

LOCAL PLANNING PANEL AGENDA

28 October 2024

Online via MS Teams

MATTERS FOR THE LOCAL PLANNING PANEL'S DETERMINATION

Monday, 28 October 2024

ONLINE VIA MS TEAMS

Commencing at **2:00 PM**

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

Should you wish to address the Panel, please advise Amanda Merchant, Panel Support Officer on 8711 7712, by 4pm, Thursday 24th October 2024

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

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

ITEM No.	SUBJECT	PAGE No.
1	DEVELOPMENT APPLICATION DA-160/2024 TELECOMMUNICATIONS FACILITY WITH ASSOCIATED WORKS LOT 100 DP 104311 LOT 100 SIRIUS ROAD, VOYAGER POINT NSW 2172	4 - 30

ITEM No.	SUBJECT	PAGE No.
2	DEVELOPMENT APPLICATION DA-326/2024 TWO LOT TORRENS TITLE SUBDIVISION OF AN EXISTING ALLOTMENT CNR LOT 616 DP 244365 30 AUGUSTA STREET, CASULA NSW 2170	31 - 44

ITEM No.	SUBJECT	PAGE No.
3	DEVELOPMENT APPLICATION DA-170/2024 CONSTRUCTION OF A DUAL OCCUPANCY (DETACHED) WITH LANDSCAPING AND ASSOCIATED SITE WORKS LOT 17 DP 1271974 16 FLOOD AVENUE, AUSTRAL NSW 2179	45 - 67

Item Number:	1
Application Number:	Application No. DA-160/2024
Proposed Development:	Telecommunications Facility with associated works
Property Address	LOT 100 SIRIUS ROAD, VOYAGER POINT NSW 2172
Legal Description:	Lot 100 DP 104311
Applicant:	Ms Jessie Zhao – Ventia Pty Ltd
Land Owner:	Sydney Water Corporation
Cost of Works:	\$385,305.00
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Tamim Omar

1 EXECUTIVE SUMMARY

Council has received a Development Application (DA-160/2024) seeking consent for the construction of a telecommunications facility at Lot 100 Sirius Road, Voyager Point.

The subject site is zoned SP2 Infrastructure pursuant to Liverpool Local Environmental Plan (LLEP) 2008 and the proposed development is permissible with consent pursuant to Clause 2.143(1) of the State Environmental Planning Policy (SEPP) (Transport & Infrastructure) 2021.

The subject Development Application (DA) was advertised for a period of 14 days from **1 May** to **15 May 2024** in accordance with Community Participation Plan 2022 and a total of **29** submissions were received during the public consultation period objecting to the proposal. The issues of concern raised in the submissions can be summarised as follows:

- Property devaluation.
- Risks to health and safety.
- Visual impact.
- Misguided location on notification letter.
- Cumulative impact from additional carriers.
- Location in proximity to residential homes.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with its referral criteria and procedural requirements in that the development falls into the category of '**contentious development**' due to more than 10 submissions being received as part of the subject application.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979 and other relevant provisions. Based on the assessment criteria and in consideration of alternative site locations, the current site is considered the most suitable outcome and is not warranted refusal based off the following reasons:

- The proposal meets the objectives of the SP2 Infrastructure zone.
- The proposal demonstrates compliance with the Liverpool DCP and all other applicable environmental planning instruments.
- The proposed telecommunications facility is partially screened by existing infrastructure being the Sydney Water tank from the Lilli Pilli Drive viewpoint which are the closest residential receivers.
- The subject site is already a secure site being Sydney Water land thus providing for public safety benefits.

On this basis, it is recommended that the application be **approved** subject to the imposition of conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 The locality

The immediate locality is characterised by low density residential development and is within the suburb of Pleasure Point. The subject site is owned by Sydney Water Corporation and currently contains Sydney Water infrastructure including a one storey brick building and a 30m high water tower. The surrounding locality includes primarily low-density residential housing, and the East Hills Railway Corridor is located to the rear of the site.

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

East (side)	Lot 207 DP 1164615, 32 Lilli Pilli Drive, Pleasure Point (two storey dwelling)
West (side)	Lot 1 DP 875804, 1 Heathcote Road, Pleasure Point (vacant lot)
South (front)	Lot 307 DP 1166554, 33 Lilli Pilli Drive (two storey dwelling)
North (rear)	East Hills Railway Corridor

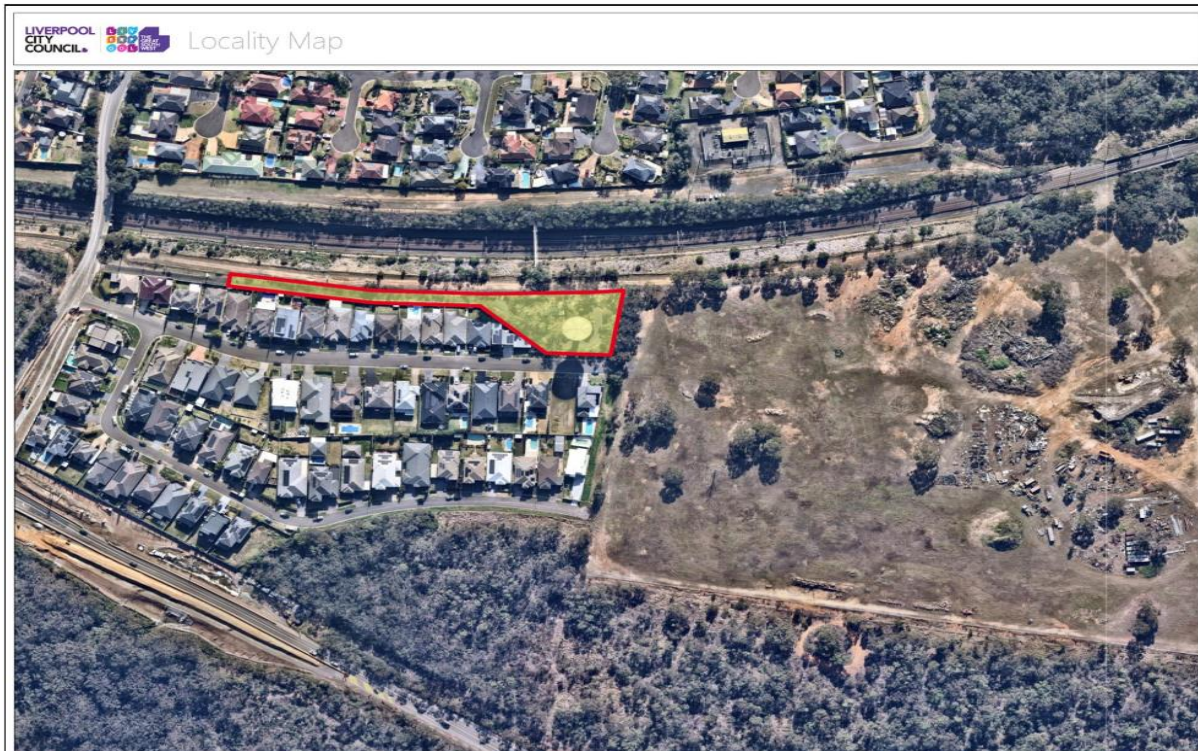


Figure 1: Locality surrounding the proposed development (Source: Geocortex)

2.2 The site

The subject site is identified as Lot 100 in DP 1040311 and is known as Lot 100 Sirius Road, Voyager Point. The subject site is irregular in shape with a primary frontage to Lilli Pilli Drive of 37.5 metres, 229m to the railway corridor, and a maximum depth of 47m, with a total area of 4071.43m². The subject site contains existing access from 'The Avenue' and is provided via a right of carriageway over Lots 101-104 DP 1164324.

Currently, the subject site contains Sydney Water infrastructure including a brick building and a 30m high water tower and associated access driveway.

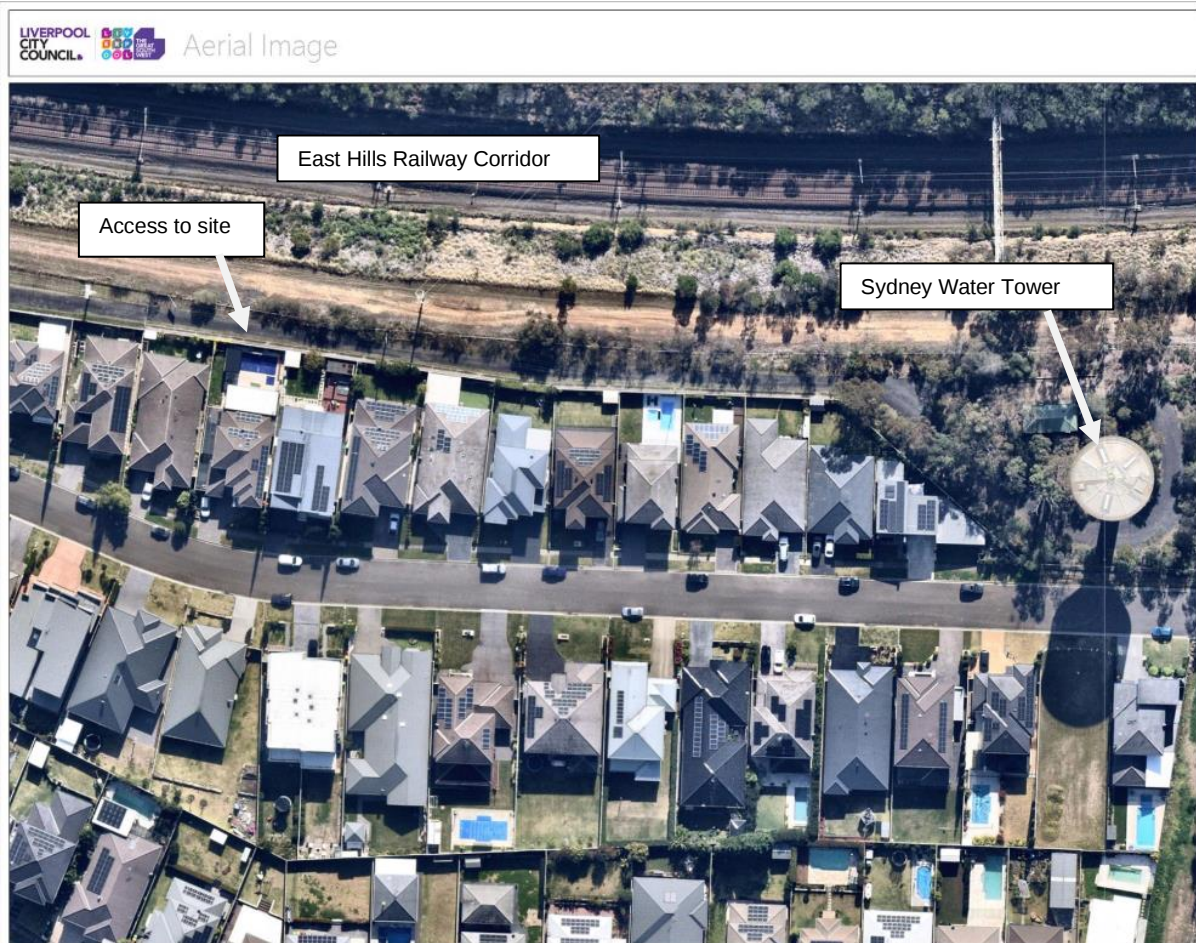


Figure 2: Aerial view of the site (Source: Geocortex)



Figure 3: Access to subject site via right of carriageway/ view from The Avenue (west)



Figure 4: View from Lilli Pilli Drive (South – closest residential receivers)

3. BACKGROUND/HISTORY

- The subject DA lodged with Council on 9 April 2024.
- Application advertised on 1 May 2024 until 15 May 2024 and a total of 29 submissions received, objecting to the proposal.
- External referral to Sydney Trains undertaken on 22 May 2024.
- Additional information requested by Sydney Trains on 23 July 2024
- Additional information submitted on 25 July 2024.
- Additional information requested by Sydney Trains on 20 August 2024.
- Additional information submitted to Sydney Trains by Applicant on 9 September 2024.
- Sydney Trains final conditions received on 20 September 2024.

4. DETAILS OF THE PROPOSAL

The proposed development consists of the following:

- Establishment of a fenced compound measuring 8m x 10m enclosed by a 2.4m high chain-link security fence and all proposed works are within this area.
- Installation of a new 40m high monopole with a hexagon headframe on the pole (total height with a headframe of 43.2 metres).
- Installation of six new 5G panel antennas mounted on the proposed hexagon headframe.

- Installation of three new panel antennas mounted on the proposed headframe at an elevation of 41.0m and all antennas will measure no more than 2.8m in length.
- Installation of six Remote Radio Units (RRU's) mounted on the new headframe.
- Installation of one new radiocommunications dish (measuring no more than 0.9m in diameter) on the new monopole.
- Installation of a four bay outdoor equipment cabinet adjacent to the new monopole within the proposed lease area.
- Installation of a security fence surrounding the facility; and
- Installation of associated ancillary equipment including transceivers, amplifiers, antenna mounts, cable trays, feeders, cabling, combiners, diplexers, splitters, couplers, jumpers, filters, electrical equipment, signage and other associated equipment necessary for the proper function of the proposed facility.

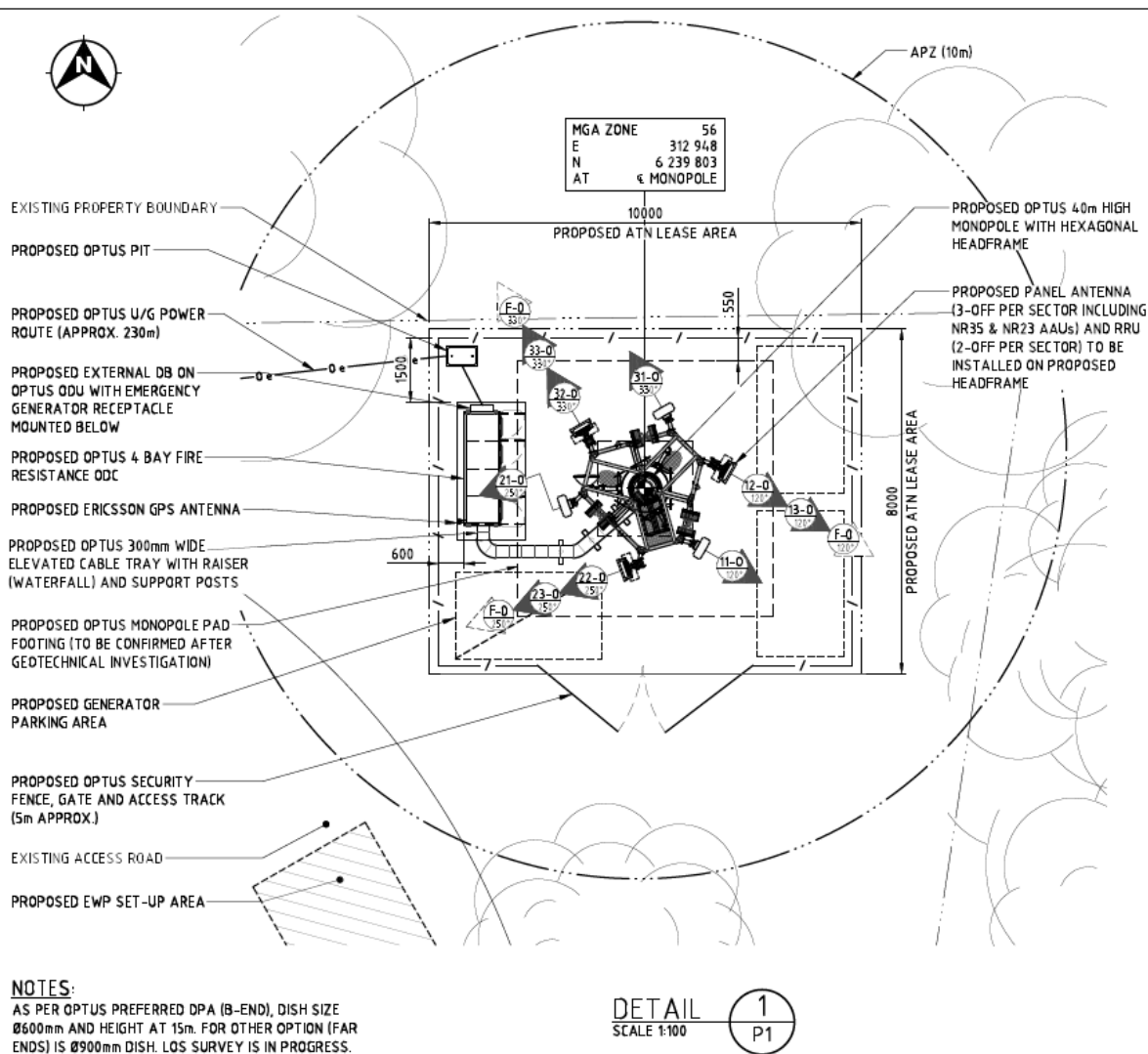


Figure 5: Site works plan

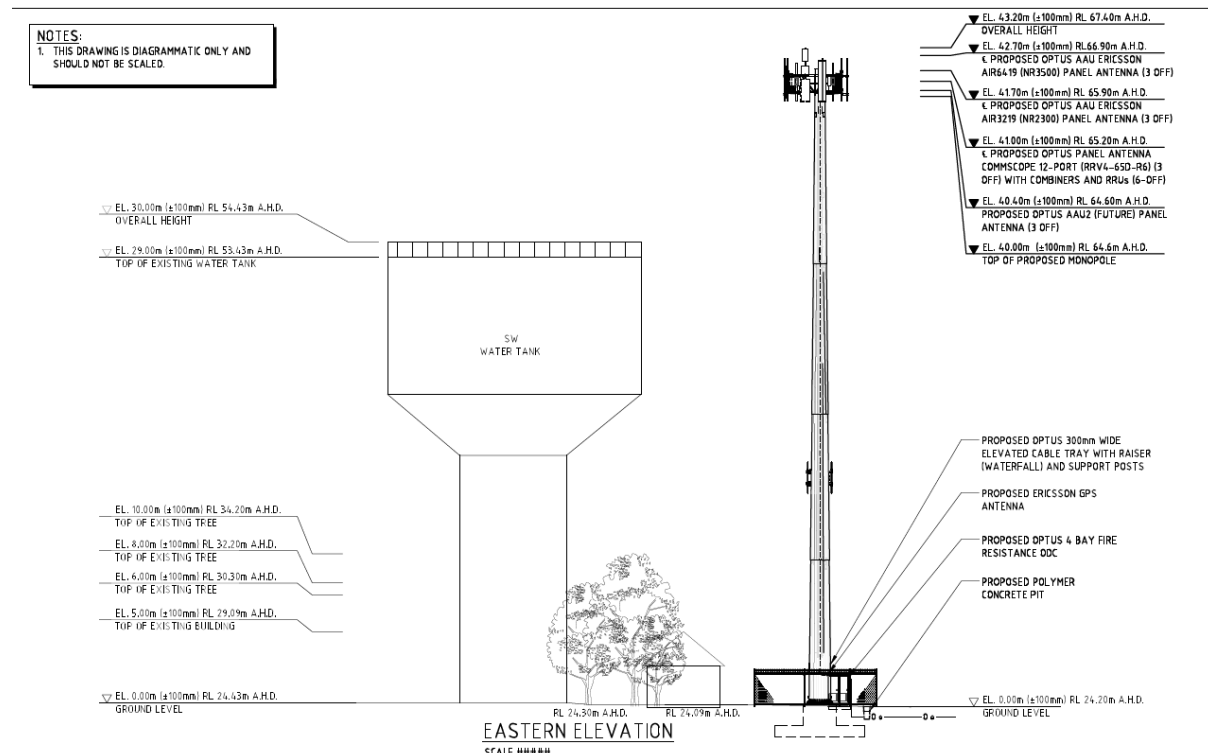


Figure 6: Proposed elevation view.

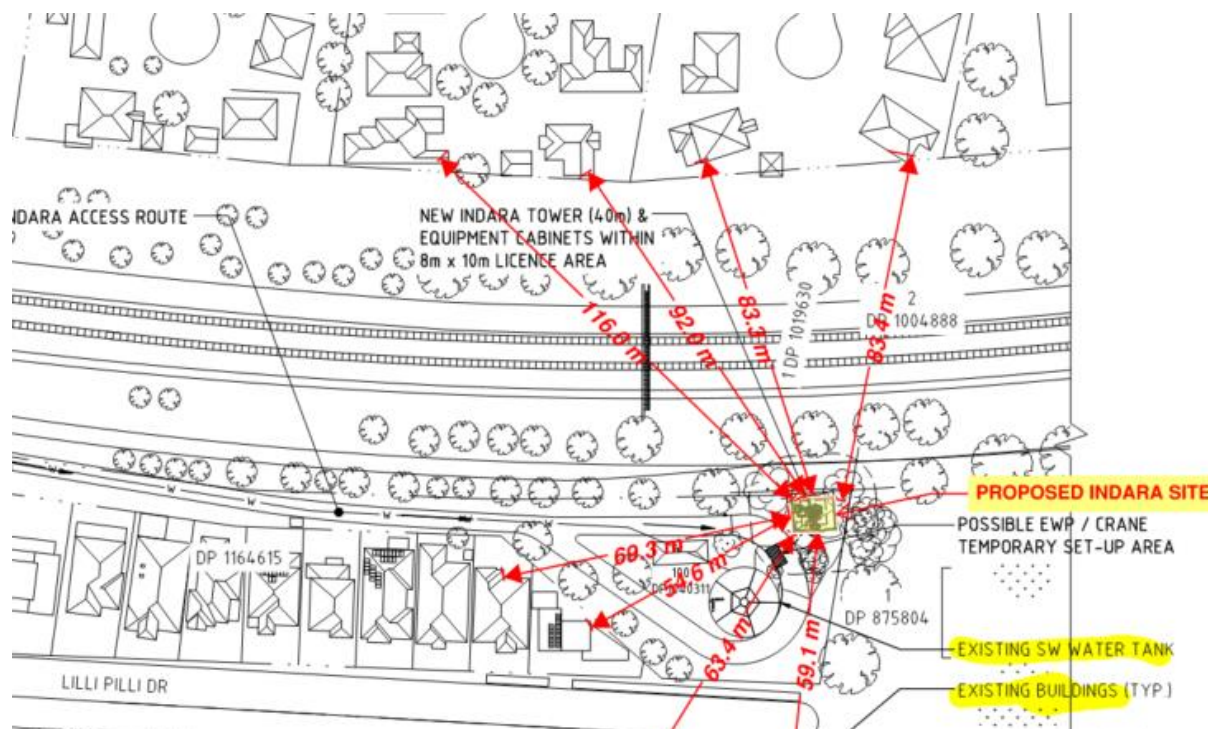


Figure 7: Proposed site context plan with distances to residential receivers.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

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

Other Plans and Policies

- NSW Telecommunications Facilities Guidelines including Broadband – October 2022.

Contributions Plans

- The 2018 Liverpool Established Areas Contributions Plan applies to all development pursuant to Section 7.11 of the EPA & Act.

6. ASSESSMENT

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

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

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

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

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	

(a) it has considered whether the land is contaminated, and	Council does not consider the land as likely to be contaminated given the existing land use on the subject site being a water tower and this is a relatively undisturbed site. The subject land is considered suitable for the proposed form of development.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The land is suitable for the proposed works and as it is unlikely that the land is contaminated.
(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.	N/A. The land does not require remediation.

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

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

The subject land is located within the **(Georges River Catchment)** and as such the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* - Chapter 6 Water catchments, applies to the application. A table summarising the matters for consideration in determining development applications under this SEPP is provided below.

Part 6.2 – Development in Regulated Catchments	
Division 2 – Controls on development generally	Comment
6.6 – Water quality and quantity	The proposed works do not constitute the requirement to provide concept stormwater plans given the minimal hardstand area created. A maximum of 7.36sqm of hardstand is proposed under this subject application. Permeable Surface: Cabinet base: 1.4 x 1.8m = 2.52m ³ Monopole base 2.2 x 2.2m – 4.84m ³ The remainder of the compound area is laid with weed matting and gravel.
6.7 – Aquatic ecology	The works are not located on Environmentally Sensitive Land and is unlikely to impact on aquatic ecology.

6.8 – Flooding	The site is not affected by mainstream or overland flooding.
6.9 – Recreation and public access	The subject site is not in immediate proximity to recreation or public areas and hence will not limit access.
6.10 – Total catchment management	The development is unlikely to impact adversely on the total water catchment and hence consultation with different Councils adjacent or downstream of the site is not required.
Division 3 – Controls on development in specific areas	Comment
6.11 – Land within 100m of natural waterbody	The site is not within 100m of a natural watercourse.
6.12 – Riverine scenic areas	Not applicable.
6.13 – Hawkesbury-Nepean conservation area sub-catchments	Not applicable.
6.14 – Temporary use of land in Sydney Harbour Catchment	Not applicable.
Division 4 – Controls on development for specific purposes	Comment
6.15 – Aquaculture	Not Applicable.
6.16 – Artificial waterbodies	Not Applicable.
6.17 – Heavy and hazardous industries	Not Applicable.
6.18 – Marinas	Not Applicable.
6.19 – Moorings	Not Applicable.
6.20 – On-site domestic sewerage systems	Not Applicable.
6.21 – Stormwater management	The proposal is not deemed to generate additional adverse impact given the minimal hardstand created to support the monopole.
6.22 – Waste or resource management facilities	Not Applicable.
6.23 – Demolition on certain land	Not Applicable.

It is considered that the proposal satisfies the provisions of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* - Chapter 6 Water catchments subject to appropriate sedimentation and erosion controls being implemented during construction as imposed via standard conditions of consent.

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

Division 21 Telecommunications and other communication facilities

Clause 2.143 Development permitted with consent	Comment	Complies
Clause 2.143 (1)	Development for the purposes of telecommunications facilities, other than development in Section 2.141 or development that is exempt development under Sections 2.20 or 2.144, may be carried out by any person with consent on any land.	Yes
Clause 2.143 (2)	Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Secretary for the purposes of this clause and published in the Gazette.	Yes Refer to assessment against the NSW Telecommunications Facilities Guidelines including Broadband – October 2022 in attachments.
2.144 Exempt development	The proposal cannot be undertaken as exempt development.	N/A
116A Complying development	The proposal cannot be undertaken as complying development.	N/A

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned **SP2 Infrastructure (Water Supply System)** pursuant to LLEP 2008 and an extract of the zoning map is provided in Figure 8 below.

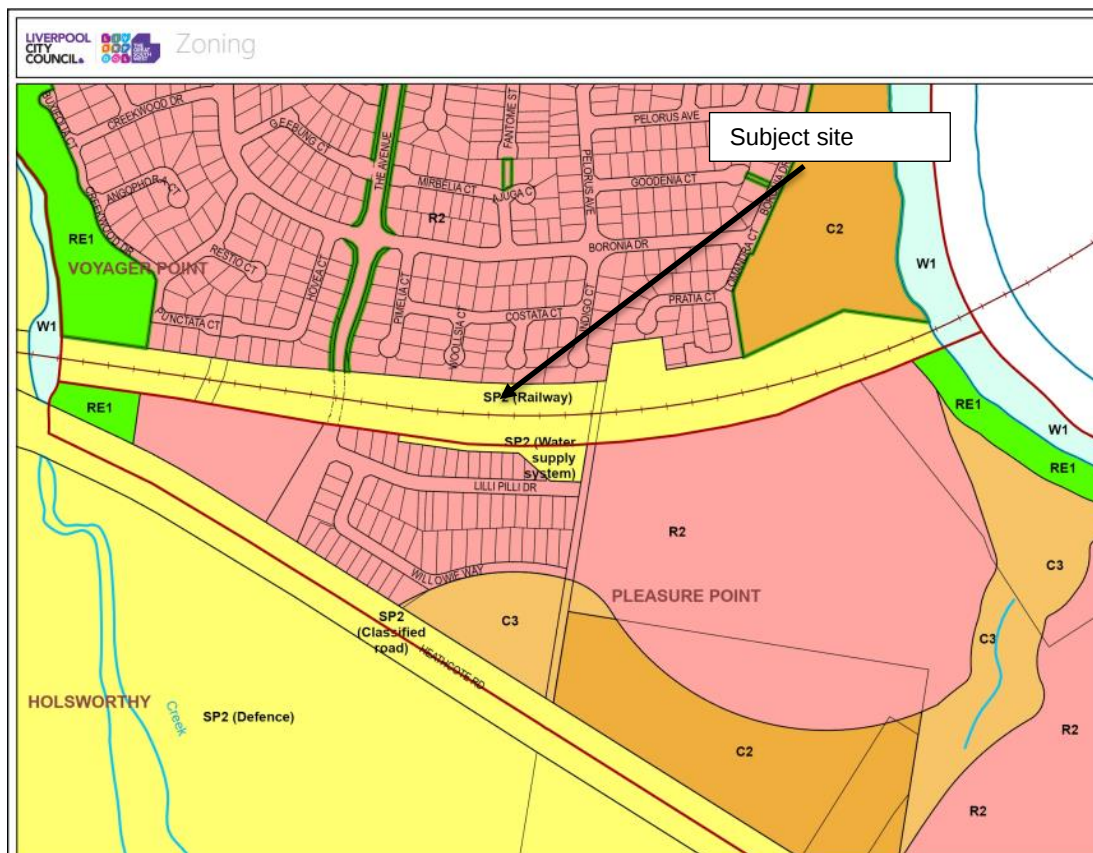


Figure 8: Zoning Map (source: Geocortex)

(ii) Permissibility

The proposed development is best defined by the Standard Instrument as a telecommunications facility. The land use is not identified as a permitted land use with consent within the SP2 Infrastructure zone under Liverpool Local Environment Plan 2008 however the form of development is permissible under Clause 2.143 of State Environmental Planning Policy (Transport & Infrastructure) 2021. SEPP (Transport and Infrastructure) 2021, takes precedence in this instance, resulting in the proposal being a permitted use.

Telecommunications facility means—

- a) any part of the infrastructure of a telecommunications network, or
- b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or
- c) any other thing used in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

(iii) Objectives of the zone

The objectives of the **SP2 Infrastructure** zone are as follows:

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

The proposal is consistent with the objectives of the zone in that:

- The provision of the telecommunications monopole will provide essential network services to improve mobile telecommunications services, including coverage and network capacity, in the Voyager Point area in addition to emergency notification services.
- The proposed telecommunications facility is co-located with other essential infrastructure such as the Sydney Water tank and provides for essential infrastructure to the surrounding locality.
- On this basis, it is considered that the proposed development meets the objectives of the SP2 Infrastructure zone.

(iv) Principal Development Standards

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

Development Provision	Requirement	Proposed	Comment
Part 4 Principal Development Standards			
2.7 Demolition	The demolition of a building or work may be carried out only with development consent	No demolition proposed.	The proposal will not require the demolition of existing Sydney Water infrastructure on the subject site.
4.3 Height of Buildings	Not Applicable. No height limit is prescribed for the site.	The total proposed height of the development is 43.2m from natural ground level.	The subject site where the monopole will be located, currently contains an existing 30m high water tank. Given the relative isolation of the site, being adjacent the 30m high water tank and beside the railway

			corridor, the height and purpose of the monopole is deemed acceptable.
Part 7 Additional Local Provisions			
7.17 Airspace operations	The objective of this clause is to protect airspace around airports.	The subject site is within 5km proximity to Bankstown Airport, within 18km proximity to Sydney Kingsford International Airport and within 25km proximity to the future Western Sydney Airport (Nancy Bird Walton International Airport). The subject site is also located 1.25km from the Holsworthy Barracks Airfield.	The subject site is not located within the Obstacle Limitation Surface (OLS) of any Airport. Regardless, the applicant has provided correspondence from the Civil Aviation Safety Authority (CASA) and Aeria Management Group who run Bankstown Airport and confirmed the telecommunications tower will not impact on any airport activities. The subject site is also in proximity to the Holsworthy Barracks Airfield. The applicant has provided correspondence from the Department of Defence which confirms no objections are raised to the proposal as it will

			not adversely impact on operations and capabilities at Holsworthy Barracks.
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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 (EPIs) 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 LDCP 2008, particularly *Part 1 General Controls for all Development*.

The development is found to achieve full compliance with the provisions of LDCP 2008 as detailed within the tables in Attachment 1 of the report. Overall, the proposal is consistent with the key controls outlined within 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 2021 requires the consent authority to consider the provisions of the Building Code of Australia, and the provisions of the Australian Standards. Accordingly, appropriate conditions of consent will be imposed.

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

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.

Built Environment

It is considered that the proposed development will have minimal impact on the built environment. The proposal is situated in an area of existing essential infrastructure and is of a scale which is required for adequate service provision to the locality. The proposal is in keeping with the objectives of the SP2 Infrastructure zone

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 subject site is 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	Approval subject to conditions of consent
Contributions	Conditions provided

(b) External Referrals

The following comments have been received from external agencies:

DEPARTMENT	COMMENTS
Transport for New South Wales – Sydney Trains	No objections subject to conditions of consent.

(c) Community Consultation

The proposal was advertised/notified for a period of 14 days from 1 May 2024 to 15 May 2024 in accordance with Community Participation Plan 2022. A total of 29 unique submissions were received in response to the public consultation process, objecting to the proposal.

It is to be noted however that of the total submissions, 7 submissions received were considered as pro-forma letters as these were not unique. Of the 7 Letter, 3 submissions were from the same family and contained the exact same information, 2 submissions were from the same household and contained the exact same information and another 2 submissions were from adjoining households however contained the exact same information. Hence on this basis these have been considered as 3 unique responses in respect of the total number of unique submissions received. Additionally, 2 submissions received were for the same petition and hence this has been counted as 1 unique submission, at the time of writing of this report, the petition contained 115 signatures.

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

ISSUE 1:	<i>Property Valuation</i>
Comment:	Several objectors raised concerns about devaluation of property due to the presence of a telecommunications facility in nearby proximity.
Applicant response:	To work effectively, base stations need to be located near to the people who are accessing this technology. Property valuation is a complex issue, with fluctuations in price being subject to several factors. Many of these are subjective, and may be as diverse as aspect, views, condition of the property, local amenity and access to services, including high quality communications. Since the mid-1990s, thousands of telecommunication facilities have been installed throughout Australian metropolitan and regional areas. During this period, property values have continued to increase, showing no clear signs of deterioration as a result of the location of communications facilities. Optus is not aware of any credible evidence that directly links the siting of telecommunications facility to a decrease in property prices. Please note that property values from development including telecommunications infrastructure is not considered a valid planning consideration
Officer response:	The evidence that has been submitted by the objectors does not confirm that devaluation of properties would occur resulting from the proposal. Some submissions outlined that a devaluation of 20% would occur as a result of the construction of the telecommunication facility, however the source provided which references this outlines this 20% devaluation only occurs where the pole is within 10-15m of the property. The proposed location of the telecommunications facility is

	at minimum 54.6m away from the nearest property as per Figure 7. Council acknowledges the concerns regarding property valuation from residents however this is not a planning consideration prescribed under Section 4.15 of the Environmental Planning and Assessment Act 1979.
ISSUE 2:	<i>Visual Impact</i>
Comment:	Objectors have raised concerns with the visual impact of the monopole being 13.2m above the height of the existing 30m high water tank. The objectors believe the proposal to be inappropriate for the locality and an eyesore.
Applicant response:	Indara and Optus advise that locating telecommunications facilities to service urban and regional communities is nowadays commonplace. Nevertheless, the visual impact of the proposed facility is always seriously considered when siting and designing a new facility. Some of the factors considered are: • zoning of the selected property • proximity to residences • proximity to other sensitive locations • necessary height required to provide services • opportunities to co-locate with existing structures Investigations for this proposal confirmed there are no viable co-location opportunities within the search area; therefore, a new structure is required. While Indara and Optus endeavour to minimise the visual prominence of a facility wherever it is possible to do so, they appreciate that there needs to be a balance between amenity and service, without undue compromise to either. Indara and Optus consider that a site adjacent to the water infrastructure and associated existing vertical elements in the area represents a suitable solution for the Pleasure Point and Voyager Point area.

	The proposed telecommunication facility has been designed and located to reduce visual impact as much as possible. Given that clear line of sight is essential for the operation of any telecommunications facility, it is not possible to completely mitigate all impacts on surrounding views however the facility has been located on the property setback from adjoining residents uses to reduce impacts as far as practical. The location alongside the rail corridor boundary, allows for the water reservoir and existing vegetation on the property to provide screening benefits to the proposed facility.
Officer response:	Council have reviewed the alternate site locations comprehensively as part of its assessment and concludes that the current site is the most appropriate for the nature of the proposal given the level of screening provided by the existing Sydney Water infrastructure on the subject site. Alternate site locations considered for this development are discussed below: 1) Along the railway near The Avenue, Voyager Point NSW 2172; this site was unable to cater for ground equipment due to lack of space. This location would ideally be the least visually intrusive as the railway corridor is located at a lower AHD level in comparison to the surrounding residential lands however could not be pursued due to space constraints. 2) 75 Sirius Road, Voyager Point; This site did not meet coverage requirements. This location would have medium level of visual impact as it is in proximity to residential dwellings, community facilities and the Voyager Point Park. 3) Road reserve on Heathcote Road, near the corner of Heathcote Rd and The Avenue, Pleasure Point; this location was considered unsuitable by the applicant as the land is environmentally significant. The visual impact of this location is high as it is located on an SP2 Classified Road and nearby to the main entry point to Voyager Point and Pleasure Point thus deeming the site a high point of visual intrusion.

	4) Corner of Heathcote Rd and The Avenue, Pleasure Point; this site was not chosen by the applicant as the subject land is being prepared for construction of future residential lots. The visual impact of this lot is considered very high as there are no natural screening agents such as vegetation to lessen visual impact. Furthermore, this location is at the entry point to the Voyager and Pleasure Point suburb hence residents would be subject to a high level of visual intrusion. The chosen site is the least visually intrusive due to the shielding provided by the 30m high Sydney Water tank from southern viewpoints. The tank allows for an existing visual detractor which dominates the view line in comparison to the monopole structure. It is acknowledged that the proposed telecommunications tower will be the tallest structure in the locality by 13.2m. In this regard, to assist with minimising the visual impact of the tower, the tower has been conditioned to be painted in a two-tone finish. The bottom portion of the tower will be painted Eucalypt Green to blend in with the existing vegetation on site and the top portion of the tower will be painted a pale grey colour to assist in blending in with the open sky. It is to be noted that the panels at the top of the facility will also be required to be painted in the same colour so there is minimised visual impact.
ISSUE 3: <i>Impact to human health</i>	<i>Impact to human health</i>
Comment:	Objectors have raised concerns in regards to community safety from radiation from the telecommunications tower and the impact to their health. The concerns have also raised comments in regards to unknown information on long term impacts of emissions on human health.
Applicant response:	Indara and Optus place very high importance on community safety. We rely on national and international experts such as the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the World Health Organisation (WHO). The issue of possible impacts of (Electromagnetic

	Emissions (EME) on the health of people is raised often when telecommunication infrastructure is proposed for installation. Indara and Optus appreciate the concerns raised but would like to assure you that we take the responsibilities regarding the health and safety of our customers and the community very seriously. Nonetheless, Indara and Optus also appreciate that significant research has been undertaken, and is continuing, in the area of potential hazards for human health and the environment from this form of radiation. Radiofrequency emissions from macro cells are radio signals, not microwaves. Radio waves have a low energy and low-frequency wave; while microwaves are high-energy and high-frequency waves. Also, radio waves are not 'radioactive'. Radiofrequency signals are 'non-ionising' and do not accumulate in the body. All radio networks transmit 'electromagnetic radiation'. This is also the correct technical term for AM and FM radio broadcasts, television broadcasts and all other radio network signals that we have been living with for more than 100 years. The macro cells of a telecommunications network provide opportunity for a connection between the network and the computers, laptops and mobile phones that are used inside and outside of residences and businesses. When these devices connect to a network, they connect using radio waves between the device and the macro cell. Therefore, the EME is present at both points of connection – i.e. the computer, laptop or mobile phone and the macro cell. When considering the issues surrounding EME, Indara and Optus rely on the expert advice of the World Health Organisation (WHO), the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) for overall
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	assessments of health and safety impacts. Research into EME and health has been going on for over 100 years now. The WHO and ARPANSA advise that there is no substantiated scientific evidence that radiofrequency technologies that operate within national and international safety standards cause health effects. The Australian safety standard is set by ARPANSA and is based on the safety guidelines recommended by the WHO. The current standard for monitoring exposure to EME is the Radiation Protection Series – S1. (Standard for Limiting Exposure to Radiofrequency Fields - 100 KHz to 300 GHz), published by ARPANSA in 2021. This standard has a significant safety margin, or precautionary approach built into it. The Australian safety standard is designed to provide protection to all people, including vulnerable members of the community (the elderly, children and people with compromised health), 24-hours a day, 7-days a week. This standard protects public health by placing a limit on the strength an antenna signal can transmit. When investigating possible locations for a new facility, Carriers undertake desktop research into the anticipated EME levels that would be emitted from the antennas at each possible location. The 'EME Report' is produced, based on this research. The EME Report shows the maximum EME levels if the facility was operating at maximum capacity - which includes those times when demand is very high. Adaptive power control is a network feature that automatically adjusts the power - according to the demand at the time - and hence minimises EME from both the base station and the handset. In addition, facilities are equipped with a feature, called discontinuous transmission, which reduces EME emissions by automatically switching the transmitter off when no speech or data is sent.
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	The EME Report for this proposal shows the maximum EME levels would be 1.15% - where 100% is identified as bring safe. A copy of this Report is provided for your review. Additional information regarding electro-magnetic emissions, please refer to the following sites: http://www.emfexplained.info/ https://amta.org.au/ Additional information regarding the Australian Standards or the research behind EME, ARPANSA provides an opportunity for the community to talk directly with scientists on issues about radiation exposure and protection in Australia. This service is available at: https://www.arpansa.gov.au/contact-us/talk-to-a-scientist
Officer response:	Council has placed a high emphasis on the issue of public safety in relation to the operation of such facilities and further information has been sought from the applicant to inform Council's assessment of the matter. The EME report for this facility outlines that the maximum exposure level of EME emissions is 1.01% out of the public exposure limit of 100%, this maximum exposure is experienced 134m away from the base of the monopole and is calculated at 1.5m above ground level to simulate the impact on humans. In this regard, the development is deemed compliant with ARPANSA. It is to be noted, residents can obtain readings of EME emissions to their specific residential premises should this information be required.
ISSUE 4:	<i>Misguided location on notification letter.</i>
Comment:	Several objectors have raised concerns with the address of the subject site, citing that the notification letter has misled their interpretation of where the proposed telecommunications facility will be located.
Applicant response:	The subject site is legally identified as Lot 100 in DP

	1040311.
Officer response:	The subject site is legally identified as Lot 100 in DP 1040311 and is known as Lot 100, Sirius Road, Voyager Point. The applicant has provided a title search from the NSW Land Registry Service to confirm the address. Council acknowledges the confusion that may have been occurred via the address on the notification letter as many residents have considered Lot 100 to be 100 Sirius Road instead which appears approximately 700m northwest of the subject site via Google Maps. Please note 100 Sirius Road is not a recognised legal address however Google Maps incorrectly shows this address. It is to be noted that this land was registered in 2002 and post registration of the land, the area has significantly developed, and the boundaries of Sirius Road been amended and since renamed to The Avenue.
ISSUE 5:	<i>Cumulative impact from additional carriers</i>
Comment:	Several objectors have raised concerns of the impact of radio-frequency emissions from the facility should additional carriers co-locate on the telecommunications facility.
Applicant response:	All of base station upgrades are designed to comply with the ARPANSA EME safety standard. Any addition of equipment or addition by other carrier is required to comply with the standard. Once a site is completed, a NATA Accredited Assessor completes a Compliance Certificate for the site which you can access via the RFNSA after the upgrade is complete.
Officer response:	All additional upgrades and additions to the telecommunications will be subject to a separate EME report which will be inclusive of all existing telecommunications on the facility. The applicant has confirmed the structural load of the monopole will allow for a maximum of three carriers on the monopole and all future carriers will be required to meet ARPANSA safety standards.

ISSUE 6:	<i>Location</i>
Comment:	Several objectors have raised objections to the location of the telecommunication facility and have suggested the relocation of the proposal to adjoining army lands or nearby bushlands where residential properties are not in proximity.
Applicant response:	Mobile phone facilities only have a limited range; and need to be installed in close proximity to the area to be covered. Siting facilities in residential locations is, unfortunately, sometimes required - when these are the areas where services are required. If a facility is located too far from a proposed coverage area, connections would be unavailable, and interference may occur with another facility. We appreciate that a number of possible alternative candidates were suggested by the community members to the Development Application. Ventia are engaged by Optus and Indara to undertake site selection feasibility studies. The study includes determining a candidate's viability in the following areas: • Agreeable Tenure • Environmental Planning • Mobile Call and Data Coverage • Design • EME • Health and Safety; and • Integration with the existing network Due to a combination of the above, the location at Lot 100, Sirius Road, Voyager Point NSW 2172, was deemed the only viable candidate. The area of Pleasure Point is significantly residential and selecting a location for a new facility which would meet the coverage requirements while minimising the impact on the surrounding area has been difficult. As the selected site is located within a special purpose use zoning on a property that accommodates other essential infrastructure, Indara and Optus consider the location provides the best balance between the two.
Officer response:	Council have reviewed the alternate site locations

	comprehensively as part of its assessment and concludes that the current site is the most appropriate for the nature of the proposal as the proposal aligns with the objectives of the SP2 infrastructure zone as the telecommunications facility seeks to provide essential infrastructure and is co-located with existing infrastructure. Furthermore, the co-location with the existing Sydney Water elevated tank provides a level of visual cover from certain viewpoints and provides for public safety as the site is secure and inaccessible to the public. It is to be noted that locating the telecommunications facility on army land or adjoining bushland would potentially facilitate vegetation removal and these lands are generally identified as having regional core conservation significance. It is also important to consider the impact on defence operations and visual impact of the facility above the canopy cover. On this basis and the reasons detailed in the assessment of the proposal, the location is considered suitable for the proposed development.
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Other concerns raised in submissions.

- Noise from associated equipment; As per Figure 7, the nearest residential receiver is located 54.6m from the facility. Acoustic impacts will be naturally mitigated by the existing brick building and vegetation which is located between the facility and the closest residential receiver at No. 32 Lilli Pilli Drive. To ensure residential comfort, an acoustic barrier has been conditioned to be installed to prevent any acoustic impacts to the nearest residential receivers.
- Noise from construction works: A construction management plan has been conditioned to be prepared and provided to adjoining residents which will outline the schedule of works and provide notice for works which may cause acoustic discomfort.
- Noise from additional use of right of carriageway: The facility will be serviced 2-4 times annually, the low frequency of access for the telecommunications tower is not considered to be unreasonable.
- Vibration impacts on surrounding properties: Council imposes standard conditions of consent relating to the requirement to submit pre and post dilapidation reports to Council to ensure protection of surrounding properties.

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

On consideration of the above matters, the proposal is deemed to be in the public interest as it provides for essential mobile infrastructure in the locality of the Voyager Point/ Pleasure Point area. The concerns raised by objectors have been thoroughly reviewed and where achievable, performance-based solutions have been conditioned for accordingly. The proposed development would not be contrary to the public interest in this instance.

7. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contributions is applicable to the proposed development in accordance with Liverpool Contributions Plan (Established Areas 2018) and will be imposed as a condition of consent of any approval for the proposed development. The development attracts a total contribution of **\$3,853.00**. The Housing and Productivity Contribution (HPC) does not apply to this development as the proposal does not generate additional infrastructure demand and a Telecommunications Facility is not a form of development listed under commercial or industrial development within the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

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 applicable State Environmental Planning Policies, Liverpool LEP 2008, LDCP 2008, and the relevant codes and policies of Council. Based on the assessment of the application, it is recommended that the application be **approved subject to the imposition of conditions**.

9. RECOMMENDATION

That Development Application DA No 160/2024 be **approved subject to conditions of consent**.

ATTACHMENTS

1. Assessment Tables (Under separate cover)
2. Draft Conditions (Under separate cover)
3. Photomontage (Under separate cover)
4. Elevations and Sections (Under separate cover)
5. Site Plans (Under separate cover)
6. Survey Plan (Under separate cover)
7. Statement of Environmental Effects (Under separate cover)
8. ARPANSA EME Report (Under separate cover)
9. AirServices Clearance Letter (Under separate cover)
10. CASA & Aeria Management Group Clearance Letter (Under separate cover)
11. Department of Defence Clearance Letter (Under separate cover)
12. Bushfire Assessment Report (Under separate cover)

Item Number:	2
Application Number:	DA-326/2024
Proposed Development:	Two lot Torrens title subdivision of an existing allotment
Property Address	30 Augusta Street, Casula NSW 2170
Legal Description:	Cnr Lot 616 DP 244365
Applicant:	Pivotal Planning Pty Ltd
Land Owner:	Mohammad Ali Hussein
Cost of Works:	\$0
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Darren Laybutt – GAT & Associates

1 EXECUTIVE SUMMARY

The subject Development Application (DA No. DA-326/2024) seeks consent for a two lot Torrens title subdivision at No. 30 Augusta Street, Casula (also known as No. 18 Buckland Road, Casula).

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

The development application was not required to be notified in accordance with the Liverpool Community Participation Plan 2022 and no submissions were received.

The Development Application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979 and the subject site is suitable for the proposed two-lot subdivision as it meets the requirements of LLEP 2008 and Liverpool Development Control Plan (LDCP) 2008. Based on the assessment of the application, it is recommended that the application be approved for the following reasons:

1. The proposed development complies with the minimum lot size development standard under Clause 4.1 of LLEP 2008 and the width requirement under Section 21.4 of Part 1 of LDCP 2008, pursuant to Sections 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.
2. The proposed development would not have significant adverse impacts on the built environment and natural environment and would not have adverse social impacts, pursuant to Section 4.15(1)(b) of the Act.
3. The proposal demonstrates that the site would be suitable for the proposed development, pursuant to Section 4.15(1)(c) of the Act.

4. Due to the above reasons, the application is in the public interest, pursuant to Section 4.15(1)(e) of the Act.

The application is referred to the Liverpool Local Planning Panel (LLPP) in accordance with the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 30 June 2020*, as the development falls in the categories of:

Conflict of interest.

Development for which the applicant or land owner is:

The Land Owner is a relative of a sitting Councillor at Liverpool City Council at the time of lodgement of the subject application.

The application has been assessed pursuant to the provisions of the EP&A Act 1979 and 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 subject site is located on the corner of Augusta Street and Buckland Road, with its immediate locality being low to medium density residential developments. The area is characterised by single and double storey dwellings. The residential dwelling forms are generally of an older stock, composed of masonry with hipped roofs. Notably, there are a few contemporary dwelling typologies within proximity to the site.

The site is approximately 900m south of the Hume Highway (A28) and South Western Motorway (M5) crossover. The site is in proximity to Casula Train Station, approximately 2km to the south, and Casula Mall, approximately 2.1km to the west. The site is also located approximately 1.2km from Casula Parklands and approximately 1.6km from the Georges River.

The locality of the site is demonstrated in Figure 1.



Figure 1: Locality surrounding the proposed development site (source: Six Maps)

2.2 The site

The subject site is identified as Lot 616 in DP 244365 and is commonly known as No. 30 Augusta Street, Casula (also known as No. 18 Buckland Road, Casula). The subject site is a corner allotment, situated on the west side of Augusta Street and the north side of Buckland Road (refer to Figure 2). The site is irregular in shape with a frontage of 16.995m to Augusta Street and 15.915m to Buckland Road. The north side boundary measures 17.72m and the rear (west side) boundary measures 32.605m. The overall site area is 611.1m².

There is currently a part one/part two storey dwelling on the site, with some vegetation and when the site inspection occurred on 28 August 2024, there was construction fencing around the site. The applicant has indicated that demolition will occur under a separate application and whilst there is currently no record of a separate application being lodged or approved for demolition, it is recommended that a condition of consent be imposed, requiring the demolition of the dwelling to occur prior to the release of a subdivision certificate (refer to Figures 3-4 for photos of the site).

The land after demolition under a separate application, will be vacant with limited trees and the topography of the land rises gently from the front to the rear, with a level difference of almost 5m noting RL 36.85 in the south-east corner (along the front boundary) to RL 41.34 in the north-west corner (along the rear boundary).



Figure 2: Aerial view of the site (source: SIX Maps)



Figure 3: View of the site from Augusta Street



Figure 4: View of the site from Buckland Road

3. BACKGROUND/HISTORY

DA No.	Proposed Development	Determination
DA-706/2021	Demolition of existing dwelling and construction of two storey dwelling with basement.	Rejected
DA-982/2021	Demolition of existing structures and two lot Torrens title subdivision.	Rejected

The subject DA was lodged on 25 July 2024.

The application did not require notification and no submissions were received.

4. DETAILS OF THE PROPOSAL

The DA was submitted for the purpose of Torrens title subdivision of land into two lots at No. 30 Augusta Street, Casula (also known as No. 18 Buckland Road, Casula). Refer to the proposed subdivision plan in Figure 5 below.

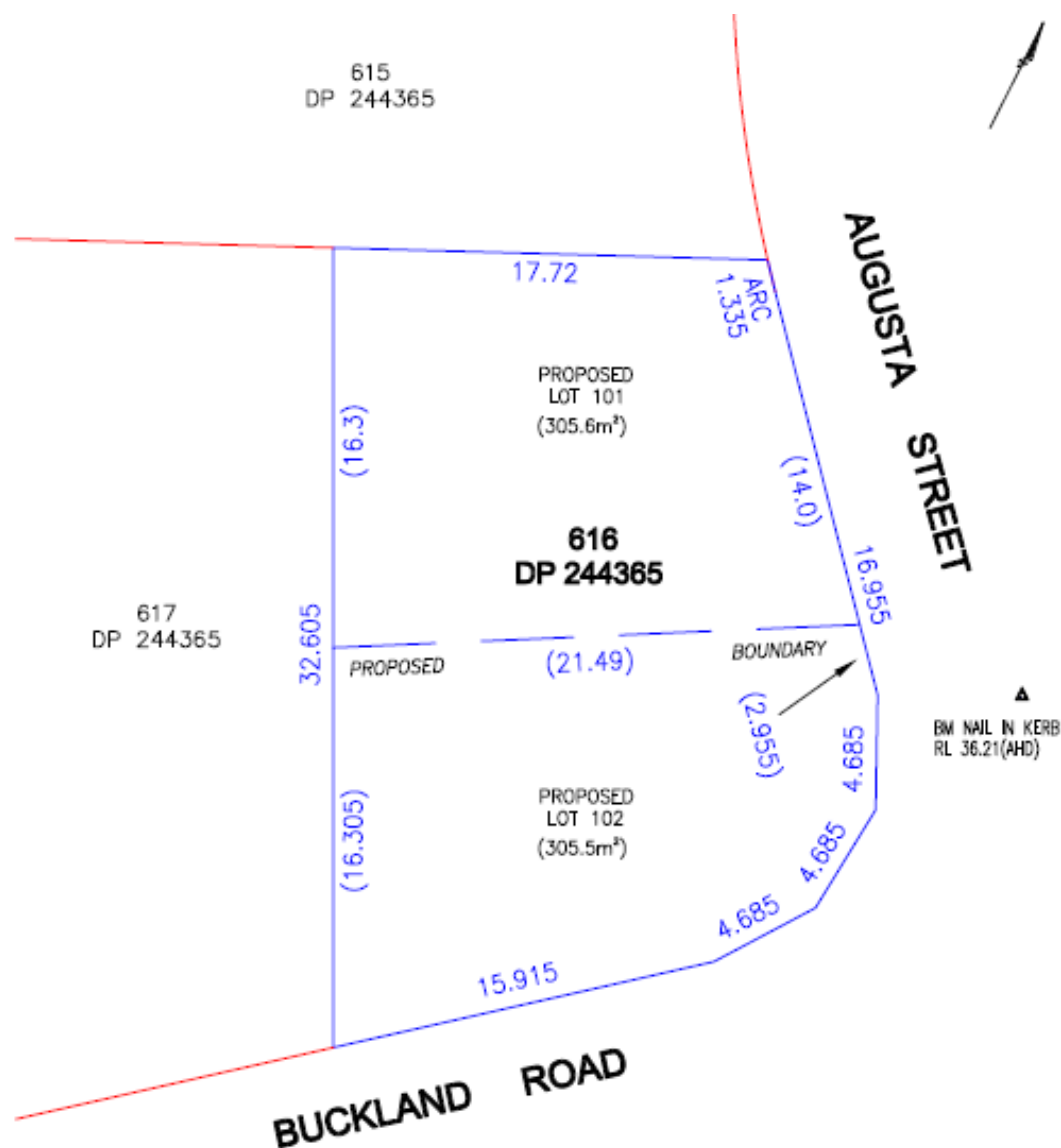


Figure 5: Site location/proposed subdivision plan (RGM Property Surveys)

The table below provides key development data for the proposal.

	Proposed
Lot Size	Lot 101: 305.6m ² Lot 102: 305.5m ²
Lot Width	Lot 101: 15.335m Lot 102: 15.915m* As per the subdivision plan, Lot 102 is a corner allotment with a lot, frontage of 15.915m to Buckland Road and 12.325m to Augusta Street.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

Environmental Planning Instruments (EPI's)

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Liverpool Local Environmental Plan (LLEP) 2008*

Development Control Plan

- *Liverpool Development Control Plan 2008 (LDCP 2008)*
 - *Part 1: General Controls for All Development.*

Contributions Plans

- *Liverpool Contributions Plan 2018 Established Areas applies to the development pursuant to Section 7.11 of the EPA & Act.*

6. ASSESSMENT

The DA 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 (EP&A) Regulation 2000, as follows:

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

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

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

The objectives of SEPP (Resilience and Hazards) 2021 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 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	It is unlikely the land is contaminated as it is an existing residentially zoned allotment.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The land is suitable for the proposed works and it is unlikely that the land is contaminated, given the history of the site for residential use.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

Based on the above assessment, there is no evidence to suggest that the land has been or is contaminated, and a formal land contamination assessment is not required. It is considered that the proposal is satisfactory for the site and the relevant objectives and provisions of SEPP (Resilience and Hazards) 2021. Standard conditions pertaining to site contamination matters are to be implemented.

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

Chapter 2 of SEPP (Biodiversity and Conservation) 2021 aims to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. The development is within a non-rural area and Chapter 2 of the SEPP is applicable.

The site contains trees, and the development is solely for the purpose of Torrens title subdivision of an existing allotment, and the proposal does not seek to remove any trees. No further assessment is required under this application

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned R2 Low Density Residential under LLEP 2008, and an extract of the zoning map is provided below.

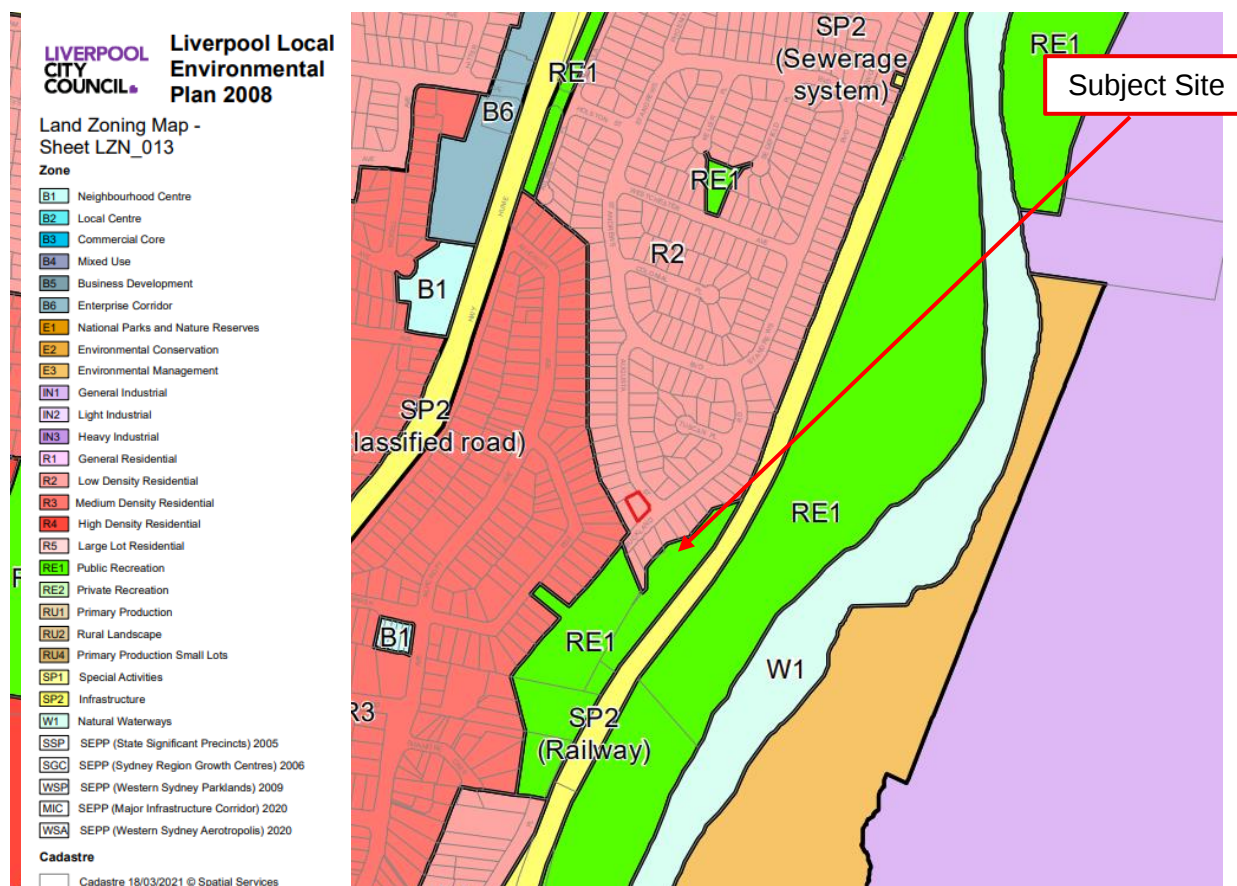


Figure 6: Zoning map (source: NSW Planning Portal Digital EPI Viewer)

(ii) Permissibility

The land use table for the R2 Low Density Residential zone is provided below.

2 Permitted without consent
<i>Home-based child care; Home occupations</i>
3 Permitted with consent
<i>Attached dwellings; Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Tank-based aquaculture</i>
4 Prohibited
<i>Any development not specified in item 2 or 3</i>

Consent is being sought for subdivision, which is permissible under Clause 2.6 of LLEP 2008. The applicant has indicated that demolition of the existing dwelling and future residential development on the site will be subject to a separate approval pathway.

(iii) Objectives of the Zone

The objectives of the R2 Low Density Residential zone are as follows:

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

The proposal is consistent with the objectives of the zone in that the proposed Torrens title subdivision facilitates the provision of an additional lot to serve the housing needs of the community within the R2 Low Density zone by subdivision of one existing allotment into two lots. The proposed development does not affect the ability of other land uses to provide facilities or services to meet the day to day needs of residents and is solely for the purpose of *subdivision*. The proposed development is of an appropriate scale for the context of the site, particularly as it is an existing corner lot with irregular boundaries and will contribute positively to the future character of the locality.

The proposed development is solely for the purpose of subdivision and has the potential to provide future dwellings that offer a high level of residential amenity.

(iv) Principal Development Standards

The following principal development standards of LLEP2008 apply to the proposal:

LLEP 2008 – Principal Development Standards		
Development Provision	Requirement	Compliance
2.6 Subdivision	Consent is being sought for subdivision	Complies
2.7 Demolition	The demolition of a building or work may be carried out only with development consent.	N/A No demolition is proposed under this DA and will be subject to a separate approval process.
4.1 Minimum Subdivision Lot Size	Minimum lot size of 300m ² on map	Complies Lot 101: 305.6m ² Lot 102: 305.5m ²
4.3	Max height of building of 8.5m on	N/A

Height of Building	map	No built form is proposed
4.4 Floor Space Ratio	Max floor space ratio of 0.5:1 on map	N/A No built form is proposed
7.7 Acid Sulfate Soils	Part of the site is mapped within a Class 5 acid sulfate soils area on LEP Map_013.	Complies Part of the subject site is mapped as being within a Class 5 acid sulfate soil area and there are no proposed works below 5m AHD or that will likely lower the waterable below 1m AHD. Therefore, no further consideration is required in this regard.

As demonstrated in the above compliance table, the application satisfies the development standards of LLEP 2008.

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

There are no draft Environmental Planning Instruments (EPIs) 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 proposed development is subject to LDCP 2008 and has been assessed under the following parts of the DCP:

- Part 1: General Controls for all Development.

The proposal is consistent with the key controls outlined in the LDCP 2008 and refer to the compliance table below.

LDCP 2008 Part 1: General Controls for All Development		
Control	Requirement	Comment
3. Landscaping and Incorporation of Existing Trees	Existing trees and native vegetation are to be retained	Complies The proposal does not seek to remove any trees.
6. Water Cycle Management	To ensure adequate drainage is provided for developments.	N/A No works proposed. No erosion and sediment control are required.
12. Acid Sulfate Soil Risk	Part of the subject site is mapped as being within a Class 5 acid sulfate soil area.	Complies No further

		consideration is required in this regard.												
14. Demolition of Existing Development	Demolition works will be carried out in accordance with the proposed demolition plan and relevant OH&S and Australian Standards.	Satisfactory by Conditions No demolition is proposed however, the existing dwelling is situated across the future lot boundary. A condition of consent is to be imposed to ensure demolition occurs prior to the subdivision certificate under a separate application.												
21. Subdivision of Land and Buildings	Minimum lot size: 300sqm Minimum lot width: 9m minimum lot width	Complies Proposed Lot 101: 305.6m ² / 15.335m Proposed Lot 102: 305.5m ² / 15.915m												
25. Waste Disposal and Re-use Facilities	Provision must be made for the following waste generation shown in Table 21. Table 21 Waste Generation <table border="1"> <thead> <tr> <th>Type of Waste</th><th>Dwellings (including housing, attached and semi dwellings and dual occupancy)</th><th>Medium and High Density Residential Development</th></tr> </thead> <tbody> <tr> <td>General Waste</td><td>140 litres/week/dwelling</td><td>110 litres/week/dwelling</td></tr> <tr> <td>Recycling</td><td>120 litres/week/dwelling</td><td>110 litres/week/dwelling</td></tr> <tr> <td>Green Waste</td><td>120 litres/week/dwelling</td><td>Shared 240 litre bins can be provided by Council. Numbers of bins will be assessed on a case by case basis and require provision of adequate storage.</td></tr> </tbody> </table>	Type of Waste	Dwellings (including housing, attached and semi dwellings and dual occupancy)	Medium and High Density Residential Development	General Waste	140 litres/week/dwelling	110 litres/week/dwelling	Recycling	120 litres/week/dwelling	110 litres/week/dwelling	Green Waste	120 litres/week/dwelling	Shared 240 litre bins can be provided by Council. Numbers of bins will be assessed on a case by case basis and require provision of adequate storage.	Complies No Waste Management Plan (WMP) submitted however, no physical works are proposed, and one is not required.
Type of Waste	Dwellings (including housing, attached and semi dwellings and dual occupancy)	Medium and High Density Residential Development												
General Waste	140 litres/week/dwelling	110 litres/week/dwelling												
Recycling	120 litres/week/dwelling	110 litres/week/dwelling												
Green Waste	120 litres/week/dwelling	Shared 240 litre bins can be provided by Council. Numbers of bins will be assessed on a case by case basis and require provision of adequate storage.												

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 EP&A Regulation 2021 requires the consent authority to consider the provisions of the National Construction Code (NCC) and accordingly, appropriate conditions of consent will be imposed where compliance with the NCC is required.

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

Natural and Built Environment

The proposed development will not have significant adverse impacts on the natural environment. The proposal seeks a two lot Torrens title subdivision and is located within a low-density residential environment. Any demolition or tree removal is subject to a separate application.

The proposed works are only in relation to a two lot Torrens title subdivision of an existing allotment. No building works are proposed and there is no impact on the built environment. The proposed subdivision pattern is not inconsistent to existing developments within the locality. The proposed lot sizes satisfy Council's minimum standards demonstrating that a favourable architectural outcome would be achievable on the land, subject to separate approval.

Social Impacts and Economic Impacts

The proposal will have a positive social and economic impact on the locality. The proposal provides for an additional allotment in a low-density residential neighbourhood that is close to public transport, and public open spaces, as well as to shops, infrastructure, and services.

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

The subject site is suitable for the proposed development. The proposal is generally compliant with the provisions of LLEP 2008, relevant SEPPs and LDGP 2008, as outlined in this report. The proposal is unlikely to result in any significant adverse impacts to the locality and is within the public interest.

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
Engineering	No objections subject to the standard conditions

(b) External Referrals

No comments have been received from external agencies.

(c) Community Consultation

The proposal did not require notification in accordance with the Liverpool Community Participation Plan 2019 as the lots exceed 300m². Notwithstanding, submissions have been received.

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

The development is consistent with the objectives of the R2 Low Density Residential zone, generally compliant and considered satisfactory with relevant planning provisions and controls contained under LLEP 2008 and LDCP. The development is deemed to be in the public interest as the subdivision provides for an additional allotment within a low-density residential neighborhood in proximity to public transport, services, and shops, servicing the needs of residents within the locality

7. DEVELOPMENT CONTRIBUTIONS

Section 7.11 development contributions are applicable to the proposed development in accordance with Liverpool Contributions Plan 2018 Established Areas and will be imposed as a condition of consent in any approval granted for the proposed development. The development attracts a total contribution of **\$15,531.00**.

8. CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, EPIs, including applicable SEPPs, LLEP 2008, LDCP and relevant codes and policies of Council. The proposed development demonstrates that it will be in the public interest and is unlikely to result in significant adverse impacts on 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-326/2024 seeking consent for a two lot Torrens title subdivision of an existing allotment at No. 30 Augusta Street, Casula (also known as No. 18 Buckland Road, Casula), be approved.

ATTACHMENTS

1. Conditions of Consent (Under separate cover)
2. Survey Plan (Under separate cover)
3. Subdivision Plan (Under separate cover)

Item Number:	3
Application Number:	DA-170/2024
Proposed Development:	Construction of a dual occupancy (detached) with landscaping and associated site works
Property Address	16 Flood Avenue, Austral
Legal Description:	Lot 17, DP 1271974
Applicant:	Rubik Homes Pty Ltd
Land Owner:	S.E.L Home Corp Pty Ltd
Cost of Works:	\$800,000
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Darren Laybutt – GAT & Associates

1 EXECUTIVE SUMMARY

Council has received Development Application (DA-170/2024) seeking consent for the construction of a dual occupancy (detached) with landscaping and associated site works at 16 Flood Avenue, Austral.

The site is zoned R2 Low Density Residential pursuant to Appendix 4 Liverpool Growth Centres Precinct Plan under State Environmental Planning Policy (Precincts—Western Parkland City) 2021. The proposed development is permissible with consent in the zone.

The development application was notified from 22 April 2024 to 8 May 2024 in accordance with the Liverpool Community Participation Plan 2022. No submissions were received.

The application was lodged on 17 April 2024. The application was assessed, with two additional information requests issued to the applicant on 5 June and 6 September 2024. Responses were received on 6 August and 28 September 2024 addressing the issues raised. The application is determined based on the information submitted to date.

The application has been referred to the Liverpool Local Planning Panel in accordance with the Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent, endorsed by the Minister for Planning and Public Spaces on 7 December May 2022, as the development falls in the categories of:

- Conflict of interest – development for which the applicant or land owner is a relative (within the meaning of the Local Government Act 1993) of a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.

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 subject site and locality

The subject site is commonly known as 16 Flood Avenue, Austral, and is legally defined as Lot 17 in Deposited Plan 1271974.

The site is a corner allotment and is irregular in shape. The land has a street frontage of 12m to Flood Avenue, an 8.485m corner splay, and a curved street frontage of 28.16m to Threlkald Street. The side boundary is 28m in length and the rear boundary is 15.955m wide. The overall site area is 533.5m².

The land is currently vacant and was recently subdivided under DA-318/2020, approved on 21 September 2021. The subdivision works are complete, and dwellings are being and have been erected on surrounding allotments. Refer to Figure 1 and the photos in Figures 3-6 taken from the site inspection on 5 June 2024.

A substation has been constructed on 3 Threlkald Avenue adjacent to the southwestern boundary of the site. The site is affected by easements associated with the substation.

The site is zoned R2 Low Density Residential. The immediate locality is well underway in its transformation to the desired future character of residential subdivision as part of the South West Growth Centre, with the immediate surrounding properties consisting of –

- Northwest: A two storey dwelling house approved under CD-1086/2023 on 18 Flood Avenue.
- Northeast: Land opposite Flood Avenue is zoned SP2 Local Drainage.
- Southeast: A two storey dwelling house approved under CD-1501/2023 on 14 Flood Avenue.
- Southwest: A two storey dwelling house approved under DA-583/2023 on 3 Threlkald Street.



Figure 1 – Aerial view of the locality (Source: SIX Maps)

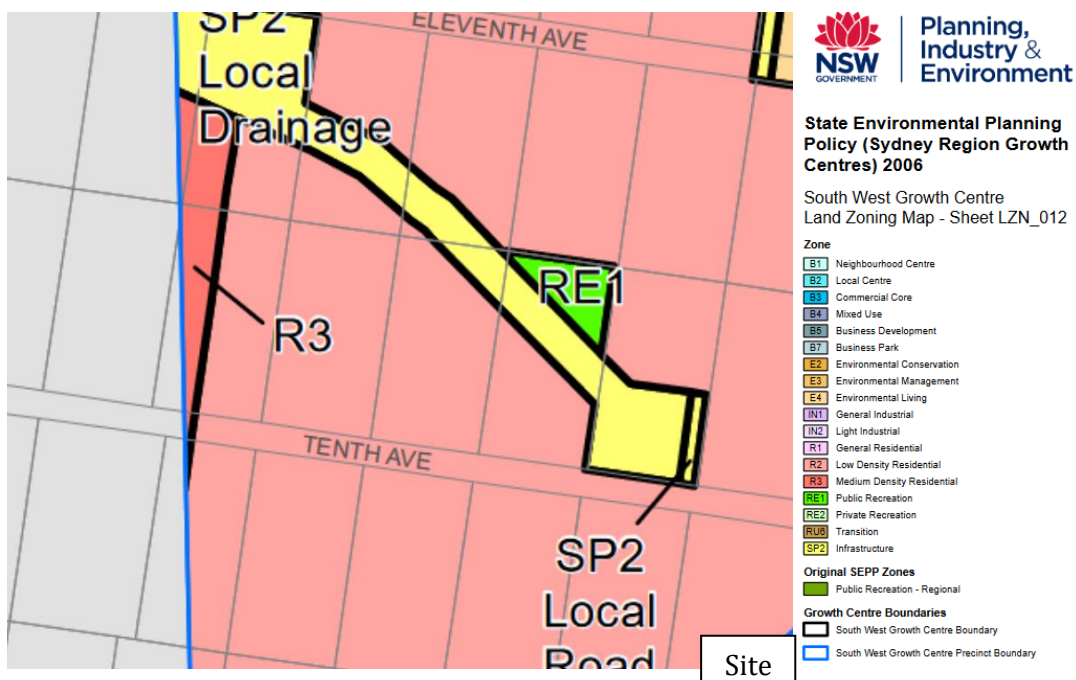


Figure 2 – Land Zoning Map (Source: NSW Legislation website)



Figure 3 – Photo of the site at the corner of Flood Avenue and Threlkald Street, including the substation on 3 Threlkald Avenue.



Figure 4 – Alternate view of the site (not all vacant land is part of the site) and recently/under constructed dwellings on Threlkald Avenue in the background.



Figure 5 – Under construction dwelling on 20 Flood Avenue (two lots to the northwest).



Figure 6 – View of recently/under constructed dwellings at 14 Flood Avenue (centre) and 4 Threlkald Street (right).

3. BACKGROUND/HISTORY

The development application was lodged on 17 April 2024.

An external planning consultant was appointed to assess the development application due to the Council conflict of interest.

A preliminary assessment of the application determined that a request for additional information letter was to be issued. The letter was issued on 5 June 2024 and requested the following additional information and/or amendments:

- Resolve visual privacy concerns introduced due to the exceedance of the standard first floor site coverage control and reduced side/rear setbacks proposed.
- Demonstrate that the first floor site coverage variation does not diminish the solar access to the principal private open space of both dwellings.
- Redesign the corner dwelling secondary street façade to incorporate additional design features per Section 4.2.2 of the DCP.
- Amend double garage dimensions to achieve the minimum stated in the DCP.
- Clarification on whether opaque glazing was being proposed for habitable rooms facing the street per the submitted window schedule.
- Amend and align the landscape plan to match the architectural plans.
- Consider amendments to improve the amenity of the dwellings, including relocating the driveway to Unit 1 to Threlkald Avenue to increase solar access to the living room, and improve cross-ventilation and natural light to a number of habitable rooms.

The applicant submitted amended plans on 6 August 2024.

Further assessment was undertaken, and concerns were raised in a second request for additional information on 6 September regarding the amenity of first floor habitable rooms reliant on minimally sized windows with 1.7m high sill heights, proposed as the means to resolve visual privacy.

A further response was received on 28 September 2024.

The application was referred to internal departments and externally to Endeavour Energy and support has been given subject to conditions.

The application has been assessed based on the information submitted to date and is recommended for approval subject to conditions.

4. DETAILS OF THE PROPOSAL

The development application seeks approval for the construction of a dual occupancy (detached) with landscaping and associated site works.

The two dwellings are hereafter referred to as Unit 1 (solely fronting Threlkald Street) and Unit 2 (corner dwelling).

The proposal seeks approval specifically for the following:

Construction of a two-storey dwelling on each lot comprising of:

Unit 1

- Ground Floor
 - Double garage accessed from Threlkald Avenue.
 - Living room adjacent to the front door.
 - Bathroom.
 - Open plan kitchen and dining area.
 - Pantry.
 - Laundry.
 - Private open space, partially paved for an alfresco.
- Level 1
 - Four (4) bedrooms.
 - Walk-in-robe and ensuite for the master bedroom.
 - Separate bathroom.
 - Retreat area.

Unit 2

- Ground Floor
 - Single car garage accessed from Threlkald Avenue.
 - Living room adjacent to the front door.
 - Bathroom.
 - Open plan kitchen and dining area.
 - Pantry.
 - Laundry.
 - Private open space, partially paved for an alfresco.
- Level 1
 - Five (5) bedrooms.
 - Walk-in-robe and ensuite for the master bedroom.
 - Separate bathroom

Both dwellings proposed typical fencing and gates for the locality (e.g. 1.8m high Colorbond to rear/side boundaries), rainwater tanks within the building setbacks, and new landscaping in trees, shrubs and lawn. A street tree is to be relocated to accommodate a new driveway crossover for Unit 2.

No subdivision has been sought.

Refer to the below plan extracts illustrating the design and footprint of the development.



Figure 7 – 3D Model (Source: Morfosis Architects).

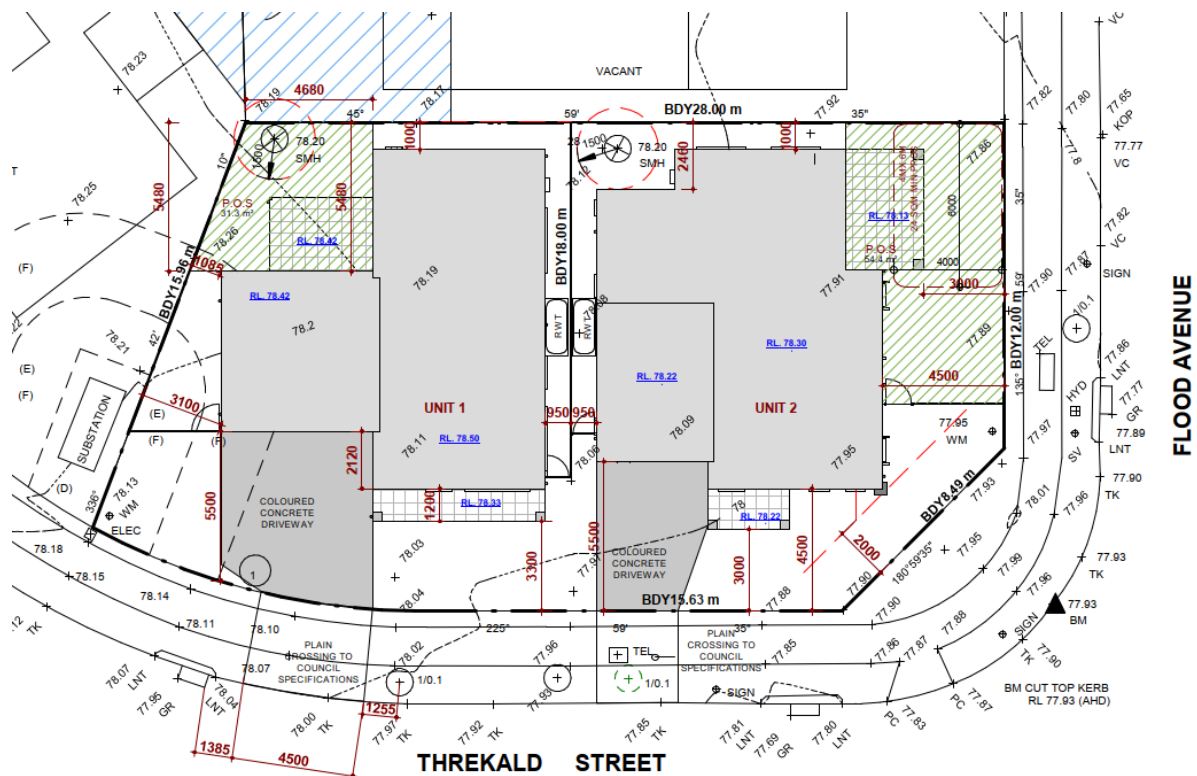


Figure 8 – Site Plan (Source: Morfosis Architects).

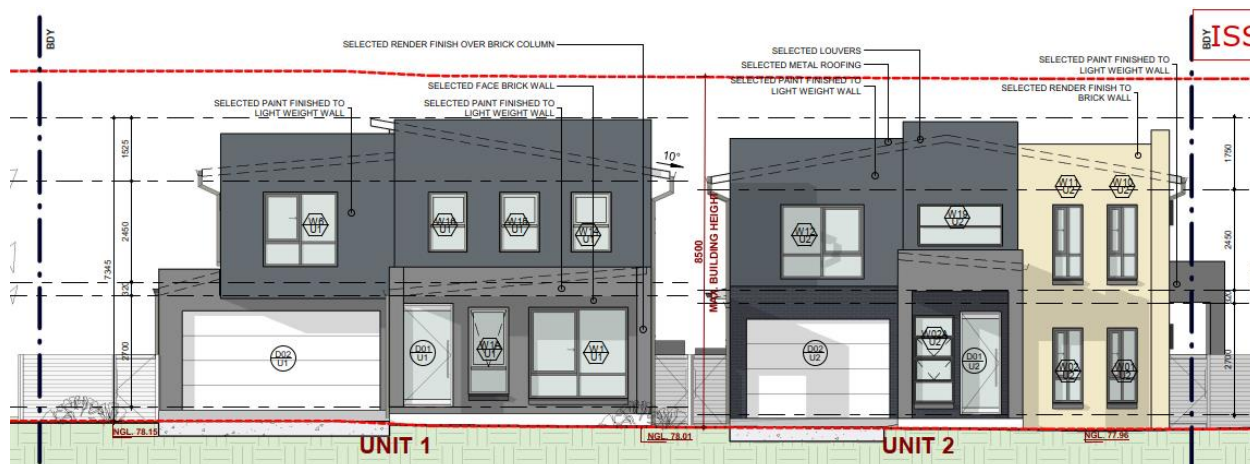


Figure 9 – Threlkald Street Elevation Source: Morfosis Architects).

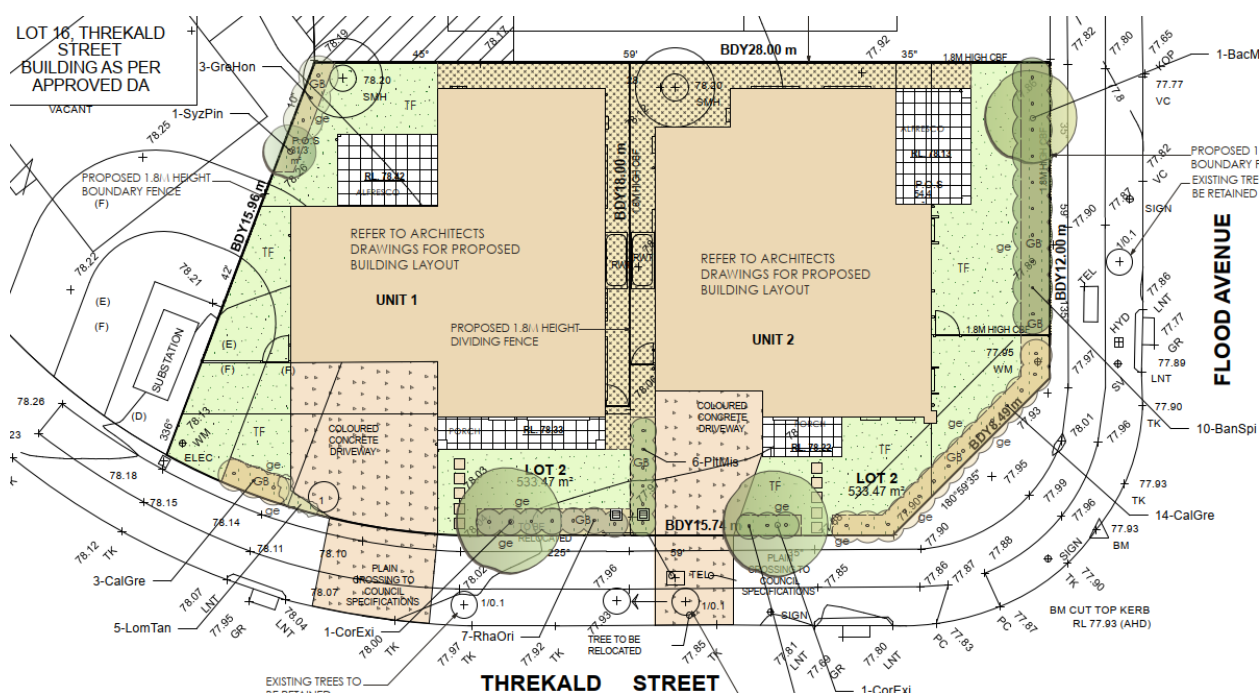


Figure 10 – Landscape Plan (Source: Greenland Design)

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Sustainable Buildings) 2022.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- State Environmental Planning Policy (Transport and Infrastructure) 2021.

- State Environmental Planning Policy (Precincts—Western Parkland City) 2021.
 - Appendix 4 Liverpool Growth Centres Precinct Plan
- Liverpool Local Environmental Plan (LLEP) 2008.
- Liverpool Growth Centres Precincts Development Control Plan (LGCP DCP) 2021.

Contributions Plans

- Liverpool Contributions Plan 2021 – Austral and Leppington North applies to all development pursuant to Section 7.11 of the EPA & Act.

6. ASSESSMENT

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

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

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

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

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	Contamination was addressed under the parent subdivision application DA-318/2020. The site was required to be remediated as part of the subdivision works, including the preparation of a validation report. It is unlikely and there is no evidence to suggest that contamination of the land has occurred since the completion of the remediation work.

(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	As above. The land is suitable for the proposed residential use.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of Chapter 4 of the SEPP (Resilience and Hazards) 2021. Council is satisfied the land is suitable for the proposed development.

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

In accordance with this policy, all new residential dwellings and those seeking alterations and additions as identified under this policy require a BASIX certificate that measures the Building Sustainability Index to ensure dwellings are designed to use less portable water and are responsible for fewer greenhouse gas emissions by setting energy and water reduction targets for houses and units.

A BASIX Certificate has been submitted for the proposed dwellings (Certificate No. 1741047M_02) which confirms compliance with the relevant targets. The BASIX Certificate will form part of the determination documents listed in the conditions of consent to ensure the development maintains compliance with the sustainable measures of the SEPP.

The proposal is satisfactory with regard to water and energy efficiency and thermal comfort.

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

(i) Chapter 2 Vegetation in Non-Rural Areas

The subject land is located within a non-rural area as specified under Clause 2.3. As such, the provision of Chapter 2 Vegetation in Non-Rural Areas of the SEPP (Biodiversity and Conservation) 2021 applies to the application. The aims of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and preserve the amenity of such areas through the preservation of trees and other vegetation.

The site currently contains no trees, and none are required to be removed on adjoining properties.

A juvenile street tree on Threlkald Street (visible in Figure 3) will need to be relocated to accommodate the proposed driveway for Unit 2. No concerns are raised under Chapter 2.

(ii) Chapter 6 Water Catchments

Chapter 6 Water Catchments applies to land within the Hawkesbury-Nepean Catchment and aims to maintain and improve water quality.

The application was referred to Council's Land Development Engineering section which reviewed the stormwater management and drainage associated with the proposal. Council Engineers were supportive of the proposed development subject to the imposition of conditions of consent. 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 Hawkesbury-Nepean Catchment.

(d) State Environmental Planning Policy (Transport and Infrastructure) 2022

(i) Chapter 2 Infrastructure

Section 2.48 of Chapter 2 applies to the development as development is to be carried out within an easement for electricity purposes. A substation is located adjacent to the site on 3 Threlkald Avenue with easements encroaching onto the site.

Under Section 2.48(2), the electricity supply authority is invited to comment on the application. The application was referred to Endeavour Energy in which they provided support for the development. Consequently, the proposal is acceptable.

(e) State Environmental Planning Policy (Precincts—Western Parkland City) 2021 – Appendix 4 Liverpool Growth Centres Precinct Plan

(i) Zoning

An extract of the zoning map was provided in Figure 2 of this report. As indicated, the site is zoned R2 Low Density Residential pursuant to Section 2.3 of the SEPP (Precincts – Western Parkland City) 2021 – Appendix 4 Liverpool Growth Centres Precinct Plan.

(ii) Permissibility

The proposed development is a dual occupancy (detached) which is defined as:

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

dual occupancy (detached) means 2 detached dwellings on one lot of land but does not include a secondary dwelling.

The proposal satisfies this definition. No subdivision has been sought.

Dual occupancies are listed as permissible with consent in the R2 Low Density Residential zone. The proposal is permissible.

(iii) Objectives of the zone

The objectives of the R2 Low Density Residential zone are:

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

The following comments are made to the objectives:

- The proposal for a dual occupancy will provide additional housing in a low density residential environment.
- The proposal does not include other land uses and does not preclude those from occurring on other nearby R2 zoned land.
- The proposed dwellings have provided suitable internal and external areas for residents to carry out active and passive recreational activities and work-from-home opportunities.
- This application does not propose educational, recreational, community, or religious activities.

The proposed development is deemed to have satisfied the objectives of the zone.

(iv) Principal Development Standards

Appendix 4 Liverpool Growth Centres Precinct Plan of SEPP (Precincts—Western Parkland City) 2021 contains a number of principal development standards which are relevant to the proposal.

An assessment of these standards and additional controls occurs in the table below.

Development Provision	Requirement	Proposed	Compliance
Part 4 Principal Development Standards			
4.1 Minimum Subdivision Lot Size	No lot size shown on the Lot Size Map.	No subdivision is sought.	N/A
4.1AB Minimum Lot Sizes for Residential Development in Zone R2 Low Density Residential and Zone R3 Medium	Minimum lot size for a dual occupancy is: 500m ² if the dwelling density (per hectare) in relation to the land	The dwelling density for the site is identified on the relevant map as 15dw/ha. The site area is 533.5m ² .	Complies

Development Provision	Requirement	Proposed	Compliance
Density Residential	is 15 or 20.		
4.1B Residential Density	15 dw/ha	The proposal will provide additional dwelling density, which was already compliant under the parent subdivision DA-318/2020.	Complies
4.3 Height of Buildings	9m	Unit 1: 7.35m Unit 2: 7.1m	Complies
4.4 Floor Space Ratio	No FSR mapped.	N/A	N/A
Part 5 Miscellaneous Provisions			
5.9 Preservation of Trees or Vegetation	Consent is required to remove trees.	A street tree is proposed to be relocated to enable the construction of the driveway for Unit 2. The street tree is a recently planted specimen as part of the parent subdivision. It is not anticipated that there are any difficulties in relocating the tree.	Complies
Part 6 Additional Local Provisions			
6.1 Public Utility Infrastructure	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.	Adequate arrangements were made as part of the parent subdivision. The site has available connections for water, electricity and sewer. Standard conditions are to be imposed to require liaising with the relevant authority and ensure connection to the existing infrastructure.	Complies.

As demonstrated in the above compliance table, the proposed development is consistent with the provisions of Appendix 4 of SEPP (Precincts Western Parkland City) 2021.

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 Growth Centre Precincts Development Control Plan (LGCP DCP) 2021

The application has been assessed against the relevant controls of the LGCP DCP 2021. In particular, the following sections have been considered:

- Part 2: Precinct Planning Outcomes
- Part 3: Neighbourhood and Subdivision Design; and
- Part 4: Development in Residential Zones

The development is found to be generally consistent with the provisions of the LGCP DCP 2021 as detailed within the tables in Attachment 2. Noncompliances are detailed below, and further comment is provided following the tables where required.

LGCP DCP 2021 – Part 4: Development in the Residential Zones			
Control	Requirement	Proposed	Compliance
4.2.1 – Table 4-5 – Summary of key controls for lots with frontage width ≥ 15m for front accessed dwellings			
Rear Setback (min)	GF: 4m FF: 6m	Specific dual occupancy permit encroachments into rear setbacks. Refer to discussion below the table.	Acceptable on Merit
Site Coverage	Two storey dwellings: GF: 50% FF: 30%	GF: 230.1m ² / 43.1%. FF: 216.3m ² / 40.5%. The first floor site coverage may be carried under later dual occupancy controls. Refer to discussion below the table.	Complies Acceptable on Merit.
Garages and Car Parking	3 bedroom or more dwellings: 2 car space Maximum garage door width: 3m (single garage) 6m (double garage)	Unit 1: Double garage proposed with a door width of 5.4m. Unit 2: Single car garage with a door width of 3.5m. The 500mm variation for Unit 2's single car garage is considered acceptable. The street elevation (see Figure 9) illustrates a façade design	Complies Acceptable on Merit

LGCP DCP 2021 – Part 4: Development in the Residential Zones			
Control	Requirement	Proposed	Compliance
		that is neither dominated by the garage door as a proportion of the façade nor as a material and colour that diminish the streetscape presentation.	
4.2.4 Side and Rear Setbacks	All development is to be consistent with the side and rear setback controls in the relevant Tables Table 4-2 to Table 4-6 and principles in Figure 4-8.	As mentioned above, the side setbacks are compliant while the rear setbacks rely on a specific dual occupancy control that permits variations on corner lots. Refer to discussion below this table.	Acceptable on Merit
4.2.5 Dwelling Height, Massing and Siting	All development is to comply with the maximum site coverage as indicated in the relevant Tables Table 4-2 to Table 4-6.	Ground floor is compliant per comments earlier in this table. The first floor site coverage may be carried under later dual occupancy controls. Refer to discussion below the table.	Acceptable on Merit
4.2.8 Garages, Storage, Access Parking, Site and	For front loaded garages: The external wall, which includes the garage door, associated with a dwelling is to have a maximum width of: • 3m for a single car space (including those in a tandem arrangement), or • 6m for a two car wide space.	As discussed earlier in this report, the garage door for Unit 2 is 3.5m and varies by 500mm. However, the broader architectural design and the garage door itself integrate well into the streetscape and the variation does not result in a detrimental outcome for activation, casual surveillance or dominance of garaging on the site. Unit 1 is compliant.	Acceptable on Merit
4.3 Additional controls for certain dwelling types			
4.3.3 Secondary Dwellings, Studios and Dual Occupancies	Dual Occupancies The maximum site coverage control for second storeys in the relevant Tables Table 4-2 to Table 4-6 may be exceeded by the combined 2nd	The development seeks to vary the combined first floor site coverage. Refer to comments below this table.	Acceptable on Merit

LGCP DCP 2021 – Part 4: Development in the Residential Zones			
Control	Requirement	Proposed	Compliance
	storey coverage of both dwellings in a dual occupancy, providing that: • The privacy of the principal dwelling and dwellings on adjoining land is not compromised; and • Solar access requirements for the principal private open space can be met for the principal dwelling and dwellings on adjoining lots. For dual occupancies on corner lots, the rear setback can be varied to be consistent with the side setbacks in section 4.2.4 provided the minimum private open space and solar access requirements to the proposed and adjoining properties are met.	The rear setback is varied to align with side setbacks per this control. Refer to discussion below this table.	Acceptable on Merit

4.3.3 – Controls – Dual Occupancies – 2. Site Coverage

Control 2 of Section 4.3.3 – Controls – Dual Occupancies states:

The maximum site coverage control for second storeys in the relevant Tables Table 4-2 to Table 4-6 may be exceeded by the combined 2nd storey coverage of both dwellings in a dual occupancy, providing that:

- *The privacy of the principal dwelling and dwellings on adjoining land is not compromised; and*
- *Solar access requirements for the principal private open space can be met for the principal dwelling and dwellings on adjoining lots.*

The proposed first floor site coverage is 216.3m², or 40.5%, exceeding the 30% (160m²) permitted by Table 4-5 by 56.3m². Control 2 is relied upon.

The two tests mentioned in the control are whether privacy has been addressed and whether solar access for the principal private open space (PPOS) can be met for the site and adjoining properties. These are discussed in turn.

The proposal has managed visual privacy through the application of measures under control 2 of Section 4.2.9 Visual and acoustic privacy of the LGCP DCP 2021. Specifically, the proposal has adopted opaque glazing to a sill height of 1.7m where glazing is proposed below that height for the windows facing 18 Flood Avenue, the northwestern neighbour.

There is no visual privacy concern raised for the two habitable room first floor windows facing the western neighbour in view of the sizeable and or complaint setbacks and that the outlook is to a side elevation or front yard rather than a PPOS.

The extension of the site coverage above the standard 30% control has in part resulted in an encroachment into the rear setback, leading to need to introduce the visual privacy measures. The application of these visual privacy measures is a reasonable outcome for the development that is permitted by the controls under the LGCP DCP 2021. Accordingly, visual privacy has been satisfactorily addressed per the applicable controls.

There are no acoustic privacy concerns as the rooms are bedrooms in a low density context. The acoustic impacts are negligible.

The second test is solar access. Refer to the shadow diagrams below.

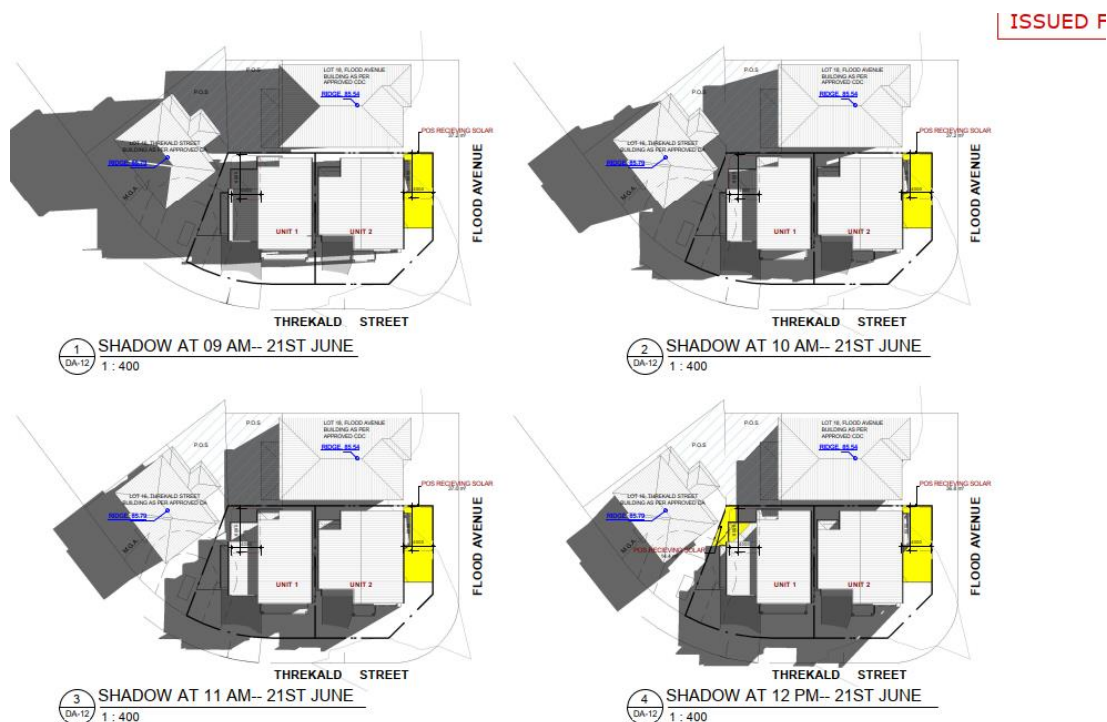


Figure 11 – Shadow Diagrams 9am to 12pm (Source: Morfosis Architects)

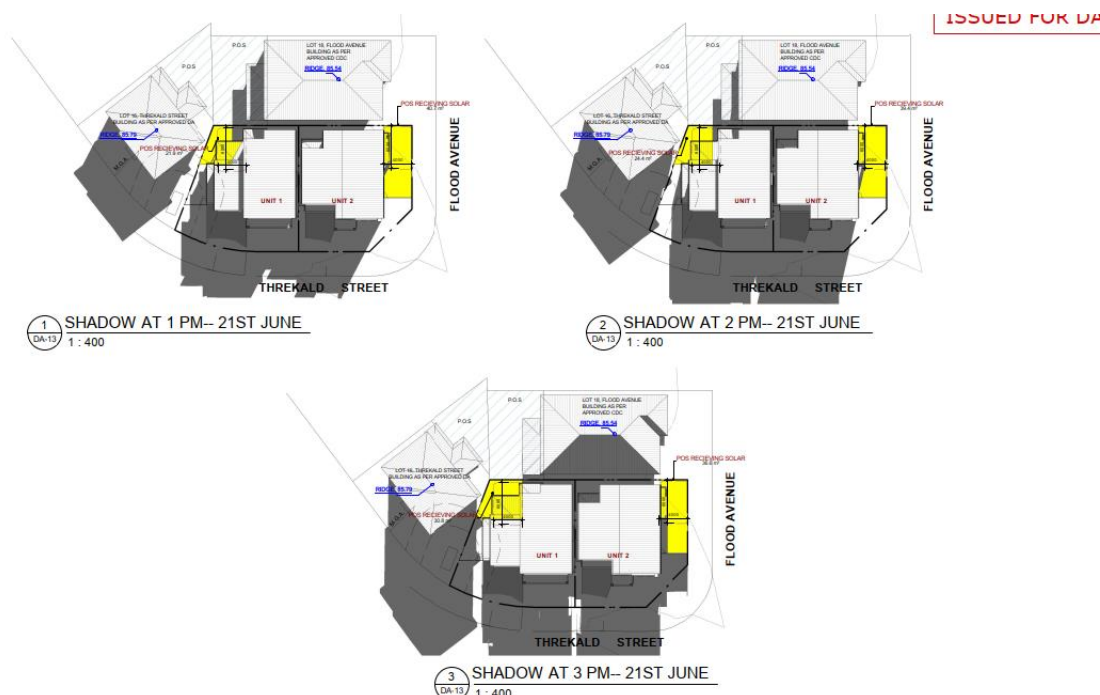


Figure 12 – Shadow Diagrams 1pm to 3pm (Source: Morfosis Architects)

The shadow diagrams have assessed the available solar access to the two proposed private open spaces. The Unit 1 PPOS achieves 3 hours of solar access between 12pm and 3pm, whereas Unit 2 receives solar access throughout the day.

Furthermore, it is noted that due to site orientation, there is no impact borne from the proposal on the private open space of adjoining properties.

Given the above comments, both tests required by the control to allow for an increase in site coverage for a dual occupancy have been met. There are no notable impacts arising from the site coverage encroachment. Therefore, the application of this control is supported.

4.3.3 – Controls – Dual Occupancies – 9. Rear Setbacks

Control 9 of Section 4.3.3 – Controls – Dual Occupancies states:

For dual occupancies on corner lots, the rear setback can be varied to be consistent with the side setbacks in section 4.2.4 provided the minimum private open space and solar access requirements to the proposed and adjoining properties are met.

The rear setback controls applicable dual occupancies on the subject site are 4m on ground floor and 6m on the first floor per Table 4-5.

The site is a corner lot. In determining what is the primary front setback, it is noted this term has not been defined in the LGCP DCP 2021 or SEPP (Precincts—Western Parkland City) 2021. The standard interpretation is for the narrower of the two frontages to be deemed the primary street frontage. For the site, this would be Flood Avenue as it has a frontage of 12m whereas Threkald Street is 28.16m.

Atypical of a corner lot dual occupancy, both dwellings are fully oriented to Threlkald Street in their pedestrian and vehicle entry points. In the absence of a definition, and on a merit basis, the primary street frontage is deemed as Threlkald Street. Consequently, the rear setback is to the northwest, 18 Flood Avenue.

The proposed rear setbacks are as follows:

- Unit 1 Ground Floor: 1m and 5.48m.
- Unit 1: First Floor: 1m, 2.3m and 5.32m.
- Unit 2: Ground Floor: 1m and 2.45m.
- Unit 2: First Floor 1.13m and 3.68m.

Variations are proposed in accordance with the control 9 to rely on the side setback controls. As assessed earlier in the report, treating the western setback to 3 Threlkald Street as Side B enables compliance with the side setback controls. All setbacks exceed 900mm. Compliance is achieved.

The tests under control 9 are whether the development has achieved the minimum private open space and solar access requirements. These are discussed in turn.

Both dwellings are required under Table 4-5 to provide a PPOS of 24m² with a minimum dimension of 4m. Both PPOS this minimum, with Unit 1 providing a PPOS of 31.3m² where a 4m dimension is achieved and Unit 2 providing 54.4m².

The second test is identical to the solar access test used in the previous discussion to vary the site coverage. Reference should be made to the comments, however, in summary, the proposal achieves 3 hours of solar access to both PPOS and, due to the orientation, has no impact on adjoining property solar access.

While not expressly mentioned by the planning control, the encroachment of the design into setbacks has been considered from the visual privacy perspective. The habitable room windows within the rear setback that face 16 Flood Avenue are proposed with opaque glazing to a sill height of 1.7m as permitted by control 2 of Section 4.2.9 Visual and acoustic privacy of the LGCP DCP 2021. No visual privacy concerns have arisen from the variation.

In the circumstances of the case, the use of control 9 to encroach into the rear setbacks has not created any unreasonable or notable impacts. The development can be supported.

For completion, it is noted that if the primary street frontage is taken to be Flood Avenue and the rear setback is the boundary with 3 Threlkald Street, setback encroachments are proposed but similarly have no visual privacy or overshadowing implications. Further, the specific assessment required by the control to allow the encroachment (e.g. PPOS size and solar access) have been met.

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 EP&A Regulation requires the consent authority to consider the provisions of the BCA and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

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

Natural and Built Environment

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

The proposed development is unlikely to create any adverse impacts on the surrounding built environment. The proposed development is of an appropriate scale and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole. The proposal will provide a dual occupancy which will not result in an overdevelopment of the site and is consistent with the desired future character of the locality.

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

Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality through the construction 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
Development Engineer	Approval subject to conditions of consent

(b) External Referrals

The following comments have been received from external Agencies:

DEPARTMENT	COMMENTS
Endeavour Energy	Approval subject to conditions of consent

(c) Community Consultation

The development application was required to be notified in accordance with the Liverpool Community Participation Plan 2022. The development application was notified between 22 April and 8 May 2024. No submissions were received.

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

The proposed development is considered to be in the public interest.

7. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contributions is applicable to the proposed development in accordance with Liverpool Contributions Plan 2021 – Austral and Leppington North and will be imposed as a condition of consent of any approval for the proposed development. The development attracts a total contribution of **\$51,304**.

8. CONCLUSION

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

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

9. RECOMMENDATION

That Development Application DA No DA-170/2024 be **approved subject to conditions of consent**.

ATTACHMENTS

1. Conditions of Consent (Under separate cover)
2. Development Control Plan Assessment Tables (Under separate cover)
3. Architectural Plans (Under separate cover)
4. Landscape Plan (Under separate cover)
5. Floor Plans (Under separate cover)
6. Stormwater Plans (Under separate cover)
7. Schedule of colours, materials and finishes (Under separate cover)
8. BASIX Certificate (Under separate cover)
9. NatHERS Certificate - (Unit 1) (Under separate cover)
10. NatHERS Certificate (Unit 2) (Under separate cover)
11. Bushfire Report (Under separate cover)