved in the erection of a building and includes but is not limited to, the placement of any site shed/s or builders facilities, site grading, retaining walls, excavation, cutting trenches, installing formwork and steel reinforcement or, placing of plumbing lines.

11. Construction Requirements

Structural supporting elements or bracing of the building must be designed and certified by a qualified chartered structural engineer having regards to supporting ground conditions.

12. Site Facilities

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Adequate refuse disposal methods and builder's storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

13. Sydney Water

Development plans must be processed and approved by Sydney Water.

D. DURING CONSTRUCTION

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

14. Site Notice Board

A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:

- a) the name, address and telephone number of the principal certifying authority for the work,
- b) the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) unauthorised entry to the premises is prohibited.

15. Erosion Control Measures

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

16. Hours of Construction Work and Deliveries

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

17. Identification Survey Report

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

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

18. Identification Survey Report

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

19. Toilet Facilities

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

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

20. Refuse Disposal

Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

21. Security Fence

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

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

22. Air Quality – Vehicle Movement

All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.

23. Erosion Control - Maintenance

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

24. Water Quality

All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

25. Pollution Control – Truck Movements

The loading and unloading of all vehicles associated with the development must be undertaken within the property boundary of the premises subject to this consent.

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Measures must be implemented to prevent tracking of sediment by vehicles onto roads.

26. Removal of dangerous and/or hazardous waste

All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW. The removal of such material shall be carried out in accordance with the requirements of SafeWork NSW and the material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

27. Air Quality - Dust Screens

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

28. Pollution Control Site - Operations

Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to water pollution.

E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifier (PC):

29. Occupation Certificates

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

30. Certificates

The Principal Certifying Authority shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that the works as constructed comply fully with the required condition of consent being acted on by the certifier.

31. Certificates

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon must be provided to Council with the occupation certificate.

32. Dilapidation Report

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

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F. CONDITIONS RELATING TO USE

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

33. Waste

Waste bins must be stored in designated garbage/trade refuse areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of any building, and must not leave the site onto neighbouring public or private properties.

34. Waste Management

Waste and recyclable material generated from the operations of the premises shall be managed in a satisfactory manner that does not give rise to offensive odour or encourage pest activity. All waste material shall be regularly removed from the premises. Waste shall not be permitted to accumulate near the waste storage bins.

35. Garbage Collection – Bins

Bins must be moved to the designated collection point for collection. The bins shall be collected and returned as soon as possible after collection by the same persons.

G. ADVISORY

- a) Section 8.2, 8.3, 8.4 & 8.5 allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- b) Under Section 8.7 & 8.10 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
- c) In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five years of the date of this notice.
- d) To confirm the date upon which this consent becomes effective, refer to Section 4.20 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- e) To confirm the likelihood of consent lapsing, refer to Section 4.53 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.

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- f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- 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) 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.

- i) 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.
- j) 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.
- k) Letter boxes must be provided in accordance with the requirements of Australia Post. In this regard, the developer is required to obtain approval from Australia Post for address numbering, and letter box positioning and dimensions.
- l) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

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Item no:	5
Application Number:	DA-659/2019
Proposed Development:	The demolition of existing structures.
Property Address	68 Speed Street, Liverpool
Legal Description:	Lot 231 DP 635209
Applicant:	Liverpool City Council
Land Owner:	Liverpool City Council
Cost of Works:	\$45,000
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Jasmin Klaime

1. EXECUTIVE SUMMARY

Council has received a Development Application DA-659/2019 seeking consent for the demolition of existing structures at 68 Speed Street, Liverpool.

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

The proposal does not require notification or advertising pursuant to Liverpool Development Control Plan 2008 (LDCP 2008), Part 1, Section 18; 'Notification of Applications'. No submissions have been received with regards to the proposal.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements due to the fact that Liverpool Council is the owner of the site.

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

2. SITE DESCRIPTION AND LOCALITY

2.1 The locality

The site is located within the suburb of Liverpool and is serviced by an extensive transport network with a number of bus routes being available on Newbridge Road. The site is situated within the Liverpool City Centre at the intersection of Shepherd Street and Speed Street.

The adjoining surrounding land uses to the site are detailed in the following table.

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North	Liverpool Train station (710m) and Newbridge Road (540m)
East	Georges river (310m) and Moorebank Industrial area (410m)
South	Macedonian Orthodox Church (215m)
West	Hillier Oval (560m)

The subject site is located in a flood prone area and contains heritage item 105 for the Railway Viaduct. The proposed development does not impact on the environmental heritage item 105 and will not significantly affect the setting or views of the heritage item.

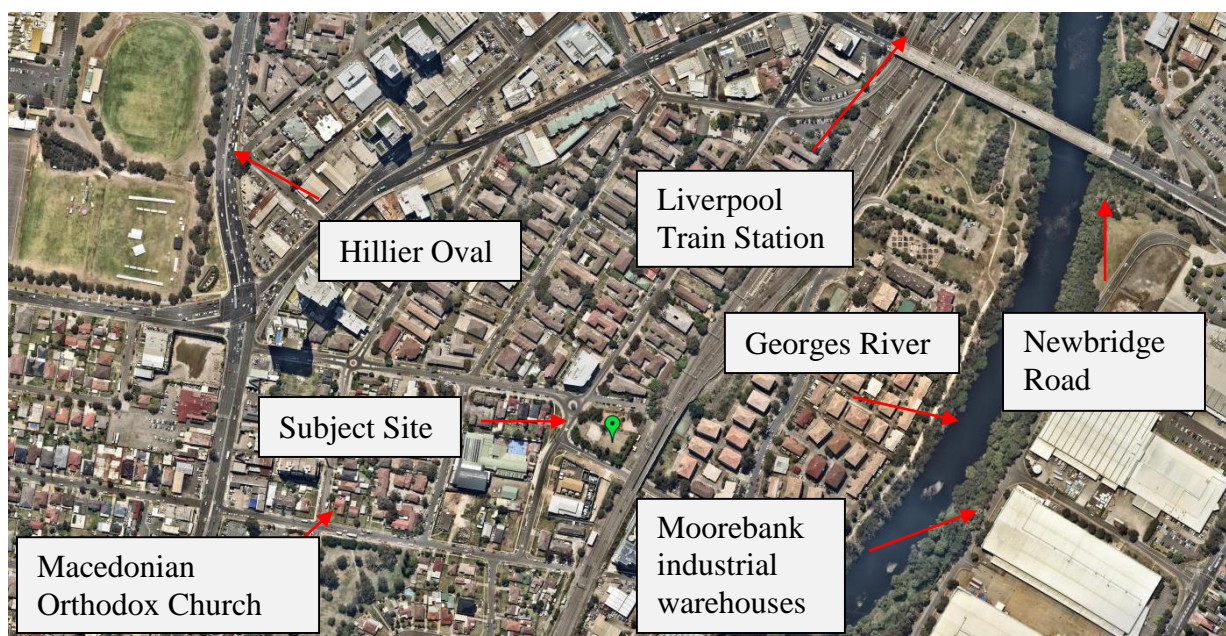


Figure 1: Aerial Map – Locality (Source: NearMaps)



Figure 2: Map of Flood affectation of site (source: Council's eplanning Portal)

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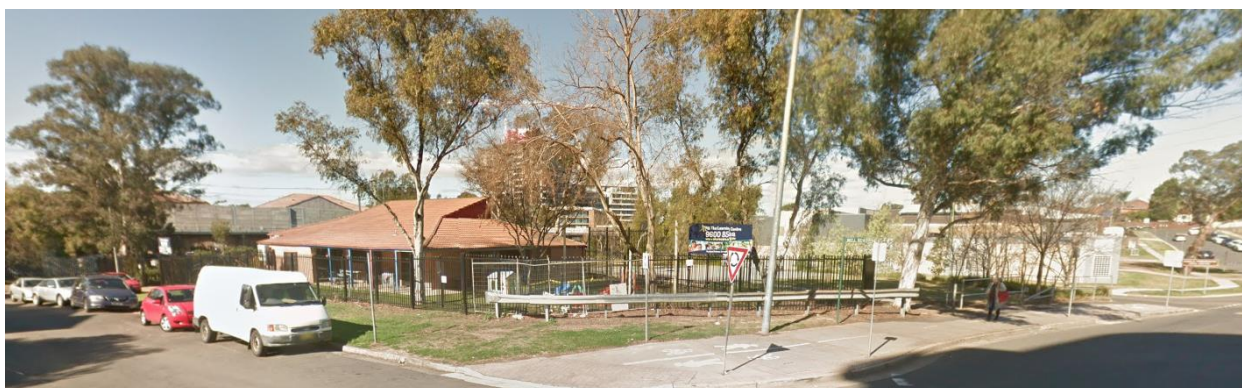


Figure 3: *Street view of No. 68 Speed Street, Liverpool*



Figure 4: *Heritage item 105 for the Railway Viaduct on the subject site.*

2.2 The site

The subject site is known as 68 Speed Street, Liverpool and is legally identified as Lot 231 DP 635209. The site is afforded by a 40m frontage to Speed Street to the north, and a 60m frontage to Shepherd Street. Access to the site is currently provided from Mill Road.

The site comprises of a total area of approximately 3,348.82m² and is currently occupied by a single storey brick community centre and a basketball court. Existing vegetation including trees and shrubs are identified within the site. The existing trees and shrubs are to be remained on site and does not form part of the demolition process.

3. BACKGROUND/HISTORY

Previous development applications relating to the site include the following:

DA No.	Proposal	Determination Date
DA-498/1987	Erection Of An Occasional Child Care Centre.	Approved on 27 May 2002

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DA-412/1998	Use Of Existing Building As A Community Facility.	Approved on 4 June 1998
DA-1642/2004	Remediation of former gasworks site.	Approved on 7 February 2004

4. DETAILS OF THE PROPOSAL

The scope of works comprises of the demolition of the existing community building at 68 Speed Street in Liverpool. The works include:

- Remove roof tiles and supports;
- Demolish the remainder of the building including concrete slab and footings;
- Breakdown and remove all drainage lines; and
- Separate the different demolition materials and disposal to an appropriate licensed landfill facility.

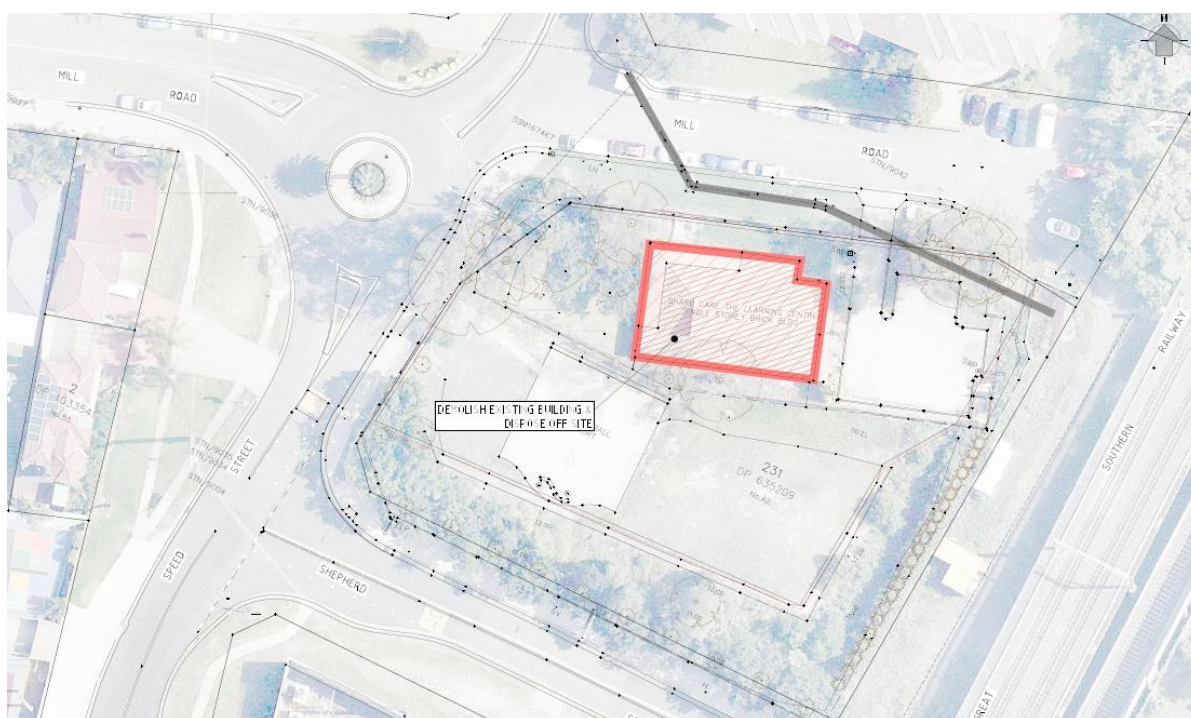


Figure 5: Demolition Plan

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Liverpool Local Environmental Plan (LLEP) 2008;

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- 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) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)

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

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.

Table 1- Greater Metropolitan Regional Environmental Plan - Principles

Clause 8 General Principles	Comment
(a) the aims, objectives and planning principles of this plan,	The proposed development is generally consistent with the aims and objectives of the plan.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposed development is unlikely to adversely impact the downstream local government areas.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposed development is unlikely to have any significant cumulative impact on the Georges River or its tributaries.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning	The proposed development would be consistent with the principles set out in these guidelines.
(e) the Georges River Catchment Regional Planning Strategy	The proposal does not compromise the initiatives of the Georges River Catchment Regional Planning Strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	The proposed development has been considered in terms of the relevant documents. Conditions are imposed within the consent mitigating potential concerns.

(g) whether there are any feasible alternatives to the development or other proposal concerned.	The demolition is to make way for future car park which will be beneficial to the community and facilitate better planning measures of the site's flooding constraints.
Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The proposed development is for the demolition only, Conditions of Consent are imposed to ensure sediment and erosion control of the site.
(2) Bank disturbance	No bank disturbance works will occur as a result of this development.
(3) Flooding	No filling within the flood plain of the Georges River will be undertaken as a result of this development.
(4) Industrial discharges	Not applicable
(5) Land degradation	Conditions are imposed within the consent to mitigate erosion and sediment control.
(6) On-site sewage management	Not applicable
(7) River-related uses	Not applicable
(8) Sewer overflows	N/A
(9) Urban/stormwater runoff	N/A
(10) Urban development areas	The subject site is located within close proximity to the Liverpool City Centre.
(11) Vegetated buffer areas	The proposed development has no known bushfire affectation.
(12) Water quality and river flows	The proposed development does not involve any building works and hence, is unlikely to result in any adverse impacts on the water quality or river flows.
(13) Wetlands	The subject site does not contain wetlands.

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

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

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

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

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The proposed demolition is likely to facilitate future development on site and will enable other land uses that provide facilities or services to meet the day to day needs of residents. It is therefore considered that the proposal is consistent with the abovementioned zone objectives.

(vi) Principal Development Standards

LLEP 2008 contains a number of provisions and development standards which are relevant to the proposal, as detailed below:

Development Provision	Requirement	Comment
2.7 Demolition requires development consent	<p>The demolition of a building or work may be carried out only with development consent.</p> <p>Note.</p> <p>If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as exempt development, the Act enables it to be carried out without development consent.</p>	<p>Complies.</p> <p>The proposal is for 'demolition' which is permissible with consent pursuant to CI 2.7</p> <p>The demolition of the building is not a complying or exempt development. Therefore it requires development consent.</p>
5.10 Heritage Conservation	<p>Before determining an application to carry out development on Heritage Conservation land, the consent authority must consider such of the following as are relevant—</p>	<p>Complies. The proposed development is not considered to impact on the environmental heritage item 105 as it involves demolition only.</p> <p>The development site is not identified as having</p>

	<p>(a) to conserve the environmental heritage of Liverpool,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>aboriginal significance.</p> <p>heritage</p>
7.7 Acid sulfate soils	<p>Class 1 2, 3 4 or 5</p> <p>For Class 5 land development consent is required for Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p>Complies. Category 5 acid sulfate soils present on site. As no major earthworks form part of the development application, no further mitigation is considered necessary beyond the conditons which will be imposed for the proposed demolition works.</p> <p>Appropriate management measures would be implemented to minimise disturbance to the acid sulfate soils identified on site.</p>
7.8 Flood Planning	Is site identified within flood planning area	Complies. As the proposal relates to demolition only, the proposal is not anticipated to result in any significant impact on the local flood behaviour at the site or the surrounding area.

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		Council's flooding engineer has reviewed the proposal and has no objections.
7.31 Earthworks	Council to consider matters listed (a)-(g)	Complies. Appropriate management measures would also be implemented to mitigate the potential of soil erosion and sedimentation.

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

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*. The following key controls are discussed in the following table:

Standard	Control	Proposed	Compliance
Part 1.1 - General Controls for All Development			
Section 2- Tree Preservation	Consider impact of development on existing vegetation.	The applicant is not seeking to remove vegetation and will not affect existing vegetation as part of the demolition process.	Complies
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	The proposal does not involve the removal of any trees or vegetation. The existing trees and vegetation would be appropriately retained and protected.	Complies
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	The proposal does not involve the clearing of bushland.	Complies
Section 7 – Development Near a	Consideration of impact to riparian corridors.	Public authorities are exempt from obtaining an	Complies

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Standard	Control	Proposed	Compliance
Watercourse		approval from the DPI.	
Section 8 – Erosion and Sediment Control	The development application shall be accompanied by either a Soil and Water Management Plan (SWMP) or an Erosion and Sediment Control Plan (ESCP).	Appropriate conditions of consent will be imposed for sediment control.	Complies
Section 9 – Flooding Risk	To limit developments with high sensitivity to flood risk (e.g. critical public utilities) to land with minimal risk from flooding.	The proposed demolition of an existing dwelling is considered minor in scale. While the proposal does not include any construction, the proposed demolition works are not anticipated to affect the flood behaviour of the adjoining waterway.	Complies
Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	Due to the nature of the development application being demolition with no excavation proposed and no use being approved, no further contamination assessment is required and Council's Environmental Health Section raises no objection to the Development application subject to the imposition of conditions of consent.	Complies
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils.	Category 5 acid sulfate soils present on site. As no major earthworks form part of the development	Complies

Standard	Control	Proposed	Compliance
		application, no further mitigation is considered necessary beyond the conditons which will be imposed for the proposed demolition works.	
Section 14 – Demolition of Existing Developments	<p>All demolition work must comply with the Australian Standard AS2601 - 1991, The Demolition of Structures.</p> <p>Dust Controls must be implemented on site prior to and during demolition.</p> <p>Security fencing such as hoardings must be provided around the perimeter of the demolition site prior to work commencing to prevent access by unauthorised persons at all times during the demolition period. Approval of the fencing by Council must be received prior to erection.</p> <p>All trucks/trailers entering or leaving the site must have their loads adequately covered. A sign indicating this should be placed at the entry to and exit from the site.</p> <p>Temporary toilet facilities must be provided on the site until all demolition work is completed.</p> <p>Demolition activities on site must be limited to the following hours:</p> <ul style="list-style-type: none"> - Monday to Friday 7:00am to 6:00pm - Saturday 8:00am to 1:00pm - No work on Sunday and 	<p>Appropriate conditions of consent are recommended to be imposed regarding demolition works.</p>	Complies

Standard	Control	Proposed	Compliance
	<p>Public Holidays</p> <p>Asbestos, if identified in the building, must be removed and disposed of in accordance with the requirements of Work Cover.</p> <p>A Waste Management Plan (WMP) is to be submitted with the Development Application. The WMP must include volume or area estimates and information about reuse, recycling and disposal options for all types of waste produced on-site, including excavation materials.</p>		
Section 25- Waste Disposal and Re-use Facilities.	<p>A waste management Plan must be submitted to council with the lodgement of the Development Application and must address how waste is managed during Demolition and Construction and provide On-going waste management.</p> <p>Minimise waste produced during demolition and construction of new development and maximise resource recovery.</p> <p>Ensure waste management for the end use of the development is designed to provide satisfactory amenity for occupants and provide appropriately designed collection systems.</p> <p>Minimise ongoing waste to landfill and maximise recycling of ongoing waste.</p>	<p>Waste management Plan has been provided with the DA and indicates the demolition and on-going waste management procedures.</p>	Complies.

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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.

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

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

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

Natural and Built Environment

The proposed development is considered unlikely to create any adverse impacts on the surrounding built and natural environment.

Social Impacts and Economic Impacts

The proposal is unlikely to generate any identifiable detrimental social or economic impacts.

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

The proposal 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
Environmental Health	No objection to the proposal subject to conditons of consent.
Flood Engineer	No objection to the proposal subject to conditons of consent.

(b) External Referrals

No comments were required from external Agencies.

(c) Community Consultation

The proposal was not required notification in accordance with the LDCP 2008, and no submissions were received.

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

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The proposed development is considered to be in the public interest.

7. DEVELOPMENT CONTRIBUTIONS

The development will not generate the need for additional services or infrastructure to be provided by Council and is therefore not subject to Section 7.12 Contributions.

8. CONCLUSION

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

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

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

9. RECOMMENDATION

That Development Application DA-659/2019 be approved subject to conditions of consent.

10. ATTACHMENTS

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

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Demolition Plan for the Community Centre



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ATTACHMENT 2: RECOMMENDED CONDITIONS OF CONSENT

CONDITIONS:

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

ATTACHMENT 1 – 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 strictly in accordance with the following plans/reports marked as follows:
 - a) Demolition plan, Job Number DS2019/007, Drawing No. 104, Issue A, prepared by Liverpool City Council Investigations & design dated 10/2019.
 - b) Sediment and Erosion Control Plan, Job Number DS2019/007, Drawing No. 102, Issue A, prepared by Liverpool City Council Investigations & design dated 10/2019.
 - c) Demolition work plan, dated 10 October 2019, submitted with DA-659/2019
 - d) Waste management Plan Prepared by Urban City Planning, Reference No: 190231, submitted with DA-659/2019

except where modified by the undermentioned conditions.

B. PRIOR TO WORKS COMMENCING

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

Demolition works

2. A demolition work plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, is to be prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of Demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
3. Prior to commencement of any works on the land, the Demolition Contractor(s) licence details must be provided to Council.
4. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.

Site Facilities

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5. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

Site Notice Board

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

Sediment & Erosion Control

7. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. Measures must include, as a minimum:
 - a) Siltation fencing;
 - b) Protection of the public stormwater system; and
 - c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
8. Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Landcom's publication "Managing Urban Stormwater – Soils and Construction (2004)" – also known as "The Blue Book". The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

C. DURING WORKS

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

Hours of Construction Work and Deliveries

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

Security Fence

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

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

Demolition Work

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11. All demolition work is to be carried out in accordance with the requirements of AS 2601. Demolition is to be carried out strictly in accordance with the approved procedures and work plan.
12. The demolition is to be restricted to the building and surface soils of the site. Subsurface penetration is prohibited due to capping of contaminated soils on the site.

Demolition Inspections

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

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

Contamination

14. The development, including all works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).

Unidentified Contamination

15. Any new information which comes to light during demolition or works which has the potential to alter previous conclusions about site contamination and remediation must be immediately notified to Council and the Principal Certifying Authority in writing. A Section 4.55 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

Removal of dangerous and/or hazardous waste

16. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW. The removal of such material shall be carried out in accordance with the requirements of SafeWork NSW and the material shall be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

Air Quality

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17. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
18. Dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
19. All vehicles involved in the demolition process departing from the property shall have their loads fully covered before entering the public roadway.

Erosion Control

20. Sediment and erosion control measures are to be adequately maintained during the works.

Pollution Control

21. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
22. The loading and unloading of all vehicles associated with the development must be undertaken within the property boundary of the premises subject to this consent. Measures must be implemented to prevent tracking of sediment by vehicles onto roads. Vehicle loads must be covered when entering and exiting the site with material.

Traffic Management

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

Waste Management Plan

27. The Waste Management Plan submitted to and approved by Council must be adhered to at all times throughout all stages of the development. Supporting documentation

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(receipts/dockets) of waste/recycling/disposal methods carried out, is to be kept and must be produced upon the request of Council or any other authorised officer.

Aboriginal Relics/Artefacts

28. If any Aboriginal relics/artefacts are uncovered during the course of any construction works including demolition, work is to cease immediately. Government agencies shall be contacted and no further work shall be undertaken until relevant assessments/approvals/ salvage excavation has been undertaken and permission is given by the relevant authorities to re commence works

D. ADVISORY

- m) 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.
- n) 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.
- o) 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.
- p) 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.
- q) 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.
- r) 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.
- s) 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.
- t) "DIAL BEFORE YOU DIG"

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

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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.

u) **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.

- v) 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.
- w) 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.
- x) Letter boxes must be provided in accordance with the requirements of Australia Post. In this regard, the developer is required to obtain approval from Australia Post for address numbering, and letter box positioning and dimensions.
- y) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.