

LOCAL PLANNING PANEL AGENDA

30 March 2026

MS TEAMS

LIVERPOOL
CITY
COUNCIL



MATTERS FOR THE LOCAL PLANNING PANEL'S DETERMINATION

Monday, 30 March 2026

ONLINE VIA MS TEAMS

Commencing at 2:00 PM

Microsoft Teams meeting

Join: <https://teams.microsoft.com/meet/42223373496607?p=AXQGgV1luWQRdlEutJ>

Meeting ID: 422 233 734 966 07

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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 26th March 2026.

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://www.liverpoolcitycouncil.nsw.gov.au/liverpool-local-planning-panel)

ORDER OF BUSINESS

ITEM No.	SUBJECT	PAGE No.
1	<p>DEVELOPMENT APPLICATION DA-435/2025</p> <p>DEMOLITION OF EXISTING STRUCTURES AND STAGED SUBDIVISION OF TWO EXISTING ALLOTMENTS INTO A TORRENS TITLE SUBDIVISION OF 102 RESIDENTIAL LOTS IN TWO (2) STAGES AND CONSTRUCTION OF ROADS AND ASSOCIATED CIVIL WORKS, INCLUDING DRAINAGE DISCHARGE OVER COUNCIL OWNED LAND AND INTO A CREEK.</p> <p>THE STAGING IS AS FOLLOWS: STAGE 1 - SUBDIVISION INTO 80 TORRENS TITLE LOTS, BEING 79 RESIDENTIAL LOTS AND ONE RESIDUE LOT (LOT 80), CREATION OF ROADS AND DRAINAGE, CIVIL WORKS, AND DEMOLITION OF EXISTING DWELLINGS AND OUTBUILDINGS. STAGE 2 - SUBDIVISION OF RESIDUE LOT 80 (FROM STAGE 1) INTO 23 TORRENS TITLE RESIDENTIAL LOTS</p> <p>THE PROPOSAL IS IDENTIFIED AS INTEGRATED DEVELOPMENT REQUIRING APPROVAL FROM NSW RURAL FIRE SERVICES UNDER THE RURAL FIRES ACT 1997.</p> <p>THE APPLICATION IS NOMINATED INTEGRATED DEVELOPMENT REQUIRING APPROVAL FROM THE DPE - WATER UNDER THE WATER MANAGEMENT ACT 2000.</p> <p>LOT 20, SECTION 1, DEPOSITED PLAN 2756, LOT 2 DEPOSITED PLAN 1305255 & LOT 1 DEPOSITED PLAN 1305225 – 10 KELLY STREET</p> <p>4, 6 & 10 KELLY STREET, AUSTRAL</p>	5 - 66

ITEM No.	SUBJECT	PAGE No.
2	<p>DEVELOPMENT APPLICATION DA-866/2022/B</p> <p>MODIFICATION TO DEVELOPMENT CONSENT DA-866/2022. UNDER SECTION 4.55 (2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979, TO:</p> <ol style="list-style-type: none"> 1. SEEK CONSENT FOR FUTURE USE OF ALL EXISTING UNAUTHORISED BUILDING WORKS THAT DEVIATE FROM THE EXISTING DEVELOPMENT CONSENT DA-866/2022, AND 2. NEW ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING <p>LOT 102 DP 1007447</p> <p>50 ROSEWOOD AVENUE, PRESTONS</p>	67 - 160

Item Number:	1
Application Number:	Application No. DA-435/2025
Proposed Development:	<p>Demolition of existing structures and staged subdivision of two existing allotments into a Torrens Title Subdivision of 102 residential lots in two (2) stages and construction of roads and associated civil works, including drainage discharge over Council owned land and into a creek.</p> <p>The staging is as follows: Stage 1 - Subdivision into 80 Torrens title lots, being 79 residential lots and one residue lot (Lot 80), creation of roads and drainage, civil works, and demolition of existing dwellings and outbuildings. Stage 2 - Subdivision of residue lot 80 (from Stage 1) into 23 Torrens Title residential lots</p> <p>The proposal is identified as Integrated Development requiring approval from NSW Rural Fire Services under the Rural Fires Act 1997.</p> <p>The application is Nominated Integrated Development requiring approval from the DPE - Water under the Water Management Act 2000.</p>
Property Address	4, 6 & 10 Kelly Street, Austral
Legal Description:	<p>Lot 1 Deposited Plan 1305225 – 10 Kelly Street</p> <p>Lot 2 Deposited Plan 1305255 – 6 Kelly Street</p> <p>Lot 20, Section 1, Deposited Plan 2756 – 4 Kelly Street</p>
Applicant:	R.S. Canceri Pty Limited
Cost of Works:	\$5,586,127.00
Recommendation:	Refusal
Assessing Officer:	Darren Laybutt – GAT & Associates

1 EXECUTIVE SUMMARY

Council has received a Development Application (DA No. DA-435/2025) seeking consent for the demolition of existing structures and staged subdivision of two existing allotments into a Torrens Title Subdivision of 102 residential lots in two (2) stages and construction of roads and associated civil works, including drainage discharge over Council owned land and into a creek at 4, 6 and 10 Kelly Street, Austral.

The staging is as follows:

- Stage 1 - Subdivision into 80 Torrens title lots being 79 residential lots and one residue lot (Lot 80), creation of roads and drainage, civil works and demolition of existing dwellings and outbuildings.
- Stage 2 - Subdivision of residue lot 80 (from Stage 1) into 23 Torrens Title residential lots.

The proposal is identified as Integrated Development requiring approval from NSW Rural Fire Services under the Rural Fires Act 1997.

The application is Nominated Integrated Development requiring approval from the DPE-Water under the Water Management Act 2000.

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:

- (a) The Council*

Liverpool City Council is the landowner of 4 Kelly Street, Austral, on which the proposal seeks to undertake drainage-related works and proposes to discharge stormwater through the property and into Bonds Creek.

The site is zoned R2 Low Density Residential, E2 Environmental Conservation, and E4 Environmental Living pursuant to Appendix 4 Liverpool Growth Centres Precinct Plan in State Environmental Planning Policy (Precincts—Western Parkland City) 2021. The proposal is permissible with consent.

The application was notified in accordance with the Liverpool Community Participation Plan 2025 between 22 October and 19 November 2025. No submissions were received.

An additional information request dated 9 December 2025 was issued to the applicant, raising a number of internal referral and planning questions and issues. A preliminary response to the request was received on 19 December 2025. A Class 1 Appeal to the Land and Environment Court commenced on 24 December 2025.

As no formal lodgement of additional information was received in response to the matters raised in the request for additional information, pursuant to Section 36(5)(a) of the Environmental Planning and Assessment Regulation 2021, the application is determined based on the originally submitted documents.

The key issues of the application relate to:

- **Contamination:** A Detailed Site Investigation (DSI) was submitted for 6 and 10 Kelly Street and 4 Kelly Street. However, Section 4.6(2) of State Environmental Planning Policy (Resilience and Hazards) 2021 states that the consent authority must consider a Preliminary Site Investigation (PSI). As the DSI did not contain a PSI and a separate PSI was not submitted, Section 4.6(2) is not properly addressed. Consequently, the application cannot be supported.
- **Ecology:** The site contains Existing Native Vegetation, and the eastern part of the site is not biodiversity certified land. Due to the works proposed within the uncertified land, an ecological assessment was necessary. The Biodiversity Development Assessment Report submitted with the application was not submitted within 14 days of its certification (as required by Section 6.15 of the Biodiversity Conservation Act 2016), referenced an outdated civil design which omitted pipes running through the uncertified land, and additional information was found to be required by Council's Biodiversity officer, including a Vegetation Management Plan. In the absence of a complete assessment of the ecological issues and satisfaction of relevant sections of the Act, the application is not supported.
- **Endeavour Energy/drainage conflict:** Endeavour Energy were referred the application as a transmission easement runs through the eastern side of the property. A compensatory flood storage basin is proposed within the easement. Endeavour Energy objected to the basin as it appears to conflict with their plans to duplicate the electricity infrastructure, among other reasons. Resolution of the potential conflict between Endeavour Energy's infrastructure and the drainage works is necessary before determination.
- **Earthworks:** It is proposed to fill the land up to (approximately) 2.5m within the R2 Low Density Residential zoned land. It has not been clearly established that the fill is necessary to deal with flooding or drainage matters. Given that the proposed lots fronting Kelly Street will have slopes of up 1.2m-1.8m, the character of the area will be transformed, and future dwellings may be unnecessarily constrained by a topography issue. Further justification is deemed required to establish the fill as strictly necessary.

- Insufficient information: Due to no response received to the request for additional information, the application generally has inadequate information to fully assess the development and all required matters under Section 4.15 of the Environmental Planning and Assessment Act 1979. Consequently, the application is recommended for refusal.

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

2 SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site consists of two (2) rectangular allotments of land known as 6 and 10 Kelly Street, Austral, and are respectively legally defined as Lots 2 and 1 in Deposited Plan 1305225. The land is located on the northeastern corner of Kelly Street and Tenth Avenue. Refer to Figure 1.

Additional works are also proposed on a lot to the northeast of the site commonly known as 4 Kelly Street and legally defined as Lot 20, Section 1, Deposited Plan 2756. This land is owned by Liverpool City Council.

The site area is approximately 6.152ha, with a frontage of 183.525m to Kelly Street and secondary street frontage of 335.43m to Tenth Avenue.

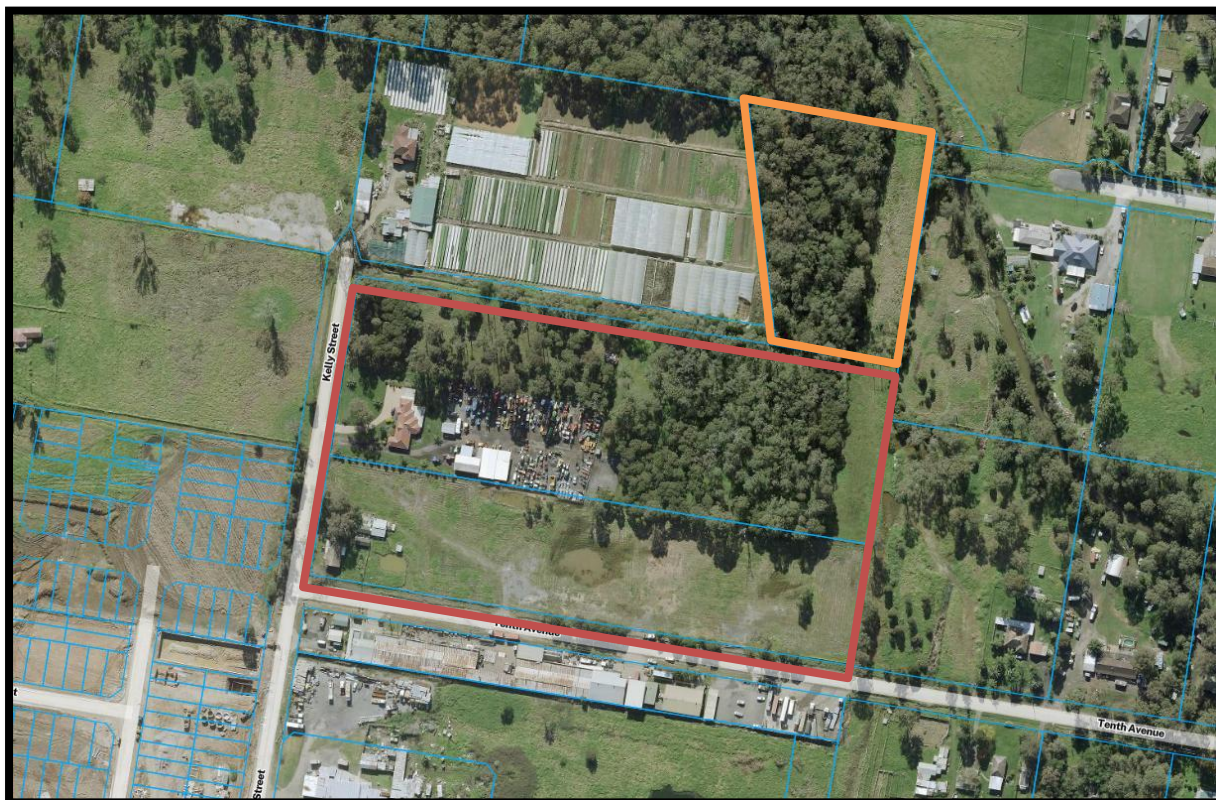


Figure 1: Aerial view of the site, with the site bounded in orange and Council/drainage land in green (Source: SDT Explorer)

The existing improvements include:

- 6 Kelly Street: A single-storey dwelling with several outbuildings and rural industry-related storage. A significant stand of trees is also present on the northern and eastern side of the property.
- 10 Kelly Street: Largely vacant with minimal vegetation. It is noted a dwelling house and associated outbuildings were demolished on this site in 2022.

A transmission easement approximately 30m wide runs north-south on the eastern end of the site.

The land slopes toward the northeast with a level difference of approximately 1m along the northern and southern boundaries, and 2m from southwest to northeast (RL 62.92 to RL 60.67).

The land is identified as flood and bushfire prone land, and is biodiversity certified in the western portion and uncertified in the east.

2.2 The locality

The subject site is located on the corner of Kelly Street and Tenth Avenue, with land to the west and southwest already developed or currently under development for low-density residential uses as part of the South West Growth Centre. The majority of new dwellings are two storeys, with some single-storey.

Remnant rural residential or industrial purposes remain along Kelly Street to the north of the site, along Tenth Avenue, and to the eastern side of Kelly Street to the south.

The property is situated approximately 1.3km west of the Austral Post Office and Austral Public School, 900m from Craik Park, and 750m north of the future / under construction Austral Plaza Shopping Centre. The locality of the site is demonstrated in Figure 2.

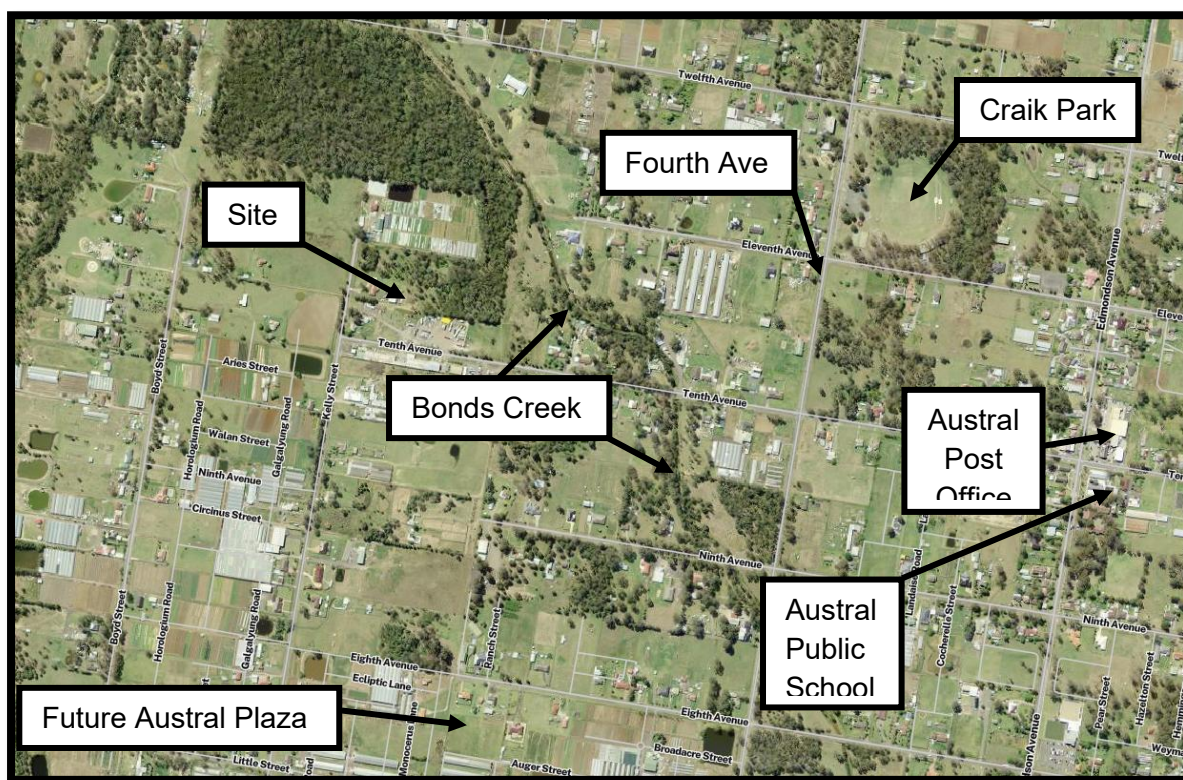


Figure 2: Locality Aerial (Source: SDT Explorer)

2.3 Photos of the Site and Surroundings



Figure 3: View of the site from the southeastern corner on Tenth Avenue



Figure 4: View north of the transmission easement from the southeastern frontage on Tenth Avenue



Figure 5: View west along Tenth Avenue, including industrial use south of the site to the left of image



Figure 6: View toward the site and existing structures and cranes at from Tenth Avenue



Figure 7: View of 10 Kelly Street from the corner of Kelly Street and Tenth Avenue



Figure 8: View of Kelly Street north, with the site (and trees on the site) to the right of image



Figure 9: View of the existing dwelling and outbuildings on 6 Kelly Street



Figure 10: View northward of Kelly Street in front of the site



Figure 11: View of the drainage channel running along the northern extent of the site



Figure 12: View toward the under construction subdivision to the west of the site on Kelly Street and toward developed land at (and west and south) of the intersection of Kelly and Tenth

3 BACKGROUND/HISTORY

- There is no application history on Council's tracking system for 4 or 6 Kelly Street.
- A Pre-Development Application (Pre-DA) Meeting was held on 29 July 2020 for a subdivision application solely on 10 Kelly Street, Austral.
- The subject development application was submitted on 14 October 2025.
- Internal and external referrals were initiated following acceptance of the application.
- The application was notified from 22 October to 19 November 2025.
- A request for additional information was issued on 9 December 2025.
- A Class 1 appeal commenced on 24 December 2025.

4 DETAILS OF THE PROPOSAL

The development application was submitted seeking consent for the demolition of existing structures and staged subdivision of two existing allotments into a Torrens Title Subdivision of 102 residential lots in two (2) stages and construction of roads and associated civil works, including drainage discharge over Council owned land and into a creek at 4, 6 and 10 Kelly Street, Austral.

The subdivision works occur on 6 and 10 Kelly Street, with drainage works only on 4 Kelly Street.

The staging of the application is stated as:

- Stage 1 - Subdivision into 80 Torrens title lots being 79 residential lots and one residue lot (Lot 80), creation of roads and drainage, civil works and demolition of existing dwellings and outbuildings.
- Stage 2 - Subdivision of residue lot 80 (from Stage 1) into 23 Torrens Title residential lots

A more detailed description of the works is:

- The existing structures are to be demolished.
- All trees in the biodiversity certified land are to be removed.
- Stage 1 works:
 - Earthworks, primarily fill of up to approximately 2.5m.
 - Road construction:
 - Construction of 3 new roads (Apus Street, Sculptor Crescent and Deneb Crescent) with temporary connection from Sculptor Crescent to Tenth Avenue
 - Half-width reconstruction of Kelly Street.

- Construction of drainage and other infrastructure, including a compensatory flood storage and flocculation basin in the transmission easement and on Proposed Lots 76-78, drainage pipe along the northern boundary, tailout drain through 4 Kelly Street to discharge into Bonds Creek.
- Subdivision into 79 residential lots and one (1) residual lot, with:
 - 73 x R2 Low Density Residential zoned lots between 300.2m² and 555.9m².
 - 6 x E2 Environmental Conservation and E4 Environmental Living zoned land between 2,501m² and 3,981m².
- Stage 2 works:
 - Earthworks.
 - Road construction:
 - Half-width reconstruction of Tenth Avenue and at the intersection of Kelly Street and Tenth Avenue.
 - Complete connection between Sculptor Crescent and Tenth Avenue.
 - Subdivision of the residual lot into 23 residential lots, with:
 - 22 x R2 Low Density Residential zoned lots between 300.1m² and 397.6m².
 - 1 x E2 Environmental Conservation and E4 Environmental Living of 2,514m².

The proposed lots are generally rectangular except on corner sites and those adjoining Sculptor Crescent due to the curved road design from the Indicative Layout Plan.

Refer to the subdivision and engineering plans in Figures 13 to 16.

4.1

Key Development Plans

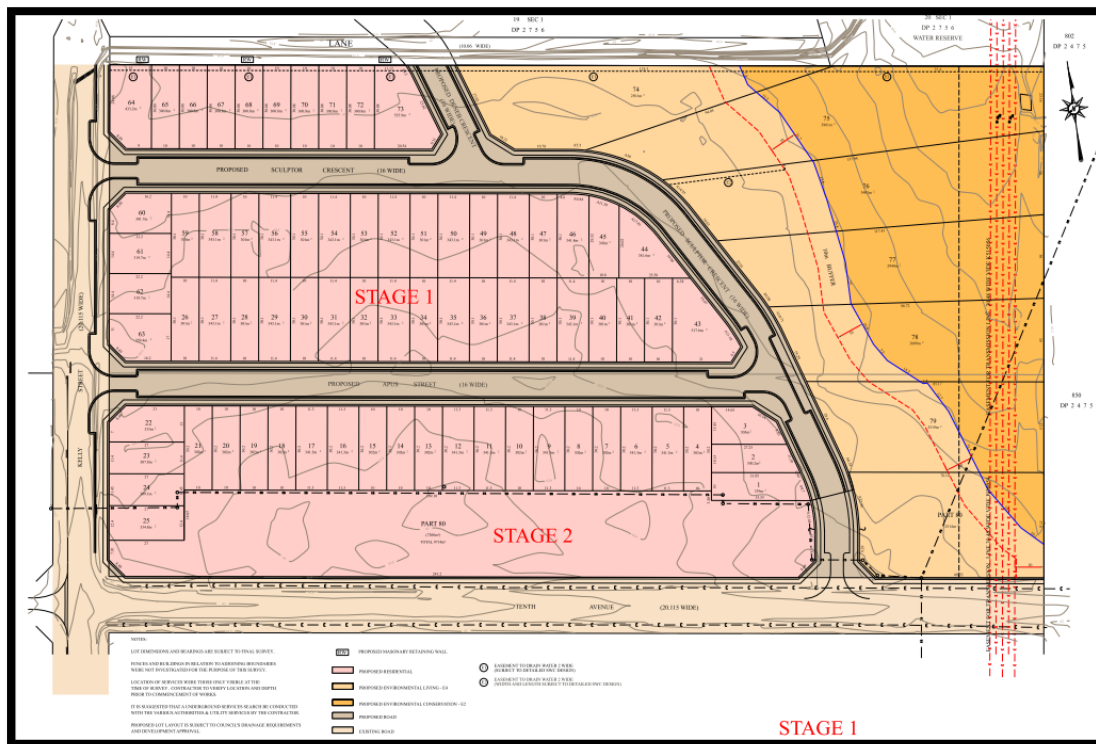


Figure 13: Stage 1 Subdivision Plan (Source: R. S. Canceri)

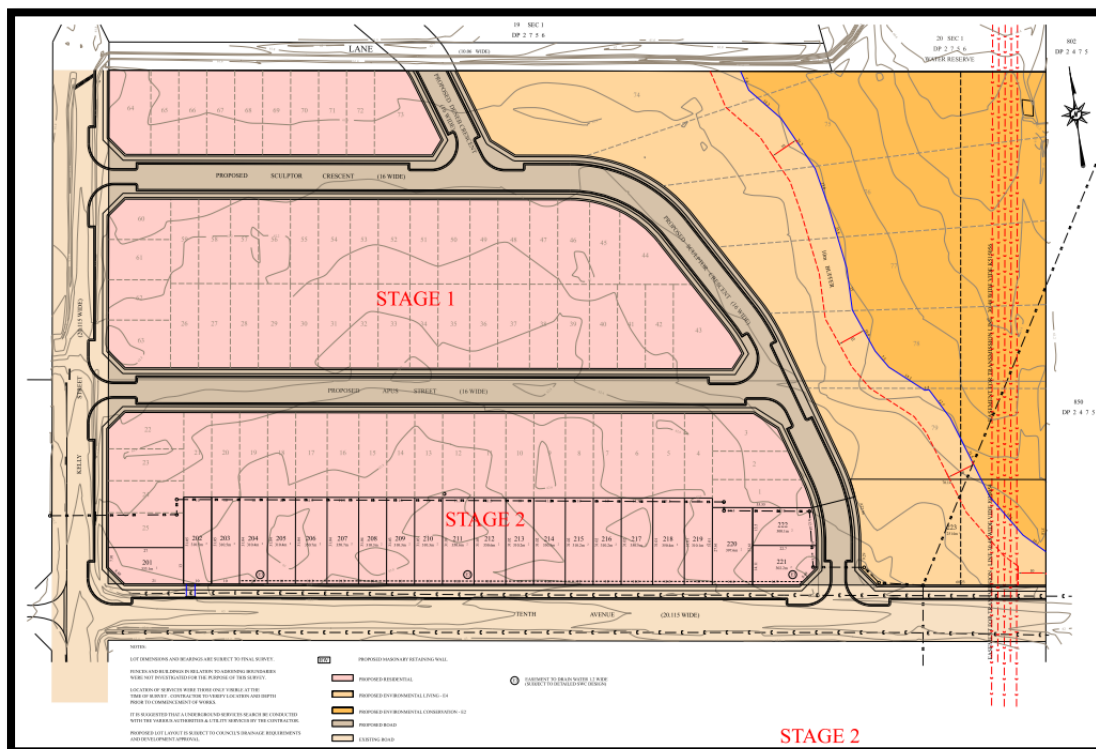


Figure 14: Stage 2 Subdivision Plan (Source: R. S. Canceri)

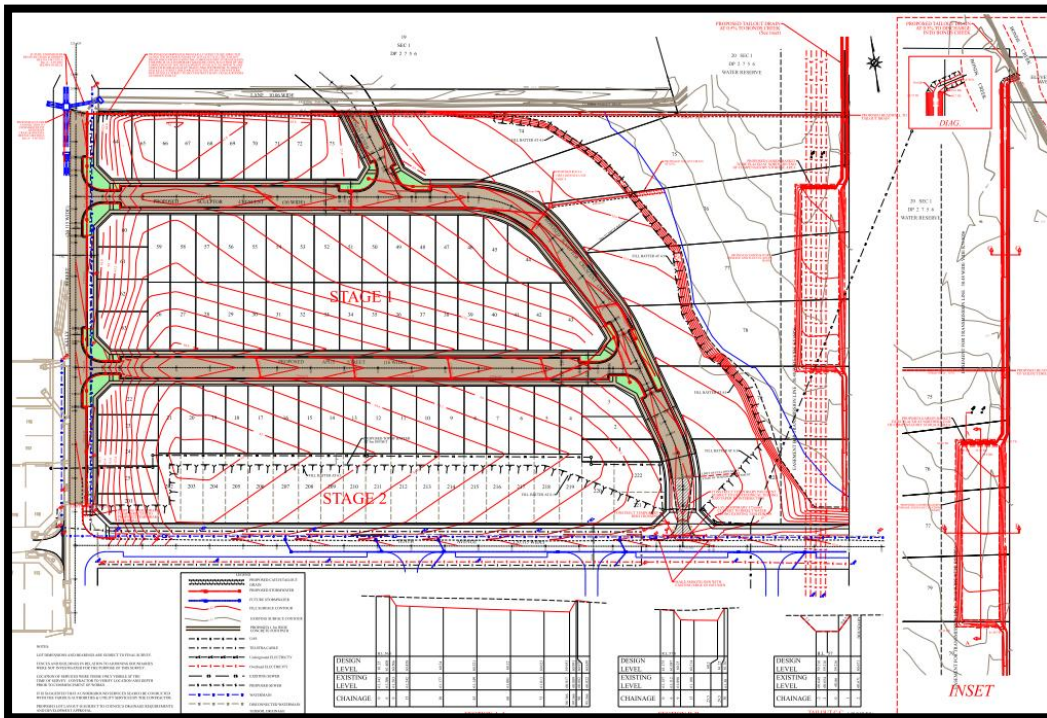


Figure 15: Stage 1 Engineering Plan Showing Proposed Centrelines and Sections Through Basin & Tailout (Source: R S. Canceri Pty Ltd)

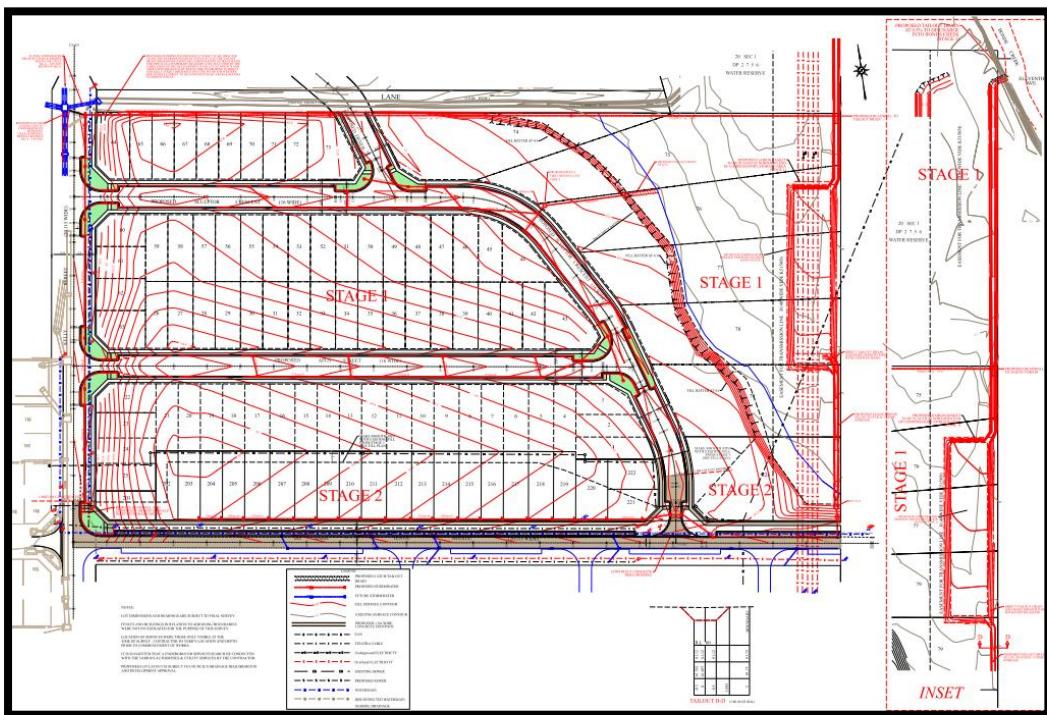


Figure 16: Stage 2 Engineering Plans Showing Proposed Centrelines (Source: R. S. Canceri)

5 STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

Environmental Planning Instruments (EPI's)

- Biodiversity Conservation Act 2016.
- Rural Fires Act 1997
- State Environmental Planning Policy (Resilience and Hazards) 2021
 - Chapter 4 Remediation of Land
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - Chapter 2 Vegetation in Non-Rural Areas
 - Chapter 6 Water Catchments
- State Environmental Planning Policy (Transport and Infrastructure) 2021
 - Chapter 2 Infrastructure
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
 - Chapter 3 Sydney Region Growth Centres
 - Appendix 4 Liverpool Growth Centres Precinct Plan

Development Control Plan

- Liverpool Growth Centres Precincts Development Control Plan

Contributions Plans

- Austral and Leppington North Contribution Plan 2021 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, as follows:

**6.1 Section 4.15(1)(a)(i) – Any Environmental Planning Instrument
(a) Biodiversity Conservation Act 2016**

Pursuant to Section 7.7 of the Biodiversity Conservation Act 2016 (BC Act), a development that is likely to significantly affect threatened species must be accompanied by a biodiversity development assessment report (BDAR).

The site is identified as partly biodiversity-certified land and partly uncertified land. Refer to the figure below.

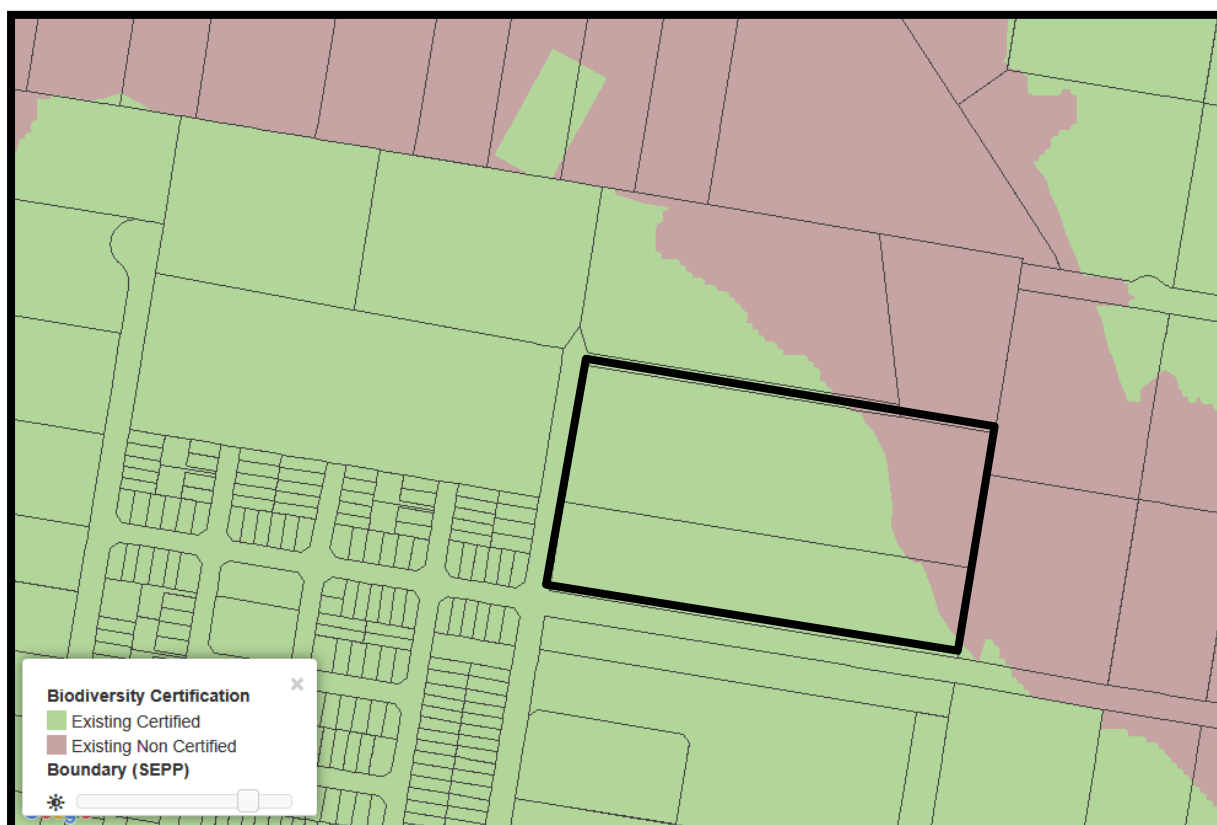


Figure 17: Biodiversity Certified Land Map (Source: Liverpool City Council ePlanning Maps)

The site is also identified on the Biodiversity Values Map. Refer to the map image contained in Figure 18.

A BDAR (Reference 2508, Version 2, prepared by Anderson Environmental, dated 1 July 2025) was submitted with the development application to assess the impact of the works on the uncertified land.

Council’s Natural Environment – Flora & Fauna (Biodiversity) Officer reviewed the BDAR and determined that further information was required to support the application. The matters raised included:

- Section 6.15 of the BC Act requires a BDAR to be lodged within 14 days of the

certification date. The date of certification was 5 August 2025, while the date of submission on the planning portal was 30 September 2025 (and lodgement 14 October 2025). In both cases, the date between certification and lodgement exceeded 14 days. Recertification would be required.

- A Vegetation Management Plan (VMP) was required to be submitted with a five year maintenance period for the bushland and riparian corridor to be retained, including:
 - Stormwater basin design, including materials and maintenance works.
 - Erosion and sediment control and details of sediment accrual removal from bioretention basins and flowlines.
 - Embankment stabilisation and soft engineering measures.
 - Fenceline and access gate location around the perimeter of the VMP area, and details of permanent fence maintenance.
 - Bush regeneration, weed control, rubbish removal and revegetation details (including density of planting).
 - Monitoring frequency and performance measures.

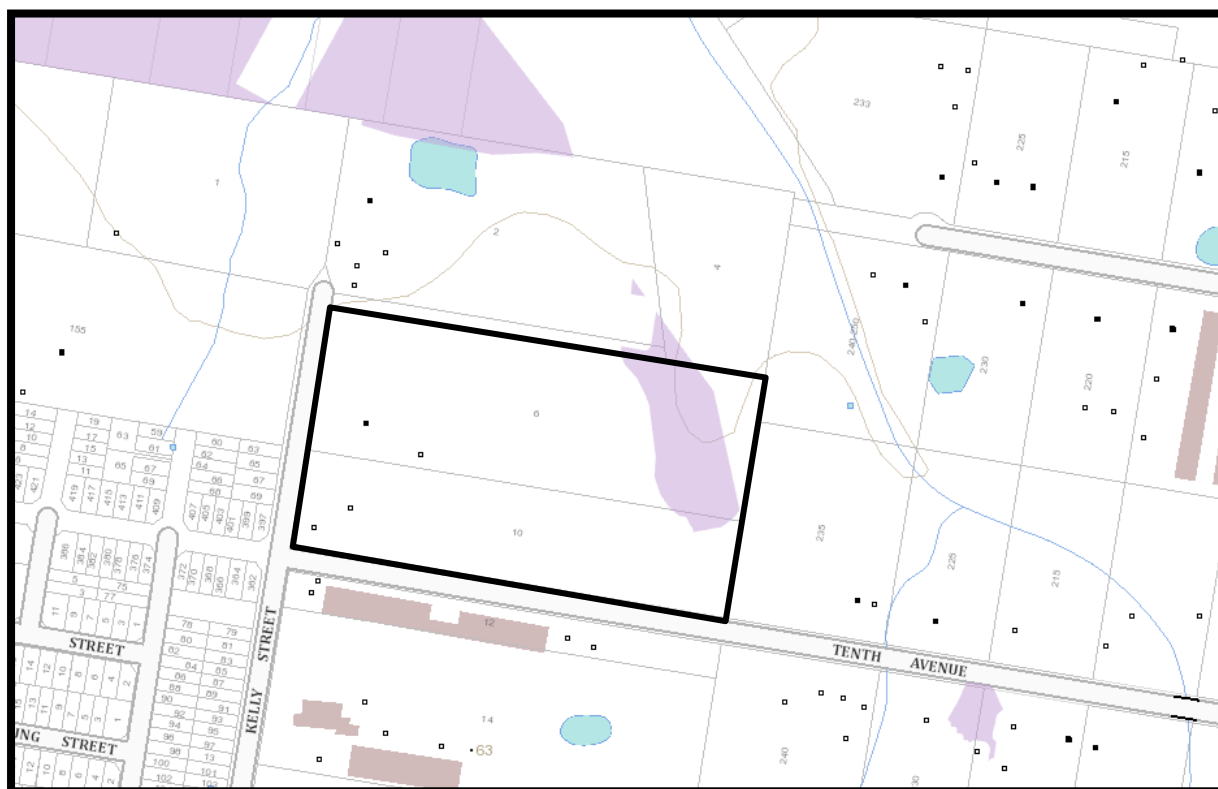


Figure 18: Biodiversity Values Map (Source: NSW Planning Portal Spatial Viewer)

It was also observed that the BDAR referenced an outdated engineering design which sought to drain using the existing tailout drain on the land to the north. The submitted engineering design introduced a pipe along the northern boundary, which is neither referenced nor assessed in the submitted BDAR.

The above was raised in the request for additional information. As no formal response was submitted, matters of biodiversity assessment are unresolved, and the application is recommended for refusal.

(b) Rural Fires Act 1997

Pursuant to Section 100B of the Rural Fires Act 1997, a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes must obtain a bush fire safety authority before developing the land.

The site is identified as bushfire prone land and is classified as “Vegetation Category 1”, “Vegetation Category 3” and “Vegetation Buffer 100m and 30m”. The application was supported by a Bush Fire Assessment Report (Reference – 24-268, prepared by Australian Bushfire Consulting Services dated 11 April 2025).

The report provided a series of recommendations, including:

- All land not built upon within the R2 and E4 zone are to be maintained as an Asset Protection Zone / Inner Protection Area.
- A restriction to user is provided within Lots 74-79 and 223 (the E2/E4 lots) to ensure no future dwellings is located within, or within 10 metres of, the E2 zone.
- Any dwellings on those lots must meet a Bushfire Attack Level of BAL 29.

Additional recommendations related to services, road design and the like.

The NSW Rural Fire Service has provided general terms of approval.

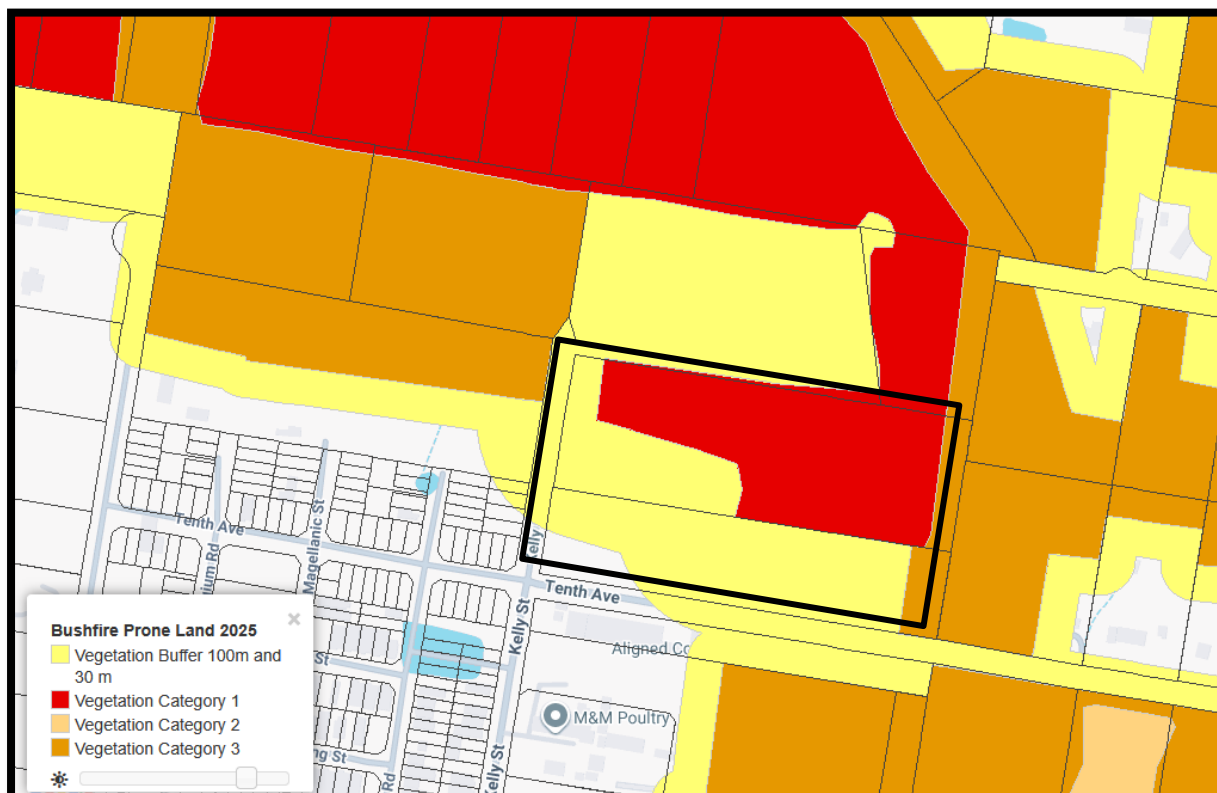


Figure 19: Bushfire Prone Land Map (Source: Liverpool City Council ePlanning Maps)

Consequently, the bushfire consideration has been adequately addressed.

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

(i) Chapter 4 Remediation of Land

The objectives of Chapter 4 are:

- *To provide for a Statewide 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 Section 4.6 of SEPP (Resilience and Hazards) 2021 (SEPP R&H), 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 applicant submitted Detailed Site Investigations (DSI) for 4 Kelly Street and 6 & 10 Kelly Street, both undertaken by Foundation Earth Sciences (Reference: E3233 dated September 2024 & E3233-3 dated August 2025). The noted history of the site included agricultural or

rural residential uses, which had the potential to have led to contamination of the land.

An assessment of Section 4.6(1) occurs in the table below.

Section 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	Based on the submitted DSI's (including testing), neither 4 or 6 and 10 Kelly Street are contaminated. Recommendations are included to undertake a Hazardous Materials Assessment and Asbestos Clearance prior to demolition of the dwellings on 6 Kelly Street, among other items.
(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 considered to be suitable for the proposed works based on the DSI's.
(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, Section 4.6(1) of SEPP R&H has been satisfactorily addressed by the submitted contamination documentation.

However, Section 4.6(2), (3) and (4) state:

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

- (4) *The land concerned is—*
- (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Council's Environmental Health officer observed that the submitted DSI's are not preliminary site investigations (PSI), the typical Stage 1 reporting for any contamination assessment. Neither document refers to a preliminary investigation but rather skips to the next stage of the assessment. However, as subsection (3) mentions, the applicant must undertake the investigation required by subsection (2) (the preliminary investigation) and provide it to the consent authority. This has not been completed.

The additional information letter issued to the applicant requested that the contamination report be amended to be a combined Stage 1 PSI and Stage 2 DSI report or that a separate preliminary assessment document be prepared. As no further information was submitted, this matter remains outstanding.

Consequently, based on the above assessment, the development has provided insufficient information to address Section 4.6 of SEPP R&H 2021, and the application must be refused.

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

(i) Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of State Environmental Planning Policy (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 a significant number of trees within both the biodiversity certified and uncertified land. The application proposes to remove all trees within the biodiversity certified land. Notably, the submitted survey plan did not identify trees on the site or any near the site boundaries, despite the apparent proximity of several near the eastern boundary at the minimum (see Figure 20).

Council's Landscape officer requested an arborist report due to the large volume of trees proposed for removal, consistent with Council's DA Guide.

Further to the above, another consideration for an arborist assessment is the drainage works, including the tailout drain extending toward Bonds Creek. The tailout drain is proposed along the eastern boundary of 4 Kelly Street (see Figure 15). While the site survey submitted with the development application suggested 'no vegetation' was present along the easement, a site inspection revealed some vegetation is present in the easement (see Figure 20 on the following page) and additional trees that are close to the eastern boundary. Consequently, an assessment of the impact of the drainage works on existing vegetation, and confirmation that no trees on other properties are affected, is a relevant consideration of the application.

An additional consideration is whether the pipe proposed along the northern side of the boundary will require tree removal, noting this is not assessed in the BDAR.

These items were raised in the request for additional information. However, as no response was received, insufficient information has been submitted to assess tree removal. The application is not supported in its current form.



Figure 20: View north along the transmission easement at the eastern end of the site

(ii) Chapter 6 Water Catchments

Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 aims to protect regulated catchments and waterways. Pursuant to Schedule 6 of the SEPP, the Hawkesbury-Nepean Catchment is a regulated catchment. The site is located within that catchment.

A referral to the Department of Climate Change, Energy, the Environment and Water has provided General Terms of Approval for the proposed drainage into Bonds Creek.

Council's Land Development Engineering Section reviewed the proposed engineering plans and raised a number of additional information request items. These included the need for a Stormwater Management Report, identification of all inter-allotment drainage, raingarden details, further information regarding road water discharge and concerns over fill to address flooding.

These items were raised in the request for additional information. However, as no response was received, insufficient information has been submitted to determine that there will be unreasonable impacts on the catchment. The application is not supported in its current form.

(e) State Environmental Planning Policy (Transport and Infrastructure) 2021**(i) Chapter 2 Infrastructure**

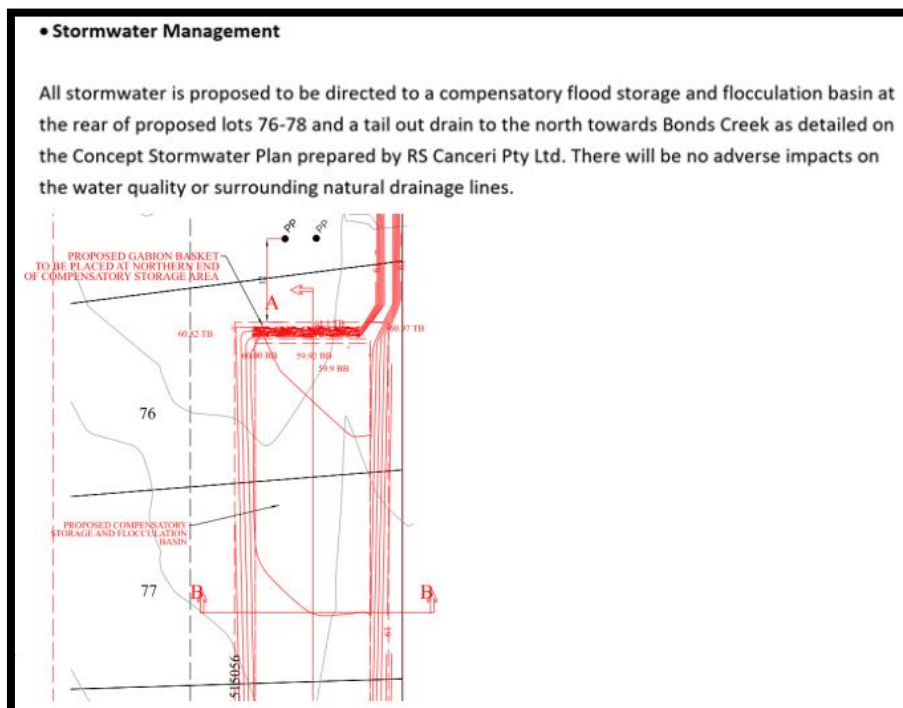
Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 aims to facilitate the effective delivery of infrastructure.

Section 2.48 requires a referral to the relevant electricity supply authority is required for development carried out within or immediately adjacent to an easement for electricity purposes and within 5m of an exposed overhead electricity power line. The development includes work within a transmission easement and within 5m of powerlines on Tenth Avenue.

A referral to Endeavour Energy was undertaken, who objected to the application in its current form. Specifically, the concern raised was:

“Endeavour Energy’s 132 kilovolt (kV) Feeder 93X Sydney West Bulk Supply Point (BSP) to North Leppington Zone Substation (ZS) in a 30 metre (m) wide easement is planned to be duplicated making two monopole structure feeders and requiring the full width of the easement.

The Statement of Environmental Effects includes the following advice regarding ‘Stormwater Management’ with Lots 76 – 78 including part of the easement as shown in the extract of the Preliminary Engineering Drawings.



The following extract of Endeavour Energy's HxGN NetWorks Core Master Facility shows two proposed new poles to move the existing H-Pole structures 63Y and 63X (indicated as by the colouring as 'Proposed removed') – likely required to rectify low clearance and maintain the required feeder rating. As the basin is almost the full width of the easement, it may impact the duplication plans.



The current structures [63Y & 63X] and [64Y & 64X] the next poles to the south are approximately 217 m apart. The proposed new structures [63Y & 63X] reduces this span to 197m, a 20 m reduction closer to the basin's edge – off which the applicant

may not be aware. The network access for the poles is required 24/7 with a flat area for cranes and elevated work platforms (EWP) to access the pole tops and cross-arms.

Accordingly the basin may need to move or the shape changed to move it away from the poles. Increases in the ground level to make an embankment will also need to be scrutinised if this reduces ground clearance to the 132 kV conductors thus either becoming no longer safety compliant or results in reduced feeder capacity.

Accordingly the location of the proposed basin requires further investigation and / or confirmations that the new poles are not impacted. The proposed residential lots do not get close enough to impact the plans to duplicate the feeder.”

It was requested that the applicant liaise directly with Endeavour Energy to confirm and resolve the potential conflict of the basin location. However, as the appeal was lodged, no further information was submitted to address the Endeavour Energy referral.

Consequently, the application has not adequately responded to the referral and the application is not supported.

(f) State Environmental Planning Policy (Precincts—Western Parkland City) 2021 – Chapter 3 Sydney Region Growth Centres

(i) Zoning

The subject site is zoned R2 Low Density Residential, E2 Environmental Conservation and E4 Environmental Living, pursuant to the State Environmental Planning Policy (Precincts—Western Parkland City) 2021, Appendix 4 Liverpool Growth Centres Precinct Plan. An extract of the zoning map is provided below.

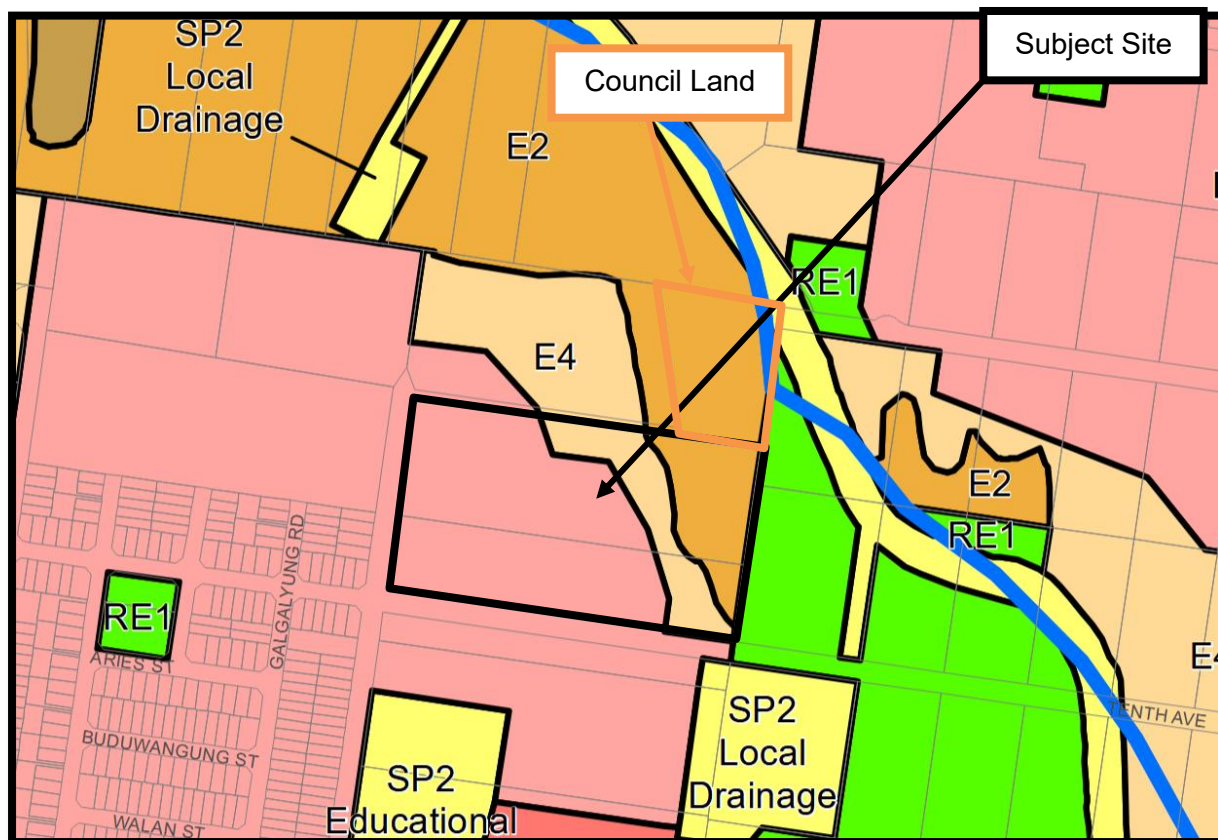


Figure 21: Zoning Map (Source: NSW legislation website)

(ii) Permissibility and Zone Objectives

R2 Low Density Residential

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

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Drainage; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Home industries; Multi dwelling housing; Neighbourhood shops; Places of public worship; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Studio dwellings

4 Prohibited

Any development not specified in item 2 or 3

Works proposed within the R2 zone are demolition, subdivision, roads and drainage works.

Subdivision is permissible under Section 2.6 of Appendix 4, while demolition is permitted via Section 2.7. Roads and drainage are listed as permitted with consent in the land use table.

The works within the R2 Low Density Residential zone are therefore permitted with consent.

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 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.*

While the proposed development will facilitate a subdivision of land to provide housing needs for the community within a low density residential environment (and the second to fourth objectives are not inherently relevant for a subdivision application), outstanding concerns and information required to fully assess the environmental impacts of the application mean that the application cannot be supported. It is unclear whether a number of environmental, social and amenity matters are satisfactory.

E2 Environmental Conservation

The land use table for the E2 Environmental Conservation land is provided below.

2 Permitted without consent

Nil

3 Permitted with consent

Drainage; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Kiosks; Recreation areas; Research stations; Roads; Signage; Waterbodies (artificial)

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail

premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Works proposed within the E2 zoned land are subdivision and drainage works.

Subdivision is permissible under Section 2.6 of Appendix 4. Drainage is listed as permitted with consent.

The works within the E2 Environmental Conservation zone are therefore permitted with consent.

The objectives of the **E2 Environmental Conservation** zone are as follows:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proposed development is not consistent with the objectives in that:

- The application has not submitted sufficient information to confirm that the existing native vegetation is protected, will be managed and restored. There is a need for a VMP and further information to confirm that protected vegetation is not required to be removed to facilitate the proposed drainage solution.
- As above, there is insufficient information currently submitted to confirm all works are adequately assessed in terms of the impact on the biodiversity and ecological values of the E2 zoned land.

E4 Environmental Living

The land use table for the E4 Environmental Living land is provided below.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Centre-based child care facilities; Community facilities; Drainage; Dual occupancies; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Extensive agriculture; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Horticulture; Places of public worship; Recreation areas; Roads; Secondary dwellings; Waterbodies (artificial)

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Works proposed within the E4 zoned land are subdivision and drainage works.

Subdivision is permissible under Section 2.6 of Appendix 4. Drainage is listed as permitted with consent.

The works within the E4 Environmental Living zone are therefore permitted with consent.

The objectives of the **E4 Environmental Living** zone are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

The proposed development is not consistent with the objectives in that:

- While the proposal does not involve the built form, it is unclear whether the proposed earthworks and drainage within the zone will have flow-on effects on the ecological values of the land.
- As above, there is insufficient information currently submitted to confirm all works are adequately assessed in terms of the impact on the biodiversity and ecological values of the E4 zoned land.

Given the above, the proposal is not consistent with the zone objectives and is recommended for refusal.

(iii) Principal Development Standards

The following principal development standards of Appendix 4 of State Environmental Planning Policy (Precincts—Western Parkland City) 2021 apply to the proposal:

Appendix 4 – Liverpool Growth Centres Precinct Plan		
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.	Complies Demolition of the existing structures is proposed. A demolition plan was

Appendix 4 – Liverpool Growth Centres Precinct Plan		
Development Provision	Requirement	Compliance
		submitted.
4.1 Minimum Subdivision Lot Size	Minimum lot size: R2 zoned land = N/A E2 and E4 zoned land = 2,500m ²	Complies Lots 74 to 79 and 223 are E2 and E4 zoned land and range between 2,501m ² and 3,981m ² .
4.1AB Minimum Lot Sizes for Residential Development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential	The minimum lot size for a dwelling house is— (a) 360m ² if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is 10, or (b) 300m ² if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is 15, 20 or 25.	Complies The Dwelling Density Map identifies the site as 15 dw/Ha. The proposed R2 zoned lots all exceed 300m ² .
4.1B Residential Density	Minimum dwellings per hectare: R2 zoned land: 15 dw/Ha E2 and E4 zoned land: N/A	Complies While the exact site area is not specified by the survey plan, the R2 zoned land is approximately 4.35ha and 95 x R2 lots are proposed, equating to 21.84 dw/Ha.
4.3 Height of Building	Max height of building of 9m on map (R2 zone) E2 and E4 zoned land: N/A	N/A No built form is proposed
4.4 Floor Space Ratio	N/A.	N/A
5.9 Preservation of Trees or Vegetation	Consent is required for tree removal.	Insufficient Information Refer to discussion under Chapter 2 of SEPP (Biodiversity and Conservation) 2021 contained at Section 6.1(d)(i) of this report.
5.10 Heritage Conservation	N/A	N/A
6.1 Public Utility Infrastructure	Consent must not be granted unless the consent authority is	Insufficient Information Sydney Water Corporation has

Appendix 4 – Liverpool Growth Centres Precinct Plan		
Development Provision	Requirement	Compliance
	satisfied that any public utility infrastructure that is essential for the development is available or that adequate arrangements have been made.	provided general comments and no objection regarding water and sewer. Endeavour Energy has raised an objection to the application primarily on other grounds than the electricity connection. However, no information has been submitted on whether any substations are required, as is common for sizeable subdivisions in Austral. Consequently, insufficient information has been submitted.
6.3 Development Controls— Existing Native Vegetation	The consent authority must not grant development consent for development on land to which this section applies unless it is satisfied that the proposed development will not result in the clearing of any existing native vegetation (within the meaning of the relevant biodiversity measures under Part 7 of Schedule 7 to the Threatened Species Conservation Act 1995).	Insufficient Information Refer to the discussion below this table.

As demonstrated in the above compliance table, the application does not satisfy several of the relevant development standards and sections of Appendix 4.

Section 6.3 Development Controls—Existing Native Vegetation

Section 6.3 applies to land within an existing native vegetation area as shown on the relevant map. Refer to the map below.

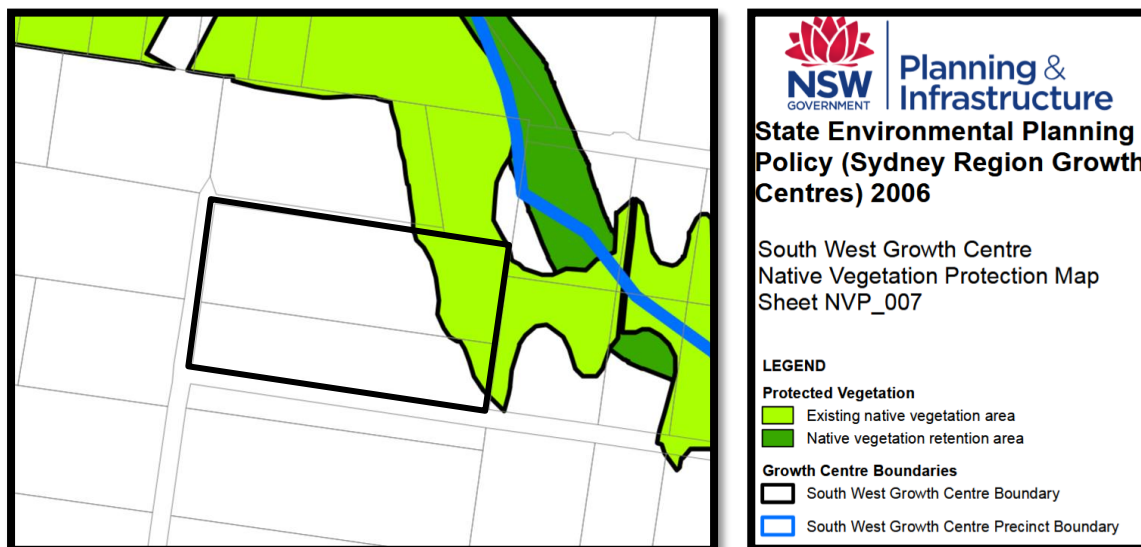


Figure 22: Native Vegetation Protection Map (Source: NSW legislation website)

Section 6.3 states that a consent authority must not grant development consent for development on land to which this section applies unless it is satisfied that the development will not result in the clearing of any existing native vegetation.

As mentioned earlier in this report, it is unclear whether the application will result in the removal of existing native vegetation. The proposal appears to indicate it does not, however insufficient assessment of the pipe along the northern boundary and the drainage work within the easement and on 4 Kelly Street (Council’s land) has been submitted to confirm those works will not require the removal of native vegetation.

In the absence of further information, it cannot be determined that the works won’t result in the removal of native vegetation. The application, therefore, cannot be deemed to meet Section 6.3.

(iv) Chapter 3 Sydney Region Growth Centres – Additional Sections

Section 3.26 Development on flood prone and major creeks land—additional heads of consideration

The eastern portion of the site is identified as flood prone and major creeks land. Refer to the map below.

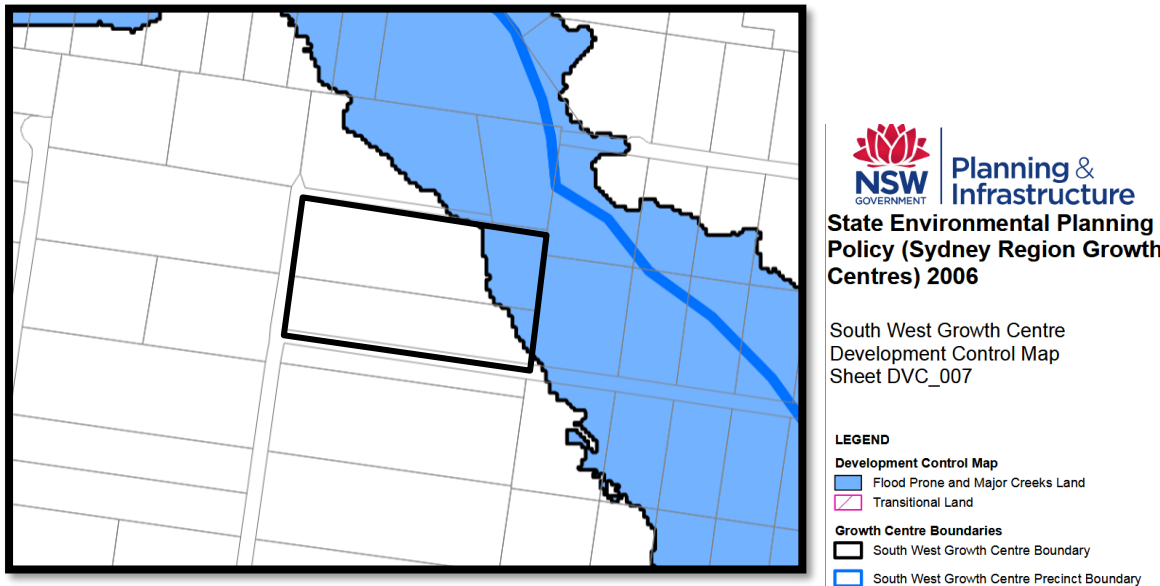


Figure 23: Development Control Map (Source: NSW legislation website)

The consent authority must consider whether the development will adversely affect flood behaviour, enable safe occupation and is generally acceptable from an environmental and social perspective.

The site is affected by the 1% AEP flood planning level and the Probable Maximum Flood. An extract of Council's flooding maps is provided below.



Figure 24: Flooding Maps (Source: Liverpool City Council ePlanning Maps)

A Flood Assessment Report (prepared by FloodMit Pty Ltd, dated May 2025) was submitted with the application. Council's Floodplain Engineering Section reviewed the report and requested additional information, primarily around:

- Significant fill within the site and along Tenth Avenue raises concern over adverse flooding flow-on effects to surrounding streets.
- Additional flood modelling is required for the overland flow and mainstream flood affectation.
- Additional modelling and details required for the compensatory flood storage.
- A Stormwater Management Report, DRAINS and MUSIC models must be provided.

The above was included in the additional information request. As no response was received, the application is recommended for refusal as the requirements of Section 3.26 have not been satisfactorily addressed.

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

There are no draft Environmental Planning Instruments that affect the development or assessment of this application.

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

(a) Liverpool Growth Centres Precincts Development Control Plan

The proposed development is subject to the Liverpool Growth Centres Precincts Development Control Plan 2021 (LGCPDCP). The proposal has been assessed under the relevant sections of the LGDPDCP, being:

- Section 2 Precinct Planning Outcomes
- Section 3 Neighbourhood and Subdivision Design

The proposal deviates from or otherwise does not provide sufficient information for a number of controls. These are discussed in this section, including some controls where further discussion is warranted.

A complete compliance table is provided in Attachment B of this report.

LGCPDCP – Compliance Table		
Control	Requirement	Comment
2.0 Precinct Planning Outcomes		
2.2 The Indicative Layout Plan	All development applications are to be generally in accordance with the Indicative Layout Plan.	Complies Refer to the comments below this table.
2.3.1 Flooding	The pattern of subdivision is to ensure that	Insufficient Information

LGCPDCP – Compliance Table		
Control	Requirement	Comment
	no new dwelling will be located within the 1% Annual Exceedance Probability (AEP) flood extent shown on the Flood Prone Land figure in the relevant Precinct's Schedule.	Refer to the flooding discussion earlier in this report.
2.3.2 Water Cycle Management	Stormwater within new subdivisions is to be managed primarily through a gravity network of pipes and overland flows generally following streets where flow volumes exceed the capacity of pipes in accordance with Council's Engineering Specification.	<p>Insufficient Information</p> <p>It is proposed to drain through the E2 and E4 zoned land toward Bonds Creek via tailout drains and a pipe along the northern boundary.</p> <p>Council's Land Development Engineering Section raised a number of additional information items, including the need for a stormwater management report, further information on the proposed tailout drains, compensatory flood storage area, and rain gardens.</p>
2.3.5 Native Vegetation and Ecology	Native trees and other vegetation are to be retained where possible by careful planning of development (particularly at the subdivision stage) to incorporate trees into areas such as road reserves and private or communal open space.	<p>Insufficient Information</p> <p>An arborist report was not submitted, and the BDAR does not assess all works within the uncertified land. Consequently, it cannot be determined if all trees identified for removal are necessary, and all trees that are required for removal have been identified.</p>
2.3.8 Development on and Adjacent to Electricity and Gas Easements	Where development is proposed on land containing or adjacent to easements, applicants are to consult with the organisation responsible for management of the easement as part of the process of preparing subdivision or other development plans. Any written requirements of the infrastructure organisation are to be submitted with the Development Application, and the Development Application documentation is to demonstrate how the requirements have been addressed in the design.	<p>Does not comply</p> <p>Endeavour Energy has objected to the application. Refer to the discussion earlier in this report. Concern was raised over the location of the compensatory flood storage in relation to future duplication works in the easement.</p> <p>It is noted that the proposal subdivides the easement into 6 lots. However, the layout of the subdivision is not raised as an</p>

LGCPDCP – Compliance Table		
Control	Requirement	Comment
	<p>Earthworks (excavation or filling) and landscaping within easements are subject to conditions and requirements of the infrastructure organisation.</p> <p>Subdivision of easements is to be minimised.</p> <p>Requirements of the infrastructure organisation in relation to access to easements for inspections and maintenance are to be addressed in the design of the development. Access to the easement from public land (eg. roads, open space or drainage land) is preferable</p>	<p>objection.</p> <p>The application did not identify how access to maintain the easement was to be obtained, as the tailout drain and earthworks appear to conflict with any retained or newly proposed vehicle access from Tenth Avenue.</p>
2.6 Earthworks	Subdivision and building work is to be designed to respond to the natural topography of the site wherever possible, minimising the extent of cut and fill both during subdivision and when buildings are constructed.	<p>Does not comply</p> <p>Refer to the discussion below this table.</p>
3.0 Neighbourhood and Subdivision Design		
3.1.1 Residential Density	<p>Residential development in the Environmental Living area, on the Residential Structure figure, is to</p> <ul style="list-style-type: none"> Avoid impacts on Existing Native Vegetation and other remnant native vegetation. 	<p>Insufficient Information</p> <p>For reasons outlined earlier under the BC Act, the application has not adequately assessed the works to confirm there are no or acceptable impacts on Existing Native Vegetation.</p>
3.1.4 Corner Lots	Plans of subdivision are to show the location of proposed or existing substations, kiosks, sewer man holes and/or vents affecting corner lots.	<p>Insufficient Information</p> <p>The plans of subdivision do not include the location of any substations, kiosks, etc.</p>
3.1.5 Subdivision in the Environmental Living Zone	<p>The minimum frontage width of lots in the Environmental Living zone is:</p> <ul style="list-style-type: none"> 30 metres, where the lot is within (or partly within) Floodprone and Major Creeks land as indicated on the Development Control Map that forms part of the Growth Centres SEPP; or 20 metres where the lot is wholly outside Floodprone and Major 	<p>Acceptable On Merit</p> <p>The Environmental Living zoned land is partly within the Flood Prone and Major Creeks land as identified in Figure 21. A 30m frontage is therefore required.</p> <p>Lot 76 is 29.56m and Lot 77 is</p>

LGCPDCP – Compliance Table		
Control	Requirement	Comment
	Creeks land	29.99m. The marginal variation is accepted as there is no consequence to a variation this minor, and the lot sizes of each (3,403m ² and 2,949m ²) are well over the minimum 2,500m ² lot size.
	Subdivision of land in the Environmental Living zone is to: <ul style="list-style-type: none"> • Consider the location of flood prone land and ensure that each lot is capable of accommodating a dwelling that complies with the controls for development on flood prone land in clause 2.3.1. • Protect Existing Native Vegetation and other vegetation within the Environment Protection overlay on the Precinct Indicative Layout Plan 	<p>Insufficient Information</p> <p>For reasons outlined earlier, the impact on Existing Native Vegetation has not been fully assessed.</p> <p>The site and depths of the Environmental Living zoned lots between the street and the APZ appear sufficient to accommodate a dwelling of acceptable size.</p>
3.3.2 Street Furniture	Street trees are required for all streets.	<p>Does not comply</p> <p>While street trees are proposed, none are identified along Kelly Street or in front of the Environmental Living zoned land along Sculptor Crescent. Trees should also be provided in both streets.</p>
3.3.3 Local Area Traffic Management	A Local Area Traffic Management (LATM) plan shall be submitted with any development which involves the opening of a new road(s), or modifications to existing roads. Design solutions shall conform to Austroads Guide to Traffic Management Part 8 (Local Area Traffic Management).	<p>Does not comply</p> <p>Council's Land Development Engineering Section has required LATM devices (textured surface combined with tree pit or kerb extension). Kerb extensions are provided, but not the textured surface.</p>
3.3.7 Temporary Vehicular Access	Where necessary to ensure that access to residential properties is provided in the early stages of development, Council may consent to the construction and operation of temporary access roads	<p>Insufficient Information</p> <p>The application proposes a temporary access point between Tenth Avenue and Sculptor Crescent. It is not clear why the application is staged as such, and this information was requested but not response provided prior to the appeal being lodged. To enable</p>

LGCPDCP – Compliance Table		
Control	Requirement	Comment
		support of the temporary vehicular access, further information is necessary.
	Temporary turning circles may be required where roads are to continue onto adjoining properties that are not yet developed.	Does not comply The part road of Deneb Crescent requires a temporary turning head. However, it has not been proposed.

2.2 Indicative Layout Plan

An extract of the Indicative Layout Plan (ILP) is provided below.



Figure 25: Extract of Indicative Layout Plan (Source: LGCPDCP 2021, Schedule 1 Austral and Leppington North)

The ILP identifies three new roads within the site as “Local Street 16m”. Further, Kelly Street and Tenth Avenue are also identified as the same.

The proposed subdivision accords with the ILP in terms of road layout and dimensions.

Specifics of the road design (i.e. levels, rain gardens, street trees, etc.) have necessitated a request for further information. However, the proposal is not in principle inconsistent with the ILP.

2.6 Earthworks

The earthworks proposed as part of the subdivision will result in approximately a maximum of 2.5m of fill.

The proposed levels will create a number of sloping lots, whereas the site is generally flat. In particular, the lots fronting Kelly Street in the southwestern part of the site will fall approximately 1.8m from rear to street and up to 1.2m on other lots fronting Kelly Street. Refer to the extract of the engineering plans below.

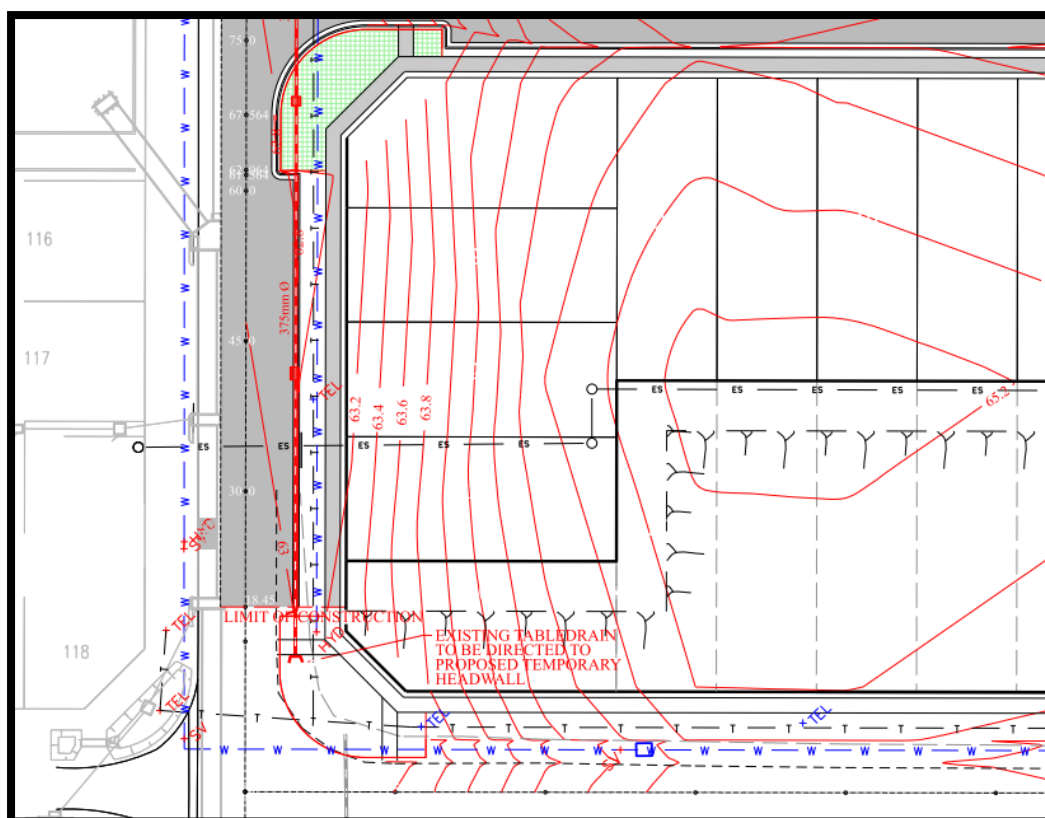


Figure 26: Extract of the Southwest Corner of Stage 1 Engineering Plans (Source: R. S. Canceri)

A detailed description and explanation for the degree of fill was not submitted with the application. It has not been established in the application that the degree of fill is necessary.

This concern has also been raised by Council’s Land Development Engineering and Floodplain Engineering Sections.

As no further information was submitted with the application following the request for additional information, this matter is not resolved and forms a reason for refusal.

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

There are no Planning Agreements which apply to the development.

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

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the National Construction Code. Accordingly, appropriate conditions of consent will be imposed where compliance with the NCC is required, should the application be approved.

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

The proposed development may have an adverse impact on the natural environment. Various elements of the application have not been adequately addressed to determine if negative impacts on the natural environment will occur, including the proposed tree removal, potential removal of existing native vegetation, proposed drainage method, flood storage, and degree of fill proposed.

In view of this, the application is not supported.

(b) Built Environment

The proposed subdivision in terms of lot design, size and layout is generally supported. However, while there are no buildings or dwellings proposed under this application, it is proposed to fill the land up to (approximately) 2.5m and generally fill a significant amount of the site. It is not established that the degree of fill is necessary to address the flood affectation, and a better outcome for the built environment may be achieved with an alternative design that addresses flooding.

Further information must be provided to enable the conclusion that the proposal is the best outcome with the least or a reasonable degree of impact on the built environment. Based on the current information, the application is not supported.

(c) Social Impacts and Economic Impacts

It is not established that the application will have a positive social impact given the absence of adequate information to assess the application.

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

While the land is primarily zoned for residential subdivision, the detail of the application is not adequate to demonstrate that the environmental hazards affecting the site are appropriately addressed so that future residents, adjoining properties and the environment are not negatively impacted. Accordingly, it is not clearly established that the 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
City Design – Heritage	Supported subject to conditions.
Environmental Health	Insufficient information. Section 4.6(2) of SEPP R&H requires consideration of a Preliminary Site Investigation Report. Only Detailed Site Investigation Reports have been submitted with the application. Refer to the discussion under SEPP R&H.
Flooding	Insufficient information. Further information or objections to the degree of filling, further flood assessments, road level inconsistencies with established approvals on both Kelly Street and Tenth Avenue, stormwater management report, further details for the stormwater design, sections and additional plans (cut and fill).
Landscape	Insufficient information. Due to the number of trees to be removed, an arborist report is required to be submitted.
Land Development – Engineering	Insufficient information. Raised a number of items relating to road design levels, temporary turning heads, street trees, stormwater management report, raingarden detail, LATM devices at intersections are necessary, additional long-sections, explanation of why the development needs to be staged and expected timing, and more.
Natural Environment – Flora & Fauna	Insufficient information. The submitted BDAR was submitted out of date, further detail needed on Lots 96-101 for footprints to assess APZs and impacts on uncertified land, substantial additional detail needed for the VMP, and engineering design.
Property	Supported, subject to a deferred commencement condition for

Department	Comments
	the creation of the easement to drain over Council land.
Traffic and Transport	Supported subject to conditions.
Waste Management	Insufficient information. The Waste Management Plan does not include construction phase waste estimates for subdivision works or how contamination matter such as asbestos clearance will be addressed.

(b) External Referrals

The following comments have been received from external Agencies:

Authority	Comments
Endeavour Energy	Objects. Refer to the discussion under SEPP (Transport and Infrastructure) 2021.
Department of Climate Change, Energy, the Environmental and Water	General Terms of Approval provided.
NSW Rural Fire Services	General Terms of Approval provided.
Sydney Water Corporation	General comments / no objection.

(c) Community Consultation

The application was notified in accordance with the Liverpool Community Participation Plan 2019 between 22 October and 19 November 2025. No submissions were received.

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

For the reasons outlined in this report, primarily the inadequate information to assess fundamental elements, including ecological and flooding matters, the application is not in the public interest.

7 DEVELOPMENT CONTRIBUTIONS

Development contributions have not been applied to the development in accordance with the Austral and Leppington North Contribution Plan 2021, as well as a Special Infrastructure Contribution, as the application is recommended for refusal in this instance.

8 CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, all relevant environmental planning instruments, and the Liverpool Growth Centres Precinct Development Control Plan 2021.

The assessment has concluded that insufficient information is available to assess the application to enable support. Consequently, the application is recommended to be refused.

9 RECOMMENDATION

That Development Application DA-435/2025 for the demolition of existing structures and staged subdivision of two existing allotments into a Torrens Title Subdivision of 102 residential lots in two (2) stages and construction of roads and associated civil works, including drainage discharge over Council-owned land and into a creek at 4, 6 and 10 Kelly Street, Austral, be **Refused**.

ATTACHMENTS

1. Attachment A - Draft Reasons for Refusal
2. Attachment B - Table of Compliance
3. Attachment C - Subdivision Plans

LIVERPOOL CITY COUNCIL
NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
Attachment A: Reasons for Refusal

Application number	PAN-577103
Applicant	R.S. CANCERI PTY LIMITED PO BOX 3070 LIVERPOOL NSW 2170
Description of development	Demolition of existing structures and staged subdivision of two existing allotments into a Torrens Title Subdivision of 102 residential lots in two (2) stages and construction of roads and associated civil works, including drainage discharge.
Property	6 KELLY STREET AUSTRAL NSW 2179 LOT 2 DP 1305225 10 KELLY STREET AUSTRAL NSW 2179 LOT 1 DP 1305225 4 KELLY STREET AUSTRAL NSW 2179 LOT 20 SEC 1 DP 2756
Determination:	Refused Consent Authority - Local Planning Panel
Date of determination	30/03/2026

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by refusing consent using the power in section 4.16(1)(b) of the EP&A Act, for the reasons specified below:

Reasons for refusal

This Development Application be **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979.

1. The Biodiversity Development Assessment Report was submitted with a lapsed accreditation, as it was submitted on the planning portal more than 14 days after the accreditation date, inconsistent with Section 6.15 of the Biodiversity Conservation Act 2016, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
2. Insufficient information has been submitted to adequately assess the biodiversity impacts of the development on the existing native vegetation under Section 7.3 of the Biodiversity Assessment Act 2016, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.
3. The proposed development has not provided sufficient information to comply with Section 4.6(2) of State Environmental Planning Policy (Resilience and Hazards) 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in relation to details of a preliminary assessment.
4. The proposed development has not provided sufficient information to satisfactorily address Chapter 2 Vegetation in non-rural areas of State Environmental Planning Policy (Biodiversity and Conservation) 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, relating to an Arboricultural impact assessment of the proposed tree removal and whether other proposed works, such as the drainage works, will necessitate additional tree removal on the site or affecting trees on adjacent sites.
5. The proposed development has not provided sufficient information to satisfactorily address Chapter 6 Water catchments of State Environmental Planning Policy (Biodiversity and Conservation) 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, relating to the proposed drainage design.
6. The proposed development is objected to by Endeavour Energy due to the location of the drainage basin in the transmission easement and therefore is unsatisfactory under Section 2.48 of State Environmental

Planning Policy (Transport and Infrastructure) 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.

7. The proposed development has not adequately demonstrated that it will not adversely affect flood behaviour and affect adjoining properties as required under Section 3.26 of State Environmental Planning Policy (Precincts—Western Parkland City) 2021, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.

8. The proposed development is not consistent with the objectives of the E2 Environmental Conservation and E4 Environmental Living zones under the State Environmental Planning Policy (Precincts—Western Parkland City) 2021, Appendix 4 Liverpool Growth Centres Precinct Plan, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, having regard to the protection of the ecological values of the land.

9. The proposed development is inconsistent with or has not provided sufficient information to enable a full assessment of Clause 5.9 Preservation of Trees or Vegetation, Clause 6.1 Public Utility Infrastructure and Clause 6.3 Development Controls—Existing Native Vegetation under State Environmental Planning Policy (Precincts—Western Parkland City) 2021, Appendix 4 Liverpool Growth Centres Precinct Plan, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, relating to insufficient tree assessment, demonstration of appropriate stormwater connection and discharge, and that the development does protect existing native vegetation.

10. The proposed development is inconsistent with or has not provided sufficient information to enable a full assessment with the following sections of the Liverpool Growth Centres Precincts Development Control Plan, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:

- 2.3.1 Flooding
- 2.3.2 Water Cycle Management
- 2.3.5 Native Vegetation and Ecology
- 2.3.7 Site Contamination
- 2.3.8 Development on and Adjacent to Electricity and Gas Easements
- 2.4 Demolition
- 2.6 Earthworks
- 3.1.1 Residential Density
- 3.1.2 Block and Lot Layout
- 3.1.5 Subdivision in the Environmental Living Zone
- 3.3.2 Street Furniture
- 3.3 Local Area Traffic Management
- 3.7 Temporary Vehicular Access

11. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application has not adequately demonstrated that the proposed development will not have a negative impact on the natural and built environments, and a social impact for the reasons below:

a) Natural Environment – the application has not demonstrated that the proposed development would not create a detrimental impact on the existing natural environment, including impacts on native vegetation, and flooding and drainage matters.

b) Built Environment – the application has not demonstrated that the proposed development requires the degree of fill that is proposed, which will reshape the topography incomparable to surrounding development, and will be out of character with the area.

c) Social Impact – the application has not demonstrated that the proposed development will not create negative impacts on surrounding properties and the locality, resulting in a negative social impact.

12. The application has not demonstrated that the site is suitable for the development, pursuant to Section

4.15(c) of the Environmental Planning and Assessment Act 1979.

13. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposal is not considered to be in the public interest, having regard to the above reasons of refusal.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

ATTACHMENT 2: LIVERPOOL GROWTH CENTRES PRECINCTS DEVELOPMENT CONTROL PLAN COMPLIANCE TABLE

The application has also been assessed against the relevant controls of the LGCPDCP including:

- Section 2.0 Precinct Planning Outcomes (where applicable)
- Section 3.0 Neighbourhood and Subdivision Design (where applicable)

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
2.2 Indicative Layout Plan	All development applications are to be generally in accordance with the Indicative Layout Plan.	Refer to the comments in the main body of the assessment report.	Complies
2.3.1 Flooding	The pattern of subdivision is to ensure that no new dwelling will be located within the 1% Annual Exceedance Probability (AEP) flood extent shown on the Flood Prone Land figure in the relevant Precinct’s Schedule.	The site is flood affected. While fill is proposed at least in part to elevate the residential land above the flood planning level, Council’s Flood Engineer has requested further information to support the flooding assessment and justify the degree of fill, which appears beyond what is required. This matter remains unresolved.	Insufficient Information
2.3.2 Water Cycle Management	<p>Management of ‘minor’ flows and ‘major’ flows within subdivisions and development sites is to be in accordance with Council’s Engineering Specification.</p> <p>Stormwater within new subdivisions is to be managed primarily through a gravity network of pipes and overland flows generally following streets where flow volumes exceed the capacity of pipes in accordance with Council’s Engineering Specification.</p> <p>All new development is to be connected, via the network described in control 1 above, to the Council’s trunk drainage system shown on the Key elements of the water cycle management and ecology strategy figure, in the relevant Precinct Schedule.</p>	<p>It is proposed to drain through the E2 and E4 zoned land toward Bonds Creek via tailout drains and a pipe along the northern boundary.</p> <p>Council’s Land Development Engineer raised a number of additional information items, including the need for a stormwater management report, further information on the proposed tailout drains, compensatory flood storage area, and rain gardens.</p>	Insufficient Information
	The acquisition of drainage easements over downstream properties, or inclusion of drainage easements on subdivision plans, will be required where direct access to Council’s drainage system or discharge of stormwater to a creek via the street network is not possible (i.e. street kerb and	<p>The application proposes to drain over Council owned land (4 Kelly Street). A drainage easement would need to be obtained as part of a deferred commencement or condition of consent.</p> <p>While Council’s Property team has indicated support for the easement, the other aspects of the design require further</p>	Insufficient Information

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	gutter, piped system or open channels and watercourses). However, the design of subdivisions is to generally comply with controls 1 and 2 above and management of stormwater through easements will only be permitted by Council in exceptional circumstances where no other practical solution is available.	information to enable support (e.g. engineering and ecology information). Drainage easements within the subdivision are indicated on the subdivision plan, though Council's Engineers have requested further information.	
2.3.3 Salinity and Soil Management	Development applications, that include earthworks, on land with a low, or moderate to high risk of salinity (identified in the Areas of potential salinity risk map), are to be accompanied by information detailing how the design and construction of the proposed subdivision intends to address salinity issues. All works are to comply with the Western Sydney Salinity Code of Practice 2004 (WSROC) and Appendix B.	A Salinity Assessment (Reference: E3233-2, prepared by Foundation Earth Sciences, dated 13 September 2024) was submitted, which identified a series of management strategies to address salinity. The report would be conditioned should the application be recommended for approval.	Complies
	All development must incorporate soil conservation measures to minimise soil erosion and siltation during construction and following completion of development. Soil and Water Management Plans, prepared in accordance with Managing Urban Stormwater - Soils and Construction (Landcom 3 rd Edition March 2004 ('The Blue Book')) are to be submitted with each relevant subdivision Development Application.	Erosion and sediment control plans were submitted.	Complies
2.3.4 Aboriginal and European Heritage	Development applications must identify any areas of Aboriginal heritage value that are within or adjoining the area of the proposed development, including any areas within the development site that are to be retained and protected (and identify the management protocols for these).	An Aboriginal Archaeological Assessment (Reference 24SYD9118 Version 1, prepared by Eco Logical Pty Ltd, dated 3 March 2025 was submitted with the application. The assessment determined there was low potential for archaeological deposits. Council's Heritage Officer reviewed the assessment and provided conditions of consent should the application be recommended for approval. The site does not contain any items of European heritage.	Complies
2.3.5 Native Vegetation and Ecology	Native trees and other vegetation are to be retained where possible by careful planning of development (particularly at the subdivision	The site is partly biodiversity certified land and partly uncertified. It is also identified on the Biodiversity Values Map and the Existing Native Vegetation map under SEPP	Insufficient Information

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	stage) to incorporate trees into areas such as road reserves and private or communal open space.	(Precincts—Western Parkland City) 2021. The application removes all trees within the biodiversity certified land and has submitted a BDAR for the uncertified land. An arborist report was not submitted, and the BDAR does not assess all works within the uncertified land. Consequently, it cannot be determined if all trees identified for removal are necessary, and all trees that are required for removal have been identified.	
2.3.6 Bushfire Hazard Management	Subject to detailed design at development application stage, the indicative location and widths of Asset Protection Zones (APZs) are to be provided generally in accordance with the Bushfire risk and Asset Protection Zone Requirements figure in the relevant Precinct Schedule. APZs and construction standards are to be accurately mapped and detailed for each affected lot on plans submitted with the development application.	The site is identified as bushfire prone land. A bushfire assessment was submitted and general terms of approval obtained from NSW RFS. Refer to the Rural Fires Act discussion in the body of the report.	Complies
2.3.7 Site Contamination	All subdivision Development Applications, and applications proposing a change of use to a more sensitive land use (e.g. Residential, education, public recreation facility etc), shall be accompanied by a Stage 1 Preliminary Site Investigation prepared in accordance with the NSW EPA Contaminated Sites Guidelines, State Environmental Planning Policy 55 – Remediation of Land and the Contaminated Land Management Act, 1995 and relevant Council Policies	Refer to the SEPP (Resilience and Hazards) 2021 discussion in the body of the report.	Insufficient Information
2.3.8 Development on and Adjacent to Electricity and Gas Easements	Subdivision of land that is affected by easements and land adjacent to easements, as shown on the Location of Easements figure in the relevant Precinct Schedule, is to be consistent with the controls in this part of the DCP, and any specific controls in the Precinct Schedule.	A transmission easement exists over the eastern part of the land, in a north-south direction. Endeavour Energy objects to the application in its current form. Refer to the discussion under SEPP (Transport and Infrastructure) 2021 and the table of non-compliances in the body of the report.	Does not comply

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
2.3.9 Noise	Development Applications must be accompanied by an acoustic report where the development is in a location, shown on the Potential noise attenuation measures figure in the relevant Precinct Schedule.	The site is not shown near a potential noise source in the relevant schedule.	N/A
2.3.10 Odour Assessment and Control	Odour management is subject to the Protection of the Environment Operations Act 1997. Currently, the only methods of controlling odour impacts are applying buffers around odour generating activities and industry best management practices.	Council's Environmental Health officer has raised no concern regarding odour.	Complies
2.3.11 Air Quality	Implement effective site controls during and after demolition and construction to ensure that development does not contribute to increased air pollution.	Council's Environmental Health officer has raised no concern regarding air quality impacts.	Complies
2.4 Demolition	All demolition work must comply with the Australian Standard AS2601 - 1991, The Demolition of Structures.	All existing structures are proposed to be demolished. A Demolition Plan was submitted. Compliance with AS2601-1991 would be conditioned in the event of an approval.	Complies
	Hazardous materials audits shall be conducted on any buildings at the site that may require demolition.	It is a recommendation of the Detailed Site Investigation for a Hazardous Materials Survey be prepared prior to demolition. This would be conditioned in the event of an approval.	Complies
	A Waste Management Plan (WMP) is to be submitted with the Development Application. The WMP must include volume or area estimates and information about reuse, recycling, and disposal options for all types of waste produced on-site, including excavation materials.	A Waste Management Plan was submitted. However, Council's Waste officer requested further information on the construction phase waste information relating to the civil and roadworks component of the subdivision. Additionally, no mention was made to the disposal methodology and nominated destination of hazardous materials and asbestos.	Does not comply
2.5 Crime Prevention Through Environmental Design	All developments are to incorporate the principles of Crime Prevention Through Environmental Design (CPTED). Development Applications for subdivision, public open space, community facilities, commercial developments, mixed-use developments, and schools may require a formal crime risk (CPTED) assessment as part of the EP&A Act 1979.	The subdivision design facilitates satisfaction of CPTED principles for casual surveillance.	Complies
2.6 Earthworks	Subdivision and building work is to be designed to respond to the natural topography of the site wherever possible, minimising the extent of cut and fill both during subdivision and when buildings	It is deemed that the (up to approximately 2.5m) fill proposed is excessive and has not been adequately demonstrated as necessary to address flooding or drainage matters.	Does not comply

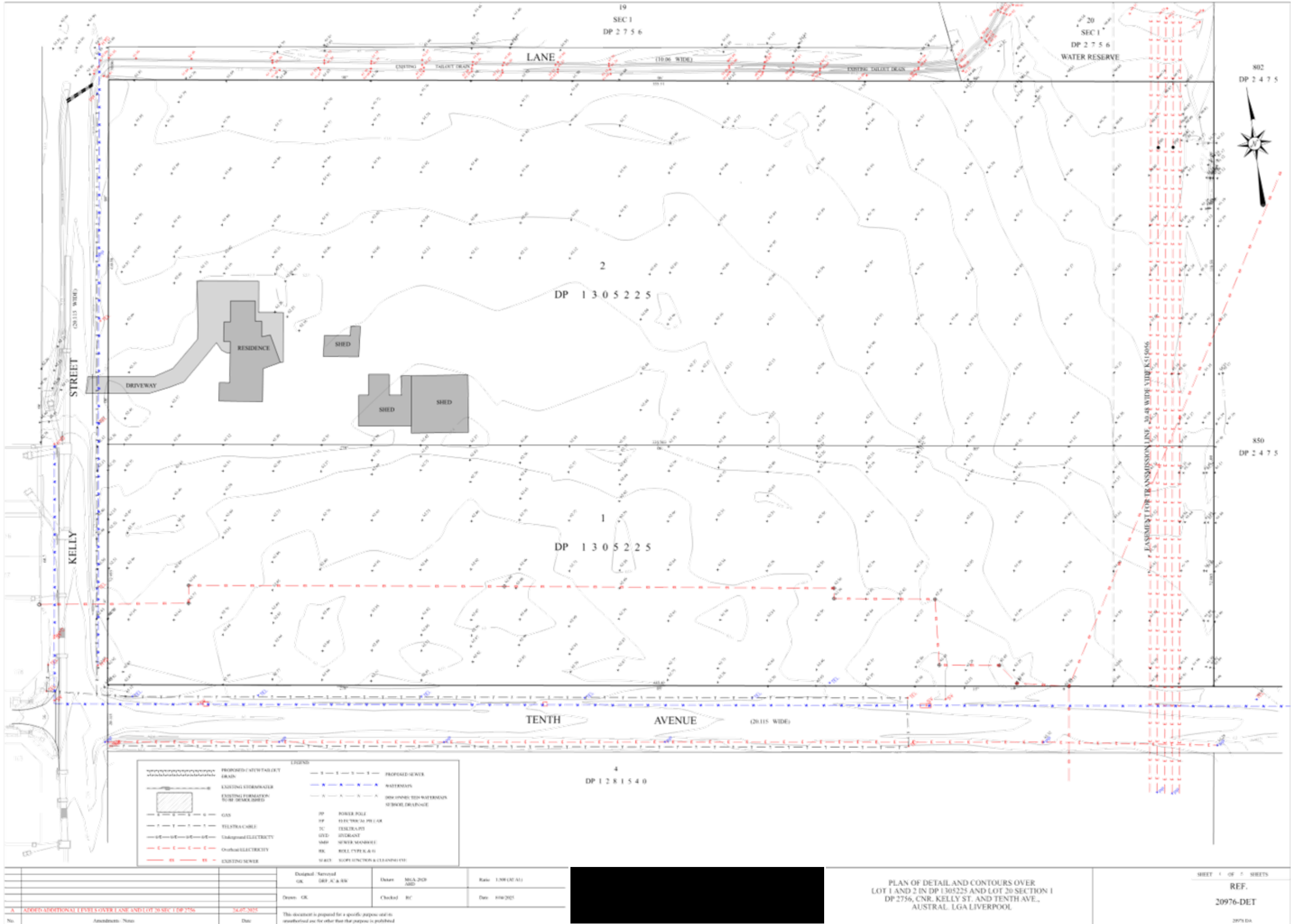
LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	are constructed.	Refer to the discussion in the body of the report.	
	The applicant is to demonstrate how the finished land levels will be integrated with nearby land and facilitate appropriate drainage.	Insufficient information has been submitted in this regard. Council's Engineers have noted the road levels do not align with approved development surrounding the site. The relationship of the retaining wall on the northern boundary is not clearly illustrated.	Insufficient Information
	All retaining walls proposed are to be identified in the development application. Those affecting adjoining properties i.e. adjacent to property boundaries are to be available for inspection prior to the internal linings of the house being installed. All other approved retaining walls are to be in place prior to the issue of an occupation certificate.	Insufficient information on the retaining wall on the north boundary has been provided (i.e. height, material, confirmation it is fully within the site). No details of internal retaining walls have been provided, including those on the steeply sloping Kelly Street lots.	Insufficient Information
LGCPDCP – Section 3.0 Neighbourhood and Subdivision Design			
3.1.1 Residential Density	All applications for residential subdivision and the construction of residential buildings are to demonstrate that the proposal meets the minimum residential density requirements of the relevant Precinct Plan and contributes to meeting the overall dwelling target in the relevant Precinct.	The proposed density is 21.84 dw/Ha, satisfying the minimum 15dw/Ha as prescribed under Section 4.1B of SEPP (Precincts—Western Parkland City) 2021.	Complies
	Residential development is to be generally consistent with the residential structure as set out in the Residential Structure Figure in the relevant Precinct Schedule, the typical characteristics of the corresponding Density Band in Table 3-1	The predominant character of the 15-20dw/Ha band is detached dwellings, semi-detached dwellings, and dual occupancies. The subdivision facilitates this typology and character.	Complies
	Residential development in the Environmental Living area, on the Residential Structure figure, is to: <ul style="list-style-type: none"> • Consist primarily of single dwellings on larger lots, reflecting the environmental sensitivity and visual character of these parts of the Precincts. • Emphasise high quality housing design to make the most of the environmental characteristics of the surrounding area. • Be designed and located to minimise impacts on flood prone land, and risks to property from 	Insufficient information has been submitted to satisfy this control. The proposed Environmental Living lots facilitate dwelling houses on larger lots, however, there is insufficient assessment of the flooding and ecology (Existing Native Vegetation).	Insufficient Information

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	<p>flooding.</p> <ul style="list-style-type: none"> • Avoid impacts on Existing Native Vegetation and other remnant native vegetation. • Consider relationships to adjoining land uses including public open space and drainage infrastructure. • Be designed to respond to constraints from infrastructure corridors such as electricity lines, underground gas pipelines, and any Sydney Catchment Authority infrastructure. • Consider views to and from the land and surrounding parts of the Growth Centre. 		
3.1.2 Block and Lot Layout	Subdivision layout is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and site features, place making opportunities and solar design principles.	Further information is required to determine whether the earthworks (fill) altering the natural topography is required to the extent that is proposed.	Insufficient information
	Street blocks are to be generally a maximum of 250m long and 70m deep. Block lengths in excess of 250m may be considered by Council where pedestrian connectivity, stormwater management and traffic safety objectives are achieved. In areas around neighbourhood and town centres, the block perimeters should generally be a maximum of 520m (typically 190m x 70m) to increase permeability and promote walking	The street blocks proposed have been informed by ILP and are acceptable.	Complies
	Minimum lot sizes for each dwelling type will comply with the minimum lot size provisions permitted by the Sydney Region Growth Centres SEPP, summarised here as Table 3-2. In certain density bands, variations to some lot sizes may be possible subject to clauses in the Sydney Region Growth Centres SEPP.	All lots are a minimum of 300m ² , the minimum / base control for a dwelling house in the R2 zone and 15dwHa band.	Complies
	Minimum lot frontages applying to each density band will comply with Table 3-3. Lot frontage is measured at the street facing building line as indicated in Figure 3-3.	In the 15dw/Ha band, the minimum lot frontage for a front loaded dwelling is 9m. All lots have a minimum 10m frontage.	Complies
	A range of residential lot types (area, frontage, depth, zero lot and access) must be provided to	A range of lot sizes and widths are provided.	Complies

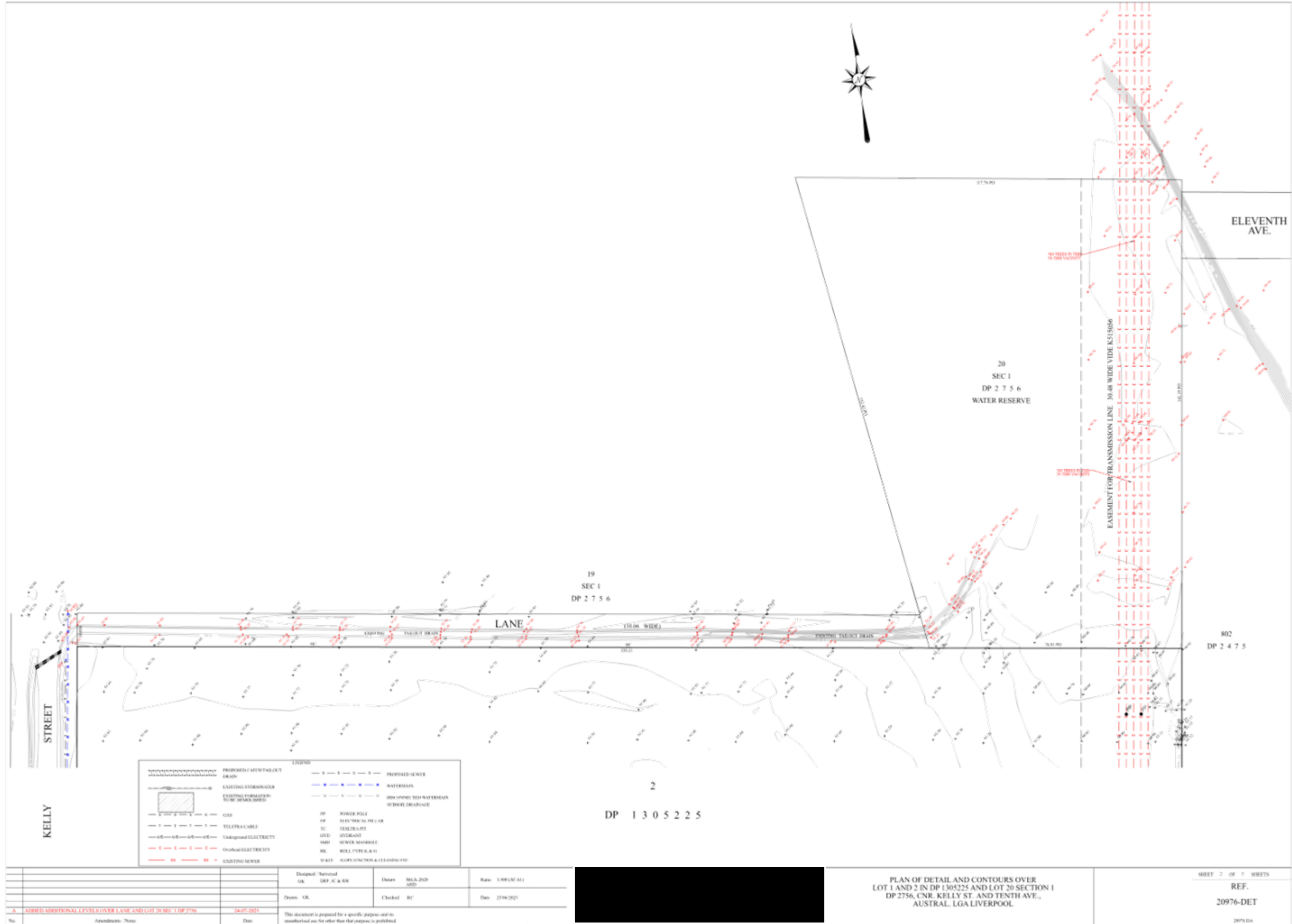
LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	ensure a mix of housing types and dwelling sizes and to create coherent streetscapes with distinctive garden suburban, suburban, and urban characters across a neighbourhood.		
	In density bands $\leq 20dw/Ha$ no more than 40% of the total residential lots proposed in a street block may have frontage of less than 10m wide.	No lot frontage is below 10m wide.	Complies
	Lots should be rectangular. Where lots are an irregular shape, they are to be large enough and oriented appropriately to enable dwellings to meet the controls in this DCP.	Most lots are rectangular, except where on corners and fronting the curved Sculptor Crescent. The irregular lots are of an adequate size to accommodate a dwelling.	Complies
	The location of a zero lot line is to be determined primarily by topography and should be on the low side of the lot to minimise water penetration and termite issues. Other factors to consider include dwelling design, adjoining dwellings, landscape features, street trees, vehicle crossovers, and the lot orientation as illustrated at Figure 4-8.	No zero lot lines proposed.	N/A
3.1.4 Corner Lots	Corner lots, including splays and driveway location, are to be designed in accordance with AS 2890 and Council's Engineering Specifications.	Council's Traffic Engineer reviewed the proposal including the driveway locations and supported the application subject to conditions.	Complies
	Corner lots are to be designed to allow dwellings to positively address both street frontages as indicated in Figure 3-8.	Achieved.	Complies
	Plans of subdivision are to show the location of proposed or existing substations, kiosks, sewer manholes and/or vents affecting corner lots.	No substations, kiosks, sewer manholes or vents have been identified in the subdivision.	Does not comply
3.1.5 Subdivision in the Environmental Living Zone	The minimum frontage width of lots in the Environmental Living zone is: <ul style="list-style-type: none"> 30 metres, where the lot is within (or partly within) Flood prone and Major Creeks land as indicated on the Development Control Map that forms part of the Growth Centres SEPP; or 20 metres where the lot is wholly outside Flood prone and Major Creeks land 	The Environmental Living zoned land is partly within the Flood Prone and Major Creeks land as identified in Figure 21. A 30m frontage is therefore required. Lot 76 is 29.56m and Lot 77 is 29.99m. The marginal variation is accepted as there is no consequence to a variation this minor, and the lot sizes of each (3,403m ² and 2,949m ²) are well over the minimum 2,500m ² lot size.	Acceptable On Merit
	Subdivision of land in the Environmental Living zone is to:	For reasons outlined in the assessment report, the impact on Existing Native Vegetation has not been fully assessed.	Insufficient Information

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	<ul style="list-style-type: none"> Consider the location of flood prone land and ensure that each lot is capable of accommodating a dwelling that complies with the controls for development on flood prone land in clause 2.3.1. Protect Existing Native Vegetation and other vegetation within the Environment Protection overlay on the Precinct Indicative Layout Plan 	<p>The site and depths of the Environmental Living zoned lots between the street and the APZ appear sufficient to accommodate a dwelling of acceptable size.</p>	
	<p>Subdivision of land in the Environmental Living zone is to ensure that:</p> <ul style="list-style-type: none"> The layout of residential lots and the likely positioning and orientation of dwellings does not significantly impact on the visual character of the locality. The orientation of lots and dwellings allows for passive surveillance of public land and infrastructure easements where relevant. Any areas of remnant native vegetation or significant trees are preserved to the maximum practical extent, including avoiding or minimising subdivision of land that contains Existing Native Vegetation (as shown on the Native Vegetation Protection Areas Map). Impacts on utilities easements can be avoided during subdivision works and when buildings are constructed on the land. Access to easements for maintenance and inspections is maintained 	<p>The subdivision layout is unlikely to have an impact on the visual character of the locality.</p> <p>The orientation of lots will allow for passive surveillance of the public land and the transmission easement.</p> <p>The impact of the subdivision on native vegetation requires further information to fully assess, as discussed in the body of the report.</p> <p>Endeavour Energy has objected to the application in its current form. Consequently, the impacts on the easement are unsatisfactory.</p> <p>The application has not identified how the easement will be accessed for maintenance.</p>	Does not comply
3.2 Subdivision Approval Process	The land subdivision approval process is to be consistent with the requirements of Table 3-4.	The proposed application is via Pathway A1. No dwelling plans are required.	Complies
3.3.1 Street Network Layout and Design	The design and construction of streets is to be consistent with the relevant typical designs in Figure 3-11 to Figure 3-18, Council's Engineering Specifications and Austroads.	While Council's Engineers have raised items requiring further information regarding the road levels, street trees and LATM fixtures, the general road design (width, footpath) appears to be consistent with the typical design.	Complies
3.3.2 Street Furniture	<p>Street trees are required for all streets.</p> <p>The spacing of street trees will relate to the subdivision lot widths, and street type, and shall</p>	While street trees are proposed, none are identified along Kelly Street or in front of the Environmental Living zoned land along Sculptor Crescent. Trees should also be provided in both streets.	Does not comply

LGCPDCP – Section 2.0 Precinct Planning Outcomes			
Section	Control	Comment	Compliance
	be provided in accordance with Table 3-5.		
3.3.3 Local Area Traffic Management	A Local Area Traffic Management (LATM) plan shall be submitted with any development which involves the opening of a new road(s), or modifications to existing roads. Design solutions shall conform to Austroads Guide to Traffic Management Part 8 (Local Area Traffic Management).	Council's Land Development Engineer has required LATM devices (textured surface combined with tree pit or kerb extension). Kerb extensions are provided, but not the textured surface.	Does not comply
3.3.6 Pedestrian and Cycle Network	Key pedestrian and cycleway routes are to be provided generally in accordance with the pedestrian and cycleway network figure in the Precinct Schedule.	The site is not identified as a key pedestrian or cycleway route. Standard 1.5m wide footpaths have been nominated.	Complies
3.3.7 Temporary Vehicular Access	Where necessary to ensure that access to residential properties is provided in the early stages of development, Council may consent to the construction and operation of temporary access roads.	The application proposes a temporary access point between Tenth Avenue and Sculptor Crescent. It is not clear why the application is staged as such, and this information was requested but not response provided prior to the appeal being lodged. To enable support of the temporary vehicular access, further information is necessary.	Insufficient information
	Temporary turning circles may be required where roads are to continue onto adjoining properties that are not yet developed.	The part road of Deneb Crescent requires a temporary turning head. However, it has not been proposed.	Does not comply



No.	Amendments	Date	Designed / Revised OK DRY, A & BK	Checked BC	Drawn MIA, PCD 2025	Rate 1:500 (D/A)	Date 1/10/2025
<p>A ADDITIONAL PLOTS OVER LANE AND LOT 20 SEC 1 DP 2756</p> <p>This document is prepared for a specific purpose and is unauthorised use for other than that purpose is prohibited.</p>							



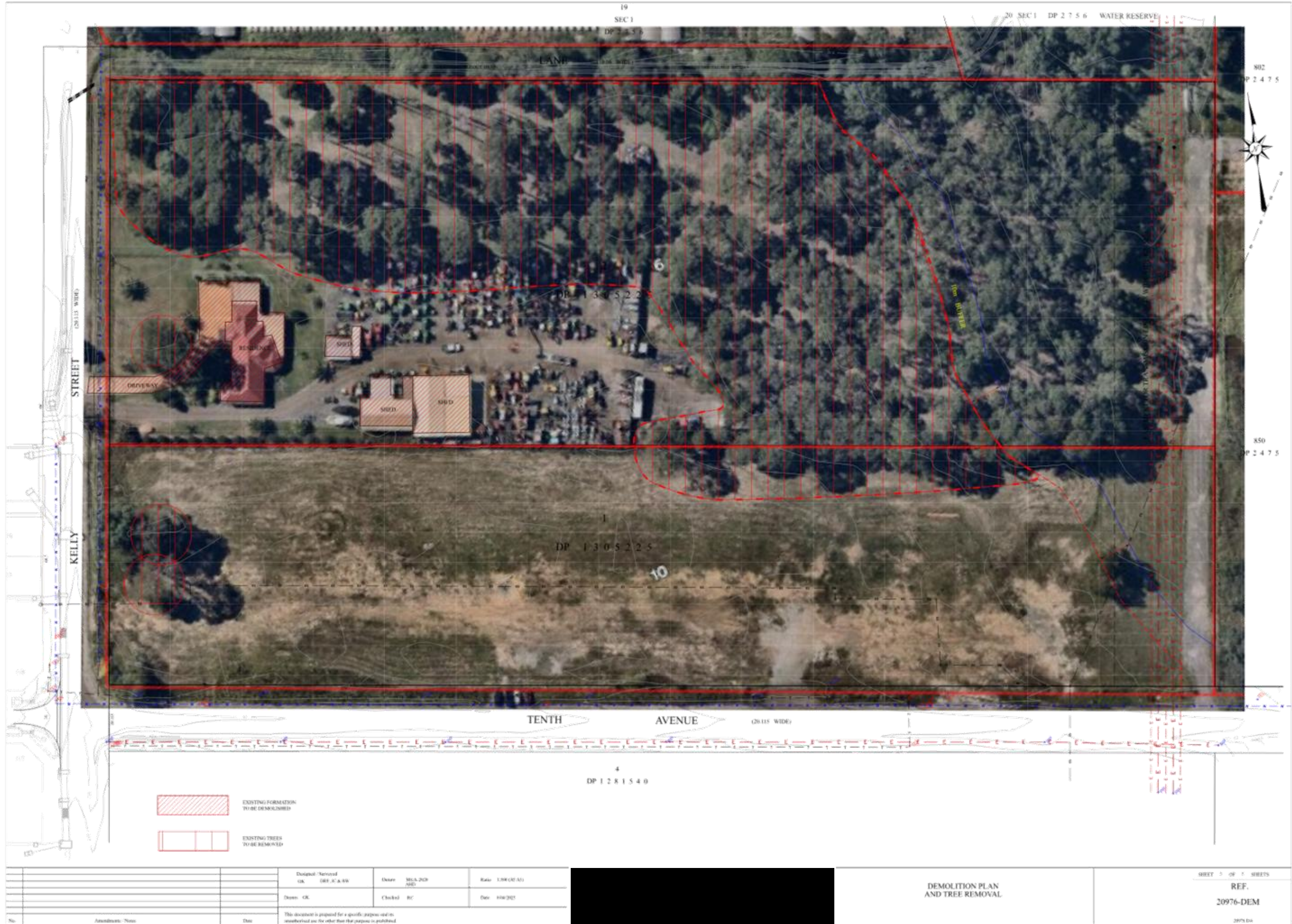
LEGEND	
	PROPOSED NEW TAILOUT DRAIN
	EXISTING STORMWATER
	EXISTING FORMATION TO 1m DEPTH
	GAS
	TELESTRA CABLE
	Underground ELECTRICITY
	Overhead ELECTRICITY
	EXISTING SEWER
	PROPOSED SEWER
	WATERMAIN
	NEW PROPOSED WATERMAIN SEWER DRAINAGE
	PP POWER POLE
	EP ELECTRIC TO POLE OR
	TC TRENCH
	GD GULLY
	SM SEWER MANHOLE
	HL HOLE TYPE A & B
	SW SCOPED WORK IN CLEARING AREA



Designed / Revised OK DRY, C & BK	Drawn MGA, 2025	Rate 1:500 (D/A)
Drawn OK	Checked BC	Date 25/06/2025
<p>A. ADDITIONAL LEVELS OVER LANE AND LOT 20 SEC 1 DP 2756 24/07/2025</p>		
No.	Amendments / Notes	Date

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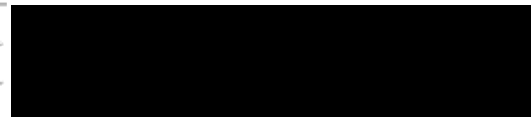
PLAN OF DETAIL AND CONTOURS OVER LOT 1 AND 2 IN DP 1305225 AND LOT 20 SECTION 1 DP 2756, CNR KELLY ST. AND TENTH AVE., AUSTRAL LGA LIVERPOOL

SHEET 2 OF 7 SHEETS
REF.
20976-DET
2025 DA



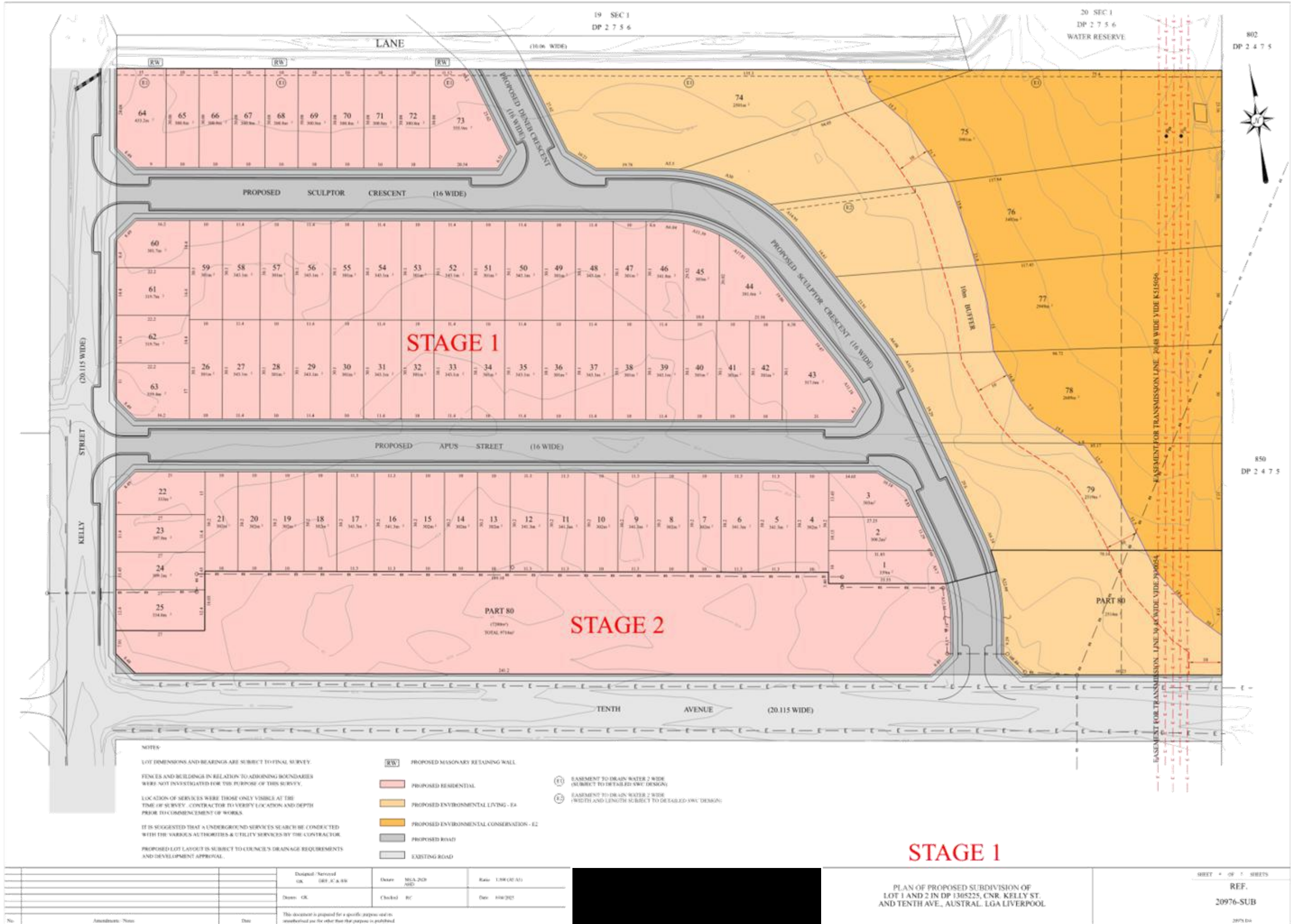
 EXISTING FORMATION TO BE DEMOLISHED
 EXISTING TREES TO BE REMOVED

No.	Amendments	Date	Designed/Revised OK DRY, C.A.B.B.	Drawn OK	Checked BC	Scale 1:500 (0/1)	Date 10/1/2025
This document is prepared for a specific purpose and is not to be used for any other purpose without the written consent of the author.							



DEMOLITION PLAN AND TREE REMOVAL

SHEET 5 OF 7 SHEETS
 REF.
 20976-DEM
 2025 DA



NOTES

LOT DIMENSIONS AND BEARINGS ARE SUBJECT TO FINAL SURVEY.
 FENCES AND BUILDINGS IN RELATION TO ADDRESSING BOUNDARIES WERE NOT INVESTIGATED FOR THE PURPOSE OF THIS SURVEY.
 LOCATION OF SERVICES WERE THOSE ONLY VISIBLE AT THE TIME OF SURVEY. CONTRACTOR TO VERIFY LOCATION AND DEPTH PRIOR TO COMMENCEMENT OF WORKS.
 IT IS SUGGESTED THAT AN UNDERGROUND SERVICES SEARCH BE CONDUCTED WITH THE VARIOUS AUTHORITIES & UTILITY SERVICES BY THE CONTRACTOR.
 PROPOSED LOT LAYOUT IS SUBJECT TO COUNCIL'S DRAINAGE REQUIREMENTS AND DEVELOPMENT APPROVAL.

- RW PROPOSED MASONRY RETAINING WALL
- PROPOSED RESIDENTIAL
- PROPOSED ENVIRONMENTAL LIVING - E4
- PROPOSED ENVIRONMENTAL CONSERVATION - E2
- PROPOSED ROAD
- EXISTING ROAD
- E1 EASEMENT TO DRAIN WATER 2 WIDE (SUBJECT TO DETAILED SWC DESIGN)
- E2 EASEMENT TO DRAIN WATER 2 WIDE (WIDTH AND LENGTH SUBJECT TO DETAILED SWC DESIGN)

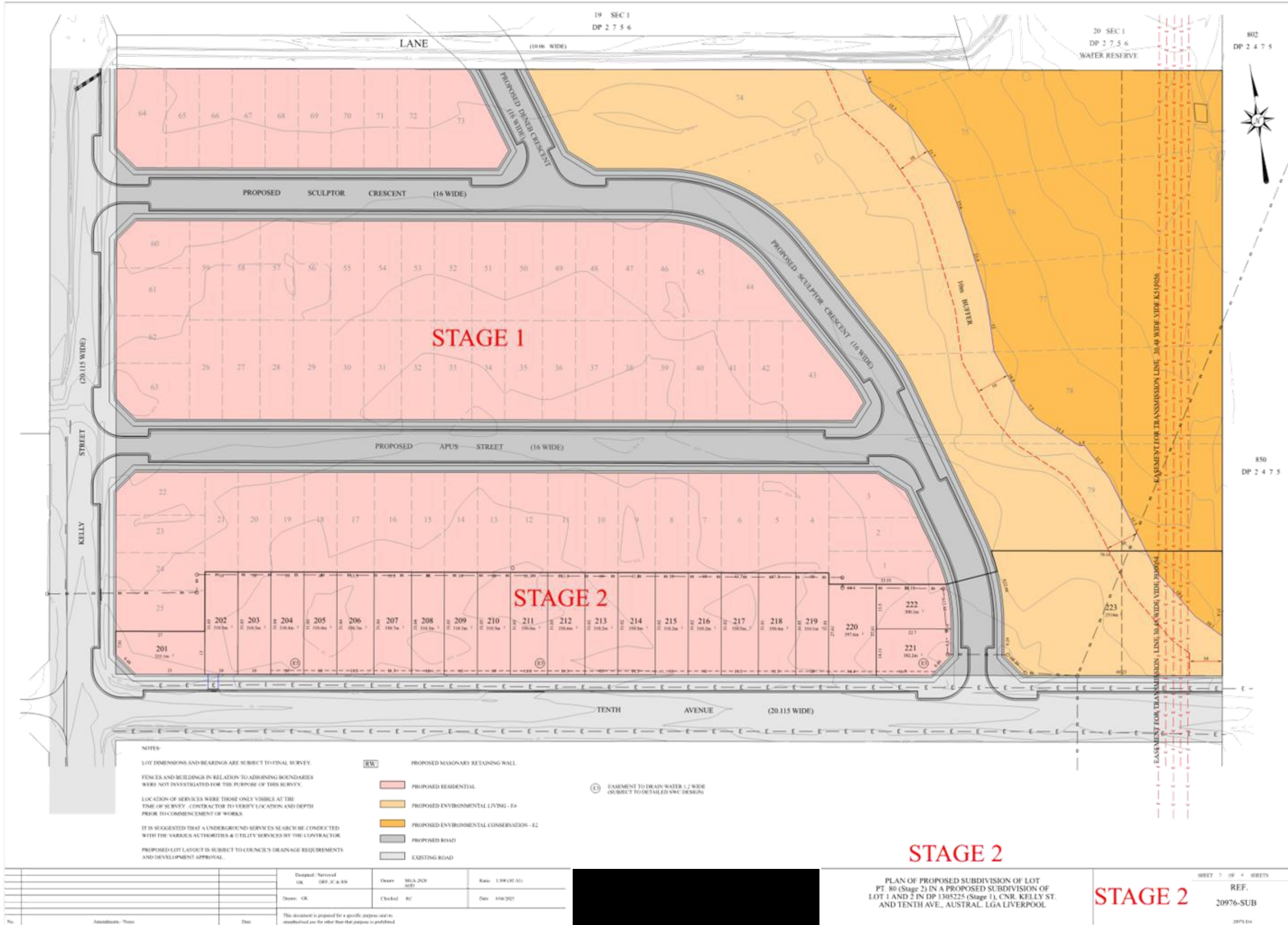
STAGE 1

Designed/Reviewed OK DEF. C & B	DRAWN MCA/PCP JSD	DATE 10/10/2025	RATE 1:500 (0/1)
Checked OK	Checked BC	DATE 10/10/2025	

This document is prepared for a specific purpose only. It is not to be used for any other purpose without the prior written approval of the author.

PLAN OF PROPOSED SUBDIVISION OF LOT 1 AND 2 IN DP 1305225, CNR KELLY ST. AND TENTH AVE., AUSTRAL LGA LIVERPOOL

SHEET 4 OF 7 SHEETS
REF.
20976-SUB
2025 DA



NOTES

LOT DIMENSIONS AND BEARINGS ARE SUBJECT TO FINAL SURVEY.
FENCES AND BUILDINGS IN RELATION TO ADDRESSING BOUNDARIES WERE NOT INVESTIGATED FOR THE PURPOSE OF THIS SURVEY.
LOCATION OF SERVICES WERE THOSE ONLY VISIBLE AT THE TIME OF SURVEY. CONTRACTOR TO VERIFY LOCATION AND DEPTH PRIOR TO COMMENCEMENT OF WORKS.
IT IS SUGGESTED THAT AN UNDERGROUND SERVICES SEARCH BE CONDUCTED WITH THE VARIOUS AUTHORITIES & UTILITY SERVICES BY THE CONTRACTOR.
PROPOSED LOT LAYOUT IS SUBJECT TO COUNCIL'S DRAINAGE REQUIREMENTS AND DEVELOPMENT APPROVAL.

- RW PROPOSED MASONRY RETAINING WALL
- PROPOSED RESIDENTIAL
- PROPOSED ENVIRONMENTAL LIVING - E4
- PROPOSED ENVIRONMENTAL CONSERVATION - E2
- PROPOSED ROAD
- EXISTING ROAD

E EASEMENT TO DRAIN WATER 1.2 WIDE (SUBJECT TO DETAILED SWC DESIGN)

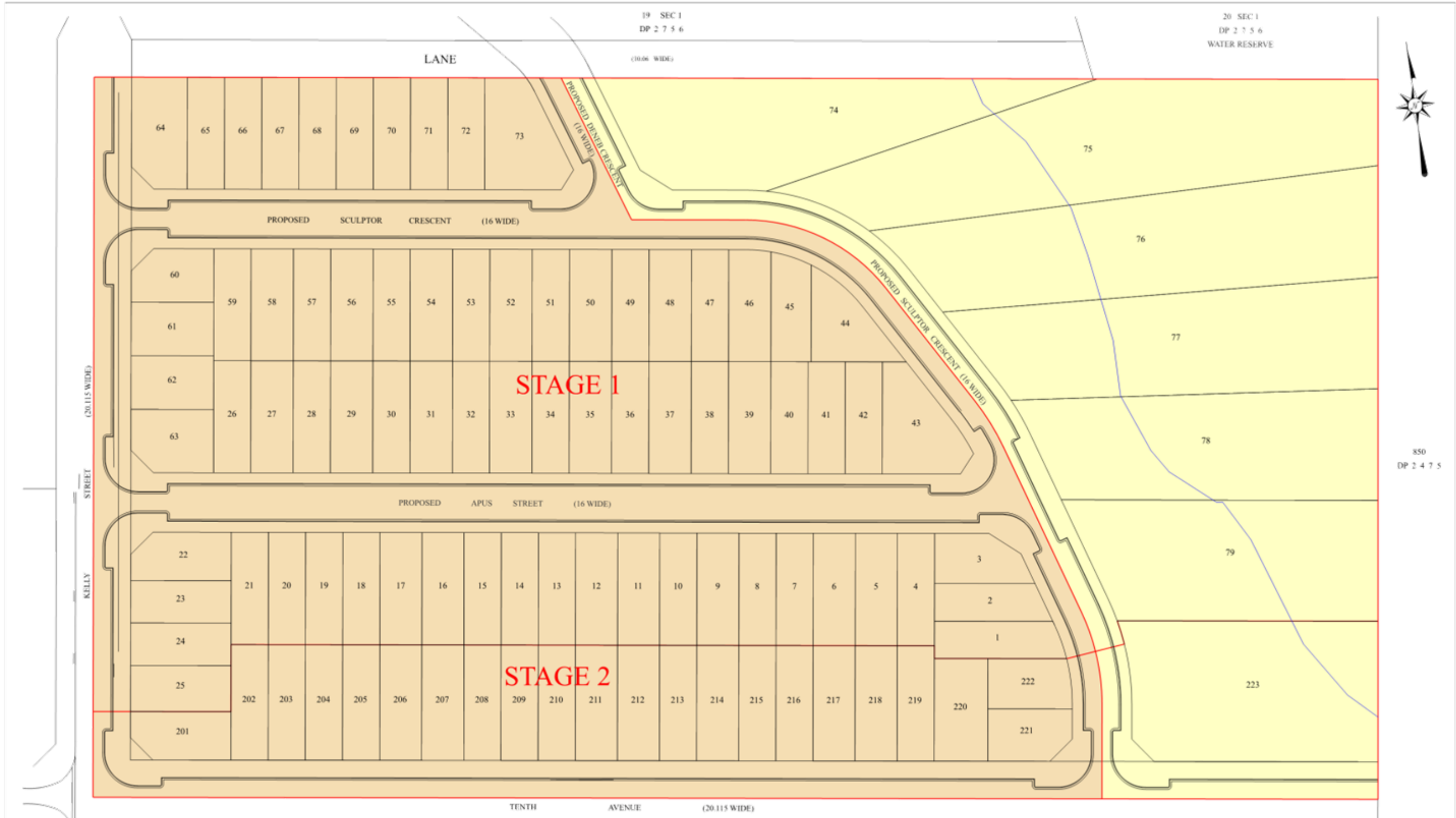
Designed/Reviewed OK DEF. C & B	Drawn OK	Checked BC	Date 10/10/2025
This document is prepared for a specific purpose and is intended for use for that purpose only.			

STAGE 2

PLAN OF PROPOSED SUBDIVISION OF LOT PT. 80 (Stage 2) IN A PROPOSED SUBDIVISION OF LOT 1 AND 2 IN DP 1305225 (Stage 1), CNR. KELLY ST. AND TENTH AVE., AUSTRAL LGA LIVERPOOL

STAGE 2

SHEET 5 OF 5 SHEETS
REF.
20976-SUB
2025 DA



NOTES
 LOT DIMENSIONS AND BEARINGS ARE SUBJECT TO FINAL SURVEY.
 FENCES AND BUILDINGS IN RELATION TO ADJOINING BOUNDARIES WERE NOT INVESTIGATED FOR THE PURPOSE OF THIS SURVEY.
 LOCATION OF SERVICES WERE THOSE ONLY VISIBLE AT THE TIME OF SURVEY. CONTRACTOR TO VERIFY LOCATION AND DEPTH PRIOR TO COMMENCEMENT OF WORKS.
 IT IS SUGGESTED THAT AN UNDERGROUND SERVICES SEARCH BE CONDUCTED WITH THE VARIOUS AUTHORITIES & UTILITY SERVICES BY THE CONTRACTOR.
 PROPOSED LOT LAYOUT IS SUBJECT TO COUNCIL'S DRAINAGE REQUIREMENTS AND DEVELOPMENT APPROVAL.

DWELLING DENSITY					
Stage	Lots/ha	Total Area	Yield Required	Yield Achieved	Residue
Stage 1	15	3.32 ha	49.80 Lots	73 Lots	6 Lots
E4 Environmental Living & Conservation	1.98 ha				
Stage 2	15	1.03 ha	15.5 Lots	22 Lots	1 Lots
E4 Environmental Living & Conservation	0.35 ha				

No.	Amendments / Notes	Date

Designed / Revised OK DRY, C & BK	Dates MCA 2025 JED	Rate 1:500 (D/A)
Drawn OK	Checked BC	Date 10/10/2025



PLAN OF DWELLING DENSITY OVER
 LOT 1 AND 2 IN DP 1305225, CNR. KELLY ST.
 AND TENTH AVE., AUSTRAL. LGA LIVERPOOL

Item Number:	2
Application Number:	DA-866/2022/B
Proposed Development:	Modification to Development Consent DA-866/2022. Under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, to: <ol style="list-style-type: none"> 1. Seek consent for future use of all existing unauthorised building works that deviate from the existing development consent DA-866/2022, and 2. New alterations and additions to the existing dwelling
Property Address	50 Rosewood Avenue, Prestons
Legal Description:	Lot 102 DP 1007447
Applicant:	Mr. M. Rajan
Cost of Works:	\$45,000
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Adiona Manyere

1 EXECUTIVE SUMMARY

Council has received a Modification Application, DA-866/2022/B, seeking consent for *future use of all existing unauthorised building works that deviate from the existing development consent DA-866/2022, which are the subject of a concurrent Building Information Certificate application (BIC-42437), as well as propose additional modifications to the existing (as-built) alfresco area to complete the proposed kitchen extension* at 50 Rosewood Avenue, Prestons, legally defined as Lot 102 DP1007447. The extent of the unauthorised modifications includes:

- The modification of new approved windows,
- The alteration of the original main entrance door,
- The addition of new windows,
- The alteration of an existing brick (veneer) wall,
- The modification of existing external colours, and
- The modification of the open sections of the existing alfresco area, which has resulted in contravention of the Floor Space Ratio (FSR), a development standard.

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

The purpose of the modification is two-fold:

- To enable the applicant to continue the current construction, which has been issued a stop-work order by the private certification authority. The stop work order requires a modification consent from Council in relation to the unauthorised works listed above.
- To seek consent for the proposed enclosure of the covered alfresco for the purpose of a kitchen extension with an increase to the internal gross floor area.

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

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

Departure from Development Standards

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

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

2 SITE DESCRIPTION AND LOCALITY



Figure 1: Aerial Image of Subject site (in red).

2.1 Site Description

The subject is identified as Lot 102 DP1007447, and commonly known as 50 Rosewood Avenue, Prestons. The site is regular in shape with a 15m wide frontage to Rosewood Avenue and 30m depth, with a total site area of 450m². The slope of the site is flat, with a slight incline of 0.6m in the front setback from the front boundary to the building line.

Currently, the site comprises a double-storey dwelling approved by DA-866/2022 on 19 September 2022. The works obtained a construction certificate (CC-22559/01), and unauthorised modifications during construction prompted the Principal Certification Authority (PCA) to issue a stop works order. The history of the site is detailed in the next sections of this report. No additional structures have been constructed on the subject site.

2.2 Locality Description

The site is located within Prestons on a local road adjacent to Beech Road, an arterial road for the suburb. The locality of the site contains a mix of one and two-storey detached dwelling houses. The site is located 70m south of a childcare centre in operation for 80 children, approved in 2022.

The site is located 600m southeast of Prestons Public School and 300m north of the M5 motorway. The main access points to the locality are Kurrajong Road running in the east-west direction and Beech Road running in the north-south direction.



Figure 2: Locality surrounding the proposed development (subject site in red box).

2.3 Site Constraints

<p>Are there any constraints or affection on the site:</p> <ul style="list-style-type: none"> - Bushfire - Flooding - Heritage Items - Aboriginal heritage - Environmentally Significant Land - Threatened Species/ Flora/ Habitat/ Critical Communities - Acid Sulphate Soils - Aircraft Noise - Flight Paths - Railway Noise - Road Noise/ Classified Road - Significant Vegetation - Contamination - Salinity 	<ul style="list-style-type: none"> - Moderate Salinity
<p>88B Restriction for subject Lot 102 DP 1007447</p>	<p><u>Terms of Restriction on the use of land fourthly referred to in the abovementioned plan.</u> That for the benefit of any adjoining land owned by Surface Pty. Limited but only during the ownership thereof by Surface Pty. Limited their successors and assigns other than transferees on sale no fence shall be erected on the land hereby burdened to divide the same from such adjoining land without the consent of Surface Pty. Limited but such consent shall not be withheld if such fence is erected without the expense to Surface Pty. Limited and in favour of any person dealing with a transferee such consent shall be deemed to have been given in respect of every fence for the time being erected. The authority whose consent is required to release, vary, or modify the above restriction is Surface Pty. Limited. The cost and expense of any release, variation or modification shall be borne by the person or corporation requesting the same in all respects.</p> <p>No adjacent lots owned by Surface Pty Ltd currently remain. As such, the restriction does not apply.</p>

3 BACKGROUND/HISTORY

3.1 Background and DA History

The following is a list of Development Applications relating to the subject site:

DA No.	Development	Determined
DA-866/2022	Alterations and additions to an existing dwelling	Approved 19 September 2022
DA-866/2022/A	Modification to development consent no. DA-866/2022 under S4.55(2) of the EP&A Act 1979, to modify existing consent for the dwelling to retain and use existing unauthorised alterations to the dwelling and the construction of proposed additional alteration to the dwelling house: <ol style="list-style-type: none"> 1. Unauthorised demolition of existing windows 2. Unauthorised alteration of the existing main entrance door 3. Unauthorised addition of new windows 4. Unauthorised modification of existing external colours 5. Proposed alteration of existing alfresco 6. Proposed extension of the existing kitchen 	Refused 03 April 2023
DA-866/2022/B	<i>Modification to Development Consent DA-866/2022. Under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, to 1) Consent for future use of all existing unauthorised building works that deviate from the existing development consent DA-866/2022, which are the subject of a concurrent Building Information Certificate application (BIC-42437); 2) Propose additional modifications to the existing (as-built) alfresco area to complete the proposed kitchen extension; 3) A merit-based assessment for a variation to the Clause 4.4 FSR development standard in the Liverpool LEP 2008.</i>	Currently Under Assessment

As part of the minutes for DA-866/2022/A, the Panel addressed concerns in relation to building information certificate and the likelihood of supporting the proposal including the limited precedential value of support for the proposal inclusive of the development standard variation. The minutes of the prior modification are below:

DETERMINATION OF PANEL:

Development Application DA-866/2022/A be refused for the following reasons:

1. *The development application seeks retrospective development consent for works erected without prior consent.*

Note: The correct process is to seek a Building Information Certificate for such works and the Panel notes the plans and documentation to support such an application must be very specific as to what is already constructed and what is proposed to be constructed. For the constructed works, engineering certification is essential. For the works proposed to be constructed these can be the subject of a development application.

2. *The plans do not adequately distinguish between the proposed and existing unauthorised works.*

The above reasons of refusal are to replace all the draft reasons of refusal attached to the agenda.

REASONS FOR DECISION:

The Panel carried out a site visit. The Panel is of the view that an application for an extension of the kitchen into the area of the alfresco ground floor space would result in a development which is substantially the same as that existing for the purposes of Section 4.55 of the EP&A Act.

The Panel is of the view that the connection from the dwelling into the private open space is adequate in terms of DCP requirement for a direct link between living room and private open space.

The Panel is of the view that the precedential value of the infill of the alfresco area to facilitate the extension of the kitchen is limited in the circumstances where this area is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space.

4 DETAILS OF THE PROPOSAL

The proposed modification to DA-866/2022, under the subject application DA-866/2022/B, pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, seeks consent to retain and use the existing unauthorised alteration to the dwelling and the construction of the proposed additional alteration to the dwelling house.

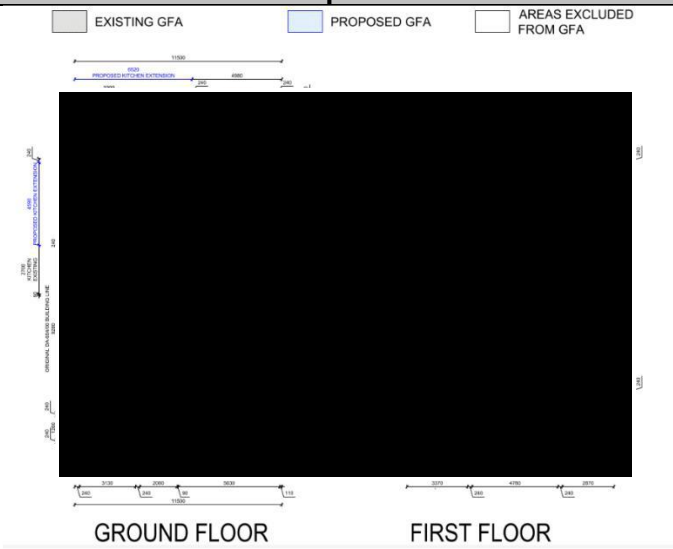
Specifically, the proposal seeks to regularise the following unauthorised works:

- The modification of new approved windows,
- The alteration of the original main entrance door,
- The addition of new windows,
- The alteration of an existing brick (veneer) wall,
- The modification of existing external colours, and
- The unauthorised modification of the open sections of the existing alfresco area, which has resulted in contravention of the Floor Space Ratio (FSR) development standard.

Proposed new works:

- The proposed extension of the existing kitchen into the area of the existing alfresco ground floor space.
- Installation of the new window (W26) in the existing rough opening on the Alfresco eastern elevation.
- Installation of the new window (W27) in the existing rough opening on the Alfresco northern elevation.
- Relocation of the existing approved rear entry door D3 on the existing approved open section on the Alfresco eastern elevation.
- Demolition of the existing internal wall separating the Alfresco and the existing kitchen
- Internal finishes, installation of a new kitchen island, kitchen fit-out and installation of upgraded energy-efficient appliances.

Note: Unauthorised works are in red and proposed works are in blue in the plans in the below table.

Proposal	Commentary
 <p>EXISTING GFA PROPOSED GFA AREAS EXCLUDED FROM GFA</p> <p>GROUND FLOOR FIRST FLOOR</p>	<ul style="list-style-type: none"> - Demolition of existing windows to ground floor lounge - Demolition of existing front door and relocating to the front habitable wall. - Addition of new kitchen (W24) - Infill of window location in existing kitchen - Office on first floor approved under DA-866/2022 converted to Bed 2 - Addition of two windows to bedrooms 4 (W12) & 5 (W20)

	<p>LEGEND FOR TYPES OF BUILDING WORKS</p> <p>BLACK APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)</p> <p>RED EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.</p> <p>BLUE PROPOSED ALTERATIONS SEEKING CONSENT TO CONSTRUCT THAT ARE SUBJECT OF PAN-544154</p>	
<p style="text-align: center;">GROUND FLOOR PROPOSED</p>		<ul style="list-style-type: none"> - Alteration of the existing main front door. - Addition of new windows to front façade (removal of 2 windows and addition of 3 windows in the same space)
<p style="text-align: center;">ELEVATION - NORTH PROPOSED</p>		<ul style="list-style-type: none"> - Addition of new windows to the north elevation on the first floor for bedroom 4 - Addition of a new kitchen window on the ground floor (shown in red) - Proposed addition of a window for the new kitchen (shown blue)

<p style="text-align: center;">ELEVATION - SOUTH PROPOSED</p>	<ul style="list-style-type: none"> - Addition of new windows to first floor bedroom 5 - Addition of a new window to the ground-floor bedroom
<p style="text-align: center;">BACK - EASTERN PROPOSED</p>	<ul style="list-style-type: none"> - Additional window to the ground floor, Bed 2.

5 STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The relevant planning considerations for the proposed development are as follows:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Liverpool Local Environmental Plan (LLEP) 2008; and
- Liverpool Development Control Plan (LDCP) 2008;
 - Part 1: General Controls for All Development;
 - Part 3.2: Dwelling houses on land greater than 400 sqm in the R2, R3 and R4 zones

Contributions Plans

- Liverpool Contributions Plan 2018 – Established Areas applies to the site.

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, as follows:

The application has been lodged pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979, which provides:

Modification of consents – generally

(2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposed modification would result in ‘substantially the same’ development as the development has been integrated into the existing built form and does not present as excessive bulk or intensity when assessed in the context of the established built form. The existing approved dwelling formed a compliant development and the alterations are consistent with the zone objectives and character of the area.

(b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: Concurrence or general terms of approval is not required in the assessment of this modification and was not sought in the consent originally approved.

(c) *it has notified the application in accordance with—*
 (i) *the regulations, if the regulations so require, or*
 (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The modification application was not required to be notified in accordance with the regulations or Councils Community Engagement Strategy 2022.

(d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be. Subsections (1) and (1A) do not apply to such a modification.*

Comment: No submissions were received during the course of this assessment.

(3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

Comment: Council has considered matters referred to in Section 4.15(1) and is discussed in

the following sections of this report. Council has considered that reasons for the grant of the originally approved consent included the developments compliance of the Floor space ratio within the area prescribed, a 0.6:1 FSR mapped zone.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

Comment: Noted.

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

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

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

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

The parent application, DA-866/2022 was not referred to Council's Land Development Engineering Section given the typical application for the construction of a detached dwelling on a residential land. Accordingly, the development was considered to meet the objectives of the SEPP as it would unlikely have a negative impact on the environmental quality of the Georges River Catchment and conditions were applied regarding stormwater and sediment and erosion control measures.

(b) State Environmental Planning Policy (Resilience and Hazards) 2021 – Remediation of Land

Land contamination and remediation matters were considered in the prior assessment of the approved development under DA-866/2022. No further matters for consideration have been identified under the subject modification.

(c) Liverpool Local Environmental Plan (LLEP) 2008

The approved development had been assessed against the LLEP 2008 under DA-866/2022 and the proposed modification generates further matters for consideration in this instance.

(i) Zoning

The subject site is zoned R2 Low-Density Residential pursuant to the LLEP 2008. An extract of the zoning map is provided in Figure 2.

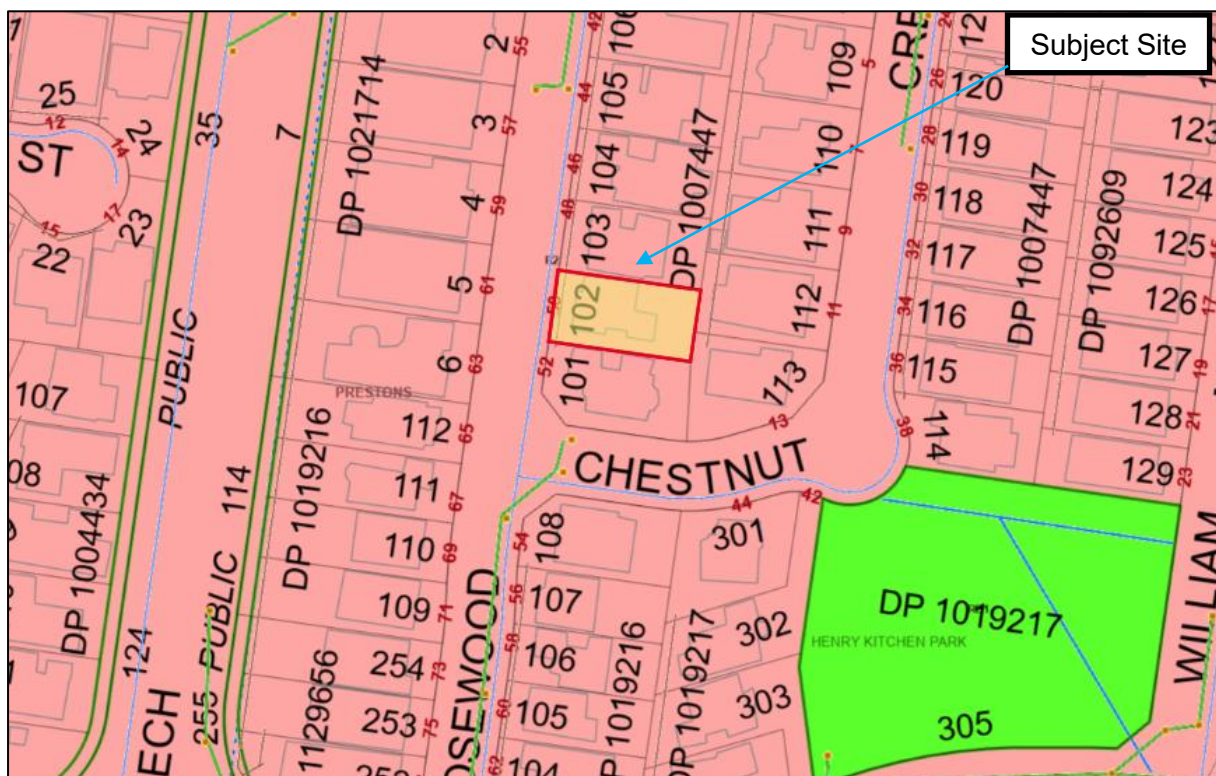


Figure 3: Zoning map (Source: Geocortex)

(ii) Permissibility

The proposed additions and alterations of a dwelling is permissible with consent within the R2 Low Density Residential Zone.

(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.*

It is considered that the proposal is a permissible type of development within the R2 Low Density Residential zone and is consistent with the above zone objectives, in that it provides for housing needs of the community and can provide a high level of residential amenity. The proposal has been designed to ensure no adverse impacts on surrounding land uses.

(iv) Principal Development Standards

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

Development Provision	Requirement	Proposed	Comment
Part 2 Permitted or prohibited development			
2.6 Subdivision – consent requirements	Subdivision requires development consent	No subdivision proposed	Not applicable
Part 4 Principal Development Standards			
4.1 Minimum subdivision lot size	300m ² on map	Existing lot is 450sqm. No subdivision proposed	Not applicable
4.3 Height of Buildings	8.5m	Maximum height of the existing dwelling is 7.6m.	Complies
4.4 Floor Space Ratio	The FSR limit is 0.6:1. The site is not mapped within special areas subject to FSR clauses.	Dwelling: 0.66:1 (GFA: Ground floor = 149m ² , First floor = 148.4m ² Total =297.4m ²) Site area=450m ² FSR Ratio: = 297.4sqm/450sqm = 0.66:1 Although not required for a modification application, a Clause 4.6 Variation is provided to make a merit assessment on why the applicant believes the development standard is unnecessary and that there are sufficient environmental planning grounds to justify the non-compliance. This is discussed below.	Considered acceptable on merit
4.5 Calculation of floor space ratio and site areas	The definition of floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.	The site area is registered as 450m ² . The proposed development is carried out on one lot. There are no exclusions from site area present on the subject site. The gross area calculation presented is consistent with the	Noted

		calculation measured.	
4.6 Exception to development standards	The exception to the development standard related to floor space ratio, which is not a standard that is expressly excluded from the operation of this clause.	Although not necessarily required for a Clause 4.55 modification application, a merit-based assessment of the considerations under Clause 4.6 Exception of development standards has been submitted in relation to the non-compliance with Clause 4.4 Floor Space Ratio. This is discussed below.	Considered acceptable on merit
7.7 Acid Sulfate Soils	The subject site is not mapped as being within a Class 5 acid sulfate soil area	No further consideration is required.	Not applicable

Clause 4.6 – Exceptions to development standards (Variation to Clause 4.4 – Floor space ratio)

Clause 4.4(2) of the Liverpool Local Environmental Plan 2008 states:

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The maximum floor space ratio standard applying to the subject land under Clause 4.4(2) is 0.6:1 (gross area: site area) as shown in the extract from the Floor Space Ratio Map below.

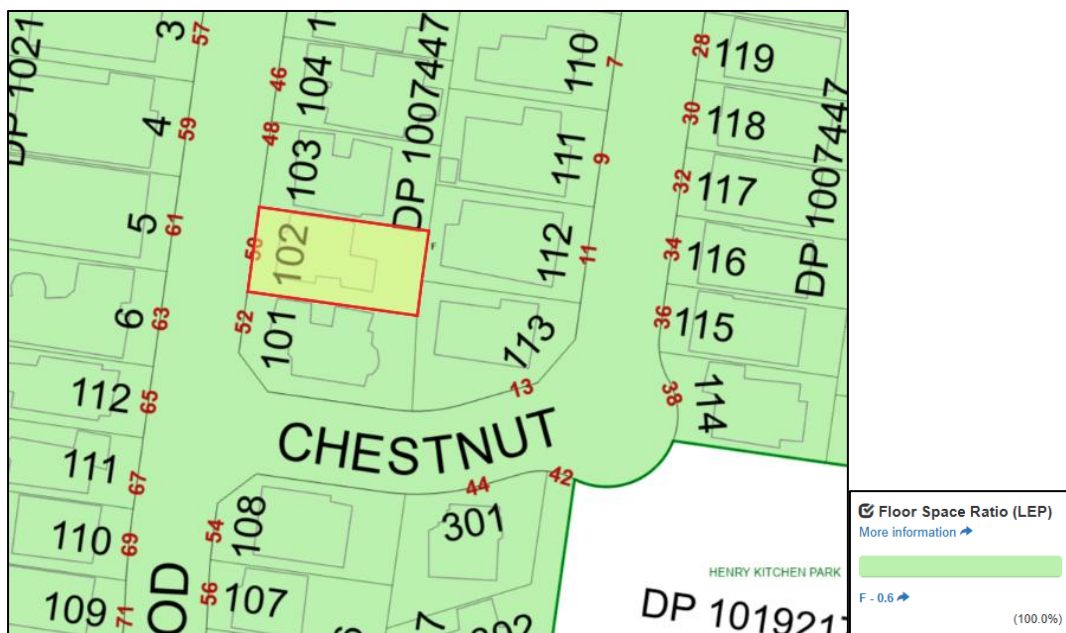


Figure 4: Extract of Floor Space Ratio Map - LEP 2008

The purpose of the proposed development relating to this exception sought, as stated in the DA documentation, is to enclose the existing covered alfresco for the purpose of a kitchen extension. However, the modification, whilst located in a maximum 0.6:1 Floor Space Ratio mapped zone, proposes a Floor Space Ratio (FSR) of 0.66.

The application contravenes the maximum FSR of 0.6:1 by 0.060:1 or 10.14%, accordingly the proposal seeks a variation to the maximum FSR development standard under clause 4.4 of the Liverpool Local Environmental Plan 2008 (LLEP 2008). Considering that a modification application does not necessarily require the means of a variation to be looked at under the provisions of Clause 4.6 of the LLEP 2008, a merit based assessment based on these provisions will be made to assess whether the variation can be supported.

As such, pursuant to Clause 4.6 of the LEP 2008, the applicant has submitted a request seeking to justify a variation to the maximum floor space ratio prescribed in Clause 4.4(2).

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

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

Clause 4.6(2) prescribes:

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

Comment: The variation to FSR is not expressly excluded from the operation of this clause.

Clause 4.6(3) prescribes:

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

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

Comment: The applicant has submitted a Clause 4.6 Variation report to the floor space ratio standard, in order to justify the variation described above.

Background:

A Clause 4.6 Variation report was submitted under the previous modification application DA-866/2022/A which provided the justifications based on the merits of the proposal assessed against Clause 4.6 and the objectives of the *Ageing Well In NSW: Seniors Strategy 2021-2031*.

DA-866/2022/A was determined by the LLPP and deemed the exceedance to FSR acceptable on merit and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

“The Panel is of the view that the precedential value of the infill of the alfresco area to facilitate the extension of the kitchen is limited in the circumstances where this area is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space. [emphasis added] (Minutes and Determination of LLPP Meeting, 31 March 2025, p.2).”

The Clause 4.6 Variation under DA-866/2022/B provides justifications based on the merits of the proposal assessed against Clause 4.6 reiterates justifications provided under DA-866/2022/A as shown in the below abstract.

“It is submitted that compliance with the Floor Space Ratio (FSR) development standard is unreasonable and unnecessary in the circumstances of this particular case. This conclusion is based on the well-established legal principle that the objectives of the development standard are achieved notwithstanding the non-compliance. This aligns with the first and most common method of satisfying Clause 4.6(3)(a) of the Liverpool LEP 2008, as definitively set out in *Wehbe v Pittwater Council [2007] NSWLEC 827*. As clarified by the ‘Guide to Varying Development Standards’ (November 2023), an applicant is only required to satisfy at least one part of this ‘Wehbe test’.”

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

Applicant justification:

The applicant confirms that the ‘underlying objectives of the Floor Space Ratio (FSR) development standard remain highly relevant to the proposed kitchen extension’.

The applicant continues to justify the following:

This zoning aligns with the site’s characteristics, the surrounding residential context, and the established character of the neighbourhood. The proposed kitchen extension, despite the minor FSR variation, remains consistent with the zone’s objectives, which include:

- *Providing for the housing needs of the community within a low-density residential environment.*
- *Ensuring a high level of residential amenity.*
- *Maintaining a low-scale residential character commensurate with a low dwelling density.*

The proposed kitchen extension, driven by the need to accommodate a multi-generational family with elderly occupants and growing children, supports the zone's objectives by facilitating aging in place and promoting adaptable housing solutions within an established residential context.

The FSR variation, while exceeding the numerical limit, does not fundamentally alter the dwelling's low-density residential character. The alterations are primarily internal, at the rear of the dwelling and do not significantly impact the dwelling's external appearance or the streetscape.

Therefore, the R2 Low Density Residential zoning remains appropriate for the site, and the proposed kitchen extension, including the FSR variation, is compatible with the zone's objectives and desired future character.

Council Assessment:

- The numerical exceedance of 10.14% arises from a minor, single storey kitchen extension associated with an existing dwelling that accommodates a multi-generational family. The additional floor area does not manifest as excessive bulk or scale when assessed in the built form context and remains subordinate to the primary dwelling. As such, the planning impacts typically intended to be regulated by the FSR control, including excessive intensity, overdevelopment, and adverse amenity impacts, are not demonstrably triggered by the proposal.
- The site is rectangular in shape with 15m frontage and a depth of 30m. The site area is 450sqm. The shape of the site is not irregular and does not demonstrate an unreasonable assess to the local street. The site shape, topography and access does not create unreasonable or unnecessary development circumstances.
- The applicant has confirmed that the objectives of the FSR development standard remains highly relevant to the proposal. the objectives of the FSR development standard are achieved notwithstanding the non-compliance. The extension is located to the rear of the dwelling, is not visually prominent from the public domain, and does not materially alter the established streetscape character. The scale of development remains consistent with surrounding residential allotments within the locality many of which exhibit incremental rear additions to support evolving household needs. In this regard, rigid adherence to the numerical FSR limit would not yield a materially better planning outcome.

- The development does not increase residential density, traffic generation, or demand on local infrastructure beyond what is reasonably anticipated for a single dwelling in the zone. The site retains adequate setbacks and private open space, indicating that the land is capable of accommodating the additional floor area without resulting in site overdevelopment in a practical sense.
- It is also relevant that the works are retrospective in nature and relate to an extension that has already been integrated into the existing dwelling form without generating demonstrable adverse impacts to adjoining properties in terms of overshadowing, privacy, or visual amenity. This reinforces that the breach is technical rather than resulting in substantive planning harm.
- The site is not restricted by easements or applicable restrictions on use. The land title and 88B instrument does not create unreasonable or unnecessary development circumstances.
- The site contour is generally flat, with a slight incline of 0.6m rise to the front setback. The topography does not create unreasonable or unnecessary development circumstances.
- The subject dwelling is facing west. The location of the proposed extension is located in the rear yard with is orientated to the east. Solar access to the dwelling or its private open space is typical and does not create unreasonable or unnecessary development circumstances.
- The siting of windows of habitable rooms in the subject development and adjoining developments are typical to the local character. Overlooking private open space in this instance does not create unreasonable or unnecessary development circumstances.
- Due to the topography of the site, stormwater from the site is able to drain satisfactorily to the street via existing kerb outlets.
- The setbacks of the existing original dwelling have been maintained in the previous consent DA-866/2022. The setbacks are not proposed to be altered in the subject modification application.
- The Panel as part of the first modification application were satisfied that the development would be considered substantially the same as that existing for the purposes of Section 4.55 of the EP&A Act. The Panel was of the view that the connection from the dwelling into the private open space is adequate in terms of DCP requirement for a direct link between living room and private open space. The Panel was also of the view that the precedential value of the infill of the alfresco area to facilitate the extension of the kitchen is limited in the circumstances where this area

is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space.

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

Applicant justification:

The applicant has submitted a section in the Clause 4.6 Variation report which attempts to justify the contravention of the development standard by addressing the objectives of Clause 1.3 Objects of the Act, pursuant to the *Environmental Planning and Assessment Act 1979*, which reads:

The proposed kitchen extension and the FSR variation are consistent with the objectives of the Environmental Planning and Assessment Act 1979 in the following ways:

(a) *Social and economic welfare:* *The proposed kitchen extension enhances the functionality and accessibility of the dwelling, improving the occupants' quality of life and promoting social inclusion. This aligns with the objective of promoting social and economic welfare by creating a more liveable and adaptable home environment.*

(b) *Ecologically sustainable development:* *The proposed kitchen extension promotes sustainable building practices by incorporating energy-efficient appliances and design features that maximise natural light and ventilation. This aligns with the objective of facilitating ecologically sustainable development by integrating environmental considerations into the design.*

(c) *Orderly and economic use of land:* *The proposed kitchen extension involves a minor increase in floor area and does not alter the dwelling's overall footprint. This ensures the efficient use of land and promotes orderly development without significant changes to the existing building envelope.*

(d) *Affordable housing:* *The proposed kitchen extension supports the provision of affordable housing by enabling a multi-generational family to cohabitate comfortably. This addresses the growing need for adaptable and affordable housing solutions, particularly for extended families.*

(e) *Environmental protection:* *The proposed kitchen extension has minimal impact on the surrounding environment and promotes sustainable building practices. This aligns with the objective of protecting the environment and minimising any adverse impacts.*

(f) *Sustainable management of heritage:* *The proposed kitchen extension does not impact any built or cultural heritage (including Aboriginal cultural heritage). The development is*

consistent with the existing character of the area and does not involve any demolition or alteration of heritage features.

*(g) **Good design and amenity:** The proposed kitchen extension enhances the amenity and functionality of the dwelling, contributing to a more liveable and aesthetically pleasing living environment. This aligns with the objective of promoting good design and amenity of the built environment.*

*(h) **Proper construction and maintenance:** The proposed kitchen extension will be constructed in accordance with the National Construction Code (NCC) and relevant Australian Standards, ensuring the health and safety of the occupants. This aligns with the objective of promoting proper construction and maintenance of buildings.*

*(i) **Sharing of responsibility:** The proposed modifications have been designed and assessed considering the relevant planning controls and building regulations, demonstrating a shared responsibility between different state government levels.*

*(j) **Community participation:** The modification application process allows community participation in environmental planning and assessment. The applicant has submitted a comprehensive SEE, which is publicly available, and the Council will consider any submissions from the community before making a decision on the application.*

The proposed kitchen extension and FSR variation align with the objectives of the Environmental Planning and Assessment Act 1979 by promoting sustainable development, enhancing the living environment for the occupants, and protecting the environment and community interests.

Council Assessment of the applicant's response are as follows:

- The contravention arises from a minor, single storey kitchen extension that is ancillary to the existing dwelling and is located to the rear of the site. The exceedance is limited in scale and does not present as excessive bulk or intensity when assessed in the context of the established built form. The additional floor area is absorbed within the existing development footprint and does not materially alter the streetscape presentation or visual character of the locality. This demonstrates that the environmental impacts ordinarily associated with an FSR breach are negligible in this case.
- The exceedance is technical in nature, as the development continues to achieve the underlying objectives of the FSR development standard despite the numerical non-compliance. The proposal maintains compatibility with the character and scale of surrounding development and does not undermine the intended planning outcomes of the standard. In this regard, the environmental planning impacts are acceptable and do not warrant strict adherence to the development standard.

- The subject site is not affected by environmental biodiversity constraints or heritage constraints.
- The proposed variation does not adversely affect the amenity of dwelling and adjoining sites, including solar access, cross ventilation, privacy and private open space.
- Any consent would be supported by conditions to comply with the National Construction Code and the relevant Australian Standards.
- The additional floor space improves internal amenity and functionality without generating additional traffic, parking demand, or infrastructure burden. As such, the environmental planning outcome is consistent and orderly for the site.

Conclusion and recommendation:

As a result of the assessment above, the proposed variation to the FSR development standard satisfactorily justifies that the standard is unreasonable or unnecessary in this instance. Accordingly, it is considered that the proposal demonstrates that the objectives of the FSR development standard are achieved notwithstanding the 10.14% exceedance, and that sufficient environmental planning grounds exist to justify the variation.

Accordingly, a degree of flexibility can be applied by consent authority with regards to Clause 4.6(1a) of the LEP 2008 and the variation to the development standard is supported in this instance and given the circumstances of the case, it is unlikely to set an undesirable precedent.

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

No applicable draft EPs apply to the subject site.

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

The subject application has also been assessed against the relevant controls of the Liverpool Development Control Plan (LDCP) 2008, particularly *Part 1 General Controls for all Development and Part 3.2 Dwelling houses on land greater than 400 sqm in the R2, R3 and R4 zones*.

The modification generates further matters for consideration under this application that were deemed satisfactory under the original approval. This has been assessed in the tables in Attachment 1.

6.4 Section 4.15(1)(a)(iii) – Any Planning Agreement or Draft Planning Agreement

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

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

No additional items for consideration are relevant in this instance. Conditions of consent would still apply to the subject development in relation to compliance with the National Construction Code and Australian Standards.

6.6 Section 4.15(1)(b) – The Likely Impacts of the Development**a) Natural Environment**

There are unlikely to be any additional impacts to the natural environment than originally assessed. Since the building footprint remains mostly unaltered, the natural environment remains unaltered.

b) Built Environment

The proposal was referred to Councils Building Officer, who supported the proposal with consent. The proposed development is unlikely to create any adverse impacts on the surrounding built environment and is unlikely to create any detrimental impacts on the adjoining properties or the locality as a whole as originally approved.

c) Social Impacts

The proposed development is unlikely to have a negative social impact in the locality.

d) Economic Impacts

The proposal development is unlikely to have a negative impact on the locality.

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

The proposal is still a permissible form of development, remaining suitable for the site despite the exceedance to a key development standard.

6.8 Section 4.15(1)(d) – Any Submissions made in relation to the Development**(a) Community Consultation**

The modification application was not required to be notified as the original development application was not notified. With appropriate obscure glazing of unauthorised first floor windows as proposed, the proposed modification does not have the potential to increase the impact of the development of adjoining or nearby land or development, in accordance with Liverpool City Council Community Engagement Strategy and Community Participation Plan 2022.

(b) Internal Referrals

Referrals were made to the following Council departments, who have reviewed the proposed modifications to conditions of consent, and have provided the following comments:

DEPARTMENT	COMMENTS
Building	<p>Supported subject to the condition below:</p> <p><i>All works shall comply with the requirements of the BCA.</i></p> <p>A BIC is also lodged concurrently with the modification application and is awaiting the result of this modification.</p>

(c) External Referrals

Nil.

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

The proposed modification remains consistent with the objectives of the zone and is within the public interest.

DEVELOPMENT CONTRIBUTIONS

No further developer contributions apply to this modification application.

7 CONCLUSION

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

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

8 RECOMMENDATION

That Modification Application DA-866/2022/B be approved subject to modified conditions of consent.

ATTACHMENTS

1. Liverpool Development Control Plan 2008 - Compliance Tables
2. Clause 4.6 Variation Request
3. Determination Documents
4. Section 4.55 Modification of Consent

**REPORT ATTACHMENT : LIVERPOOL DEVELOPMENT CONTROL PLAN 2008
COMPLIANCE TABLES**

LDCP 2008 Part 1. General Controls for all Development			
Control	Required	Proposal	Compliance
Section 2 – Tree Preservation	Consider impact of development on existing vegetation	The proposal does not seek to remove any trees.	Complies
Section 3 – Landscaping and Incorporation of Existing Trees	Incorporation of existing trees into development where appropriate	The proposal does not seek to alter the approved landscaping.	Complies
Section 4 – Bushland and Habitat Preservation	Consider impact of development on bushland and habitats	No impact on bushland and habitats considering the location of the development.	Complies
Section 5 – Bushfire Risk	Land on or adjacent to bushfire prone land to comply with RFS requirements	Site is not classified as Bushfire prone land.	Complies
Section 6 – Water Cycle Management	Consideration of stormwater and drainage	No modification to water cycle management.	Complies
Section 7 – Development Near a Watercourse	Consideration of impact to riparian corridors	Development is not in close proximity to watercourse	Complies
Section 8 – Erosion and Sediment Control	Sediment Control Plan or Soil and Water Management Plan required	Disturbance to natural ground is not proposed. Existing conditions will remain unaltered.	Complies
Section 9 – Flooding Risk	Flood affection of property to considered	The site is not mapped as a flood prone area.	Complies
Section 10 – Contaminated Land Risk	Previous use to be considered in assessing risk	As the site is in a residential zone there are no obvious uses that may lend themselves to the requirement of a land contamination assessment report. Therefore, considered acceptable in this instance.	Complies
Section 11 – Salinity Risk	Salinity Management response required for affected properties	High Salinity potential which has been considered in the original application. Existing conditions will remain unaltered. The site is currently mapped as Moderate Salinity.	Complies
Section 12 – Acid Sulfate Soils Risk	Affected properties to consider impact of development on soils	Site is not affected by acid sulfate soils.	Complies

Section 13 – Weeds	Noxious weeds to be removed as part of development where applicable	The submitted site plan does not identify any noxious weeds on site.	Complies
Section 14 – Demolition of Existing Development	Must comply with AS 2601-2001	Partial demolition of building elements is proposed. Conditions of consent would be imposed if the consent were approvable	Complies
Section 15 – Onsite Sewage Disposal	S68 Application required where connection to sewer not available	Site is connected to sewer.	Complies
Section 16 – Aboriginal Archaeology	AHIA required where items of aboriginal archaeology exist	No known items of Aboriginal archaeology are present on the subject property. Standard conditions of consent will be applied for any unexpected finds.	Complies
Section 17 – Heritage and Archaeology	Consideration of the impact on the heritage significance on any heritage buildings, sites, streetscapes or areas.	Site is not associated with any heritage items.	Complies
Section 19 – Used Clothing Bins	Applies to any charity bins located on either private or Council land.	No charity bins located on site.	Complies
Section 20 – Car Parking and Access	Two (2) car parking spaces required for each dwelling.	The proposed development provides two (2) parking spaces via double garage.	Complies
Section 21 – Subdivision of Land and Buildings	Minimum lot width: 8m	Existing lot width is 15m. Subdivision is not proposed.	Not applicable
Section 22 – Energy conservation	A complying BASIX report is to be submitted with all development applications containing residential activities.	An updated BASIX certificate has been provided to address the new/modified openings.	Complies
Section 23 – Reflectivity	To consider materials used to avoid undesirable glare and heat load.	The new colours and textures selected as part of this modification does not emit undesirable glare or heat load.	Complies
Section 24 – Landfill	To minimize land cut and filling and to avoid its adverse impact nearby lands	Cut /fill is not proposed as part of this development	Complies
Section 25 – Waste Disposal & re-use Facilities	Waste Management Plan shall be submitted for demolition,	A waste management plan has been submitted.	Complies

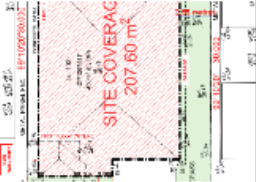
	construction and ongoing waste management.		
Section 26 – Outdoor advertising and signage	Provision of signage for business	Not applicable	Not applicable
Section 27 – Social impact statement	A typical residential dwelling does not require a social impact statement, unless requested in writing by Council	A social impact assessment was submitted, but was not required or request by Council.	Not applicable

Liverpool Development Control Plan - Part 3.2 Dwelling Houses on Lots Greater than 400sqm

LDCP 2008 Part 3.2 Dwelling Houses on Lots greater than 400sqm			
Control	Required	Proposal	Compliance
Site Planning	The dwelling layout must be designed around the site attributes such as slope, existing vegetation, land capability and/or solar access	The proposal does not alter the dwelling siting and footprint. It does not adversely respond to existing site attributes.	Unaltered
	There must be a direct link from at least one living area to the principal private open space.	<p>The proposed amendments result in a direct link not being made from a living room to the private open space. Previously, the development provided for a direct link from the family room to the POS, however, access to the POS is now through the kitchen.</p> <p>The applicant has provided a justification for the non-compliance:</p> <p>Justification for Non-Compliance with Control 2.2 and 4 Access to Principal Private Open Space (Direct Link from Living Room) and Access to Private Open Space (Internal Design of Dwellings):</p>	Considered acceptable on merit

	<p>It is acknowledged that the primary access to the private open space (including principal private open space) is via the proposed kitchen area, which technically represents a non-compliance with the prescriptive access requirement for direct linkage from a 'living room'. However, the modification is demonstrably consistent with the original dwelling design under DA-654/00, which provided access to the rear yard via the kitchen and dining area. This continuity highlights that the functional relationship between indoor living and outdoor space is maintained. <i>This position is also supported by the formal findings of the Liverpool Local Planning Panel in the prior application: 'the connection from the dwelling into the private open space is adequate in terms of DCP requirement for a direct link between living room and private open space' (Minutes and Determination of the Liverpool Local Planning Panel, 31 March 2025, p.2).</i> Furthermore, the very design of the proposed <i>open-plan</i> kitchen combines the dining and kitchen spaces into a single, large, open area. This integrated, spacious living area, from which access to the private open space is provided, actively diminishes any adverse</p>	
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	<p>effects of the non-compliance by offering a functional and cohesive internal-external relationship. The minor non-compliances are justified, reinforcing the overall high level of residential amenity.</p> <p>Council's position:</p> <p>The proposed development still meets the objectives outlined in the DCP Part 3.2 section 2 – Site Planning. The proposal does not have adverse impacts to adjoining neighbours' privacy, the new windows on the first floor have obscured glazing up to sill height of 1.6m. The proposed kitchen extension has been built around the existing site attributes and does not impact on solar access. The proposed extension does not have adverse impacts on the existing stormwater drainage.</p>	
The siting of windows of habitable rooms on the first floor shall minimise overlooking to the private open space of neighbouring properties.	The applicant provided amended plans to address overlooking caused by unauthorised windows. However, these issues were addressed by making the glazing of these windows opaque /screened so privacy issues do not arise.	Complies
Stormwater from the site must be able to be drained satisfactorily.	Councils Land Development Engineers reviewed the original application, with this subject modification proposing no changes.	Complies

Front Setback	A ground floor setback of 4.5m is required. A first floor setback of 5.5m is required. Garages must be setback 1m behind the main face of the dwelling.	Ground floor setback = 5.5m First floor setback = 5.5m Garage setback is not more than 1m from main face of dwelling. Existing dwelling does not comply with garage setback 1m behind main face control.	Does not comply. However variation approved with original consent.
Side Setback	A ground floor side setback of 0.9m is required. A first floor side setback of 1.2m is required.	Ground floor setback = 0.95m on northern side Ground floor southern setback = 2.55m on southern side First floor setback = 0.95m on northern side = 2.56m on the southern side. First floor setback on the northern side does not comply with the 1.2m setback requirement. However, this is due to the original dwelling, prior to DA-866/2022, having a northern setback of 0.95m. 	Does not comply. However variation approved with original consent.
Rear Setback	A ground floor rear setback of 4m is required. A first floor rear setback of 7m is required	Ground floor setback: 5.21m First floor setback: 8.61m	Unaltered
Landscaped Area	A minimum of 25% of the site area shall consist of Landscaped Area, this may include lawn, deep rooted trees, garden beds and mulched areas.	Landscaping remains as approved under DA-866/2022. The landscape plan provided indicates 197.1sqm of landscape	Unaltered

		area which is 43.8% of the site.	
	A minimum unencumbered area of 4m x 6m shall be provided in the rear setback to accommodate deep rooted trees.	A minimum 4x6m unencumbered area will be achieved.	Unaltered
	A minimum of 50% of the front setback area shall be Landscaped Area.	A front setback of minimum 50% is landscaped as approved under DA-866/2022.	Unaltered
	A minimum unincumbered area of 3 x 5m shall be provided in front setback to accommodate deep rooted trees.	An unincumbered area of 3x5m is achieved in the front setback.	Unaltered
Private Open Space	Each dwelling must provide a minimum of 80sqm of Private Open Space.	POS of 82sqm is provided at the rear of the proposed dwelling (excluding metal shed).	Unaltered
	Areas less than 2.5 m in width does not qualify as Private Open Space.	Noted. No areas less than 2.5m in width have been included in the calculation of POS.	Unaltered
	The Private Open Space must have an area for clothes drying with at least 2 hours of full sun between 9.00am and 5.00pm at 21 June.	Areas for clothes drying have been provided in the POS and that area is capable of receiving 2 hours sunlight.	Unaltered
	The Private Open Space shall include the principal private open space, which is directly accessible from the main living area of a dwelling with a minimum dimension of 4 x 6 m	The proposed amendments result in a direct link not being made from a living room to the private open space. Previously, the development provided for a direct link from the family room to the POS, however, access to the POS is now through the kitchen. As addressed above under 'Site Planning' section 2.2, the proposal is consider considered acceptable on merit. Council's position:	Considered acceptable on merit

		The proposed development still meets the objectives outlined in the DCP Part 3.2 section 4 for private open space. Sufficient space has been provided for private open space adjacent to internal living areas. Although the PPOS cannot be accessed from the living area rather through the kitchen, the POS has been clearly defined, landscaped, receives adequate solar access and minimal overlooking.	
	The Principal Private Open Space must receive 3 hours of sunlight to at least 50% of the area between 9:00am and 5:00pm on 21 June.	The minimum requirement of 3 hours sunlight to the PPOS is achieved. The shadow diagrams provided at 9am, 12pm and 3pm on June 21 reflect that 50% or more of the PPOS would easily achieve exposure to direct sunlight for 3 hours during the day.	Unaltered
Cut and Fill of Land	The maximum cut on a site should not exceed 600mm. The maximum fill on a site should not exceed 1m.	Cut and fill is not proposed	Unaltered
Building Design and Appearance	All dwelling houses are to be orientated to the street. The front pedestrian entrance must be visible from the street. The front building facades shall be articulated, this articulation may include front porches, entries, wall indents, windows, changes in finishes,	The front door entry has been modified without consent to be relocated to address the street. Front entrance to the primary dwelling is visible from the street. The proposed façade incorporates an existing two balconies, and portico which provides an articulated façade. Additionally, it proposed to replace two ground floor lounge windows	Complies Complies Complies

	<p>balconies and/or verandahs.</p> <p>Eave overhang must provide for sun shading and protect windows and doors. Eaves should have a minimum overhang of 400mm and be provided to a minimum of 70% of the dwelling.</p> <p>The side walls shall be articulated if the wall has a continuous length of over 14m.</p>	<p>with three windows in place.</p> <p>Eave overhang is unaltered.</p> <p>The external walls are proposed to be altered for the ground floor kitchen. This subject wall 14.35m in length This is considered to be acceptable on merit as it meets the objectives of the controls. The minor variation still meets the objectives as it still ensures that the building design, detailing, colour and finish add visual interest to the street. The unauthorised works are limited to the ground floor, therefore, will not be visual from the street.</p> <p>Justification: The 0.35m variation represents a minor non-compliance and is not expected to give rise to any discernible adverse impact on the streetscape. The portion of the northern elevation affected by this variation is situated largely at the rear of the dwelling, at ground level, and has limited visibility from the public domain. As such, the departure is considered minor in nature. Additionally, the technical non-compliance relating to articulation does not</p>	<p>Complies</p> <p>Considered acceptable on merit</p>
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	<p>substantially change or 'radically transform' the dwelling from the development as originally approved.</p> <p>Existing balconies remain unaltered.</p> <p>Existing balconies remain unaltered.</p>	<p>Unaltered</p> <p>Unaltered</p>	
	<p>To break up the bulk of two <u>storey</u> dwellings balconies built above garages are encouraged</p> <p>Balconies are not permitted on the first floor of the side and/or rear portion of the <u>dwelling</u>. Balconies may be considered if they address public open space/utilities.</p>		
Garages and Carports	<p>The maximum width of garage doors or carports must be no greater than 45% of the building frontage width.</p> <p>Garages and carports must be designed to be the minor element of the façade</p> <p>Garage roofs shall be incorporated into the roof design of the house. Separate roofs for garages are discouraged, unless actually separated from the dwelling.</p> <p>Garages and carports are to be compatible with the building design in terms of height, roof form, detail, materials and colours.</p> <p>Carports may be built in front of the garage only if the carport:</p> <ul style="list-style-type: none"> - Is no larger than 5.5 x 6m. - Is built of a similar colour and materials of the house. - Is <u>setback 2m</u> from the front property boundary. 	<p>The existing garage doors remain unaltered. The development does not contain a carport.</p> <p>The existing garage doors remain unaltered. The development does not contain a carport.</p> <p>The existing garage doors remain unaltered. The development does not contain a carport.</p> <p>The existing garage doors remain unaltered. The development does not contain a carport.</p> <p>The development does not contain a carport.</p>	<p>Complies</p> <p>Unaltered</p> <p>Not applicable</p>

	<p>- Is compatible with the local streetscape.</p> <p>The conversion of garages to living space may only be permitted if:</p> <ul style="list-style-type: none"> - At least one car parking space is provided behind the front setback. - The additional living area does not result in the building exceeding the maximum permitted floor space ratio. 		
Internal Design of Dwellings	<p>All dwellings shall have habitable rooms located to the front of the dwelling for security and surveillance to the street.</p> <p>Living rooms should take advantage of northern aspects.</p> <p>Access to private open space must be from at least one living room.</p>	<p>The existing dwelling has a ground floor lounge and first floor bedroom, which has the capacity to provide surveillance.</p> <p>The lounge room is located to the northern aspect and remains unaltered.</p> <p>The proposed amendments result in a direct link not being made from a living room to the private open space. Previously, the development provided for a direct link from the family room to the POS, however, access to the POS is now through the kitchen.</p> <p>As addressed above under 'Site Planning' section 2.2 and 4, the proposal is considered acceptable on merit.</p> <p>Council's position:</p> <p>The proposed development still meets the objectives outlined in the DCP Part 3.2 section 5 – Internal Design of Dwellings. Sufficient space has been provided for private</p>	<p>Unaltered</p> <p>Unaltered</p> <p>Considered acceptable on merit</p>

	<p>open space adjacent to internal living areas. The internal design still provides passive surveillance from rooms to adjoining open space. Although the PPOS cannot be accessed from the living area rather through the kitchen, the POS has been clearly defined, landscaped, receives adequate solar access and minimal overlooking.</p>		
	<p>The internal layout of the dwelling is encouraged to incorporate cross ventilation.</p>	<p>The internal layout has incorporated cross ventilation with windows and or doors being located appropriately. The additional unauthorised windows and proposed windows further encourage cross ventilation.</p>	Complies
	<p>Bathrooms, ensuites, laundries and walk in wardrobes should be located to the side or rear of the dwelling.</p>	<p>Bathrooms, ensuites & laundries have been located to the sides of the proposed dwellings.</p>	Unaltered
	<p>Each dwelling must provide a minimum storage area of 8m³.</p>	<p>Existing storage area in laundry and wardrobes are maintained with over 8m³.</p>	Complies
Landscaping	<p>The front and rear setback areas of development are to be utilised for canopy tree planting. The landscape design for all development must include canopy trees that will achieve a minimum 8m height at maturity within the front and rear setback areas.</p> <p>At least one tree shall be planted in the landscaped areas. The tree must reach</p>	<p>The existing approved landscape plan in DA-866/2022 is not proposed to be altered.</p>	Unaltered

	<p>a mature height of over 8m.</p> <p>Landscape planting should be principally comprised of native species to maintain the character of Liverpool and provide an integrated streetscape appearance. However, Council will consider the use of deciduous trees in small private open space areas such as courtyards for control of local microclimate and to improve solar access.</p> <p>Any tree with a mature height over 8m should be planted a minimum distance of 3m from the building or utility services.</p>		
Fencing	<p>Primary Frontage</p> <p>The maximum height of a front fence is 1.2m.</p>	No front fencing proposed on the primary frontage.	N/A
	<p>The front fence must be 30% transparent.</p>	No front fencing proposed on the primary frontage.	N/A
	<p>Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.</p>	No front fencing proposed on the primary frontage	N/A
	<p>Secondary Frontage</p> <p>For side walls or fences along the secondary frontage, a maximum height of 1.2m is required for the first 9m measured from the front boundary, the remaining fence / wall may then be raised to a maximum of 1.8m</p>	No Secondary frontage	N/A

Car Parking and Access	<p>Two car parking spaces shall be provided for each dwelling.</p> <p>At least one car parking space must be provided behind the front setback.</p> <p>A car parking space is to have a minimum dimension of 2.5 x 5.5m.</p> <p>A single garage is to be a minimum of 3 m wide internally and unobstructed.</p>	<p>Two spaces provided within the double garage. Additional 2 spaces could be provided on the driveway</p> <p>Car parking space is provided in the existing garage which is behind the front setback.</p> <p>The car spaces provided meet the 2.5m x 5.5m requirement.</p> <p>N/A – Single garage is not proposed.</p>	Unaltered
Overshadowing	<p>Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least:</p> <ul style="list-style-type: none"> - One living room, rumpus room or the like. - 50% of the private open space. 	<p>Shadows do not impact upon overshadowing of adjoining properties. The adjoining properties will receive the solar access required.</p>	Unaltered
Privacy	<p>Habitable room windows facing side boundaries are to be offset by at least 1m from any habitable room windows in an adjoining dwelling</p> <p>Habitable room windows on the first floor that face the side boundary are to avoid unreasonable overlooking by having a minimum sill height of 1.5m, except where they face a street or public open space.</p> <p>Building siting, window location, balconies and fencing must consider the importance of the privacy of on site and adjoining buildings and private open spaces.</p>	<p>Windows proposed are do not directly facing any adjoining dwelling windows. This was confirmed upon site visit.</p> <p>New unauthorised windows on the first floor are proposed with obscure glazing or screening to a sill height of 1.5m</p> <p>Building siting, window location and balconies have been appropriately located which shows consideration for the importance of privacy between adjoining dwellings and private open spaces.</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p>

	Landscaping should be used where possible to increase visual privacy between dwellings and adjoining properties.	The landscape plan remains unaltered.	Unaltered
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Appendix A - Clause 4.6 Variation Request

Property Address: 50 Rosewood Avenue, Prestons (Lot 102 DP 1007447)

Original Built Consent: DA-654/00

Existing Consent: DA-866/2022

Most Recent Determination: DA/866/2022/A

Prepared By [REDACTED]

Date Prepared: 21 July 2025

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1 Introduction and Factual Foundation

1.1 Concurrent Application

This written request is submitted in support of the Modification Application (PAN-544154), lodged pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EP & A Act). This modification application is lodged concurrently with a Building Information Certificate application (BIC-42437). This concurrent submission is in accordance with the definitive instructions in 'Council Correspondence - Direction for Concurrent Submission' (18 June 2025), following the determination of the prior application (PAN-474516 / DA-866/2022A).

1.2 Basis of the Written Request

The request to vary the Floor Space Ratio (FSR) development standard is an inseparable and critical component of the concurrent Building Information Certificate (BIC) application (BIC-42437).

- **Building Information Certificate (BIC-42437):** This application, submitted under Division 6.7 of the EP&A Act, seeks a building information certificate for all existing unauthorised building works on the site. Specifically, the unauthorised enclosure of the approved open sections of the northern and eastern elevations of the existing Alfresco (itemised as UW-A01 and UW-A02 in the submitted 'Schedule of Unauthorised Works' has resulted in the exceedance of Clause 4.4(2) development standard for Floor Space Ratio (FSR) provided in the Liverpool LEP 2008.
- **Modification Application (PAN-544154):** This application, submitted as a modification of existing consent under Section 4.55(2) of the EP&A Act, seeks consent for the future lawful use of all existing unauthorised building works on the site and for the proposed extension of the existing kitchen into the area of the existing alfresco ground floor space. This application includes a formal 'Clause 4.6 Variation Request' (this Request) to satisfy the requirements of Clause 4.6(3)(a) and Clause 4.6(3)(b) of the LEP.

This application, submitted as a Section 4.55(2) modification, has been confirmed to contravene the FSR standard by more than 10%. This request, therefore, seeks the LLPP's merit assessment of the variation to Clause 4.4 FSR development standard in the Liverpool LEP 2008.

1.3 The Previous Determination by the Liverpool Local Planning Panel (LLPP)

The procedural context for this application is fundamentally shaped by the formal determination of the Liverpool Local Planning Panel (LLPP) on 31 March 2025, concerning the prior application (PAN-474516, DA-866/2022A). The prior application (PAN-474516) sought consent for the same existing unauthorised building works and the proposed extension of the kitchen into the area of the existing alfresco ground floor space. Both works are now the subject of BIC-42437 and PAN-544154, respectively.

The prior application, DA-866/2022/A, registered as PAN-474516 was determined by the LLPP on 31 March 2025. While the Council's assessment report recommended refusal based on several planning arguments, the LLPP formally resolved 'to replace all the draft reasons of refusal attached to the agenda,' stating that:

1. The development application seeks retrospective development consent for works erected without prior consent. Note: The correct process is to seek a Building Information Certificate for such works and the Panel notes the plans and documentation to support such an application must be very specific as to what is already constructed and what is proposed to be constructed. For the constructed works, engineering certification is essential. For the works proposed to be constructed these can be the subject of a development application.
2. The plans do not adequately distinguish between the proposed and existing unauthorised works.

The above reasons of refusal are to replace all the draft reasons of refusal attached to the agenda. (Minutes and Determination of the Liverpool Local Planning Panel, 31 March 2025, p.1)

While refusing on procedural grounds, the LLPP made definitive findings of fact on the substantive planning merits of the unauthorised building works and the proposed extension of the existing kitchen into the area of the existing alfresco ground floor space. These findings, critical to the current application (PAN-544154), were recorded in its formal 'REASONS FOR DECISION' for prior application (PAN-474516/ DA-866/2022A):

The Panel carried out a site visit. The Panel is of the view that an application for an extension of the kitchen into the area of the alfresco ground floor space **would result in a development which is substantially the same as that existing for the purposes of Section 4.55 of the EP&A Act.**

The Panel is of the view that the **connection from the dwelling into the private open space is adequate in terms of DCP requirement** for a direct link between living room and private open space.

The Panel is of the view that **the precedential value of the infill of the alfresco area to facilitate the extension of the kitchen is limited in the circumstances** where this area is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space. [Emphasis added] (Minutes and Determination of the Liverpool Local Planning Panel, 31 March 2025, pp.1-2)

These formal, merit-based findings from the LLPP are pivotal and form the factual basis for the justifications presented in this Request.

1.4 The Status and Authority of the Previous Determination by the Liverpool Local Planning Panel (LLPP)

It is a matter of public record that the LLPP, acting as the lawful determining authority for the prior modification application PAN-474516 (DA-866/2022A), made a formal determination on 31 March 2025 on the merits of the same existing unauthorised building works and proposed extension of the existing kitchen into the area of the existing alfresco ground floor space. This determination provides the essential and authoritative context for assessing this new modification application (PAN-544154).

The Environmental Planning and Assessment Act 1979 (EP&A Act) firmly establishes the legal authority and weight of the LLPP's findings. Specifically:

- As the FSR variation exceeded 10%, the function of determining the prior application was conferred upon the LLPP.
- Pursuant to Section 2.19(1)(a) of the EP&A Act, the Panel was exercising the statutory functions of a consent authority under Part 4 of the Act. This means the LLPP was a direct decision-maker for the application.
- Furthermore, under Section 2.18(2) of the EP&A Act, the Panel is a body of mandated experts. Its findings are therefore the formal, expert findings and conclusions of the legally constituted determining body.
- The EP&A Act makes it clear that the Panel's assessment is independent of the Council's position. Section 2.17(7) of the Act states that a local planning panel is 'not subject to the direction or control of the council'. This statutory independence ensures that the Panel's findings represent an impartial, merit-based judgment in planning.
- The Panel is required under Section 2.20(2) of the EP&A Act to 'give written reasons for its decisions'. The detailed 'REASONS FOR DECISION' provided in the official 'Minutes and Determination of LLPP Meeting', 31 March 2025 are the fulfilment of this statutory duty and constitute a formal, public record of the Panel's expert judgment on the planning merits of the exact building works that are now subject of this current modification application.

The physical circumstances of the dwelling have not changed since the Panel's site visit and determination on 31 March 2025. The works that are the subject of this modification application are precisely the same as those previously assessed by the Panel in prior application (PAN-474516). This is factually established by the comprehensive and consistent submission across both this modification application (PAN-544154) and the concurrent building information certificate application (BIC-42437).

Given that the facts of the case remain unchanged, it is respectfully submitted that the LLPP's formal, independent, and legally required findings on the planning merits should be given definitive weight. For the Council to now depart from these definitive findings, based on the same physical reality, would require compelling evidence to set aside the expert Panel's formal determination and reasons for that decision.

2 Site and Proposed Development

2.1 Describe the Site

The subject site is a 450m² rectangular residential lot, legally described as Lot 102 in DP 1007447 and commonly known as 50 Rosewood Avenue, Prestons, New South Wales. It benefits from a 15m wide frontage to Rosewood Avenue and a 30m depth. The site exhibits a generally flat topography, with a slight incline of 0.6m from the front setback to the building line.

The site is currently developed with a two-storey dwelling, which was originally built in accordance with DA-654/00. This dwelling had a subsequent development consent (DA-866/2022), approved on 19 September 2022, for alterations and additions. Although building works commenced under Construction Certificate CC-22559/01, unauthorised modifications during construction prompted the Principal Certifying Authority (PCA) to issue a stop works order, preventing the issuance of an Occupation Certificate. The site's characteristics, including its R2 Low Density Residential zoning, confirm its inherent suitability for residential use and for accommodating the proposed improvements to support a multi-generational family, aligning with broader state housing objectives.

2.2 Describe the Proposed Development

2.2.1 Existing Unauthorised Building Works Seeking Consent for Future Use

This application seeks formal development modification consent for future lawful use of all existing unauthorised building works on the site, which are the subject of the concurrently submitted building information certificate application (BIC-42437). The specific physical nature of each of these works is documented in detail within the accompanying 'Schedule of Unauthorised Works' and the supporting 'As-Built' Architectural Plans submitted as part of the application (BIC-42437).

In summary, these existing unauthorised works include:

- The unauthorised modification of new approved windows.
- The unauthorised alteration of the original main entrance door.
- The unauthorised addition of new windows.
- The unauthorised alteration of an existing brick (vener) wall.
- The unauthorised modification of existing external colours.
- The unauthorised modification of the open sections of the existing alfresco area, which has resulted in contravention of the Floor Space Ratio (FSR) development standard.

2.2.2 Proposed New Works (Kitchen Extension)

This application also seeks development modification consent for the following new proposed works, which are designed to enhance the dwelling's functionality:

- The proposed extension of the existing kitchen into the area of the existing alfresco ground floor space. The proposed extension aims to create a single, liveable, adaptable, resilient, and more functional 'open-plan' kitchen and dining space, specifically designed to better accommodate the needs of the multi-generational family, which includes 'ageing' occupants requiring increased accessibility and safety.
- The proposed works are detailed in the 'Proposed Works' architectural plans and include:
 1. Installation of the new proposed window W26 in the existing rough opening on the Alfresco eastern elevation. The existing rough opening is part of unauthorised works, denoted as 'UW-A02', across all submitted documents in both applications (PAN-544154 and BIC-42437).
 2. Installation of the new proposed window W27 in the existing rough opening on the Alfresco northern elevation. The existing rough opening is part of unauthorised works, denoted as 'UW-A01', across all submitted documents in both applications (PAN-544154 and BIC-42437).
 3. Relocation of the existing approved rear entry door D3 on the existing approved open section on the Alfresco eastern elevation.
 4. Demolition of the existing internal wall separating the Alfresco and the existing kitchen, which is subject of unauthorised works itemised as UW-W07 across all submitted documents in both applications (PAN-544154 and BIC-42437).
 5. Internal finishing, installation of a new kitchen island, kitchen fit-out and installation of upgraded energy-efficient appliances.

2.3 What is the environmental planning instrument/s you are seeking to vary?

The relevant environmental planning instrument is the Liverpool Local Environmental Plan 2008.

2.4 What is the Site's Zoning

The site's zoning is Zone R2 Low Density Residential, with the following objectives:

1. To provide for the housing needs of the community within a low-density residential environment.
2. To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.

3. To provide a suitable low-scale residential character commensurate with a low dwelling density.
4. To ensure that a high level of residential amenity is achieved and maintained.

2.5 Identify the Development Standard to be Varied

Clause 4.4 Floor Space Ratio of the Liverpool Local Environmental Plan 2008, which prescribes a maximum permissible FSR for the site as 0.6:1. As a result of the existing unauthorised building works, which are the subject of application **BIC-42437**, the dwelling now has a calculated FSR of 0.6614:1. This represents a numerical variation of **10.23%**. The applicant acknowledges this numerical contravention.

2.6 Identify the Type of Development Standard

Numeric

2.7 What is the Numeric Value of the Development Standard in the Environmental Planning Instrument?

The current maximum permissible Floor Space Ratio (FSR) for the site, as per Clause 4.4 of the Liverpool Local Environmental Plan 2008, is 0.6:1.

2.8 What is the difference between the existing and proposed numeric values?

The calculations are presented below:

Site Area	450m ²
Permissible FSR	0.6:1
Existing Approved FSR	0.5948:1
Existing Approved GFA	267.68m ²
Existing Additional GFA	29.93m ²
Proposed New FSR	0.6614
Existing Contravention (Difference)	0.0666

Existing Approved FSR = Existing GFA/Site Area

$$= 267.68 / 450$$

$$= 0.5948$$

Proposed New FSR = (Existing GFA + Proposed Additional GFA)/Site Area

$$= (267.68 + 29.93) / 450$$

$$= 297.61/450$$

$$= 297.61/450$$

$$= 0.6614$$

$$\text{Difference in (FSR)} = (\text{Proposed FSR} - \text{Existing FSR})$$

$$= [(267.68 + 29.93)/450] - 0.5948$$

$$= 0.6614 - 0.5948$$

$$= 0.0666$$

2.9 What is the percentage variation (between the proposal and the environmental planning instrument)?

$$\text{Percentage Variation (FSR)} = [(\text{Proposed FSR} - \text{Permissible FSR}) / \text{Permissible FSR}] \times 100$$

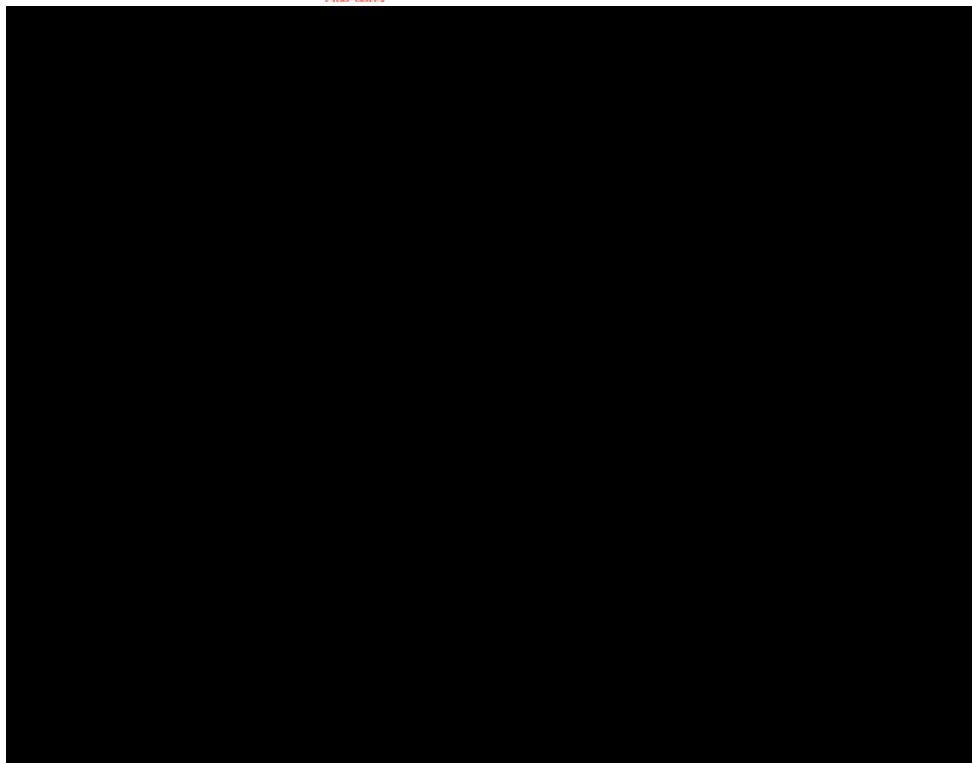
$$= [(0.6614 - 0.6) / 0.6] \times 100$$

$$= 10.2259\% \text{ (increase)}$$

2.10 Visual representation of the proposed variation (if relevant)

The following figures visually represent the proposed final form of the development. These plans illustrate how the original dwelling (DA-654/00), the approved alterations (DA-866/2022), and the existing unauthorised building works (the subject of concurrent application **BIC-42437**) integrate with the proposed extension of the existing kitchen into the area of the existing alfresco ground floor space (subject of **PAN-544154**). The illustrations follow the consistent reference system used to refer to unauthorised building works (seeking consent for future use), which provides traceability to the **BIC-42437** application.

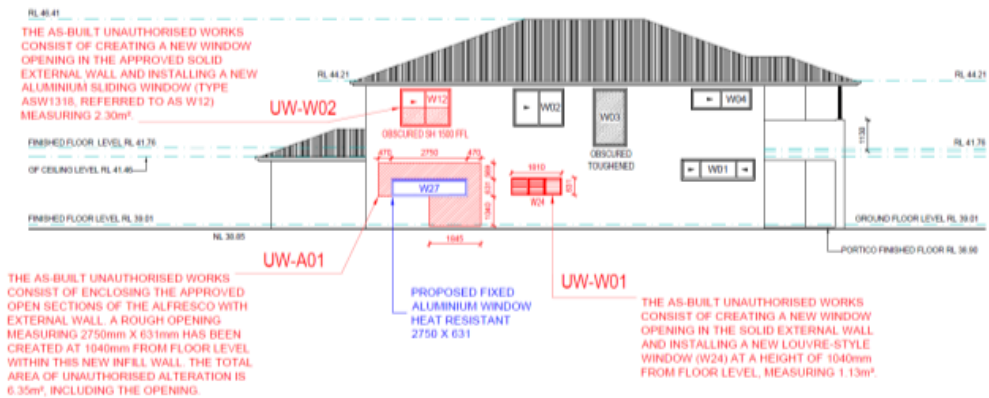
The plans clearly illustrate that the proposed additional ground floor space is contained entirely within the existing approved building envelope, is located at the rear of the dwelling, and has a negligible impact on the built environment, particularly in terms of bulk and scale. Notwithstanding the FSR non-compliance, the building envelope remains consistent with the approved building envelope and the form of envelope considered forming the existing consent.



GROUND FLOOR

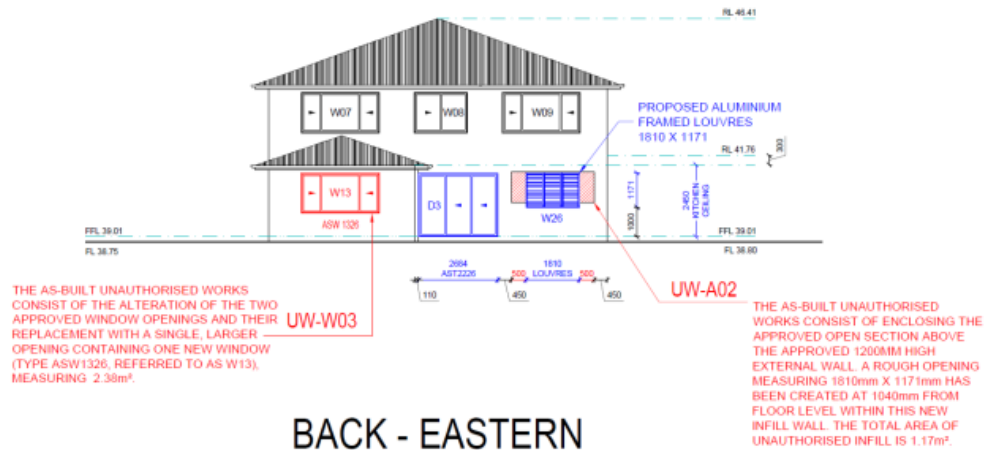
FIRST FLOOR

Figure 1: The hatched region in red (29.93m²) is subject to 10.23% FSR contravention. The ground floor plan clearly shows the proposed additional floor space of 29.93 m² in relation to the existing kitchen, which measures 9.50 m². The FSR variation will create a single, more functional 'open-plan' kitchen and dining space for the multi-generational family, which includes 'ageing' occupants.



ELEVATION - NORTH

Figure 2: The Proposed North Elevation. This plan illustrates the final appearance of the northern elevation, incorporating the new proposed fixed, heat-resistant window (W27, shown in blue), which is to be installed in the existing rough opening (UW-A01, the subject of BIC-42437) to enhance natural light within the proposed kitchen.



BACK - EASTERN

Figure 3: The Proposed East Elevation. This plan illustrates the final appearance of the rear elevation. It shows the new proposed louvre window (W26, shown in blue) to be installed in the existing rough opening (UW-A02, the subject of BIC-42437). This plan also shows that the approved door D3 is now seamlessly integrated into the new open-plan kitchen and dining area, providing direct access to the principal private open space. It is submitted that this access arrangement is consistent with the original dwelling (DA-654/00) and has already been found to be 'adequate in terms of DCP requirement for a direct link between living room and private open space' by the Liverpool Local Planning Panel after a site visit on 31 March 2025.

3 Justification for the Proposed Variation

3.1 Test 1: Compliance is Unreasonable or Unnecessary (Clause 4.6(3)(a))

It is submitted that compliance with the Floor Space Ratio (FSR) development standard is unreasonable and unnecessary in the circumstances of this particular case. This conclusion is based on the well-established legal principle that the objectives of the development standard are achieved notwithstanding the non-compliance. This aligns with the first and most common method of satisfying Clause 4.6(3)(a) of the Liverpool LEP 2008, as definitively set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. As clarified by the 'Guide to Varying Development Standards' (November 2023), an applicant is only required to satisfy at least one part of this 'Wehbe test'.

The objectives of the Floor Space Ratio standard, as set out in Clause 4.4 of the Liverpool LEP 2008, are:

- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
- (f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.

The following sub-sections will provide a detailed examination and analysis of each objective (a) through (e) of Clause 4.4(1) of the Liverpool LEP 2008 to comprehensively justify the variation sought.

3.1.1 Justification for Objective (a): to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic.

It is submitted that Objective (a) of Clause 4.4(1) of the Liverpool LEP 2008 is achieved by the modification which seeks FSR variation.

A. Nil Impact on Approved Land Use or Dwelling Density

- The original development consent (DA-866/2022) was for 'Alterations and Additions to an Existing Dwelling.' The development, as modified, remains a single dwelling house occupied by one family.

- The modification which seeks FSR variation does not create any other form of development that would fundamentally alter the approved land use or increase development density on the site.

B. Nil Impact on Infrastructure Availability

- The demand placed upon existing public infrastructure networks, including **reticulated water, sewer, electricity, and telecommunications services**, remains identical to that already assessed and deemed acceptable under the original consent. The dwelling will continue to be efficiently serviced by existing infrastructure capacity.

C. Nil Impact on Vehicle and Pedestrian Traffic Generation

- The modification which seeks FSR variation does not alter the number of dwellings on the site or otherwise intensify the residential use in a manner that would generate additional vehicle or pedestrian movements beyond what is characteristic of a single dwelling house in an R2 Residential zone.
- The number of vehicle trips generated by a multi-generational family occupying a single, enhanced dwelling is entirely consistent with the traffic profile assessed and approved for the original dwelling.

3.1.2 Justification for Objective (b): to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations.

It is submitted that Objective (b) of Clause 4.4(1) of the Liverpool LEP 2008 is achieved by the modification which seeks FSR variation.

A. Analysis of Physical Impacts on Bulk, Scale, Character and Streetscape

- The FSR variation is generated solely by the enclosure of the existing alfresco ground floor space. Critically, this area was already approved to be situated entirely beneath the first-floor building line and within the established approved roofline and three-dimensional envelope of the dwelling. Consequently:
 1. There is no change in external form, massing, and the three-dimensional envelope of the dwelling remains identical to that which was approved.
 2. The works are located at the rear of the dwelling and are not visible from the public domain. The minor presentational difference is confined to the Eastern Elevation, which is the rear setback of the dwelling, and on the Northern Elevation (side setback at the Eastern end), which is also the rear of the dwelling.
 3. The comparative elevations of that which has been approved, that which is proposed to be achieved by the modification, shows that there is no significant presentational difference that impacts the character or would affect the streetscape

- The numerical changes in the calculated gross floor area do not result in a significant change to the overall presentation of the development.
- Notwithstanding the FSR non-compliance, the building envelope remains consistent with the approved building envelope and the form of envelope considered forming the existing consent.

B. Validation by the Liverpool Local Planning Panel

This finding by the expert statutory body confirms that the specific physical context of the works mitigates any concern that the variation would lead to an outcome that is out of character or would set an undesirable precedent. In its formal Reasons for Decision, the Panel explicitly addressed the character and precedent impacts of the modification, concluding that:

The Panel is of the view that the **precedential value of the infill of the alfresco area to facilitate the extension of the kitchen is limited** in the circumstances where this area is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space. [emphasis added] (Minutes and Determination of LLPP, 31 March 2025, pp.2)

This definitive finding from the LLPP unequivocally confirms that the specific physical context of the works mitigates any concern that the FSR variation would lead to an outcome that is out of character or would set an undesirable precedent for building bulk and density.

3.1.3 Justification for Objective (c): to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.

It is submitted that Objective (c) of Clause 4.4(1) of the Liverpool LEP 2008 is achieved by the modification which seeks FSR variation.

A. Validation by the Liverpool Local Planning Panel:

The LLPP in its formal 'REASONS FOR DECISION' dated 31 March 2025, after conducting a site visit found the modification's impacts to be acceptable, stating:

The Panel is of the view that the **connection from the dwelling into the private open space is adequate** in terms of DCP requirement for a direct link between living room and private open space. [emphasis added] (Minutes and Determination of LLPP Meeting, 31 March 2025, p.2).

This determinative finding from the expert statutory panel confirms that the resulting use and enjoyment of the property, in relation to its private open space, is satisfactory and does not constitute an adverse environmental effect.

B. Concurrence from Council's Prior Assessment

It is a material consideration that Council's technical assessment report for the prior application (DA-866/2022/A) reached the same conclusion regarding the absence of adverse amenity impacts. The Council assessment report explicitly stated:

- 'The proposed variation does not adversely affect the amenity of dwelling, including solar access, cross ventilation, privacy and private open space' (Local Planning Panel Agenda, 31 March 2025, p.22).
- It is respectfully submitted that it would be legally and procedurally unreasonable for the consent authority to now depart from its own prior expert findings on this critical matter, given that the physical facts of the case have not changed.

C. Detailed Analysis of Environmental Effects:

The FSR variation is a direct consequence of the enclosure of the ground-floor alfresco area. As these works are contained entirely within the existing approved building footprint and do not alter the building's height or external form, the following is established:

- **Overshadowing and View Loss:** The modification creates no additional overshadowing of neighbouring properties and results in no loss of views from any adjoining dwelling. The architectural plans, including comprehensive shadow diagrams submitted with the development application (DA-866/2022), explicitly confirm this position.
- **Visual Privacy:** The privacy of adjoining dwellings is maintained. The new windows associated with the works have been located and designed to prevent unreasonable overlooking, a matter that can be reinforced by standard conditions of consent.
- **Streetscape and Public Domain:** The works generating the FSR variation are situated at the rear of the dwelling and are not visible from the primary public domain (Rosewood Avenue). There is, therefore, zero adverse impact on the character or amenity of the streetscape, nor any negative environmental effect on public spaces resulting from the FSR variation.

3.1.4 Justification for Objective (d): to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.

It is submitted that Objective (d) of Clause 4.4(1) of the Liverpool LEP 2008 is achieved by the modification which seeks FSR variation.

A. Validation by the Liverpool Local Planning Panel

This assessment of a positive visual outcome is conclusively supported by the formal findings of the Liverpool Local Planning Panel in its 'REASONS FOR DECISION' of 31 March 2025:

The Panel carried out a site visit. The Panel is of the view that an application for an extension of the kitchen into the area of the alfresco ground floor space would result in a development which is **substantially the same** as that existing for the purposes of Section 4.55 of the EP&A Act. [emphasis added] (Minutes and Determination of LLPP Meeting, 31 March 2025, pp.1-2).

This finding by the expert Panel, in effect, a formal and expert assessment that the overall visual outcome is acceptable and does not represent an adverse or substantial transformation of the dwelling's character. It signifies that the physical manifestation of the works, even with the FSR variation, preserves the existing visual relationship.

B. The FSR Variation Has No Adverse Impact on Visual Character

The modification which that generate the numerical FSR non-compliance (the enclosure of the alfresco area, itemised as UW-A01 and UW-A02, are contained entirely within the existing, approved building envelope and are located at the rear of the dwelling.

- Since the FSR variation is not discernible from the public domain or to adjoining properties in terms of increased external bulk or changes to the dwelling's form, it cannot rationally be argued that it adversely affects the visual relationship with the character of the area.
- The numerical changes in the calculated gross floor area do not result in a significant change to the overall presentation of the development and the building envelope remains consistent with the approved building envelope.

3.1.5 Justification for Objective (e): to provide an appropriate correlation between the size of a site and the extent of any development on that site.

It is submitted that Objective (e) of Clause 4.4(1) of the Liverpool LEP 2008 is achieved by the modification which seeks FSR variation.

A. Validation by the Liverpool Local Planning Panel

The physical proportionality and limited impact of the exact building works has already been validated by the Liverpool Local Planning Panel. In its formal 'REASONS FOR DECISION' of 31 March 2025, the Panel, after conducting a site visit, specifically noted that the impact of the enclosure is limited:

The Panel is of the view that the **precedential value of the infill of the alfresco area** to facilitate the extension of the kitchen **is limited** in the circumstances where this area is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space. [emphasis added] (Minutes and Determination of LLPP Meeting, 31 March 2025, p.2).

This expert finding from the lawful determining authority confirms that the additional floor area is created within a space that was already structurally and spatially defined by the main

dwelling, demonstrating that the 'extent of development' is appropriate and proportionate to the site.

B. The Factual Context of the FSR Variation

The modification which seeks FSR variation are a direct result of the enclosure of the ground-floor alfresco open areas. It is a matter of fact that this work **does not extend the building's footprint, increase its height, or alter its setbacks** beyond that which was originally approved under DA-866/2022.

- The numerical increase in GFA therefore does not translate into any tangible increase in the perceived external bulk, scale, or overall physical extent of the development on the site.
- This ensures that valuable open space is not further encroached upon and that the correlation between the built form and site area remains appropriate for a low-density residential environment.
- Notwithstanding the increased non-compliance, the building envelope remains consistent with the approved building envelope and the form of envelope considered forming the existing development consent.

3.1.6 Justification for Objective (f): to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.

It is acknowledged that Objective (f) of Clause 4.4(1) of the Liverpool LEP 2008 is geographically specific. As the subject site is located within the residential suburb of Prestons, this particular objective is not directly applicable to the assessment of this application.

3.2 Test 2: Sufficient Environmental Planning Grounds (Clause 4.6(3)(b))

It is submitted that sufficient environmental planning grounds exist to justify the 10.23% variation to the Floor Space Ratio (FSR) development standard. As authoritatively defined by the NSW Department of Planning and Environment's 'Guide to Varying Development Standards' (November 2023, p.12), environmental planning grounds 'refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act.' This establishes a direct and incontrovertible link between this justification and the highest-level objectives of the entire NSW planning system.

Objects of the Act: The objects of the EP&A Act, as set out in **Section 1.3 of the Act**, are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

3.2.1 Ground 1 Object 1.3(a): Promotion of 'social and economic welfare of the community'

The FSR variation is sought to facilitate the creation of a dwelling that is liveable, adaptable, and resilient to meet the diverse and evolving needs of a multi-generational family, which includes 'ageing' parents requiring a safe and accessible environment, and school-aged children needing to explore their creativity in the cooking space. The applicant acknowledges that the specific outcome is explicitly and actively promoted by State Government strategic document, [Housing 2041: NSW Housing Strategy](#).

The following justifications for sufficient environmental planning grounds to justify contravening the development standard are provided in relation to Objective 1.3(a) of the EP&A Act:

1. The proposed open-plan kitchen and dining space creates an adaptable and resilient home which will ensure that the kitchen and dining space is accessible and suitable for different stages of life or changing circumstance of its occupants. This outcome will improve the dwelling's suitability for its 'ageing' occupants and facilitating their ability to 'age in place' safely and with dignity.
2. The kitchen is the central hub for the multi-generational family. Enhancing this space improves social interaction, shared responsibilities, and the overall quality of life for the entire household, thereby promoting their social welfare.
3. A safe and functional kitchen is central to maintaining independence in later years of life. The FSR variation is therefore essential to enable a design that provides for these changing needs, ensuring the multi-generational home remains resilient and fit-for-purpose for its occupants over the long term.
4. Housing is essential to our wellbeing, and a place to call home has never been more important than it is today. The kitchen extension is a critical adaptation for this purpose ensuring that the dwelling remains fit-for-purpose for the multi-generational family.

In conclusion, the requested FSR variation is the essential planning mechanism that unlocks these significant and positive social outcomes. It allows for the creation of a kitchen and living space that directly aligns with the NSW Government's explicit strategic vision for housing that is adaptable, diverse, and capable of supporting multi-generational households and the needs of ageing residents. This represents a profound public benefit and constitutes a sufficient environmental planning ground to justify the contravention of the development standard.

3.2.2 Ground 2 (Object 1.3(a)): Promotion of 'a better environment by the proper management, development and conservation of the State's natural and other resources'

The following justifications for sufficient environmental planning grounds to justify contravening the development standard are provided in relation to Objective 1.3(a) of the EP&A Act:

A. Conservation of the State's Natural and Other Resources

The modification application's primary contribution to this Object is its role in the conservation of the State's most critical 'other resources' in an established urban area: *the existing housing stock and serviced residential land*.

- The core of this application is the adaptive reuse of an existing dwelling. Instead of requiring the multi-generational family to seek a new, larger home (with an adaptable and resilient kitchen), which would necessitate the consumption of another parcel of land and the resources required for a new build—this modification application seeking FSR variation conserves the existing built form.

- By making the existing home viable for the entire multi-generational family, the modification application seeking FSR variation prevents the creation of a second dwelling. This directly conserves the finite resource of residential land, which would otherwise be consumed by a new dwelling, and avoids the associated impacts on the natural environment that accompany land development.

B. Proper Management and Development of the State's Natural and Other Resources

The modification application seeking FSR variation constitutes the 'proper development' of an existing resource to create a 'better environment' for its occupants. The term 'environment,' as defined by Section 1.4(1) of the EP&AA Act, 'includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings', which fundamentally includes the internal liveability, adaptability and safety of a home.

- The kitchen extension seeking FSR variation is a targeted development that rectifies a functional inadequacy, transforming the internal domestic environment to one that is safer, more accessible, and more functional for its multi-generational occupants, particularly those who are 'ageing' and those who are 'growing'. This enhancement of the immediate living environment is a direct and tangible fulfilment of the objective to promote 'a better environment.'
- The modification of the existing consent is 'proper' because it extends the serviceable lifespan of the dwelling, ensuring it remains a high-quality, long-term housing resource for the community, rather than becoming inadequate in meeting the diverse and evolving needs of its immediate occupants.

C. 'Proper Management' of Public Infrastructure Resources

The modification of the existing consent represents the proper management of public infrastructure resources by maximising the efficiency of existing services.

- By enabling the multi-generational family to *comfortably* cohabit on a single, existing residential lot, the development makes the most efficient use of the established public infrastructure.
- This approach avoids the alternative scenario where the family is forced to separate, creating a new and entirely avoidable demand on public infrastructure to service a second dwelling in another location, *which comfortably meet their diverse and evolving needs*. This efficient management of existing infrastructure capacity is a responsible and economically sound planning outcome.

In conclusion, the requested FSR variation is the essential planning instrument that facilitates this highly efficient, conservative, and proper form of development. It enables the conservation and enhancement of the existing housing stock, prevents the unnecessary consumption of land, and maximises the use of established public infrastructure, all while creating a liveable, adaptable and resilient living environment for the occupants.

3.2.3 Ground 3 (Object 1.3(g)): Promotion of 'good design and amenity of the built environment'

The following justifications for sufficient environmental planning grounds to justify contravening the development standard are provided in relation to Objective 1.3(g) of the EP&A Act:

The modification application, which seeks FSR variation, rectifies a significant and demonstrable design deficiency within the existing dwelling, transforming a key space (kitchen) to deliver a profound and lasting improvement to the amenity, safety, and functionality of the home for its multi-generational occupants.

- In this specific context, 'good design' is not a subjective aesthetic preference. It is an objective measure of functionality, accessibility, and fitness-for-purpose, benchmarked against established standards. The Australian Government's guide, '[The liveable and adaptable home](#)', makes it explicitly clear that as a person's physical abilities change over time, 'the kitchen is one of the main rooms in the home where the impact of physical limitations is felt'. It states that the 'design of a kitchen should enable a person's independence and ought to be adaptable to accommodate a specific individual's needs.'
- The existing kitchen, due to its inadequate size and configuration, fails to meet these objective benchmarks for good design. It represents a poor amenity outcome that compromises the safety and independence of the ageing occupants. Strict adherence to the numerical FSR standard would effectively mandate the retention of this substandard design, an outcome that would actively thwart, rather than promote, Object 1.3(g). The FSR variation is therefore the direct and necessary mechanism to resolve this design flaw, which was part of the originally built dwelling. Such outdated design does not meet the diverse and evolving need of its current occupants (multi-generational family)
- The proposed larger kitchen, enabled by the FSR variation, will be configured to provide compliant circulation spaces and a safer layout of workspaces and appliances. This directly improves the internal amenity by enhancing the occupants' quality of life, independence, and safety in performing daily tasks.

In conclusion, the justification for the FSR variation is intrinsically linked to the promotion of good design and amenity. The variation is not sought to maximise development yield, but to facilitate a fundamental design upgrade that is essential to rectify a poor and unsafe amenity outcome. To approve the variation is to give profound and tangible effect to the legislative objective of promoting a well-designed, safe, and functional built environment for the community.

3.2.4 Ground 4 (Object 1.3(h)): Promotion of ‘proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

The following justifications for sufficient environmental planning grounds to justify contravening the development standard are provided in relation to Objective 1.3(h) of the EP&A Act:

Beyond technical compliance, Object 1.3(h) imposes a higher-level duty on the planning system to proactively protect the health and safety of building occupants. The proposed kitchen extension is a critical and necessary upgrade to fulfil this duty for the dwelling’s ageing occupants.

- An undersized kitchen with inadequate circulation space poses a direct and foreseeable health and safety risk to *occupants with diminishing mobility*. The existing kitchen’s failure to provide adequate manoeuvring space, such as the 1550mm clearance between benches recommended in Australian Standard 4299, creates a hazardous environment, increasing the risk of falls, burns, and other domestic accidents.
- Strict adherence to the FSR standard would mandate the retention of this inadequate kitchen design. This outcome would be directly contrary to the Act’s objective to protect occupant safety. The FSR variation is therefore the essential planning mechanism required to mitigate this risk and create a safe domestic environment, particularly for the ageing occupants.

3.2.5 Ground 5 (Object 1.3(j)): Promotion of increased opportunity for community participation in environmental planning and assessment.

The following justifications for sufficient environmental planning grounds to justify contravening the development standard are provided in relation to Objective 1.3(j) of the EP&A Act:

This critical environmental planning ground establishes that the FSR variation is consistent with the broader community’s interests.

A. Liverpool Local Planning Panel as the Embodiment of Community Participation

The EP&A Act gives direct and profound effect to the object of community participation through the mandated structure of the LLPP. Section 2.18 of the EP&A Act, which governs its composition, explicitly requires, under Section 2.18(2)(c), the inclusion of a ‘representative of the local community who is not a councillor or mayor’. This statutory inclusion ensures that community values and perspectives are formally integrated into the highest level of local planning assessment and determination. The community representative is not a passive observer; they are a voting member whose local perspective is directly embedded in the Panel’s formal determination and ‘written reasons for its decisions’.

B. Public Interest

The LLPP, inclusive of its statutory community representative, made favourable findings regarding the substantive planning merits of the exact works in its 'REASONS FOR DECISION' on 31 March 2025:

The Panel carried out a site visit. The Panel is of the view that an application for an extension of the kitchen into the area of the alfresco ground floor space would result in a development which is **substantially the same as that existing for the purposes of Section 4.55 of the EP&A Act**.

The Panel is of the view that the connection from the dwelling into the private open space is **adequate in terms of DCP requirement for a direct link between living room and private open space**.

The Panel is of the view that the **precedential value of the infill of the alfresco** area to facilitate the extension of the kitchen **is limited in the circumstances** where this area is already enclosed by 2 walls of the house under the upstairs bedroom and the approved external support walls are already in place and noted that the approved plans showed an outdoor kitchen in the alfresco space. [emphasis added] (Minutes and Determination of LLPP Meeting, 31 March 2025, pp. 1-2).

These positive findings, reached by a Panel specifically designed to incorporate community input, provide powerful and persuasive evidence that the modification is consistent with the public interest (EP&A Act, Section 4.15(1)(e)).

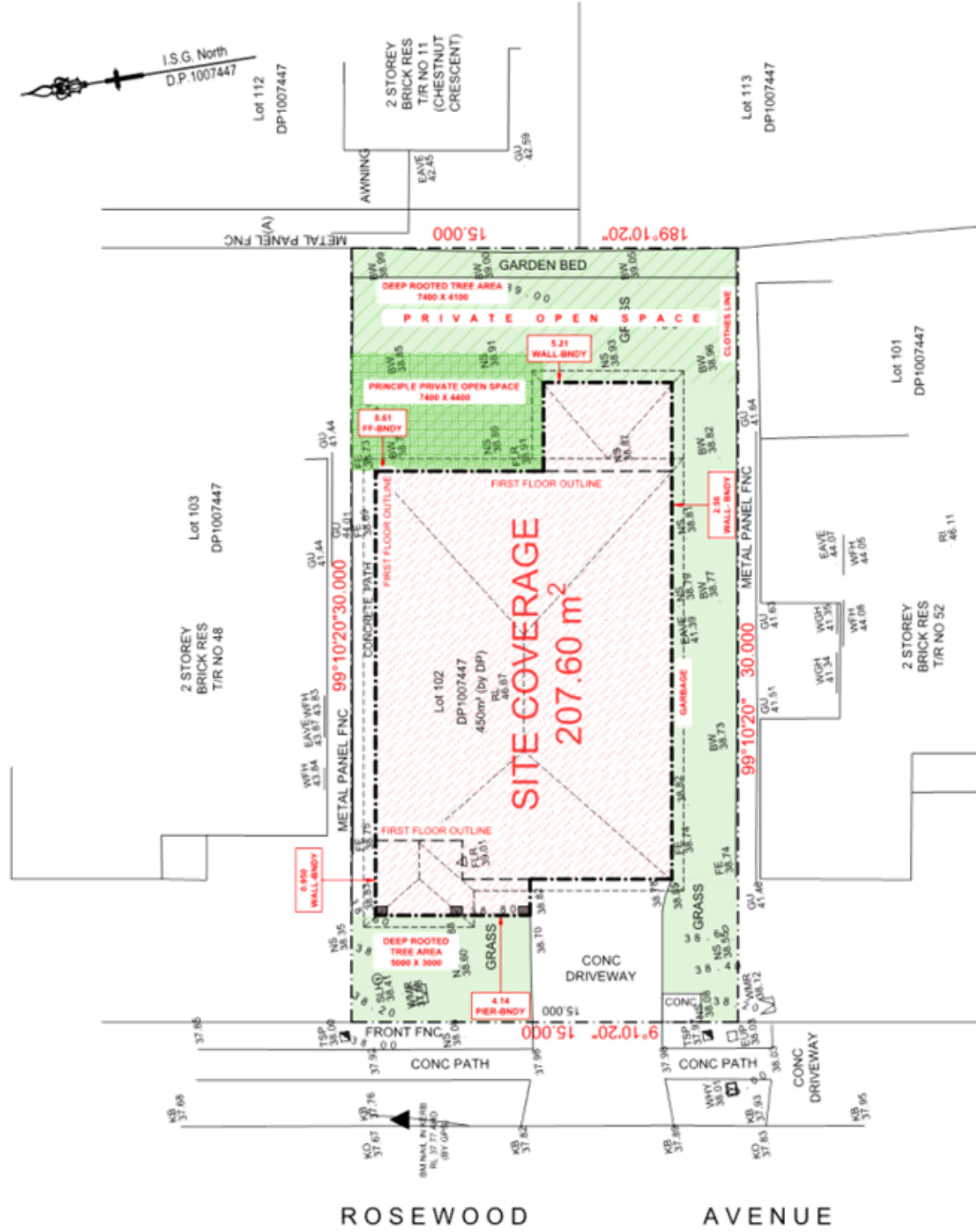
4 Conclusion

This written request has been submitted to justify a 10.23% variation to the Floor Space Ratio standard under Clause 4.4 of the Liverpool Local Environmental Plan 2008. The FSR variation facilitates the creation of a home that is liveable, adaptable, comfortable, and resilient, thereby accommodating the needs and preferences of the multi-generational family with 'ageing' parents and school-aged children.

This submission has established, through a well-established legal test, that strict compliance with the development standard is **unreasonable and unnecessary** in the specific circumstances of this particular case. Furthermore, it has been demonstrated that there are **sufficient (several) environmental planning grounds** to justify the contravention, as the modification directly achieves several key objects of the Environmental Planning and Assessment Act 1979.

Therefore, given that FSR variation satisfies all the relevant statutory tests and has been found to have acceptable planning impacts by the expert statutory panel, it is respectfully submitted that the variation to Clause 4.4 of the LEP is justified and that this modification application (PAN-544154) is deserving of grant of consent.

SITE PLAN UNALTERED FOR BOTH, BIC-42437 AND PAN-544154 APPLICATIONS



TOTAL LANDSCAPED AREA
 PRIVATE OPEN SPACE
 PRINCIPAL PRIVATE OPEN SPACE

- SITE AREA = 450 m²**
- SITE COVERAGE**
PERMISSIBLE = 75% OR 337.5m²
EXISTING = 207.60m²
- LANDSCAPED AREA**
REQUIRED = 25% OR 112.5m²
PROVIDED = 43.63% OR 196.34m²
- REAR SETBACK DEEP ROOTED TREE AREA**
REQUIRED = 4m x 6m OR 24m²
PROVIDED = 7.4m x 4.1m OR 30.34m²
- TOTAL FRONT SETBACK = 73.52m²**
REQUIRED LANDSCAPING = 25% OR 18.38m²
PROVIDED = 58.85% OR 43.27m²
- FRONT SETBACK DEEP ROOTED TREE AREA**
REQUIRED = 3m x 5m OR 15 m²
PROVIDED = 3m x 5m OR 15 m²
- PRIVATE OPEN SPACE (REAR SETBACK)**
REQUIRED = 70m²
PROVIDED = 103.69 m²
- PRINCIPLE PRIVATE OPEN SPACE**
REQUIRED = 4m x 6m OR 24m²
PROVIDED = 7.4m x 4.4m OR 32.56 m²

Notes:

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4. TO ESTABLISH THE BACKGROUND, SCOPE AND CONTEXT OF THE WORKS IN THIS PLAN, THE ORIGINAL CONSENT FOR THE DWELLING UNDER DA-654/00, APPROVED 6 SEPTEMBER 1999, BY LIVERPOOL CITY COUNCIL, SHOULD BE REFERRED TO AS REQUIRED.

E	THIS PLAN ILLUSTRATES THE SITE COVERAGE AND ASSOCIATED DETAILS FOR BOTH WORKS THAT ARE SUBJECT OF BIC-42437 AND THOSE THAT ARE SUBJECT OF PAN-544154	MR	JUL 25
REV	DESCRIPTION	BY	DATE
STATUS: NSW PORTAL No. PAN-544154			

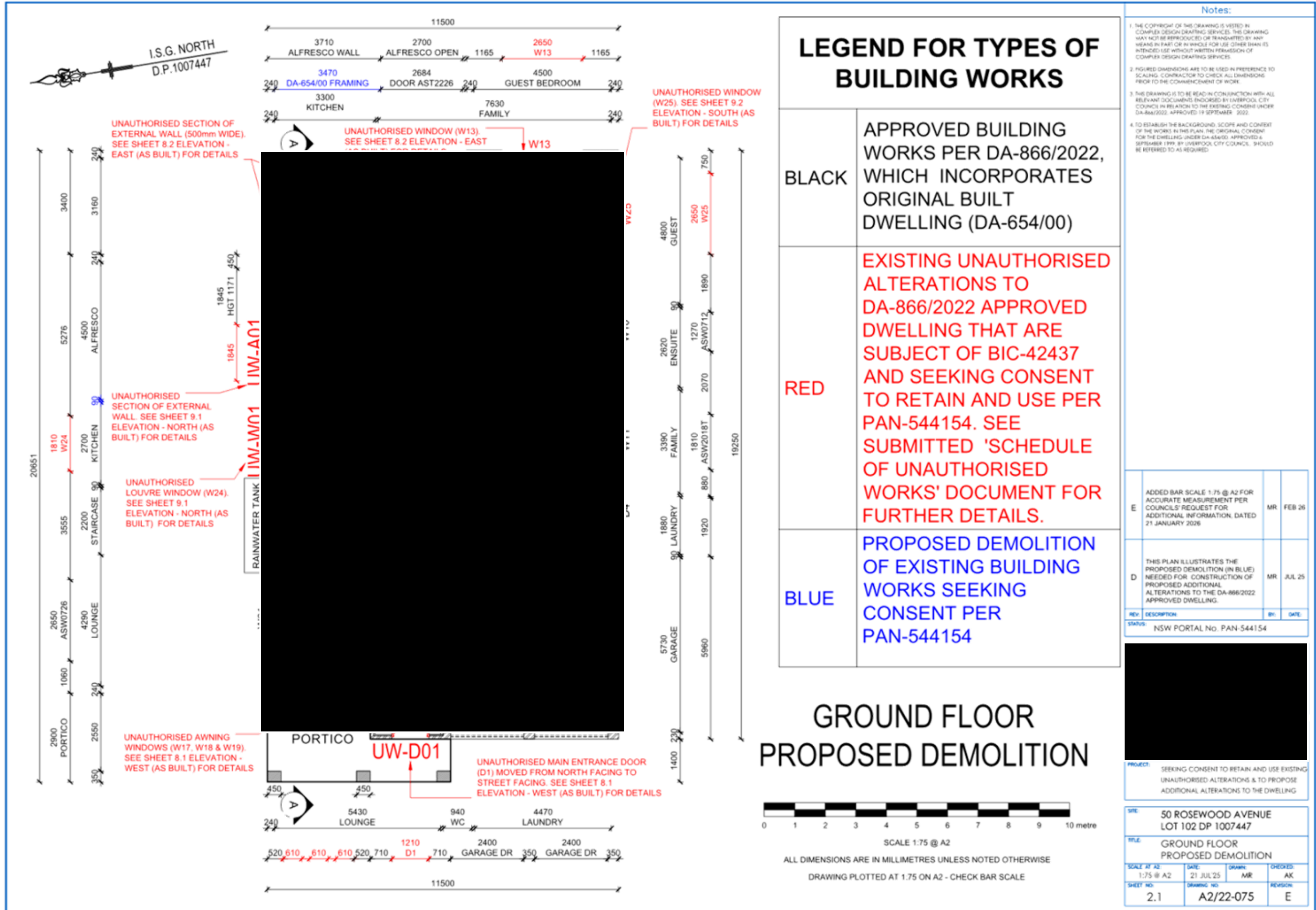


PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

SITE: 50 ROSEWOOD AVENUE
LOT 102 DP 1007447

TITLE: SITE PLAN
AS BUILT

SCALE AT A2: 1:150 @ A2	DATE: 21 JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO: 1.1	DRAWING NO: A2/22-075	REVISION: E	



LEGEND FOR TYPES OF BUILDING WORKS

BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.
BLUE	PROPOSED DEMOLITION OF EXISTING BUILDING WORKS SEEKING CONSENT PER PAN-544154

- Notes:**
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 4. TO ESTABLISH THE BACKGROUND, SCOPE AND CONTEXT OF THE WORKS IN THIS PLAN, THE ORIGINAL CONSENT FOR THE DWELLING UNDER DA-654/00, APPROVED 6 SEPTEMBER 1999, BY LIVERPOOL CITY COUNCIL, SHOULD BE REFERRED TO AS REQUIRED.

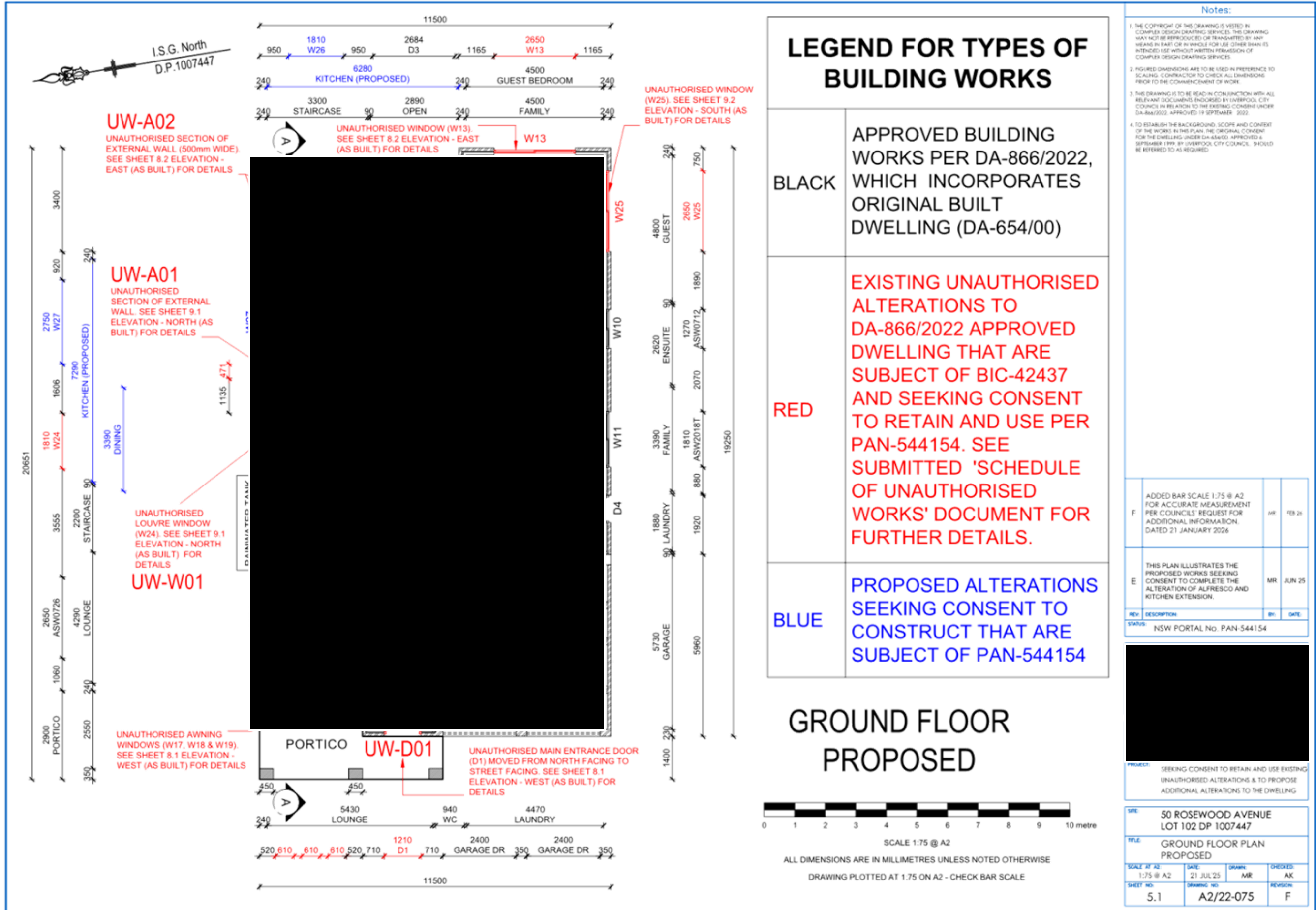
E	ADDED BAR SCALE 1:75 @ A2 FOR ACCURATE MEASUREMENT PER COUNCIL'S REQUEST FOR ADDITIONAL INFORMATION, DATED 21 JANUARY 2026	MR	FEB 26
D	THIS PLAN ILLUSTRATES THE PROPOSED DEMOLITION (IN BLUE) NEEDED FOR CONSTRUCTION OF PROPOSED ADDITIONAL ALTERATIONS TO THE DA-866/2022 APPROVED DWELLING.	MR	JUL 25
REV:	DESCRIPTION:	BY:	DATE:
STATUS: NSW PORTAL No. PAN-544154			

GROUND FLOOR PROPOSED DEMOLITION



ALL DIMENSIONS ARE IN MILLIMETRES UNLESS NOTED OTHERWISE
DRAWING PLOTTED AT 1:75 ON A2 - CHECK BAR SCALE

PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING			
SITE: 50 ROSEWOOD AVENUE LOT 102 DP 1007447			
TITLE: GROUND FLOOR PROPOSED DEMOLITION			
SCALE AT A2: 1:75 @ A2	DATE: 21 JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO.: 2.1	DRAWING NO.: A2/22-075	REVISION: E	



LEGEND FOR TYPES OF BUILDING WORKS

BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.
BLUE	PROPOSED ALTERATIONS SEEKING CONSENT TO CONSTRUCT THAT ARE SUBJECT OF PAN-544154

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 4. TO ESTABLISH THE BACKGROUND, SCOPE AND CONTEXT OF THE WORKS IN THIS PLAN, THE ORIGINAL CONSENT FOR THE DWELLING UNDER DA-654/00, APPROVED 6 SEPTEMBER 1999, BY LIVERPOOL CITY COUNCIL, SHOULD BE REFERRED TO AS REQUIRED.

F	ADDED BAR SCALE 1:75 @ A2 FOR ACCURATE MEASUREMENT PER COUNCIL'S REQUEST FOR ADDITIONAL INFORMATION, DATED 21 JANUARY 2026	MR	FEB 26
E	THIS PLAN ILLUSTRATES THE PROPOSED WORKS SEEKING CONSENT TO COMPLETE THE ALTERATION OF ALFRESCO AND KITCHEN EXTENSION.	MR	JUN 25
REV:	DESCRIPTION:	BY:	DATE:
STATUS: NSW PORTAL No. PAN-544154			

PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

SITE: 50 ROSEWOOD AVENUE LOT 102 DP 1007447			
TITLE: GROUND FLOOR PLAN PROPOSED			
SCALE AT A2: 1:75 @ A2	DATE: 21 JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO.: 5.1	DRAWING NO.: A2/22-075	REVISION:	REVISION: F

GROUND FLOOR PROPOSED

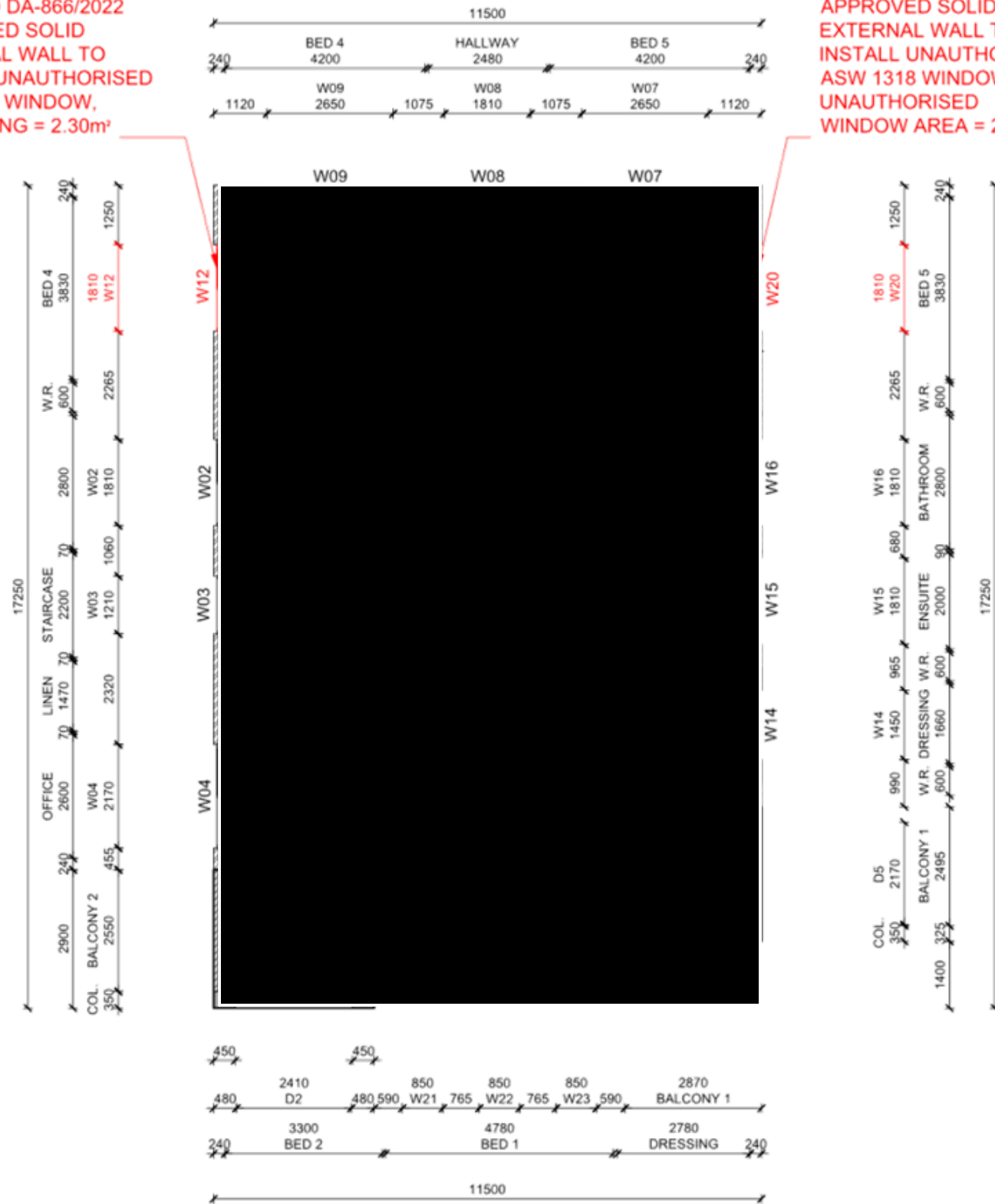
SCALE 1:75 @ A2

ALL DIMENSIONS ARE IN MILLIMETRES UNLESS NOTED OTHERWISE

DRAWING PLOTTED AT 1:75 ON A2 - CHECK BAR SCALE

ALTERED DA-866/2022 APPROVED SOLID EXTERNAL WALL TO INSTALL UNAUTHORISED ASW1318 WINDOW, MEASURING = 2.30m²

ALTERED DA-866/2022 APPROVED SOLID EXTERNAL WALL TO INSTALL UNAUTHORISED ASW 1318 WINDOW. UNAUTHORISED WINDOW AREA = 2.30m²



LEGEND FOR TYPES OF BUILDING WORKS

BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.

FIRST FLOOR PROPOSED

I.S.G. North
D.P.1007447



SCALE 1:75 @ A2
ALL DIMENSIONS ARE IN MILLIMETRES UNLESS NOTED OTHERWISE
DRAWING PLOTTED AT 1:75 ON A2 - CHECK BAR SCALE

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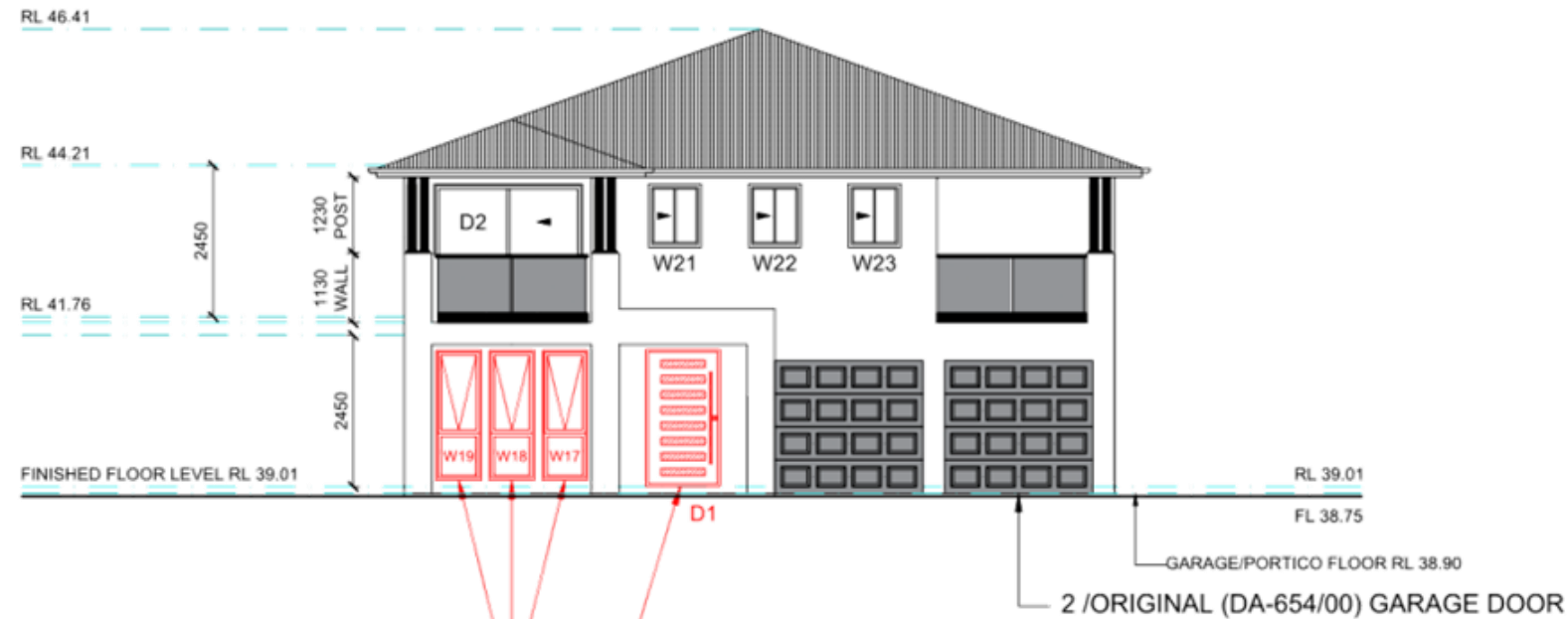
F	ADDED BAR SCALE 1:75 @ A2 FOR ACCURATE MEASUREMENT PER COUNCIL'S REQUEST FOR ADDITIONAL INFORMATION, DATED 21 JANUARY 2026	MR	FEB 24
E	ILLUSTRATES ALL UNAUTHORISED BUILDING WORKS CARRIED OUT DURING THE CONSTRUCTION OF DA-866/2022 APPROVED ALTERATIONS AND ADDITIONS TO THE ORIGINAL DA-654/00 DWELLING.	MR	JUL '25
REV:	DESCRIPTION:	BY:	DATE:
STATUS:	NSW PORTAL No. PAN-544154		

PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

SITE:	50 ROSEWOOD AVENUE LOT 102 DP 1007447		
TITLE:	FIRST FLOOR PROPOSED		
SCALE @ A2:	DATE:	DRAWN:	CHECKED:
1:75 @ A2	21 JUL 25	MR	AK
SHEET NO:	DRAWING NO:	REVISION:	
5.2	A2/22-075	F	

LEGEND FOR TYPES OF BUILDING WORKS

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RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.



THE AS-BUILT UNAUTHORISED WORKS CONSIST OF THE DEMOLITION OF THE TWO APPROVED-TO-BE-RETAINED ORIGINAL (DA-654/00) WINDOWS ON THE WEST ELEVATION, AND THEIR REPLACEMENT WITH THREE NEW, SMALLER AWNING-STYLE WINDOWS (TYPE AAW2006T), REFERRED TO AS W17, W18, AND W19. EACH UNAUTHORISED AWNING WINDOW MEASURES 1.43m².

UW-W06

UW-D01

THE AS-BUILT UNAUTHORISED WORKS CONSIST OF THE UNAUTHORISED DEMOLITION OF THE APPROVED-TO-BE-RETAINED ORIGINAL WINDOW ON THE WEST ELEVATION AND THE CREATION OF A NEW DOOR OPENING IN ITS PLACE. THE MAIN ENTRANCE DOOR (D1) WAS THEN INSTALLED IN THIS NEW, UNAPPROVED LOCATION. THE UNAUTHORISED MAIN ENTRANCE MEASURES 1200mm X 2040mm, WITH A TOTAL AREA OF 2.66m².

ELEVATION - WEST PROPOSED

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E	ILLUSTRATES ALL UNAUTHORISED BUILDING WORKS CARRIED OUT DURING THE CONSTRUCTION OF DA-866/2022 APPROVED ALTERATIONS AND ADDITIONS TO THE ORIGINAL DA-654/00 DWELLING.	MR	JUL '25
	REV: DESCRIPTION	BY:	DATE:
STATUS: NSW PORTAL No. PAN-544154			



PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

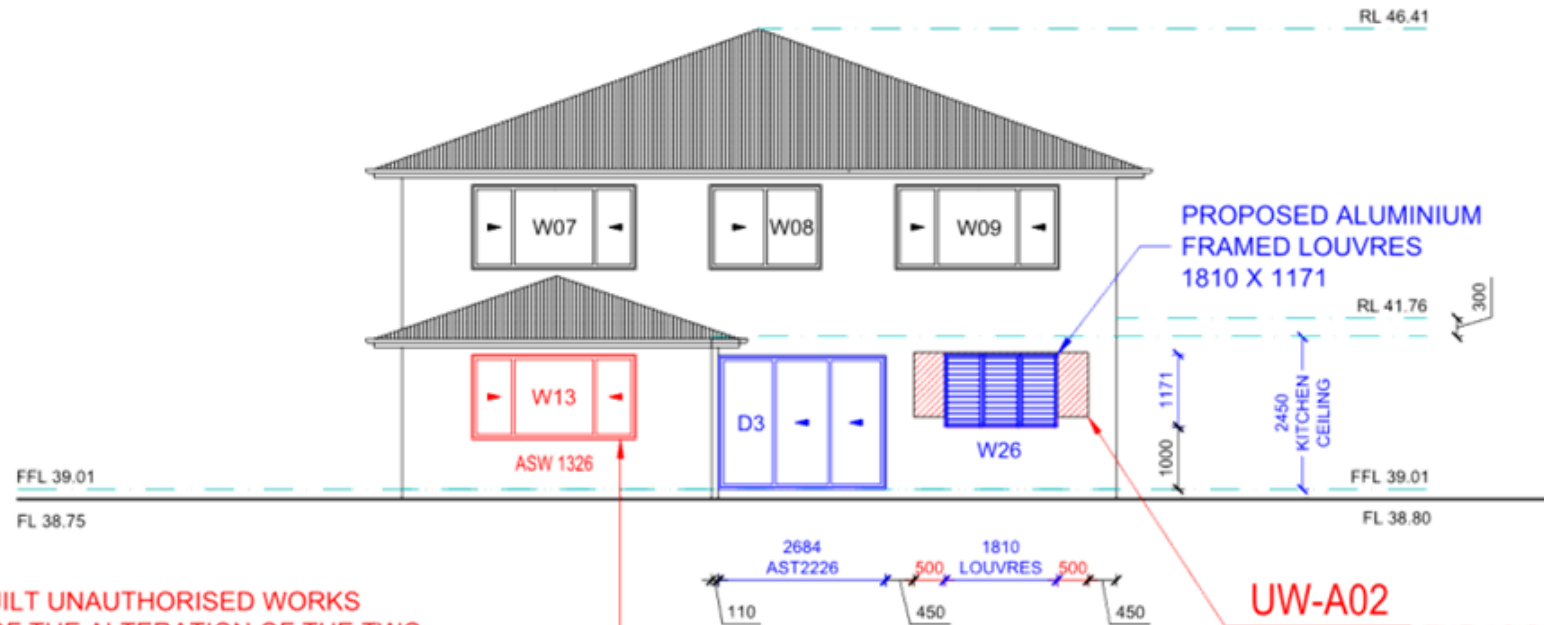
SITE: 50 ROSEWOOD AVENUE
LOT 102 DP 1007447

TITLE: ELEVATION - WEST
PROPOSED

SCALE: A1/A2 1:75 @ A2	DATE: 21 JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO: 8.1	DRAWING NO: A2/22-075	REVISION: E	

LEGEND FOR TYPES OF BUILDING WORKS

BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.
BLUE	PROPOSED ALTERATIONS SEEKING CONSENT TO CONSTRUCT THAT ARE SUBJECT OF PAN-544154



THE AS-BUILT UNAUTHORISED WORKS CONSIST OF THE ALTERATION OF THE TWO APPROVED WINDOW OPENINGS AND THEIR REPLACEMENT WITH A SINGLE, LARGER OPENING CONTAINING ONE NEW WINDOW (TYPE ASW1326, REFERRED TO AS W13), MEASURING 3.38m².

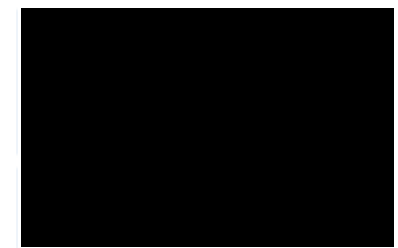
**BACK - EASTERN
PROPOSED**

THE AS-BUILT UNAUTHORISED WORKS CONSIST OF ENCLOSING THE APPROVED OPEN SECTION ABOVE THE APPROVED 1200MM HIGH EXTERNAL WALL. A ROUGH OPENING MEASURING 1810mm X 1171mm HAS BEEN CREATED AT 1040mm FROM FLOOR LEVEL WITHIN THIS NEW INFILL WALL. THE TOTAL AREA OF UNAUTHORISED INFILL IS 1.17m².

Notes:

1. THE COPYRIGHT OF THIS DRAWING IS VESTED IN COMPLEX DESIGN DRAFTING SERVICES. THIS DRAWING MAY NOT BE REPRODUCED OR TRANSMITTED BY ANY MEANS IN PART OR IN WHOLE FOR USE OTHER THAN ITS INTENDED USE WITHOUT WRITTEN PERMISSION OF COMPLEX DESIGN DRAFTING SERVICES.
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	REV: DESCRIPTION	BY:	DATE:
STATUS: NSW PORTAL No. PAN-544154			



PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

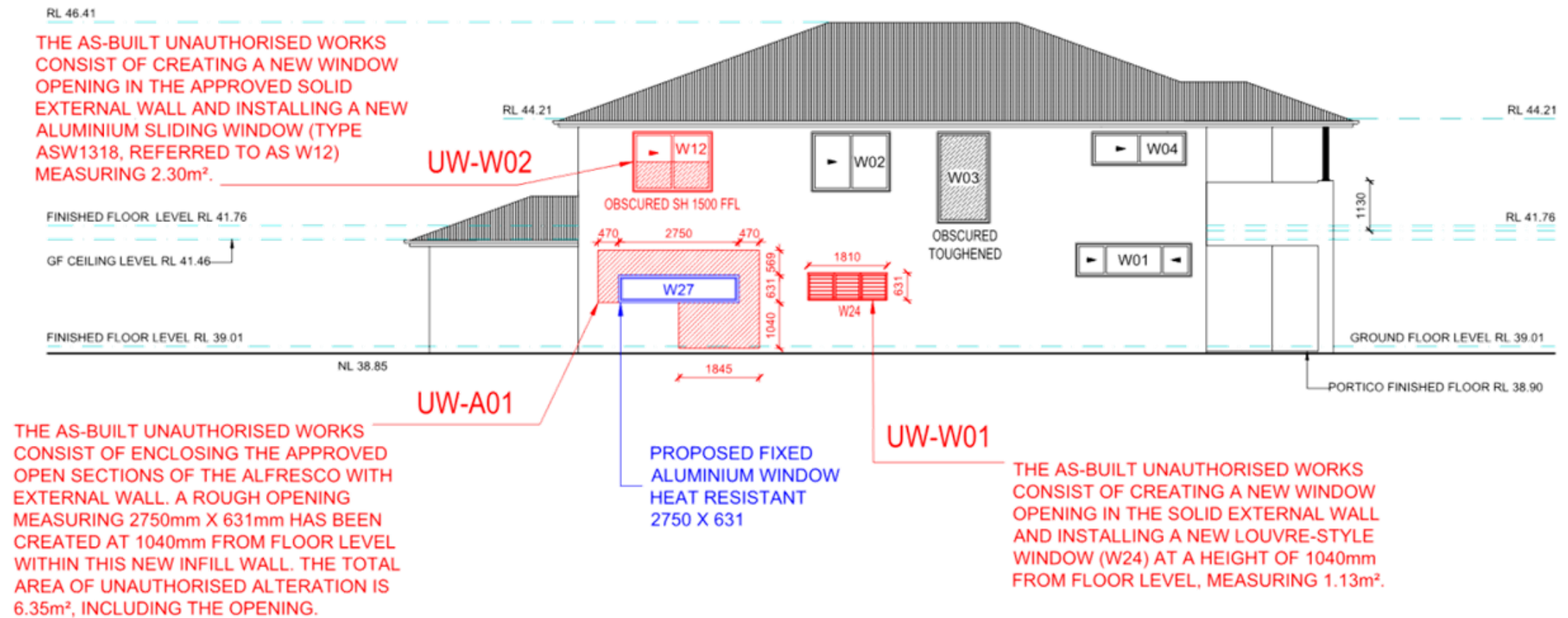
SITE: 50 ROSEWOOD AVENUE
LOT 102 DP 1007447

TITLE: ELEVATION - EAST
PROPOSED

SCALE: A1/A2	DATE:	DRAWN:	CHECKED:
1:75 @ A2	21 JUL 25	MR	AK
SHEET NO:	DRAWING NO:	REVISION:	
8.2	A2/22-075	E	

LEGEND FOR TYPES OF BUILDING WORKS	
BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.
BLUE	PROPOSED ALTERATIONS SEEKING CONSENT TO CONSTRUCT THAT ARE SUBJECT OF PAN-544154

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ELEVATION - NORTH PROPOSED

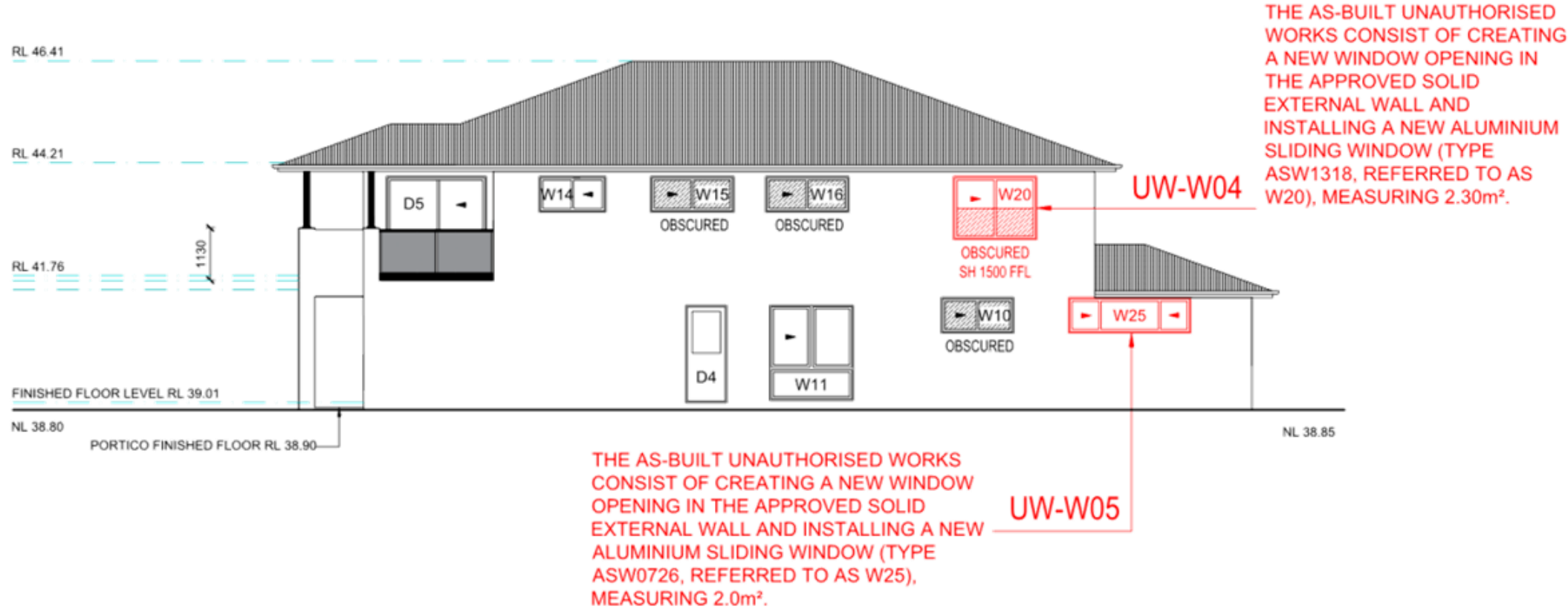
E		ILLUSTRATES ALL UNAUTHORISED BUILDING WORKS CARRIED OUT DURING THE CONSTRUCTION OF DA-866/2022 APPROVED ALTERATIONS AND ADDITIONS TO THE ORIGINAL DA-654/00 DWELLING.	MR	JUL '25
REV	DESCRIPTION	BY	DATE	
STATUS	NSW PORTAL No. PAN-544154			

PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

SITE: 50 ROSEWOOD AVENUE LOT 102 DP 1007447			
TITLE: ELEVATION - NORTH PROPOSED			
SCALE AT A2: 1:75 @ A2	DATE: JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO: 9.1	DRAWING NO: A2/22-075	REVISION: E	

LEGEND FOR TYPES OF BUILDING WORKS

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RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.

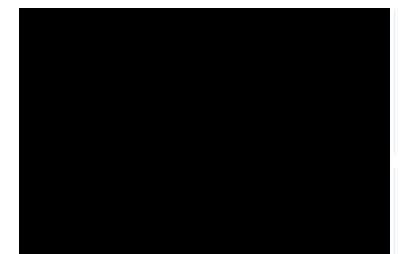


ELEVATION - SOUTH PROPOSED

Notes:

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	REV: DESCRIPTION	BY:	DATE:
STATUS: NSW PORTAL No. PAN-544154			



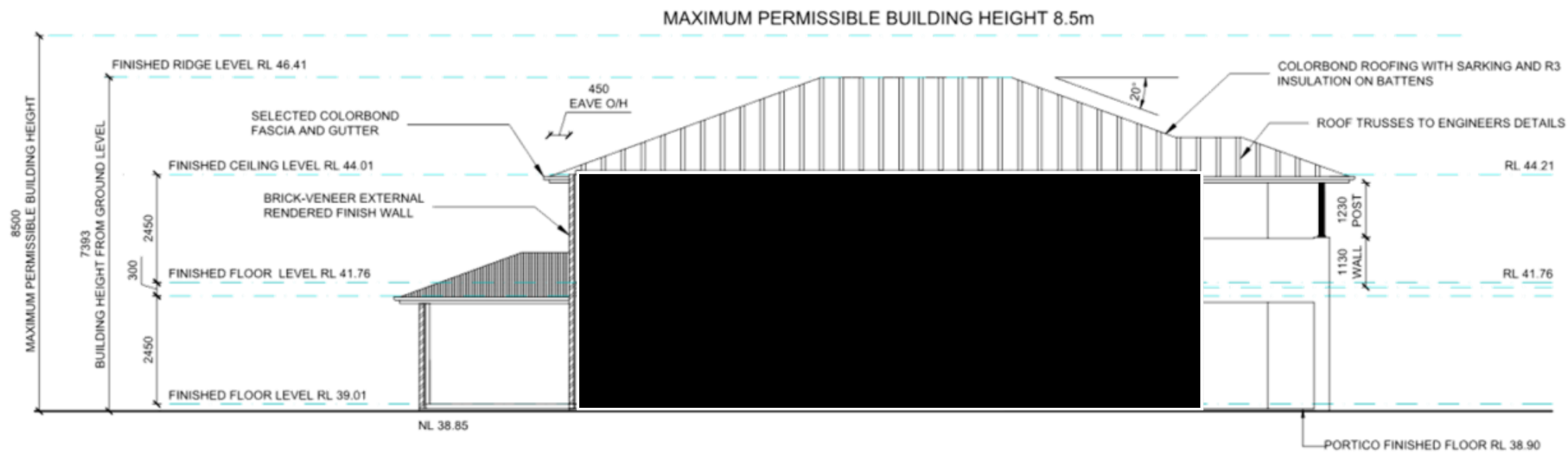
SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

SITE: 50 ROSEWOOD AVENUE LOT 102 DP 1007447			
TITLE: ELEVATION - SOUTH PROPOSED			
SCALE: A1/A2 1:75 @ A2	DATE: JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO: 9.2	DRAWING NO: A2/22-075	REVISION: E	

LEGEND FOR TYPES OF BUILDING WORKS	
BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.
BLUE	PROPOSED ALTERATIONS SEEKING CONSENT TO CONSTRUCT THAT ARE SUBJECT OF PAN-544154

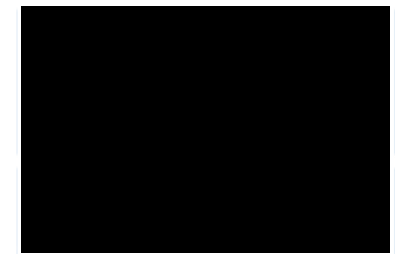
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SECTION A - A
PROPOSED

E	ILLUSTRATES ALL UNAUTHORISED BUILDING WORKS CARRIED OUT DURING THE CONSTRUCTION OF DA-866/2022 APPROVED ALTERATIONS AND ADDITIONS TO THE ORIGINAL DA-654/00 DWELLING.	MR	JUL '25
	REV: DESCRIPTION	BY:	DATE:
STATUS: NSW PORTAL No. PAN-544154			



SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS & TO PROPOSE ADDITIONAL ALTERATIONS TO THE DWELLING

SITE: 50 ROSEWOOD AVENUE LOT 102 DP 1007447			
TITLE: SECTION A - A PROPOSED			
SCALE: A1	DATE: JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO: 9.3	DRAWING NO: A2/22-075	REVISION: E	

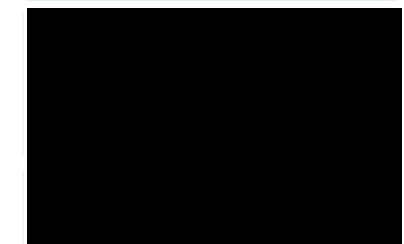
LEGEND FOR TYPES OF BUILDING WORKS	
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BLUE	PROPOSED ADDITIONAL WINDOWS SEEKING CONSENT TO BE CONSTRUCTED PER PAN-544154

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WINDOW AND DOOR SCHEDULE						
No.	SIZE		ORIENTATION & LOCATION	STATUS	MODEL	DETAILS
	Width	Height				
W01	2650	772	NORTH - GROUND FLOOR (LOUNGE)	EXISTING WITH CONSENT	ASW0726	DA-866/2022 APPROVED
W02	1810	1370	NORTH - FIRST FLOOR (BED 3)	EXISTING WITH CONSENT	ASW1318	DA-866/2022 APPROVED
W03	1210	2100	NORTH - FIRST FLOOR (STAIRCASE)	EXISTING WITH CONSENT	AFW2112	DA-866/2022 APPROVED
W04	2170	772	NORTH - FIRST FLOOR (BED 2)	EXISTING WITH CONSENT	ASW0721	DA-866/2022 APPROVED
-	-	-	-	-	-	-
-	-	-	-	-	-	-
W07	2650	1370	EAST - FIRST FLOOR (BED 5)	EXISTING WITH CONSENT	ASW1326	DA-866/2022 APPROVED
W08	1810	1370	EAST - FIRST FLOOR (HALL)	EXISTING WITH CONSENT	ASW1318	DA-866/2022 APPROVED
W09	2650	1370	EAST - FIRST FLOOR (BED 4)	EXISTING WITH CONSENT	ASW1326	DA-866/2022 APPROVED
W10	1210	772	SOUTH - GROUND FLOOR (GUEST ENS.)	EXISTING WITH CONSENT	ASW0712	DA-866/2022 APPROVED
W11	1810	2100	SOUTH - GROUND FLOOR (FAMILY)	EXISTING WITH CONSENT	ASW2018T	DA-866/2022 APPROVED
W12	1810	1370	NORTH - FIRST FLOOR (BED 4)	EXISTING WITHOUT CONSENT	ASW1318	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W13	2650	1370	EAST - GROUND FLOOR (GUEST)	EXISTING WITHOUT CONSENT	ASW1326	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W14	1450	772	SOUTH - FIRST FLOOR (DRESSING)	EXISTING WITH CONSENT	ASW0714	DA-866/2022 APPROVED
W15	1810	772	SOUTH - FIRST FLOOR (BED 1 ENS.)	EXISTING WITH CONSENT	ASW0718	DA-866/2022 APPROVED
W16	1810	772	SOUTH - FIRST FLOOR (BATHROOM)	EXISTING WITH CONSENT	ASW0718	DA-866/2022 APPROVED
W17	730	2058	WEST - GROUND FLOOR (LOUNGE)	EXISTING ALTERED WITHOUT CONSENT	AAW2006T	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W18	730	2058	WEST - GROUND FLOOR (LOUNGE)	EXISTING ALTERED WITHOUT CONSENT	AAW2006T	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W19	730	2058	WEST - GROUND FLOOR (LOUNGE)	EXISTING ALTERED WITHOUT CONSENT	AAW2006T	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W20	1810	1370	SOUTH - FIRST FLOOR (BED 5)	EXISTING WITHOUT CONSENT	ASW1318	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W21	850	1370	WEST - FIRST FLOOR (BED 1)	EXISTING WITH CONSENT	ASW1309	DA-866/2022 APPROVED
W22	850	1370	WEST - FIRST FLOOR (BED 1)	EXISTING WITH CONSENT	ASW1309	DA-866/2022 APPROVED
W23	850	1370	WEST - FIRST FLOOR (BED 1)	EXISTING WITH CONSENT	ASW1309	DA-866/2022 APPROVED
W24	1810	631	NORTH - GROUND FLOOR (KITCHEN)	EXISTING WITHOUT CONSENT	BLW03	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W25	2650	772	SOUTH - GROUND FLOOR (GUEST)	EXISTING WITHOUT CONSENT	ASW0726	SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
W26	1810	1171	EAST - GROUND FLOOR (KITCHEN)	PROPOSED NEW WINDOW	BLW03	PROPOSED ALTERATION SEEKING CONSENT TO CONSTRUCT PER PAN-544154
W27	2750	631	NORTH - GROUND FLOOR (KITCHEN)	PROPOSED NEW WINDOW	FIXED	PROPOSED ALTERATION SEEKING CONSENT TO CONSTRUCT PER PAN-544154
D1	1200	2040	WEST - GROUND FLOOR (LOUNGE)	EXISTING ALTERED WITHOUT CONSENT	SAVOY	SUBJECT OF BIC -42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154
D2	2410	2100	WEST - FIRST FLOOR (BED 2)	EXISTING WITH CONSENT	ASD2124	DA-866/2022 APPROVED
D3	2684	2143	EAST - GROUND FLOOR (FAMILY)	EXISTING WITH CONSENT	AST2227	DA-866/2022 APPROVED
D4	820	2040	SOUTH - GROUND FLOOR (LAUNDRY)	EXISTING WITH CONSENT	XF8	DA-866/2022 APPROVED
D5	2170	2100	SOUTH - FIRST FLOOR (BED 1)	EXISTING WITH CONSENT	ASD2121	DA-866/2022 APPROVED

WINDOW AND DOOR SCHEDULE (PROPOSED)

E		ILLUSTRATES THE UNAUTHORISED ALTERATIONS MADE TO DA-866/2022 APPROVED WINDOWS AND DOORS AND PROPOSED NEW WINDOWS.		MR	JUL '25
REV	DESCRIPTION	BY	DATE		
STATUS: NSW PORTAL No. PAN-544154					



PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS TO THE DWELLING AND PROPOSE ADDITIONAL ALTERATIONS

SITE: 50 ROSEWOOD AVENUE
LOT 102 DP 1007447

TITLE: WINDOW AND DOOR SCHEDULE
PROPOSED

SCALE AT A2	DATE	DRAWN	CHECKED
NA	JUL 25	MR	AK
SHEET NO.	DRAWING NO.	REVISION	
15.1	A2/22-075	E	

LEGEND FOR TYPES OF BUILDING WORKS

BLACK	APPROVED BUILDING WORKS PER DA-866/2022, WHICH INCORPORATES ORIGINAL BUILT DWELLING (DA-654/00)
RED	EXISTING UNAUTHORISED ALTERATIONS TO DA-866/2022 APPROVED DWELLING THAT ARE SUBJECT OF BIC-42437 AND SEEKING CONSENT TO RETAIN AND USE PER PAN-544154. SEE SUBMITTED 'SCHEDULE OF UNAUTHORISED WORKS' DOCUMENT FOR FURTHER DETAILS.



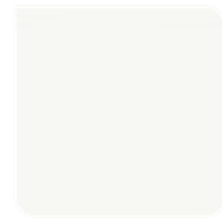
ROOF, GUTTER, FASCIA, POSTS & GARAGE DOOR

PRODUCT: COLORBOND STEEL
 COLOUR: COLORBOND WALLABY
 SOLAR ABSORPTANCE: 0.640
 LIGHT REFLECTION VALUE: 39
 COLOUR CODE: #7F7C78



FRONT ENTRY DOOR

PRODUCT: DULUX AQUANAMEL
 COLOUR: HAMMER GREY
 SOLAR ABSORPTANCE: 0.866
 LIGHT REFLECTION VALUE: 17
 COLOUR CODE: SG6H6



EAVES & BALCONY CEILING

PRODUCT: DULUX WEATHERSHIELD
 COLOUR: VIVID WHITE
 SOLAR ABSORPTANCE: 0.121
 LIGHT REFLECTION VALUE: 94
 COLOUR CODE: SW1G1



ALUMINIUM DOORS, WINDOWS & GARAGE DOOR

PRODUCT: COLORBOND ALUMINIUM/STEEL
 COLOUR: COLORBOND SURFMIST MATT FINISH
 SOLAR ABSORPTANCE: 0.350
 LIGHT REFLECTION VALUE: 78
 COLOUR CODE: #EAE9E0



MAIN RENDER (EXTERIOR WALL, COLUMN & DOWNPIPE)

PRODUCT: ROCKCOTE COLOURED RENDER & PAINTED DULUX WEATHERSHIELD
 COLOUR: WINTER FOG
 SOLAR ABSORPTANCE: 0.618
 LIGHT REFLECTION VALUE: 47
 COLOUR CODE: SN4A6



DRIVEWAY & GARAGE FLOOR

PRODUCT: DULUX AVISTA TINTABLE CONCRETE SEALER
 COLOUR: WOODLAND GREY
 SOLAR ABSORPTANCE: 0.905
 LIGHT REFLECTION VALUE: 12
 COLOUR CODE: #53514D

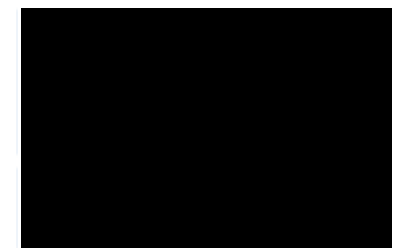
EXTERNAL COLOURS SCHEDULE (PROPOSED)

THE AS-BUILT UNAUTHORISED WORKS CONSIST OF THE APPLICATION OF A DIFFERENT COLOUR SCHEME TO VARIOUS EXTERNAL ELEMENTS OF THE DWELLING AS DETAILED IN THIS 'EXTERNAL COLOURS SCHEDULE'.

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E		ILLUSTRATES THE UNAUTHORISED MODIFICATIONS MADE TO DA-866/2022 APPROVED EXTERNAL COLOURS. MODIFIED COLOURS ARE SHOWN IN RED TEXT. APPROVED COLOURS ARE SHOWN IN BLACK TEXT. THIS REVISION CONTAINS MINOR TEXTUAL CHANGES TO MEET EXPLICIT REQUIREMENTS FOR DA APPLICATION SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED MODIFICATIONS TO EXTERNAL COLOURS.		MR	JUL' 25
REV	DESCRIPTION	BY	DATE		
STATUS: NSW PORTAL No. PAN-544154					



PROJECT: SEEKING CONSENT TO RETAIN AND USE EXISTING UNAUTHORISED ALTERATIONS TO THE DWELLING AND PROPOSE ADDITIONAL ALTERATIONS

SITE: 50 ROSEWOOD AVENUE
LOT 102 DP 1007447

TITLE: SCHEDULE OF EXTERNAL COLOURS PROPOSED

SCALE: A2	DATE: JUL 25	DRAWN: MR	CHECKED: AK
SHEET NO: 17.1	DRAWING NO: A2/22-075	REVISION: E	

WASTE MANAGEMENT PLAN

(Construction and Demolition Phases)

Development Application: DA-866/2022/B

NSW Portal: PAN-544154

Property: 50 Rosewood Avenue, Prestons NSW 2170

Lot / DP: Lot 102/ DP1007447

Council: Liverpool City Council

Prepared for: Development Application – Response to Additional Information Request

Date: 02 February 2026

1. Purpose of this Waste Management Plan

This Waste Management Plan (WMP) has been prepared in response to Council's request for additional information in relation to Development Application DA-866/2022/B. The plan addresses waste management arrangements associated with the demolition and construction phases of the proposed development.

This WMP has been prepared having regard to Council's Waste Management Plan requirements and is supported by the completed Council Waste Management Plan pro-forma forms attached to this document.

2. Scope of Works

The proposed development involves minor demolition works and construction works associated with alterations and additions to an existing dwelling. The development does not involve medium or high-density residential development and does not give rise to specialised or ongoing operational waste streams beyond normal residential use.

Accordingly, this Waste Management Plan applies solely to:

- demolition waste management, and
- construction waste management.

3. Waste Management Principles

Waste generated during demolition and construction will be managed in accordance with the following principles:

- minimisation of waste generation where practicable
- separation of recyclable materials including concrete, masonry, timber, metals and green waste
- lawful transport and disposal of waste at licensed recycling and disposal facilities
- storage of all waste within the site boundary only

- no placement or storage of waste on Council land, including footpaths, roadways or reserves

Waste will be removed from the site regularly to prevent accumulation and to minimise impacts on adjoining properties and the public domain.

4. Storage and Collection Arrangements

During demolition and construction:

- waste will be stored entirely within the site in appropriate bins or skips
- bins and skips will be positioned to allow safe access for workers and collection vehicles
- bins and skips will be covered where required to prevent litter, dust and water ingress
- waste collection vehicles will operate in accordance with Council requirements and applicable road rules

At no time will waste be stored on public land or in a manner that obstructs public access or neighbouring properties.

5. Work Health and Safety and Environmental Considerations

Waste handling activities during demolition and construction will be undertaken with due regard to Work Health and Safety (WHS) obligations and environmental management requirements. Measures will include:

- safe manual handling and loading practices
- appropriate management and segregation of materials
- engagement of licensed contractors for demolition and waste transport
- maintenance of a safe work environment for site workers, occupants and visitors
- prevention of dust, debris and runoff impacts beyond the site

All waste management activities will be undertaken in accordance with applicable WHS requirements and industry practices relevant to construction and demolition works.

6. Conclusion

This Waste Management Plan demonstrates that waste generated during demolition and construction will be managed responsibly, recycled where practicable, and disposed of at licensed facilities in a manner that protects public safety, environmental quality and neighbourhood amenity.

The attached Waste Management Plan pro-forma forms form part of this submission and provide specific details relating to waste streams and disposal arrangements for the proposed development.

Attachments:

- Waste Management Plan – Construction Phase (Council Pro-forma)
- Waste Management Plan – Demolition Phase (Council Pro-forma)

ANNEXURE 3

FORM – WASTE MANAGEMENT PLAN



Waste Management Plan – Construction					
Will you use Site Cleaners?	<input type="checkbox"/> Yes, for some work or <input type="checkbox"/> Yes, for all work or <input checked="" type="checkbox"/> No		Estimated total volume or weight	_____	
Please supply details of site cleaners used	ABN Number _____ Name _____ Phone _____ Mobile _____				
If using site cleaners for all work, please STOP here. DO NOT continue to complete form.					
All Excavation Material including Swimming Pools	<input checked="" type="checkbox"/> Less than 10m ³ <input type="checkbox"/> More than 10m ³		<input checked="" type="checkbox"/> Reuse onsite <input type="checkbox"/> Reuse offsite <input type="checkbox"/> Landfill Disposal		
Address if reused off site					
Name and Address of licensed landfill Hi-Quality (HiQ): 90 Range Road, Cecil Park, NSW 2178					
Type of Material	Less than 10m ³	More than 10m ³	How will you manage this waste?		
			Onsite	Recycle	Landfill
Bricks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Concrete	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tiles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Timber (clean or treated)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Plasterboard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Green Waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Principal Off-Site Recycler			Principal Licensed Landfill Site		
Hi-Quality (HiQ)			Hi-Quality (HiQ)		
90 Range Road, Cecil Park, NSW 2178			90 Range Road, Cecil Park, NSW 2178		

ANNEXURE 3

FORM – WASTE MANAGEMENT PLAN



Waste Management Plan – Demolition	
	Demolition Containing Asbestos
Please fill in if applicable	

Tick if under 10m²Tick if over 10m²(If under 10m², complete General Demolition Waste details)

Work Cover Licence No.	305450C
Demolition Contractor Details	Aussie Building and Property Services
Licensed Landfill	Hi-Quality (HiQ): 90 Range Road, Cecil Park, NSW 2178

General Demolition Waste

Type of Material	Less than 10m ³	More than 10m ³	How will you manage this waste?		
			Onsite	Recycle	Landfill
Bricks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Concrete	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tiles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Timber (clean)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Timber (treated)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Asphalt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Metals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Plasterboard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Green Waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other- specify	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Principal Off-Site Recycler	Principal Licensed Landfill Site				
Hi-Quality (HiQ)	90 Range Road, Cecil Park, NSW 2178				

BASIX™ Certificate

Building Sustainability Index
www.planningportal.nsw.gov.au/development-and-assessment/basix

Alterations and Additions

Certificate number: A455769_07

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.planningportal.nsw.gov.au/definitions

This certificate is a revision of certificate number A455769 lodged with the consent authority or certifier on 21 July 2022 with application DA-866/2022 .

It is the responsibility of the applicant to verify with the consent authority that the original, or any revised certificate, complies with the requirements of Schedule 1 Clause 2A, 4A or 6A of the Environment Planning and Assessment Regulation 2000

Secretary

Date of issue: Wednesday, 09 July 2025

To be valid, this certificate must be lodged within 3 months of the date of issue.



Project address	
Project name	50 ROSEWOOD_03_07
Street address	50 ROSEWOOD AVENUE - PRESTONS 2170
Local Government Area	Liverpool City Council
Plan type and number	Deposited Plan 1007447
Lot number	102
Section number	-
Project type	
Dwelling type	Dwelling house (attached)
Type of alteration and addition	The estimated development cost for my renovation work is \$50,000 or more, and does not include a pool (and/or spa).
N/A	N/A
Certificate Prepared by <small>(please complete before submitting to Council or PCA)</small>	
Name / Company Name	[REDACTED]
ABN (if applicable):	

Fixtures and systems	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Lighting			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
Fixtures			
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.		✓	✓
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.		✓	✓
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.		✓	

Construction			Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check															
Insulation requirements																				
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.			✔	✔	✔															
<table border="1"> <thead> <tr> <th>Construction</th> <th>Additional insulation required (R-value)</th> <th>Other specifications</th> </tr> </thead> <tbody> <tr> <td>concrete slab on ground floor.</td> <td>nil</td> <td>N/A</td> </tr> <tr> <td>external wall: brick veneer</td> <td>R1.16 (or R1.70 including construction)</td> <td></td> </tr> <tr> <td>internal wall shared with garage: plasterboard (R0.36)</td> <td>nil</td> <td></td> </tr> <tr> <td>flat ceiling, pitched roof</td> <td>ceiling: R3.00 (up), roof: foil/sarking</td> <td>medium (solar absorptance 0.475 - 0.70)</td> </tr> </tbody> </table>			Construction	Additional insulation required (R-value)	Other specifications	concrete slab on ground floor.	nil	N/A	external wall: brick veneer	R1.16 (or R1.70 including construction)		internal wall shared with garage: plasterboard (R0.36)	nil		flat ceiling, pitched roof	ceiling: R3.00 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)			
Construction	Additional insulation required (R-value)	Other specifications																		
concrete slab on ground floor.	nil	N/A																		
external wall: brick veneer	R1.16 (or R1.70 including construction)																			
internal wall shared with garage: plasterboard (R0.36)	nil																			
flat ceiling, pitched roof	ceiling: R3.00 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)																		

Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Windows and glazed doors			
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.	✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:		✓	✓
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.		✓	✓
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.	✓	✓	✓
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.		✓	✓
External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.		✓	✓
Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.		✓	✓
Pergolas with adjustable shading may have adjustable blades or removable shade cloth (not less than 80% shading ratio). Adjustable blades must overlap in plan view.		✓	✓

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Windows and glazed doors glazing requirements									
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
D1	W	0.6	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W7	E	3.38	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U-value: 4.48, SHGC: 0.46)			
W8	E	2.3	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U-value: 4.48, SHGC: 0.46)			
W9	E	3.38	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U-value: 4.48, SHGC: 0.46)			
W10	S	0.84	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
W11	S	3.6	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W12	N	2.3	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U- value: 4.48, SHGC: 0.46)			
W13	E	3.38	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U- value: 4.48, SHGC: 0.46)			
W14	S	1	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U- value: 4.48, SHGC: 0.46)			
W15	S	1.26	0	0	eave/ verandah/ pergola/balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U- value: 4.48, SHGC: 0.46)			

BASIX Certificate number:A455769_07

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Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Windows and glazed doors glazing requirements									
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
W16	S	1.26	0	0	eave/ verandah/ pergola/balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)			
W17	W	1.43	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W18	W	1.43	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W19	W	1.43	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W20	S	2.3	0	0	eave/ verandah/ pergola/balcony >=450 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			




BASIX Certificate number:A455769_07

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Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
W21	W	1.1	0	0	pergola (adjustable shade) >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W22	W	1.1	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W24	N	1.13	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
D2	W	5	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W1	N	1.82	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Windows and glazed doors glazing requirements									
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
W2	N	2.3	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W3	N	2.5	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W4	N	1.47	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W25	S	2	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W23	W	1.17	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
D3	E	5.6	0	0	awning (fixed) >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
D4	S	0.4	0	0	eave/verandah/ pergola/balcony >=600 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
D5	S	4	0	0	awning (fixed) >=900 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W27	N	1.7	0	0	eave/verandah/ pergola/balcony >=600 mm	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			
W26	E	2.2	0	0	external louvre/ blind (fixed)	improved aluminium, single toned, (U-value: 6.39, SHGC: 0.56)			

Legend
In these commitments, "applicant" means the person carrying out the development.
Commitments identified with a  in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
Commitments identified with a  in the "Show on CC/CDC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
Commitments identified with a  in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.



Our Ref: DA-866/2022/B
Contact: Adiona Manyere
Ph: 02 8711 7975
Date: 30 March 2026

MR M RAJAN
50 ROSEWOOD AVE
PRESTONS NSW 2170

SECTION 4.55 MODIFICATION OF DEVELOPMENT CONSENT

(In accordance with the provisions under Section 4.55 of the *EP&A Act 1979*)

- ADDRESS:** Lot 102 DP 1007447
50 ROSEWOOD AVENUE NSW 2170
- DESCRIPTION:** Modification to Development Consent DA-866/2022. Under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, to:
1. Seek consent for future use of all existing unauthorised building works that deviate from the existing development consent DA-866/2022 and
 2. New alterations and additions to the existing dwelling

Reference is made to Modification Application DA-866/2022/B which seeks amendment to Development Consent DA-866/2022 issued for the *alterations and additions to an existing dwelling*.

Modification Application DA-866/2022/B seeks consent for modifications to the following:

Specifically, the proposal seeks to regularise the following unauthorised works:

- The proposal seeks to regularise unauthorised works, including modifications to approved and new windows, alteration of the main entrance door, changes to an existing brick veneer wall and external colours, and alterations to the alfresco area.

Proposed new works:

- The installation of new windows within existing structural openings, and the relocation of the approved rear entry door. The scope also includes the removal of the internal wall separating the kitchen and alfresco space, together with associated internal upgrades, including a new kitchen fit-out, island bench, updated finishes, and the installation of energy-efficient appliances.

Pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, Council has grants approval for the modifications sought. Accordingly, Development Consent DA-866/2022/B has been amended as follows:

The following condition/s of Development Consent DA-866/2022 has been amended to



Customer Service Centre Ground floor, 33 Moore Street, Liverpool NSW 2170 **DX** 5030 Liverpool
All correspondence to Locked Bag 7064 Liverpool BC NSW 1871 **Call Centre** 1300 36 2170
Fax 9821 9333 **Email** lcc@liverpool.nsw.gov.au
Web www.liverpool.nsw.gov.au **NRS** 13 36 77 **ABN** 84 181 182 471

read as follows:

The proposed modifications necessitate amendments to the consent in relation to conditions below. The consent proposed to be deleted is shown in ~~strike through~~, proposed to be amended are in *italics* and added are **Bold**.

Approved Plans/Documents

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

Approved Plans/Documents
<ol style="list-style-type: none"> 1. Architectural Plans Prepared by Complex Designs – Reference No. A2/22-075: <ol style="list-style-type: none"> a. <i>Site plan – Sheet 1 of 17</i> a1. Site Plan – Sheet 1.1 - Rev E – July 2025 b. <i>Demolition plan – Sheet 2 of 17</i> b1. Ground Floor Proposed Demolition– Sheet 2.1 - Rev E – Feb 2026 c. Existing ground floor plan – Sheet 3 of 17 d. Existing first floor plan – Sheet 4 of 17 e. <i>Ground floor plan – Sheet 5 of 17</i> e1. Ground Floor Plan Proposed – Sheet 5.1 - Rev.F – Feb 2026 f. <i>First floor plan – Sheet 6 of 17</i> f1. First Floor Proposed – Sheet – 5.2 – Rev. F – Feb 2026 g. <i>Elevation and Section plan – Sheet 8 of 17</i> g1. (West and East Elevations) – Sheets 8.1 - 8.2 - Rev E – July 2025 h. <i>Elevation plan – Sheet 9 of 17</i> h1. (North and South Elevations) – Sheets 9.1 – 9.2 - Rev E – July 2025 h2. Section A- A Proposed – Sheet 9.3 - Rev E – July 2025 i. <i>Stormwater plan – Sheet 14 of 17</i> j. <i>Landscape plan – Sheet 13 of 17</i> k. <i>Soil and Water Management plan – Sheet 11 of 17</i> l. <i>Window Schedule – Sheet 15 of 17</i> l1. Window and Door Schedule – Sheet 15.1 - Rev E – July 2025 m. <i>Schedule of colours and finishes – Sheet 17 of 17</i> m1. Schedule of colours and finishes – Sheet 17.1 - Rev E – July 2025 2. <i>BASIX Certificate No. A455769 – Dated 29 May 2022</i> 2. BASIX Certificate No. A455769_07 – Dated 09 July 2025 3. <i>Statement of Environmental Effects prepared by Complex Designs – Dated 18 May 2022</i> 4. <i>Waste Management Plan prepared by Complex Designs dated June 2022.</i> 4. Waste Management Plan dated 02 February 2026

The following condition/s have been inserted to form part of Development Consent DA-866/2022, and read as follows:

A PRIOR TO CONSTRUCTION CERTIFICATE

Fulfilment of BASIX commitments

- A.7 It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—
1. BASIX development,
 2. BASIX optional development, if the development application was accompanied by a BASIX certificate.

Comply with EP&A Act

- A.8 The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2021, must be fully complied with at all times.

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

Compliance with the Building Code of Australia

- A.9
1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the *Building Code of Australia*.
 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the *Home Building Act 1989*, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the *Building Code of Australia*.
 4. In subsection (1), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.
 5. In subsection (3), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
 6. This section does not apply—
 1. to the extent to which an exemption from a provision of the *Building Code of Australia* or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or
 2. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

Products banned under the Building Products (Safety) Act 2017

- A.10 No building products that are banned, or products that are subject to a ban if used in a particular way under the Building Products (Safety) Act 2017 are to be used in the construction of the development.

Cladding

- A.11 Prior to issue of a construction certificate the certifier must be satisfied that all proposed attachments, cladding material and systems forming part of external walls comply with the BCA and relevant Australian Standards. The certifier must be able to demonstrate compliance with evidence of suitability as per clause A2G2 of BCA Volume 1 for all products/systems proposed.

B. PRIOR TO WORKS COMMENCING

Construction Certificates

- B.15 Prior to the commencement of any building works, the following requirements must be complied with:
1. Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979,
 2. Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,
 3. A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment,
 4. A Principal Certifier (PC) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and
 5. The PC must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.

Construction Certificates

- B.16 Any Construction Certificate that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

Demolition Works

- B.17 Demolition works shall be carried out in accordance with the following:
1. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with the Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition,

precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

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

C. DURING CONSTRUCTION

Notification of Damage

- C.18 The applicant/ builder shall be responsible to report to the Council of any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site and maintained the area until completion of the construction activities. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to Council's footpath and road carriageway until permanent restoration and repair can be organised with Council at the applicant's cost.

Window Glazing

- C.19 The windows of all bathrooms, W.C. and ensuites shall be fitted with translucent obscure glazing to the satisfaction of the Certifier.

D. PRIOR TO OCCUPATION CERTIFICATE

Certificates

- D.6 The premises must not be occupied until an Occupation Certificate (OC) is issued by the certifier. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.

Removal of waste upon completion

- D.7 Before the issue of an Occupation Certificate:
1. all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan; and
 2. written evidence of the waste removal must be provided to the satisfaction of the principal certifier.

Cladding

- D.8 Prior to issuing an occupation certificate the principal certifier must be satisfied that suitable evidence has been provided to demonstrate that the external wall cladding material and system is consistent with the consent documentation, BCA and relevant Australian Standards.

All other conditions of Development Consent DA-866/2022 remain unchanged.

Note: This determination notice is strictly for changes sought under Modification Application DA-866/2022/B. No approval is granted or implied for any other works / changes proposed to the submitted development.

ADVISORY NOTES:

- (a) Section 8.2 of the EP&A Act provides that an applicant may request that Council review the determination of the Modification Application (this does not relate to designated development or Crown development).

Section 244 of the EP&A Regulations provides that an application for review must be submitted within 28 days of the date of the determination, and Section 8.2 of the EP&A Act provides that an application cannot be reviewed/determined after 6 months of the date of determination.

- (b) Section 8.9 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Modification Application, may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed by the EP&A Act.
- (c) The Section 4.55 Modification Application does not extend the timeframe of the Development Consent initially granted by Council.
- (d) Modification of the Development Consent does not remove the need to obtain any other statutory consent necessary under the EP&A Act.

If you have any further enquiries, please contact Adiona Manyere on the abovementioned contact details.