

# LOCAL PLANNING PANEL AGENDA

29 September 2025

MS TEAMS

LIVERPOOL  
CITY  
COUNCIL



# MATTERS FOR THE LOCAL PLANNING PANEL'S DETERMINATION

**Monday, 29 September 2025**

**VIA MS TEAMS**

Commencing at **2:00 PM**

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

Should you wish to address the Panel, please advise Amanda Merchant, Panel Support Officer on 8711 7712, by 4pm, 25<sup>th</sup> September 2025.

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)

ITEM No.	SUBJECT	PAGE No.
1	<p><b>DEVELOPMENT APPLICATION DA-77/2025</b></p> <p><b>DEVELOPMENT CONSENT IS SOUGHT FOR THE INCREASE OF PRODUCTION CAPACITY AT AN EXISTING CONCRETE BATCHING PLANT FROM 300,000 TONNES PER ANNUM TO 500,000 TONNES PER ANNUM OF CONCRETE AND CONCRETE PRODUCTS.</b></p> <p><b>THE ORIGINAL DEVELOPMENT HAS BEEN PREVIOUSLY APPROVED AS A DESIGNATED DEVELOPMENT AS SPECIFIED IN SCHEDULE 3 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000.</b></p> <p><b>THE APPLICATION IS IDENTIFIED AS NOMINATED INTEGRATED DEVELOPMENT REQUIRING APPROVAL FROM THE NSW ENVIRONMENTAL PROTECTION AUTHORITY PURSUANT TO PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997</b></p> <p><b>LOT 8 DP241916</b></p> <p><b>4 ASH ROAD PRESTONS</b></p>	5 - 85

ITEM No.	SUBJECT	PAGE No.
2	<p><b>DEVELOPMENT APPLICATION DA-267/2025</b></p> <p><b>WORKS TO THE EXTERNAL FAÇADE OF THE EXISTING BUILDING, COMPRISING INSTALLATION OF ADDITIONAL LOUVRES TO IMPROVE VENTILATION.</b></p> <p><b>LOT 1 DP 1293937</b></p> <p><b>CIVIC PLACE, 40-52 SCOTT STREET, LIVERPOOL NSW 2170</b></p>	86 - 121

ITEM No.	SUBJECT	PAGE No.
3	<p><b>DEVELOPMENT APPLICATION DA-179/2025</b></p> <p><b>TORRENS TITLE SUBDIVISION OF THE SITE (APPROVED RESIDUE LOT 'SUPERLOT 3' UNDER DA-400/2018) INTO 12 RESIDENTIAL LOTS AND 2 RESIDUE LOTS WITH ASSOCIATED CIVIL WORKS (INCLUDING CONSTRUCTION OF TWO LOCAL ROADS, ONE COLLECTOR ROAD, AND ONE LANEWAY), LANDSCAPING, AND BULK EARTHWORKS, AND DECOMMISSIONING OF A TEMPORARY DETENTION BASIN AND ASSOCIATED DRAINAGE INFRASTRUCTURE (TO BE CONSTRUCTED UNDER APPROVED DA-400/2018).</b></p> <p><b>THE PROPOSED DEVELOPMENT IS IDENTIFIED AS INTEGRATED DEVELOPMENT REQUIRING APPROVAL FROM NSW RURAL FIRE SERVICE UNDER <i>RURAL FIRES ACT 1997</i>.</b></p> <p><b>THE PROPOSED IS IDENTIFIED AS NOMINATED INTEGRATED DEVELOPMENT REQUIRING APPROVAL FROM DPE-WATER UNDER THE <i>WATER MANAGEMENT ACT 2000</i></b></p> <p><b>LOT 9 IN DP 27877</b></p> <p><b>1402 CAMDEN VALLEY WAY, LEPPINGTON</b></p>	122 - 195

<b>Item Number:</b>	1
<b>Application Number:</b>	DA-77/2025
<b>Proposed Development:</b>	<p>Development Consent is sought for the increase of production capacity at an existing concrete batching plant from 300,000 tonnes per annum to 500,000 tonnes per annum of concrete and concrete products.</p> <p>The original development has been previously approved as a Designated Development as specified in Schedule 3 of the Environmental Planning and Assessment Regulation 2000.</p> <p>The application is identified as Nominated Integrated Development requiring approval from the NSW Environmental Protection Authority pursuant to Protection of the Environment Operations Act 1997.</p>
<b>Property Address</b>	4 Ash Road Prestons
<b>Legal Description:</b>	Lot 8 DP241916
<b>Applicant:</b>	Renita Developments Pty Ltd
<b>Land Owner:</b>	Renita Developments Pty Ltd
<b>Cost of Works:</b>	Nil
<b>Recommendation:</b>	Refusal
<b>Assessing Officer:</b>	Emily Lawson

## 1 EXECUTIVE SUMMARY

Development Application DA-77/2025 seeks consent for an increase in production capacity at the existing concrete batching plant located at Lot 8 DP241916, 4 Ash Road, Prestons, from 300,000 tonnes per annum to 500,000 tonnes per annum.

The proposed development is identified as Designated Development pursuant to Schedule 3, Clause 17 of the *Environmental Planning and Assessment Regulation 2021* (“EP&A Regulation”), as it exceeds the prescribed production thresholds. The development is further categorised as Nominated Integrated Development, requiring concurrence from the NSW Environmental Protection Authority under the *Protection of the Environment Operations Act 1997*.

The subject site is zoned **E5 Heavy Industry** under the *Liverpool Local Environmental Plan 2008* (“LLEP 2008”). The proposed use, being “general industry,” is permissible with consent.

Public exhibition was undertaken between 12 March 2025 and 11 April 2025 in accordance with the *Community Participation Plan 2022*. No submissions were received.

The application has been assessed under section 4.15 of the *Environmental Planning and Assessment Act 1979* ("EP&A Act"). The assessment has identified substantial deficiencies, namely:

- (a) Failure to submit a Scoping Report and Environmental Impact Statement in accordance with section 173 of the EP&A Regulation.
- (b) Insufficient information to determine likely impacts in relation to acoustic emissions, traffic generation, stormwater and water quality impacts, and hazardous material storage and handling.
- (c) Failure to pay statutory concurrence fees to the EPA, thereby precluding the granting of concurrence as required under Part 15, Division 1 of the EP&A Regulation.

In light of the above deficiencies, the consent authority is unable to be satisfied the development would not result in unacceptable environmental, traffic and amenity impacts. Accordingly, the application cannot be supported

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:

- *Sensitive Development*

- (a) Designated Development

This report concludes, on balance, the proposal has insufficient information to appropriately assess and considered the proposal, furthermore it is considered the proposal may trigger the requirements for an updated SEARs and may be subject to the provisions of a State Significant Development and therefore it is to be recommended for refusal to the Liverpool Local Planning Panel.

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

### **2.1 The locality**

The subject site is identified as Lot 8 DP241916, No. 4 Ash Road, Prestons. The site is an irregular shaped allotment with an overall site area of 16,186.7sqm. The site has a primary frontage towards Ash Road of 82.7m. Located within an existing industrial area, the site adjoins E4- General Industry zoned land and is within close proximity to E3- Productivity Support zoned land.



**Figure 1:** Aerial view of Subject site and immediate surrounding locality

### 3. BACKGROUND/HISTORY

A brief history of the modification application is presented below, as are details of the originally approved development application and subsequently approved modification applications:

List of Previous Applications

<b>Application No.</b>	<b>Lodged</b>	<b>Proposed Development</b>	<b>Determined</b>
DA-264/2018	04/04/2018	<p>Construction and opening of a concrete batching plant with associated site grading, earthworks, drainage, driveways, car parking, landscaping and extension to existing buildings.</p> <p>The application is a Designated Development as specified in Schedule 3 of the Environmental Planning and Assessment Regulations 2000.</p>	Approved 11/03/2019

		The application is a Nominated Integrated Development requiring approval from the NSW Environmental Protection Authority pursuant to Protection of the Environment Operations Act 1997.	
DA-264/2018/A	22/06/2020	<p>Modification to Development Application DA-264/2018 seeking the following alterations and additions:</p> <ul style="list-style-type: none"> <li>- Addition of a Batch Control Room No. 2 and Store (First Floor) above approved chemical tank farm.</li> <li>- New staircase to Batch Control Room No. 2.</li> <li>- The overall height of the Concrete Batching Plant will be 25.755m.</li> <li>- Truck wash bay reduced in size and wastewater separator relocated to outside of truck wash area.</li> <li>- Additives Bunded Storage Area proposed increase in building height.</li> <li>- Three (3) additional inground aggregate bins</li> <li>- Extend the awning over recycling stirrer and truck loading area.</li> <li>- Extend the inground drainage in the truck loading area to the recycling stirrer.</li> </ul>	Approved 17/12/2020
DA-264/2018/B	06/08/2020	Modification to Development Application DA-264/2018 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 seeking to delete conditions relating to Environment Protection License requirements.	Approved 18/03/21

Approvals pathway of previous applications

DA-264/2018

Designated Development DA with SEARS for 200,000 tonnes p/a concrete approved through Liverpool Local Planning Panel (LLPP) and Integrated Development with EPA and Department of Primary Industries and Water pursuant to the Water Management Act 2000.

DA-264/2018/A

Modification Application s4.55(1A) assessment by Council, which considered that as per EP&A Regs, amendments sought resulted in a modified development substantially the same

as originally approved with minimal impact and not additionally assessed designated development.

DA-264/2018/B

Modification Application s4.55(1a) assessment by Council, which considered that erroneous conditions of consent were applied relating to the originally applied EPA GTAs, and the consent conditions themselves provided clarity relating to noise emission limits and the need to obtain and comply with an EPA license. The application was referred to EPA who did not raise an issue with the proposed modification to conditions of consent.

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

The subject application seeks an increase in production capacity at the approved and operating concrete batching plant from 300,000 tonnes per annum to 500,000 tonnes per annum of concrete and concrete products.

#### **5. STATUTORY CONSIDERATIONS**

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

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

- *Environment and Planning Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021

#### **6. ASSESSMENT**

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

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

###### **(a) Environmental Planning and Assessment Regulation 2021**

Pursuant to Schedule 3, Clause 17 of the *Environmental Planning and Assessment Regulation 2021* (“EP&A Regulation”), development for the purposes of concrete works constitutes Designated Development if the works have an intended production capacity exceeding either:

- (a) 150 tonnes per day; or
- (b) 30,000 tonnes per year.

The subject proposal seeks an increase in production capacity to 500,000 tonnes per annum. Development therefore falls within the statutory definition of Designated Development.

Section 173 of the EP&A Regulation requires that an application for Designated Development be accompanied by a request to the Planning Secretary for environmental assessment requirements for the preparation of an Environmental Impact Statement (“EIS”). The applicant has failed to lodge a Scoping Report, has not sought the Secretary’s Environmental Assessment Requirements (SEARs), and has not provided an EIS. The application is therefore fundamentally non-compliant with section 173.

The applicant has sought to rely upon Schedule 3, Part 3, Clause 48 of the EP&A Regulation, which states:

- (1) *Development involving alterations or additions to development, whether existing or approved, is not designated development if, in the consent authority’s opinion, the alterations or additions do not significantly increase the environmental impacts of the existing or approved development.*

Clause 48(2) sets out the mandatory considerations for the consent authority in forming such an opinion, including:

- (2) *In forming its opinion, a consent authority must consider the following—*
  - (a) *the impact of the existing development, including the following—*
    - (i) *previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice,*
    - (ii) *rehabilitation or restoration of any disturbed land,*
    - (iii) *the number and nature of all past changes and their cumulative effects,*
  - (b) *the likely impact of the proposed alterations or additions, including the following—*
    - (i) *the scale, character or nature of the proposal in relation to the development,*
    - (ii) *the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is, or will be, carried out and the surrounding locality,*
    - (iii) *the degree to which the potential environmental impacts can be predicted with adequate certainty,*
    - (iv) *the capacity of the receiving environment to accommodate changes in environmental impacts,*
  - (c) *proposals to mitigate the environmental impacts and manage residual risk,*

*(d) proposals to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.*

Council notes that previous approvals (DA-264/2018 and subsequent modifications) relied upon concurrence from both the EPA and Water NSW and were subject to licensing requirements and conditions of consent. The proposed further increase in tonnage necessitates a review of performance standards. However, the applicant has not demonstrated the cumulative effects of the previous capacity increase nor addressed the potential impacts of the additional increase now sought.

In its assessment, Council found the proposal does not comprise “alterations or additions” within the meaning of Clause 48. No modifications to the built form are proposed, and no changes to the existing approved use are sought. The application is therefore mischaracterised by the applicant. Consequently, Clause 48 does not apply.

Further, previous modifications that increased production capacity altered the existing approval directly and were assessed under section 4.55 of the *Environmental Planning and Assessment Act 1979*. Clause 48 does not operate so as to exempt modification applications from Designated Development requirements.

In any event, and without conceding the applicability of Clause 48, Council has undertaken both a qualitative and quantitative assessment in accordance with the principles articulated in *Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187*

Qualitative review:

- The proposal does not alter the existing built form.
- The proposal does not change the use of the existing development.
- Access arrangements are to be maintained; however, additional traffic movement which may arise due to the increase in tonnage, potentially will increase and therefore would impede upon the existing road network which has not been suitability addressed by the applicant.

Quantitative review:

- The change to the operations of the site has not adequately been demonstrated in terms of:
  - o Acoustic Impacts
  - o Traffic Impacts
  - o Material handling and storage on site
  - o Potential impacts to existing stormwater networks
- Built form is not changing therefore floor space ratio and height remains unchanged.
- No alterations are proposed to the existing numerical controls under the LEP or DCP.

For the reasons above, the consent authority finds that Clause 48 does not apply. The application is properly to be treated as Designated Development under Schedule 3 of the EP&A Regulation. Accordingly, compliance with section 173 is required, including the submission of a SEARs request and an Environmental Impact Statement. The failure to provide this documentation renders the application deficient and incapable of approval.

**(b) State Environmental Planning Policy (Transport and Infrastructure) 2021**

Pursuant to Chapter 2, Part 2.3, Division 17, Subdivision 2, Section 2.122 Traffic-generating development of the Transport and Infrastructure SEPP the consent authority must not grant consent to development unless written notice to TfNSW has occurred –

*3) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has—*

*(a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and*

*(b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.*

*(4) Before determining a development application for development to which this section applies, the consent authority must—*

*(a) give written notice of the application to TfNSW within 7 days after the application is made, and*

*(b) take into consideration—*

*(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*

*(ii) the accessibility of the site concerned, including—*

*(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

*(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

*(iii) any potential traffic safety, road congestion or parking implications of the development.*

Schedule 3 of the Transport and Infrastructure SEPP identifies traffic generating developments which require referral to Transport for NSW (TfNSW). Column 3 requires referral of industry that is 5,000m<sup>2</sup> in site area and where a site has access to classified road or to road that connects to classified road.

The subject site has an area of 16,186.7m<sup>2</sup>. While the site meets the area threshold, it is not located within 90 metres of a classified road (Hoxton Park Road). Accordingly, the mandatory referral provisions do not strictly apply.

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

The subject land is located within the Georges River Catchment and as such Chapter 6 applies within the Biodiversity SEPP. The Biodiversity SEPP aims to protect the environment of the Georges River system by ensuring the impacts of future land uses and development in general are considered in a regional context.

The relevant parts of the SEPP are:

Table 1– Chapter 6 -Water Catchments

Chapter 6	
Part 6.1 Preliminary	
Provisions	Comment
6.1 Land to which this chapter applies	
This Chapter applies to land in the following catchments— (d) the Hawkesbury-Nepean Catchment	The subject site is identified as being within the Georges River Catchment.
Part 6.2 Development in regulated catchments	
6.6 Water quality and quantity (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following— (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway, (b) whether the development will have an adverse impact on water flow in a natural waterbody, (c) whether the development will increase the amount of stormwater run-off from a site, (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse, (e) the impact of the development on the level and quality of the water table, (f) the cumulative environmental impact of the development on the regulated catchment, (g) whether the development makes adequate provision to protect the quality and quantity of ground water.	Whilst the proposal is merely for the increase of tonnage, no information has been provided to ascertain whether any additional water runoff would cause impacts to water quality and quantity for the development site.
6.7 Aquatic ecology (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following— (a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or	Subject to conditions of consent the impact on terrestrial, aquatic or migratory animals or vegetation will be minimised.

<p>vegetation,</p> <p>(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require— a controlled activity approval under the <i>Water Management Act 2000</i>, or (ii) a permit under the <i>Fisheries Management Act 1994</i>,</p> <p>(c) whether the development will minimise or avoid— (i) the erosion of land abutting a natural waterbody, or (ii) the sedimentation of a natural waterbody,</p> <p>(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</p> <p>(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,</p> <p>(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.</p>	<p>N/A</p> <p>Erosion and Sediment Controls have been already imposed to the existing built form.</p> <p>Development is not identified as being in proximity to wetlands or littoral rainforest area.</p> <p>Impacts to the Georges River Catchment have not been considered suitable given the lack of information provided.</p> <p>The development has not demonstrated the impact on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and the impacts on water quality will be minimised.</p>
<p>6.8 Flooding</p> <p>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.</p> <p>(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not— (a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or (b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</p>	<p>The subject property is not flood affected.</p>
<p>6.9 Recreation and public access</p>	<p>The development is not considered to impact public access to recreational land. Noted the site is not adjacent to a recreation land or foreshores.</p>

6.10 Total catchment management	The development has not demonstrated it would not impact total catchment management.
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The absence of assessment material prevents the consent authority from being satisfied that the proposal will achieve a neutral or beneficial effect on water quality or that cumulative impacts on the Georges River Catchment will be avoided. The proposal therefore fails to comply with the requirements of Chapter 6 of the Biodiversity SEPP.

**(d) State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 3 – Hazardous and Offensive Development:

The proposed increase in tonnage to the existing Concrete Batching Plant has been assessed in relation to the provisions of Chapter 3, in which the use of the site can be identified a potentially hazardous industry.

Chapter 3 requires the consent authority to be satisfied that risks to human health, life or the environment are acceptable, and that sufficient information is provided to enable such an assessment. The applicant has not provided adequate details regarding the handling and storage of additional materials associated with the increased tonnage. Insufficient information is available to determine whether risks to human health and safety can be appropriately managed.

Chapter 4: Remediation of Land

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land, as the proposal.

The objectives of SEPP (Resilience and Hazards) 2021 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 the above SEPP, Council must consider:

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

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

Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application (Clause 4.6).

Table 2 – Clause 4.6 of Resilience and Hazardous SEPP

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The site was assessed under previous approvals pertaining to contamination which found it suitable.
(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 site was assessed under previous approvals pertaining to contamination which found it suitable.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

Based on the above assessment the application has addressed the SEPP, and the consent authority is satisfied the site is suitable.

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

**(i) Zoning**

The subject site is zoned E5-~~IN3~~ Heavy Industrial pursuant to the LLEP 2008.

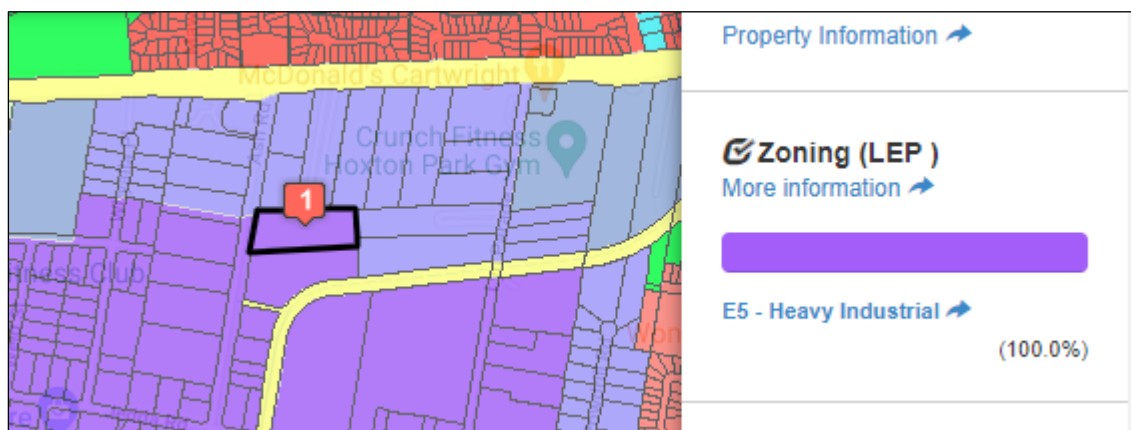


Figure 3: Extract of Zoning Map

**(ii) Permissibility**

The approved concrete batching plant was defined as ‘general industry’. The proposed modifications are best described as a ‘general industry’ also.

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

**Note—**

General industries are a type of **industry**—see the definition of that term in this Dictionary.

**(iii) Objectives of the zone**

Objectives of the E5 Heavy Industry Zone are;

- To provide areas for industries that need to be separated from other land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To preserve opportunities for a wide range of industries and similar land uses by prohibiting land uses that detract from or undermine such opportunities.

The proposed use is considered consistent with the objectives of the E5 Heavy Industrial zone. The site is a suitable distance from more sensitive land uses, and is separated from these uses by major roads, any impacts on surrounding land uses are consistent with the expected use of within the zone.

**(iv) Development Standards**

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in Table 4 below.

Table 3: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	30 metres	N/A No changes to existing built form is proposed.	N/A
FSR (CI 4.4(2))	N/A	No provision of FSR applies for this zone.	N/A

The proposal is considered to be generally consistent with the LEP

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

There are no draft Environmental Planning Instruments that apply to the site.

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

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

Liverpool Development Control Plan 2008 is applicable to the proposed development. The proposed increase in tonnage does not alter the existing built form, however, aspects of the development are required to be assessed to ascertain their cumulative impacts. Insufficient information has been provided to Council to demonstrate compliance with the DCP, with the non-compliance listed below:

<b>Liverpool Development Control Plan 2008</b>			
<b>Clause</b>	<b>Required</b>	<b>Provided</b>	<b>Complies</b>
<b>Part 1 General Controls for all Development</b>			
<b>6. Water Cycle Management</b>			
	Consideration shall be given to the impacts associated with stormwater.	Insufficient information has been provided to ascertain whether the increase in tonnage would later existing stormwater runoff and waste runoff into surrounding tributaries.	Insufficient Information
<b>7. Development Near a Watercourse</b>			
	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	The development site within close proximity to a water course. Previously approvals required concurrence to Water NSW. A future designated development application accompanied by a SEARs will be required to obtain approval from Water NSW.	Insufficient Information
<b>9. Flooding Risk</b>			
	Consideration shall be given to the potential of flood affectation on the development, and the potential for the development to affect flood behaviour and impact to surrounding properties.	Insufficient information has been provided to ascertain whether the increase in tonnage, would later existing stormwater runoff and waste runoff into surrounding tributaries.	Insufficient Information
<b>20. Car Parking and Access</b>			
<b>Off-Street - Car Parking Provision other than Liverpool City Centre</b>	1 Space per 5m2 of LFA.	Insufficient Information has been provided to demonstrate the increase in tonnage would not require additional parking due to the potential increase of trucks to be utilised on site, and increase in operations, meaning staff.	Insufficient Information
<b>20.4 Car Parking Design</b>			
<b>Car Space Dimensions</b>		Council's Traffic Section is not satisfied with the proposal.	Insufficient Information

<b>25. Waste Disposal &amp; re-use Facilities</b>			
<b>Waste Management Plan</b>	A Waste Management Plan (WMP) shall be submitted with a Development Application for any relevant activities generating waste. The WMP is provided in three sections: Liverpool Development Control Plan 2008 Waste Disposal and Re-use Facilities Part 1 115 - Demolition. - Construction; and - On-going waste management.	Insufficient Information has been provided to demonstrate the increase in tonnage would not require additional Waste management across the site, due to increase in materials.	Insufficient Information

<b>Liverpool Development Control Plan 2008</b>			
<b>Clause</b>	<b>Required</b>	<b>Provided</b>	<b>Complies</b>
<b>Part 7 Development in areas zoned E4- General Industrial or E5 Heavy Industrial</b>			
<b>6. Building Design, Streetscape and Layout</b>			
<b>Service Areas</b>	Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view.	Insufficient information has been submitted to ascertain whether the proposed increase in tonnage will result in an increase of waste or external storage areas are required.	Insufficient Information.
<b>8. Car Parking and Access</b>			
	1. The layout of driveways to loading docks must enable heavy vehicles to: - Enter and exit the site in a forward direction. - Park within designated loading areas. - When possible, loading docks are to be located in areas that: a. Are not exposed to public streets. b. Are generally	The proposed increase in tonnage and operations intend to maintain existing vehicular access to the site from Ash Road. Notwithstanding, insufficient information has been provided to demonstrate the increase in tonnage would not require additional parking due to the potential increase of trucks to be utilised on site, and increased operations, requiring additional staff.	Insufficient Information

	<p>separate from and do not interfere with car parking areas</p> <p>2. Car parking areas are to be landscaped to provide shade and reduce the visual impact of parked cars.</p> <p>3. Provide a 2.5m wide landscape bay between every 6 - 8 car spaces.</p>		
<b>9. Amenity and Environmental Impact</b>			
<b>External Industrial Activities</b>	<p>1. External processes in an industrial area and storage of materials will not be permitted along a Classified <a href="#">Road frontage</a> or a <a href="#">road frontage</a> opposite a residential area.</p> <p>2. Storage and processing of motor vehicles, concrete, soil, glass and other similar components or materials shall be totally screened by fencing and dense landscaping (refer to Landscaping and Fencing and Section 4 Landscaping and Existing Trees in Part 1).</p> <p>3. The maximum <a href="#">height</a> of a stockpile for the recycling of motor vehicles, concrete, soil, glass and other similar components or materials shall be 6m.</p>	<p>The site is not adjacent to a classified road or residential area.</p> <p>Insufficient information has been demonstrated as to whether the existing storage facilities, materials etc will be screened or the storing of additional materials will be required to facilitate the increase in tonnage.</p> <p>Insufficient information has been provided to ascertain where additional materials will be stored on site for the increase in tonnage.</p>	Insufficient Information
<b>Noise</b>	In order to comply with the Protection of the Environment Operations Act 2008 it may be necessary to construct external works. Mounding,	Council's Environmental Health Section have reviewed the documentation provided and found it not to be satisfactorily in demonstrating the increase in operation would not give rise to	Insufficient Information

	planting and/or noise barriers may be permitted to reduce the impact of noise levels, provided that this does not compromise any other provision in the DCP. The following illustration gives examples of satisfactory treatments.	additional acoustic impacts and mitigation measures.	
<b>Hazardous materials and hazardous operations</b>	Certain industrial processes are identified as Designated Development under the Environmental Planning and Assessment Act 1979. It will be necessary to contact the NSW Department of Planning for their requirements for the preparation of an environmental impact statement.	The works are considered designated development as they do not benefit from subclause 48 under Schedule 3 of the EP&A Regulations. The applicant has not received support from the EPA due to nonpayment of fees.	Does not Comply
<b>10.Site Services</b>			
<b>Waste Management</b>	Owners are to provide their own waste management services. These facilities will vary depending on the needs of the site. Any waste management equipment must not be visible from the street. Waste bins must be provided in a designated area that is easily and safely accessible for workers.	Insufficient Information has been provided to ascertain whether an increase in waste will be generated from the tonnage, given it is identified to be designated development.	Insufficient Information.

**6.4 Section 4.15(1)(a) (iia) – Planning Agreement or any Draft Planning Agreement**

There are no Planning Agreements which apply to the development or site.

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

Under the provision of the EP&A Regulation 2021, Schedule 3 – Clause 17 details the regulatory requirements for ‘Concrete Works’ as they pertain to Designed Development.

Clause 17 states the following:

#### **17 Concrete works**

*(1) Development for the purposes of concrete works is designated development if the works have an intended production capacity of more than—*

- (a) 150 tonnes per day, or*
- (b) 30,000 tonnes per year.*

The approved development currently has a capacity of 300,000 tonnes per annum, with the modification seeking to increase this to 500,000 tonnes per annum or 1,370 tonnes per day.

Accordingly, the proposed is considered to be designated development.

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

#### **(a) Natural Environment**

The increase in tonnage has not adequately assessed the impacts to the existing stormwater systems, in particular to the Georges River and its tributaries. Insufficient information has been presented to Council to demonstrate compliance with the Biodiversity SEPP as well as the cumulative impacts to the neighbouring developments.

#### **(b) Built Environment**

The proposal is for an increase in tonnage, in which no alterations to the built form structure are proposed.

#### **(c) Social Impacts and Economic Impacts**

The development has not adequately demonstrated that the increase in tonnage would not impede on the surrounding road network due to the potential impacts of increase truck movements.

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

Whilst the site is considered to be suitable for the use as a concrete batching plant, insufficient information has been provided to demonstrate it would not impede upon surrounding road networks, neighbouring uses in terms of acoustic attenuation, material and storage handling in terms of dust and odour impacts.

Due to the lack of information, and non-compliance with applicable EPI's it is deemed the site is not suitable.

**6.7 Section 4.55(1)(d) – Any Submissions made in relation to the Development**

**Internal Referrals**

<b>DEPARTMENT</b>	<b>COMMENTS</b>
<b>Environmental Health Officers</b>	<p>Not Supported-</p> <p>In accordance with Section 13(1)(b) of the Protection of the Environment Operations (General) Regulation 2022, the NSW EPA is the Appropriate Regulatory Authority (ARA) for the production of premixed concrete or concrete products (for example, concrete batching plants) with a capacity to produce more than 30,000 t.p.a of concrete. At the production capacity proposed of 500,000 t.p.a, the EPA will be the appropriate regulatory authority for this non-scheduled activity. A referral should be made to the EPA for assessment, comments and/or conditions if this has not been done so already, irrespective of whether the activity is defined to be designated development or not.</p> <p>The document supporting the application titled "ENVIRONMENTAL MANAGEMENT PLAN FOR RENITA DEVELOPMENTS 4 ASH ROAD, PRESTONS" (Ref: 171164-03_EMP_Rep_Rev3) prepared by Linda Zanotto and reviewed by E. Hansma and R.T. Benbow for Benbow Environmental dated 20<sup>th</sup> December 2021 must be referred to the NSW EPA for review along with all other supporting documents for their review and comments/conditions as appropriate. The EPA will be the appropriate regulatory authority for this non-scheduled activity.</p>
<b>Traffic Engineer</b>	<p>Not Supported –</p> <p>the TIA, the proposed increased production capacity is not expected to necessitate any capital works at the existing facility or changes in the staff numbers or staffing shifts on-site. It indicates that no changes are proposed to the number of trucks parked on-site or in the truck fleet, the site driveways, car parking and truck parking areas, hours of operation, and the largest vehicle that will service the site. It also indicates that based on the information provided by the applicant there is spare capacity within their existing workforce and truck fleet to manage the proposed increase. Information provided by the Applicant indicates that there is spare capacity within their existing workforce and truck fleet to manage the proposed increase.</p>

	However, as noted above, the SEE indicates that larger capacity trucks will be used. The applicant (TIA) needs to clarify this further including its impacts on the road network and site access and parking. It needs to clarify the existing fleet and capacity and demonstrate how it can manage the expected output increase which will be almost double of the current capacity.
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**External Referrals**

DEPARTMENT	COMMENTS
<b>Environmental Protection Authority</b>	Not supported due to nonpayment of fees.

**Community Consultation**

Public exhibition was undertaken between 12 March 2025 and 11 April 2025 in accordance with Liverpool City Council’s *Community Participation Plan 2022*. No submissions were received.

**6.8 Section 4.55(1)(e) –The Public Interest**

The proposal is considered to be not in the public interest.

**7. DEVELOPER CONTRIBUTIONS**

Contributions are not applicable to industrial development in Prestons.

**8. CONCLUSION**

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979.

Whilst the proposed development is permissible with consent, the application is deficient in addressing applicable clauses under the EP&A Regulations and associated Environmental Planning Instruments.

**9. RECOMMENDATION**

Having regard to the mandatory considerations under section 4.15 of the *EP&A Act*, the consent authority finds that:

- (a) The proposal constitutes Designated Development and has not been accompanied by an Environmental Impact Statement as required by section 173 of the *EP&A Regulation*;

(b) The proposal has failed to obtain concurrence from the NSW EPA as required by section 4.47 of the EP&A Act.

(c) The application does not adequately address the provisions of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and *State Environmental Planning Policy (Resilience and Hazards) 2021*; and

(d) The proposal has not demonstrated it will not result in unacceptable cumulative impacts upon the environment or surrounding road network.

Accordingly, it is recommended that the Liverpool Local Planning Panel, as consent authority, **refuse** Development Application DA-77/2025 for the increase in production capacity at the existing concrete batching plant at Lot 8 DP241916, 4 Ash Road, Prestons

## **ATTACHMENTS**

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1. Reasons for refusal
2. DCP Compliance Table
3. Statement of Environmental Effects

**Attachment 1- Reasons for refusal****REASONS FOR REFUSAL:**

1. Pursuant to pursuant to Part 15, Division 1 Clause 256 of the Environmental Planning & Assessment Regulation 2021, fees have not been paid for concurrence which have therefore not progressed, and the consent authority is able to refuse the application.
2. Pursuant to Section 173 of the Environmental Planning & Assessment Regulation 2021 a written request is to be made to the Planning Secretary, which has not occurred.
3. Pursuant to Schedule 3 Designated Development of the Environmental Planning and Assessment Regulation 2021, the proposal is considered designated development with insufficient information submitted to ascertain compliance with the provisions of Schedule 3 and Section 173 of the Regulations. Furthermore, the proposal does not benefit from Clause 48 of Part 3 of Schedule 3 of the Environmental Planning and Assessment Regulation 2021.
4. Pursuant to Section 4.16(1)(a) of the EP&A Act 1979, the proposed development has not demonstrated compliance with Chapter 6 Water catchments requirements of the State Environment Planning Policy (Biodiversity and Conservation) 2021.
5. Pursuant to Section 4.16(1)(a) of the EP&A Act 1979, the proposed development has not demonstrated compliance, due to insufficient information, with Chapter 3 Hazardous and Offensive Development requirements of the State Environment Planning Policy (Resilience and Hazards) 2021.
6. Pursuant to Section 4.15(1)(a)(iii) of the EP&A Act 1979, the proposed development does not comply with the following sections of the Liverpool Development Control Plan 2008:
  - a. Part 1: General Controls for All Development, Section 6 – Water Cycle Management.
  - b. Part 1: General Controls for All Development, Section 7 – Development Near a Watercourse.
  - c. Part 1: General Controls for All Development, Section 9– Flooding Risk.
  - d. Part 1 – General Controls for All Development, Section 20 – Car Parking and Access
  - e. Part 1 - General Controls for All Development, Section 25 – Waste Disposal & Re-use Facilities.
  - f. Part 7 – Development in Areas Zoned E4-General Industrial and E5-Heavy Industrial – Section 6 – Building Design, Streetscape and Layout.
  - g. Part 7 – Development in Areas Zoned E4- General Industrial and E5-Heavy Industrial – Section 8 – Car Parking and Access.
  - h. Part 7 – Development in Areas Zoned E4- General Industrial and E5-Heavy Industrial – Section 9- Amenity and Environmental Impact.
  - i. Part 7 – Development in Areas Zoned E4- General Industrial and E5-Heavy Industrial – Section 10- Site Services.

7. Pursuant to Section 4.15(c) of the EP&A Act 1979, insufficient information has been submitted to demonstrate the site would be suitable for the proposed development.
8. Pursuant to Section 4.15(1)(a)(iv) of the EP&A Act 1979) an insufficient response has been received to Council's requests for additional information to allow a full assessment of the proposal.
9. Due to the above reasons, approval of the application is not in the public interest, pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

**ADVISORY NOTES**

- a) Section 8.2 of the EP&A Act provides that an applicant may request, within six (6) months of the date of the determination of the Development Application, that Council review its determination (this does not relate to designated development or Crown development). An application under Section 8.2 of the EP&A Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 Application must allow sufficient time for Council to complete its review within the prescribed timeframe, including the statutory requirement for public notification.
- b) Section 8.7 and 8.9 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Development 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.

**Attachment 2 – Tables of Compliance****Liverpool Development Control Plan**

The Liverpool Development Control Plan 2008 supports the Liverpool Local Environmental Plan 2008 by setting additional development controls for development located in the Liverpool LGS.

Compliance with the relevant provisions of the Liverpool Development Control Plan 2008 is outlined in Table 3 below:

**Table 3 – Compliance with Liverpool Development Control Plan 2008**

<b>Liverpool Development Control Plan 2008</b>			
<b>Clause</b>	<b>Required</b>	<b>Provided</b>	<b>Complies</b>
<b>Part 1 General Controls for all Development</b>			
<b>2. Tree Preservation</b>			
	Consideration shall be given to the potential impact of development on existing vegetation.	N/A no proposed tree removal.	Yes
<b>3. Landscaping and Incorporation of Existing Trees</b>			
	Incorporate existing trees where appropriate.	No alteration to the existing vegetation or landscaping on site is proposed.	Yes
<b>4. Bushland and Habitat Preservation</b>			
	Consideration shall be given to the potential impact of the development on surrounding bushland and animal habitat.	The development site is not identified as containing any native flora or fauna, nor is there any potential for threatened ecological communities.	NA
<b>5. Bushfire Risk</b>			
	Any development on or adjacent to bushfire prone land to comply with RFS requirements.	The site is not identified as bushfire prone land.	N/A
<b>6. Water Cycle Management</b>			
	Consideration shall be given to the impacts associated with stormwater.	Insufficient information has been provided to ascertain whether the increase in tonnage, would later existing stormwater runoff and waste runoff into surrounding tributaries.	Insufficient Information
<b>7. Development Near a Watercourse</b>			
	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	The development site within close proximity to a water course. Previously approvals required concurrence to Water NSW. A future designated development application accompanied by a SEARs will be required to obtain approval from Water NSW.	Insufficient Information
<b>8. Erosion and Sediment Control</b>			
	Erosion and sediment control plan to be submitted.	No alteration or additional built form is proposed.	Yes

<b>9. Flooding Risk</b>			
	Consideration shall be given to the potential of flood affectation on the development, and the potential for the development to affect flood behaviour and impact to surrounding properties.	Insufficient information has been provided to ascertain whether the increase in tonnage, would later existing stormwater runoff and waste runoff into surrounding tributaries..	Insufficient Information
<b>10. Contaminated Land Risk</b>			
	The potential for site contamination shall be considered having regard to previous land uses and the requirements of SEPP.	No alteration or additional built form is proposed which would require amendments to the approved PSI/DSI.	Yes
<b>11. Salinity Risk</b>			
	Salinity Management response required for affected properties.	No alteration or additional built form is proposed.	Yes
<b>12. Acid Sulfate Soils Risk</b>			
	This section applies to any development that is located in an area identified as having an acid sulfate soil potential within the Liverpool LEP 2008.	The subject site is not affected by acid sulfate soils.	N/A
<b>14. Demolition of Existing Developments</b>			
Demolition	All demolition work must comply with the Australian Standard AS2601 - 1991, The Demolition of Structures  A Waste Management Plan (WMP) is to be submitted with the Development Application. The WMP must include realistic estimates of the volume or area of all types of waste material to be generated from the demolition and excavation activities. Details of how each of those materials will be re-used, recycled or disposed of is to be provided, including the locations to which the materials will be taken.	No alteration or additional built form is proposed.	N/A
<b>17. Heritage and Archaeological Sites</b>			
	This section applies to development affecting a heritage item, land in a heritage conservation area or an archaeological site as	The site does not contain a local or state heritage item.	N/A

	identified in the Liverpool Local Environmental Plan 2008, as well as land in the vicinity of a heritage item.		
<b>20. Car Parking and Access</b>			
<b>Off-Street - Car Parking Provision other than Liverpool City Centre</b>	1 Space per 5m <sup>2</sup> of LFA.	Insufficient Information has been provided to demonstrate the increase in tonnage would not require additional parking due to the potential increase of trucks to be utilised on site, and increase in operations, meaning staff.	Insufficient Information
<b>20.4 Car Parking Design</b>			
<b>Car Space Dimensions</b>		Council's Traffic Section is not satisfied with the proposal.	Insufficient Information
<b>20.7 Driveway Crossings</b>			
<b>Location of Driveway Crossings</b>	Driveway Crossings shall be located a minimum distance from the following items: - 0.5m from all drainage structures on the kerb and gutter; - 1.0m from side property boundaries; - 6m from a kerb tangent point of a street corner	Existing vehicular is to be maintained and used	Yes
<b>23. Reflectivity</b>			
	New buildings and facades must not result in glare that causes discomfort or threatens safety of pedestrians or drivers.	No alteration or additional built form is proposed.	Yes
<b>25. Waste Disposal &amp; re-use Facilities</b>			
<b>Waste Management Plan</b>	A Waste Management Plan (WMP) shall be submitted with a Development Application for any relevant activities generating waste. The WMP is provided in three sections: Liverpool Development Control Plan 2008 Waste Disposal and Re-use Facilities Part 1 115 - Demolition; - Construction; and - On-going waste management.	Insufficient Information has been provided to demonstrate the increase in tonnage would not require additional Waste management across the site, due to increase in materials.	Insufficient Information
<b>26. Outdoor Advertising and Signage</b>			
		The application does not propose the erection of any signage.	N/A

<b>27. Social Impact Assessment</b>			
<b>Clause</b>	<b>Required</b>	<b>Provided</b>	<b>Complies</b>
	Child care centres with 20 or more children required to undertake a Social Impact Comment, as per the proforma provided in Council's Social Impact Policy 2022.	Detailed requirements will be submitted at detailed DA stage Council's Community Planning Section has raised no objection.	Yes
<b>Liverpool Development Control Plan 2008</b>			
<b>Part 7 Development in areas zoned E4- General Industrial or E5 Heavy Industrial</b>			
<b>2. Site Area</b>			
	Minimum <a href="#">site area</a> of an allotment: 2,000 <a href="#">sqm</a> .	The site exceeds the minimum lot size of 2000sqm.	Yes
<b>3. Site Planning</b>			
	<ol style="list-style-type: none"> <li>Where possible, site planning allows for the retention of significant trees and vegetation, particularly near the street <a href="#">frontage</a>.</li> <li>The development must be designed around the site attributes such as slope, existing vegetation and land capability.</li> </ol>	No alteration to the existing vegetation or landscaping on site is proposed.	N/A
<b>4. Setbacks</b>			
	Primary Setback (GF) -10M	No alteration to the built form is proposed in terms of alterations and additions to the existing setbacks.	NA
<b>5. Landscape Area</b>			
	<ol style="list-style-type: none"> <li>A minimum of 10% of the site is to be landscaped at ground level.</li> <li>A development must provide a <a href="#">landscaped area</a> along the primary and secondary frontages of an allotment in accordance with Table 2</li> </ol> <p>Allotment side – Greater than 4000sqm – 10m primary setback.</p>	No alteration to the built form is proposed in terms of alterations and additions to the existing setbacks to warrant changes to the landscaped areas.	N/A
<b>6. Building Design, Streetscape and Layout</b>			
<b>Façade Treatment</b>	1. The facades to a development must adopt a contemporary architectural appearance.	No Alterations or additions to the built form is proposed to trigger amendments to the façade treatment.	N/A

	<p>2. A development must use architectural elements to articulate facades, and minimise large expanses of blank walls. Architectural elements may include but not be limited to:</p> <ul style="list-style-type: none"> <li>- Defining the base, middle, or top of a <a href="#">building</a> using different materials and colours.</li> <li>- Incorporating horizontal or vertical elements such as recessed walls or banding.</li> <li>- Defining the window openings, <a href="#">fenestration</a>, <a href="#">building</a> entrances, and doors.</li> <li>- Using roof forms and parapets to create an interesting skyline.</li> <li>- Using sun shading devices.</li> <li>- Incorporating public art work.</li> <li>- Using a variation of unit designs in a <a href="#">building</a> complex.</li> <li>- Any other architectural feature to the satisfaction of <a href="#">Council</a>.</li> </ul> <p>3. Where a development proposes a portal frame or similar construction, <a href="#">Council</a> does not permit the "stepping" of the parapet to follow the line of the portal frame.</p> <p>4. The street facade of a development on a corner allotment must incorporate architectural corner features to add visual interest to the streetscape.</p>		
<b>Materials and Colours</b>	<p>1. Glazing shall not exceed reflectivity of 20%.</p> <p>2. A development must use:</p> <ul style="list-style-type: none"> <li>- Quality materials such as brick, glass, and steel to construct the facades to a development.</li> </ul>	No Alterations or additions to the built form is proposed to trigger amendments to the existing materials and colours.	N/A

	- Masonry materials to construct a factory unit within a <a href="#">building</a> , and all internal dividing walls separating the factory units.		
<b>Building Design</b>	<ol style="list-style-type: none"> <li>1. The front door to a <a href="#">building</a> should face the street.</li> <li>2. The administration office or showroom must be located at the front of the <a href="#">building</a>.</li> <li>3. Windows on the upper floors of a <a href="#">building</a> must, where possible, overlook the street.</li> <li>4. The street number of a <a href="#">building</a> must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the <a href="#">building</a>.</li> <li>5. Open style or transparent materials are encouraged on doors and/or walls of lifts and stairwells, where fire safety requirements allow.</li> <li>6. Waiting areas and entries to lifts and stairwells should be close to areas of active use and be visible from <a href="#">building</a> entrances.</li> <li>7. Driveways must provide adequate sight distance for the safety of pedestrians using the footpath area.</li> <li>8. Pathways should provide direct access and any edgework should be low in <a href="#">height</a> or not reduce visibility of the pathway.</li> <li>9. Entry to <a href="#">basement</a> parking areas should be through security access via the main <a href="#">building</a>. This access should be fitted with a one way door</li> </ol>	No Alterations or additions to the built form is proposed to trigger amendments to the existing Building Design.	N/A

	<p>(allowing for fire safety provisions) and allow only authorised access from the foyer into the <a href="#">basement</a>.</p> <p>10. Blank walls in general that address street frontages or public open space are discouraged. Where they are unavoidable <a href="#">building</a> elements or landscaping must be used to break up large expanses of walls. In some cases an anti-graffiti coating will need to be applied to the wall to a <a href="#">height</a> of 2 metres.</p> <p>11. All new industrial buildings are to demonstrate on the architectural plans that the rooftop is designed to enable the installation of solar panels.</p>		
<b>Lighting</b>	<p>1. Lighting must be provided to the external entry path, common lobby, driveway, and <a href="#">car park</a> to a <a href="#">building</a> using vandal resistant, high mounted light fixtures.</p> <p>2. The lighting in a <a href="#">car park</a> must conform to AS 1158.1, 1680, and 2890.1.</p> <p>3. External lighting to an industrial development must give consideration to the impact of glare on the amenity of adjoining residents.</p>	No Alterations or additions to the built form is proposed to trigger amendments to the existing lighting design on site.	N/A
<b>Facilities</b>	The siting of a telecommunication facility, aerial, satellite dish, plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must integrate with the architectural features of the <a href="#">building</a> to which it is attached; or be sufficiently screened when viewed from	No Alterations or additions to the built form is proposed to trigger amendments to the existing Facilities on site.	

	the street and neighbouring residential zoned land.		
<b>Service Areas</b>	Service areas including waste, recycling areas and external storage areas are to be located away from principal street frontages and screened from view.	Insufficient information has been submitted to ascertain whether the proposed increase in tonnage will result in an increase of waste or external storage areas are required.	Insufficient Information.
<b>7. Landscaping and Fencing</b>			
<b>Landscaping treatment in Industrial Area</b>	<ol style="list-style-type: none"> <li>1. The trees shall provide a <a href="#">canopy</a> for the streetscape and soften the appearance of the industrial environment, without unduly concealing approved on site <a href="#">signage</a>.</li> <li>2. Mulched garden beds shall incorporate ground covers that will cover the ground area.</li> <li>3. Shrubs shall be used to soften appearance of the industrial area but still allow line of sight between the street and the development.</li> <li>4. Large shrubs shall be used as screen planting where there is a need to screen certain areas such as outside storage.</li> <li>5. Shrubs shall only be planted in mulched garden beds.</li> <li>6. Grassed areas may be considered in limited areas in conjunction with mulched garden beds.</li> <li>7. Trees shall only be planted in grass where there is a border around the tree separating it from the grassed area.</li> </ol>	No alteration to the built form is proposed in terms of alterations and additions to warrant changes to the landscaped areas.	N/A

	<p>8. The landscaping shall contain an appropriate mix of <a href="#">canopy</a> trees, shrubs and groundcovers. Avoid medium <a href="#">height</a> shrubs (0.6 -1.8m) especially along paths and close to windows and doors.</p> <p>9. Landscaping <a href="#">in the vicinity</a> of a driveway entrance should not obstruct visibility for the safe ingress and egress of vehicles and pedestrians.</p> <p>10. Planting along pedestrian pathways, around car parking areas should be selected to promote surveillance and minimise areas for intruders to hide. Low hedges and shrubs, creepers and ground covers, or high canopied vegetation would be appropriate.</p>		
<b>Trees</b>	<p>1. Trees must be planted in the landscape area at a minimum rate of 1 tree per 30sqm of the landscape area.</p> <p>2. The trees must be capable of achieving a mature <a href="#">height</a> greater than 8m.</p> <p>3. Where trees are planted around high use facilities such as car parking areas and walkways, they should have clean trunks to <a href="#">height</a> of 1.8m.</p> <p>4. Large trees and shrubs should not be located so they can</p>	No alteration to the built form is proposed in terms of alterations and additions to warrant changes to existing Trees on site.	N/A

	be used to access buildings on the site or adjoining properties.		
<b>Fences at Front Boundary</b>	<ol style="list-style-type: none"> <li>1. Trees must be planted in the landscape area at a minimum rate of 1 tree per 30sqm of the landscape area.</li> <li>2. The trees must be capable of achieving a mature <a href="#">height</a> greater than 8m.</li> <li>3. Where trees are planted around high use facilities such as car parking areas and walkways, they should have clean trunks to <a href="#">height</a> of 1.8m.</li> <li>4. Large trees and shrubs should not be located so they can be used to access buildings on the site or adjoining properties</li> </ol>	No alteration to the built form is proposed in terms of alterations and additions to warrant changes to trees and fencing in the front boundary.	
<b>Screen Fencing</b>	<p>Where fencing is considered necessary to screen areas such as outside storage it shall consist of the following:</p> <ul style="list-style-type: none"> <li>- Maximum <a href="#">height</a> of 2m.</li> <li>- May be solid construction.</li> <li>- Shall be located behind the <a href="#">landscaped area</a>.</li> </ul>	No alteration to the built form is proposed in terms of alterations and additions to warrant changes to fencing in which screening is required.	N/A
<b>8. Car Parking and Access</b>			
	<ol style="list-style-type: none"> <li>1. The layout of driveways to loading docks must enable heavy vehicles to: <ul style="list-style-type: none"> <li>- Enter and exit the site in a forward direction.</li> <li>- Park within designated loading areas.</li> <li>- When possible, loading docks are to be located in areas</li> </ul> </li> </ol>	The proposed increase in tonnage and operations intend to maintain existing vehicular access to the site from Ash Road. Notwithstanding, insufficient information has been provided to demonstrate the increase in tonnage would not require additional parking due to the potential increase of trucks to be utilised on site, and increased operations, requiring additional staff.	Insufficient Information

	<p>that:</p> <ol style="list-style-type: none"> <li>a. Are not exposed to public streets.</li> <li>b. Are generally separate from and do not interfere with car parking areas</li> </ol> <ol style="list-style-type: none"> <li>2. Car parking areas are to be landscaped to provide shade and reduce the visual impact of parked cars.</li> <li>3. Provide a 2.5m wide landscape bay between every 6 - 8 car spaces.</li> </ol>		
<b>9. Amenity and Environmental Impact</b>			
<b>External Industrial Activities</b>	<ol style="list-style-type: none"> <li>1. External processes in an industrial area and storage of materials will not be permitted along a Classified <a href="#">Road frontage</a> or a <a href="#">road frontage</a> opposite a residential area.</li> <li>2. Storage and processing of motor vehicles, concrete, soil, glass and other similar components or materials shall be totally screened by fencing and dense landscaping (refer to Landscaping and Fencing and Section 4 Landscaping and Existing Trees in Part 1).</li> <li>3. The maximum <a href="#">height</a> of a stockpile for the recycling of motor vehicles, concrete, soil, glass and other similar components or materials shall be <a href="#">6m</a>.</li> </ol>	<p>The site is not adjacent to a classified road or residential area.</p> <p>Insufficient information has been demonstrated as to whether the existing storage facilities, materials etc will be screened or the storing of additional materials will be required to facilitate the increase in tonnage.</p> <p>Insufficient information has been provided to ascertain where additional materials will be stored on site for the increase in tonnage.</p>	Insufficient Information
<b>Noise</b>	In order to comply with the Protection of the Environment Operations Act 2008 it may be necessary to construct external works. Mounding, planting and/or noise barriers may be	Council's Environmental Health Section have reviewed the documentation provided and found it not to be satisfactorily in demonstrating the increase in operation would not give rise to	Insufficient Information

	permitted to reduce the impact of noise levels, provided that this does not compromise any other provision in the DCP. The following illustration gives examples of satisfactory treatments.	additional acoustic impacts and mitigation measures.	
<b>Hazardous materials and hazardous operations</b>	Certain industrial processes are identified as Designated Development under the Environmental Planning and Assessment Act 1979. It will be necessary to contact the NSW Department of Planning for their requirements for the preparation of an environmental impact statement.	The works are considered designated development as they do not benefit from subclause 48 under Schedule 3 of the EP&A Regulations. The applicant has not received support from the EPA due to nonpayment of fees.	Does not Comply
<b>Hours of operation</b>	Development which would have an adverse impact on adjoining or nearby residential areas will be limited to 7 am to 6 pm Monday to Friday and 7 am to 12 pm on Saturday and no work to be undertaken on Sundays.	No changes to the existing approved hour of operation are proposed.	N/a
<b>Contamination</b>	Any DA for land identified as potentially contaminated by prior land use activities and shown in Figure 11, must be supported by a phase 1 contamination assessment.	No changes to built form which would warrant a new assessment under CI4.6 of Resilience and Hazardous SEPP is required.	N/A
<b>10.Site Services</b>			
<b>Letterboxes and House Numbering</b>	<ol style="list-style-type: none"> <li>Letterboxes shall be located along the front boundary and be clearly visible and accessible from the street.</li> <li>The street number of a site must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the site.</li> </ol>	No changes to the built form is proposed which would warrant changes to existing letterboxes.	N/A
<b>Waste Management</b>	Owners are to provide their own waste management	Insufficient Information has been provided to ascertain whether an	Insufficient Information.

	services. These facilities will vary depending on the needs of the site. Any waste management equipment must not be visible from the street. Waste bins must be provided in a designated area that is easily and safely accessible for workers.	increase in waste will be generated from the tonnage, given it is identified to be designated development.	
<b>Frontage works and damage to Council Infrastructure</b>	<ol style="list-style-type: none"> <li>Where a footpath, <a href="#">road</a> should or new or enlarged <a href="#">access driveway</a> is required to be provided this shall be provided at no cost to <a href="#">Council</a>.</li> <li><a href="#">Council</a> must be notified of any works that may threaten <a href="#">Council</a> assets. <a href="#">Council</a> must give approval for any works involving <a href="#">Council</a> infrastructure.</li> </ol>	No alterations to built form is proposed in terms of alterations and additions which would warrant changes to the frontage of the site.	N/A
<b>Electricity Substation</b>	In some cases it may be necessary to provide an electricity sub station at the front of the development adjacent to the street <a href="#">frontage</a> . This will involve dedication of the area as a public <a href="#">road</a> to allow access by the electricity provider. The front boundary treatment used elsewhere on the street <a href="#">frontage</a> shall be used at the side and rear of the area.	No alterations to built form is proposed in terms of alterations and additions which would warrant a substation.	N/A
<b>11.Change of use of existing building</b>			
	Where a change of use is proposed to an existing development that will result in a significant impact on adjoining or nearby properties or on traffic movements may not be permitted.	No change of use is proposed.	N/A



# Statement of Environmental Effects

Lot 8, DP 241916

4 Ash Road,

Prestons NSW 2170

This report has been prepared in support of a Development Application for the operation of an existing concrete batching plant with a maximum annual production capacity of 500,000 tonnes of concrete and concrete products.

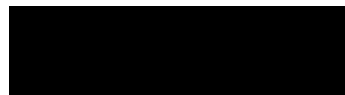
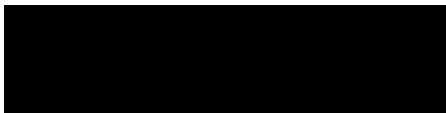
Related DA - DA264/2018/A/B & C

**17 February 2025**





This report was prepared by Edwina Nelson and approved for release by Gilbert de Chalain.



**Partner**

**A:** Lv. 12, 32 Martin Place, Sydney, NSW,  
2000



**Senior Associate**

**A:** Lv. 12, 32 Martin Place, Sydney, NSW,  
2000



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# 1 Introduction

This report has been prepared as a Statement of Environmental Effects (**SoEE**) to accompany a Development Application for the operation of an existing concrete batching plant (**CBP**) with a proposed production capacity of 500,000 tonnes per annum of concrete and concrete products. The existing CBP presently has consent to operate to a capacity of 300,000 as approved under DA264/2018/C on 31 July 2023. This Development Application proposes to increase the facility's annual production output by 200,000 tonnes.

The subject site is formally known as Lot 8 DP 241916 and otherwise known as 4 Ash Road, Prestons and has a total site area of 16,186.70 m<sup>2</sup>. The existing development is on land zoned E5 – General Industrial under Liverpool Local Environmental Plan 2008 (**LLEP 2008**).

This report is submitted in accordance with Clause 24(1) of the Environmental Planning and Assessment Regulation 2021 (EPAA Regulation 2021). The purpose of this SoEE is to provide a description and general information about the site and the proposed development, and provides the following information:

- Description of the site, surrounding development and the wider locality;
- Description of the proposed development;
- Assessment of the proposed development in accordance with all statutory controls and Council's Development Control Plan (DCP); and,
- A broader environmental assessment of the proposal, having regard to the matters for consideration contained within Section 4.15 of the Environmental Planning and Assessment Act, 1979.

Provided with this SOEE are architectural plans and supporting documentation to enable the determination of the development application.

It is considered that this application has appropriately addressed the key planning and development provisions applying to the site and the development is appropriate for the site, topographic features, and locality. It is therefore recommended that this development application be determined as approved.

The site, proposal and development controls are fully discussed, and with the Section 4.15 summary assessment of the proposal, forms the required Statement of Environmental Effects.



## 2 Background

### 2.1 OVERVIEW

#### 2.1.1 Existing Concrete Batching Plant Operations

The subject site is occupied by a concrete producing plant - "Advanced Ready Mix" which provides premixed concrete products to the residential, commercial, industrial and civil construction sectors. The company has been in operation for over 30 years with three separate plant locations in Smithfield and Seven Hills and the subject site at Prestons and the subject of this application.

The Prestons plant was granted development consent in February 2019 as a Concrete Batching Plant (CBP) under DA264/2018. As designated development, the original development application was supported by an Environmental Impact Statement (EIS) and specialist reports demonstrating how potential environmental impacts would be mitigated, managed and monitored. The consent approved 24-hour production with an annual capacity of 200,000 tonnes with pick-up and delivery of products restricted generally to 6am -6pm. The CBP has operated without incident since commencing in 2020 and in 2023 was granted 4.55 modified consent to increase production to 300,000 tonnes annually.

Forecasting within the construction industry indicates an ever-increasing demand for concrete products particularly driven by several major state infrastructure projects including the Western Sydney Airport, new major arterial roads and the Sydney metro projects. In response, the applicant seeks to increase annual production capacity of concrete to 500,000 tonnes. ***It is critical to note that the increase in output will be achieved without the need for any physical expansion of the existing batching plant's infrastructure.***

The additional production capacity will be achieved by more efficient use of the existing plant, which currently operates below its actual physical capacity due to the development consent limitation of 300,000 tonnes p/a. The increased concrete output will be achieved by more consistent operation of the plant during the approved 24 hour period with the batching infrastructure processing larger concrete orders more frequently. Delivery truck movements will increase but they will not rise proportionally to output as larger capacity trucks will be used.

The approval pathway adopted for the proposed capacity increase is explained in Section 2.3 with a development history provided at Section 2.2 below.



## 2.2 DEVELOPMENT HISTORY

### 2.2.1 DA 264/2018 - Original Development Consent - for concrete batching plant

Development consent to DA264/2018 was granted by Liverpool Local Planning Panel on 25 February 2019 for:

*the construction and operation of a concrete batching plant with associated site grading, earthworks, drainage, driveways, car parking, landscaping and extension to existing building.*

This application was classified as 'designated development' pursuant to Schedule 3 of the then *Environmental Planning and Assessment Regulations 2000*, requiring the preparation of an Environmental Impact Statement (EIS). The EIS was prepared in accordance with Secretary's Environmental Assessment Requirements (SEARs) which required comprehensive specialist studies addressing traffic, noise, air quality, hazards, soil and water management, biodiversity, visual impact, and waste management.

The application was also 'nominated integrated development' requiring additional approvals from the NSW Environmental Protection Authority and Department of Primary Industries – Water. The assessment process also involved extensive consultation with key state agencies including:

- Environmental Protection Authority (EPA);
- Department of Primary Industries (Water, Agriculture and Fisheries divisions);
- Roads and Maritime Services;
- Water NSW;
- Office of Environment and Heritage;

Development consent was granted with conditions imposing detailed operational and environmental management monitoring and mitigation requirements, including:

- Production limit of 200,000 tonnes per annum (Condition 103);
- 24 hour production operation with restricted delivery generally between 6am-6pm weekdays and 1pm Saturdays (Conditions 120-121)
- Specific noise limits for day, evening and night operations (Condition 113)
- Air quality and dust mitigation (Conditions 115, 118, 119)
- Requirements for environmental monitoring, reporting and auditing (Conditions 116, 117)
- Complaint management procedures (Condition 70)

The plant has operated in accordance with the development consent since 2020 without incident, with no compliance issues or orders recorded.



### 2.2.2 DA 264/2018/A

A Section 4.55(1A) modification was lodged on 18 June 2020 seeking various alterations and additions to the approved concrete batching plant and associated amendments to conditions of the original development consent. This modification was approved on 7 December 2020 by Council.

### 2.2.3 DA 264/2018/B

A Section 4.55(1A) modification was lodged on 5 August 2020 seeking to remove conditions related to Environmental Protection Licence requirements due to legislative amendments. This modification was approved on 18 March 2021 by Council.

### 2.2.4 DA 264/2018/C

Section 4.55(2) modification was lodged on 4 February 2022 seeking to increase production capacity from 200,000 tonnes per annum to 300,000 tonnes per annum of concrete and concrete products.

The modification was considered substantially the same as already approved, without additional environmental impact according to relevant referrals and not additionally assessed as designated development.

The application, being Integrated Development, was referred the NSW Environmental Protection Authority and the Natural Resources Access Regulator. Neither agency raised any objections to the increased output as the development was originally approved with General Terms of Approval (**GTA**) and could continue to operate consistently with those GTAs.

This modification was approved by Liverpool Local Planning Panel on 31 July 2023 and retained all operational and environmental restrictions.

The plant has operated in accordance with the development consent since 2020 without incident, with no compliance issues or orders recorded.

## 2.3 DESIGNATED DEVELOPMENT

### 2.3.1 Regulatory context

The previous modification to the development consent (DA264/2018/C) permitted an increase in production capacity from 200,000 to 300,000 tonnes per annum. Although the development is classified as designated development, Schedule 3, Part 2, section 35 of the former *Environmental Planning and Assessment Regulation (2000) (NSW)* (EP&A Regulation 2000), allowed changes to approved designated development through a section 4.55 modification application. If the changes did not significantly increase environmental impacts, they could be



treated as non-designated development for the purpose of modification, therefore removing the need for a new EIS (per s4.12(8) of the EP&A Act 1979). This provision allowed Modification C to be approved without the need for a new EIS. The relevant provision from former EP&A Regulation 2000 stated:

**35 Is there a significant increase in the environmental impacts of the total development?**

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development. (Emphasis added)*

The EP&A Regulation 2000 was repealed on 1 March 2022 and was replaced by the Environmental Planning and Assessment Regulation (2021) (NSW) (**EP&A Regulation 2021**).

The 2021 Regulation provides similar provisions for treating changes to designated development as non-designated development where environmental impacts are not significantly increased. However, it introduces a significant change through Note 2 of section 48 (Schedule 3, Part 3):

**48 Alterations or additions to existing or approved development**

*(1) Development involving alterations or additions to development, whether existing or approved, is not designated development if, in the consent authority's opinion, the alterations or additions do not significantly increase the environmental impacts of the existing or approved development.*

*(2) ...*

**Note 2—**

*This section does not apply in relation to an application for modification of a development consent.*

Although section 48(1) maintains the provision that alterations to approved designated development can be treated as non-designated development (thus not requiring an EIS), Note 2 means that this can only be achieved through a new Development Application rather than by a section 4.55 modification to an existing consent.

Consequently, approval for the proposed increase to production capacity from 300,000 to 500,000 tonnes per annum must be obtained through a new DA rather than modifying the existing consent.



### 2.3.2 Assessment Considerations

When determining whether alterations to designated development can be treated as non-designated development, Clause 48(2) of Schedule 3 provides specific assessment criteria to evaluate, which are reproduced below:

- (2) *In forming its opinion, a consent authority must consider the following—*
- (a) *the impact of the existing development, including the following—*
    - (i) *previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice,*
    - (ii) *rehabilitation or restoration of any disturbed land,*
    - (iii) *the number and nature of all past changes and their cumulative effects,*
  - (b) *the likely impact of the proposed alterations or additions, including the following—*
    - (i) *the scale, character or nature of the proposal in relation to the development,*
    - (ii) *the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is, or will be, carried out and the surrounding locality,*
    - (iii) *the degree to which the potential environmental impacts can be predicted with adequate certainty,*
    - (iv) *the capacity of the receiving environment to accommodate changes in environmental impacts,*
  - (c) *proposals to mitigate the environmental impacts and manage residual risk,*
  - (d) *proposals to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.*

These items for consideration will be addressed generally throughout the report and in detail in Section 4.12 of this Statement.

## 3 Site Details

### 3.1 SITE DESCRIPTION

The subject site is formally known as Lot 8 DP 241916 and commonly known as 4 Ash Road, Prestons, with a total site area of 16,186.70m<sup>2</sup>. It comprises a large, level concrete sealed allotment with minimal vegetation limited to a small, grassed area within the front setback.

The site is located 37 kilometres south-west of the Sydney central business district, in the local government area of the City of Liverpool. The land is located on the eastern side of Ash Road in the industrial precinct of Prestons. It is regular in shape with a frontage of 82.7 metres to Ash Road, a southern side boundary of 211.57 metres, northern side boundary of 196.12 metres and the rear boundary is 78 metres.

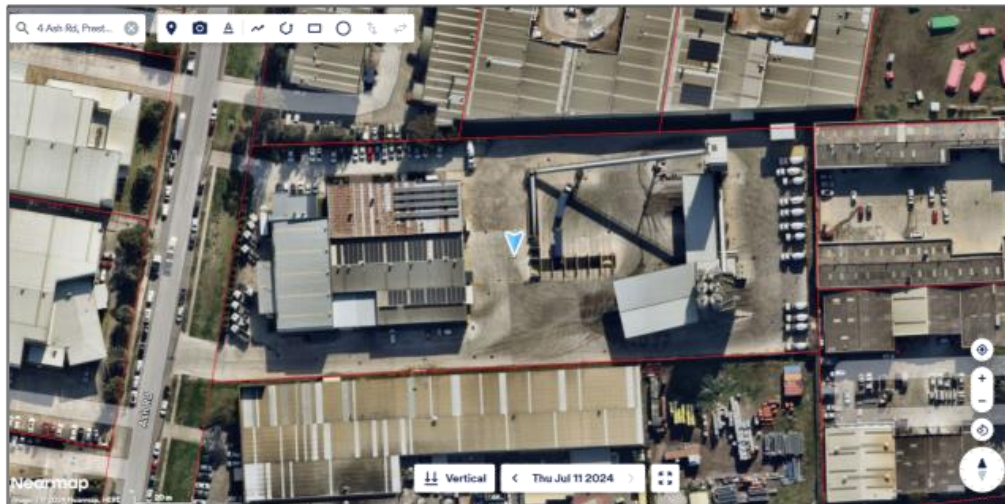


Figure 1 Aerial Imagery of Subject Site and its immediate locality (source: NearMap)



Figure 2: Local context of the Subject Site (source: NearMap)

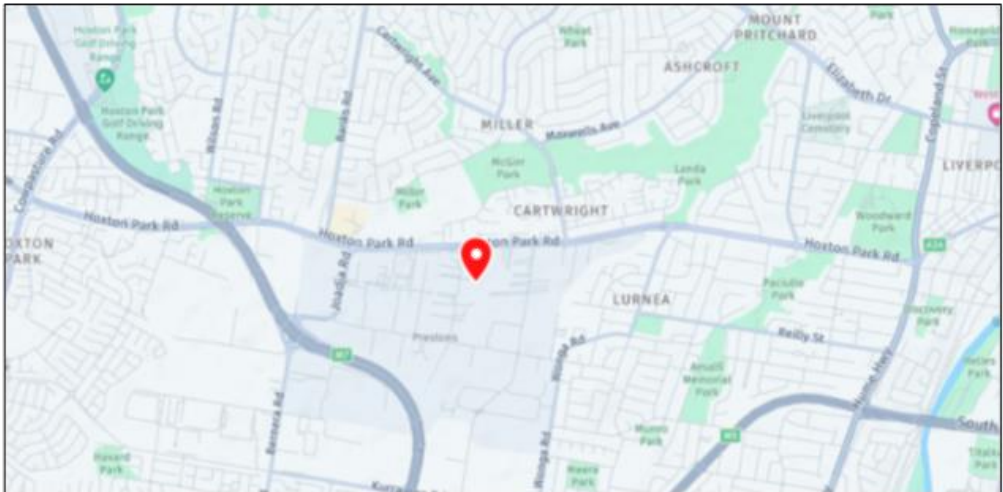


Figure 3: Regional locality of the Subject Site (source: Google Images)

### 3.2 SITE CONTEXT

The subject site is located within the Prestons industrial precinct which is predominantly characterised by general and heavy industrial uses and various supporting uses. This is reflective of the land uses permitted within the E4 and E5 zones pursuant to the Liverpool Local Environmental Plan 2008.

### 3.3 EXISTING DEVELOPMENT

Existing development comprises:

- 1 large industrial building containing:
  - Office and amenities areas,
  - Storage area
  - Designated covered parking area for parking of cement trucks,
  - Designated covered wash bay for cement trucks.
- 1 large concrete batching plant which comprises partially enclosed conveyors and weighing hoppers.
- Designated visitor and employee car parking area.
- Designated parking area for concrete trucks.



Figure 4 Aerial Imagery of the Subject Site captured from the North (source: NearMap)

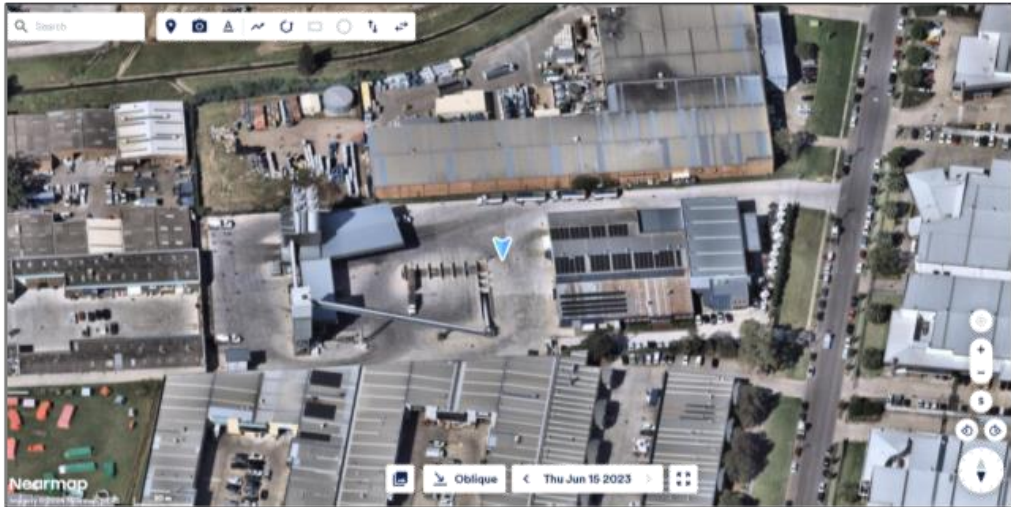


Figure 5 Aerial Imagery of the Subject Site captured from the South (source: NearMap)

### 3.4 SUITABILITY OF THE SITE

The key site-specific opportunities of the proposed increase in production and manufacture of concrete and concrete-related products are as follows.

The development site:

- is located in an area with planning controls that permit development as proposed;
- is of proportions able to support development of the scale proposed; and,
- is capable of supporting development as proposed without giving rise to undesirable visual or environmental impact.



## 4 Proposed Development

### 4.1 PROPOSED INCREASE IN PRODUCTION CAPACITY

The development application seeks consent for the operation of the existing CBP with a maximum annual production capacity of 500,000 tonnes of concrete or concrete products.

Although the plant currently operates under the consent granted by DA264/2018 (for designated development) with a production capacity of 300,000 tonnes per annum, provisions within the 2021 EP&A Regulation require modifications to approved designated development are to be sought by a new DA rather than a modification to the existing consent.

This context is relevant because the proposed increase, sought through this DA, will maintain the site's established operational features and environmental management protocols. There is no need for a new EIS or an extensive repeated assessment process by Council. For all intents and purposes the proposal is a modification to the existing consent.

To this end, the proposed increase in production capacity will:

- Use the existing plant infrastructure with no physical alterations or additional staff required;
- Maintain 24-hour operation with deliveries confined to 6am-6pm;
- Continue to operate under approved and well established environmental management and mitigation measures.

The additional production capacity will be achieved through more frequent operation of the CBP which currently operates below its physical capacity due to the development consent limitation of 300,000 tonnes. The increased output will involve more consistent operation during the approved 24-hour period with the batching plant infrastructure processing larger concrete orders more frequently. Delivery truck movements will increase but they will not rise proportionally with output as larger capacity trucks will be used.

There will be no alterations or additions required to the existing CBP to accommodate the increase in the annual production capacity and the plant will maintain all existing operational activities, environmental controls and management measures currently implemented on the site.

The proposed increase to production has been supported by addendum reports for:

- Acoustic impact assessment;
- Air quality
- Environmental Management Plan
- Environmental Risk Assessment;



- Traffic Impact Assessment
- Waste Management Plan

To provide context and maintain consistency with the existing consent, which approved the original specialist reports and addendum reports lodged with Modification C, this DA is accompanied by the original reports and those approved under Modification C.

## 4.2 OPERATIONAL DETAILS

There will be no change to the approved operational features of the CBP including staff numbers and hours of operation.

Relevant operational features are addressed below:

### 4.2.1 Hours of operation and deliveries

The increased production capacity will maintain the previously approved operating hours as per:

Condition 120 – 24 hour per day operation

Condition 121 – The delivery to the site of products and materials for the CBP shall only occur between the hours of 6:00 am to 6:00 pm Monday to Friday and 6:00 am to 1:00 pm on Saturday. No deliveries are permitted on Sundays or Public Holidays.

### 4.2.2 Staff

The number of staff employed on site will remain the same as that approved under the original consent.

## 4.3 BUILT FORM

No change is proposed to the CBP infrastructure, storage bins or existing building.

## 4.4 ACOUSTIC ASSESSMENT

The proposed development, involving no physical changes to the site, will have minimal acoustic impacts on the surrounding area.

The subject site is located in the Prestons industrial precinct and, along with surrounding sites, has been utilised for industrial purposes for an extensive period of time. Accordingly, industrial



related acoustic impacts generated by the site and its surrounds are not unfamiliar and typical for such areas.

For noise assessment purposes, maximum on-site operational noise will not increase as operational procedures are not expected to change given the absence of any physical changes. That is, plant operations at the site's 'busiest period' are restricted physically to a certain maximum noise output and cannot be increased.

On-site maximum noise will be unchanged as this is assessed using a 15-minute noise descriptor and the current busiest 15-minute noise on site will not increase. This noise level was assessed in previous Acoustic Reports at L Aeq,15-minute 46dBA, at the nearest potential noise receiver locations, compared to the noise goal for this noise source of 47dBA.

There will be an increase in traffic generated by the site due to increased numbers of raw material delivery vehicles and also a higher number of concrete agitator trucks. The acoustic assessment found that the traffic noise generated by the proposed increased output will comply with EPA guidelines for traffic noise

The noise assessment also found that the predicted traffic noise levels generated by the development, as measured at residential properties on Hoxton Park Road, was far less than the existing traffic noise levels generated by Hoxton Park Road. Ultimately, traffic noise generated by the proposed development will not be perceptible compared to the noise of general traffic.

It can be concluded that given the on-site noise will remain largely unchanged and the increase in traffic noise is imperceptible to nearby residential properties, adverse acoustic impacts because of the increased output will have minimal to no effect on surrounding sites.

**Reference should be made to the Acoustic Reports approved under DA264/2018 and DA264/2018C in addition to the revised assessment prepared to address the proposed increase to 500,000 tonnes per annum.**

#### 4.5 DDA ACCESS TO PREMISES STANDARDS

This proposed development, involving no physical changes to the site, will have no impact on compliance with access to premises standards.

#### 4.6 NATIONAL BUILDING CODE OF AUSTRALIA – BCA 2022

The proposed development, involving no physical changes to the site, cannot contravene any relevant provision of the *Building Code of Australia 2022* (BCA 2022) and therefore is entirely consistent with and satisfies the BCA 2022.



## 4.7 TRAFFIC AND PARKING

The Traffic and Parking Assessment accompanying this DA assessed the potential traffic implications associated with the proposed increase in production capacity and concluded:

- No changes are proposed to the existing staffing levels, truck fleet, site driveways, staff parking, the largest vehicle that will service the site or hours of operation;
- The surrounding road network operates with a satisfactory level of service during peak periods;
- The development is projected to generate an additional 43 ingress and 33 egress movements during the morning peak hour and 14 ingress and 40 egress movements during the evening peak hour. This represents approximately one additional vehicle movement per minute during the peak hours;
- During the AM peak hour, the right on the northern approach of Ash Road / Jedda Road is expected to continue to operate at Level of Service C post development with an increase in Degree of Saturation from 0.255 to 0.398 post development;
- During the PM peak hour, the right on the northern approach of Ash Road / Jedda Road is expected to operate at Level of Service C post development with an increase in Degree of Saturation from 0.28 to 0.417; and
- Based on the analysis and Sidra modelling undertaken, the surrounding road network is considered to be capable of accommodating the additional traffic projected to be generated by the subject development.

Based on the traffic assessment there are no parking or traffic related issues that should prevent approval of the subject application. **Reference should be made to the traffic advice accompanying this application.**

## 4.8 LANDSCAPING

The proposed development, involving no physical changes to the subject site, will have no impact on the existing landscaping treatments on site, or on surrounding sites.

## 4.9 SITE CONTAMINATION

The proposed development seeks no change from its current industrial use to a more sensitive land use and no physical changes to the existing sites are involved. Furthermore, as part of the recently issued development consent for industrial use, the contamination assessment found that the site did not present any significant risks and was therefore suitable for industrial development, which this proposal seeks to continue.



## 4.10 WASTE MANAGEMENT

Whilst the proposed development seeks an increase in production capacity by approximately 67% increase in waste will be less than 20%. This is because all waste product, except for general and recyclable waste generated by onsite staff is recycled and reused onsite. General and recyclable waste will not increase as there is no increase in staff at the facility. All other procedures, programs, and training and administrative measures in place for current on-site operations have been deemed adequate for the proposed development and no further changes are necessary or proposed.

**Reference should be made to the Addendum to the Waste Management Plan accompanying this application and the existing Waste Management Plan for DA 264/2018.**

## 4.11 STORMWATER MANAGEMENT AND WATER QUALITY

The proposed development, involving no physical changes to the subject site, seeks no change to the existing stormwater and wastewater management procedures. It is acknowledged there is a potential risk of wastewater release into the stormwater system, this is also the case for the current operations and the *Addendum to the Environmental Risk Assessment Report* and the *Addendum to the Environmental Management Plan* by Benbow Environmental concludes that this risk remains low for the proposed increased production rate.

All procedures relating to stormwater and wastewater management for current onsite operations have been deemed adequate for the proposed development to mitigate the associated environmental risks, and no further changes are necessary or proposed.

Reference should be made to the Addendum to the Environmental Risk Assessment Report and the Addendum to the Environmental Management Plan accompanying this application and the existing Environmental Risk Assessment Report and Environmental Management Plan for DA 264/2018 and its subsequent modifications.

## 4.12 ENVIRONMENTAL IMPACTS

As detailed in Section 2.3 of this Statement, alterations or additions to previously existing or approved development (which was originally identified as designated development) may not be considered to be designated development, pursuant to if it can be shown to the consent authority that the alterations or additions will not significantly increase the environmental impacts of the existing or approved development.

Upon review of the relevant considerations detailed in Clause 48(2) of Schedule 3, Part 3 of the *Environmental Planning and Assessment Regulation 2021*, this proposal does not significantly



increase the environmental impacts of the approved development on site and does not warrant a classification of designated development.

#### 4.12.1 Impact of Existing Development

In considering any increase in environmental impacts as a result of the proposed development, the consent authority must compare the effects of the existing approved development. In doing so, they must take into account the development's past environmental management performance, any necessary land restoration, and the cumulative effects of all past changes to the site.

##### Environmental management performance

Clause 48(2)(a)(i) requires the consent authority to consider the existing development's;

*"previous environmental management performance, including compliance with the conditions of any consents, licenses, leases or authorisations by a public authority and compliance with any relevant codes of practice,"*

Since the original approval of DA 264/2018, the existing development has complied with all relevant consent and licence conditions enforced by the development consent and its modifications, as well as all relevant codes of practice.

The facility was operating in accordance with the Environmental Protection Licence issued by the NSW Environment Protection Authority (**EPA**) for DA 264/2018 as part of its consent conditions. In 2021, this condition was removed as part of an approved s4.55(1A) modification (DA 264/2018/B), as the *Protection of the Environment Operations Act 1997 (POEO Act)* was amended, no longer requiring concrete batching works to operate under an Environmental Protection Licence from the EPA. It should be noted that modification DA 264/2018/B was referred to the EPA, with no objection being raised.

Regardless of any licence requirements, all operations on site must still fulfill the general requirements contained in the POEO Act. As set out in the *Environmental Management Plan (EMP)* for DA 264/2018/C, the objectives and requirements for minimising environmental impacts and avoiding environmental harm have been established and continue to be satisfied as part of the ongoing site operations.

The existing concrete batching plant has been operating in line with the respective conditions of consent of the original approval and all subsequent modifications, without concern from any relevant public authority and with no known complaint from the public. Consistency with the POEO Act and the appropriate codes of practice has been sustained through all previous applications as demonstrated in the addendum *Environmental Management Plan* by Benbow Environmental.

The addendum report states potential environmental impacts associated with the increase of production output include truck deliveries and pickups, dust emissions and noise. The report



confirms however that the mitigation measures included in the Environmental Procedures Manual will adequately cover the increase in output and with continued implementation of the mitigation controls, environmental risks associated with the increased production rate is low (page 2).

In evaluating the existing development's compliance with consent conditions, relevant licenses, and codes of practice in relation to environmental protection, it can be concluded that the environmental management performance of the existing development in the past has been exemplary.

#### Disturbed land

Clause 48(2)(a)(ii) requires the consent authority to consider, in relation to the existing development, the;

*"rehabilitation or restoration of any disturbed land,"*

Given that the proposed development does not involve any physical changes to the site, it therefore does not involve any rehabilitation or restoration of land.

#### Cumulative impact of past changes

Clause 48(2)(a)(iii) requires the consent authority to consider, in relation to the existing development;

*"the number and nature of all past changes and their cumulative effects,"*

A brief account of the site's development history is provided at section 2.2 however, this is expanded below, with particular focus on the three approved modifications and their effects in comparison to those of the original designated development approval issued on 11/03/2019.

A s4.55(1A) modification (DA 264/2018/A) was approved on 17/12/2020 and included various alterations and additions, such as a new staircase and extended storage areas, as well as three additional inground aggregate bins. Assessment concluded that this modification was substantially the same as originally approved with minimal impact and was not assessed as designated development.

A s4.55(1A) modification (DA 264/2018/B) was approved on 18/03/2021 and was primarily concerned with the deletion of conditions of consent relating to Environmental Protection Licence requirements. Upon referral to the EPA for comment on the proposed modification to these conditions, no objections or concerns were raised. The assessment concluded that this modification was substantially the same as previously approved with minimal impact, and was not assessed as designated development.

A s4.55(2) modification (DA 264/2018/C) was approved on 31/07/2023, for an increase in production capacity of the concrete batching plant from 200,000 tonnes per annum to 300,000 tonnes per annum. Updated reports for impacts relating to acoustics, air quality, environmental



management, environmental risk, traffic, and waste management were included as part of this modification application. Upon referral, the EPA raised no objections and TfNSW only made suggestions for the modified conditions of consent. Assessment concluded that this modification was substantially the same as previously approved, unlikely to result in additional impact and was not assessed as designated development.

Ultimately there has been very little physical change to the site arising from modifications to the originally approved designated development, with the only physical works taking place under DA 264/2018/A, and those being very minor alterations and additions to the site layout. The cumulative environmental impacts of these changes as well the most recently approved increase in production capacity approved under DA 264/2018/C can be considered minimal.

The proposed increase to production represents a 67% increase from the approved 300,000 tonnes annual production, and 150% increase from the originally approved development. However, consideration of quantitative changes alone is not a reliable method to assess any environmental impact.

Assessment should focus on actual impacts on to the surrounding environment including measuring changes to noise, traffic, air quality, water and waste management. The demonstrated operational success of the site and mitigation measures, which are demonstrated to be adequate for the proposed production increase, are directly relevant in assessing potential future impact.

#### Proposal Characteristics

In considering any increase in likely environmental impacts because of the proposed development, a consent authority must account for the nature of the proposal, any existing environmental features of the subject site, the accuracy of environmental impact prediction and the environmental capacity of the locality.

Clause 48(2)(b)(i) requires the consent authority to consider;

*“the scale, character or nature of the proposal in relation to the development,”*

The scale, character and nature of the proposal will remain largely unchanged. The character and nature of the proposal, being an industrial development for the use of a concrete batching plant is unaltered. The scale of the proposal, in terms of the size and layout of the site is also unaffected, with the only alteration being an increase in production capacity.

This alteration will not result in any changes that would substantially affect these aspects of the existing approved development.

#### Existing features

Clause 48(2)(b)(ii) requires the consent authority to consider;



*“the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is, or will be, carried out and the surrounding locality,”*

As there are no physical changes involved in the proposed development, there are no alterations and no subsequent impacts to the existing landscaping and vegetation on site.

The accompanying *Air Quality Impact Assessment* prepared by Benbow Environmental has determined that predicted emissions for increased operations at both residential and industrial receptors complied with the NSW EPA guidelines for cumulative air quality impacts. Some minor additional controls have been recommended as part of that assessment relating to management and inspection of loads. See the accompanying *Air Quality Impact Assessment* for more detailed analysis of air quality impact.

The accompanying *Acoustic Assessment* prepared by Sebastian Giglio has determined that the predicted acoustic impact from increased traffic activity is compliant with the NSW EPA guidelines for traffic noise. It also determined that due to the lack of physical changes to the site and the absence of any construction, on-site noise will largely be unchanged, with no recommendations for additional controls. See Section 4.4 for more detailed analysis of acoustic impact, as well as the accompanying *Acoustic Assessment*.

The accompanying *Addendum to the Waste Management Plan* and *Addendum to the Environmental Management Plan* prepared by Benbow Environmental has evaluated that any impact on surrounding water quality from the increase in production capacity is minimal. The various procedures in place for on-site stormwater management, wastewater recycling and disposal, chemical storage and spills have been considered sufficient and appropriate for this proposal, with no recommendations for additional controls.

As there are no physical changes involved in the proposed development there are no alterations and no subsequent impacts to the existing scenic character or special features of the subject site.

Analysis of the existing environmental features of the subject site and surrounding locality has determined that the additional impacts of the proposed increased operations on air, noise and water quality are minimal and manageable.

#### Prediction of impacts

Clause 48(2)(b)(iii) requires the consent authority to consider;

*“the degree to which the potential impacts can be predicted with adequate certainty,”*

Since the proposal is wholly for an increase in production capacity, with no physical changes involved, the potential environmental impacts associated with the proposed development are essentially the same in nature as the existing development. These impacts have been successfully identified, measured and managed by the existing development since its original approval.



The accompanying *Addendum to the Environmental Management Plan* prepared by Benbow Environmental identifies a number of potential environmental impacts associated with an increase in production capacity on site:

- Noise from operations, truck access/egress and truck loading/unloading;
- Dust and particulates from operations, storage, truck access/egress and truck loading/unloading;
- Potential release of wastewater, sludge or truck wash water into the stormwater system; and
- Chemical spills

The potential wastewater and chemical impacts have been assessed in concert with the existing safeguards and procedures in place for management of those risks. The accompanying *Addendum to the Environmental Risk Assessment Report* prepared by Benbow Environmental has determined that these risks are easily identifiable, manageable and low risk.

The predicted noise and air quality impacts have been assessed using the relevant NSW EPA guidelines. Specifically, the *Noise Policy for Industry*, *Road Noise Policy*, and *The Approved Methods for the Modelling and Assessment of Air Pollutants in NSW*. These impacts were predicted to comply with their relevant EPA guidelines.

#### Environmental capacity

Clause 48(2)(b)(iv) requires the consent authority to consider;

*“the capacity of the receiving environment to accommodate changes in environmental impacts,”*

The Prestons industrial precinct is well suited for this type and scale of development, being relatively isolated from residential areas and well-serviced by appropriate infrastructure, with appropriate measures and procedures already in place to manage environmental risks.

The additional environmental impacts of this proposal have been identified as minimal, and it can be concluded that the site and the surrounding industrial area in Prestons are more than capable of accommodating the predicted changes as a result of increasing production.

#### **4.12.2 Risk Management & Compliance Proposals**

Clause 48(2)(c)-(d) requires the consent authority to consider, in relation to the proposed development;

*c. proposals to mitigate the environmental impacts and manage residual risk,*

*d. proposals to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.”*

Since no physical changes are involved in this proposal, being wholly for an increase in production, therefore, the nature of the environmental risks and impacts associated with the



development remain unchanged. Accordingly, the nature of the procedures and programs employed by the development to address these impacts, risks, and compliance with legislation also remain unchanged.

The accompanying *Addendum to the Environmental Management Plan* prepared by Benbow Environmental recommends no changes to the existing procedures for environmental harm mitigation and management contained in the approved *Environmental Management Plan*. This document includes an Environmental Aspects Register, detailing the control measures relating to the various environmental risks associated with storage and processing on site. It also includes an Environmental Procedures Manual, with further detail of all appropriate procedures to mitigate harm and manage risks from site operations, as well as facilitating compliance with relevant standards and codes.

The accompanying *Addendum to the Waste Management Plan* prepared by Benbow Environmental recommends no changes to the existing procedures for environmental harm mitigation and management contained in the approved *Waste Management Plan*. This document includes controls regarding storage, recycling and disposal, as well as complaint and documentation protocols. It also includes training and administrative protocols to ensure all persons on site are familiar with the relevant environmental procedures.

The current on-site control measures and procedures have been considered sufficient to mitigate the minimal environmental impacts and manage the low risks associated with an increase in production capacity of the existing concrete batching plant, with no further controls or procedures being recommended. All existing environmental management procedures enable the proposed development to satisfy the relevant standards, codes of practice or guidelines published by the Department or other public authorities.



## 5 Relevant Planning Controls

The relevant environmental planning instruments and development controls are outlined below and comment on compliance provided.

### 5.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of land of *State Environmental Planning Policy (Resilience and Hazards) 2021* applies to this development and clause 4.6(1) specifies the consent authority consider land contamination before consenting to development.

The proposed development seeks no change from its current industrial use or to a more sensitive land use and no physical changes to the existing site are involved. Furthermore, as part of the recently issued development consent for industrial use, the contamination assessment found that the site did not present a significant risk to human health or the environment, did not require a remediation action plan, and was suitable for industrial development.

Due to the absence of any changes in the subject site's use or physical characteristics and its history of being free from any elements of significant environmental concern, it can be considered ultimately suitable to continue its purpose for this proposal.

### 5.2 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Clause 2.122 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* applies to this development and requires that any traffic-generating development be referred to Transport for NSW (TfNSW) for consideration. Schedule 3 details that an increase of 200 or more motor vehicles per hour for 'any other purpose' is considered an enlargement of an existing premises of traffic-generating capacity.

The projected increase in motor vehicles for the proposed development on the subject site is below 200 and as such, is not required to be referred to TfNSW.



## 5.3 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 6 – Water catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* applies to this development, as the subject site is located within the Georges River Catchment. As such, the consent authority must consider in its decision the impacts on water quality and flow caused by the development proposal.

No changes to the existing approved stormwater engineering plans are involved in this development proposal. The stormwater and water quality design requirements of this Policy have been previously demonstrated to Liverpool Council in the existing approved development applications with no adverse physical impacts on the catchment resulting from the existing or proposed development. Continued compliance with these requirements can be effectively ensured by the application of conditions of consent.

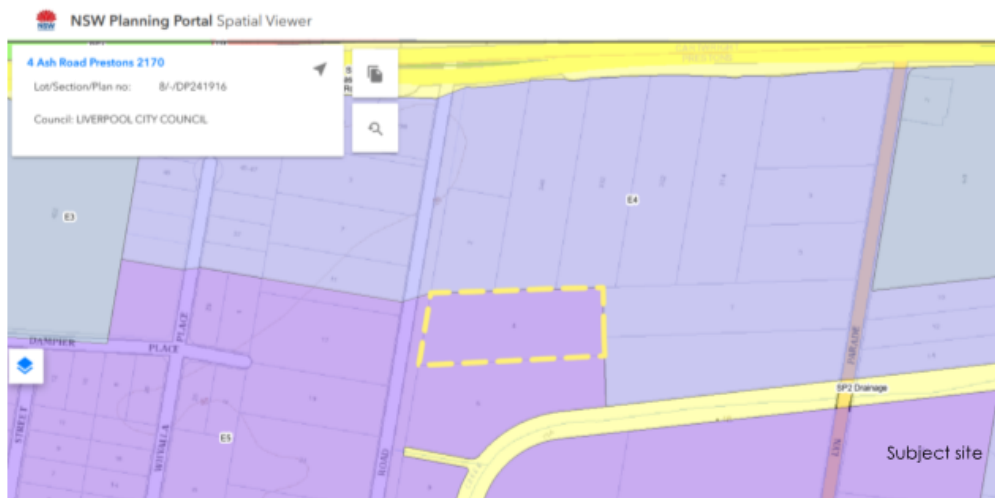
Due to the absence of any changes in the subject site's use or impervious surfaces, the existing stormwater and water quality management can easily accommodate the scale of this development proposal and can be considered to satisfactorily ensure that no adverse impacts are transmitted to the Georges River Catchment.

## 5.4 LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008

The site subject to this proposal is situated within the Liverpool LGA. In this regard the applicable LEP is the *Liverpool Local Environmental Plan 2008*. The clauses and provisions relevant to the proposal within the *Liverpool Local Environmental Plan 2008* are addressed below.

### 5.4.1 Zoning

The subject site is zoned E5 – Heavy Industrial pursuant to the *Liverpool Local Environmental Plan 2008*.



**Figure 6: Zoning of subject site (source: NSW Planning Portal)**

#### 5.4.2 Satisfying zone objectives

The objectives of the E5 zone are as follows:

- To provide areas for industries that need to be separated from other land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To preserve opportunities for a wide range of industries and similar land uses by prohibiting land uses that detract from or undermine such opportunities.

It is considered that the proposed use of the land continues to align with the objectives of the E5 zone in the Liverpool Local Environmental Plan 2008. That is, the proposal will continue to:

- Provide the site and wider locality with an industrial use in an appropriate, viable area.
- Provide and encourage employment opportunities within the immediate and wider locality.
- Manage any adverse impacts to other industries and land uses within the surrounding area.
- Support and protect industrial opportunities by continuing the site's existing industrial use of the land.



### 5.4.3 Permissibility

Land uses permissible with consent within the E5 – Heavy Industrial zone of the *Liverpool Local Environmental Plan 2008* are as follows:

#### 2 Permitted without consent

Nil

#### 3 Permitted with consent

Boat building and repair facilities; Building identification signs; Business identification signs; Crematoria; Data centres; Depots; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; General industries; Hazardous storage establishments; Heavy industrial storage establishments; Heavy industries; Horticulture; Industrial training facilities; Kiosks; Mortuaries; Offensive storage establishments; Oyster aquaculture; Recreation areas; Roads; Rural industries; Tank-based aquaculture; Warehouse or distribution centres

#### 4 Prohibited

Any development not specified in item 2 or 3

The approved CBP was defined as 'general industry'. The proposed modification to production output remains consistent with the definition of general industry.

### 5.4.4 Principal Development Standards

Part 4 development standards relevant to the proposed development are provided in the table below accompanied by a comment on this proposal's compliance.

Control	Comment
<b>4.1 Minimum subdivision lot size</b> 2,000m <sup>2</sup>	The subject site has a site area of 16,186.70m <sup>2</sup> and does not seek any alteration to the existing lot size.
<b>4.3 Height of buildings</b> 30m	The subject site's current development at its highest point is approximately 26.30m high, well below the maximum height standard of 30m. This height is entirely localised to the concrete batching plant portion of the site. Further, the proposal does not include any physical changes to the existing built form.
<b>4.4 Floor space ratio</b> NA	There is no control prescribed for the E5 zone in this location.

### 5.4.5 Miscellaneous Provisions

Part 5 of the *Liverpool Local Environmental Plan 2008* sets out many miscellaneous provisions involving different forms of development or development in sensitive or hazardous areas like bush fire and flooding, none of which are relevant to this proposal.



#### **5.4.6 Additional Local Provisions**

Part 7 of the *Liverpool Local Environmental Plan 2008* sets out provisions for consideration such as acid sulfate soils, dwelling density and special uses, none of which are relevant to this proposal.



## 6 s.4.15 Planning Assessment

In determining the environmental effects of a development proposal, the consent authority is required to consider those matters relevant as listed in section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters are listed below with commentary where required.

### 6.1 ENVIRONMENTAL PLANNING INSTRUMENTS

Clause 4.15(1)(a)(i) requires the consideration of the provisions of any relevant environmental planning instruments. The relevant environmental planning instruments have been identified and discussed in Section 5 of this statement. This proposal is permissible subject to the provisions of the *Liverpool Local Environmental Plan 2008*, and it is considered that the provisions of all other relevant environmental planning instruments have been satisfactorily addressed within Section 5 of this statement.

### 6.2 PROPOSED ENVIRONMENTAL PLANNING INSTRUMENTS

Clause 4.15(1)(a)(ii) requires the consideration of the provisions of any proposed instrument. At the time of preparing this application, no draft planning instruments were applicable to this proposal.

### 6.3 DEVELOPMENT CONTROL PLANS

Clause 4.15(a)(iii) requires the consideration of the provisions of any relevant development control plan. The *Liverpool Development Control Plan 2008* applies to this proposal, and it is considered that the proposal is consistent with the relevant aims and objectives of the DCP. A summary of the relevant controls prescribed by Parts 1 and 7 of the DCP and commentary is provided at **Appendix 1**.

While the DCP is a relevant consideration when determining this proposal, Council is reminded that the proclamation of the *Environmental Planning and Assessment Amendment Act 2012* on 1 March 2013 confirmed the status and weight that should be placed on development control plans when making a determination of a development application. The amendments to the *Environmental Planning and Assessment Act 1979* clarified the purpose, status and content of development control plans (DCPs), and how they are to be taken into account during the development assessment process.



The Amendment Act makes it clear that the **principal purpose of a DCP is to provide guidance to a consent authority** on land to which the DCP applies.<sup>1</sup>

The Amendment Act reinforces that the **provisions contained in a DCP are not statutory requirements and are for guidance purposes only**. Furthermore, it should be noted that the weight a consent authority gives to a DCP in assessing a development application will depend on a number of factors, including whether the DCP provides a sensible planning outcome.

The Amendment Act confirms that Council can confidently apply development control plans **flexibly** and if a development application does not comply with provisions in a DCP, a consent authority **must be flexible** in the way it applies the controls and also allow for reasonable alternative solutions to achieve the objectives of those standards.

**Reference should be made to Appendix 1 of this Statement.**

## 6.4 ANY PLANNING AGREEMENT

Clause 4.15(1)(a)(iii) requires the consideration of the provisions of any planning agreement. This proposal is not subject to any planning agreement.

## 6.5 THE REGULATIONS

Clause 4.15(1)(a)(iv) requires the consideration of the relevant matters of the *Environmental Planning and Assessment Regulation 2021*. The relevant clauses contained in Part 4 – Determination of development applications are not considered applicable to this proposal since no physical works are involved in the proposed development.

## 6.6 LIKELY IMPACTS

Clause 4.15(1)(b) requires the consideration of the likely impacts of development, including impacts in the natural and built environment, as well as the social and economic impacts in the locality. The relevant matters are addressed below.

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<sup>1</sup> State of New South Wales through the Department of Planning & Infrastructure, 18 March 2013, Planning System Circular, PS 13-003.



### 6.6.1 Impacts on the Natural Environment

The proposed development is considered to have minimal to no impacts on the natural environment within its locality. The proposal does not include any physical changes to the site, so no loss of vegetation or significant trees are involved. As previously discussed in Section 4.12 of this Report, the increase in production capacity as detailed in this proposal will not significantly increase the environmental impacts of the existing development. In the attached Addendum to the Environmental Management Plan by Benbow Environmental, it concludes that:

*The potential environmental impacts from the increase in production rate is deemed negligible. ... and environmental risk as a result of the development would remain low.*

Since the increase in production rate wholly encompasses the development proposal, involving no physical changes on site, then it is concluded that the likely impacts of this development on the natural environment are negligible.

Reference should be made to the attached EMP/ERA accompanying this Application.

### 6.6.2 Impacts on The Built Environment

The proposed development is considered to have minimal impacts on the built environment within its locality. Relevant matters are addressed in the items below.

#### Bulk and scale

The development proposal, involving no physical changes to the site and only encompassing an increase in production rate, poses no additional impact to the surrounding built environment in terms of its bulk and scale.

#### Overshadowing

The development proposal does not include any physical changes to the site and solely involves an increase in production rate, having no additional impact on the surrounding built environment in its overshadowing.

#### Privacy and visual impacts

The development proposal does not include any physical changes to the site and only encompasses an increase in production rate, therefore, there can be no additional impacts to privacy or any additional visual impacts.

#### Acoustic

The development proposal does not include any physical changes to the site and only encompasses an increase in production rate, therefore, it will have minimal additional acoustic impacts on the surrounding built environment.



Given the on-site noise will remain largely unchanged and the increase in traffic noise is imperceptible to nearby residential properties, adverse acoustic impacts as a result of the proposed development will have minimal to no effect on the surrounding built environment. Refer to Section 4.4 above for discussion on acoustic impact

#### Traffic and parking

Based on the traffic assessment and Sidra modelling undertaken, the surrounding road network is considered to be capable of accommodating the additional traffic projected to be generated by the subject development. Refer to Section 4.7

#### Social and economic impacts

The assessment has demonstrated that the increased output of concrete products will be suitably managed by existing onsite environmental protocols and there will be no increased social impact expected. The increased production will support the company's ongoing operation, and provide crucial construction materials required for Sydney's infrastructure development.

## 6.7 SUITABILITY

Clause 4.15(1)(c) requires the consideration of the suitability of the site for development. The existing development site and adjacent sites do not provide any significant constraints which would render the site unsuitable for the development as proposed. Further, being located in an existing, well-serviced heavy industrial precinct, the subject site is more than suitable for a production increase of the kind detailed in this development proposal.

## 6.8 SUBMISSIONS

Clause 4.15(1)(d) requires the consideration of any submissions made in reference to this proposal. Any relevant submissions will require consideration by the consent authority in the determination of this proposal. The applicant will also seek the opportunity to respond to submissions if received after exhibition of this proposal.

## 6.9 PUBLIC INTEREST

Clause 4.15(1)(e) requires the consideration of the public interest. The public interest is best achieved by the orderly and economic use of land for permissible purposes that do not impact unreasonably on development and/or enjoyment of surrounding land. In this case, it is



considered that this proposal represents an efficient, orderly and economic use of land while also satisfying the need for;

- Well-designed forms of industrial development,
- Continued industrial uses of land on sites that are appropriately zoned and sited (such as the site subject to this proposal), and,
- An adequate amount of off-street vehicular car parking available for employees and customers attending sites such as the one subject to this proposal.

## 6.10 DEVELOPMENT CONTROL PLANS

Clause 4.15(3A) allows the consideration of provisions in a development control plan but requires flexibility in the application of any provision and to allow reasonable alternative solutions that can achieve the objects of those provisions.

Since the proposed development does not involve any physical changes to the subject site, many of the design provisions included in Parts 1 and 7 of the Liverpool Development Control Plan 2008 are not relevant to this proposal. Those controls that are relevant have been evaluated against the proposal, with total compliance achieved.

**Reference should be made to Appendix 1 for a summary of the relevant development controls and this proposal's compliance with those controls.**



## 7 Conclusion

The proposal to increase the production capacity of the existing CBP from 300,000 to 500,000 tonnes per annum is a logical and necessary outcome to meet growing demand for concrete in Sydney. The proposed increase will be consistent with the original and modified development consent and will maintain all required environmental management protocols.

The supporting addendum reports addressing potential impacts including traffic, noise, air quality and water management and environmental mitigation measures demonstrate that the increased output will continue to comply with the applicable environmental protocols and will not result in significant impact to the amenity of the surrounding neighbourhood or environment.

Overall, the proposal will ensure the continued operation of a significant industrial development which provides economic benefits and employment opportunities to the region, with minimal impact to the locality.

The development is fully supportable in terms of planning, environmental, social, and economic considerations, and it complies with Liverpool LEP, Liverpool DCP and the EP&A Act 1979.



# Appendix 1 –Development Control Consistency Summary Table

The following table summarises the **most relevant** development controls in the *Liverpool Development Control Plan 2008* and compliance with such controls. Note that only those provisions considered applicable to the proposed modification are included in the assessment table.

Clause	Guidance	Comment	Consistency
<b>Part 1 – General Controls for all Development</b>			
<b>1. Preliminary</b>			
<b>1.0 – 1.2</b>	This section includes the Vision and Objectives of this DCP, as well as the application and structure. Applies to all land in the Liverpool LGA.	Noted – Part 1 of this DCP applies to the subject site.	YES
<b>2. Tree Preservation</b>			
	This section provides controls for development involving the removal of trees.	N/A – the proposed development does not involve the removal of trees and the subject site does not include any significant vegetation.	YES
<b>3. Landscaping and Incorporation of Existing Trees</b>			
<b>3.0 – 3.4</b>	These clauses provide various controls and requirements for the protection of existing trees, vegetation and landscape during development.	N/A – the proposed development does not involve any physical changes to the existing subject site, which does not include significant vegetation.	YES
<b>4. Bushland and Fauna Habitat Preservation</b>			
	This section provides controls for development on land which contains or is adjacent to bushland, or contains known/potential habitats for threatened species, populations or communities.	N/A – the subject site does not contain or is adjacent to bushland or known/potential habitats for threatened, species, populations or communities, nor does it have the potential to adversely affect existing bushland.	YES
<b>5. Bush Fire Risk</b>			
	This section provides controls for development on land identified as being Bushfire Prone Land by Liverpool City Council.	N/A – the subject site is not identified on Liverpool City Council Bushfire Prone Land Maps as being bushfire prone or within a buffer zone.	YES
<b>6. Water Cycle Management</b>			
<b>6.0 – 6.8</b>	This section provides controls and requirements for development involving additional buildings or hard surface areas.	N/A – the proposed development does not involve any additional buildings or increase to impervious surface.	YES
<b>7. Development near a Watercourse</b>			
	This section provides controls for development on land within 40m of a watercourse, creek, or river.	N/A – the subject site is not within 40m of a watercourse, creek or river.	YES
<b>8. Erosion and Sediment Control</b>			
<b>8.0 – 8.1</b>	This section provides controls for development that involves clearing, levelling, shaping,	N/A – the proposed development does not involve the alteration of the existing soil surface, or the placement of any fill	YES



Clause	Guidance	Comment	Consistency
	excavation of the existing soil, or placement of fill on-site, or changes in runoff entering a waterbody or overland flow.	on the subject site, nor is there any expected changes in the rate/volume of runoff entering a nearby waterbody/overland flow.	
<b>9. Flooding Risk</b>			
9.1 – 9.6	This section and subsequent clauses provide controls for development on land identified as at or below the flood planning level.	N/A – the subject site is not at or below the flood planning level.	YES
<b>10. Contaminated Land Risk</b>			
	<p>Applies to land identified as being potentially or actually contaminated –</p> <p>Also applies to past/current uses of:</p> <ul style="list-style-type: none"> <li>- Agricultural/horticultural activities</li> <li>- Airports</li> <li>- Asbestos production/disposal</li> <li>- Batteries manufacture and recycling</li> <li>- Chemicals such as or manufacture of acid/alkali products, adhesives/resins, dyes, explosives, fertiliser, flocculants, foam production, fungicides, herbicides, paints, pesticides, pharmaceuticals, Service stations and fuel storage facilities</li> <li>- Defence work</li> <li>- Drum reconditioning</li> <li>- Dry cleaning</li> <li>- Electrical</li> <li>- Engine works such as mechanics and air conditioning repairers</li> <li>- Foundries</li> <li>- Gas works</li> <li>- Iron and steel works</li> <li>- Landfill sites</li> <li>- Marinas</li> <li>- Metal treatments</li> <li>- Mining and extractive industries</li> <li>- Photography, rubber manufacture and solvents</li> <li>- Power stations</li> <li>- Printing shops</li> <li>- Railway yards</li> <li>- Scrap yards</li> <li>- Sheep and cattle dips</li> <li>- Smelting and refineries</li> <li>- Tanning and associated trades</li> <li>- Water and sewage treatment plants</li> <li>- Wood preservation</li> </ul>	N/A No site works are proposed	N/A



Clause	Guidance	Comment	Consistency
<b>11. Salinity Risk</b>			
	This section provides controls for development on land which is identified on salinity potential maps or in an urban area that may affect salinisation processes.	N/A – the subject site is not identified on salinity potential maps or is within an urban area that may affect salinisation processes.	YES
<b>12. Acid Sulfate Soils Risk</b>			
	This section provides controls for development on land identified as having an acid sulfate soil potential or any development involving drainage or excavation.	N/A – the subject site is not identified as having acid sulfate soil potential and the proposed development does not involve drainage or excavation.	YES
<b>13. Weeds</b>			
	This section provides controls for the removal of noxious weeds along with the development of land.	N/A – the subject site has not been identified as containing noxious weeds.	YES
<b>14. Demolition of Existing Developments</b>			
	This section provides controls and requirements for development involving the demolition of an existing building.	N/A – the proposed development does not involve the demolition of an existing building.	YES
<b>15. On-site Sewage Management Systems (OSMS)</b>			
	This section provides controls for land that does not have access to a reticulated sewerage system and all existing/proposed on-site sewage management systems.	N/A – the proposed development has access to a reticulated sewerage system and does not include an on-site sewage management system.	YES
<b>16. Aboriginal Archaeology</b>			
	This section provides controls and requirements for development on which Aboriginal sites, places or relics have been identified previously, or identified cultural landscapes or sites that have not been cleared.	N/A – the subject site is not a previously identified Aboriginal site, or identified cultural landscape and has already been cleared.	YES
<b>17. Heritage and Archaeological Sites</b>			
	This section provides requirements for development affecting a heritage item or land in a heritage conservation area or land in close proximity to a heritage item.	N/A – the proposed development does not involve a heritage item, archaeological site, or land within a heritage conservation area, nor is it in the vicinity or likely to affect items of this kind.	YES
<b>19. Used Clothing Bins</b>			
	This section provides controls for the location and operation of used clothing bins within certain land use zones.	N/A – the proposed development does not involve used clothing bins.	YES
<b>20. Car Parking and Access</b>			
<b>20.1 Overall Design Considerations</b>	This clause provides controls for the general design and layout of the car parking area.	N/A – the proposed development does not involve any changes to the existing approved car parking layout. No physical changes are proposed.	YES



Clause	Guidance	Comment	Consistency
<b>20.2 Vehicular Access Arrangement and Manoeuvring Areas</b>	This clause provides controls for the location, type and design of vehicular access points to development.	N/A – the proposed development does not involve any changes to the existing approved vehicular access points. No physical changes are proposed.	YES
<b>20.3 On-Site Car Parking Provision and Service Facilities by Land Use</b>	This clause provides controls for the provision of on-site parking in developments.	N/A – the proposed development does not involve any changes to the existing approved provision of on-site parking. No physical changes are proposed.	YES
<b>20.4 Car Parking Design</b>	This clause provides controls for the dimensions of car parking bays and landscaping within car parking areas.	N/A – the proposed development does not involve any changes to the existing approved car parking bays or landscaping within car parking areas. No physical changes are proposed.	YES
<b>20.5 Internal Driveways</b>	This clause provides controls for the gradient and widths and design of internal driveways within development.	N/A – the proposed development does not involve any changes to the existing approved internal driveways. No physical changes are proposed.	YES
<b>20.7 Driveway Crossings</b>	This clause provides controls for the location, design and width of driveway crossings.	N/A – the proposed development does not involve any changes to the existing approved driveway crossings. No physical changes are proposed.	YES
<b>20.8 Pavement requirements</b>	This clause provides a direction for the standard of pavement for access driveways, internal driveways and car parking spaces.	N/A – the proposed development does not involve any changes to the existing approved pavement. No physical changes are proposed.	YES
<b>20.9 Transport Impact</b>	<p><b>Transport Management Plan</b> For major developments a Transport Management Plan shall be submitted with the development application. The Transport Management Plan shall address the following:</p> <ol style="list-style-type: none"> <li>1. The existing traffic environment</li> <li>2. Traffic generation anticipated from the proposed development</li> <li>3. The cumulative impact of traffic in the locality</li> <li>4. The need for traffic improvements in the locality</li> <li>5. The need for public transport works on site and in the locality</li> <li>6. Proposed traffic egress/ingress to Classified/Sub Arterial Roads</li> <li>7. Sight distance and other safety issues</li> </ol>	<p>N/A – the scale of the proposed development, not involving any physical changes to the site, does not warrant a classification of 'major development' and therefore a Transport Management Plan is not necessary.</p> <p>See Traffic Impact Assessment accompanying this DA</p>	YES
<b>21. Subdivision of Land and Buildings</b>			
<b>21.1 – 21.7</b>	This section and subsequent clauses provide controls for a range of development types involving the subdivision of land or buildings.	N/A – the proposed development does not involve the subdivision of land or buildings.	YES
<b>22. Energy Conservation</b>			
	This section provides guidelines for developments to improve their energy efficiency.	Complies – the proposed development does not involve any new building or improvements to an existing building.	YES
<b>23. Reflectivity</b>			



Clause	Guidance	Comment	Consistency
	This section provides controls to minimise the reflection of sunlight from buildings to surrounding areas.	N/A – the proposed development does not involve any new building or improvements to an existing building.	YES
<b>24. Landfill</b>			
	This section provides controls for development involving the cutting and/or filling of land.	N/A – the proposed development does not involve any cutting or filling of land.	YES
<b>25. Waste Disposal and Re-use Facilities</b>			
<b>Non-residential development</b>	1. Development applications for all non-residential development must be accompanied by a waste management plan. 2. The waste management plan must be prepared by a specialist waste consultant.	Complies – see the Waste Management Plan submitted with this application.	YES
<b>26. Outdoor Advertising and Signage</b>			
<b>26.1 – 26.5</b>	This section provides controls for development involving outdoor advertising and signage.	N/A – the proposed development does not involve any outdoor advertising and signage.	YES
<b>27. Social Impact Assessment</b>			
	This section provides requirements for certain types of development to prepare a social impact assessment.	N/A – the proposed development is not a type of development for which a social impact assessment is required by Council.	YES
<b>28. Shopping Trolleys</b>			
	This section provides controls for development involving the use of shopping trolleys for customers.	N/A – the proposed development will not involve the use of shopping trolleys for customers.	YES
<b>29. Safety and Security</b>			
<b>29.1 – 29.2</b>	This section and subsequent clauses provide guidelines for new development to ensure that their design encourages safety, security and accessibility for all.	N/A – the proposed development does not involve any newly designed building or improvement to an existing building.	YES
<b>30. Additional Uses</b>			
This section provides controls for miscellaneous land uses not related to the current activity or the proposed modifications			
<b>30.1 Restricted Premises</b>	This clause provides a range of design, siting and signage controls to apply to restricted premises within particular land use zones.	N/A – the subject site is not a restricted premise under the LLEP 2008.	YES
<b>30.2 Non Business Uses</b>	This clause provides a range of controls to ensure the compatibility of non business developments within a business land use environment.	N/A – the subject site is not within a Business land use environment (i.e. E1, E2, MU1 and E3 zones).	YES
<b>30.3 Restaurants / Outdoor Cafes</b>	This clause provides general controls for outdoor eating in conjunction with restaurants and cafes within the public domain.	N/A – the current/proposed use does not include any outdoor eating areas within the public domain.	YES
<b>30.4 Child Care Centres</b>	This clause provides controls for the protection of operations for	N/A – the current/proposed use does not include a child care centre.	YES



Clause	Guidance	Comment	Consistency
	child care centres within business zones.		
<b>Part 7 – Industrial Development</b>			
<b>1. Preliminary</b>			
	This section outlines the application of this Part as well as the background and objectives of the included design requirements.	Noted – Part 7 of this DCP applies to the subject site.	YES
<b>2. Site Area</b>			
	Minimum site area of an allotment: 2,000sqm.	Complies – the site area is well over 2,000m <sup>2</sup> .	YES
<b>3. Site Planning</b>			
	1. Where possible, site planning allows for the retention of significant trees and vegetation, particularly near the street frontage. 2. The development must be designed around the site attributes such as slope, existing vegetation and land capability.	N/A – the proposed development does not involve any changes to the existing site layout, including any trees or vegetation.	YES
<b>Specific Controls for Prestons Industrial Area</b>	These controls apply to land on archaeologically significant or heritage sites, and electricity easements.	N/A – the subject site is not on an archaeologically significant or heritage site and is not on any known easement area.	YES
<b>4. Setbacks</b>			
<b>All other street frontages:</b>	Primary Setback (Ground Floor) – 10m Primary Setback (First Floor) – 7.5m Secondary Setback – 5m	N/A – the proposed development does not involve any change in the setbacks for the existing building.	YES
<b>5. Landscaped Area</b>			
	This section provides requirements for landscaping within the development site area.	N/A – the proposed development does not involve any change to the existing landscaping within the site area. No physical changes are proposed.	YES
<b>6. Building Design, Streetscape and Layout</b>			
<b>Façade treatment</b>	These controls provide a range of requirements for the façades to a development.	N/A – the proposed development does not involve any change to the existing approved façade. No physical changes are proposed.	YES
<b>Materials &amp; Colours</b>	These controls provide requirements for the colours and materials used in development.	N/A – the proposed development does not involve any change to the existing approved materials and colours used on site. No physical changes are proposed.	YES
<b>Building design</b>	These controls provide a range of requirements for the interior and exterior design of the buildings in developments.	N/A – the proposed development does not involve any change to the existing approved building design on site. No physical changes are proposed.	YES
<b>Lighting</b>	These controls provide requirements for the lighting in developments.	N/A – the proposed development does not involve any change to the existing approved lighting arrangements on site. No physical changes are proposed.	YES
<b>Facilities</b>	This provides a direction for the integration of facilities within architectural features of the building.	N/A – the proposed development does not involve any change to the existing approved location of facilities on site. No physical changes are proposed.	YES
<b>Service Areas</b>	This provides a requirement for the location of service areas to be screened from view.	N/A – the proposed development does not involve any change to the existing approved location of service areas on site. No physical changes are proposed.	YES
<b>7. Landscaping and Fencing</b>			



Clause	Guidance	Comment	Consistency
<b>Landscape treatment in Industrial Areas</b>	These controls provide a range of directions for the nature and location of landscaping within industrial areas.	N/A – the proposed development does not involve any change to the existing approved landscape treatment on site.	YES
<b>Trees</b>	These controls provide a range of directions for the planting of trees.	N/A – the proposed development does not involve any planting of trees.	YES
<b>Fences at Front Boundary</b>	These controls provide a range of directions for fencing along the front boundary.	N/A – the proposed development does not involve any change to the existing approved front boundary fencing on site.	YES
<b>Screen Fencing</b>	These controls provide requirements for fencing to screen areas.	N/A – the proposed development does not involve any change to the existing approved screen fencing on site.	YES
<b>Detailed Landscape Plan</b>	A detailed landscape plan shall accompany a development application. A suitably qualified Landscape architect must prepare all Landscape Plans submitted with the development application. Refer to Part 1 for requirements for Detailed Landscape Plans.	N/A – since the proposed development does not involve any alteration to the existing approved landscape plan, it is not necessary to prepare a detailed landscape plan as there are no changes and subsequently the landscaping should not be a factor in this development assessment.	YES
<b>8. Car Parking and Access</b>			
	<p>1. The layout of driveways to loading docks must enable heavy vehicles to:</p> <ul style="list-style-type: none"> <li>- Enter and exit the site in a forward direction.</li> <li>- Park within designated loading areas.</li> <li>- When possible, loading docks are to be located in areas that: <ul style="list-style-type: none"> <li>a. Are not exposed to public streets.</li> <li>b. Are generally separate from and do not interfere with car parking areas.</li> </ul> </li> </ul> <p>2. Car parking areas are to be landscaped to provide shade and reduce the visual impact of parked cars.</p> <p>3. Provide a 2.5m wide landscape bay between every 6-8 car spaces.</p>	N/A – the proposed development does not involve any changes to the existing approved layout of driveways and loading docks, as well as the landscaping of the car parking areas.	YES
<b>9. Amenity and Environmental Impact</b>			
<b>External Industrial Activities</b>	<p>1. External processes in an industrial area and storage of materials will not be permitted along a Classified Road frontage or a road frontage opposite a residential area.</p> <p>2. Storage and processing of motor vehicles, concrete, soil, glass and other similar components or materials shall be totally screened by fencing and dense landscaping (refer to Landscaping and Fencing and Section 4 Landscaping and Existing Trees in Part 1).</p> <p>3. The maximum height of a stockpile for the recycling of motor vehicles, concrete, soil, glass and other similar</p>	<p>N/A – the subject site does not have a Classified Road frontage or a road frontage opposite a residential area.</p> <p>N/A – the proposed development does not involve any changes to the existing approved arrangement of screening of storage and processing areas by fencing and landscaping.</p> <p>Noted.</p>	YES



Clause	Guidance	Comment	Consistency
	components or materials shall be 6m.		
<b>Noise</b>	In order to comply with the <i>Protection of the Environment Operations Act 2008</i> it may be necessary to construct external works. Mounding, planting and/or noise barriers may be permitted to reduce the impact of noise levels, provided that this does not compromise any other provision in the DCP.	Noted – according to the associated Acoustic Assessment by Sebastian Giglio, on-site noise will be largely unchanged as a result of this development proposal.  It also found that the traffic noise generated by the proposed development would comply with all relevant guidelines for traffic noise.	YES
<b>Hazardous materials and hazardous operation</b>	Certain industrial processes are identified as <i>Designated Development</i> under the <i>Environmental Planning and Assessment Act 1979</i> . It will be necessary to contact the NSW <i>Department of Planning</i> for their requirements for the preparation of an environmental impact statement.	Noted – Part 3 of Schedule 3 in the <i>Environmental Planning and Assessment Regulation 2021</i> specifies exceptions to development involving alterations or additions being considered designated development. See Section 2.3 above for more information.	YES
<b>Hours of operation</b>	Development which would have an adverse impact on adjoining or nearby residential areas will be limited to 7 am to 6 pm Monday to Friday and 7 am to 12 pm on Saturday and no work to be undertaken on Sundays.	N/A – the proposed development does not involve any change to the existing hours of operation and is located nearby any residential areas.	YES
<b>Land in C2 Environmental Conservation zone at Prestons</b>	Where a proposal is likely to adversely impact on bushland on the C2 zoned land, a Vegetation Management Plan (VMP) for the conservation of the bushland shall be submitted. The VMP shall be undertaken in accordance with the pertinent NSW Office of Water Guidelines.	N/A – the proposed development is not located in the vicinity of bushland on C2 zoned land, and therefore is highly unlikely to adversely impact this land.	YES
<b>Contamination</b>	Any DA for land identified as potentially contaminated by prior land use activities and shown in Figure 11, must be supported by a phase 1 contamination assessment.	N/A – the subject site is not identified as potentially contaminated and not shown in Figure 11 of this DCP.	YES
<b>10. Site Services</b>			
	This section provides controls and requirements for developments to ensure efficient services are provided and maintained such as numbering, waste management, frontage works or electricity sub stations.	N/A – the proposed development does not involve any change to the existing site servicing.	YES
<b>11. Change of Use of Existing Buildings</b>			
	This section provides controls and requirements for developments involving a change of use of existing buildings.	N/A – the proposed development does not involve a change of use of the existing building on site.	YES
<b>12. Non Industrial Developments</b>			
<b>12.0 – 12.7</b>	This section and subsequent clauses provide controls for the safe operation of non industrial land uses within industrial zones.	N/A – the proposed development does not involve a non industrial land use within an industrial zone.	YES

<b>Item Number:</b>	2
<b>Application Number:</b>	DA-267/2025
<b>Proposed Development:</b>	Works to the external façade of the existing building, comprising installation of additional louvres to improve ventilation.
<b>Property Address</b>	Civic Place, 40-52 Scott Street, Liverpool NSW 2170
<b>Legal Description:</b>	Lot 1 DP 1293937
<b>Applicant:</b>	Knight Frank (Aust) P/L
<b>Land Owner:</b>	Liverpool City Council
<b>Cost of Works:</b>	\$385,000.00
<b>Recommendation:</b>	Approved subject to conditions of consent
<b>Assessing Officer:</b>	Leena Sebastian – Monteath & Powys

## 1. EXECUTIVE SUMMARY

This development application (DA) seeks approval for the installation of louvres on the external facade of the subject building to improve the natural ventilation. Specifically, the proposed works are on levels 1, 2, 5 and 6 of the building to facilitate the relocation of University of Wollongong’s (UoW) south-western Sydney campus.

The site is legally described as Lot 1 in Deposited Plan 1293937 and is owned by Liverpool City Council. The subject building is a 14-storey mixed-use development which formed part of the concept approval granted under DA-585/2019 for Liverpool Civic Place. The development was originally approved to accommodate Council’s administrative offices and chambers (business premises) along with other commercial uses and a child care centre.

On 11 December 2024, the Liverpool Local Planning Panel (LLPP) approved DA-452/2024, which permitted a change of use on specific levels of the building from business premises to an educational establishment. As a result, minor upgrades are now required in select locations to meet the natural ventilation requirements in the Building Code of Australia corresponding to the building classification for the new use.

The DA was notified for 28 days between 2 July and 1 August 2025 in accordance with the requirements for Council-related applications in the Community Participation Plan 2022. No submissions were received during this period.

The proposed works are minor in nature and do not present any inconsistency with the existing approvals. In assessing the development in accordance with the requirements in the

*Environmental Planning and Assessment Act 1979* (the Act), it is considered to have merits for approval, subject to conditions of consent.

The application is referred to the Liverpool Local Planning Panel for determination, in accordance with the Liverpool Local Planning Panel's Direction – Development Applications and Applications to Modify Development Consent (dated 6 May 2024), as the development falls within the category of:

- *Conflict of Interest – Development for which Council is the landowner*

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

### **2.1 The site**

The site is legally described as Lot 1 in DP 1293937 and is known as 40–52 Scott Street, Liverpool. It comprises an irregularly shaped parcel of land with an area of 9,189 m<sup>2</sup>, forming part of the Liverpool Civic Place precinct at the southern end of the Liverpool CBD. The site is predominantly surrounded by roadways, with Scott Street and Macquarie Street forming its north-eastern and north-western boundaries respectively. Terminus Street adjoins the southern boundary, while George Lane abuts the eastern edge of the site.

Vehicular access is provided via a shared access driveway through the plaza off Scott Street, as well as from Terminus Street. A two-storey heritage-listed building of local significance, the Memorial School of Arts, is located in the north-western portion of the site. The subject building is situated along the Terminus Street frontage, behind the heritage item and the public library.

The site is zoned MU1 Mixed Use under the Liverpool Local Environmental Plan. The original development consent under DA-585/2019 (as modified) approved public administration uses (business premises) across eight levels, four levels of commercial space, retail uses on the lower and upper ground levels, and a childcare centre on Level 6. Subsequently, portions of the building initially approved for Council administration, and the childcare centre were approved for use as an educational establishment under DA-452/2024, to facilitate the relocation of the University of Wollongong's south-western Sydney campus.

Construction of the subject building and the adjoining public library was completed in October 2023. Both buildings are now operational.

Figure 1 shows the aerial photo of the site.



Figure 1: Aerial Photo of the Site (Source: MetroMap, June 2025)

## 2.2 The locality

The site is strategically located near public transport, retail amenities, and healthcare facilities. Liverpool Train Station is situated approximately 350 metres to the east and is within easy walking distance. The Liverpool shopping precinct and Liverpool Hospital are located within a 1-kilometre radius of the site. The nearest bus stop is conveniently located at the site's frontage on Scott Street.

To the west of the site is a nine-storey mixed-use development, while to the east, across Scott Street, are two-storey commercial buildings. Opposite the site along both Terminus Street and Scott Street are buildings ranging in height from one to four storeys

To the west of the site, beyond the railway line is Georges River. Several heritage items of local significance are located in the vicinity of the site.



Figure 2: Context and Setting of the Site (Source: Six Maps, November 2024)

### 3. BACKGROUND/HISTORY

Subject building forms part of Liverpool Civic Place which was approved as a regionally significant development to transform the southern end of the CBD into a vibrant precinct containing a mix of civic, commercial and cultural activities. Existing approvals and other applications of relevance to the proposal are briefly outlined below:

- **DA-585/2029 approved on 15 September 2022** – Concept approval for Liverpool Civic Place by the Sydney Western City Planning Panel (the Regional Planning Panel - RPP) set the building envelopes, land uses, and public domain areas for the precinct.
- **DA-836/2020 approved on 5 July 2021** – Detailed DA for the construction of Phase A of the Liverpool Civic Place containing the subject building, adjoining 6-storey public library and the public domain area was approved by the RPP. This consent was amended on several occasions to modify the design and the timing of the works, with the current consent being DA-836/2020/E.

An important aspect of this approval is Condition 13 which requires any design change to be reviewed by a Design Integrity Panel (DIP) and appropriate recommendations made, to ensure the original design intent of DA-836/2020 is retained in all subsequent applications. A construction certificate (CC) cannot be

used unless written confirmation that the design intent has been achieved is obtained from the DIP.

- **DA-72/2024 approved on 26 November 2024** – This amending DA modified the concept approval DA-585/2019 to allow Residential Flat buildings and Shop Top Housing in Phase B of the Liverpool Civic Place. While this approval does not directly impact the subject application which is related to Phase A development, it is noted here for the record as an amendment to DA-585/2020.
- **DA- 452/2024 approved on 12 November 2024** – A concept approval for the change of use on part level 1, levels 2,3,5 & 6 of the subject building to an educational establishment (university) was granted by the LLPP. This approval did not include any physical works. Condition 1 of the consent requires all future applications associated with the change of use to be consistent with the original consent DA-836/2020, as modified. Additionally, any design changes are to be reviewed and endorsed by the DIP.
- **DA- 21/2025 approved on 10 April 2025** – Approval for Stratum subdivision of the site to create a Council stratum lot and two developer stratum lots designated for hotel development and commercial use respectively. The subject building is located on Council owned Stratum lot.

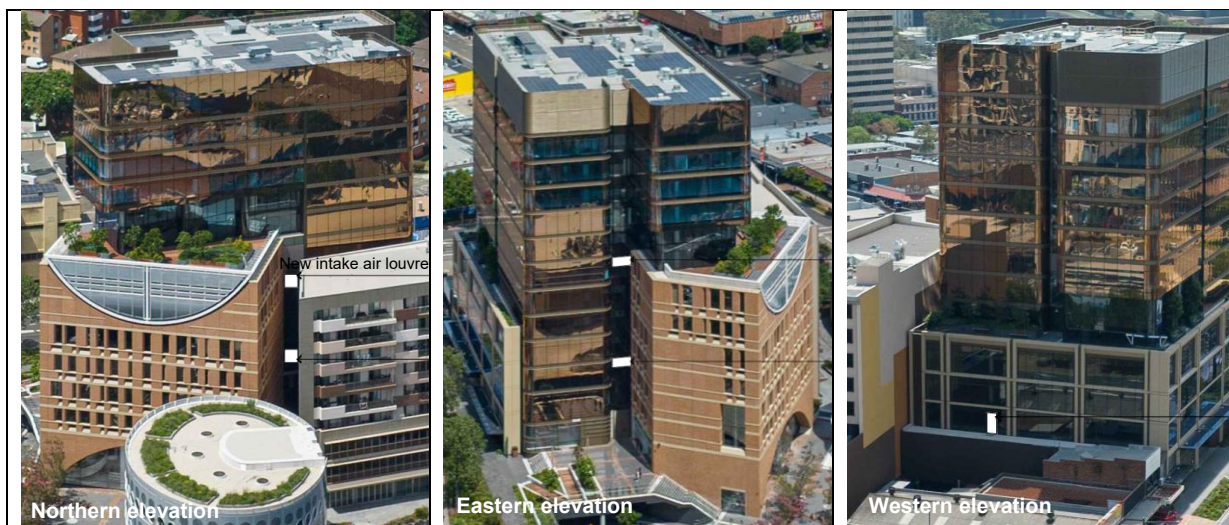
#### 4. DETAILS OF THE PROPOSAL

The proposal involves installation of additional louvres on the external facade of the subject building to comply with the natural ventilation requirements in the BCA for building class corresponding to educational establishments. The changes to each of the facades are detailed below:

- **North elevation** – A weatherproof discharge air louvre measuring approximately 3348 mm (W) x 500 mm (H) on Level 2, and an intake air louvre measuring approximately 3348 mm (W) x 600 mm (H) on Level 5.
- **East elevation** – Two new weatherproof intake air louvres, each measuring approximately 3127 mm (W) x 500 mm (H); one located on Level 2 and the other on Level 6.
- **West elevation** – The existing door providing access to the maintenance-only terrace on Level 1 will be replaced with a glass louvre panel door.

The proposed width and finishes of the louvres will match the existing and are located at the inlet or outlet of the mechanical ducting on respective levels.

Plans for the proposed development are provided in **Attachment 1**, and the proposed facade changes are illustrated in Figure 3. As indicated, due to the minor scale of the changes in comparison to the bulk and scale of the building, the proposed works are considered to be insignificant to the overall appeal of the development.



**Figure 3:** Illustration of the proposed façade works (Source: IA Design, February 2025)

## **5. STATUTORY CONSIDERATIONS**

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

The relevant environmental planning instruments and policies applicable to the proposed change of use are listed below:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity Conservation) 2021
- Liverpool Local Environmental Plan 2008
- Liverpool Development Control Plan 2008
- Community Engagement Strategy 2022

## **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) State Environmental Planning Policy (Planning Systems) 2021**

Schedule 6, clause 5(b) of State Environmental Planning Policy (Planning Systems) identifies educational establishments as Regionally Significant Developments if the Capital Investment Value (CIV) exceeds \$ 5million.

Part 2.4, Section 2.20 of this policy states that if development listed in Schedule 6 is defined by a minimum estimated cost, size, or other criterion as a Regionally Significant Development, and it is part of a concept application under Part 4 of the Act, any separate part of the development will be considered under Schedule 6 only if it triggers the specified criteria.

The cost of the proposed works, being \$385,000, is well below the threshold in Schedule 6, and as such the subject application is not considered a Regionally Significant Development.

**(b) State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 2, Section 2.119(2) of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (hereafter referenced as the Transport and Infrastructure SEPP) outlines the following matters for consideration for consent authorities prior to granting of consent for a development with frontage to a classified road.

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject building is located at the frontage of Terminus Street, a classified State Road under the control of Transport for NSW (TfNSW). As the proposed works are limited to the façade of the existing building, no impact will occur on the operation of Terminus Road or the existing access arrangements.

With regard to the consideration of road noise impacts as required in Section 2.120 of this policy, the replacement louvres/glazing will be required to comply with the Acoustic Report approved under DA-836/2020. A condition to this effect will be imposed to ensure the development is not impacted by road noise.

Section 2.48(1)b of this policy provides matters to be considered by the consent authorities before granting consent to a development within or immediately adjacent to an easement for electricity purposes, immediately adjacent to an electricity substation or within 5m of

overhead powerlines. The application was referred to Endeavor Energy due to the proximity of the subject building to electricity substations.

As per the advice received from Endeavour Energy, due consideration should be given to the document titled "Standard Conditions for Development Applications and Planning Proposal (Version 10-January 2025)". In reviewing the document, it is noted that the conditions applicable to this proposal includes considerations during construction provided in Sections 7, 12, 16, 22 to ensure general safety and protection of existing electrical assets during works. A general condition for compliance with Endeavor Energy's requirements will be imposed to ensure these matters are addressed during construction.

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

Chapter 4, Section 4.6 of this policy requires the consent authority to assess whether the land is contaminated and ensure that it is either suitable in its current state or can be made suitable through remediation for the intended use before determining a development application.

Subject application relates to minor facade works to an existing building which has been approved in accordance with these requirements. Therefore, no further contamination investigation is required for the proposed works.

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

The site is located within the Georges River catchment which triggers considerations under Chapter 6 of this policy.

Part 2, Sections 6.6, 6.7 and 6.8 provides the considerations for consent authorities when determining developments within a regulated catchment. These are mainly to protect the water quality, aquatic ecology and to minimise impact on the water flow. The proposed minor works to the external façade are not expected to affect the existing stormwater regime, aquatic ecology, or the water quality of the river.

Section 6.9 contains provisions to protect the recreational use of the river and to ensure developments do not impact the foreshore access. The site is not a waterfront land with direct access to the river to have any adverse impacts on its use or access.

The proposal is consistent with the requirements and there is nothing in this policy that precludes the proposed works to the external facade.

**(e) State Environmental Planning Policy (Sustainable Buildings) 2022**

This policy aims to promote the design and delivery of sustainable buildings through consistent assessment, accurate data recording, and monitoring of materials and energy

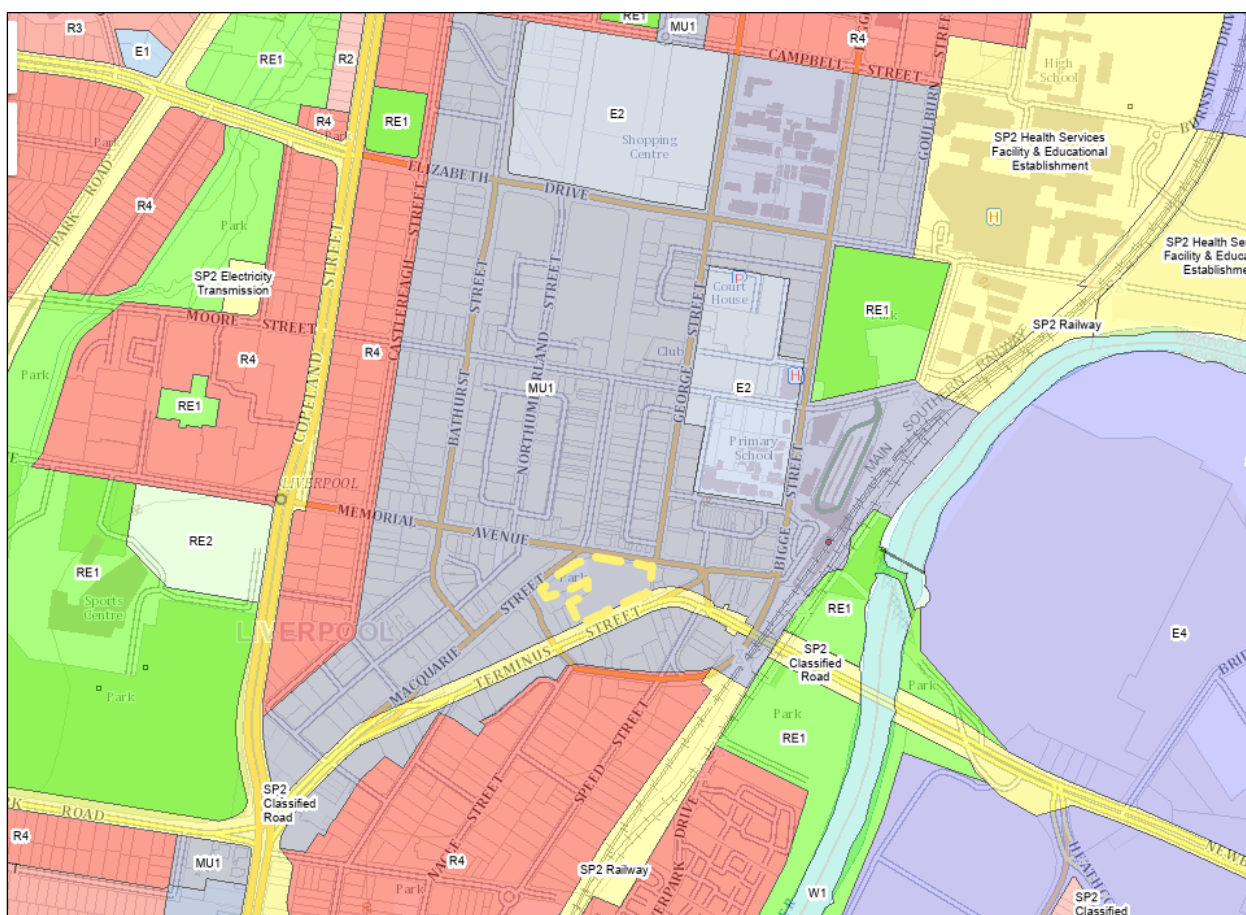
use. It also seeks to reduce greenhouse gas emissions, conserve potable water, and optimise the thermal performance of buildings.

This Chapter applies to non-residential development involving either the erection of a new building with an estimated cost of \$5 million or more, or the alteration, enlargement, or extension of an existing building, with an estimated cost of \$10 million or more. The proposed cost of development is less than this trigger and therefore this policy does not apply to the proposed works.

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

**(i) Zoning**

The site is zoned MU1 mixed use in Liverpool Local Environmental Plan 2008 (the LLEP). **Figure 4** shows the zoning context, indicating the site's location at the southern end of the CBD.



**Figure 4: Zoning Context of the Site**

**(ii) Permissibility**

The proposed works are considered ancillary to the existing mixed-use building on the site. More specifically, the levels on which the proposed works are proposed are associated with an educational establishment previously approved under the provisions of Section 3.46(1) of the Transport and Infrastructure SEPP.

**(iii) Objectives of the zone**

The objectives of MU1 Zone are:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To allow for residential and other accommodation in Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*

The proposed minor facade works to specific levels of the building do not compromise its intended mixed-use functions. These modifications are necessary to ensure compliance with the Building Code of Australia (BCA) for the approved university use on those levels. The proposal remains consistent with the objectives of the zone and does not introduce any conflicts.

**(iii) Part 5 -Miscellaneous Provisions**

Clause 5.10 of the LLEP outlines the requirements for development consent for developments involving heritage items. The site contains a listed heritage item, the Memorial School of Arts building, and there are several other listed items in its vicinity as provided below:

- I109 – Liverpool Fire Station (70-78 Terminus Street).
- I70 – Light Horse Park.
- I89 – Plan of Town of Liverpool (Early town centre street layout).
- I106 – Inter-war Mediterranean brick dwelling (“Del Rosa”), including interiors.
- I103 – Golden Fleece Hotel.
- I102 – Commercial building (former out-building to former Golden Fleece Hotel and former Eugene’s laundry)

Notwithstanding, the proposed facade works are minor in scale and do not affect the overall bulk and scale of the development. Therefore, no adverse impact is anticipated on the heritage significance of these items to warrant further consideration.

**(iv) Part 7 - Miscellaneous Provisions**

Clause 7.3 prescribes the car parking requirements for developments involving an increase in the gross floor area, in the Liverpool city centre. The proposed facade works do not impact the existing gross floor area and as such this requirement is not relevant to the proposal.

Clause 7.4 prescribes building separation requirements for developments in Liverpool City centre. This provision is not relevant to the application as it relates to an existing building.

Clause 7.5 requires building proposals in the Liverpool City Centre exhibit design excellence. Considerations under this clause are discussed as follows:

**7.5 Design excellence in Liverpool city centre**

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*

**Comment:** As demonstrated in Figure 3, the proposed louvre installations on the northern, eastern and western facades of the existing building are insignificant when compared to the bulk and scale of the existing 14-storey building which was designed and constructed to high architectural standards. Due to the minor scale of works, and their location in inconspicuous parts of the facade, no perceivable change is anticipated in the outlook or the architectural quality of the building. The proposal is therefore considered to be consistent with the objectives of this clause.

- (2) *Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.*

**Comment:** The proposed works are of a modest scale and do not compromise the architectural integrity or design excellence of the existing building. The size and finishes of the louvres match with the existing, ensuring the new elements are seamlessly integrated into the façade.

- (3) *In considering whether development exhibits design excellence, the consent authority must have regard to the following matters—*

*(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

**Comment:** The louvre windows will be fabricated to match the dimensions of the existing units and finished with powder-coated aluminium panels in a light brown pearl tone, ensuring seamless integration with the current façade. On the western elevation, the door will be provided with dark grey glass louvre panels with low reflectivity, complementing the adjacent glazing. All specified sizes and finishes

have been carefully selected to align with the existing architectural language, preserving the integrity of both design and materials.

*(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*

**Comment:** The proposed works will not alter the form and external appearance of the existing development, thereby maintaining the quality and amenity of the public domain.

*(c) whether the proposed development detrimentally impacts on view corridors,*

**Comment:** The proposed works do not involve any visually obtrusive elements to impact existing views or view corridors.

*(d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),*

**Comment:** The proposed works to the façade does not cause any shadowing impacts. Additionally, it is noted that these developments are not in the immediate vicinity of the subject building.

*(e) any relevant requirements of applicable development control plans,*

**Comment:** Refer to the discussion under section 6.3 of this report.

*(f) how the proposed development addresses the following matters—*

*(i) the suitability of the site for development,*

**Comment:** The suitability of the existing building for the current and other approved uses have been considered under previous approvals. The proposed minor works to the façade does not trigger any additional consideration as they do not alter the approved uses.

*(ii) existing and proposed uses and use mix,*

**Comment:** The proposed facade works do not alter the existing and approved uses on the site. They are required to facilitate the use of specific levels as an educational establishment (university) approved under DA- 452/2024.

*(iii) heritage issues and streetscape constraints,*

**Comment:** Given the modest scale of the proposed works, the overall outlook of the building will remain unchanged. As a result, there will be no alteration to

the existing streetscape character, and no adverse impacts are anticipated on nearby heritage-listed buildings.

*(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

**Comment:** Not applicable as the proposal does not involve any towers.

*(v) bulk, massing and modulation of buildings,*

**Comment:** Not applicable as the proposed development does not impact the massing of the existing building.

*(v) street frontage heights,*

**Comment:** Minor façade works do not trigger this consideration.

*(vii) environmental impacts such as sustainable design, waste and recycling infrastructure, overshadowing, wind and reflectivity, the achievement of the principles of ecologically sustainable development,*

**Comment:** The development will be required to demonstrate compliance with the BCA at the CC stage, which includes compliance with energy efficiency requirements through a Section J certificate. A condition of consent will be imposed for adequate management of waste during construction. No operational waste management is associated with the proposed works.

*(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*

**Comments:** The existing vehicle and pedestrian movements through the site will not be impacted by the proposed facade works.

*(x) the impact on, and any proposed improvements to, the public domain.*

**Comments:** The proposed façade works will not impact the public domain activities.

The proposed modest scale of works does not compromise the architectural quality or design intent of the existing building. As the original development was reviewed and approved by Council's Design Integrity Panel (DIP), advice was sought regarding the need to review the proposed changes, as required in the conditions of approval for DA-836/2020 and DA-452/2024. The DIP confirmed that the minor scope of works did not require a formal review and that the applicants must ensure that the installation is coordinated with the original project architects to ensure the facade maintains its integrity in relation to building

compliance matters. This has been addressed through conditions to comply with the BCA, including fire safety standards.

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

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

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

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

The Liverpool Development Control Plan 2008 (LDCP) 2008 is applicable to the development. Part 1 of the LDCP 2008 covers general controls relating to all types of development within the Liverpool LGA. As this application relates to a building that has already been constructed, most of the considerations are not relevant to the development. Applicable controls are discussed in the following table:

<b>LDCP 2008 - Part 1 General Controls for all Development</b>			
<b>Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Comment</b>
22. Energy Conservation	All class 5 to 9 non-residential developments are required to comply with the Building Code of Australia (BCA) energy efficiency provisions.	The proposed louvre installations will need to comply with energy efficiency requirements for the building.	Compliance ensured through conditions of consent.  A condition requiring compliance with the BCA at the CC stage will ensure that the proposal meets the requirements in Section J which sets standards to minimise energy consumption and greenhouse emissions.
23. Reflectivity	Buildings with glazed roof, facade or awning are to be designed to minimize excessive glare. Materials with low reflectivity are to be used.	The total area of the aluminum powder coated louvres on the northern and eastern sides is around 6.8m <sup>2</sup> . The glass louvre door on the western side is less than 2m <sup>2</sup> . The finishes of these materials match with the existing.	Complies.  New facade elements are designed to match the existing finishes, with the overall surface area covered by the new installation being less than 10m <sup>2</sup> . As such, the proposed works are not anticipated to cause excessive reflection or glare.
25. Waste Disposal and Re-use	Appropriate waste management measures are to be implemented for all	The proposed works do not generate any additional operational	Compliance ensured through conditions of consent.

Facilities	stages including demolition, construction and operation of the development.	waste. The Site Waste Minimisation and Management Plan indicates the generation of some construction- related waste such as glass waste and other miscellaneous materials such as fixings, gaskets etc.	A condition for appropriate waste management during construction will be imposed.
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**Liverpool Development Control Plan 2008 – Part 4 – Development in Liverpool City Centre**

The proposed development is subject to Part 6 of the LDCP 2008 which provides controls specifically relating to developments in the business zones. It is noted that the majority of the controls relate to the siting and design of buildings which are not relevant to this proposal. Key controls are discussed in the following table:

<b>Part 4 – Development in Liverpool City Centre</b>	
<b>Controls</b>	<b>Comment</b>
4.3.8 Building Design and Public Domain Interface	Complies. Among other considerations, this section requires buildings in Liverpool city centre to contribute positively to the streetscape through high quality architecture and the careful selection of materials and finishes. The proposed facade elements will incorporate materials and finishes that closely match those of the existing building, ensuring the new works are seamlessly integrated with the current facade and surrounding context.
4.5.2 Noise	Compliance ensured through conditions of consent. Developments near road corridors are required to provide acoustic amenity and comfort to the occupants of the building. The existing building has been designed and constructed to achieve relevant internal noise criteria. The following condition recommended by Council’s Environmental Health Officer will be imposed to confirm that the proposed works are capable of maintaining the noise comfort levels determined in the approved acoustic report for the original development.  <i>“Before the issue of a construction certificate, the</i>

	<p><i>certifier must be satisfied that any alteration(s), upgrade(s) to the existing and/or new mechanical plant and equipment were selected and reviewed in consultation with a suitably qualified acoustic consultant to ensure that any potential increase to mechanical ventilation noise will comply with the Acoustic report approved under DA836/2020, "Liverpool Civic Place Phase A", Noise Impact Assessment prepared by Stantec Australia Pty Ltd. dated 6 October 2020"</i></p>
<p>4.6.1 Heritage and Conservation Areas</p>	<p>Among other requirements, this section requires developments within the curtilage of a listed item to facilitate the conservation and protection of that item. The existing building has been designed and constructed in accordance with these provisions. The external works proposed in this application are modest in scale and recessive in nature. As such, no adverse impact on the heritage significance of the site or surrounding area is anticipated.</p>
<p>4.6.2 Site Specific DCPs</p>	<p>The subject building forms part of a concept approval which is an alternative to site specific DCP. This assessment has considered the consistency of the proposal with the concept approval, refer to Section 6.10 of this report.</p>

#### **6.4 Section 4.15(1)(a)(iiia) - Planning Agreements**

There are no planning agreements applicable to the proposed development.

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

The following considerations in Section 62 of *Environmental Planning and Assessment Regulations 2021* apply to development applications for change of use which does not involve rebuilding or alteration of the building.

(2) *The consent authority must—*

- (a) consider whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use, and*
- (b) not grant consent to the change of building use unless the consent authority is satisfied that the building complies, or will, when the development is completed, comply, with the Category 1 fire safety provisions that are applicable to the building's proposed use.*

(3) *Subsection (2)(b) does not apply 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.*

While the development application as such does not involve a change of use, the proposed works are required to facilitate a change from business to educational establishment under DA-452/2024. However, as DA-452/2024 did not involve any physical works, all requirements associated with the works were to be considered in subsequent approvals. Accordingly, fire safety consideration under Section 62 is considered relevant to this proposal.

The application was referred to Council's Fire Safety Officer who advised that proposal to install additional louvres to increase natural ventilation within the building does not raise any immediate fire safety concerns. It was noted that the louvres to be installed on the northern facade are likely to be within 3 metres from 300 Macquarie Street. As such, they will require protection as per Clause C4D5 of the National Construction Code Volume 1, and this will need to be considered by the certifier at the CC stage. This requirement will be imposed through a condition of consent.

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

### **Natural and Built Environment**

As demonstrated throughout this assessment, the proposed works are minor in scale and do not result in any perceivable changes or additional impacts to the existing natural or built environment. Further documentation demonstrating compliance with the approved noise criteria, energy efficiency standards, and fire safety requirements will be required at the Construction Certificate (CC) stage. Given the limited scope of the works, the proposal does not raise any concerns regarding compliance with these matters.

### **Social Impacts and Economic Impacts**

The socio-economic impacts associated with the university use has been assessed by Council in the previous approval. This application for the installation of louvres does not require any further consideration.

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

The suitability of the existing building for the current and other approved uses have been considered under previous approvals. The proposed minor works to the façade does not trigger any additional consideration as they do not alter the approved uses

**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
Building	<p>The application was referred to Council's Building Officer, and no additional requirements or concerns were raised. It has been advised that the compliance with the BCA will be determined by the Principal Certifying Authority at the CC stage.</p>
Environmental Health	<p>The following advice was provided by Council's Environmental Health Officer:</p> <p><i>"The proposal describes air intake and discharge louvres across the facade of the building. Albeit mainly relating to a BCA aspect rather than a health issue, EH will note that the works must comply with the relevant AS and any additional and/or upgrade/alteration of mechanical ventilation would need to comply with any previously approved acoustic report to ensure operational noise levels are still compliant."</i></p> <p>Conditions relating to the following were recommended which will be included in the consent:</p> <ul style="list-style-type: none"> <li>• Compliance with the approved acoustic report to be demonstrated at the CC stage</li> <li>• Hours of construction</li> <li>• Waste storage and disposal during construction</li> <li>• Ventilation works to comply with AS 1668, Parts 1 and 2</li> <li>• A Mechanical Ventilation Certificate of Completion and Performance to be submitted to the certifier prior to the issue of an Occupation Certificate</li> <li>• Control of noise from machinery and equipment during operation</li> </ul>
Fire Safety	<p>The following advice was provided by Council's Fire Safety Officer:</p> <p><i>"This proposal to install additional louvres to increase natural ventilation within the building does not raise any immediate fire safety concerns. The proposal mentions that these louvres will be connected to the existing mechanical ducting, details should be provided along with the Construction Certificate application for the certifier to consider. Additionally, the louvres to be installed to the northern facade potentially fall within 3 metres from 300 Macquarie"</i></p>

	<i>Street. As such, they would need to be protected as per Clause C4D5 of the NCC Volume 1 and would be addressed at CC stage by the certifier."</i>
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**(b) External Referrals**

AGENCY	COMMENTS
Endeavour Energy	Endeavour Energy has advised that the site contains electrical substations and that development should comply with to their "Standard Conditions for Development Applications and Planning Proposal (Version 10-January 2025)". This has been imposed as a condition of consent.

**(c) Community Consultation**

The application was notified for 28 days between 2 July and 1 August 2025 in accordance with the requirements for Council-related applications in the Community Participation Plan 2022. No submissions were received during this period.

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

The development is considered to be in public interest as it is in accordance with the concept approval and Council's adopted planning instruments which have been subject to public review and consultation.

**6.10 Section 4.24 – Status of concept development applications and consents**

Section 4.24(2) of the Act requires the determination of any development application for a site subject to a concept approval to be consistent with the consent granted for the concept development, as stated below:

*2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*

The existing building was subject to a concept proposal, DA-585/2019. Relevant conditions of the concept approval are discussed below to demonstrate compliance of the proposed works with the concept approval:

- Building envelopes – Conditions 12 requires floor facing the northwestern facade of the existing mixed-use building at 300 Macquarie Street, Liverpool to incorporate features to minimise overlooking into existing residential areas. Louvres in general are effective in minimising direct sightlines due to their angled alignment. Additionally, the proposed louvre openings on the north and east will be positioned well above eye levels and therefore no overlooking will occur. The

glass louvre door on the western side is oriented at right angle to the mix-use building at 300 Macquarie Street, eliminating any direct views into the adjoining building. The development is consistent with this requirement.

- Acoustic report – Condition 32 requires all future applications to demonstrate compliance with relevant noise criteria. The existing building has been constructed to relevant acoustic standards, and a condition will be imposed to ensure the new works comply with the recommendations of the approved acoustic report for the existing building.

## **7. DEVELOPMENT CONTRIBUTIONS**

Development contributions do not apply as the cost of the proposed development is less than \$1 million.

## **8. CONCLUSION**

Assessment of the proposed facade works have been undertaken in accordance with the requirements in Section 4.15 of the Act and relevant environmental planning instruments including applicable State policies, LLEP, LDCP, relevant codes and policies of Council and the concept approval.

The proposal is considered to be consistent with all the relevant statutory and non-statutory instrument and is considered to be of a modest scale with minimal impacts.

## **9. RECOMMENDATION**

The Liverpool Local Planning Panel, as the consent authority, grants consent to DA-267/2025 for the proposed works to the external facade, subject to the conditions provided in Attachment 2.

## **ATTACHMENTS**

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1. Architectural Plans
2. Conditions of consent

SP24059\_UOW DA

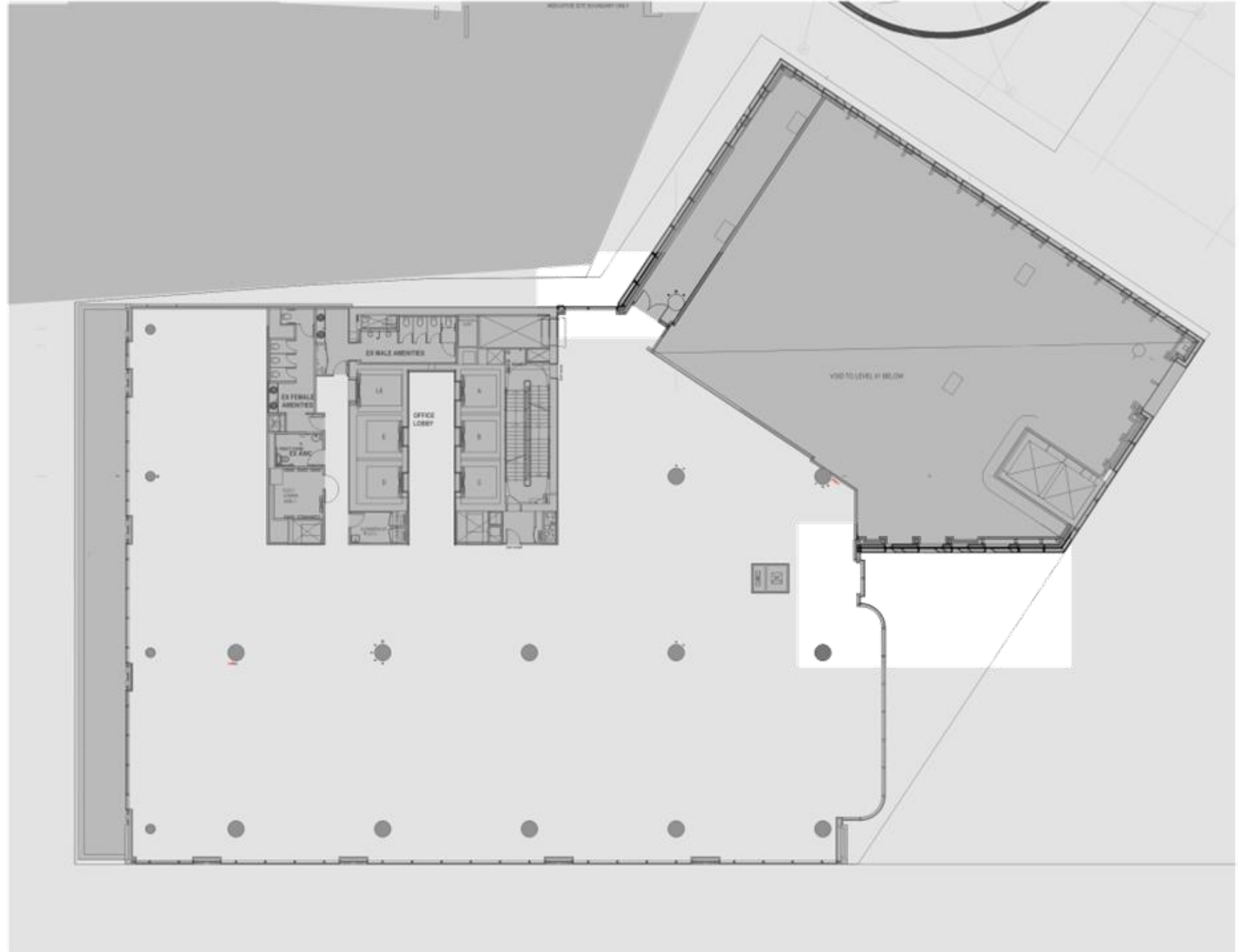
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SP24059

Sheet List Table	
Sheet Number	Sheet Title
A000	SITE PLAN & COVER PAGE
A001	GENERAL ARRANGEMENT PLAN - L1
A002	GENERAL ARRANGEMENT PLAN - L2
A003	GENERAL ARRANGEMENT PLAN - L5
A004	GENERAL ARRANGEMENT PLAN - L6
A800	EAST ELEVATION
A801	NORTH ELEVATION
A802	WEST ELEVATION
A803	DETAILS



LOCALITY PLAN

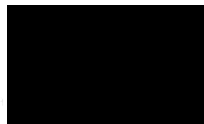
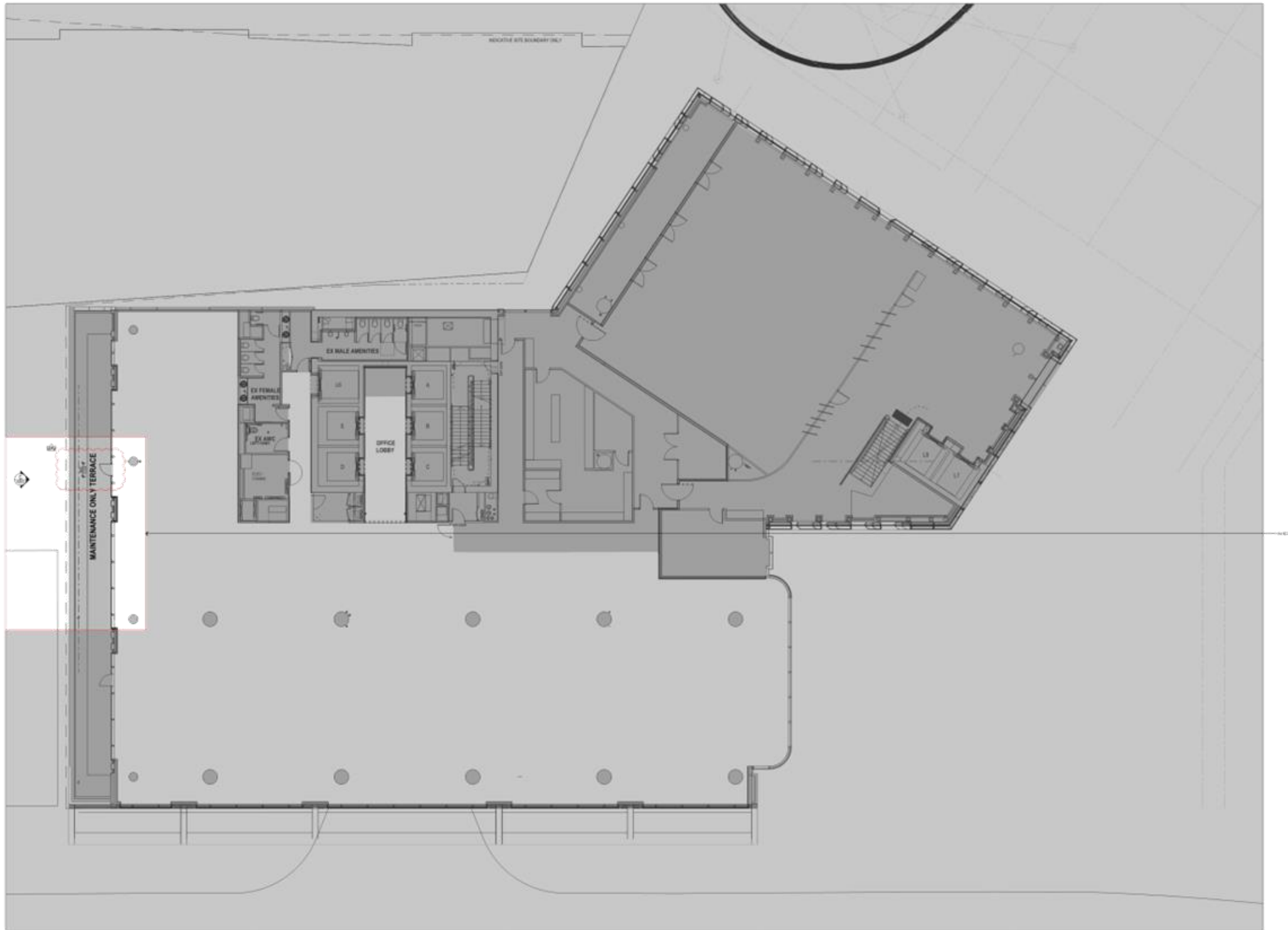


SITE PLAN



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Project City	LIVERPOOL, NSW 2170	Scale	1:100

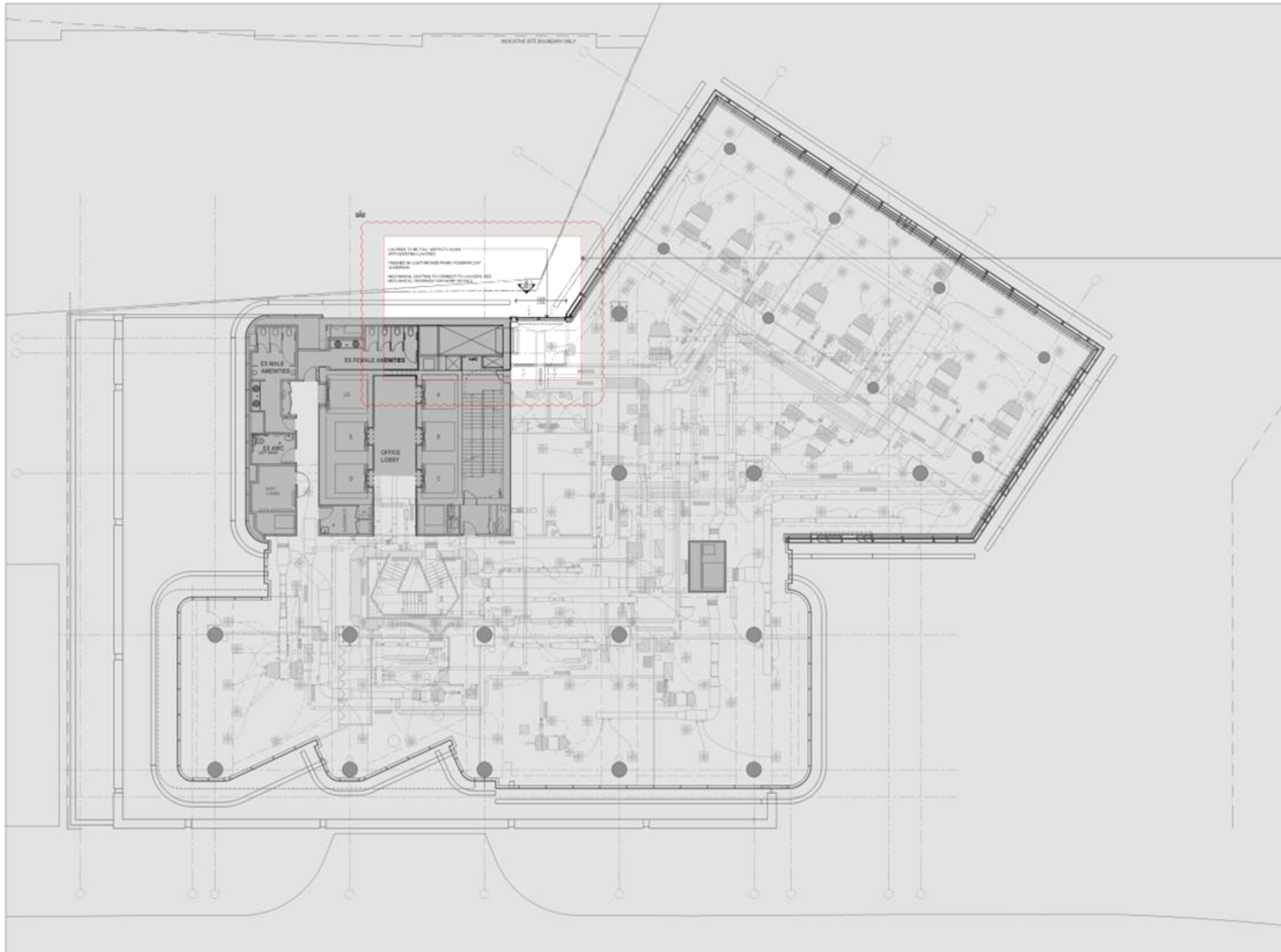
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Project State	NSW	Project Country	AUSTRALIA
Project Date	2025	Project Status	DA
Project Title	UOW LCP1	Project Subtitle	DA



Author	SP	UDW
Checked	SP	UDW
Drawn	SP	UDW
Project Name	LIVERPOOL CIVIC PLACE, 52 SCOTT STREET LIVERPOOL NSW 2170	

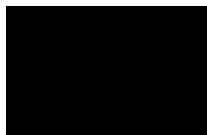
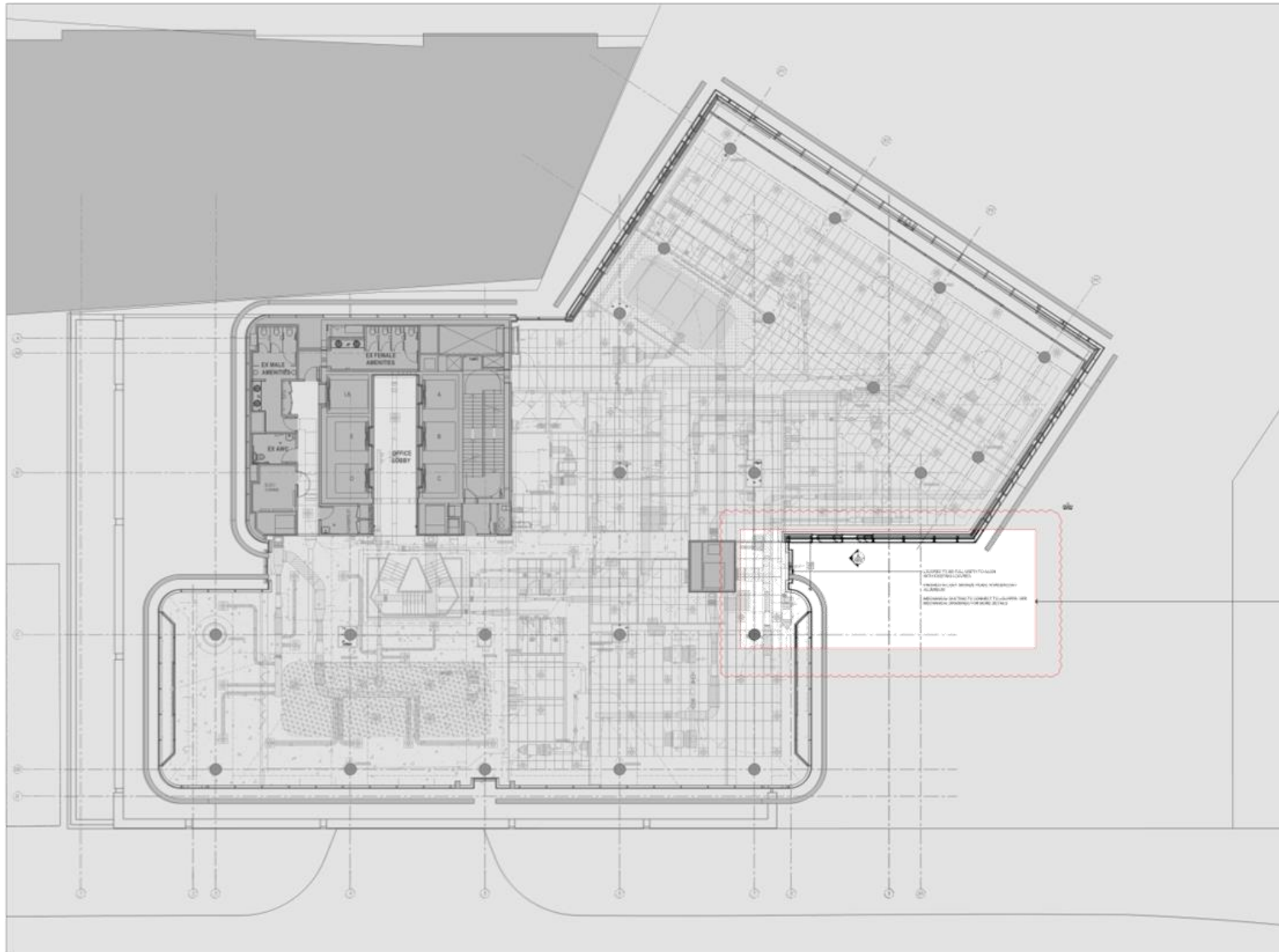
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DA No.	DA2





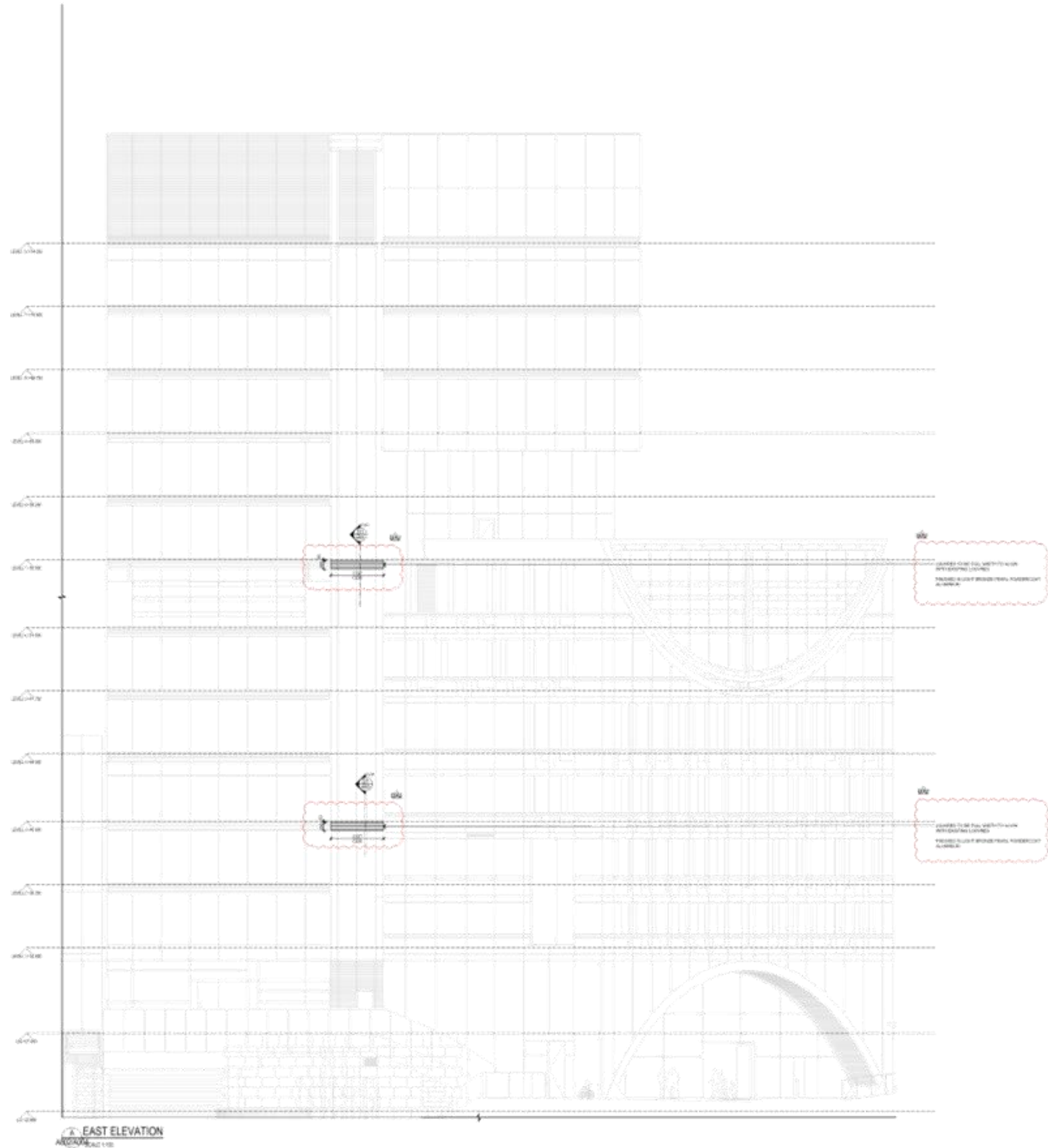
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Project Number	SP24059
Project Location	LIVERPOOL NSW 2170
Project Type	DA
Project Status	DA
Project Date	2025
Project Author	UOB LDP
Project Designer	UOB LDP
Project Checker	UOB LDP
Project Approver	UOB LDP
Project Date	2025

GENERAL ARRANGEMENT PLAN - L1	
Project Number	SP24059
Project Date	2025
Project Location	LIVERPOOL NSW 2170
Project Type	DA
Project Status	DA
Project Author	UOB LDP
Project Designer	UOB LDP
Project Checker	UOB LDP
Project Approver	UOB LDP
Project Date	2025
Project Title	A003 DA2



NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	12/11/2024	UOW
2	ISSUED FOR PERMIT	12/11/2024	UOW
3	ISSUED FOR PERMIT	12/11/2024	UOW
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Scale	A0
Sheet No.	A004 DA2
Discipline	DA



PRECEDENT IMAGE REFERENCES (LOOK AND FEEL)



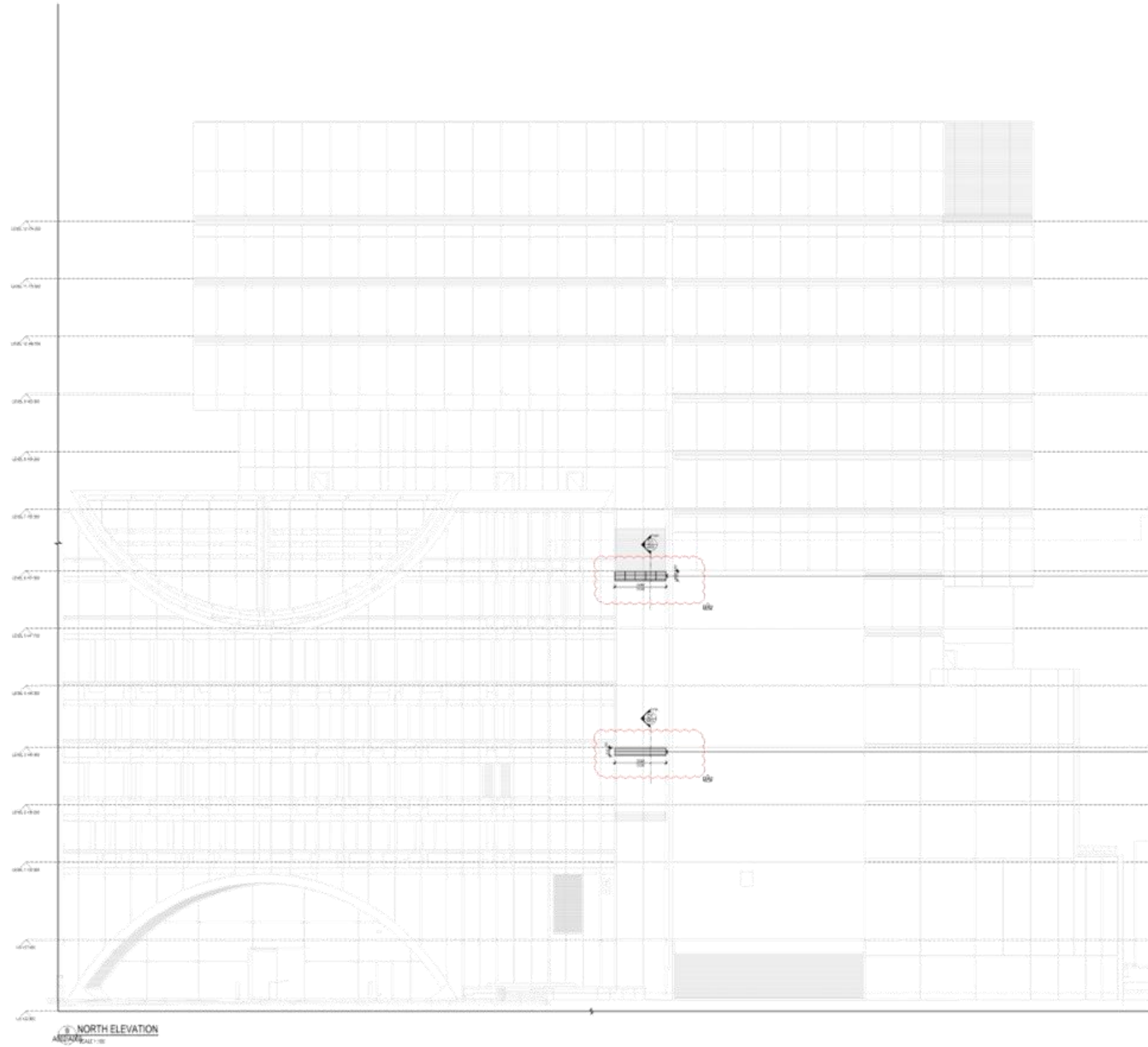
EAST ELEVATION VISUAL

SOURCE TO BE FULL HEIGHT GLASS WITH OPERABLE LUNGS  
SOURCE TO BE FULL HEIGHT GLASS WITH OPERABLE LUNGS

NOTE: VISUAL REPRESENTATION ONLY, SHOWNING INTENT, NOT



Project Name	DA-267/2025	Client	UDR
Project Number	SP24059	Project Name	UDR/LOP
Scale	1:100	Address	LIVERPOOL CIVIC PLACE 52 SCOTT STREET LIVERPOOL NSW 2170
Sheet Number	A800 DA2	DA	



PRECEDENT IMAGE REFERENCES (LOOK AND FEEL)



LOOKED TO BE FULL HEIGHT  
HORIZONTAL SLATS WITH  
WOODEN FINISH

AS MEASURED BY  
EXISTING BUILDING

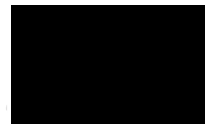
LOOKED TO BE FULL HEIGHT  
HORIZONTAL SLATS WITH  
WOODEN FINISH

LOOKED TO BE FULL HEIGHT WITH  
ACTIVATING LIGHTS

LOOKED TO BE FULL HEIGHT WITH  
WOODEN FINISH

NOTE: VISUAL REPRESENTATION  
ONLY - SHOWN FOR REFERENCE ONLY

NORTH ELEVATION VISUAL



Project Name	DA-267/2025	Client	UDR
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Project Number	SP24059	Project Address	LIVERPOOL CIVIC PLACE 52 SCOTT STREET
Project Name	A801 DA2	Project Number	DA

Project Name	DA-267/2025	Client	UDR
Project Address	40-52 SCOTT STREET	Project Name	UDR/LOP
Project Number	SP24059	Project Address	LIVERPOOL CIVIC PLACE 52 SCOTT STREET
Project Name	A801 DA2	Project Number	DA



PRECEDENT IMAGE REFERENCES (LOOK AND FEEL)

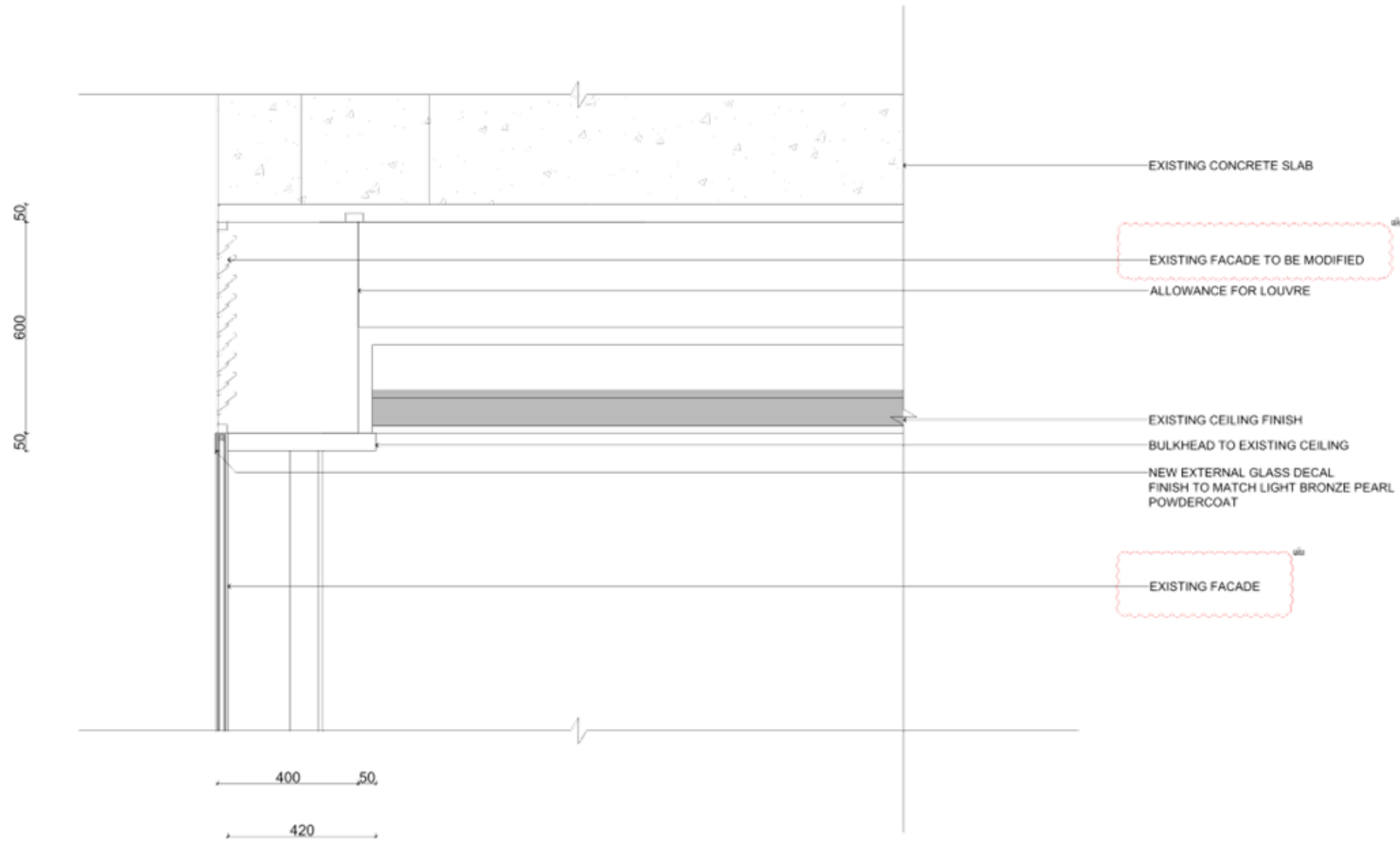


WEST ELEVATION VISUAL



Project Name	DA-267/2025	Client	UDR
Project Address	40-52 SCOTT STREET	Project Name	UDR/LOP
Project Number	SP24059	Project Address	LIVERPOOL, NSW 2170
Project Name	A802 DA2	Project Number	DA

Project Name	WEST ELEVATION	Project Number	SP24059	Project Name	A802 DA2
Project Address	LIVERPOOL, NSW 2170	Project Number	DA	Project Name	UDR/LOP



61 DETAILED SECTION TYPICAL LOUVRE  
A803 DA1



Project Name	DA-267/2025	Client	UDW
Project Number	SP24059	Scale	1:5
Project Location	LIVERPOOL CIVIC PLACE 52 SCOTT STREET LIVERPOOL NSW 2170	Sheet No.	A0
Project Lead	SD	Discipline	DA
Project Manager	SP24059	Project No.	A803 DA1
Project Engineer	UDW/LOP	Sheet Title	DA



### NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA-267/2025 PAN-534904
Applicant	KNIGHT FRANK (AUST) P/L 123 PITT ST SYDNEY NSW 2000
Description of development	Alterations and additions to the existing building (minor external façade works involving installation of louvres)
Property	CIVIC PLACE 40-52 SCOTT STREET LIVERPOOL NSW 2170 LOT 1 DP 1293937
Determination:	Consent Authority -
Date of determination	XXX
Date from which the consent operates	XXX
Date on which the consent lapses	XXXX

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

#### Reasons for approval

#### 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.

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

Peer review (Authorising Officer) sign-off is incomplete  
*sign-off is incomplete*

Person on behalf of the consent authority

For further information, please contact Assessing (Contact Officer) sign-off is incomplete / *sign-off is incomplete*

**Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

**General Conditions**

<b>1</b>	<p><b>Approved plans and supporting documentation</b></p> <p>The proposed façade works are approved in the areas identified in the plans below, except where the conditions of this consent expressly require otherwise.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="5" style="text-align: left;">Approved plans</th> </tr> <tr> <th style="text-align: left;">Plan Number</th> <th style="text-align: left;">Revision number</th> <th style="text-align: left;">Plan title</th> <th style="text-align: left;">Drawn by</th> <th style="text-align: left;">Date of plan</th> </tr> </thead> <tbody> <tr> <td>A000</td> <td>DA</td> <td>Site Plan and Cover Page</td> <td>IA Design</td> <td>21/02/2025</td> </tr> <tr> <td>A001</td> <td>DA2</td> <td>General Arrangement Plan - L1</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A002</td> <td>DA2</td> <td>General Arrangement Plan - L2</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A003</td> <td>DA2</td> <td>General Arrangement Plan – L5</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A004</td> <td>DA2</td> <td>General Arrangement Plan – L6</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A008</td> <td>DA2</td> <td>East Elevation</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A801</td> <td>DA2</td> <td>North Elevation</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A802</td> <td>DA2</td> <td>West Elevation</td> <td>IA Design</td> <td>13/08/2025</td> </tr> <tr> <td>A803</td> <td>DA1</td> <td>Details</td> <td>IA Design</td> <td>13/08/2025</td> </tr> </tbody> </table> <p>Where there is inconsistency with the approved plan and the conditions of consent, the conditions prevail to the extent of discrepancy.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Approved plans					Plan Number	Revision number	Plan title	Drawn by	Date of plan	A000	DA	Site Plan and Cover Page	IA Design	21/02/2025	A001	DA2	General Arrangement Plan - L1	IA Design	13/08/2025	A002	DA2	General Arrangement Plan - L2	IA Design	13/08/2025	A003	DA2	General Arrangement Plan – L5	IA Design	13/08/2025	A004	DA2	General Arrangement Plan – L6	IA Design	13/08/2025	A008	DA2	East Elevation	IA Design	13/08/2025	A801	DA2	North Elevation	IA Design	13/08/2025	A802	DA2	West Elevation	IA Design	13/08/2025	A803	DA1	Details	IA Design	13/08/2025
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<b>2.</b>	<p><b>Comply with EP&amp;A Act</b></p> <p>The requirements and provisions of the Environmental Planning &amp; Assessment Act 1979 and Environmental Planning &amp; Assessment Regulation 2021, must be fully complied with at all times.</p> <p>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.</p> <p><b>Condition reason:</b> This condition is imposed to ensure compliance with legislative requirements.</p>																																																							
<b>3.</b>	<p><b>Compliance with the Building Code of Australia</b></p>																																																							

<ol style="list-style-type: none"> <li>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 <i>Building Code of Australia</i>.</li> <li>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 <i>Home Building Act 1989</i>, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>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 <i>Building Code of Australia</i>.</li> <li>4. In subsection (1), a reference to the <i>Building Code of Australia</i> 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.</li> <li>5. In subsection (3), a reference to the <i>Building Code of Australia</i> is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply— <ol style="list-style-type: none"> <li>1. to the extent to which an exemption from a provision of the <i>Building Code of Australia</i> or a fire safety standard is in force under the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, or</li> <li>2. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol>
<p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>

#### Prior to the Issue of a Construction Certificate

4	<p><b>Provision of detailed plans for construction certificate application</b></p> <p>Before the issue of a construction certificate, detailed plans must be prepared by a suitably qualified person and provided to the Certifier that are consistent with the plans and documentation approved under this consent.</p> <p>The plans must also show the following:</p> <ul style="list-style-type: none"> <li>• Details of how the proposed louvres connect to the existing mechanical ducting.</li> <li>• Details of how louvres within 3 metres of 300 Macquarie Street are protected as per Clause C4D5 of the National Construction Code Volume 1.</li> <li>• Any additional acoustic measures.</li> </ul>
	<p><b>Condition reason:</b> To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.</p>
5	<p><b>Mechanical Plant and Equipment</b></p> <p>Before the issue of a construction certificate, the certifier must be satisfied that any alteration(s), upgrade(s) to the existing and/or new mechanical plant and equipment were selected and reviewed in consultation with a suitably qualified acoustic consultant to ensure that any potential increase to mechanical ventilation noise will comply with the Acoustic report approved under DA:836/2020, "Liverpool Civic Place Phase A", Noise Impact Assessment prepared by Stantec Australia Pty Ltd. dated 6 October 2020.</p> <p>Note: The 'suitably qualified acoustic consultant' must be a member of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.</p>
	<p><b>Condition reason:</b> To mitigate potential intrusive noise and amenity impacts.</p>
6	<p><b>Cladding</b></p> <p>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.</p>
	<p><b>Condition reason:</b> To ensure that the external cladding installed on a building is compliant.</p>

### Prior to the Commencement of Building Works

7	<p><b>Construction Certificates</b></p> <p>Prior to the commencement of any building works, the following requirements must be complied with:</p> <p>(a) Construction Certificate must be obtained from the Council or an Accredited Certifier, in accordance with the provisions of the Environmental Planning &amp; Assessment Act 1979,</p> <p>(b) Where a Construction Certificate is obtained from an Accredited Certifier, the applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Act,</p> <p>(c) A copy of the Construction Certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment,</p> <p>(d) A Principal Certifier (PC) must be appointed to carry out the necessary building inspections and to issue an occupation certificate, and</p> <p>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 worksform, available from Council's Customer Service Centre. A minimum period of two (2) working days' notice must be given.</p> <p><b>Condition reason:</b> To require approval to proceed with building work.</p>
8	<p><b>Requirements of Endeavour Energy</b></p> <p>Prior to the commencement of works, all requirements relating to the protection of electrical assets and the safety of construction activities—outlined in Endeavour Energy's publication "<i>Standard Conditions for Development Applications and Planning Proposal (Version 10, January 2025)</i>"—shall be included in the Construction Environmental Management Plan.</p> <p><b>Condition reason:</b> To ensure adequate measures are taken to protect Endeavour Energy's assets and ensure safety during works near electrical assets</p>
9	<p><b>Construction Traffic Management Plan (CTMP)</b></p> <p>A construction traffic management plan (CTMP) prepared by a suitably qualified person is to be submitted to and endorsed by Council's Transport Management Section. Details of pedestrian management shall be included in the plan. The CTMP is to be submitted using Assessment of Construction Traffic Management Plan application form. The application is available on Council website and can be lodged online. Comments on the CTMP will be provided and the updated CTMP is to be implemented during construction.</p> <p>A copy of the endorsed CTMP and traffic control plans are to be available on the works site for inspection by authorised Council officers.</p> <p>Construction shall not commence until the assessed construction traffic management plan has been endorsed. The endorsed CTMP is to be implemented during construction.</p> <p><b>Condition reason:</b> To ensure that the impact of construction traffic associated with the development on the surrounding road network is minimized.</p>

### During Building Work

10	<p><b>Hours of Work</b></p> <p>Site work must only be carried out between the following times –  For work/civil work/demolition work, including delivery of materials is only permitted on the site from 7:00am to 6:00pm on Monday to Friday  For work/civil work/demolition work, including delivery of materials is only permitted on the site from 8:00am to 1:00pm on Saturday  Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition reason:</b> To protect the amenity of surrounding area.</p>
11	<p><b>Refuse Disposal</b></p> <p>Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.</p> <p><b>Condition reason:</b> To ensure the required site management measures are implemented during construction.</p>
12	<p><b>Ventilation</b></p> <p>The ventilation works must be carried out in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 &amp; 2).</p> <p><b>Condition reason:</b> To facilitate compliance with legislative requirements.</p>
13	<p><b>Craning and Hoardings</b></p> <p>If the work is likely to cause pedestrian or vehicular traffic in a public area to be obstructed or rendered inconvenient; or if craning of materials is to occur across a public or road reserve area, a separate Road Occupancy Certificate and/or Hoarding approval must be obtained from Liverpool City Council prior to undertaking the works.</p> <p><b>Condition reason:</b> To ensure the required traffic management measures are implemented during construction.</p>
14	<p><b>Compliance with Endeavour Energy's requirements</b></p> <p>All electricity assets on the site are to be protected and kept in a serviceable state at all times, as required in outlined in Endeavour Energy's publication "<i>Standard Conditions for Development Applications and Planning Proposal (Version 10, January 2025)</i>". All works in the vicinity of these assets shall be undertaken as per this publication to ensure safety.</p> <p><b>Condition reason:</b> To ensure protection of electricity assets and construction workers</p>

### Prior to the Issue of an Occupation Certificate

15	<p><b>Mechanical Ventilation Certification</b></p> <p>Upon completion of works and before the issue of any occupation certificate, a Mechanical Ventilation Certificate of Completion and Performance prepared by a professional engineer or other suitably qualified person must be submitted to certifier for their review and approval. The certification must be accompanied by details of the tests carried out in relation to ventilation and acoustics and confirm that the systems comply with the approved plans, specifications, Building Code of Australia and Australian Standard AS 1668 Parts 1 and 2.</p> <p><b>Condition reason:</b> To facilitate compliance with legislative requirements</p>
16	<p><b>Fire Safety Upgrades</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that any fire safety upgrades required by the BCA have been completed.</p>

	<b>Condition reason:</b> To enable Council to require fire safety upgrade works in accordance with Clause 62 of the Environmental Planning and Assessment Regulation.
17	<b>Acoustic Report</b>
	Confirmation in writing that the recommended measures were incorporated (as required) to ensure the proposed works comply with the noise criteria in the approved acoustic report - "Liverpool Civic Place Phase A", Noise Impact Assessment prepared by Stantec Australia Pty Ltd dated 6 October 2020.
	<b>Condition reason:</b> To ensure the use meets health and amenity provisions to occupants and/or neighboring properties.

### During Occupation and Ongoing Use

18	<b>Unreasonable Noise and Vibration</b>
	The use of the premises and/or machinery equipment installed must not give rise to offensive noise so as to interfere with the amenity of the neighboring properties.
	Should an offensive noise complaint be received and verified by Liverpool City Council, an acoustic assessment must be undertaken by a suitably qualified acoustic consultant, and a report must be submitted to Liverpool City Council for review upon request. Any noise attenuation recommendations approved by Liverpool City Council must be fully implemented and verified in writing by a suitably qualified acoustic consultant.
	Note: The 'suitably qualified acoustic consultant' must be a member of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.
	<b>Condition reason:</b> To mitigate potential offensive noise and amenity impacts.

#### General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means LIVERPOOL CITY COUNCIL.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*.

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means LIVERPOOL LOCAL PLANNING PANEL.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to:

the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

**Sydney district or regional planning panel** means SYDNEY WESTERN CITY PLANNING PANEL.

<b>Item Number:</b>	<b>3</b>
<b>Application Number:</b>	DA-179/2025
<b>Proposed Development:</b>	<p>Torrens Title Subdivision of the site (approved residue lot 'superlot 3' under DA-400/2018) into 12 residential lots and 2 residue lots with associated civil works (including construction of two local roads, one collector road, and one laneway), landscaping, and bulk earthworks, and decommissioning of a temporary detention basin and associated drainage infrastructure (to be constructed under approved DA-400/2018).</p> <p>The proposed development is identified as Integrated Development requiring approval from NSW Rural Fire Service under <i>Rural Fires Act 1997</i>.</p> <p>The proposed is identified as nominated integrated development requiring approval from DPE-Water under the <i>Water Management Act 2000</i>.</p>
<b>Property Address</b>	1402 Camden Valley Way, Leppington
<b>Legal Description:</b>	Lot 9 in DP 27877
<b>Zoning</b>	<p>Under the State Environmental Planning Policy (Western Parkland City) 2021, the site is zoned the following:</p> <ul style="list-style-type: none"> <li>• R3 Medium Density Residential (65.4%),</li> <li>• RE1 Public Recreation (17.3%), and</li> <li>• SP2 Infrastructure (17.3%)</li> </ul>
<b>Applicant:</b>	BQ Property Development Pty Ltd
<b>Land Owner:</b>	BQ Property Development Pty Ltd
<b>Cost of Works:</b>	\$1,296,840.48 (including GST)
<b>Recommendation:</b>	Refusal
<b>Assessing Officer:</b>	Eunice David

## 1. EXECUTIVE SUMMARY

Council received a Development Application (ref. DA-179/2025) seeking consent for Torrens Title Subdivision of the site (approved residue lot 'superlot 3' under DA-400/2018) into 12 residential lots and 2 residue lots with associated civil works (including construction of two local roads, one collector road, and one laneway), landscaping, and bulk earthworks, and decommissioning of a temporary detention basin and associated drainage infrastructure (to

be constructed under approved DA-400/2018) at 1402 Camden Valley Way, Leppington, legally known as Lot 9 in DP 27877.

The proposed development is identified as Integrated Development requiring approval from NSW Rural Fire Service under *Rural Fires Act 1997*. The proposed is identified as nominated integrated development requiring approval from DPE-Water under the *Water Management Act 2000*.

The land is zoned R3 Medium Density Residential, and partially zoned RE1 Public Recreation and SP2 Infrastructure under the State and Environmental Planning Policy (Precincts – Western Parkland City) 2021 and the proposed subdivision is permissible with consent under the SEPP.

The development application was advertised/notified between the 29 April and 28 May 2025 in accordance with the Liverpool City Council Community Engagement Strategy and Community Participation Plan 2022. No submissions were received during this period.

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 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 key issues associated with the proposal relate to a Clause 4.6 variation request to Clause 4.1B Residential Density of the SEPP (Precincts – Western Parkland City) 2021 in relation to residential density proposing a 13.36% departure from the development standard. A Clause 4.6 variation statement has been submitted by the applicant, which is addressed below.

The minor deficiency in achieving the prescribed dwelling density is considered acceptable in the context of the proposal's overall design and consistency with the precinct planning control. Notwithstanding this, the development is premature as the necessary stormwater infrastructure to support the intended residential yield has not been delivered.

The proposal involves the decommissioning of the temporary on-site detention (OSD) and associated drainage infrastructure approved under DA-400/2018. At this stage, there is insufficient stormwater management infrastructure to service both the development and the lots to be created under development consent DA-400/2018.

Council has requested that the applicant demonstrate how adequate stormwater management measures will be maintained if the temporary OSD are to be removed. The applicant had advised that the proposed development would rely solely on the future

regional detention basin. However, Council’s Floodplain Engineer had advised there is no indicative timeframe for its delivery. Accordingly, interim measures must be provided to ensure appropriate drainage measures are implemented to avoid adverse impacts on the surrounding locality and future residential lots. As a result, the proposal does not adequately address the relevant provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and additional planning controls under the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 and Liverpool Growth Centres Precincts Development Control Plan 2021. As such, the proposal cannot be supported at this stage.

Council had sent a letter requesting to resolve various outstanding matters associated with the Development Application. It is considered that Council has provided ample time for the issues associated with the proposal to be resolved.

The application has been assessed pursuant to the provisions of the *Environmental Planning and Assessment Act 1979*. It is recommended that the application, DA-179/2025 be refused.

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

### **2.1 Site Description**



**Figure 1:** Aerial view of the Subject site (Source: Geocortex - Council’s internal system)

The subject site is an irregular shaped allotment located within a developing residential area. The site to be developed is Superlot 3, which was approved under DA-400/2018 (figure 2).

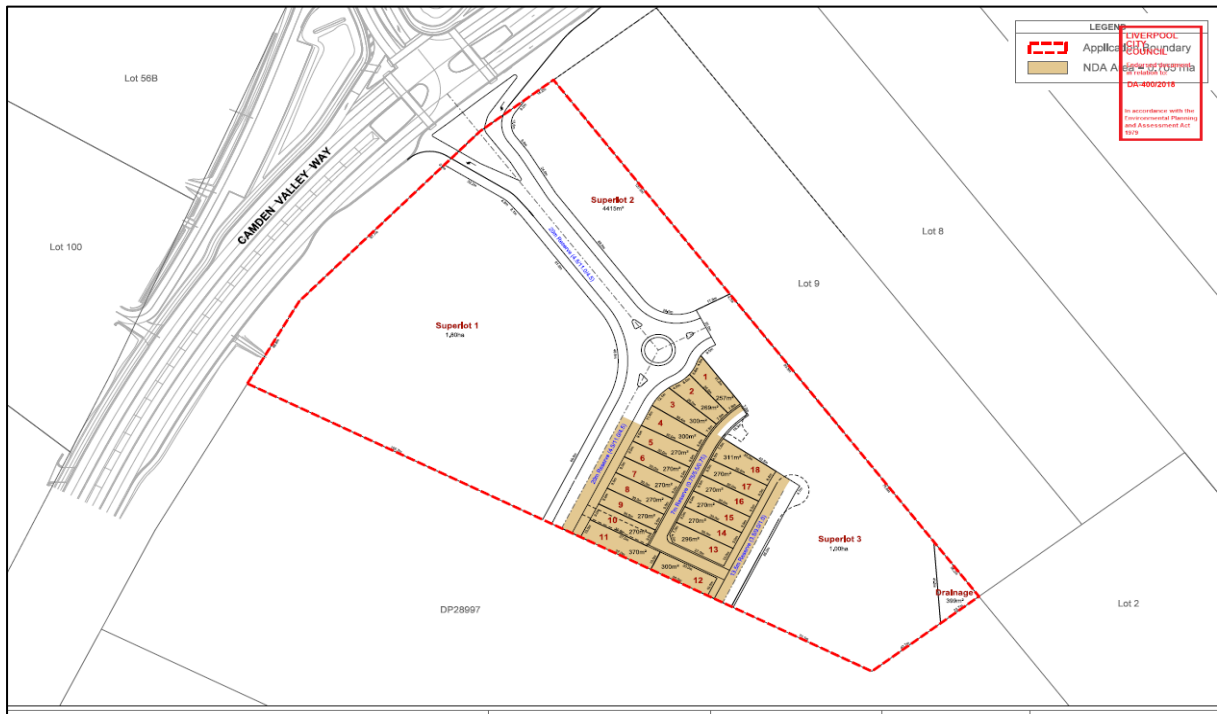


Figure 2: Extract of approved Subdivision Plan of DA-400/2018

The proposal involves the subdivision of land to create 12 residential lots and 2 residue lots within the area identified as Superlot 3, as approved under Development Consent DA-400/2018. The subdivision seeks to subdivide the superlot into Torrens title residential lots, to be consistent with the broader residential precinct.

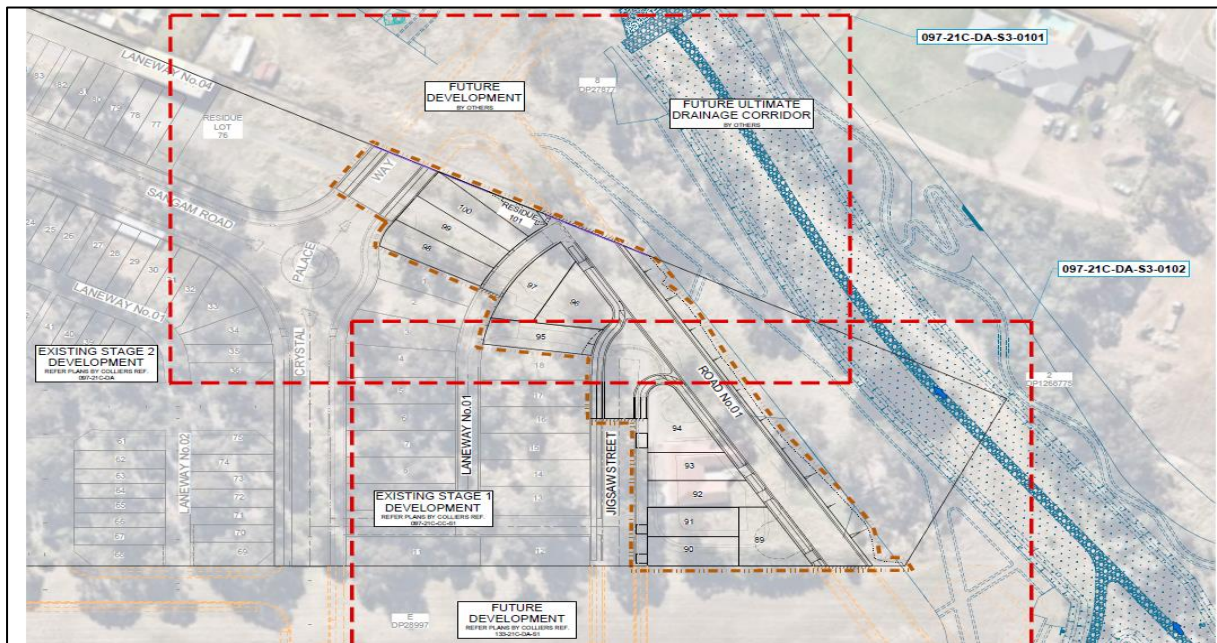
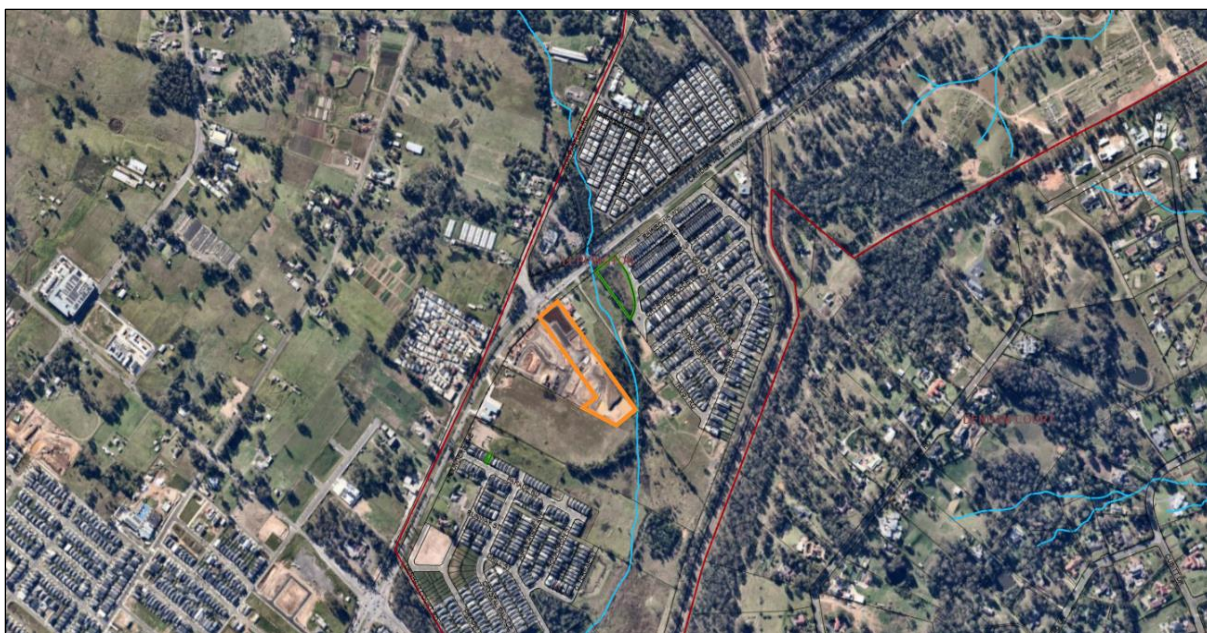


Figure 3: Overlay of the proposed subdivision in relation to the parent subdivision.

Subdivision works under approved DA-400/2018 have commenced. No dwelling structures are currently present on this portion of the site. Under the subject application, the site will have vehicle access via Sangam Road and Crystal Palace Way and is intended to be integrated with the surrounding road and lot layout established through the parent subdivision (ref. DA-400/2018).

**2.2 Site Locality**



**Figure 4:** Locality surrounding the proposed development (Source: Geocortex - Council’s internal system)  
The site is along a key arterial road (Camden Valley Way) linking to the M7 and broader metropolitan network. The site is in close proximity to Leppington Railway station, schools, childcare, emerging retail and community hubs, and forms part of a rapidly developing residential precinct.

The general locality is dominated by a mixture of low-medium density residential development. Due to the number of approved subdivision developments, the locality is considered land in transition to urban residential neighbourhoods.

**2.3 Site Constraints**

<p><b>Are there any constraints or affectations on the site:</b></p> <ul style="list-style-type: none"> <li>• Bushfire</li> <li>• Heritage Items</li> <li>• Aboriginal heritage</li> <li>• Environmentally Significant Land</li> <li>• Threatened Species/ Flora/ Habitat/ Critical Communities</li> </ul>	<ul style="list-style-type: none"> <li>• Bushfire Prone Land</li> <li>• Flood prone land</li> <li>• Moderate to high Salinity</li> <li>• Gas Pipeline</li> <li>• Classified Road</li> <li>• Biodiversity – Certified land</li> </ul>
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<ul style="list-style-type: none"> <li>• Acid Sulphate Soils</li> <li>• Aircraft Noise</li> <li>• Flight Paths</li> <li>• Railway Noise</li> <li>• Road Noise/ Classified Road</li> <li>• Significant Vegetation</li> <li>• Contamination</li> <li>• Gas pipelines</li> </ul>	
<p><b>Are there any restrictions on title?</b></p>	<p>As per condition 105 and 106 under approved Development Consent DA-400/2018, a Positive Covenant shall be imposed stating the following:</p> <p><b>Condition 105.</b> <i>“Documents shall be submitted to Council giving effect to the creation of a restriction on title over proposed residue Super-Lot 3 with regards to the proposed temporary on-site stormwater detention basin and stormwater pre-treatment systems, and that they shall remain in place until such time as the drainage system is directly connected to either the district detention basin or to the major trunk drainage system. Any further development on the lot will require Council approval. It shall be registered on the title of the property in conjunction with the Subdivision Plan and be in accordance with Liverpool City Council’s standard wording.</i></p> <p><i>The restriction as to user may not be extinguished or altered except with the consent of Liverpool City Council.</i></p> <p><i>The final wording of the recital of the Restriction is to be to Council’s satisfaction.”</i></p> <p><b>Condition 106.</b> <i>“Documents shall be submitted to Council giving effect to the creation of a restriction as to user and positive covenant over proposed residue Super-Lot 3 for the ongoing protection and maintenance of the temporary on-site stormwater detention and stormwater pre-treatment systems. It shall be registered on the title of the property in conjunction with the Subdivision Plan and be in accordance with Liverpool City Council’s standard wording.</i></p> <p><i>The restriction as to user may not be extinguished</i></p>

	<p><i>or altered except with the consent of Liverpool City Council.</i></p> <p><i>The final wording of the recital of the Restriction as to User is to be to Council's satisfaction."</i></p>
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### 3. BACKGROUND/ HISTORY OF THE SITE

#### 3.1 Background of the Site

The following table presents the relevant history associated with the subject site:

<b>Development Application</b>	<b>Lodgement Date</b>	<b>Proposed</b>	<b>Comment</b>
PL-38/2014	06 June 2014	Proposed residential subdivision	Advice provided 20 June 2014
PL-15/2015	11 February 2015	Residential Subdivision	Advice provided 05 March 2015
PL-83/2017	02 June 2017	Residential subdivision in 3 stages, including: <ul style="list-style-type: none"> <li>• Stage 1: creation &amp; construction of 25 residential lots, open space (4,200m<sup>2</sup> approx.), intersection with Camden Valley Way, and new public roads.</li> <li>• Stage 2: creation &amp; construction of superlots, and new public roads.</li> <li>• Stage 3: creation &amp; construction of a superlot, and new public roads.</li> </ul>	Advice provided 28 August 2017
DA-400/20218	17 May 2018	Subdivision of Two Existing Allotments into a Torrens Title Subdivision of 18 Residential Lots and 3 Residue Superlots, and the Excision of a Residue Lot for Future Acquisition which is Zoned for Drainage Infrastructure, Construction of Roads and Civil Works. The works include the Removal of Vegetation, Demolition of Existing Structures and Site Remediation, over two stages.  The development is Nominated	Approved 22 July 2021

		Integrated Requiring approval from the Natural Resource Access Regulator (NRAR) pursuant to the <i>Water Management Act 2000</i> and is Integrated Development requiring approval from the NSW Rural Fire Service pursuant to the <i>Rural Fires Act 1997</i> .	
DA-143/2022	11 February 2022	<p>Subdivision of Superlots 1 and 2 created by DA-400/2018 to create 88 lots, including 1 residue lot, incorporating the construction of 86 dwellings, including 81 x attached dwellings (1 with secondary dwelling), 4 x semi-detached dwellings, 1 x secondary dwelling, including road construction, civil works, earthworks and landscaping, to be carried out over two stages.</p> <p>The application is identified as Nominated Integrated Development requiring approval from the Natural Resources Access Regulator pursuant to the <i>Water Management Act 2000</i>. The application is identified as Integrated Development requiring approval from the NSW Rural Fire Service pursuant to the <i>Rural Fires Act 1997</i>.</p>	Approved 11 January 2024
DA-143/2022/A	06 June 2024	<p>Modification to Development Consent DA-143/2022 Under Section 4.55 (2) of the <i>Environmental Planning and Assessment Act 1979</i>, to</p> <ol style="list-style-type: none"> <li>1. Modify the list of approved plans contained in Condition (1) of the Section 34 Agreement (NoD) to: <ol style="list-style-type: none"> <li>a) Lower the height of all the approved dwellings and reconfigure the size of windows and doors accordingly.</li> <li>b) Add the Strata Plan for Lot 37 to the approved list of DA plans that was excluded from the original consent in error.</li> </ol> </li> <li>2. Insert a new condition in Part F of the Notice of Determination to clarify</li> </ol>	Returned 13 June 2024

		that the Subdivision Certificate can be released prior to the completion of the dwellings.	
DA-486/2023	07 September 2023	Construction of 17 dwelling houses on approved Lots 1-9 & 11-18 under DA-400/2018 within registered Lots 9&10 DP 27877 and associated landscaping.	Withdrawn 07 March 2024
PL-48/2014	28 May 2024	<p>The proposed development comprises a fourteen (14) lot subdivision to be completed in two (2) stages:</p> <p>Stage One:</p> <ul style="list-style-type: none"> <li>• Vegetation clearance and tree removal</li> <li>• Subdivision of the site into nine (9) lots, comprising: <ul style="list-style-type: none"> <li>○ Vacant residential lots</li> <li>○ One (1) residue lot to contain temporary access road (lot 78)</li> <li>○ One (1) residue lot to contain a temporary stormwater detention basin.</li> <li>○ Two (2) residue lots for dedication to Council as drainage land and public recreation</li> </ul> </li> <li>• Civil works to facilitate the subdivision, including: <ul style="list-style-type: none"> <li>○ Construction of a laneway and two (2) roads</li> <li>○ Construction of a temporary access road.</li> <li>○ Associated earthworks, remediation, and landscaping</li> </ul> </li> </ul> <p>Stage two:</p> <ul style="list-style-type: none"> <li>• Decommissioning of a temporary stormwater detention basin</li> <li>• Vegetation clearance and tree removal</li> <li>• Subdivision of one residue lot into six (6) vacant residential lots and</li> </ul>	Advice provided 03 July 2024

		<p>road.</p> <ul style="list-style-type: none"> <li>Associated earthworks, remediation civil works and landscaping</li> </ul>	
DA-143/2022/B	03 July 2024	<p>Modification to Development Consent DA-143/2022 Under Section 4.56(2) of the <i>Environmental Planning and Assessment Act 1979</i>, to</p> <ol style="list-style-type: none"> <li>Modify the list of approved plans contained in Condition (1) of the Section 34 Agreement (NoD) to: <ul style="list-style-type: none"> <li>Lower the height of all the approved dwellings and reconfigure the size of windows and doors accordingly.</li> <li>Add the Strata Plan for Lot 37 to the approved list of DA plans that was excluded from the original consent in error.</li> </ul> </li> </ol> <p>Insert a new condition in Part F of the Notice of Determination to clarify that the Subdivision Certificate can be released prior to the completion of the dwellings.</p>	Refused 23 October 2024
DA-143/2022/C	04 March 2025	<p>Modification to Development Consent DA-143/2022 under Section 4.56 of the <i>Environmental Planning and Assessment Act 1979</i>, this application seeks to modify the approved DA plans and Section 34 Agreement (Notice of Determination) to:</p> <ol style="list-style-type: none"> <li>Amend the development's staging and lot numbering.</li> <li>Lower the height of all the approved dwellings and reconfigure the size of windows and doors accordingly.</li> </ol> <p>Add the Strata Plan for proposed Lot 311 (currently known as approved Lot 37) to the approved list of DA plans that was excluded from the original consent in error</p>	<i>Under Assessment</i>

### 3.2 History of the Development Application

Date	Action
2 June 2025	Additional information request (14 Day letter) sent to the applicant
12, 13 and 16 June 2025	E-mails have been sent to the applicant outlining the Floodplain Engineer and Land Development Engineering matters.
19 June 2025	Applicant requested extension and extension granted till the 03 July 2025
10 July 2025	Meeting have been requested by the applicant
31 July 2025	No information has been submitted following the meeting.
14 August 2025	An e-mail has been sent to the applicant outlining the outstanding matters of the application. No information has been submitted by the applicant.

The following table presents the relevant procedures of the subject application:

### 4. DETAILS OF THE PROPOSED DEVELOPMENT

The proposal involves the subdivision of land to create 12 residential lots and 2 residue lots within the area identified as Superlot 3, as approved under Development Consent DA-400/2018. The proposal includes associated civil works such as construction of two local roads, one collector road, and one laneway, landscaping bulk earthworks, and decommissioning of a temporary detention basin and associated drainage infrastructure (to be constructed under approved DA-400/2018).

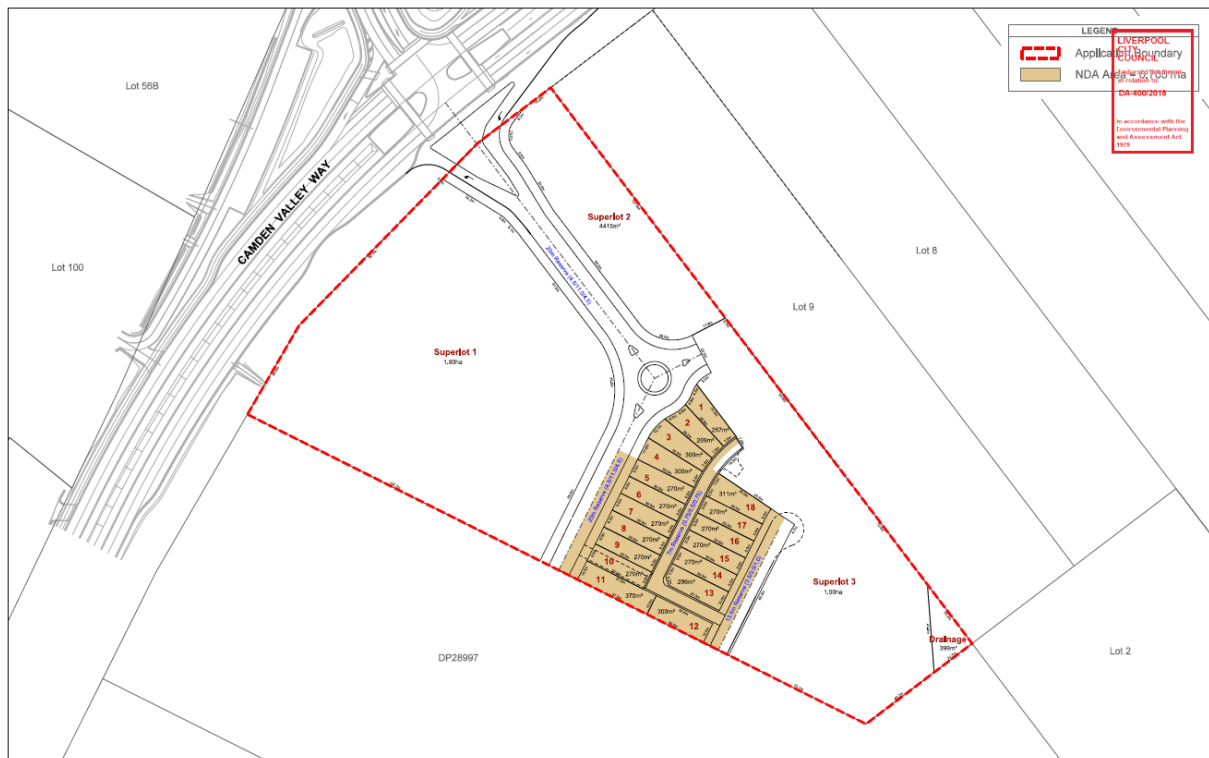


Figure 5: Extract of proposed Subdivision Plan in association with the approved subdivision plan (DA-400/2018)

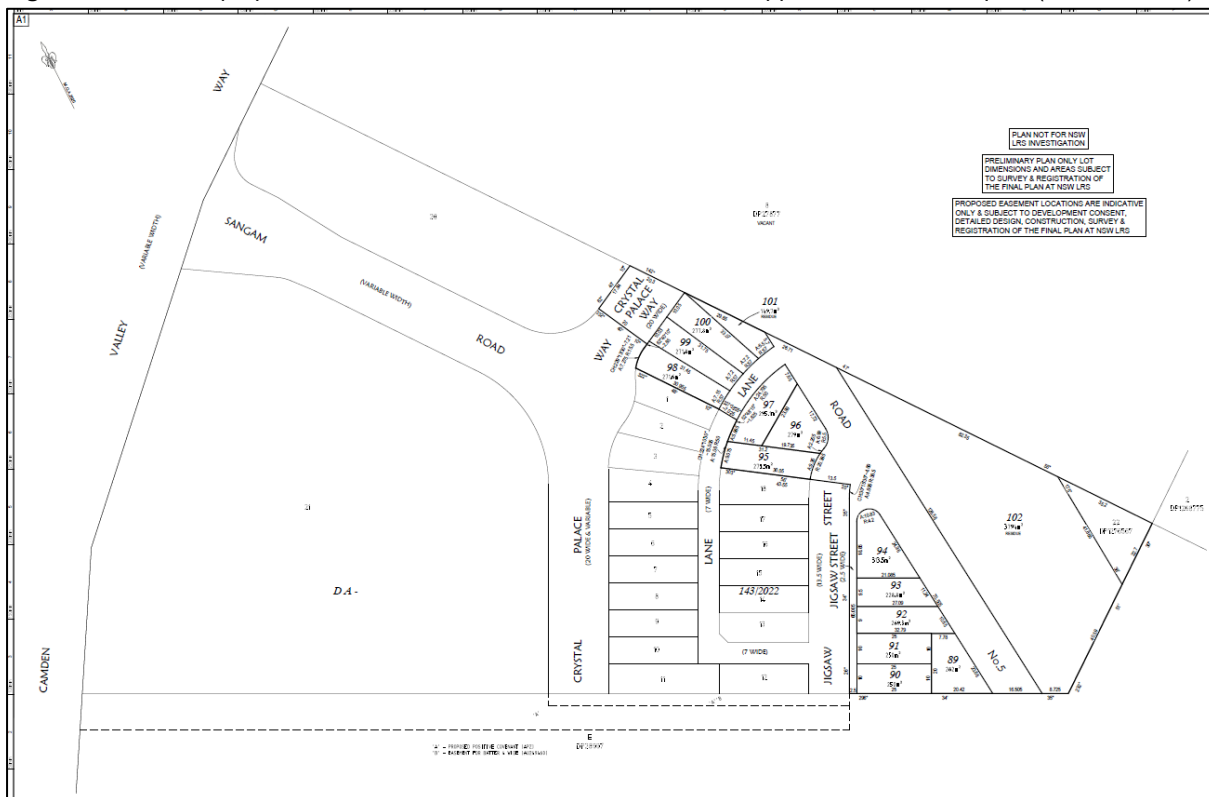


Figure 6: Extract of proposed subdivision under DA-179/2025 (subject application).



Figure 7: Extract of street tree planting

## 5. STATUTORY CONSIDERATIONS

The following planning instruments and plans are relevant to the proposed development:

- State Environmental Planning Policy (Precincts—Western Parkland City) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- Liverpool Growth Centre Precincts Development Control Plan 2021.

## 6. ASSESSMENT

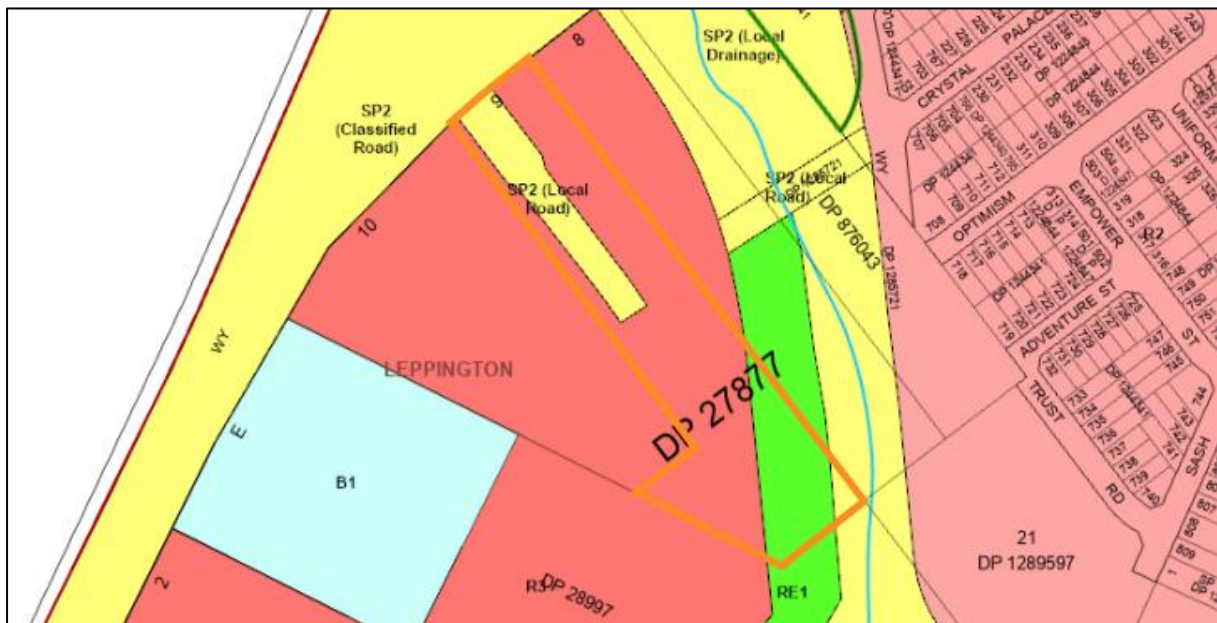
The Development Application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*, as follows:

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

**(a) State Environmental Planning Policy (Precincts – Western Parkland City) 2021**

**(i) Zoning**

The development site is zoned R3 Medium Density Residential pursuant to State Environmental Planning Policy (Precincts – Western Parkland City) 2021 - Appendix 4 Liverpool Growth Centres Precinct Plan.



**Figure 8:** Extract of zoning image of the site (Source: Geocortex - Council's internal system)



**Figure 9:** Extract of the Indicative Layout Plan Road Network for the precinct (Source: Geocortex - Council's internal system)

## (ii) Permissibility

The proposed development within the R3 zone is defined as *subdivision, roads, and earthworks*. Subdivision and the construction of associated roads, drainage and earthworks are permissible pursuant to Clause 2.6 of Appendix 4 of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (SEPP). Demolition is permitted with consent pursuant to Clause 2.7 of Appendix 4 of the SEPP.

## (iii) Objectives of the zones

Objectives of the R3 Medium Density Residential Zone are:

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

The proposal does not meet the objectives of the R3 Medium Density Residential zone, as it does not provide adequate facilities and services to meet the day-to-day needs of future residents and the locality. In particular, the subdivision seeks to decommission the temporary on-site detention approved under DA-400/2018 without delivering sufficient

infrastructure to manage stormwater prior to the completion of the Regional Detention Basin, thereby not supporting the intended residential development or ensuring that appropriate infrastructure is in place to service the land and locality.

**(iv) Summary of Relevant SEPP: State Environmental Planning Policy (Precincts – Western Parkland City) 2021 Provisions**

The State Environmental Planning Policy (Precincts - Western Parkland City) 2021 contains a number of provisions which are relevant to the proposal. Assessment of the application against the applicable provisions is provided below.

*Note: The Liverpool Local Environmental Plan 2008 does not apply to this proposal, as the land is located within a Growth Centre Precinct. The applicant is instead assessed against the SEPP and the Liverpool Growth Centre Precincts DCP 2021.*

<b>Clause</b>	<b>Provision</b>	<b>Proposed</b>	<b>Compliance</b>
2.6 Subdivision	Subdivision of land may only be carried out with development consent	The proposal is seeking consent for the subdivision of land to create 12 residential lots and 2 residue lot. Subdivision plans have been submitted in support of the application.	Complies
2.7 Demolition	Demolition works may only be carried out with consent	The development proposed the demolition of existing drainage pipes and temporary turning head.  A demolition plan and waste management plan has been submitted with the application and appropriate conditions of consent will be applied.	Could be conditioned if consent were granted.
4.1AA Subdivision resulting in lots between 225-300m <sup>2</sup>	Development consent may be granted to lots with an area less than 300m <sup>2</sup> (but not less than 225m <sup>2</sup> )	Lot 94 provides a lot size of 300m <sup>2</sup> .  A build envelope plan (BEP) has been provided for Lots between 225m <sup>2</sup> – 300m <sup>2</sup> generally demonstrating that the proposed land can contain	Insufficient Information

Clause	Provision	Proposed	Compliance
		<p>a building envelope for the erection of a dwelling house. However, an amended BEP was requested to comply with the setbacks identified under Part 4 of this DCP.</p> <p>In addition, it was suggested that the building footprint be redesigned for Lot 93 to ensure that habitable areas are located outside the easement for the Padmount Station.</p> <p>No information has been submitted by the applicant.</p>	
<p>4.1AB Minimum lot size for residential development in Zone R2 Low Density Residential and Zone R3 Medium density residential</p>	<p>300m<sup>2</sup> for a dwelling house in dwelling density band of 25 dwellings per hectare</p>	<p>Lot 94 provides a lot size of 300m<sup>2</sup>.</p> <p>All other lots are in accordance with Clause 4.1AA of the SEPP (Precincts – Western Parkland City) 2021.</p>	<p>Complies</p>
<p>4.1B Residential Density</p>	<p>The site is subject to a minimum dwelling density of 25dw/ha</p>	<p>Site Area: 0.6ha</p> <p>Proposed lots: 13 lots (this is inclusive of 1 residue lot).</p> <p><i>Note: Residue lot 102 is to be excluded as the land is zoned RE1 Public Recreation.</i></p> <p>Calculation: 13/0.6ha = 21.66dw/Ha</p>	<p>Does not comply</p> <p><i>Please refer to 4.6 discussion below.</i></p>

Clause	Provision	Proposed	Compliance
		The proposal is deficient by 13.36%	
4.6 Exceptions to development standards	(2) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.	<i>A Clause 4.6 variation request has been submitted by the Applicant. Please refer to Cl. 4.6 discussion below.</i>	
5.1 Relevant Acquisition Authority	Land to be acquired as identified on the Land Reservation Acquisition Map	A portion of the site is identified as required for acquisition on the Land Reservation Acquisition Map.  Insufficient information has been submitted for Council to ascertain whether works are occurring within the RE1 and SP2 zoned land.	Insufficient Information
5.9 Preservations of trees or vegetation	Consent is required to remove trees or vegetation.	All vegetation were removed under parent subdivision DA-400/2018.	Complies
5.10 Heritage conservation	Conservation of environmental heritage and consent requirements	The land is identified requiring an Aboriginal Archaeological survey, as per Figure 2-5 of this Schedule. Council's Heritage officer has requested an	Insufficient Information

Clause	Provision	Proposed	Compliance
		Archaeological Survey and Aboriginal Archaeological Assessment prepared in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales to be submitted. However, no response has been received from the applicant.	
6.1 Public Utility Infrastructure	The consent authority must not grant development consent to development on land to which this Precinct Plan applies unless it is satisfied that any public utility infrastructure (supply of water, electricity and disposal/management of sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required	The requirements of Sydney Water and Endeavour Energy have been provided to Council and will be imposed as conditions of consent of any approval.  Council will apply standard conditions regarding the supply of water, wastewater, telecommunications, and electricity to be satisfied prior to the issue of a Subdivision Certificate for each allotment.	Could be conditioned if consent were granted
6.2 & 6.3 Development Controls – Native Vegetation Areas and Existing Native Vegetation	These controls relate only to the clearing of native vegetation within a native vegetation retention area.	The site is not identified within a native vegetation retention area on the Native Vegetation Protection Map, or within an existing native vegetation retention area on the Native Vegetation Protection Map.	Not applicable



- (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(3) prescribes:

- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent 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.

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

The applicant submitted a Clause 4.6 Variation Statement, dated March 2025 in order to justify the variation described above. The Variation Statement can be found in Report Attachment 1. The document provides the following justification based on the merits of the proposal:

(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances

### **Applicant's response**

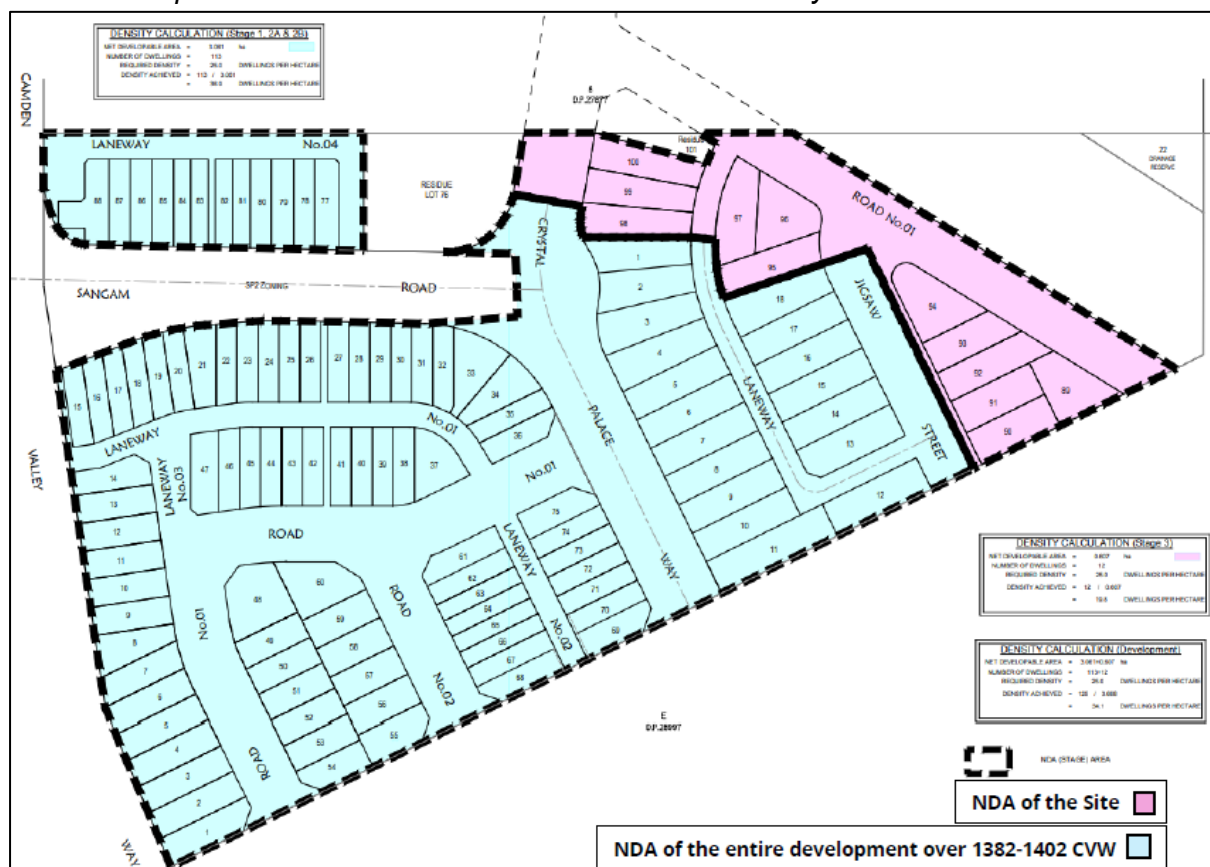
*The NSW Land and Environment Court and the NSW Court of Appeal have established principles under which a consent authority can consider a variation to a development standard to be reasonable. The key principles were established in Wehbe v Pittwater Council [2007] NSW LEC 827 (Wehbe).*

*In Wehbe, Preston CJ of the Land Environment Court provided relevant assistance by identifying five methods under which a variation to a development standard can be deemed suitable, and compliance with the standard is seen to be unreasonable or unnecessary. The five methods include:*

1. *The objectives of the standard are achieved notwithstanding noncompliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The proposed variation will be assessed using method (1) to establish that strict compliance of the development standard is unreasonable and unnecessary in this instance.



**Figure 10:** Extract the applicant's Net Development Area calculation and overall subdivision layout. The overall subdivision encompasses the subdivisions layouts approved under DA-400/2018 and DA-143/2022.

Clause 4.1B (1) of Appendix 4 of the SEPP WPC 2021 outlines the objectives of the development standard. The consistency of the proposal with the objectives of Clause 4.1B is outlined in Table 1 below. This assessment demonstrates that the proposal achieves the objectives of the development standard and, therefore, strict compliance with the standard would be unnecessary in this instance.

Table 1: Objectives of the Standard under Appendix 4 of the SEPP WPC 2021

Objectives of Cl. 4.1B	Comment
<i>(1) The objectives of this section are—</i>	
<i>(a) to establish minimum density requirements for residential development, and</i>	Noted. The proposal is not inconsistent with the establishment of a minimum dwelling density control.
<i>(b) to ensure that residential development makes efficient use of land and infrastructure, and contributes to the availability of new housing, and</i>	<p>It should be noted that:</p> <ul style="list-style-type: none"> <li>• Despite the irregular shape of the Site and ILP road / block pattern, the proposed residential development maximises the lot yield without any significant residual land. The proposal represents the highest possible lot yield whilst complying with minimum lot sizes for dwelling houses. It therefore represents the most efficient layout possible under a residential subdivision development.</li> <li>• The Site will be developed for residential purposes and will rely on Council’s regional stormwater channel and basin downstream for quantity and quality purposes. This will remove the need for the temporary basin approved under the Parent DA within the Site and unburden it for residential development, further increasing the efficiency of the land use.</li> <li>• The proposed development will contribute to the availability of new housing, which is urgently needed to increase the dwelling supply in Greater Sydney and help alleviate the current housing crisis.</li> </ul>
<i>(c) to ensure that the scale of residential development is compatible with the character of the precinct and adjoining land.</i>	<p>The Site is predominantly located in the R3 zone, which is suited for medium density residential development.</p> <p>Although there are no pending or approved DAs on either side of the Site, it should be noted that:</p> <ul style="list-style-type: none"> <li>• The Parent DA or the Stage 1 DA over 1382-1402 Camden Valley Way, Leppington (the Parent DA site) was approved for 18 low density residential lots.</li> </ul>
	<ul style="list-style-type: none"> <li>• The Stage 2 DA over the Parent DA site was approved for 81 attached dwellings, 4 semi detached dwellings and one secondary dwelling.</li> <li>• The constructed development at 1450-1480 Camden Valley Road (north of the Site) involved the subdivision of the site into lots to support both detached and attached dwellings.</li> <li>• The constructed development in between 1322 and 1360 Camden Valley Way (south of the Site) involved the subdivision of the site into low density lots supporting detached dwellings.</li> </ul> <p>Given the above context of approved and existing development within the vicinity of the Site, the scale of residential development proposed under this DA is compatible with the low and medium density character that exists in the surrounding area.</p>

### Council's assessment of variation proposed

The site is subject to a minimum dwelling density of 25dw/ha. The development proposes a residential density of 21.66 per hectare. It is noted that there is a minor discrepancy in the dwelling density calculation, as Council has included residue lot 101 in its calculation, whereas the applicant has excluded the residue lot. Notwithstanding this variation, the proposed density remains deficient by more than 10% in meeting the required dwelling yield.

Under 4.1B(4) of the SEPP(Precincts – Western Parkland City) 2021, net developable area is defined as follows:

*'net developable area means the land occupied by the development, including internal streets, but excluding land that is not zoned for residential purposes.'*

In addition, pursuant to Section 1.5 of the *Environmental Planning and Assessment Act 1979*, *development* is defined as:

- (1) *For the purposes of this Act, development is any of the following –*
- (a) *The use of the land,*
  - (b) *The subdivision of land,***
  - (c) *The erection of a building,*
  - (d) *The carrying out of a work,*
  - (e) *The demolition of a building or work,*
  - (f) *Any other act, matter does not include any act, matter or thing that may be controlled by any environmental planning instruments.*

Under the *Environmental Planning and Assessment Act 1979*, 'development' includes subdivision, irrespective of whether the land is identified as a residue lot. The proposed development incorporates the creation of a residue lot through subdivision. Accordingly, residue lot 101 has been included in the dwelling density calculation.

Despite this deficiency, the variation is considered acceptable for the following reasons:

- Due to the lot size and irregular shape, lot 101 cannot achieve appropriate amenities for residential development in its current form. At this stage, lot 101 of this subject application will remain as a residue lot and will be developed in conjunction with the adjoining sites to prevent fragmentation and contribute to the availability of new housing in accordance with Part 4 of this DCP.
- The proposed subdivision has been designed in accordance with the Indicative Layout Plan (ILP). The proposed lots widths and dimensions comply with the requirements of Part 3 of this DCP, and provide sufficient area to accommodate dwellings consistent with Part 4 of this DCP. While a minor amendment has been required to the Building Envelope Plan of Lot 93 to ensure consistency with the setbacks of the DCP, this does not affect the fundamental suitability of the lot. In essence, each lot can accommodate a dwelling that is compliant with the relevant controls, ensuring that the intended character and functionality of the precinct is maintained.

- The proposal maintains an overall density that is broadly consistent with the intended precinct outcomes and supports the delivery of diverse housing within the locality opportunities within the locality.
- The proposed subdivision pattern would provide a coherent lot pattern with the character of the precinct and to the allotments on the adjoining land.

Notwithstanding the above, it is noted that the development is premature at this stage as sufficient stormwater infrastructure is not yet available to service the site. Accordingly, while the variation to the dwelling density standard is acceptable in principle, the timing of the proposal requires further consideration to ensure the orderly and coordinated delivery of essential infrastructure.

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

### **Applicant's response**

*The proposed variation is justified on the following sound environmental planning grounds:*

- *As noted in **Section 3.1**, the dwelling density is impossible to achieve for a subdivision development given the irregular shape of the Site and ILP road and block arrangement.*
- *Despite the non-compliance for the proposed development, it should be noted that:*
  - *This DA comprises the third and final subdivision DA (Stage 3) of the subdivision over the Parent DA site, being 1382-1402 Camden Valley Way.*
  - *The combined dwelling density of the approved Stage 1 (DA-400/2018) and Stage 2 (DA-143/2022) DAs over the Parent DA Site was significantly higher than the minimum requirement, being 36.9dw/ha (refer to **Figure 2**).*
  - *If the dwelling density is considered holistically across Stages 1-3 over the Parent DA site, the overall dwelling density would be 34.1dw/ha.*

*Although the minimum density requirement cannot be achieved for this DA (Stage 3) alone, the combined residential development proposed over the Parent DA Site (Stages 1-3) greatly exceeds the minimum dwelling density standard.*

### **Council's assessment of variation proposed**

At this stage, there are insufficient environmental planning grounds to support the requested variation, as the necessary infrastructure to support the development has not yet been provided.

The applicant had advised that the proposed development would rely solely on the future regional detention basin. However, Council's Floodplain Engineer have advised that there is no indicative timeframe for its delivery, nor are any design details currently available. Furthermore, the delivery of the regional basin will require the acquisition of private land, adding further uncertainty.

Accordingly, interim measures must be implemented to ensure appropriate stormwater management and to avoid adverse impacts on the surrounding locality and future residential lots.

### **Recommendation**

With consideration to the discussion above, the 4.6 variation request to the dwelling density cannot be supported. As such, the proposal is considered to not be in the public interest.

#### **(b) State Environmental Planning Policy (Resilience and Hazards) 2021**

The proposal has been assessed under the relevant provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land which applies to the DA.

The objectives of Chapter 4 of the SEPP 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 clause 4.6 of the SEPP, the consent authority must consider:

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

The site is identified as having a Medium Potential Contamination Risk within the Liverpool Growth Centres Precincts DCP, Schedule 1 – Austral and Leppington North Precinct. A Remediation Validation Assessment report prepared by CBEM Constructions by Foundation Earth Sciences dated October 2024 was submitted with the application. Council's Environmental Health section have reviewed the documents and have requested for the remediation assessment criteria referenced in the table of contents of the Remediation Validation Assessment refers to HIL-D and HSL-D which are associated with a commercial/industrial land use category.

Furthermore, the Executive Summary and Conclusions and Recommendations sections of the Remediation Validation Assessment states that 'the site is suitable for the proposed redevelopment into a commercial development'. These statements are inconsistent with the report's introduction which explains that the land would be redeveloped into a subdivision for residential purposes. The remediation assessment criteria listed in Section 10 of the remediation Validation Assessment indicates that health-based investigation levels and health-screening levels, ecological investigation levels and ecological screening levels were adopted based upon a residential land use setting.

Therefore, it is believed that the consultant did assess the suitability of the land for residential purposes despite other sections of the report referring to assessment criteria applicable to a commercial/industrial land use setting. In this regard, it is requested that The Remediation Validation Assessment Property Address 1382-1402 Camden Valley Way, Leppington NSW Prepared for CBEM Constructions by Foundation Earth Sciences dated October 2024 is revised to confirm that the land is suitable for the proposed residential development. However, the requested information had not been submitted by the applicant.

Pursuant to Chapter 4 of the SEPP, the consent authority is required to consider the provisions in Clause 4.6 of the SEPP shown in the following table in determining development application.

<b>Clause 4.6 - Contamination and remediation to be considered in determining development application</b>	<b>Comment</b>
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	Council’s Environmental Health Officer has requested for further information. However, no response has been submitted. As such, Council cannot ascertain as to whether the land is suitable for residential development.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	As above.
(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.	As above.

Based on the above assessment, the proposal is not considered to satisfy the relevant objectives and provisions of SEPP (Resilience and Hazards) 2021 Chapter 4 Remediation of Land.

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

Chapter 6 of the Biodiversity and Conservation SEPP establishes the requirements for the various water catchments across the greater Sydney region. The subject site is located within the Hawkesbury-Nepean River Catchment. This chapter generally aims to protect the environment of the water catchment, specifically, the Hawkesbury Nepean River system by ensuring that impacts of future land uses are considered in a state, regional and local context.

When a consent authority determines a development application, planning principles are to be applied (Chapter 6). Accordingly, a table summarising the matters for consideration in determining development applications, and compliance with such, is provided below.

<b>Division 2 Controls on development generally</b>	<b>Comment</b>
<p><b>6.6 Water Quality and Quantity</b></p> <p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—</p> <p>(a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and</p> <p>(b) the impact on water flow in a natural waterbody will be minimised.</p>	<p>The proposed development is located within the floodplain of Bonds Creek, with the rear north-eastern portion of the site affected by mainstream flooding. At this stage, the regional detention basin has not been constructed.</p> <p>The proposal seeks to decommission the temporary detention basin and associated drainage infrastructure approved under DA-400/2018. Additionally, the subdivision works approved under DA-400/2018 include flood compensatory storage, on-site detention, and water quality basin.</p> <p>The applicant had advised that the proposed development would rely solely on the future regional detention basin and is willing to proceed with approval in the expectation that the basin will be operational within the five-year lapsing period of the development consent. However, Council's Floodplain Engineer have advised that there is no indicative timeframe for its delivery, nor are any design details currently available. Furthermore, the delivery of the regional basin will require the acquisition of private land, adding further uncertainty.</p> <p>Council's Floodplain Engineer and Land Development Engineer are not supportive of this approach, as it may result in private owners of unregistered lots being unable to lawfully occupy the land until the regional basin is constructed and operational.</p> <p>As such, Council's Floodplain Engineer and</p>

	<p>Land Development Engineer are not supportive of the application as the removal of the interim measures including flood compensatory storage, on-site detention, and water quality basins must be retained and maintained until the Bonds Creek enhancement works are completed and the regional detention basin is fully constructed and made operational.</p> <p>The decommissioning of the temporary detention basin and associated drainage infrastructure will result in insufficient stormwater management measures. As a result, this will impact the future residents of the development and the locality.</p> <p>No information has been submitted with the application to demonstrate that suitable stormwater management measures will be implemented for the proposed lots and the lots to be created under DA-400/2018.</p>
<p><b>6.7 Aquatic Ecology</b></p> <p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <ul style="list-style-type: none"> <li>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,</li> <li>(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,</li> <li>(c) if a controlled activity approval under the <i>Water Management Act 2000</i> or a permit under the <i>Fisheries Management Act 1994</i> is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,</li> <li>(d) the erosion of land abutting a natural waterbody, or the sedimentation of a</li> </ul>	<p>As above.</p>

<p>natural waterbody will be minimised, (e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.</p>	
<p><b>6.8 Flooding</b> (2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not— a. if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or b. have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</p>	<p>As above.</p>
<p><b>6.9 Recreation and public access</b> (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following— a. the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation, b. new or existing points of public access between natural waterbodies and the site of the development will be stable and safe, c. if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.</p>	<p>Not applicable</p>

It is considered that the proposal does not achieve the objectives of the Biodiversity and Conservation SEPP.

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

There are no draft EPIs applicable to the site.

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

**(a) Liverpool City Council Growth Centre Precincts Development Control Plan**

The application has been considered against the controls contained in the Liverpool Growth Centre Precincts Development Control Plan (DCP) in particular:

- Part 2: Precinct Planning Outcomes.
- Part 3: Neighbourhood and Subdivision Design; and
- Schedule 3: East Leppington

The proposal does not comply with the following controls applying to the land. All relevant controls demonstrating compliance are found in the relevant attachment to this report.

<b>Part 2 Precinct Planning Outcomes</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
2.3.1 Flooding	This section controls relating to development on flood prone land	<p>The proposed development is located within the floodplain of Bonds Creek, with the rear north-eastern portion of the site affected by mainstream flooding. At this stage, the regional detention basin has not been constructed.</p> <p>The applicant had advised that the proposed development would rely solely on the future regional detention basin and is willing to proceed with approval in the expectation that the basin will be operational within the five-year lapsing period of the development consent. However, Council's Floodplain Engineer have</p>	Does not comply

<b>Part 2 Precinct Planning Outcomes</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
		<p>advised that there is no indicative timeframe for its delivery, nor are any design details currently available. Furthermore, the delivery of the regional basin will require the acquisition of private land, adding further uncertainty.</p> <p>As such, Council's Floodplain Engineer are not supportive of the application, as the removal of the interim measures including flood compensatory storage, on-site detention, and water quality basins must be retained and maintained until the Bonds Creek enhancement works are completed and the regional detention basin is fully constructed.</p> <p>This is because the decommissioning of the temporary detention basin and associated drainage infrastructure will result in insufficient stormwater management measures. As a result, this will impact the future residents of the development and the locality.</p> <p>No information has been submitted with the application to demonstrate</p>	

<b>Part 2 Precinct Planning Outcomes</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
		that suitable stormwater management measures will be implemented for the proposed lots and the lots to be created under DA-400/2018.	
2.3.2 Water Cycle Management	This section contains controls relating to stormwater management.	Council's Land Development Engineer have reviewed the proposal and have requested further information.  No information has been submitted to demonstrate that sufficient infrastructure to manage stormwater is provided.	Insufficient Information
2.3.4 Aboriginal and European Heritage	This section contains controls relating to the management of Aboriginal heritage values and to ensure areas identified as European cultural heritage sites or archaeological sites are managed.	The land is identified requiring an Aboriginal Archaeological survey, as per Figure 2-5 of this Schedule.  Council's Heritage officer has requested for an Archaeological Survey and Aboriginal Archaeological Assessment prepared in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales to be submitted. However, no response has been received from the applicant.	Insufficient Information
2.3.9 Noise	This section contains controls relating to ensuring acoustic privacy is achieved for future residential development.	Council's Environmental Health Officer has reviewed Acoustic Report submitted with the application and requested further	Insufficient Information

<b>Part 2 Precinct Planning Outcomes</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
		information to be submitted.  No response has been received from the applicant.	

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
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.	Site Area: 0.6ha  Proposed lots: 13 lots (this is inclusive of 1 residue lot).  <i>Note: Residue lot 102 is to be excluded as the land is zoned RE1 Public Recreation.</i>  Calculation: $13/0.6\text{ha} = 21.66\text{dw/Ha}$  The proposal is deficient by 13.36%	<b>Does not comply</b>  <b>See 4.6 discussion above.</b>
3.1.2 Block and Lot Layout	Minimum lot size of 300m <sup>2</sup> for density band 25.	Lot 94 exceeds 300m <sup>2</sup> .  However, a build envelope plan (BEP) has been provided for Lots 89-93 and 95-100 generally demonstrating that the proposed land can contain a building envelope for the erection of a dwelling house. However, an amended BEP for lot 96 was requested to comply with the setbacks identified under Part 4 of this DCP.	<b>Insufficient Information</b>

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
		<p>In addition, it was suggested that the building footprint be redesigned for Lot 93 to ensure that habitable areas are located outside the easement for the padmount electrical substation.</p> <p>No information has been submitted by the applicant.</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>The location of the proposed Padmount Electrical substation has been shown on the Building Envelope Plans.</p> <p>Council has requested that the building footprint be redesigned for Lot 93 to ensure that habitable areas are not located within the easement of the Padmount Station.</p> <p>No information has been submitted by the applicant.</p>	<b>Insufficient Information</b>
3.2 Subdivision Approval Process	Building Envelope Plans (BEPs) to provide appropriate details as listed in the DCP.	A build envelope plan (BEP) has been provided for Lots between 225m <sup>2</sup> – 300m <sup>2</sup> generally demonstrating that the proposed land can contain a building envelope for the erection of a dwelling house. However, an amended BEP for lot 96 was requested to comply with the setbacks identified under Part 4 of this DCP.	<b>Insufficient Information</b>

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
		<p>In addition, it was suggested that the building footprint be redesigned for Lot 93 to ensure that habitable areas are located outside the easement for the padmount electrical substation.</p> <p>No information has been submitted by the applicant.</p>	

<b>Schedule 3: East Leppington</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
2.5 Noise Attenuation Measures	This section supplements Section 2.3.9 Noise and 3.3.1 Street network and design of the Main DCP and sets out controls for particular streets as shown in Figure 2-10. Future collector roads may carry larger volumes of traffic thereby requiring noise attenuation measures. The Main DCP requires an acoustic report where traffic volumes are predicted to exceed (or currently exceed) 6,000 vehicles per day.	<p>Council's Environmental Health Officer has reviewed Acoustic Report submitted with the application and has requested further information to be submitted.</p> <p>No response has been received from the applicant.</p>	Insufficient Information
4.1 Aboriginal Cultural Heritage	An Aboriginal archaeological survey is required for those lands identified in Figure 2.5. This survey is to be undertaken by a suitably qualified professional in consultation with the Office of Environment and	<p>The land is identified requiring an Aboriginal Archaeological survey, as per Figure 2-5 of this Schedule.</p> <p>Council's Heritage officer has requested for an Archaeological Survey</p>	Insufficient Information

	<p>Heritage NSW. Reference should be made to the relevant Office of Environment and Heritage (OEH) guidelines.</p>	<p>and Aboriginal Archaeological Assessment prepared in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales to be submitted. However, no response has been received from the applicant.</p>	
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**6.4 Section 4.15(1)(a)(iia) – 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**

The *Environment Planning and Assessment Regulation 2021* includes provisions in which the consent Authority is able to request additional information under Clause 36.

A request for further information was made on 2 June 2025. The applicant has not responded to Council’s request for further information. It is considered that Council has provided ample time to address the issues associated with the proposal. Therefore, a recommendation has been made using the information available.

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

**(a) Natural and Built Environment**

Impacts on the natural environment have been assessed as part of the development application and the required Precinct Planning outcomes. It is considered that the development will result in adverse impacts on the natural environment as insufficient infrastructure is available to manage the urban water cycle. As such, the development does not achieve the objectives of the SEPP (Biodiversity and Conservation) 2021 and the provisions under the Development Control Plan.

In addition, the proposed development and the associated works are not considered to provide for an appropriate built form for the locality. The proposal does not address or satisfy the key development controls for the site and development, as detailed above. Accordingly, the proposal is likely to have a negative impact on the built environment.

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

It is considered that the development will diminish the residential amenity of future residents and the locality, resulting in an unacceptable social impact.

In addition, the proposed subdivision would not result in a positive economic impact in the locality through the capital investment value of the development.

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

The proposal is a permissible form of development within the zone, however, due to the non-compliance with the planning controls and insufficient information provided, as detailed in this report, the site is not considered to be suitable for a development of this nature.

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

**(a) Internal Referrals**

<b>DEPARTMENT</b>	<b>COMMENTS</b>
<b>Environmental Health</b>	<p>Insufficient Information</p> <p>1. State Environmental Planning Policy (Resilience and Hazards) 2021</p> <p>Within the Statement of Environmental Effects, Colliers confirmed that remediation work was performed under previous subdivision works certificate (SWC) approval SWC-28/2022 over the site and the adjacent 1382 Camden Valley Way. Condition 99 of DA-400/2018 required validation to be undertaken to confirm the effectiveness of these remediation works.</p> <p>The validation report was required to be prepared by a suitably qualified environmental consultant certified under either the Environment Institute of Australia and New Zealand’s Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme. The report’s cover or title page was to include a personalised electronic seal for either the CEnvP(SC) or CPSS CSAM scheme. It is unclear whether the Remediation Validation Assessment Property Address 1382-1402 Camden Valley Way, Leppington NSW Prepared for CBEM Constructions by Foundation Earth Sciences dated October 2024 was prepared by a suitably qualified environmental consultant who meets these requirements.</p>

The Remediation Validation Assessment Property Address 1382-1402 Camden Valley Way, Leppington NSW Prepared for CBEM Constructions by Foundation Earth Sciences dated October 2024 refers to numerous technical reports not submitted in support of this Application including:

- Douglas Partners (2018), 'Detailed Site Investigation', Proposed Residential Subdivision 1382-1402 Camden Valley Way, Leppington NSW, reference 92255.03.R.001 Rev 0, dated 27 September 2018 #; and
- Douglas Partners (2023), 'Supplementary Contamination Investigation' Proposed Residential Subdivision 1382-1402 Camden Valley Way, Leppington NSW, reference 92255.06.R.001 Rev 0, dated 22 September 2023 #

In addition, discrepancies were noted in the Remediation Validation Assessment Property Address 1382-1402 Camden Valley Way, Leppington NSW Prepared for CBEM Constructions by Foundation Earth Sciences dated October 2024. When reviewing the Statement of Environmental Effects, the Applicant intends to subdivide the land for residential purposes. However, the remediation assessment criteria referenced in the table of contents of the Remediation Validation Assessment refers to HIL-D and HSL-D which are associated with a commercial/industrial land use category.

Furthermore, the Executive Summary and Conclusions and Recommendations sections of the Remediation Validation Assessment states that 'the site is suitable for the proposed redevelopment into a commercial development'. These statements are inconsistent with the report's introduction which explains that the land would be redeveloped into a subdivision for residential purposes. The remediation assessment criteria listed in Section 10 of the remediation Validation Assessment indicates that health-based investigation levels and health-screening levels, ecological investigation levels and ecological screening levels were adopted based upon a residential land use setting.

Therefore, it is believed that the consultant did assess the suitability of the land for residential purposes despite other sections of the report referring to assessment criteria applicable to a commercial/industrial land use setting. In this regard, it is requested that The Remediation Validation Assessment Property Address 1382-1402 Camden Valley Way, Leppington NSW Prepared for CBEM Constructions by Foundation Earth Sciences

	<p>dated October 2024 is revised to confirm that the land is suitable for the proposed residential development.</p> <p>In addition, the Remediation Validation Assessment must be peer reviewed by a suitably qualified environmental consultant certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme if the certification requirements have not been addressed as required by Condition 99 of DA-400/2018.</p> <p>2. Clause 2.120 of State Environmental Planning Policy (Transport and Infrastructure) 2021</p> <p>DA-400/2018 was supported by an acoustic report titled 1382-1402 Camden Valley Way, Leppington – Lots 1-22 DA Acoustic Assessment, Project No. 20180417.1, Document Reference: 20180417.1/1104A/R1/RL, Revision1 prepared by Acoustic Logic Consultancy Pty Ltd dated 11th April 2018. This acoustic report was approved under Condition 1 of DA-400/2018.</p> <p>Condition 110 of DA-400/2018 stipulates that prior to the issue of a Subdivision Certificate a restriction as to user and positive covenant relating to sound insulation measures on future dwellings, as per the recommendations of the Acoustic Assessment (20180417.1 Revision 1 / dated 11 April 2018) by Acoustic Logic, shall be registered on the residential allotment property titles (being Lots 1-18), as amended by the approved plans.</p> <p>Acoustic Logic Consultancy Pty Ltd referred to the subdivision plan (Ref 009.CV.001.04) provided by Urban Co dated 6th March 2018. The acoustic consultant explained that one and two-storey developments would be located on Lots 24 and 25 and would act as a noise barrier for all developments on Lots 1 to 22. Although the acoustic consultant considered that the subject lots would not be significantly affected by traffic noise from Camden Valley Way, indicative noise treatments were recommended for Lots 1 to 22.</p> <p>It appears that the subdivision layout reviewed by Acoustic Logic Consultancy Pty Ltd under DA-400/2018 is different to the latest plans submitted in support of DA-179/2025. It is requested that this Application is supported by written advice from a suitably</p>
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	<p>qualified acoustic consultant to assist the consent authority with addressing Clause 2.120 of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>. This information will assist the consent authority with considering whether the Applicant is required to create a restrictive covenant over each Lot similar to the requirements of DA-400/2018.</p> <p>Note: 'Suitably qualified acoustic consultant' means a consultant who is a member of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.</p>
<p><b>Floodplain Engineers</b></p>	<p>Not supported</p> <p>The proposed development is located within the floodplain of Bonds Creek, with the rear north-eastern portion of the site affected by mainstream flooding. Council has reviewed the following documents submitted in support of the development application:</p> <ul style="list-style-type: none"> <li>• Statement of Environmental Effects dated April 2025 by Colliers</li> <li>• Civil &amp; Stormwater Engineering Design Statement dated 21/01/2025 by Colliers</li> <li>• Flood Study Report dated 19/12/2024 by Colliers</li> <li>• Preliminary Engineering Drawing, Rev C dated 20/03/2025 by Colliers</li> </ul> <p>The applicant has proposed the decommissioning of the temporary detention basin and associated drainage infrastructure approved under DA-400/2018. However, the subdivision works approved under DA-400/2018 including flood compensatory storage, on-site detention, and water quality basins. These interim measures including flood compensatory storage, on-site detention, and water quality basins must be retained and maintained until the Bonds Creek enhancement works are completed and the regional detention basin is fully constructed.</p> <p>Following this review, Council is unable to support the proposed decommissioning of the on-site detention basin to facilitate subdivision, as this is not supported at this stage.</p>
<p><b>Land Development Engineers</b></p>	<p>Insufficient Information</p> <ul style="list-style-type: none"> <li>• The applicant has proposed the decommissioning of the temporary detention basin and associated drainage infrastructure approved under DA-400/2018. However, the subdivision works approved under DA-400/2018 including</li> </ul>

	<p>flood compensatory storage, on-site detention, and water quality basins. These interim measures including flood compensatory storage, on-site detention, and water quality basins must be retained and maintained until the Bonds Creek enhancement works are completed and the regional detention basin is fully constructed</p> <ul style="list-style-type: none"> <li>• Plans do not indicate how Crystal palace Way to drain to a legal point of discharge</li> <li>• Plans do not propose any type of OSD or WSUD.</li> <li>• Indicate temporary turning heads at the end of all in complete roads</li> <li>• Remove any reference to Jigsaw Street as this is not the correct name for this road.</li> </ul>
<b>Traffic &amp; Transport Engineers</b>	Approval subject to conditions of consent.
<b>City Design Heritage</b>	<p>Insufficient Information</p> <p>At a minimum, where an Archaeological Survey is required, Liverpool City Council requires the preparation of an Aboriginal Archaeological Assessment prepared in accordance with the following requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales:</p> <ul style="list-style-type: none"> <li>• Requirement 1 - Review previous archaeological work</li> <li>• Requirement 2 - Review the landscape context</li> <li>• Requirement 3 - Summarise and discuss the local and regional character of Aboriginal land use and its material traces</li> <li>• Requirement 4 - Predict the nature and distribution of evidence</li> <li>• Requirement 5 - Archaeological survey</li> <li>• Requirement 6 - Site definition</li> <li>• Requirement 7 - Site recording</li> <li>• Requirement 8 - Location information and geographic reporting</li> <li>• Requirement 9 - Record survey coverage data</li> <li>• Requirement 10 - Analyse survey coverage</li> </ul> <p>The original due diligence assessment prepared in 2015, and the addendum provided in 2024 are considered to be insufficient as they fail to meet the minimum requirements for Aboriginal Impact Assessments.</p>
<b>Waste Management</b>	<p>Insufficient Information</p> <p>Waste Servicing - The laneway appears to be very narrow and may present itself as a problem with the accessibility for Heavy</p>

	<p>Rigid Vehicles such as the waste contractors service vehicle (no swept path was provided for laneway), the provision of a no stopping sign should be implemented on servicing days to further aid this issue. The blocks situated on the laneway (lots 97, 98, 99 and 100) will have to be made inactive until road is fully construction, allowing the HRV to exit the road. Assuming that if unit 95 is also to be serviced from the laneway, this will need to be made inactive unless being serviced from Jigsaw Street, please clarify further.</p> <p>On the corner of the residue lot 101 there is a pinch point depicted in some plans where the road ends abruptly, which will create another issue for HRV access., However within the building envelope plans, the road seems to be extended, please clarify. Waste presentation is a concern due to the amount of vegetation that may be blocking or taking up frontage for waste bin collection, including driveway crossover, typically Council requires 2.3m of unobstructed space to be available per bin on the kerbside, vacant of trees, light poles etc. This is vital ensuring there's no damage done to the HRV and the vegetation, not compromising the safety of both residents and Contractors alike.</p> <p>Waste is also interested in future implications for waste storage and transit to the kerbside by residents with the provided building envelope plans. This can be detailed in a Waste Management Plan, which was not provided.</p>
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**(b) External Referrals**

DEPARTMENT	COMMENTS
<b>TfNSW</b>	No objections
<b>DPE – Water</b>	No objections
<b>NSW Rural Fire Service</b>	General Terms of Approval submitted.

**(c) Community Consultation**

The development application was advertised/notified between the 29 April and 28 May 2025 in accordance with the Liverpool’s Community Engagement Strategy and Community Participation Plan 2022. No submissions were received during this period.

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

The proposal fails to satisfy the relevant planning considerations and controls. Therefore, is not considered to be in the public interest.

## **7. DEVELOPER CONTRIBUTIONS**

In the event the application was approved, Section 7.11 Contributions would be applied. Given that the proposal is not supported, contributions are not required.

Additionally, Housing productivity contributions are not applicable within the Growth Areas.

## **8. CONCLUSION**

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979.

Whilst the proposed development is permissible with consent, the application is deficient in addressing applicable clauses under the EP&A Regulations and associated Environmental Planning Instruments.

## **9. RECOMMENDATION**

That pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, Development Application DA-179/2025 be refused

## **ATTACHMENTS**

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1. Liverpool DCP Assessment Tables
2. Reasons for Refusal
3. Proposed Subdivision plan
4. Clause 4.6 variation request

## Attachment 2 – Liverpool City Council Growth Centre Precincts Development Control Plan

The application has been considered against the controls contained in the Liverpool Growth Centre Precincts Development Control Plan (DCP) in particular:

- Part 2: Precinct Planning Outcomes.
- Part 3: Neighbourhood and Subdivision Design; and
- Schedule 3: East Leppington

The key controls are discussed in the following tables:

<b>Part 2 Precinct Planning Outcomes</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
2.2 The Indicative Layout Plan (ILP)	All development applications are to be generally in accordance with the Indicative Layout Plan.	The proposed subdivision and road layout is generally in accordance with the ILP.	Complies
2.3.3 Salinity and Soil Management	This section contains controls relating to salinity and soil management.	The site is identified as having medium salinity risk. A Salinity Investigation and Management Plan, prepared by Douglas Partners, has been submitted with the application.  The application was referred to Council's Land Development Engineers who have raised no objections.	Complies
2.3.5 Native Vegetation and Ecology	This section contains controls relating to the conservation and rehabilitation of native vegetation.	All vegetation has been demolished under approved DA-400/2018.	Complies
2.3.6 Bushfire Hazard Management	This section contains controls relating to development on bushfire prone land.	The site is mapped as bushfire prone land. The proposed development is identified as Integrated Development requiring approval from NSW Rural Fire Service under <i>Rural Fires Act 1997</i> .	Could be conditioned if consent granted

Part 2 Precinct Planning Outcomes			
Development Control	Provision	Comment	Compliance
		NSW Rural Fire Service has provided General Terms of Approval, which will form part of the conditions of consent.	
2.3.8 Development on and adjacent to electricity and gas easements	This section contains controls relating to development on and adjacent to electricity and gas easements.	No electricity or gas easements are identified on, or adjacent to the site.	Complies
2.3.10 Odour Assessment and Control	This section relates to land deemed by Council to be affected by an odour source.	Council's records indicate that the proposed development is not likely to be impacted by odour as a result of surrounding land uses that potentially generate odour. As a result, an air quality and odour assessment are not required.	Complies

Part 3 Neighbourhood and Subdivision Design			
Development Control	Provision	Comment	Compliance
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.	Site Area: 0.6ha  Proposed lots: 13 lots (this is inclusive of 1 residue lot). <i>Note: Residue lot 102 is to be excluded as the land is zoned RE1 Public Recreation.</i>  Calculation: $13/0.6\text{ha} = 21.66\text{dw}/\text{Ha}$  The proposal is deficient by 13.36%	Does not comply  <i>See 4.6 discussion in the main report.</i>
3.1.2 Block and Lot Layout	Minimum frontages in a 25dw/ha area are: <ul style="list-style-type: none"><li>• Front loaded: 7m</li><li>• Rear loaded 4.5m</li></ul>	All lots provide a frontage width greater than 7m and 4.5m.	Complies

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
	A range of residential lot types (area, frontage, depth, zero lot and access) must be provided to ensure a mix of housing types and dwelling sizes and to create coherent streetscapes with distinctive garden suburban, suburban and urban characters across a neighbourhood.	A range of residential lots sizes and widths are provided which support a range of housing types.	Complies
	In areas with a minimum residential density of $\leq 20$ dw/ha no more than 40% of the total residential lots proposed in any one street block may have a frontage of less than 10m wide.	Site is located within a 25 dwelling density area.	Not applicable
	In density bands $\leq 25$ dw/Ha, total lot frontage for front accessed lots greater than or equal to 7m and less than 9m should not exceed 20% of any block length due to garage dominance and on-street parking impacts.	Proposed lots 89 – 94 have a lot frontage width greater than 9m.  Proposed lots 95 – 100 have vehicle access through a rear laneway.	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.	All proposed lots are rectangular in shape, except for the corner lots, which feature splays to enhance vehicular access.  Lots are oriented in accordance with the surrounding road layout.	Complies

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
	Provides controls for Battle-axe lots	No battle-axe lots are proposed as part of the application.	Not applicable
3.1.3 Battle-axe Lots	Corner lots, including splays and driveway location, are to be designed in accordance with AS 2890 and Council's Engineering Specifications.	The proposed subdivision includes corner lots which feature splays. The application has been reviewed by Council's Land Development Engineers who have raised no issues with this aspect of the development.	Complies
3.1.4 Corner Lots	Corner lots are to be designed to allow dwellings to positively address both street frontages.	Future dwellings on corner lots will be required to address both street frontages as part of a future application.	Complies
	Provides controls for subdivision in E2 and E4 zones.	The site is zoned R3 - Medium Density Residential	Not applicable
3.1.5 Subdivision in the Environmental Living Zone	The land subdivision approval process is to be consistent with the requirements of Table 3-4.	The DA complies with Pathway A1 and Pathway A2.	Complies
3.2 Subdivision Approval Process	Public Domain Plan to show elements of the Public Domain including Street Trees, vehicular crossovers, and indicative building footprints.	The DA is in accordance with the controls for street network layout. Road reserve widths are in accordance with ILP and the DCP.  In addition, a Landscaping Plan demonstrates street tree planting. Conditions of consent could be imposed to ensure that correct carriage way widths, verge widths, footpath widths and the plant of trees are provided.	Could be conditioned if consent granted
3.3.1 Street Network Layout and Design	This section contains controls relating to street network layout and design, including	The DA is in accordance with the street network layout. Road reserve widths are in accordance with the	Could be conditioned if consent were granted.

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
	requirements for street trees.	ILP.  Standard conditions could be imposed to ensure that correct carriage way width, verges and footpath widths are provided.	
3.3.2 Street Furniture	Provides controls for street furniture	The provision of street trees in the development are considered acceptable. A condition could be imposed to ensure that street trees are planted.	Could be conditioned if consent were granted.
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).	Not required	Not applicable
3.3.4 Laneways	Provides controls for laneways	The design of the laneway is consistent with the requirements for carriage way width and verges set out in the DCP.  Council's Land Development Engineer have reviewed this component, and have raised no objections.	Complies
3.3.6 Pedestrian and Cycle Network	This section contains controls relating to the implementation of pedestrian and cycle networks.	The design of the pedestrian pathways is consistent with the requirements for local streets as set out in the DCP.	Complies

<b>Part 3 Neighbourhood and Subdivision Design</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
3.3.8 Access to arterial roads, sub-arterial roads and transit boulevards	Provides controls for Temporary Vehicular Access	No temporary vehicle access is proposed.	Not applicable
3.4 Construction Environmental Management	This section contains controls relating to the implementation of a construction environmental management plan.	Conditions of consent could be imposed on the application, ensuring that construction environmental management plan is implemented throughout the development.	Could be conditioned if consent were granted.

<b>Schedule 3: East Leppington</b>			
<b>Development Control</b>	<b>Provision</b>	<b>Comment</b>	<b>Compliance</b>
Section 2 – Subdivision Planning and Design			
2.1 East Leppington Precinct Vision	The vision for East Leppington Precinct is to develop a series of new walkable residential neighbourhoods supported by local retail, community and recreation facilities in an environmentally sustainable manner.	Noted	Noted
2.2 Referenced Figures	The figures included in this section are those referenced in the following parts of the Main DCP: <ul style="list-style-type: none"> <li>• Part 2 Precinct Planning Outcomes;</li> <li>• Part 3 Neighbourhood and Subdivision Design;</li> <li>• Part 4 Development in the Residential Zones; and</li> <li>• Part 5 Centres Development Controls.</li> </ul>	Noted	Noted
2.3 Cross references between Schedule and Main DCP	This section relates to requirements under the Main DCP, particularly the following: <ul style="list-style-type: none"> <li>• Section 2.2. Indicative Layout Plan</li> </ul>	An assessment has been conducted against these provisions.	See <i>assessment table above</i> .

	<ul style="list-style-type: none"> <li>• Section 2.3.1 Flood prone land</li> <li>• Section 2.3.2 Key elements of Water Cycle Management and Ecology Strategy</li> <li>• Section 2.3.3 Areas of Potentially Salinity Risk</li> <li>• Section 2.3.4 Aboriginal Cultural heritage and European Cultural heritage</li> <li>• Section 2.3.5 and 2.3.6 Bushfire Risk and Asset Protection zone requirements</li> <li>• Section 2.3.8 Location of easements</li> <li>• Section 2.3.9 Potential Noise Attenuation Measures</li> <li>• Section 2.3.10 Odour</li> <li>• Section 3.1 Residential Structure</li> <li>• Section 3.3.1 Precinct Road Hierarchy</li> <li>• Section 3.3.6 Pedestrian and Cycleway Network</li> <li>• Section 5.3.1 Desired Future Layout of the Centre</li> </ul>		
2.4 Street Network and Design	<p>1. The design and construction of streets is to be consistent with the road layout in Figure 2-12, the relevant typical designs in the Main DCP, and Council's Engineering Design Guide.</p> <p>2. The locations of road intersections connecting to Camden Valley Way and Denham Court Road are to be consistent with the ILP and the Precinct road hierarchy Figure 2-12 and are to include relative provision for turning lanes on these roads.</p>	<p>Council's Land Development engineers have reviewed the road layout and design, and have raised no objections.</p> <p>Standard conditions could be imposed to ensure that correct carriage way width, verges and footpath widths are provided.</p> <p>No changes to Camden Valley Way and Denham Court Road intersection proposed.</p>	<p>Could be conditioned if consent granted</p> <p>Not applicable</p>

	3. A local street or accessway is to separate residential development from Camden Valley Way and Denham Court Road. Typically, these streets run parallel and adjacent to Camden Valley Way and Denham Court Road as indicated on the ILP.	Noted	Noted
	4. The local street or accessway separating development and Camden Valley Way is to be designed in accordance with Figure 2-14 which encourages a wider landscape buffer (providing for tiering of vegetation) to improve visual amenity for residential lots facing Camden Valley Way. The dimensions within this street corridor are flexible and can be varied to respond to localised conditions to the satisfaction of Council.	Noted	Noted
	5. The design and location of the roads and of the acoustic or landscape treatment adjacent to Camden Valley Way and parts of Denham Court Road are to take into account the existing underground gas pipelines and easement. Refer to Section 4.3 of this DCP Schedule.	Noted	Noted
	6. Where rear lane access is provided it is to be in accordance with the minimum dimensions of Figure 2- 15.	The proposed rear lane access is in accordance with the minimum dimensions specified in Figure 2-15.	Complies
	7. Significant individual trees may be incorporated within appropriate setbacks on individual lots.	Noted	Noted

	8. The upgrading and re-alignment of Denham Court Road must consider the Water Cycle Management Report East Leppington June 2013 and manage drainage impacts.	No upgrades to Denham Court Road are sought as part of the application.	Not applicable
2.6 Existing Native Vegetation and Open Space Network	This section is supplementary to Section 2.3.5 of the Main DCP and provides further guidance for the retention of areas of native vegetation within East Leppington Precinct.	All trees and vegetation have been cleared under approved DA-400/2018.	Not applicable
2.7 Residential Density – Areas of very low density	This section applies to all new development in areas of Very Low Density Residential and Environmental Living in the East Leppington Precinct (Liverpool part) as shown on the ILP. These areas adjoin the Sydney Catchment Authority's heritage-listed Upper Canal and include easements for electricity or gas.	The site is not located within the Low density area.	Not applicable
Section 3 – Centre Development Controls			
3.1 East Leppington Neighbourhood Centre	This section outlines specific development objectives and controls relating to the design, development and operation of the Neighbourhood Centre identified in the Indicative Layout Plan at Figure 2-1.	No works are located within the Neighbourhood Centre area.	Not applicable
3.2 Neighbourhood Shops in Residential Areas	Small neighbourhood shops (e.g. corner shops), located outside the nominated Neighbourhood Centre, are encouraged where they serve a particular market need and can be integrated with surrounding land uses.	No neighbourhood shops are proposed as part of the application.	Not applicable
Section 4 – Site Specific Controls			
4.2 Lands adjacent to or within an Electricity Easement	To ensure that development on land near or within electricity easements considers potential impacts on the	The site is not located adjacent or within an Electricity Easement.	Not applicable

	integrity and safety of electricity infrastructure.		
4.3 Land adjacent to or affected by a Gas Easement	1. Development and use of land within the easement is restricted by the conditions of the easement and applicants should demonstrate compliance with any restrictions imposed by the easement when submitting applications for development.	No works are proposed within the gas easements.	Not applicable
	2. The following development within the easement must be referred to the relevant infrastructure agency for approval prior to any works being commenced, and evidence of the infrastructure agency's agreement must be submitted with the Development Application: i) Excavation, blasting or other earthworks ii) Any improvements or installations (e.g. Buildings, roads, footpaths fencing or other structures). iii) Transport or parking of heavy vehicles iv) Planting or cultivating trees within five metres of the pipeline	As above.	Not applicable
	3. Dwellings and other buildings are to be located outside the gas easement.	No dwellings are sought as part of the application.	Not applicable
	4. Subdivision of land containing easements should be minimal, however battle-axe lots and differently configured lots may be appropriate in some locations to maximise the development potential of land while avoiding	No works are proposed within the gas easements.	Not applicable

	impacts on the easement. Refer to Figures 2.19 and 2.20 for an indicative lot layout.		
	5. Reference should be made to AS2885 in relation to sensitive land uses that may be restricted within a certain distance (referred to as the Zone of Influence) of the gas pipeline. Sensitive land uses include (but are not limited to) schools, hospitals, aged care facilities and community facilities. Applicants should consult with the organisation responsible for the gas pipeline to determine specific requirements.	No sensitive land uses are proposed as part of the application.	Not applicable
	6. To the satisfaction of the infrastructure agency, landscaping (including tree planting), other than groundcover, is not permitted within 5m of the pipelines	Noted	Noted
4.4 Lands adjacent to Camden Valley Way and Denham Court Road	1. Residential development should be configured and designed to comply with the Indicative Layout Plan at Figure 2-1.	The proposed subdivision and road layout is generally in accordance with the ILP.	Complies
	2. Land adjoining Camden Valley Way and Denham Court Road shall be accessed by vehicles via adjacent local streets within the Precinct.	No changes are made to the road design approved under DA-400/2018 from Camden Valley Way.	Complies
	3. Vehicular access to properties fronting Camden Valley Way provided by Roads and Maritime Services (RMS) as part of the upgrade of Camden Valley Way will be closed when alternative access is provided within the Precinct. Alternative access must be provided for any development on	No changes are made to the road design approved under DA-400/2018 from Camden Valley Way.  In addition, the application was referred to TfNSW and have raised no objections.	Complies

	the land that includes a change of use from that lawfully commenced when alternative access was provided by RMS.		
	4. Where temporary access may be required for construction purposes to land along Camden Valley Way which entails crossing the gas easement, the temporary crossing is to be undertaken by the builder/developer to the satisfaction of the gas provider and with the approval of the RMS.	No temporary roads are sought as part of the application.	Not applicable
	5. Vehicular access to Camden Valley Way into and out of the place of public worship on the property shown in Figure 4-2 is to be in accordance with RMS approval.	No vehicle access provided to or from the place of public worship, as illustrated in Figure 4-2.	Not applicable
	6. No vehicular access is permitted from the place of public worship into the precinct while access is maintained to Camden Valley Way. See Figure 4-2	As above.	Not applicable
	7. Depending on the subdivision design the sitting of dwellings relative to Camden Valley Way shall be consistent with Figure 4-3 or Figure 4-4 and the following controls: i) Dwellings must address the local street, running parallel to Camden Valley Way, ii) Principal private open space must be located to rear of the dwellings so that the buildings provide acoustic shielding, with consideration given to the levels of solar access and amenity	The construction of dwelling houses are not sought as part of the application.	Not applicable

	<p>as required elsewhere in the Main DCP; and</p> <p>iii) Suitable noise control treatments are provided for dwellings and noise sensitive uses. See section 3.2.9 of the Main DCP and Section 2.5 of this Schedule.</p>		
	<p>8. Prior to undertaking any work at the existing Denham Court Road overbridge, the Heritage Branch should be contacted to determine if the stone abutments are relics or works as defined in the Heritage Act and whether a permit under section 139 of the Heritage Act is required.</p>	<p>No works are proposed within Denham Court Road overbridge.</p>	<p>Not applicable</p>
<p>4.5 Land Adjacent to the Sydney Catchment Authority Upper Canal</p>	<p>Where development (including subdivision) is proposed adjacent to the Upper Canal corridor, applicants shall consult with the Sydney Catchment Authority (SCA) as part of the process of preparing the Development Application. Development is to be consistent with the SCA publication "Guidelines for development adjacent to the Upper Canal and Warragamba Pipelines". Any written requirements of the SCA shall be submitted with the DA and the DA documentation shall show how the requirements have been addressed.</p>	<p>The site does not adjoin the Upper Canal corridor.</p>	<p>Not applicable</p>
<p>4.6 Land Adjacent to Open Space – 1370 Camden Valley Way Leppington (Lot E in DP28997)</p>	<p>1. Address 'Safer-by-Design' principles in the design of public and private domain, and in all developments including the NSW Police 'Safer by Design' Crime Prevention Though</p>	<p>The proposed development is unlikely to contravene the principles of CPTED.</p>	<p>Complies</p>

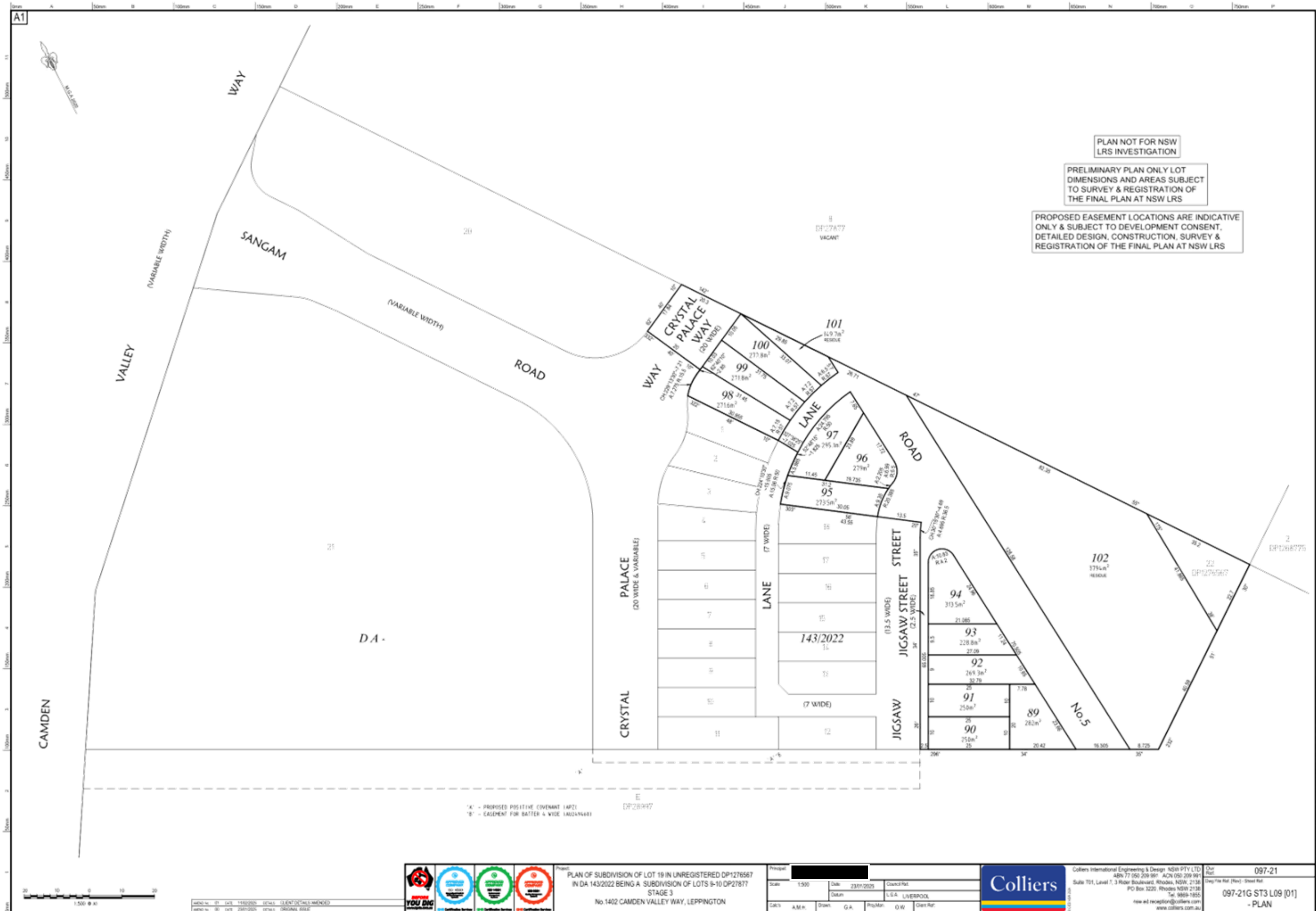
	Environmental Design (CPTED) principles.		
	2. The residential subdivision should be orientated towards the open space.	Lots 89, and 92-96 are orientated towards open space.	Complies
	3. All public spaces including streets, parks, squares and plazas must be directly overlooked by adjacent development.	Noted	Noted

## Reasons for Refusal:

1. The development application does not sufficiently demonstrate consistency with Chapter 6 - Water Catchments of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, pursuant to Sections 4.15(1)(a)(i), 4.15(a)(iv), 4.15(1)(b) and 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
2. The development application does not sufficiently demonstrate consistency with Chapter 4 - Remediation of Land under the State Environmental Planning Policy (Resilience and Hazards) 2021, pursuant to Sections 4.15(1)(a)(i), 4.15(a)(iv), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.
3. The proposed development application is inconsistent with the objectives of the R3 – Medium Density Residential zone described within Appendix 4 Liverpool Growth Centres Precinct Plan of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021. In particular, *to enable other land uses that provide facilities or services to meet the day to day needs of residents*, as the modified proposal is likely to unreasonable impact on the locality, pursuant to 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.
4. The proposed development does not achieve satisfactory compliance with the controls stipulated in the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 in terms of the following development standards:
  - Clause 4.1AA Subdivision resulting in lots between 225-300m<sup>2</sup>
  - Clause 4.6 Exception to Development Standards
  - Clause 5.1 Relevant Acquisition Authority
  - Clause 5.10 Heritage Conservation
5. The proposed development does not achieve satisfactory compliance with the controls stipulated in the Liverpool Growth Centre Precincts Development Control Plan 2021, in terms of the following development controls:
  - i. Liverpool Growth Centre Precincts DCP – Main Body:
    - Section 2.3.1 Flooding
    - Section 2.3.2 Water Cycle Management
    - Section 2.3.4 Aboriginal and European Heritage
    - Section 2.3.9 Noise
    - Section 3.1.1 Residential Density
    - Section 3.1.2 Block and Lot Layout
    - Section 3.1.4 Corner Lots
    - Section 3.2 Subdivision Approval Process
  - ii. Liverpool Growth Centre Precincts DCP – Schedule 3 East Leppington:
    - Section 2.5 Noise Attenuation Measures
    - Section 4.1 Aboriginal Cultural Heritage

Pursuant to 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.

6. The proposed changes in the development application will have adverse impact on the built environment and natural environment, and social impacts, pursuant to Section 4.15(1)(a)(iv), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.
7. The site is not suitable for the proposed development, pursuant to Sections 4.15(1)(c) of the EP&A Act 1979.
8. The proposed development is not considered to be acceptable having regard to the concerns raised from Council's internal referrals within Council, pursuant to the provision of Section 4.15(1)(d) of the EP&A Act 1979.
9. It is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development, therefore the development is not in the public interest, pursuant to the provisions of Section 4.15(1)(e) of the EP&A Act 1979.



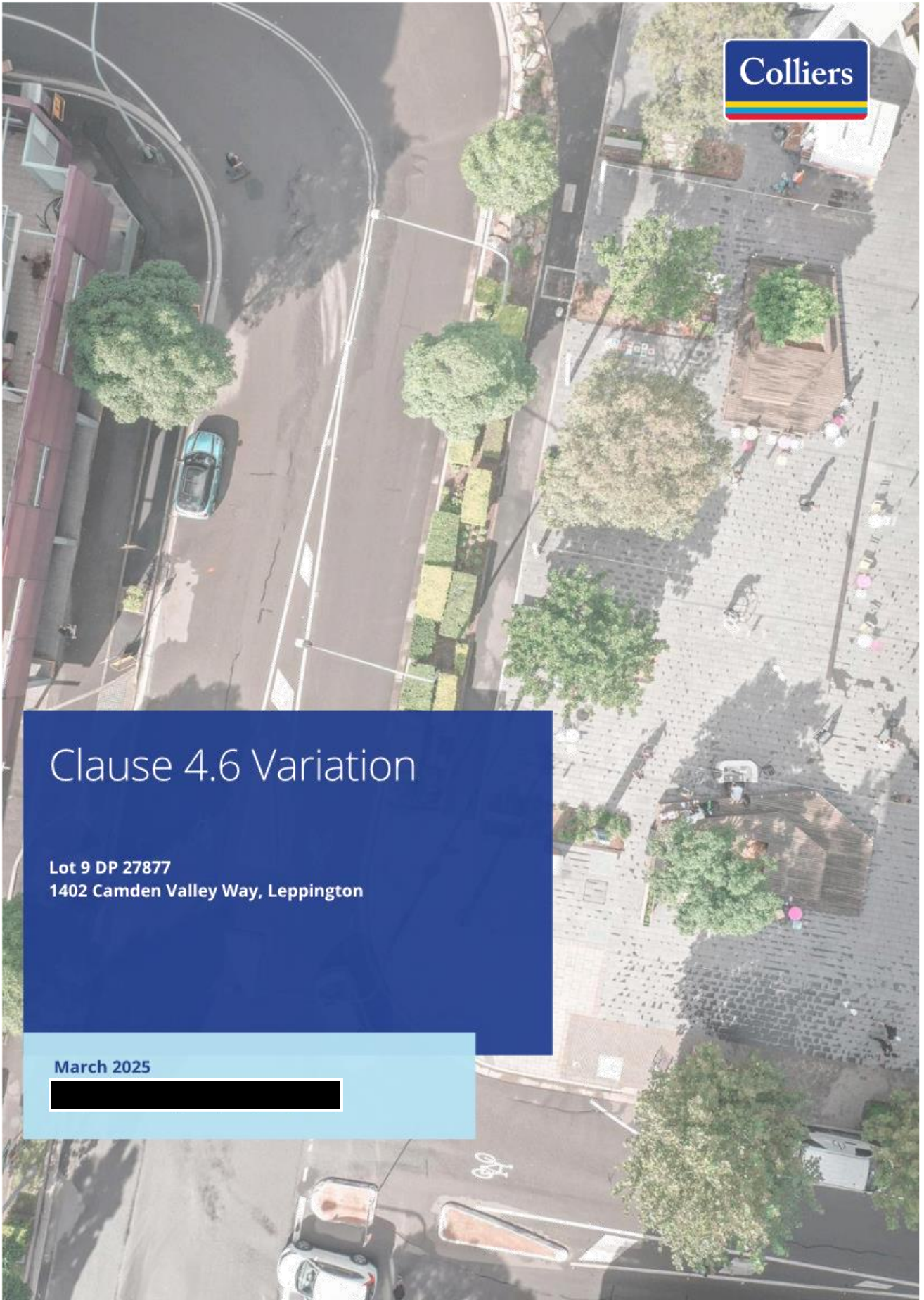
	Project: PLAN OF SUBDIVISION OF LOT 19 IN UNREGISTERED DP1276567 IN DA 143/2022 BEING A SUBDIVISION OF LOTS 9-10 DP27877 STAGE 3 No.1402 CAMDEN VALLEY WAY, LEPPINGTON			Colliers International Engineering & Design NSW PTY LTD Suite 101, Level 1, 3 River Boulevard, Rhodes, NSW, 2138 PO Box 3220, Rhodes NSW 2138 Tel: 9999-1850 howad.recap@colliers.com www.colliers.com.au		097-21 097-21G ST3 L09 [01] - PLAN
	Scale: 1:500 Date: 23/01/2025 Drawn: GA Proj. Mgr: O.W. Client Ref:	Control Ref: L.G.A. LIVERPOOL Date:		097-21 097-21G ST3 L09 [01] - PLAN		



# Clause 4.6 Variation

Lot 9 DP 27877  
1402 Camden Valley Way, Leppington

March 2025



Cl. 4.6 Variation Request | 1402 Camden Valley Way, Leppington





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Issue	Date	Author	Reviewed	Approved
A	28/03/25	[REDACTED]	[REDACTED]	[REDACTED]



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## 1. Introduction

### 1.1. Proposal

This request has been prepared under Clause 4.6 of Appendix 4 of State Environmental Planning Policy (Precincts- Western Parkland City) 2021 (SEPP WPC 2021).

The proposal involves the Torrens Title subdivision of the subject site into 12 residential lots and two residue lots with associated civil and landscaping works. The Site is zoned R3 – Medium Density Residential, R1 – Public Recreation and SP2 – Infrastructure.

The proposed development is subject to only one development standard that, under the circumstances, cannot be achieved under the SEPP WPC 2021. This development standard is Cl. 4.1B Residential Density, where the R3 zoned portion of the Site is mapped as having a minimum residential density of 25dw/ha (numerical development standard).

A variation is sought to Cl. 4.1B of Appendix 4 of the SEPP WPC 2021, which requires residential development on the Site to achieve a density of at least 25 dwelling per hectare (dw/ha) of Net Developable Area (NDA).

### 1.2. Subject Site

The subject site (the Site) is identified as Superlot 3 under approved DA-400/2018 (the Parent DA). As the lot is not yet registered, the legal description of the Site pertains to its parent lot being Lot 9 DP 27877, known as 1402 Camden Valley Way, Leppington. The Site was approved for subdivision as a superlot under the Parent DA until further residential subdivision occurs under a separate DA (this DA). Refer to **Figure 1** overleaf.

The Site is located within the East Leppington Precinct within the South West Growth Centre. The South West Growth Centre is located in the Western Parkland City.

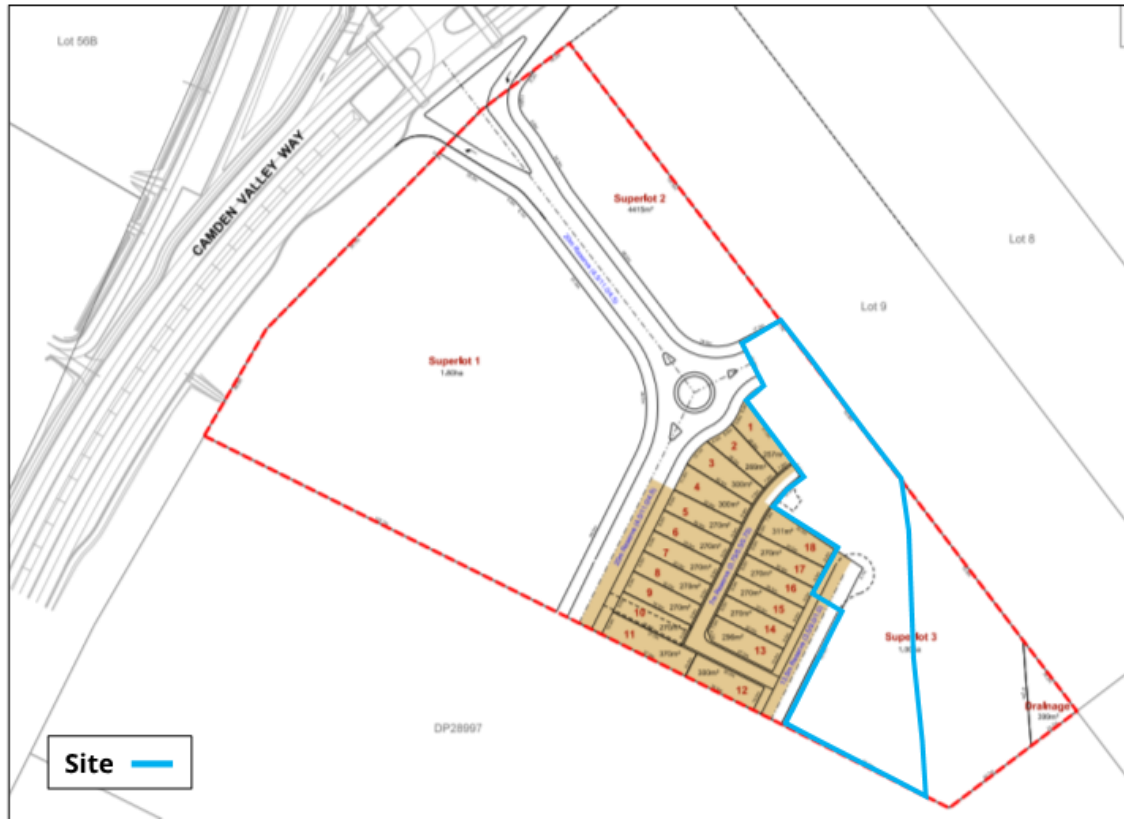


Figure 1: Excerpt of Approved Subdivision Plan for the Parent DA showing Superlot 3 (Urbanco 2020)

### 1.3. Variation Principles

The NSW Land and Environment Court and the NSW Court of Appeal have established principles under which a consent authority can consider a variation to a development standard to be reasonable. The key principles were established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Wehbe).

In *Wehbe*, Preston CJ of the Land Environment Court provided relevant assistance by identifying five methods under which a variation to a development standard can be deemed suitable, and compliance with the standard is seen to be unreasonable or unnecessary. The five methods include:

1. The objectives of the standard are achieved notwithstanding noncompliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

## Cl. 4.6 Variation Request | 1402 Camden Valley Way, Leppington



3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The proposed variation will be assessed using method (1) to establish that strict compliance of the development standard is unreasonable and unnecessary in this instance.

This request for a Clause 4.6 variation is to be read in conjunction with the Statement of Environmental Effects and NDA Plan prepared by Colliers International Engineering and Design NSW on behalf of BQ Property Ptd Ltd.



## 2. Proposed Variation

### 2.1. Development Standard to be varied

The development standard that is sought to be varied is Clause 4.1B (3) of Appendix 4 of the SEPP WPC 2021 which sets a minimum dwelling density for residential development at the Site.

### 2.2. Is the planning control in question a development standard?

Development Standard is defined under clause 1.4 of the EP&A Act as follows:

*“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

*...(e) the intensity or density of the use of any land, building or work”*

The residential density standard prescribed under Clause 4.1B of the SEPP WPC 2021 is unambiguously a development standard and has continually been applied in this manner by the consent authority.

### 2.3. Minimum Residential Density Variation

Clause 4.1B in Appendix 4 of the SEPP WPC provides:

#### **“4.1B Residential density**

*(1) The objectives of this section are—*

- (a) to establish minimum density requirements for residential development, and*
- (b) to ensure that residential development makes efficient use of land and infrastructure, and contributes to the availability of new housing, and*
- (c) to ensure that the scale of residential development is compatible with the character of the precinct and adjoining land.*

*(2) This section applies to residential development of the kind referred to in section 4.1AB or 4.1AC that—*

- (a) is carried out on land to which this Precinct Plan applies that is shown on the Residential Density Map, and*
- (b) requires development consent, and*
- (c) is carried out after the commencement of this Precinct Plan.*

*(3) The density of any residential development to which this section applies is not to be less than the density shown on the Residential Density Map in relation to that land.*

*(4) In this section—*

**density** means the net developable area in hectares of the land on which the development is situated divided by the number of dwellings proposed to be located on that land.

## Cl. 4.6 Variation Request | 1402 Camden Valley Way, Leppington



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***net developable area** means the land occupied by the development, including internal streets, but excluding land that is not zoned for residential purposes."*

The clause applies as the Site is shown on the Residential Density Map and the proposal constitutes residential development (Subdivision).

The Residential Density Map shows the R3 zoned portion of the Site to have a minimum residential density of 25 dw/ha.

The creation of 12 residential lots, as proposed, over a Net Developable Area of 0.607 ha (which is the R3 zoned portion of the Site) achieves a density of 19.8dw/ha (-20.8% difference or four dwellings short). The proposed development therefore does not achieve the required 25 dw/ha under the standard.

As the proposed variation seeks to depart from the development standard by more than 10%, the Local Planning Panel may need to determine the application as the consent authority.

Refer to **Figure 2** for an extract of the NDA Plan accompanying the proposed development.

Cl. 4.6 Variation Request | 1402 Camden Valley Way, Leppington

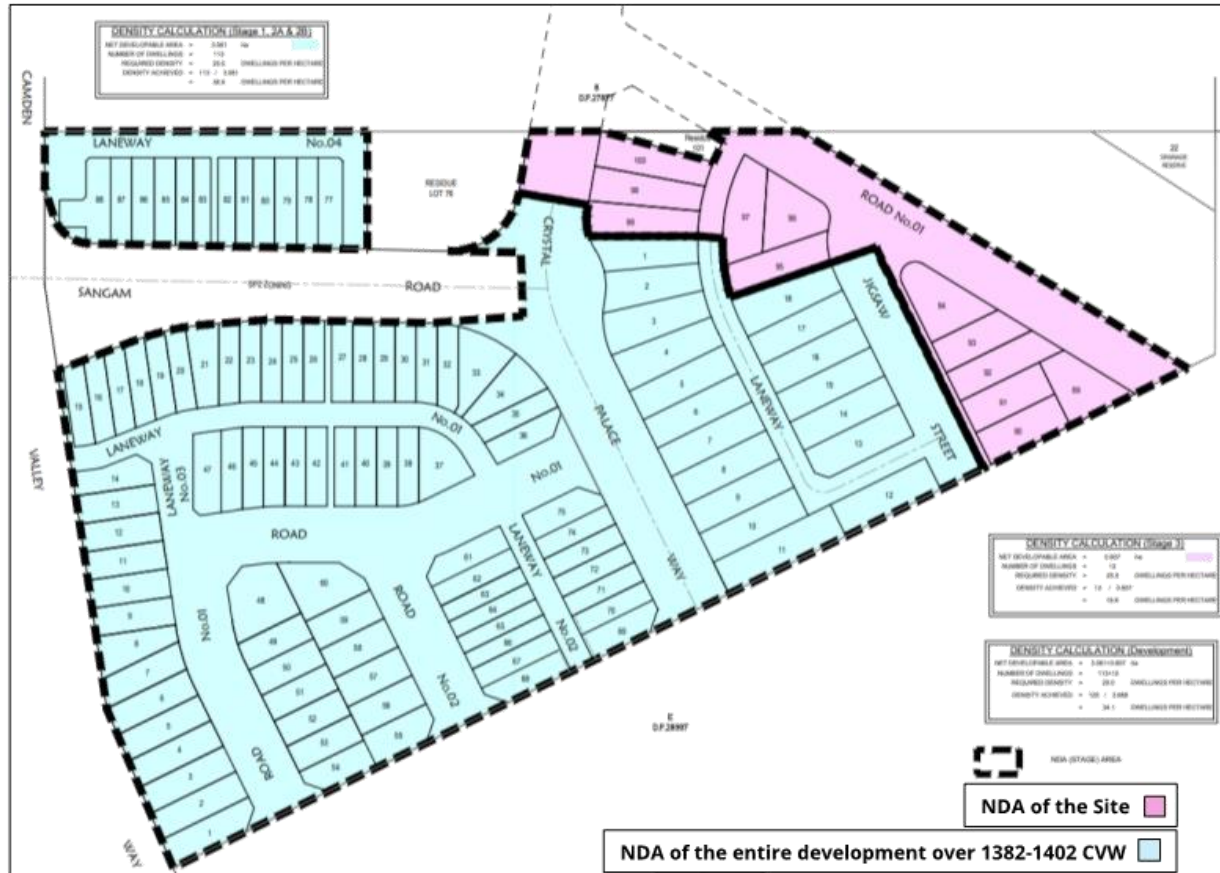


Figure 2: Proposed Subdivision and NDA Plan for the Site (CED NSW 2025f)



### 3. Assessment of Clause 4.6 Variation

#### 3.1. First method

First Method - the objectives of the standard are achieved despite non-compliance with the standard.

Clause 4.1B (1) of Appendix 4 of the SEPP WPC 2021 outlines the objectives of the development standard. The consistency of the proposal with the objectives of Clause 4.1B is outlined in **Table 1** below. This assessment demonstrates that the proposal achieves the objectives of the development standard and, therefore, strict compliance with the standard would be unnecessary in this instance.

Table 1: Objectives of the Standard under Appendix 4 of the SEPP WPC 2021

Objectives of Cl. 4.1B	Comment
(1) <i>The objectives of this section are—</i>	
(a) <i>to establish minimum density requirements for residential development, and</i>	Noted. The proposal is not inconsistent with the establishment of a minimum dwelling density control.
(b) <i>to ensure that residential development makes efficient use of land and infrastructure, and contributes to the availability of new housing, and</i>	<p>It should be noted that:</p> <ul style="list-style-type: none"> <li>Despite the irregular shape of the Site and ILP road / block pattern, the proposed residential development maximises the lot yield without any significant residual land. The proposal represents the highest possible lot yield whilst complying with minimum lot sizes for dwelling houses. It therefore represents the most efficient layout possible under a residential subdivision development.</li> <li>The Site will be developed for residential purposes and will rely on Council's regional stormwater channel and basin downstream for quantity and quality purposes. This will remove the need for the temporary basin approved under the Parent DA within the Site and unburden it for residential development, further increasing the efficiency of the land use.</li> <li>The proposed development will contribute to the availability of new housing, which is urgently needed to increase the dwelling supply in Greater Sydney and help alleviate the current housing crisis.</li> </ul>
(c) <i>to ensure that the scale of residential development is compatible with the character of the precinct and adjoining land.</i>	<p>The Site is predominantly located in the R3 zone, which is suited for medium density residential development.</p> <p>Although there are no pending or approved DAs on either side of the Site, it should be noted that:</p> <ul style="list-style-type: none"> <li>The Parent DA or the Stage 1 DA over 1382-1402 Camden Valley Way, Leppington (the Parent DA site) was approved for 18 low density residential lots.</li> </ul>

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- The Stage 2 DA over the Parent DA site was approved for 81 attached dwellings, 4 semi detached dwellings and one secondary dwelling.
- The constructed development at 1450-1480 Camden Valley Road (north of the Site) involved the subdivision of the site into lots to support both detached and attached dwellings.
- The constructed development in between 1322 and 1360 Camden Valley Way (south of the Site) involved the subdivision of the site into low density lots supporting detached dwellings.

Given the above context of approved and existing development within the vicinity of the Site, the scale of residential development proposed under this DA is compatible with the low and medium density character that exists in the surrounding area.



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## 4. Environmental planning grounds to justify the variation

The proposed variation is justified on the following sound environmental planning grounds:

- As noted in **Section 3.1**, the dwelling density is impossible to achieve for a subdivision development given the irregular shape of the Site and ILP road and block arrangement.
- Despite the non-compliance for the proposed development, it should be noted that:
  - This DA comprises the third and final subdivision DA (Stage 3) of the subdivision over the Parent DA site, being 1382-1402 Camden Valley Way.
  - The combined dwelling density of the approved Stage 1 (DA-400/2018) and Stage 2 (DA-143/2022) DAs over the Parent DA Site was significantly higher than the minimum requirement, being 36.9dw/ha (refer to **Figure 2**).
  - If the dwelling density is considered holistically across Stages 1-3 over the Parent DA site, the overall dwelling density would be 34.1dw/ha.

Although the minimum density requirement cannot be achieved for this DA (Stage 3) alone, the combined residential development proposed over the Parent DA Site (Stages 1-3) greatly exceeds the minimum dwelling density standard.

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## 5. Conclusion

The assessment above demonstrates that compliance with the standard is unreasonable and inappropriate in the circumstances of this proposal, and that a variation is well justified.

It is considered that the variation should be supported on the grounds that the proposal:

- a. Is still consistent with the objectives of the standard, particularly objectives (b) and (c) relating to the efficient use of land to deliver new dwellings and the compatibility of the proposed development with the surrounding character.
- b. Does meet the dwelling density control when considered wholistically and in combination with the two prior DAs approved within the Parent DA Site.
- c. Results in no additional negative environmental impacts as compared with the outcome if the standard was enforced.