

LOCAL PLANNING PANEL AGENDA

28 September 2026

MS TEAMS

LIVERPOOL
CITY
COUNCIL



MATTERS FOR THE LOCAL PLANNING PANEL'S DETERMINATION

Monday, 28 September 2026

MS TEAMS

Commence at **2:00 PM**

Microsoft Teams meeting

Join: <https://teams.microsoft.com/meet/416346447531395?p=WgyCSO1R3OkGA2Nrer>

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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 Sharon Zunic, Business Support Officer, on 0427 703 451, by 4pm, Thursday 24 September 2026.

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

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

ORDER OF BUSINESS

1. DECLARATIONS OF INTEREST

2. AGENDA ITEMS

ITEM No.	SUBJECT	PAGE No.
1	DEVELOPMENT APPLICATION DA-111/2026 Building of a colorbond shed on existing concrete slab in back yard. LOT 152 DP 1267245 24 Rocco Place Green Valley NSW 2168	5 - 29

ITEM No.	SUBJECT	PAGE No.
2	DEVELOPMENT APPLICATION DA-166/2026 The addition of a new residential apartment to an existing residential flat building development. LOT 140 DP 1254900 186 Moore Street Liverpool NSW 2170	30 - 62

ITEM No.	SUBJECT	PAGE No.
3	DEVELOPMENT APPLICATION DA-505/2025 Consolidation of Three (3) Allotments and Construction of a Recreational Facility (indoor) (Carnes Hill Aquatic and Recreation Centre (CHARC)), Incorporating Indoor Pools, Splash Pad, Amenities, Plant Rooms, Grandstand, Café, Staff Offices, Enclosed Outdoor Area for Future Pool Connection, Internal Access Road, Car Parking for 105 Vehicles, Landscaping, Footpaths, Fencing, Signage, and Associated Works. The proposal is identified as a Nominated Integrated Development requiring approval from the Department of Climate Change, Energy, the Environment and Water (DCCEEW) under the Water Management Act 2000	63 - 104

	The proposal is identified as an Integrated Development requiring approval from the NSW Rural Fire Service under the Rural Fires Act 1997 LOT 100 DP 1204810 LOT 11 DP 1043935 LOT 10 DP 1043935 LOT 1 DP 1059081 Carnes Hill Community Precinct 600 Kurrajong Road Carnes Hill NSW 2171 315 Cowpasture Road, Carnes Hill NSW 2171 305 Cowpasture Road, Carnes Hill NSW 2171 295 Cowpasture Road, Carnes Hill NSW 2171	
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LPP Items

ITEM 01	DA-111/2026 - 24 Rocco Place Green Valley	BP 5
ITEM 02	DA-166/2026 - 186 Moore Street Liverpool NSW 2170	BP 30
ITEM 03	DA-505/2025 - Carnes Hill Community Precinct	BP 63

Item Number:	ITEM 01
Application Number:	DA-111/2026
Proposed Development:	Building of a colorbond shed on existing concrete slab in back yard
Property Address	24 Rocco Place, Green Valley, NSW 2168
Legal Description:	Lot 152 DP1267245
Applicant:	Tomislav Olic
Land Owner:	Mr. T Olic and Mrs. A P Olic
Cost of Works:	\$15,000
Recommendation:	Approved subject to condition of consent
Assessing Officer:	Bikash Pokharel

1. EXECUTIVE SUMMARY

Council has received a Development Application (DA-111/2026) seeking consent for the construction of a colorbond shed on existing concrete slab at 24 Rocco Place, Green Valley, legally defined as Lot 152 DP1267245. The site is zoned R2 Low Density Residential pursuant to Liverpool Local Environmental Plan 2008 and the proposed development is permissible form of development with consent.

The proposal was not required to be notified in accordance with the Liverpool Community Participation Plan 2025, and no submissions were received. The key issue associated with the proposal relates to the proposed variation to the development standard, in relation to Clause 4.4 Floor Space Ratio (FSR) of the Liverpool Local Environmental Plan 2008. The variation proposed represents a percentage of 13.5 % (exceedance). Council has assessed the non-compliance with the development standard and based on the nature and scale of the proposed development that strict adherence to the development standard is considered unnecessary and therefore proposed exceedance is acceptable in this instance. Please refer to the discussion further in the report.

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

Departure from Development Standards

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

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

2. SITE DESCRIPTION AND LOCALITY

2.1 The Locality

The site is located on the eastern side of Cowpasture Road, approximately 106m north from the intersection of Green Valley Road and Rocco Place in Green Valley. The site is located within low-density residential zone containing a mix of one and two storey detached dwelling houses. The main access points to the locality are Cowpasture Road to the west and Green Valley Road to the south.



Figure 1: Locality surrounding the proposed development (Source: Nearmaps, August 2026)

2.2 The Site

The subject is identified as Lot 152 DP 1267245, and commonly known as 24 Rocco Place, Green Valley. The site is L-shaped with a 12.745m wide frontage to Rocco Road and 35.48m depth, with a total site area of 601sqm. The site has a fall of approximately 0.5m from north to south.

Currently, the subject site comprises a two-storey dwelling that was approved under CDC 21/2078. The original CDC application approved construction of a two-storey dwelling with attached garage and detached shed. However, the detached shed was deleted under subsequent modification application (CDC21/2078.1).

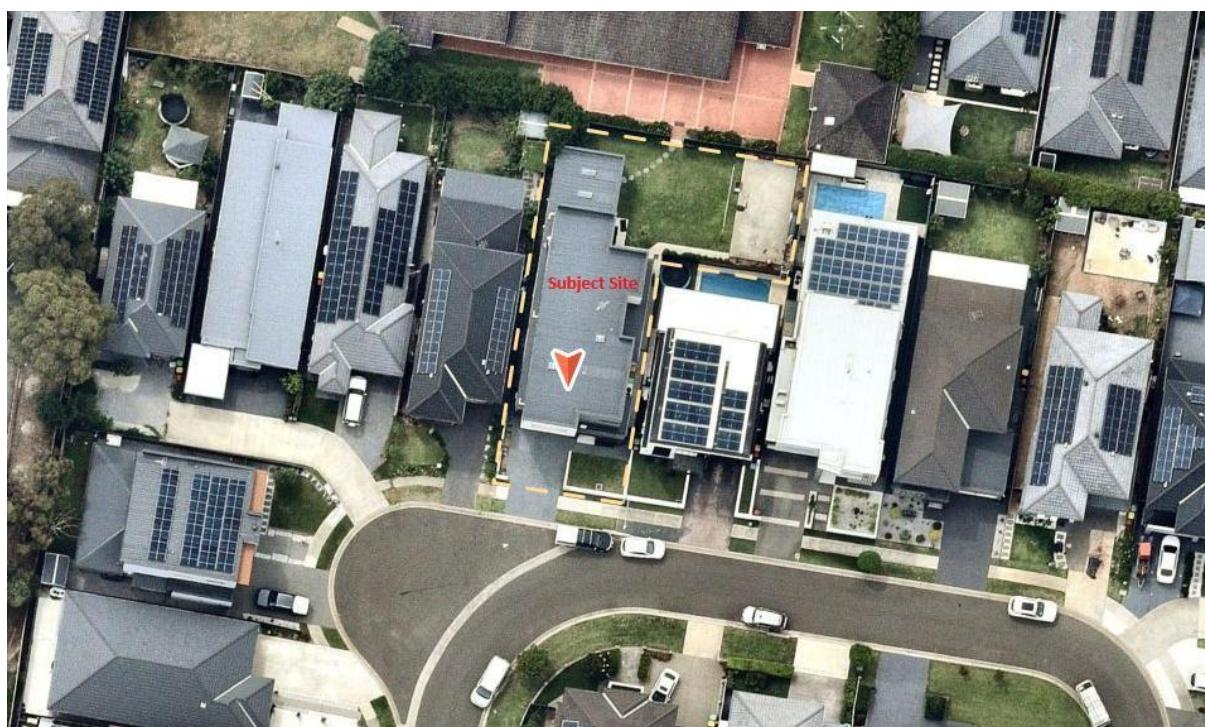
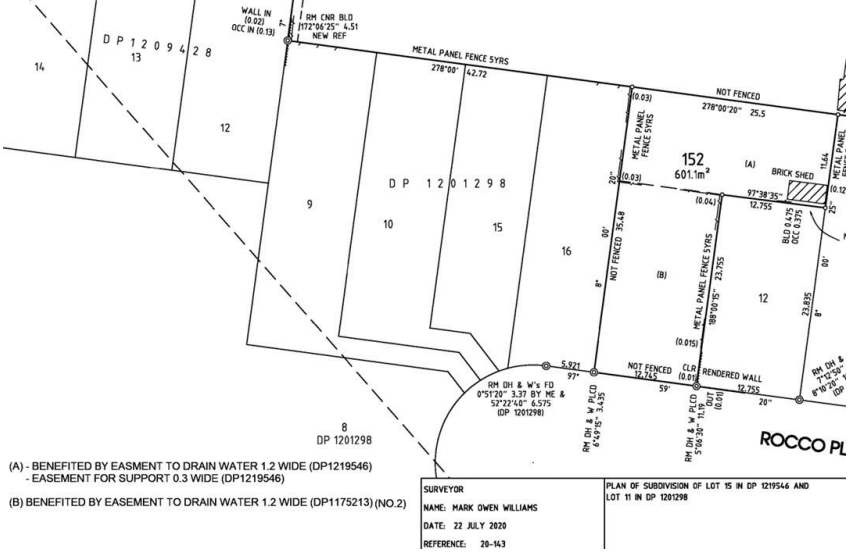


Figure 2: Aerial view of the subject site (Source: Nearmaps, August 2026)

2.1 Site Constraints

Are there any constraints or affection on the site: - Bushfire - Flooding - Heritage Items - Aboriginal heritage - Environmentally Significant Land - Threatened Species/ Flora/	- Moderate Salinity affected, appropriate condition/s will be imposed in the development consent. - The site is located within Georges River Catchment area.
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Habitat/ Critical Communities - Acid Sulphate Soils - Aircraft Noise - Flight Paths - Railway Noise - Road Noise/ Classified Road - Significant Vegetation - Contamination - Salinity	
88B Restriction for subject Lot 152 DP 1267245	 (A) - BENEFITED BY EASEMENT TO DRAIN WATER 1.2 WIDE (DP1219546) - EASEMENT FOR SUPPORT 0.3 WIDE (DP1219546) (B) BENEFITED BY EASEMENT TO DRAIN WATER 1.2 WIDE (DP1175213) (NO.2) SURVEYOR NAME: MARK OWEN WILLIAMS DATE: 22 JULY 2020 REFERENCE: 20-163 PLAN OF SUBDIVISION OF LOT 15 IN DP 1219546 AND LOT 11 IN DP 1201298 Terms of Restriction Firstly referred to in the above mentioned plan. a) No Construction Certificate shall be issued for a building on the lot burdened until on site drainage detention has been designed in accordance with Council's On-Site Detention Policy and Construction Specification, and b) No Occupation Certificate for a building shall be issued until the designed on-site detention system has been constructed on the subject lot and a licensed Surveyor prepares a "Work As Executed" plan and is certified as complying with the approved detention design by an appropriate accredited professional engineer. The proposed development referred to Council's Land Development Engineering Section. No concerns have been raised regarding stormwater drainage/on-site stormwater management. Appropriate conditions have been imposed in the development consent.

3. BACKGROUND / HISTORY

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

DA No.	Development	Determined
CDC21/2078 (Council Reference No. CD-1029/2022)	Construction of a two-storey dwelling with attached garage and detached shed	19/08/2022
CDC21/2078.1 (Council Reference No. CD-277/2024)	Construction of a two-storey dwelling with attached garage and detached shed - This approval relates to the deletion of the shed and cost of work updated.	5/03/2024
DA-111/2026	Construction of a colorbond shed on existing concrete slab	Current DA

Below is a brief history of the subject application in Council:

Date	Action
13 April 04 2026	Application Lodged
22 April 2026	Application was allocated to the Assessment Officer
5 May 2026	Referral to Council's Land Development Engineering Section was completed.
1 June 2026	Referral comments received from Council's Land Development Engineering section. The proposal was supported subject to conditions.

4. DETAILS OF THE PROPOSAL

The subject development application seeks consent for the construction of a colorbond shed on existing concrete slab.

5. STATUTORY CONSIDERATIONS

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

- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- Liverpool Local Environmental Plan (LLEP) 2008; and
- Liverpool Development Control Plan (LDCP) 2008:
 - Part 1: General Controls for All Development; and
 - Part 3.2: Dwelling houses on Lots greater than 400sqm in the R2, R3 and R4 zones.

6. ASSESSMENT

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

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

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

The subject land is located within the Georges River Catchment and as such the State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water Catchments, applies to the application. The Biodiversity and Conservation SEPP aims to protect the environment of the Georges River Catchment by ensuring that water quality impacts are considered.

In accordance with the SEPP, when a consent authority determines a development application, the provisions in Part 6.2 - Development in Regulated Catchments are to be considered and consent must not be granted unless the consent authority is satisfied that the matters have been addressed. Accordingly, a table summarising the matters for consideration in determining development applications (Part 6.2) and compliance with such is provided below:

Part 6.2 – Development in Regulated Catchments	
Division 2 – Controls on development generally	Comment
6.6 – Water quality and quantity	Council's Land Development Engineers have reviewed the application in regard to the stormwater design of the development and are satisfied with the proposal, subject to conditions.
6.7 – Aquatic ecology	The site is not identified as Environmental Sensitive Land.
6.8 – Flooding	The site is not affected by overland flows or mainstream flooding.
6.9 – Recreation and public areas	The development is unlikely to impact on recreational lands or public access to and around foreshores.
6.10 – Total catchment management	Environmental planning consideration through the relevant Environmental Planning Instruments has considered the impact of the residentially zoned land within the catchment.
Division 3 – Controls on development in specific areas	Comment
6.11 – Land within 100m of natural waterbody	The subject site is located over 100m from natural waterbody and the proposed development is not water dependent.
6.12 – Riverine scenic areas	Not applicable.
6.13 – Hawkesbury – Nepean conservation area sub-catchments	Not applicable.
6.14 – Temporary use of land in	Not applicable.

Sydney Harbour Catchment	
Division 4 – Controls on development for specific purposes	Comment
6.15 – Aquaculture	Not applicable.
6.16 – Artificial Waterbodies	Not applicable.
6.17 – Heavy and hazardous industries	Not applicable.
6.18 – Marinas	Not applicable.
6.19 – Moorings	Not applicable.
6.20 – On-site domestic sewerage systems	Not applicable.
6.21 – Stormwater Management	Council's Land Development Engineers have reviewed the application in regard to the stormwater design of the development and are satisfied with the proposal, subject to conditions.
6.22 – Waste or resource management facilities	Not applicable.
6.23 – Demolition on certain land	No demolition is proposed as part of this application.

It is considered that the proposal satisfies the provisions of the SEPP (Biodiversity and Conservation) 2021 subject to appropriate sedimentation and erosion controls during construction. The development will have minimal impact on the Georges River Catchment.

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

Pursuant to Clause 4.6 of Chapter 4, SEPP (Resilience and Hazards) 2021, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The objectives of SEPP (Resilience and Hazards) 2021 are:

- *to provide for a 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.*

The following table summarizes the matters for consideration in determining development application.

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	Considering the existing historical residential use of the property and no obvious site contamination is evident based on the site visits, aerial imagery and historic

	records, a land contamination assessment is not considered necessary.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The land is suitable for the proposed works and as it is unlikely that the land is contaminated based on Council records.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land does not require remediation.

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

(c) State Environmental Planning Policy (Sustainable Buildings) 2022

The general aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State. This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

The proposal is for a shed, a non-habitable building. The building is not a BASIX affected building therefore a BASIX Certificate is not required.

(d) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned R2 Low Density Residential pursuant to the LLEP 2008. An extract of the zoning map is provided in Figure 3 below:

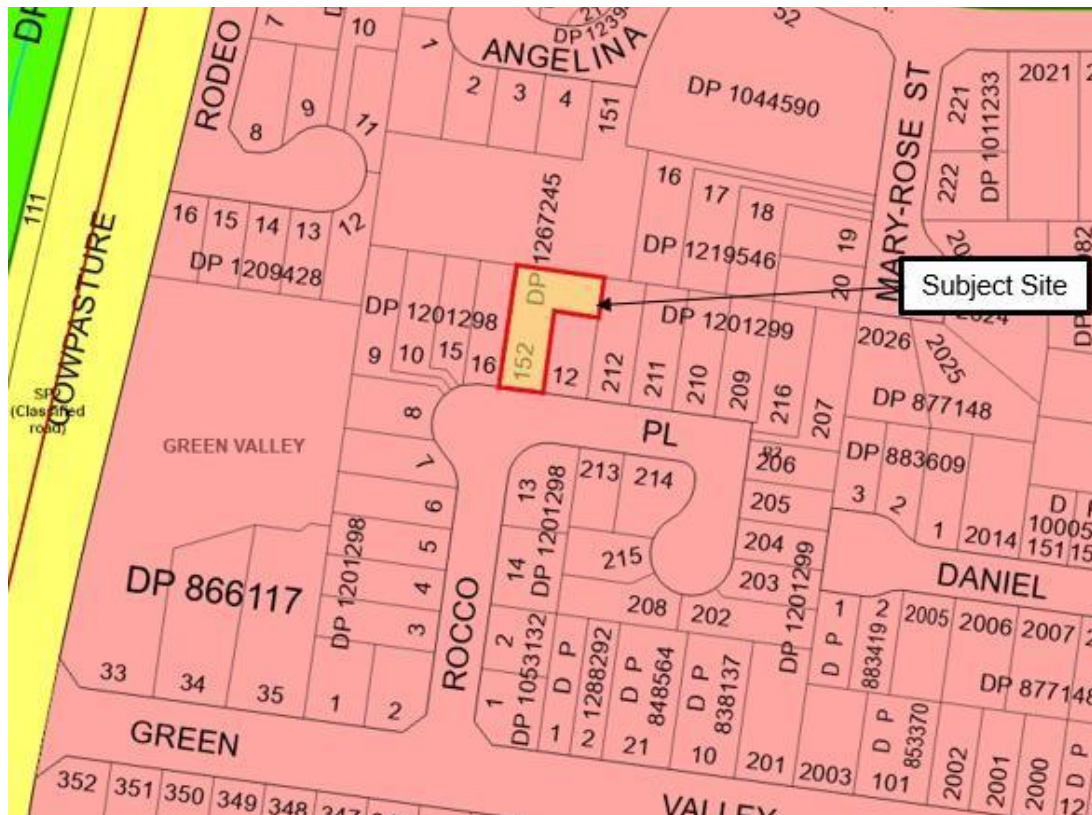


Figure 3: Zoning Map (Source: Council's Geocortex Map, 2026)

(ii) Permissibility

The proposed development is best described as “shed” which is ancillary to existing use for a dwelling house. The proposed development is permissible with consent within the R2 Low Density Residential Zone.

dwelling house means a building containing only one dwelling.

(iii) Objectives of the zone

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

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

The proposed development is consistent with the R2 zone objectives as it provides additional personal storage area to meet the day-to-day needs of the residents. The proposal is ancillary to existing dwelling which is form of development permissible with consent. Whilst the proposal slightly exceeds the maximum floor space ratio allowed for the

subject site, the proposal still maintains high level of residential amenity due to its modest design and proposed use.

(iv) Principal Development Standards

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

Development Provision	Requirement	Proposed	Comment
2.7 Demolition	The demolition of a building or work may be carried out only with development consent	No demolition is proposed as part of the proposal.	Not Applicable
4.1 Minimum subdivision lot size	300m ²	Subdivision is not proposed	Not Applicable
4.3 Height of Buildings	Max Height 8.5m	The height of proposed shed is 3.895m	Complies.
4.4 Floor Space Ratio	Max permitted FSR 0.5:1	Site Area: 601.1m² Dwelling = 288.12 m² Proposed Shed = 51.94 m² Total GFA – 340.06 m² FSR: (340.06/601.1 m² = 0.57:1 Permitted FSR: 300.55m² FSR exceeds by 39.51m², which is 13.15% Calculation: Percentage variation = Excess FSR/Max. Permitted FSR x 100 = 39.51/300.55 x 100 = 13.15 % A Clause 4.6 variation is	Does not Comply. Considered acceptable on merit

		proposed along with a report justifying why the applicant believes that the development standard is unnecessary and that there are sufficient environmental planning grounds to justify the non-compliance. See below for detail discussion.	
4.5 Calculation of floor space ratio and site areas	The definition of floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.	The proposed development is carried out on one lot. There are no exclusions from site area present on the subject site. The gross area calculation presented is consistent with the calculation measured.	Noted
4.6 Exceptions to development standards	(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that— (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and (b) there are sufficient environmental planning	As discussed above, the proposal involves an exceedance in FSR of 13.15% or 39.51 sqm. A report addressing Clause 4.6 of the LLEP has been provided to support proposed variation to development standards relating to Clause 4.4 Floor Space Ratio. See below for detail discussion.	Considered acceptable

	grounds to justify the contravention of the development standard.		
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Clause 4.6 – Exceptions to development standards (Variation to Clause 4.4 – Floor space ratio)

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

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

The maximum floor space ratio standard applying to the subject land under Clause 4.4(2) is 0.5:1 (gross area: site area) as shown in the extract from the Floor Space Ratio Map below.

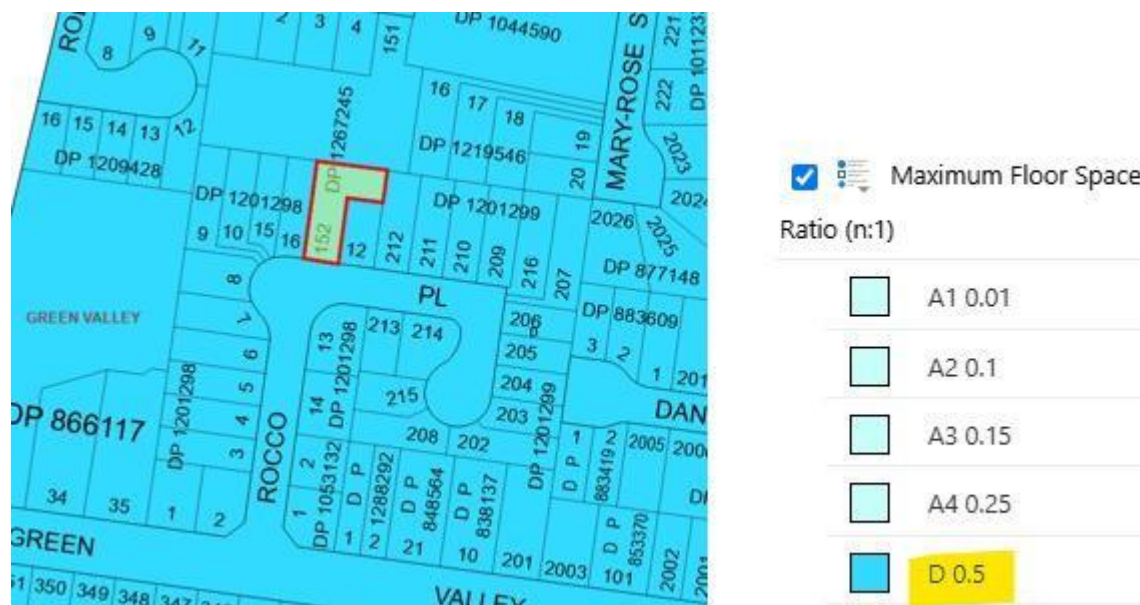


Figure 4: Extract of Floor Space Ratio Map - LEP 2008 (Source: Council's Geocortex Map, 2026)

The purpose of the proposed development relating to this exception, as discussed in the report above, is to allow colorbond shed to be constructed over existing slab. Whilst the subject site is permitted to have maximum FSR of 0.5:1, the development proposes a FSR of 0.57:1, which is an exceedance in FSR of 13.15% or 39.51 sqm.

Accordingly, the proposal seeks a variation to the maximum FSR development standard permitted under clause 4.4 of the Liverpool Local Environmental Plan 2008 (LLEP 2008).

The applicant has submitted a report seeking to justify variation to development standards under Clause 4.6 of the LLEP 2008, to the maximum floor space ratio prescribed in Clause 4.4(2).

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

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

Council comment: Noted

Clause 4.6(2) prescribes:

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

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

Clause 4.6(3) prescribes:

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

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

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

The applicant has provided the following justification for the contravention of the development standard:

Applicant Comment

1. the objectives of the standard are achieved notwithstanding non-compliance with the standards;

Despite non-compliance with the maximum floor space ratio development standards, the proposal is still able to meet the following relevant objectives of the provision:

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

With respect to density and intensity of land use, Figure 1 below illustrates the level of density that exists in the immediate locality. The subject site is shown vacant, however, it is noted that construction of the two-storey dwelling has recently been completed. There are no aerial photos of the site showing the newly constructed building and rear slab.

The photo below indicates that a number of lots are almost entirely occupied by buildings, apart from a few properties which provide the requisite landscaped area. Figure 2 is a construction drawing (i.e. CC plan) of the two-storey dwelling and rear shed on the subject lot, which formed part of the CDC approval for the dwelling.

Figure 1: Dwelling density and intensity in immediate area

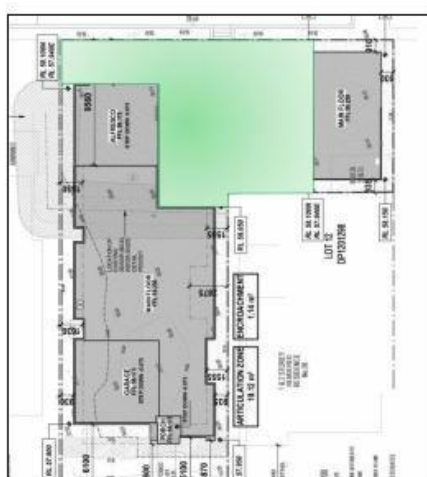


Figure 2:
Proposed landscaped area at rear of subject site

* NB Site is shown larger in Figure 2 than in Figure 1

This figure shows the extent of landscaped area that will be provided at the rear of the property. Approximately 188.04m² of soft surface landscape area is to be provided, which equates to 31.3% of the area of the site.

Whilst it is noted that, at 601.1m², Lot 152 is somewhat larger than the surrounding allotments, Figure 2 shows that over 30% of the site can be provided as soft soil landscape area, which is significantly greater than most of the other allotments.

- (b) *to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,*



Figure 3: Street view from Rocco Place facing north including subject site

- *As highlighted in the previous point, when viewed from an aerial perspective, the erection of the shed does not adversely increase density, and in our opinion, the amount of landscaping proposed reduces the extent of built form in the immediate locality.*
 - *From a streetscape perspective, the rear shed is unable to be viewed. In this regard, the erection of the shed also does not add to building bulk in the street, as can be evidenced in Figure 3 below.*
- (c) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- *As discussed in the accompanying Statement of Environmental Effects, the shed is only single storey in height. The shadow effect from the shed does not restrict direct sunlight to any living areas within the southern-adjoining development.*
 - *Additionally, the shed still facilitates compliant direct sunlight to the rear POS area of the southern-adjoining dwelling, and this includes the pool area, which will still receive the required minimum amount of direct sunlight in the afternoon period, which it is contended, is likely to be the predominant period that the pool will be in use.*
- (d) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- *This area is part of a larger residential subdivision and therefore is undergoing substantial transformation. As noted in point a), from an aerial perspective, the shed does not adversely affect built form and density. From a streetscape*

perspective, the subject property looks exactly the same as neighbouring properties, as illustrated in point b).

(e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

- We consider that the 0.5:1 FSR standard to be appropriate for this purpose, particularly in a residential setting where the ratio of built form to landscaping is important. However, as noted above in points a) and b), the extent of landscaped area proposed for the site exceeds that of adjoining and surrounding development.*

- In this case, the minor exceedance in FSR due to the rear shed does not compromise the above stated correlation between the size of the site and extent of development. The proposed landscaped area exceeds the minimum and provides a good level of vegetation cover in an area that is dominated by built form.*

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

- The underlying objectives of the standard (as discussed in point 1 above) are relevant. However, it is considered that the objectives will still be satisfied despite the proposed exceedance to FSR.*

3. the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

- It is considered that the underlying objectives (as discussed above) would be thwarted if strict compliance was required, given that all objectives can still be achieved irrespective of the minor exceedance to FSR.*

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;

- The development standard has not been abandoned or destroyed by Council, and it is considered that the maximum FSR standard is appropriate for the residential context. However, it is noted that the surrounding area consists of relatively small lots with large building footprints and relatively small landscaping.*

- As noted above, the proposed development provides for a greater level of landscaped area relative to built form than that which exists on surrounding allotments, and in this regard, the minor exceedance in FSR is negligible, and*

certainly not discernible from a visual perspective.

- 5. the compliance with the development standard is unreasonable or inappropriate due to existing use of the land and current environmental character of the particular parcel of land. That is, the particular parcel of land shown should not have been included in the zone.**

- *Not applicable in this case*

The applicant further provides justification on how strict compliance would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act.

Clause 1.3 replaces Section 5 of the EP&A Act, and specifies the objects of this Act as follows:

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

Whilst there is a minor numerical non-compliance, the proposal is considered appropriate in terms of both performance and merit. The proposal is considered to achieve orderly and economic development. Given that the proposed development would not result in any adverse environmental or built environment impacts, strict compliance with the FSR standard in this case would hinder the attainment of the above objectives.

Council Comment:

In response to the applicant's justification raised above, Council provides the following comments:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances, as the underlying objectives of the FSR control being to manage building density and bulk relative to site area are achieved notwithstanding the numerical departure.
- The shed, being single storey and sited to the rear of the property, is not visible from the public domain and does not contribute to any discernible increase in streetscape bulk or density when viewed in the context of the surrounding locality.
- The proposed shed has a significantly lower visual and environmental impact than a structure of the same or lesser gross floor and is not considered to contribute to the same level of bulk or scale, noting the irregular site shape and adherence to setback requirements.
- The proposal provides 188.04m² (31.3%) of soft surface landscaping and 209.11m² of private open space, both of which substantially exceed the applicable minimum requirements (25% and 80m² respectively), offsetting the built form exceedance and maintaining a standard of residential amenity.
- The proposed development as amended remains consistent with the controls and the objectives of the LLEP 2008 and LDGP 2008 and has been designed to comply with overshadowing and privacy impacts on adjoining properties, while still maintaining appropriate amenity for the development itself through the provision of generous private open space, satisfactory solar access to living areas and private open space and satisfactory natural ventilation.
- The subject site had approval for a detached shed under CDC21/2078 with a similar footprint and height in the same location. As such, the proposal is not contrary to previous approval under the CDC. In addition, a shed with a gross floor area of 20sqm and maximum of 3m in height is allowed under clause 2.18 pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 if located 900mm from relevant boundaries and appropriate drainage is provided. While the proposed shed is slightly bigger in size to be exempt development, the impact of such structure on adjoining property or character of the locality is considered negligible, comparative to a shed proposed under exempt development.

Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

This written request provides that there are sufficient environmental planning grounds to justify contravening the standard in this particular instance. Whilst discussed in detail above in point 10, below is a brief summary of the merits of this proposal.

- *From an aerial perspective, the shed does not adversely affect built form or density. From a streetscape perspective, the subject property looks exactly the same as neighbouring properties.*
- *The proposed shed is unable to be viewed from the public domain, and thus any exceedance, which is usually manifested in built form, is not discernible.*
- *Surrounding amenity is maintained as the proposed shed is only single storey in height and does not restrict adjoining living areas or POS areas from receiving direct sunlight.*
- *The development proposes 188.04m² of soft surface landscaping, which equates to 31.3% of site area. This exceeds the minimum landscaping requirement of 25%. The amount of private open space to be provided is 209.11m², which significantly exceeds the required 80m².*
- *The extent of soft surface landscaping and POS area noted above is significant, particularly when comparing surrounding allotments, which provide a relatively high proportion of the site as built form. It is considered that the site will be provided with a high proportion of vegetative cover that will soften the visual impact of development, particularly when viewed from above, and will assist in improving amenity for residents.*
- *Whilst the proposal may result in a minor numerical non-compliance, the development is considered acceptable based on both performance and merit, particularly due to the extent of soft surface landscaping and POS area that will be provided.*

Conclusion

This Clause 4.6 report has been prepared to accompany a Development Application for the proposed erection of a new colorbond shed over an existing concrete slab.

The report provides a written request to vary a development standard, specifically Clause 4.4 of the Liverpool LEP 2008, which prescribes a maximum FSR of 0.5:1 for the site. Gross floor area for the proposed development is calculated at 340.06m² or an FSR of 0.57:1, which equates to an exceedance of 39.51m² or 13.5% variation. Despite the non-compliance with the development standard, the proposal is considered to have planning merit and is considered to be reasonable and appropriate in the circumstances of this case.

As demonstrated above, strict compliance with the maximum FSR development standard is considered unnecessary and unreasonable in this instance. It is contended that, despite the minor numerical non-compliance, the proposal does not result in a development that is excessive in density or bulk and scale. The extent of soft surface landscaping and POS area to be provided significantly exceeds that of adjoining and surrounding properties. It is considered that the proposed erection of the shed would not result in any adverse environmental or built environment impacts. It is further considered that the proposal represents the orderly and economic use and development of land, and in this regard, the relevant objects specified within Clause 1.3 of the Act are attained.

Having regard to the above, it is respectfully asked that Council support the Clause 4.6 written request to vary a development standard relating to FSR and approve the application as submitted.

Council Comment:

- The proposed development is considered to be consistent with the objectives of the zone, the development standard and Clause 4.6.
- No unreasonable amenity impacts arise in terms of solar access, with compliant direct sunlight retained to the private open space and pool area of the adjoining southern property.
- The proposal remains consistent with the relevant objects of the Act under Clause 1.3, including the promotion of orderly and economic land use and development, and good design and amenity of the built environment.
- Besides the variation to Floor Space Ratio and given the irregular shaped site, the applicant has enabled the proposal to achieve compliance with the applicable requirements of the LLEP 2008 and LDGP 2008.
- The DA also is fully consistent with the provisions of the relevant SEPP's, as previously demonstrated in this report.
- The development is considered to satisfy all of the relevant heads of consideration as per Section 4.15 (1) of the Act.
- The contravention of the development standard is unlikely to generate any adverse environmental impact within the locality beyond.

It is considered that the floor space ratio of the proposed shed in this instance is unlikely to result in detrimental impacts to the built and natural environments and the development is consistent with the characteristics of the zone and locality of the area.

Council Recommendation:

It is recommended that the written request pursuant to Clause 4.6 of the Liverpool LEP 2008 to vary the maximum Floor Space Ratio development standard under Clause 4.4 be

supported, on the basis that strict compliance is unreasonable and unnecessary in the circumstances, and sufficient environmental planning grounds exist to justify the variation.

The objectives of the Floor Space Ratio clause have also been addressed, as well as the objectives of the zone. Having regard to the above, it is considered that there are sufficient environmental planning grounds to vary Clause 4.4 Floor Space Ratio in this instance.

With considerations to the discussion above, the proposal is also considered to be in the public interest and is therefore supported in this instance.

6.5 Public Utility Infrastructure	Public utility infrastructure must be available	The site has access to existing public utility infrastructure.	Complies.
7.7 Acid sulfate soils	Class 1 2, 3 4 or 5	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.	Complies
7.9 Foreshore building line	the development must not impact on natural foreshore processes or affect the significance and amenity of the area	N/A	N/A
7.11 Minimum Dwelling Density	To be as per dwelling density map	N/A	N/A
7.31 Earthworks	Council to consider matters listed (a)-(g)	The proposal does not involve earthworks other than to remove existing shed and hardstand area within the rear yard of the subject site. The proposed works are minor in nature and unlikely to cause any detrimental impact on drainage pattern, water course or amenity of adjoining properties.	Complies

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 subject application has also been assessed against the relevant controls of the Liverpool Development Control Plan (LDCP) 2008, particularly *Part 1 General Controls for all Development and Part 3.2 Dwelling houses on Lots greater than 400sqm in the R2, R3 and R4 zones*. Overall, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008 as demonstrated in the table in Attachment 1.

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

There are no Planning Agreements or Draft Planning Agreements apply to the development.

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

The *Environmental Planning and Assessment Regulations 2021* requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

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

a) Natural and Built Environment

Impacts on the natural environment have been assessed as part of the development application. The subject site is not identified as Environmentally Significant Land or containing any endangered flora or fauna. The proposal is for construction of colorbond shed over existing concrete land and is unlikely to result in any detrimental impact on the natural environment or on the adjoining properties or the locality. As such, the proposal is considered acceptable and therefore supported despite non-compliance with the development standards.

b) Social and Economic Impacts

The proposed development is unlikely to have any negative social and/or economic impact within the locality.

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

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

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

a) Community Consultation

The application was not required to be notified in accordance with Liverpool Community Participation Plan 2025. Nonetheless, no submissions were received.

b) Internal Referrals

Internal Department	Comments
Land Development Engineering	Supported, subject to conditions

c) External Referrals

Nil

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

The proposed development remains generally consistent with the objectives of the zone. Despite the proposal exceeding permitted floor space ratio requirements of the Liverpool Environmental Plan 2008 the proposal is not contrary to the public interest.

7. DEVELOPMENT CONTRIBUTIONS

Development contributions do not apply to this application.

8. CONCLUSION

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

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

9. RECOMMENDATION

That Development Application DA No. 111/2026 be **approved subject to conditions of consent**

ATTACHMENTS – See Councils ePlanning portal for the following attachments

<https://eplanning.liverpool.nsw.gov.au/Pages/XC.Track/SearchProperty.aspx?id=197976>

1. Attachment 1 - Draft Attachment - Liverpool Development Control -Compliance Tables -DA-111-2026 -24 ROCCO PLACE GREEN VALLEY
2. Attachment 2- Clause 4.6 variation request - DA-111/2026 - 24 ROCCO PLACE GREEN VALLEY NSW 2168
3. Attachment 3 - Unstamped Determination Document - DA- 111/2026 - 24 Rocco Place,Green Valley
4. Attachment 4 - Draft Notice of Determination - DA-111/2026 - 24 ROCCO PLACE GREEN VALLEY NSW 2168

Item Number:	ITEM 02
Application Number:	DA-166/2026
Proposed Development:	The addition of one new residential apartment to the rooftop level of an existing residential flat building development, the conversion of one existing unit to an affordable infill housing unit, and the addition of direct pedestrian access to El Alamein Park with associated landscape embellishment on Council-owned land.
Property Address	186 Moore Street, Liverpool 2170
Legal Description:	Lot 140 DP 1254900
Applicant:	Mr R Cusumano
Land Owner:	R & S Investments (NSW) Pty Ltd
Cost of Works:	\$242,273.00 (exc GST)
Recommendation:	Refusal
Assessing Officer:	Ben Paterson

1. EXECUTIVE SUMMARY

1.1 The Proposal

Council is in receipt of a Development Application DA-166/2026 seeking Council consent for the addition of one new residential apartment to the rooftop level of an existing residential flat building development, the conversion of one existing unit to an affordable infill housing unit, and the addition of direct pedestrian access to El Alamein Park with associated landscape embellishment on Council-owned land, at 186 Moore Street, Liverpool, which is legally described as Lot 140 in DP 1254900.

1.2 The Site

The subject site is located at 186 Moore Street, Liverpool, ('the site'), legally known as Lot 140 in DP 1254900. The site is a rectangular shaped allotment and relatively flat with a slight slope towards the eastern side boundary. The site has a total area of 619.70m² and has a primary frontage to Moore Street of 15.24m. As illustrated in Figure 1 below, the site currently contains a four storey residential flat building approved under Development Consent DA-120/2016.

1.3 Exhibition of the Proposal

The application was notified in accordance with the Liverpool City Council Community Engagement Strategy 2024 and Community Participation Plan 2025 between 26 May and 11 June 2026. Notwithstanding, no submissions were received.

1.4 Reasons for the Report

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

4. Sensitive Development

(b) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.

Although it has not been clearly established within the information provided to Council, the proposed works on Council-owned land would also necessitate referral to the LLPP in accordance with:

1. Conflict of Interest

Development for which the applicant or land owner is:

(a) the council.

1.5 The Issues

The key issues associated with the proposal relate to the following:

- 1.1.1 **Communal Open Space** - The proposed communal open space (COS) shortfall is substantial and is not considered to be “minor” as stated in the submitted Statement of Environmental Effects. The development does not provide the minimum level of COS as required by the Apartment Design Guide (ADG), with the shortfall arising directly from the inclusion of the proposed additional apartment. Importantly, compliance with the COS requirement would be achieved if the additional apartment was not proposed. Reliance on the adjoining public park does not adequately compensate for the substantial deficiency in on-site COS or provide an appropriate substitute for communal open space within the site.
- 1.1.2 **Liability & Ongoing Maintenance** - Council does not support the proposed landscaping and footpath works within Council owned land. The works would create foreseeable liability, ongoing maintenance and asset management obligations for Council without an appropriate mechanism for those obligations to be transferred to or managed by the development. Required COS and associated communal facilities should be provided wholly within the site and remain under the control and management of the relevant strata body.

- 1.1.3 **Owners Consent** – The proposal relies upon landscaping and footpath works extending onto Council owned land. The requested owners consent has not been provided, nor has there been any demonstrated attempt by the applicant to obtain this. The use of Council owned land would also trigger conflict-of-interest considerations and additional advertising requirements that have not been undertaken.
- 1.1.4 **Clause 4.6 Landscape Area Variation** – The proposal seeks a variation to the landscaped area development standard under the Housing SEPP which is not supported. Furthermore, the application has not been accompanied by the document required under s35B of the *EP&A Regulation 2021*, setting out the statutory grounds relied upon to justify the proposed contravention. Accordingly, the consent authority is unable to grant the proposed variation under clause 4.6 of the Liverpool LEP 2008.
- 1.1.5 **Building Separation** - The proposed additional unit provides a minimum 3m separation to the western side boundary adjoining the neighbouring RFB, which is below the minimum ADG criteria within sections 2F Building Separation & 3F Visual Privacy.
- 1.1.6 **Apartment Mix** - The proposed two-bedroom rooftop apartment does not satisfy the requirement for the top level of a residential flat building to include a three bedroom unit, nor does it meet the minimum apartment mix required by the DCP. While a three bedroom apartment could reasonably be accommodated, this would further reduce the already deficient rooftop communal open space.
- 1.1.7 **Insufficient Information & Document Inconsistencies** - The application contains several inconsistencies between what has been approved, and what is illustrated as existing as highlighted. These inconsistencies prevent Council from accurately confirming the existing and proposed development and undertaking an accurate assessment of the application.

1.6 Conclusion

This report summarises the key issues which should be considered in the determination of the proposal in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*. Based on the assessment of the application, it is recommended that the application be refused.

2. SITE DESCRIPTION AND LOCALITY

2.1 Site Description

The subject site is identified as 186 Moore Street, Liverpool, which is legally described as Lot 140 in DP 1254900. The site is a rectangular shaped allotment and relatively flat with a slight slope towards the eastern side boundary. The site has a total area of 619.70m² and has a primary frontage to Moore Street of 15.24m. The site currently contains a four storey

residential flat building approved under Development Consent DA-120/2016. The site is shown in **Figure 1** below:

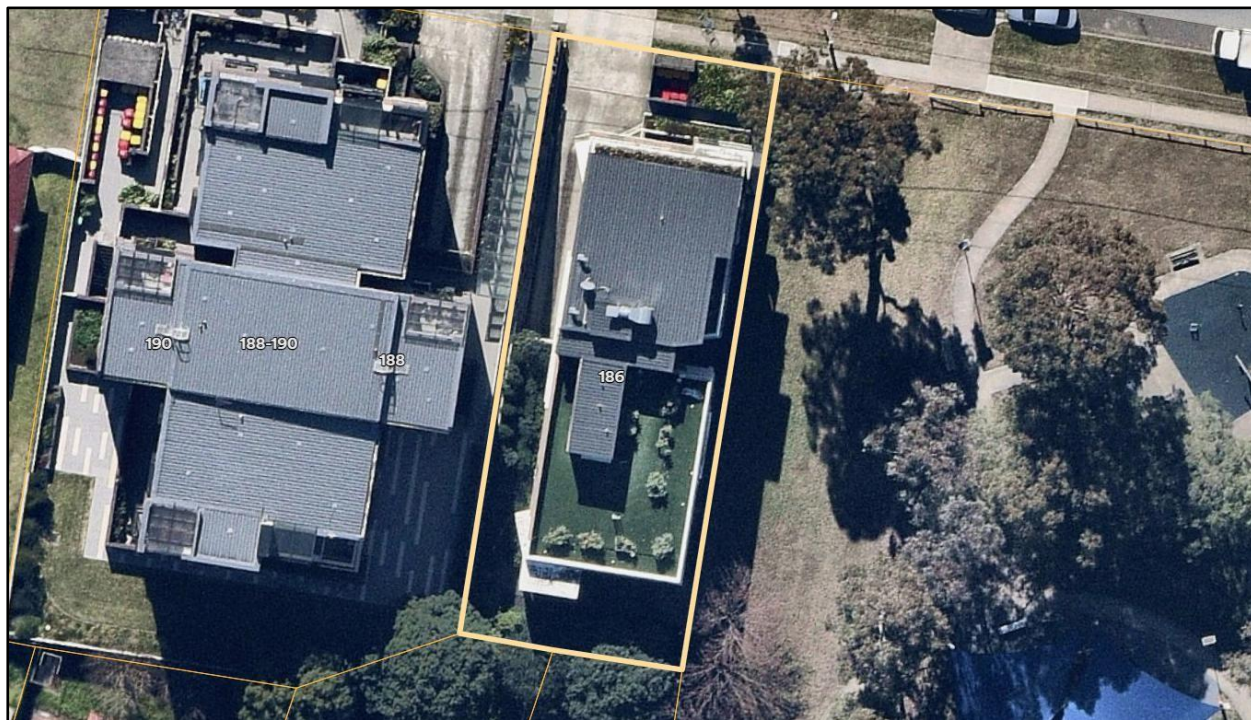


Figure 1: Aerial view of the site (Nearmap: August 2026).

2.2 The Locality

The subject site is located within an established R4 high density residential locality comprising a mix of detached dwellings, multi-dwelling housing developments and residential flat building developments. Liverpool City Centre and railway station are located approximately 1.5km to the east of the subject site. Opposite the site on the northern side of Moore Street is the Liverpool Cemetery and adjacent to the site on the eastern side is a public reserve known as El Alamein Park. This park contains playground equipment, seating and a series of footpaths providing a high degree of pedestrian connectivity.



Figure 2: Aerial view of the locality (Nearmap: August 2026).

2.3 Site Photos

A site inspection was carried out on 21 August 2026. The photos (Figures 3 – 8) show the subject site and the surrounding area's character.



Figure 3: Site frontage



Figure 4: Side view from El Alamein Park



Figure 5: Location of proposed park embellishment (from front)



Figure 6: Location of proposed park embellishment (from rear)



Figure 7: Location of proposed access gate to park.



Figure 8: Site opposite (Liverpool General Cemetery).

2.3 Site Constraints

Are there any constraints or affectation on the site: - Bushfire - Flooding - Heritage Items - Aboriginal heritage - Environmentally Significant Land - Threatened Species/ Flora/ Habitat/ Critical Communities - Acid Sulphate Soils - Aircraft Noise - Flight Paths - Railway Noise - Road Noise/ Classified Road	- Moderate salinity potential - Adjacent to El Alamein Park - east - Opposite Local Heritage item 47 (Liverpool General Cemetery) - north
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- Significant Vegetation - Contamination - Salinity	
Are there any restrictions on title? Attach 88B instrument to the report	Nil.

3. SUBJECT SITE HISTORY

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

DA No.	Lodged	Proposed Development	Determined
DA-120/2016	17 February 2016	Demolition of Existing Structures and Construction of a Four (4) Storey Residential Flat Building with Two (2) Levels of Basement Parking, Containing 11 units (2 x Studios, 2 x 1 Bedroom and 7 x 2 bedroom) and Strata Subdivision.	Approved 27 October 2016
DA-120/2016/A	3 November 2016	Correction of a typographical error made in the Description of the development where 11 Units were referred to instead of 10 Units as proposed.	Approved 4 November 2016
DA-120/2016/B	10 May 2017	Removal of Condition No.134	Approved 13 October 2017
DA-120/2016/C	16 January 2018	Modification to DA-120/2016 pursuant to section 96(2) of the Environmental Planning and Assessment Act. The modification proposes construction of Unit 302 on Level 03 obtaining affordable rental housing FSR Bonus	Withdrawn 19 March 2018
DA-120/2016/D	20 July 2018	Changes to external materials and finishes, changes to outdoor areas on ground floor and landscape design update.	Approved 7 November 2018
DA-1288/2021	3 November 2021	Addition of a new unit to an existing four storey Residential Flat Building development to create a total of 11 units	Refused 27 June 2023
DA-166/2026	22 May 2026	<i>The addition of one new residential apartment to the rooftop level of an existing residential flat building development, the conversion of one existing unit to an affordable infill housing unit, and the addition of direct pedestrian access to El Alamein Park with associated landscape embellishment on Council-owned land.</i>	<i>Under Assessment</i>

It is noted that DA-1288/2021, which sought approval for the same proposal, was refused in 2023. The key issues identified in the assessment of the current application are substantially consistent with those raised in the previous application.

4. DEVELOPMENT APPLICATION HISTORY

Below is a brief history of the subject application:

Date	Action
22 May 2026	Application lodged with Council .
26 May and 11 June 2026	The application was notified. No submissions were received within this period.
7 August 2026	Request to Withdraw/ Insufficient information letter issued noting: • COS non-compliance not supported; • Multiple Document Inconsistencies; • Clause 4.6 Variation required; • Building Separation non-compliance; • COS area diagram and solar access diagram non-compliance; • Owners consent required; • Link to El Alamein park not supported by Council's property officer; • Substitution of public open space in lieu of COS not supported; • Additional Pathway design details required; • Proposed planting amendments required; • Updated WMP and waste plans required.
17 August 2026	The applicant was contacted via phone. They indicated that they would not withdraw the application. They were requested to address the insufficient information letter by 24 August 2026.
25 August 2026	A final follow-up 7-day Request for Additional Information Letter was issued.
3 September 2026	The applicant was emailed, noting that as no response or further information was received the application has been recommended for refusal.
28 September 2026	Liverpool Local Planning Panel meeting.

4. DETAILS OF THE PROPOSED DEVELOPMENT

The Development Application seeks Council consent for alterations and additions to an existing 4 storey residential flat building containing 10 x units as approved under DA- 120/2016 (as modified). The proposal seeks the addition of a two bedroom unit at the upper level, and conversion of the building to an in-fill affordable housing development with Unit G01 dedicated as an affordable rental housing unit (as per the submitted Statement of Environmental Effects). Specifically, the proposal would consist of the following:

Basement 02:

- Conversion of existing “access zone” to a car parking space #13;
- *Note: The applicants As-built plans vary from the originally approved basement plans (DA-120/2016), these variations are minor and likely occurred during the subsequent Construction Certificate stage.*

Ground Floor:

- Allocation of existing Units G01 as affordable rental housing units;
- *Note: Drawing DA-131 suggests that both G01 and G02 are to be affordable housing units, whereas the SEE suggests that only G01 is an affordable housing unit -*

Clarification has been sought from the applicant, but this has not been provided.

- The proposed Ground Floor plan illustrated within the Landscape set generally aligns with the approved plan under DA-120/2016/D;
- The landscape plan suggests a direct link to El Alamein Park is proposed with associated landscape embellishment of the park itself included.
- ***Note: The applicants As-built plans suggest that the rear courtyard has been constructed in accordance with the original approval (DA-120/2016), rather than the modified courtyard as per DA-120/2016/D - Clarification has been sought from the applicant, but this has not been provided.***

Level 03:

- Significant reduction of the common terrace area (as modified by DA-120/2016/D);
- Removal of communal Accessible WC, BBQ Facility, and pergola;
- Relocation of seating benches and planter boxes;
- Addition of 2-bedroom Unit 302;
- Addition of x2 Rainwater Tanks.

Roof:

- Addition of metal roof to new Unit 302;
- Addition of solar panels.

Operational:

- Conversion of the building to an in-fill affordable housing development.

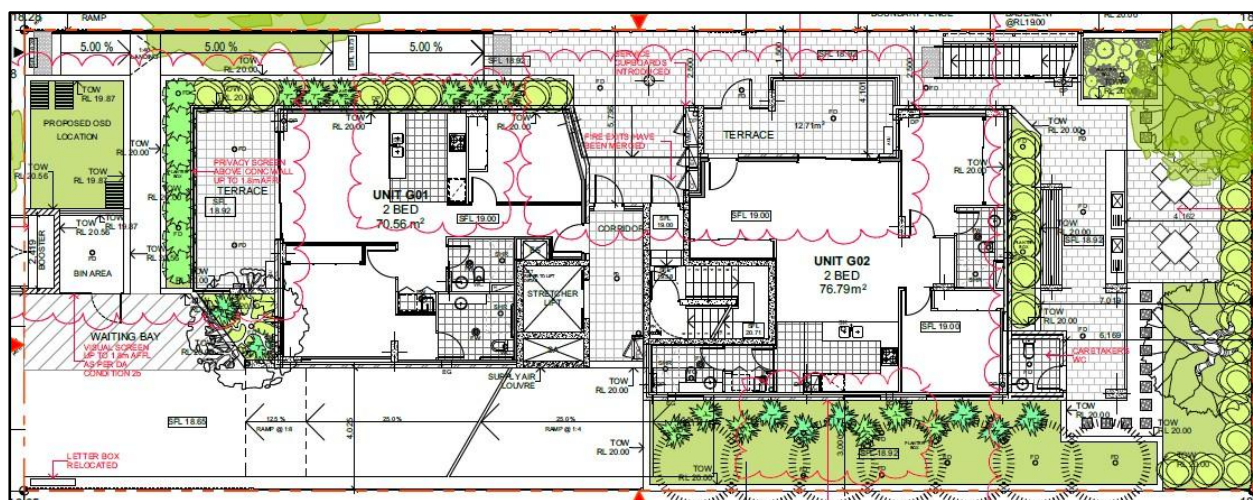


Figure 9: Approved Ground Floor Plan (DA-120/2016/D).

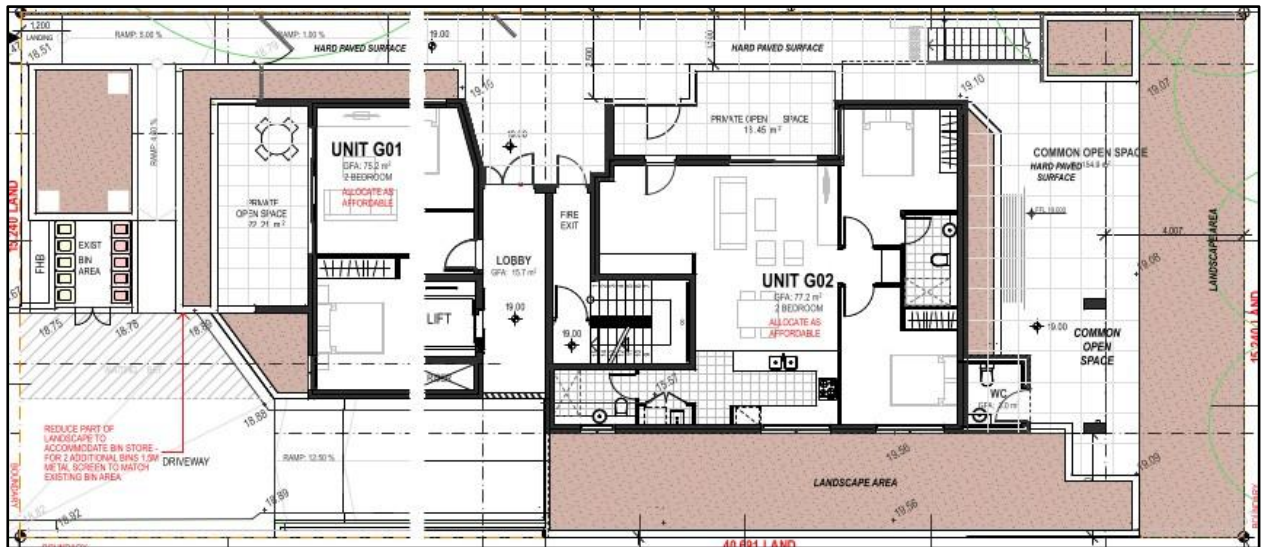


Figure 10: Proposed Ground Floor Plan under DA-166/2026 (Architectural Set).

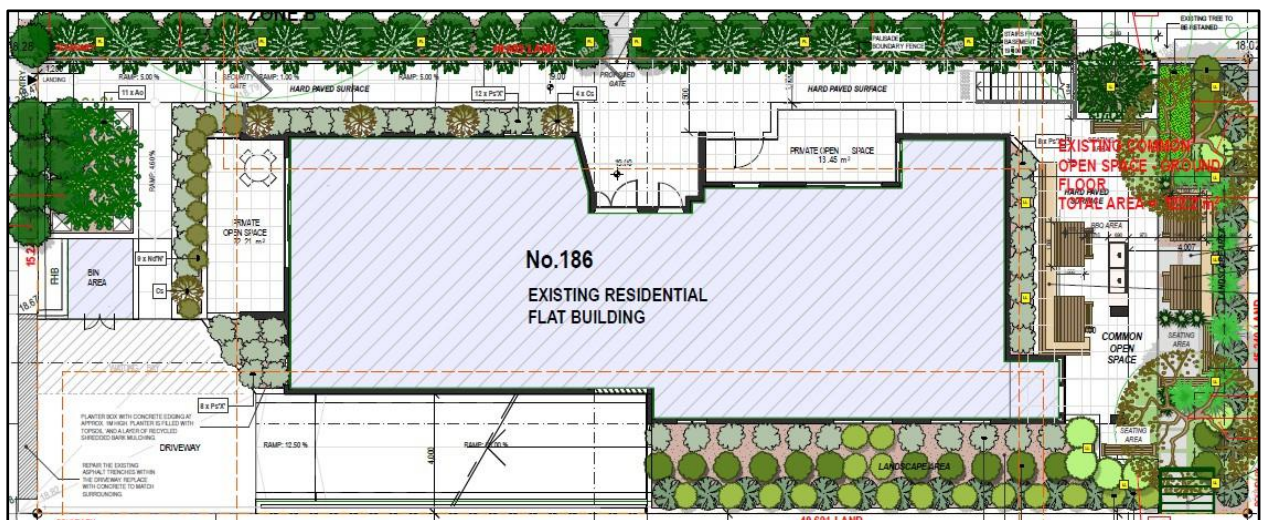


Figure 11: Proposed Ground Floor Plan under DA-166/2026 (Landscape Set).

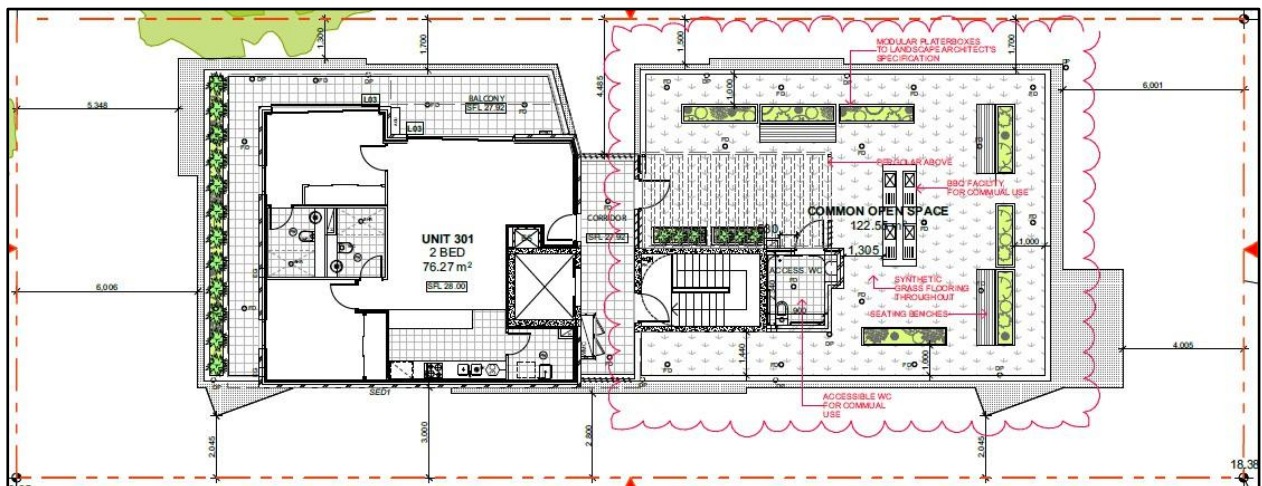


Figure 12: Approved Level 03 Plan (DA-120/2016/D).

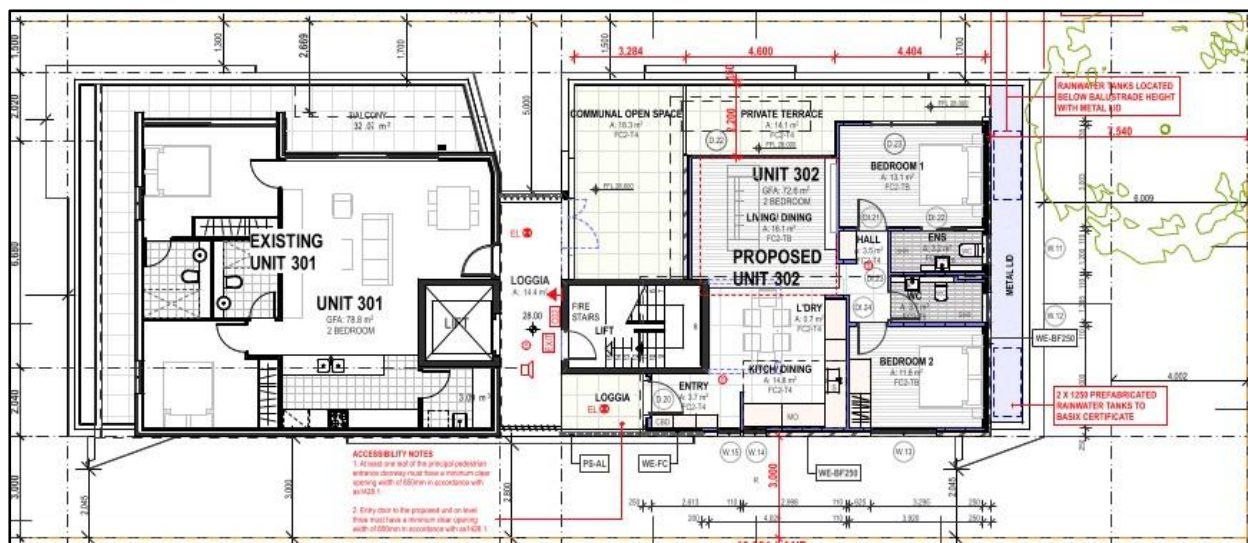


Figure 13: Proposed Level 03 Plan under DA-166/2026.



Figure 14: 3D Perspective (view from El Alamein Park).

6. STATUTORY CONSIDERATIONS

The following planning instruments have been considered in the planning assessment of the subject Development Application:

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Building) 2022*
- *State Environmental Planning Policy (Housing) 2021*
- *Liverpool Local Environmental Planning Policy (LLEP) 2008*

Development Control Plan

- Liverpool Development Control Plan 2008;
 - Part 1: General Controls for All Development; and
 - Part 3.7: Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre).

Contributions Plans

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

7. 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:

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

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

The original application was assessed under SEPP No.55 Remediation of Land, which has since been repealed and replaced by SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land.

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.*

The requirements of SEPP (Resilience and Hazards) are satisfied as the site has a long-established residential use history and there is no evidence of any potentially contaminating activities having occurred on the land. Given the absence of risk indicators and the site's surrounding urban residential context, a Preliminary Site Investigation is not warranted. Council can therefore be satisfied that the land is suitable for the proposed residential use and is not contaminated.

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

The original application was assessed under Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, this has since been repealed and replaced by SEPP (Biodiversity and Conservation) 2021.

The subject land is located within the Georges River Catchments and as such, Chapter 6 – Water Catchments of SEPP (Biodiversity and Conservation) 2021 now applies to the application.

The proposal is consistent with the aims of Chapter 6 of SEPP (Biodiversity and Conservation) as it involves alterations and additions to an existing residential flat building, with no impact on any mapped biodiversity values or environmentally sensitive land. The development does not detract from the protection of the Georges River catchment, and appropriate environmental safeguards can be maintained through the implementation of erosion and sediment controls during construction and a suitably designed drainage concept to manage stormwater impacts.

(c) State Environmental Planning Policy (Sustainable Buildings) 2022

The original application was assessed under SEPP (Building Sustainability Index: BASIX) 2004, this has since been repealed and replaced by SEPP (Sustainable Buildings) 2022.

State Environmental Planning Policy (Sustainable Buildings) 2022 came into effect on 1 October 2023 and applies to both residential and non-residential development. The SEPP seeks to promote the design and construction of more sustainable buildings across NSW by establishing standards that address key aspects of building sustainability, including water efficiency, energy consumption, thermal performance and the monitoring of embodied emissions associated with building materials.

Specifically, Chapter 2 – Standards for residential development – BASIX, applies to the proposal. As the proposed development involves residential development, it is considered a BASIX development to which this chapter applies. In accordance with the requirements of this SEPP, a BASIX Certificate has been obtained in support of the proposed development and accompanies this application.

(d) State Environmental Planning Policy (Housing) 2021

The original application was assessed under SEPP (Affordable Rental Housing) 2009, this has since been repealed and replaced by SEPP (Housing) 2021. The proposal seeks conversion of the existing building to in-fill affordable housing pursuant Chapter 2 of SEPP (Housing) 2021.

(i) Chapter 2 – Affordable Housing

Chapter 2 of SEPP (Housing) 2021 relates to development for affordable housing. In December 2023, the NSW Government implemented in-fill affordable housing reforms to encourage private developers to boost affordable housing and deliver more market housing. The objective of the new provisions is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

A full assessment of the development against the development standards within Chapter 2 is provided in **Attachment B – Tables of Compliance**; the below is a summary of non-compliances and/or areas of concern that require further attention.

Provisions	Comment
Division 1 In-fill affordable housing	
15C Development to which division applies	
(1) This division applies to development that includes residential development if— (b) the affordable housing component is at least 10%, and	Additional Information Required As illustrated on sheet DA131 the affordable housing component comprises 1 unit (G01).^{1*} The total GFA of the proposed development is 739.90m² and the affordable housing component comprise 75.20m² (10.2%)^{2*}
Note ^{1*} Drawing DA-131 suggests that both G01 and G02 are to be affordable housing units, whereas the SEE suggests that only G01 is an affordable housing unit. Clarification on this matter was sought from the applicant, but no response was provided. Due to inconsistencies Council cannot confirm the true proportion of the affordable housing component. For the purposes of the above calculation ^{2*} it has been assumed that only G01 is nominated as affordable housing.	
Note ^{2*} When calculating the affordable housing component, the calculation is generally based on gross floor area (GFA). As per the definition in the Standard Instrument, GFA does not explicitly exclude common horizontal circulation spaces such as corridors and lobbies. It is also noted that lobbies, even if not located directly adjacent to a lift as in this case, are to be included in GFA calculation. However, consistent with the determination under DA-120/2016 the “loggia” areas are considered breezeways and as such are not counted towards Gross Floor Area. Refer to Attachment B – Tables of Compliance for further detail.	
19 Non-discretionary development standards—the Act, s 4.15	
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies— (b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area,	Non-Compliance (b) The total landscaped area is approximately 118.42m² (19%)*

landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.

Landscape Variation*

While the proposal retains approximately the same landscaped area (19%) previously approved under DA-120/2016/D, this does not, in itself, provide sufficient justification for non-compliance with the 30% landscaped area requirement now applicable to the affordable housing component. The landscaped area under DA-120/2016/D was assessed against the 25% DCP requirement applicable at the time and in the context of the development then proposed which did not include an affordable housing component.

While it is accepted that the residential flat building has already been constructed, leaving limited opportunity to increase the landscaped area without substantial alterations to the approved built form, the current application introduces an affordable housing apartment and is therefore required to be assessed against the requirements applicable to that component. The fact that the existing landscaped area was previously approved does not establish that the same level of provision is acceptable for the current proposal or remove the need to demonstrate that the applicable 30% requirement can be appropriately varied.

Clause 4.6 Non-Compliance:

Notwithstanding Council's general objection to the landscape variation, the applicant has not provided the documentation necessary to support the proposed contravention of the applicable non-discretionary development standard.

Pursuant to s4.15(3)(b) of the EP&A Act:

- (3) *If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards—*
 - (b) *a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

This provision expressly allows the flexibility provisions of Clause 4.6 to be applied to a non- discretionary standard. Pursuant to s35B of the EP&A Regulation:

- (2) *The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate 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.*

The application is not accompanied by a document setting out the grounds relied upon to justify the

proposed variation. Accordingly, the application has not provided the information required to enable the consent authority to properly consider and determine the proposed variation under Clause 4.6.

While the applicants Statement of Environmental Effects notes “*The minimum required landscaped area for the site is 30% - 185.91m². The proposal provides 131.1m² – 21%. The variation is acceptable noting there is no change to the approved and existing landscape area, and the landscape area meets the deep soil landscape area design criteria at Part 3E – Deep soil zones of the ADG.*” This statement does not address the two statutory tests; that compliance is unreasonable or unnecessary, or that there are sufficient environmental planning grounds to justify the contravention. Furthermore, Council’s assessment indicates that the landscaped area is closer to 19%, and the applicant has not provided a response to Council’s requests for area calculations and diagrams demonstrating how the stated 21% landscaped area was obtained.

Refer to **Attachment B – Tables of Compliance Figure C** to view Council’s Landscape Area measurement.

20 Design requirements

(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

- (a) the desirable elements of the character of the local area, or
- (b) for precincts undergoing transition—the desired future character of the precinct.

Non-Compliance

The proposal is considered generally compatible with the established character of the local area, noting the additional apartment is contained within the existing residential flat building and does not significantly alter the building’s overall built form. However, the reduction in landscape area and communal open space is considered inconsistent with the expectations for residential amenity and contributes to the overall unsatisfactory outcome of the proposal.

Furthermore, other approved residential flat buildings within the LGA provide communal open space within their own sites, rather than relying on adjoining public land. The provision of adequate communal open space within the site is therefore considered to form part of the desirable elements of the character of the local area and contributes to an appropriate level of residential amenity.

(i) Chapter 4 – Design of Residential Apartment Development

Pursuant to Clause 144(3):

- (3) *This chapter applies to development only if—*
 - (a) *the development consists of—*

- (i) the erection of a new building, or*
- (ii) the substantial redevelopment or substantial refurbishment of an existing building, or*
- (iii) the conversion of an existing building, and*
- (b) the building is at least 3 storeys, not including underground car parking storeys, and*
- (c) the building contains at least 4 dwellings.*

The proposed modification includes:

- Construction of an additional unit;
- Reconfiguration of the rooftop communal area;
- Changes to the roof form as viewed from the park;
- Operational changes to facilitate affordable housing.

Given the above, the proposal may be capable of being characterised as a “substantial redevelopment”; however, given the building has already been constructed, the approved footprint and overall height are retained, it could also reasonably be viewed as an “alteration and addition” to an existing residential flat building rather than a substantial redevelopment.

On balance, and adopting a conservative interpretation, Council considers the proposal to constitute a form of “substantial redevelopment”, having regard to the cumulative effect of the works, including the reconfiguration of communal areas, reduction in communal open space previously provided under the original approval, and particularly due to the recharacterisation of the development as an affordable housing scheme.

Pursuant to Clause 147(1)(a):

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*

The proposal has been assessed against the nine Design Principles. While the proposal generally responds appropriately to the principles relating to built form, scale and aesthetics, the significant reduction in communal open space is considered inconsistent with the Landscape and Amenity principles.

A full assessment of the development against the design principles within Schedule 9 is provided in **Attachment B – Tables of Compliance**; the below is a summary of non-compliances and/or areas of concern that require further attention.

Design Principle	Comment
5 Landscape	Non-Compliance

(1) <i>Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.</i> (2) <i>A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i> (3) <i>Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following—</i> (a) <i>the local context,</i> (b) <i>co-ordinating water and soil management,</i> (c) <i>solar access,</i> (d) <i>micro-climate,</i> (e) <i>tree canopy,</i> (f) <i>habitat values,</i> (g) <i>preserving green networks.</i> (4) <i>Good landscape design optimises the following—</i> (a) <i>usability,</i> (b) <i>privacy and opportunities for social interaction,</i> (c) <i>equitable access,</i> (d) <i>respect for neighbours' amenity.</i> (5) <i>Good landscape design provides for practical establishment and long term management</i>	The proposal seeks to improve the landscape character of the site through additional tree planting, landscaping and an improved interface with El Alamein Park. However, the substantial reduction in on-site communal open space and non-compliant landscape area is not considered acceptable, and the proposed connection to the adjoining park is not considered an appropriate offset for the shortfall.
6 Amenity (1) <i>Good design positively influences internal and external amenity for residents and neighbours.</i> (2) <i>Good amenity contributes to positive living environments and resident well-being.</i> (3) <i>Good amenity combines the following—</i> (a) <i>appropriate room dimensions and shapes,</i> (b) <i>access to sunlight,</i> (c) <i>natural ventilation,</i> (d) <i>outlook,</i> (e) <i>visual and acoustic privacy,</i> (f) <i>storage,</i> (g) <i>indoor and outdoor space,</i> (h) <i>efficient layouts and service areas,</i> (i) <i>ease of access for all age groups and degrees of mobility.</i>	Non-Compliance The significant deficiency in communal open space and limited solar access to the remaining COS adversely affects the external amenity available to residents.
8 Housing diversity and social interaction (1) <i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i> (2) <i>Well designed residential apartment development responds to social context by providing housing and</i>	Non-Compliance The proposal provides additional housing and converts an existing apartment to affordable housing, contributing to housing diversity. However, the substantial reduction in communal open space limits opportunities for

<i>facilities to suit the existing and future social mix.</i> <i>(3) Good design involves practical and flexible features, including—</i> <i>(a) different types of communal spaces for a broad range of people, and</i> <i>(b) opportunities for social interaction among residents.</i>	interaction and recreational use on site.
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Pursuant to s147(1)(b):

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—

(b) the Apartment Design Guide,

A full assessment of the development against the provisions of the ADG is provided in **Attachment B – Tables of Compliance**; the below is a summary of non-compliances and/or areas of concern that require further attention.

Apartment Design Guide	
Provision	Proposed
2F Building Separation	
Minimum separation distances for buildings are: <u>Up to four storeys (approximately 12m):</u> • <u>6m between non-habitable rooms</u> • <u>9m between habitable and non-habitable rooms</u> • <u>12m between habitable rooms / balconies</u> Five to eight storeys (approximately 25m): • 9m between non-habitable rooms • 12m between habitable and non-habitable rooms • 18m between habitable rooms / balconies Nine storeys and above (over 25m): • 12m between non-habitable rooms • 18m between habitable and non-habitable rooms • 24m between habitable rooms / balconies <u>Note: It is generally applicable that half the building separation distance is</u>	Considered Acceptable No changes to the first three storeys of the existing residential flat building are proposed. It is acknowledged that minor departures from the ADG controls were accepted on merit as part of the original approval under DA-120/2016. These approved departures are not proposed to be altered by the current application. Accordingly, they are not considered to warrant reconsideration as part of this assessment, except to the extent that the proposed additional fourth storey apartment impacts separation as detailed below: Non-Compliance <u>Western Side:</u> The proposed additional apartment on the fourth storey provides a minimum separation from a habitable room of 3m to the side (western) boundary facing the neighbouring RFB. This issue was raised in an RFI, but amended plans were not provided. Considered Acceptable <u>Eastern Side:</u> The proposed additional apartment on the fourth storey provides a minimum separation from a habitable room of 2.8m the side (eastern) boundary. This side faces the park and is consistent with the

Apartment Design Guide	
Provision	Proposed
<u><i>provided, as adjoining development would provide the other half of the separation distance to ensure compliance</i></u>	setback of the existing apartment on that level and as such the variation is considered acceptable.
3D Communal and public open space	
<i>Communal open space has a minimum area equal to 25% of the site</i> Communal open space <i>outdoor space located within the site at ground level or on a structure that is within common ownership and for the recreational use of residents of the development. Communal open space may be accessible to residents only, or to the public</i>	Non-Compliance <u>Site Area:</u> 619.70m² <u>Required:</u> 154.92m² (25%) <u>Provided:</u> Ground – 86.60m² Level 03 – 11.22m² Total: 97.82m² (15.8%) The proposal significantly reduces the COS, particularly to Level 03, compared to the approved DA- 120/2016/D which accommodated 115m² COS to the rooftop. This results in a variation of 37% to the required COS. It is noted that the ADG states that <i>the useable part of the communal open space area may be supplemented by public land used for open space and vested in or under the control of a public authority</i>. However, this provision specifically mentions 'supplementation', just because the site is adjacent to a Public Park it does not remove the requirement to provide an appropriate level of communal open space on the development site. Unlike the previously mentioned landscaped area variation, where the shortfall was already approved as part of the original development, the proposed reduction in communal open space represents a new departure from the ADG requirements and directly arises from the additional apartment now proposed. Refer to Attachment B – Tables of Compliance Figure D to view Council's COS Area measurement.

Apartment Design Guide																		
Provision			Proposed															
<i>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</i>			Non-Compliance As illustrated in the Solar Access Diagrams (DA-171-DA174) the Principal COS (Level 03) does not achieve direct sunlight to 50% of the area for 2 hours. This issue was raised in an RFI, but no response was provided. Note: The existing RFB currently provides significant rooftop COS which could easily achieve solar access, however the subject DA-166/2026 proposes to remove this COS to provide the additional unit.															
3F Visual Privacy																		
<i>Minimum separation distances from buildings to the side and rear boundaries are as follows:</i>			Non-Compliance As noted above in Section 2F the proposed additional unit on the fourth storey provides a minimum separation from a habitable room of 3m to the side (western) boundary facing the neighbouring RFB. This issue was raised in an RFI, but amended plans were not provided.															
<i>Building Height</i>	<i>Habitable Rooms and Balconies</i>	<i>Non Habitable Rooms</i>																
<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>																
<i>12m to 25m (5-8 storeys)</i>	<i>6m</i>	<i>4.5m</i>																
<i>Over 25m (9+ storeys)</i>	<i>12m</i>	<i>6m</i>																
4K Apartment Mix																		
<i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i>			Non-Compliance															
<i>The apartment mix is distributed to suitable locations within the building</i>																		
			<table><tr><th>Dwelling Type</th><th>Total provided</th><th>Mix (%)</th></tr><tr><td>Studio</td><td>2</td><td>18%</td></tr><tr><td>1 bedroom</td><td>2</td><td>18%</td></tr><tr><td>2 bedroom</td><td>7</td><td>64%</td></tr><tr><td>3 bedroom</td><td>0</td><td>0%</td></tr></table>	Dwelling Type	Total provided	Mix (%)	Studio	2	18%	1 bedroom	2	18%	2 bedroom	7	64%	3 bedroom	0	0%
Dwelling Type	Total provided	Mix (%)																
Studio	2	18%																
1 bedroom	2	18%																
2 bedroom	7	64%																
3 bedroom	0	0%																
			The unit mix is largely limited to 2-bedroom units, and the proposal seeks the addition of a further 2-bedroom unit. While it is acknowledged that the existing as-built building constrains opportunities for redevelopment, the plans demonstrate that a three bedroom apartment could be accommodated within the proposed rooftop addition. The need to propose a two-bedroom															

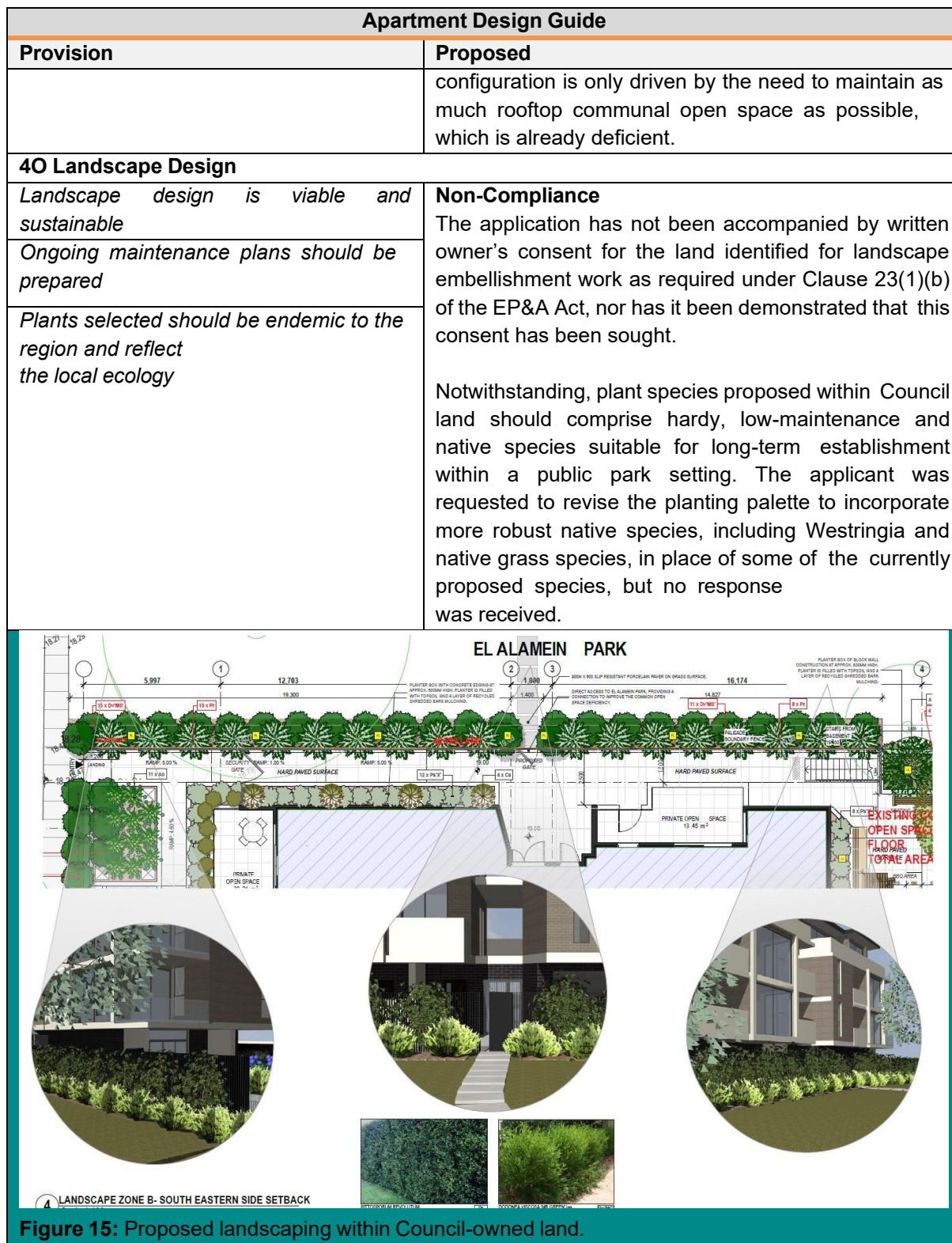


Figure 15: Proposed landscaping within Council-owned land.

Pursuant to s145(2) the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development. Furthermore, Pursuant to s147(1)(c):

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—

(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

The application was referred to the Liverpool Design Excellence Panel (DEP), who noted “the application is for a small intervention to add an apartment unit on the rooftop of an existing apartment building” and as such a desktop review would be sufficient. The panel convened on 9 July 2026 and were satisfied with the proposal and considered the application would not require a full DEP review process to be undertaken. The following comments were provided to Council via email.

Design Excellence Panel Meeting - 9 July 2026	
DEP comment	Council Consideration
1. <i>The Panel have considered the application to have a low impact in the urban fabric</i>	The Panel's view that the proposal would have a low impact on the urban fabric is generally supported, noting that the additional apartment is generally contained within the existing built form. However, this does not overcome the significant communal open space shortfall or landscape area issue.
2. <i>The Panel suggested the Development Application would require to be supported by a structural report, given the addition of the apartment unit on the top floor and the increase in structural loads. This report should also consider the construction methodology and the safety of existing occupants. It would also be prudent, in the Panel's view to ensure a “construction time allocation” to minimise disruption to residents. A suitable monetary Bond could be considered for the duration of the works and payable on suitable completion and suitable certification.</i>	The Panel's recommendation regarding structural integrity, construction methodology and minimising disruption to existing residents could be addressed through conditions requiring the relevant structural certification.
3. <i>The Panel noted current challenges in the industry with maintaining the Communal Open Space ratio as per ADG requirements for developments of apartment buildings in smaller sites.</i> <i>The Panel considered the proposed increase in the amenity of the landscape of communal open space at the ground floor, and the provision for a direct pedestrian access from the adjacent park would be a good trade-off for the reduction in communal open space on the rooftop, which is likely poorly utilised by the residents.</i>	The Panel's view regarding the challenges of achieving the required communal open space on smaller sites is acknowledged. However, as detailed throughout this report, Council does not consider the proposed ground floor landscape improvements or direct access to the adjoining park to be an appropriate offset for the significant on-site communal open space shortfall.
4. <i>The Panel also guided the assessing team to</i>	The Panel's recommendation to consider

<i>confirm how the proposal may impact solar access and overshadowing of neighbouring properties to the south of the development site.</i>	solar access and overshadowing impacts on adjoining properties has been addressed through the submitted shadow diagrams. The additional rooftop dwelling is not considered to result in a significant increase in overshadowing beyond the impacts associated with the existing building.
5. <i>The time allowed for construction should not be so limited as to drag it on for long periods of time which ultimately may be more painful for residents. Consider an 8.5 hour work day but starting from 8am instead of 7am - this would give occupants some respite to early starts.</i>	Council supports the Panel's recommendation to provide residents with respite from early construction activity. Should the application be recommended for approval, appropriate construction hours reflecting this recommendation would have been imposed as a condition of consent.

It should be noted that the Design Excellence Panel's generally supportive view of the proposal was based on the plans submitted for its consideration at that time, which included the direct connection to the park incorporating landscape embellishment of the park interface. The Panel's desktop review was undertaken without being privy to Council's concerns regarding the proposed use of Council owned land.

(e) Liverpool Local Environmental Plan 2008

(i) Zoning and Permissibility

The subject site is zoned R4 High Density Residential pursuant to the Liverpool *Local Environmental Plan 2008* (LLEP 2008). The proposed development is best defined as a **residential flat building**, which is a permissible use within the zone, with consent. A residential flat building is defined below. The zoning of the site can also be seen in the Figure below.

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

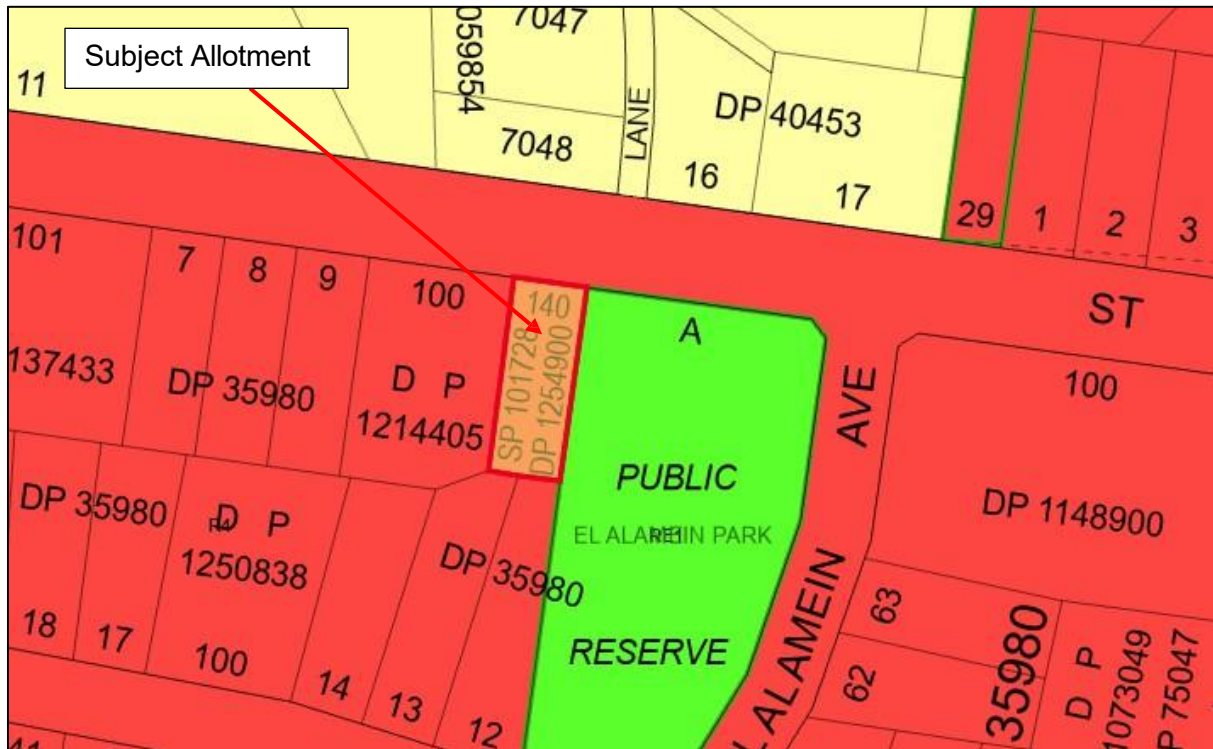


Figure 16: Zoning map of the site. (Source: Geocortex)

(ii) Objectives of the zone

The objectives of the R4 High Density Residential zone are:

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

The proposal is generally consistent with the objectives of the R4 High Density Residential zone, as it provides an additional dwelling within an established high-density residential environment with good access to transport, services and facilities. However, the significant communal open space shortfall and landscape area non-compliance detracts from the achievement of the zone objectives by reducing the provision of appropriate communal amenity or “services to meet the day to day needs of residents.”

(iii) Principal Development Standards and Provisions

The LLEP 2008 contains a number of principal development standards which are relevant to the proposal. A full assessment of the development against the development standards within the LLEP 2008 is provided in **Attachment B – Tables of Compliance**; the below is a summary of non-compliances and/or areas of concern that require further attention.

Clause	Provision	Comment
Clause 4.4 Floor Space Ratio	Maximum FSR – 1:1	Considered Acceptable* The site area: 619.70m² Proposed GFA: 741.67m² Proposed FSR: 1.19 : 1 <i>Refer to SEPP (Housing) Chapter 2, Clause 16(1) & (2) discussion in Attachment B. The site benefits from an additional FSR bonus allowing a maximum FSR of 1.2:1*</i>
Clause 4.6 Exceptions to Development Standards	Provisions relating to exceptions to development standards	Non-Compliance The Clause 4.6 flexibility provision comes from the LLEP, even though the development standard being varied is imposed by the Housing SEPP. As previously noted, the application is not accompanied by a document setting out the grounds relied upon to justify the proposed variation. Accordingly, the application has not provided the information required to enable the consent authority to properly consider and determine the proposed variation under Clause 4.6.

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

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

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

The application has been assessed against the controls of the LDCP 2008, particularly *Part 1 General Controls for all Development* and *Part 3.7: Residential Flat Buildings in the R4 Zone (Outside Liverpool City Centre)*.

A full assessment of the development against the controls within the LDCP 2008 is provided in **Attachment B – Tables of Compliance**; the below is a summary of non-compliances and/or areas of concern that require further attention.

LDCP 2008 Part 1: General Controls for All Development		
Development Control	Required	Provided

LDCP 2008 Part 1: General Controls for All Development		
Development Control	Required	Provided
25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Non-Compliance The application was referred to Council's waste officer who requested further information regarding the bin area and construction waste. This issue was raised in an RFI, but no response was provided.

Part 3.7 Residential Flat Buildings in the R4 Zone												
Development Control	Provision	Comment										
2. Frontage and Site Area	The minimum lot width is 24m	Considered Acceptable* The site has a lot width of 15.24m. No changes to existing RFB development approved under DA-120/2016 with a variation to the lot width.										
6. Apartment Diversity	In addition to apartment mix requirements within the ADG, residential flat buildings are to provide for a variety of apartment types and sizes with minimum percentage of apartment mix as per the following table:	Non-Compliance										
	<table><tr><th>Number of bedrooms</th><th>Minimum %</th></tr><tr><td>Studio</td><td>5%</td></tr><tr><td>One bedroom</td><td>10%</td></tr><tr><td>Three bedrooms +</td><td>20%</td></tr><tr><td>Dual Key</td><td>Optional</td></tr></table>	Number of bedrooms	Minimum %	Studio	5%	One bedroom	10%	Three bedrooms +	20%	Dual Key	Optional	
Number of bedrooms	Minimum %											
Studio	5%											
One bedroom	10%											
Three bedrooms +	20%											
Dual Key	Optional											
	If a variation to control 1 above is proposed, the development application is to demonstrate why a variation to the apartment mix of control 1 is justified. This includes taking into consideration: - the distance to public transport, employment and education centres. - the current market demands and projected future demographic trends. - the demand for social and affordable housing. - the surrounding current & future community.	Non-Compliance As noted within the assessment of ADG Provision 4K, while it is acknowledged that the existing as built building constrains opportunities for redevelopment, the plans demonstrate that a three bedroom apartment could be accommodated within the proposed rooftop addition. The need to propose a two-bedroom configuration is only driven by the need to maintain as much rooftop communal open space as possible, which is already significantly deficient.										
	At least 10% of all apartments are to be capable of being adapted for	Non-Compliance While the originally approved										

Part 3.7 Residential Flat Buildings in the R4 Zone		
Development Control	Provision	Comment
	habitation by seniors and/or persons with disabilities complying with relevant Australian Standards including AS 4299 -1995. This is to include a mix of number of bedroom units. Note. This is different to section 4Q (Universal Design of the ADG).	development containing 10 units was assessed as being compliant with Provision 4Q of the ADG, the subject application brings the total number of units to 11, and as such 2 adaptable units (10% rounded up) are now required. No detail on the adaptable units has been provided. It is noted that the application is supported by an Accessibility Compliance Report, prepared by Blueprint Building Consultants that demonstrates all apartments are accessible in accordance with NCC/BCA requirements.
	The top level of a residential flat building is to include three bedroom or greater apartments, including corner apartments as per objective 4K-2 of the ADG.	Non-Compliance The roof top level contains 2 two- bedroom apartments. This variation is not supported, as the proposed two bedroom rooftop apartment does not satisfy the DCP requirement. While it is acknowledged that the existing building presents physical constraints, the plans demonstrate that a three bedroom apartment could reasonably be accommodated within the proposed rooftop addition; however, doing so would require further reduction of the already deficient rooftop communal open space. The decision to propose a two bedroom configuration to allow more rooftop communal open space does not provide sufficient justification for non-compliance, particularly where the proposal already results in a significant communal open space shortfall.
7. Amenity, Landscape, Deep Soil and Communal Open Space	Communal open space is to be avoided on southern elevations to increase solar access and along major transport corridors to avoid amenity impacts.	Non-Compliance The existing ground floor communal open space is located along the southern side of the site and is an approved component of the existing development, with limited opportunity to relocate this space without substantial alterations. However, the proposed reduction in rooftop communal

Part 3.7 Residential Flat Buildings in the R4 Zone		
Development Control	Provision	Comment
		open space significantly reduces the overall availability of communal open space with appropriate solar access, particularly given the limited solar access available to the remaining ground floor space.
	Rooftop communal open space areas, shall incorporate amenities such as shelter, BBQ facilities, seating, garden beds etc.	Non-Compliance While the rooftop communal open space incorporates a built-in timber table and bench seating, the substantial reduction in the available area significantly limits the capacity of the space to accommodate additional communal amenities, such as BBQ facilities and garden beds, which formed part of the originally approved rooftop communal open space design. The reduced area therefore compromises the functionality and amenity of the rooftop communal open space.
	A minimum of 25% of a site area is to be landscaped to ensure action 6.2 of Local Planning Priority 6 of Council's Local Strategic Planning Statement, 'Connected Liverpool 2040' is activated. Note: landscape area is defined within Liverpool LEP 2008 and this control takes precedence over Design criteria 1 of Objective 3E-1 of the ADG (Deep soil zones).	Non-Compliance Refer to SEPP (Housing) Chapter 2, Clause 19(2)(b) discussion above. The total landscaped area proposed is approximately 118.42m ² (19%)*

The proposal is inconsistent with a number of key controls outlined in the Liverpool Development Control Plan 2008 and is not considered to be an acceptable form of development.

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

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

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

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

Additional information was requested from the applicant on 7 August 2026, with follow up requests on 17 August & 25 August 2026. Pursuant to Clause 36(5)(b) of the *Environmental Planning and Assessment Regulation 2021*, the applicant has failed to provide the requested information within the nominated further time period allowed by the consent authority. It is considered that Council has provided sufficient time and opportunity for the applicant to address the outstanding matters associated with the proposal. Therefore, a recommendation has been made based on the current level of information submitted

Section 4.15(1)(b) – the significant likely impacts of the development

Head of Consideration	Comment
Built Environment	The significant reduction in communal open space would reduce the quality and functionality of the existing residential use and result in reduced communal amenity for occupants.
Natural Environment	The reduced communal open space provision limits opportunities for on-site landscaping, although no significant additional impact on the existing natural environment is anticipated.
Social Impacts	The reduced communal open space would limit opportunities for residents to interact and undertake shared recreational activities on-site, adversely affecting the social amenity of the development.
Economic Impacts	While the proposal would provide an additional dwelling and affordable housing, it may result in an adverse economic impact on the LGA through the ongoing maintenance, liability and asset management costs associated with the proposed landscaping and footpath works on Council owned park land.

Section 4.15(1)(c) – the suitability of the site for the development

The site is generally suitable for the existing high-density residential development, given its R4 zoning, established residential context and proximity to transport. However, the proposed development is not considered suitable in its current form due to the significant communal open space shortfall and resulting impacts on amenity.

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	Supported.

	<i>The proposal is capable of achieving compliance with the NCC through a combination of Deemed-to-Satisfy Provisions and Performance Solutions</i>
Community Planning (Social Planning)	Not supported. <i>Communal Open Space should not be compromised.</i>
Building & Open Space Planning	Not supported. <i>The landscape plans note that the proposed pedestrian connection is intended to provide direct access to El Alamein Park and assist in addressing the development's common open space deficiency. While the connection may improve convenience for residents, public open space should not be considered a substitute for the provision of adequate onsite communal open space required to service the development.</i> <i>BOSP is concerned approval of this proposal will establish a precedent whereby adjoining public open space is relied upon to address deficiencies in private communal open space provision associated with development proposals.</i> <i>If council land is proposed to contribute towards addressing a shortfall in communal open space provision, consideration should be given to the provision of monetary contributions towards the improvement, embellishment or ongoing capacity of the impacted open space, or alternatively a nearby open space within the surrounding catchment, to ensure recreational demand generated by the development is appropriately accommodated.</i>
Land Development Engineering	Supported. <i>Subject to conditions if consent were granted.</i>
Fire Safety	Supported. <i>All other fire safety upgrades are addressed... will be determined by the Certifier at CC stage.</i>
Property Services	Not supported. <i>Access to the property (development site) is not supported through Council's adjoining public reserve due to social cohesion issues and is to be directly accessed via the property itself. Council's public reserve is for the enjoyment of the public and is not to be used as an access point to private property.</i> <i>Previous discussion with Council's Property team also confirmed that: The proposed landscaping on Council's land raises further liability issues and ongoing maintenance issues burdening Council's resources.</i>
Traffic	No Objection.

Urban Design and Public Domain	Potential to Support. <i>Urban Design notes the support for the additional rooftop apartment, and the reduction of communal open space ratio below the minimum required in the ADG, is <u>contingent on</u> the provision of direct access between the site and El Alamein Park, as well as the improvements to the amenity in the landscaping of the ground floor landscape plan, communal open space and the frontage to the park.</i>
Waste Management	Additional Information Required <i>Plans are required to demonstrated how the bin area will be updated to accommodate additional bins. The WMP must include details on how waste will be managed during the construction phases.</i>

(b) External Referrals

Nil.

(c) Community Consultation

The application was notified in accordance with the Liverpool City Council Community Engagement Strategy 2024 and Community Participation Plan 2025 between 26 May and 11 June 2026. Notwithstanding, no submissions were received.

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

The objects of the Act, of relevance to the matters associated with this proposal, are as follows:

- (a) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (b) to promote the supply, delivery and maintenance of housing, including affordable housing,*
- (g) to promote good design and amenity of the built environment,*
- (i) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (k) to promote the orderly and economic use and development of land.*

The proposal does not promote a better environment or the ecologically sustainable development of land due to the reduction in landscaping and communal open space across the site, as demonstrated by the non-compliances identified in this report. The significant reduction in communal open space would also result in an adverse social outcome by reducing the amenity and opportunities for social interaction for occupants. Furthermore, the proposal does not promote the orderly or economic use of land due to the proposed

landscaping and footpath works extending onto adjoining Council owned land without owner's consent. These works would also increase the burden on Council to maintain the works and manage the associated liability and asset management requirements. The proposal therefore does not demonstrate an appropriate balance between the social, environmental and economic considerations.

Therefore, approval of the proposed development is not considered to be in the public interest given the application is inconsistent with the objects of the Act and numerous non-compliances with key development standards have been raised in the assessment above.

7. DEVELOPER CONTRIBUTIONS

Development contributions would apply if consent were granted. However, development contributions have not been applied to the development in accordance with the Liverpool Contribution Plan 2018 as it is recommended for refusal.

8. RECOMMENDATION

Based on the assessment of the application in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979, it is recommended that DA-166/2026 be refused for the reasons discussed in this report.

ATTACHMENTS See Councils ePlanning portal for the following attachments
<https://eplanning.liverpool.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=645862>

-
1. Attachment A - Draft Reasons for Refusal
 2. Attachment B - Tables of Compliance
 3. Architectural Plans
 4. Landscape Plans
 5. Access Report
 6. Social Impact Assessment
 7. Statement of Environmental Effects
 8. Traffic Report

Item Number:	ITEM 03
Application Number:	DA-505/2025
Proposed Development:	Consolidation of Three (3) Allotments and Construction of a Recreational Facility (indoor) (Carnes Hill Aquatic and Recreation Centre (CHARC)), Incorporating Indoor Pools, Splash Pad, Amenities, Plant Rooms, Grandstand, Café, Staff Offices, Enclosed Outdoor Area for Future Pool Connection, Internal Access Road, Car Parking for 105 Vehicles, Landscaping, Footpaths, Fencing, Signage, and Associated Works.
Property Address	600 Kurrajong Road, Carnes Hill NSW 2171 315 Cowpasture Road, Carnes Hill NSW 2171 305 Cowpasture Road, Carnes Hill NSW 2171 295 Cowpasture Road, Carnes Hill NSW 2171
Legal Description:	Lot 100 DP 1204810 Lot 11 DP 1043935 Lot 10 DP 1043935 Lot 1 DP 1059081
Applicant:	Liverpool City Council
Land Owner:	Liverpool City Council
Cost of Works:	\$54,327,725 (excluding GST)
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Brendon Clendenning – External Planner

1. EXECUTIVE SUMMARY

Council is in receipt of Development Application ('DA') DA-505/2025, seeking consent for the consolidation of three allotments and construction of a recreational facility (indoor), being Carnes Hill Aquatic and Recreation Centre ('**CHARC**'), incorporating indoor pools, splash pad, amenities, plant rooms, grandstand, ancillary kiosk, staff offices, enclosed outdoor area, internal access road, car parking, landscaping, footpaths, fencing, signage, and associated works.

The development is located at the Carnes Hill Recreation Precinct, being part of Lot 100 DP1204810 (600 Kurrajong Road), Lot 10 and Lot 11 DP1043935 (305 and 74 Cowpasture Road), and Lot 1 DP1059081 (295 Cowpasture Road).

The application was placed on exhibition from 27 January 2026 until 23 February 2026 in accordance with the Liverpool Community Participation Plan. Two (2) submissions were received comprising of two (2) unique points of objection. The concerns raised in the submissions and the response to the concerns raised are detailed in Section 0 of the report.

The application is regional development pursuant to Schedule 6, Clause 3 of *State Environmental Planning Policy (Planning Systems) 2021*, as it is a Council related development with a capital investment value of more than \$5 million. However, pursuant to *Environmental Planning and Assessment Amendment (Regionally Significant Development) Regulation 2025*, published on 15 December 2025, clause 275(3A) now requires that the application be determined by the Liverpool Local Planning Panel ('LLPP').

Furthermore, in accordance with the Liverpool City Council *Managing Conflict of Interest Policy*, the application has been assessed by CPS Planning, an independent town planning consultant, due to the development being council-owned on council-owned land and having a perceived conflict of interest in accordance with Council's policy. To clarify, the assessing officer from CPS Planning was Brendon Clendenning and Council's case manager was Ben Paterson, who liaised with Council's officer when required in an administrative capacity. As some Council officers were involved in the preparation of the application before lodgment, to avoid confusion, any Council staff or consultants involved in the preparation of the application are referred to in this report simply as "the Applicant", and those involved in the assessment and administering of the application are referred to as "Council".

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application, the proposal is recommended for approval.

2. THE SITE AND LOCALITY

2.1 The Site

The site is located at the Carnes Hill Recreation Precinct, legally described as part of Lot 100 DP1204810 (600 Kurrajong Road), Lot 10 and Lot 11 DP1043935 (305 and 74 Cowpasture Road), and Lot 1 DP1059081 (295 Cowpasture Road).

The site is irregularly shaped, and the development area relates to the part of Lot 100 DP1204810 which sits to the south-west of Pacific Palms Circuit, and to the north-west of Beard Creek, as well as the three regularly shaped parcels at Lots 10 and 11 DP1043935

and Lot 1 DP1059081. The development area occupies the north-western portion of the precinct; it is bounded by Pacific Palms Circuit and residential lots to the north, Margaret Dawson Drive to the east, Kurrajong Road to the south, and Cowpasture Road, which is categorised as a State classified road to the west. The southern and eastern extent of the development area is defined by the riparian corridor of Beard Creek, which separates the proposal from Margaret Dawson Drive to the east and from the existing library and recreation facilities located further south towards Kurrajong Road. The site has a total area of over 15ha and has a sloping natural gradient from south-west to north-east.

The site has historically accommodated a high voltage transmission line, which travels across the site from north-west to south-east, and in the opposite direction, Beard Creek, which meanders across the south-eastern portion of the site. The land on the opposite side of Beard Creek currently accommodates the Carnes Hill Community Centre, which includes Carnes Hill Library, Michael Clarke Recreation Centre, an urban plaza, skatepark and wetlands discovery loop south of Beard Creek. The land subject to the proposed development contains no buildings and sparse vegetation.



Figure 1: Aerial Image of the site (delineated with a red border)

Source: Design Excellence Panel Briefing Report

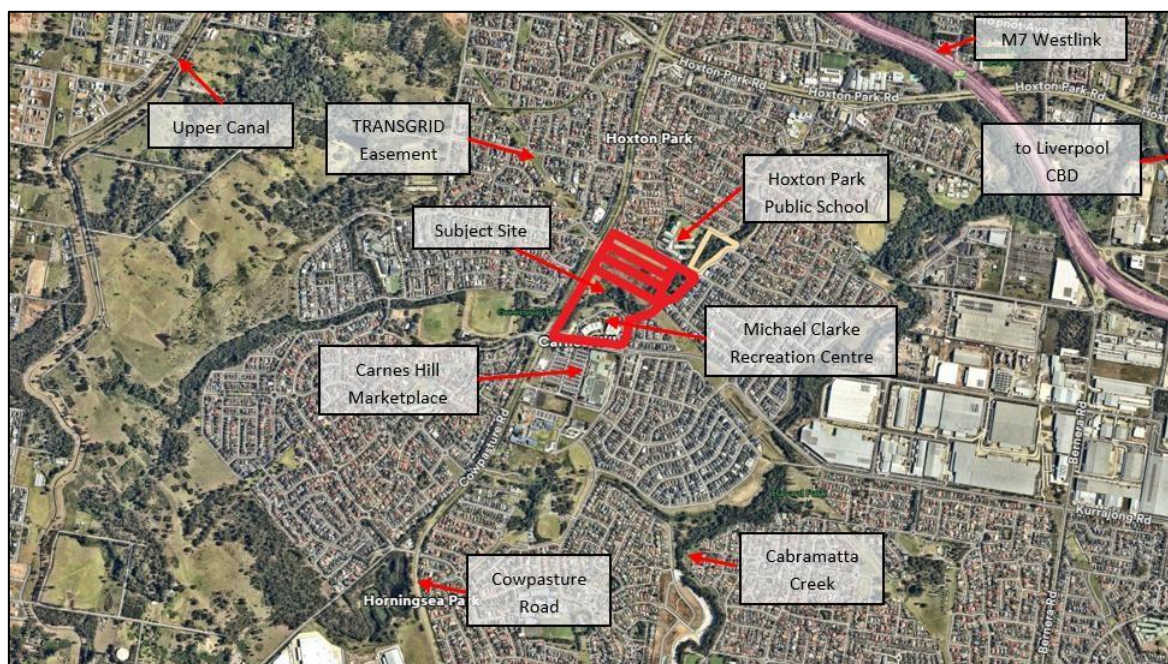


Figure 2: Locality Map (site delineated with red border)

Source: Design Excellence Panel Briefing Report

2.2 The Locality

The site is within the suburb of Carnes Hill within the Liverpool Local Government Area ('LGA'). The site is situated approximately 34km south-west of the Sydney Central Business District ('CBD'). The surrounding area is generally characterised by single and two-storey dwelling houses to the north, east and west, as well as commercial properties to the south. The surrounding land uses are summarised in the table below.

Table 1: Adjacent Developments

Address and relative location	Development
Lot 258 DP851264 - north	Vacant lot
43-99 Pacific Palms Circuit, Hoxton Park (Lot 2603 DP851254 and Lot 1 DP1030928) – north-east	Hoxton Park Public School
106 Pacific Palms Circuit, 10 Wilcannia Way, 7 Wilcannia Way, 9 Wilcannia Way, and 21 Wilcannia Way, Hoxton Park (Lots 255, 243, 236 and 237 DP8511264, and Lot 1 DP870573) – north-west	Single and two-storey dwellings
1 & 3 Ruse Place, Carnes Hill (Lot. 4113 DP1164467 Lot. 4114 DP1164467)	Single and two-storey dwellings
5, 7, 9, 11, 13, 21, 23, 27, 29, 31, 33, 35, 37 & 39 Margaret Dawson Drive, Carnes Hill (Lot. 4115 DP1164467, Lot. 4116 DP1164467, Lot. 4117 DP1164467, Lot. 4118	

DP1164467, Lot. 4119 DP1164467, Lot. 4401 DP1207137, Lot. 4402 DP1207137, Lot. 4404 DP1207137, Lot. 4405 DP1207137, Lot. 4406 DP1207137, Lot. 4407 DP1207137, Lot. 4408 DP1207137, Lot. 4409 DP1207137, Lot. 4410 DP1207137) - east	
1 & 2 Jeffery Street, Carnes Hill (Lot. 4120 DP1164467, Lot. 4125 DP1164467) - east	
2 Mary Wade Place, Carnes Hill (Lot. 4403 DP1207137) - east	
65 Pacific Palms Circuit, Carnes Hill (Lot. 4414 DP1207137) - east	
28, 30, 31, 32 34 & 36 Kew Road, Carnes Hill (Lot. 4426 DP1207137, Lot. 4425 DP1207137, Lot. 4424 DP1207137, Lot. 4416 DP1207137, Lot. 4415 DP1207137) - east	
Cowpasture Road, Carnes Hill (Lot. 104 DP1105443, Lot. 54 DP1030481, Lot. 55 DP1030481, Lot. 56 DP1030481, Lot. 57 DP1030481), Kurrajong Road, Carnes Hill (Lot. 2 DP1208331, Lot. 51 DP1030481, Lot. 52 DP1030481), 101 Kurrajong Road, Carnes Hill (Lot. 101 DP1075510), 60 Kurrajong Road, Carnes Hill (Lot. 60 DP1030481) - south	'E1 Local Centre' zoned area with multiple single storey commercial buildings including main marketplace

Documentation provided with the application depicts the location of the site in the context of nearby aquatic centres.

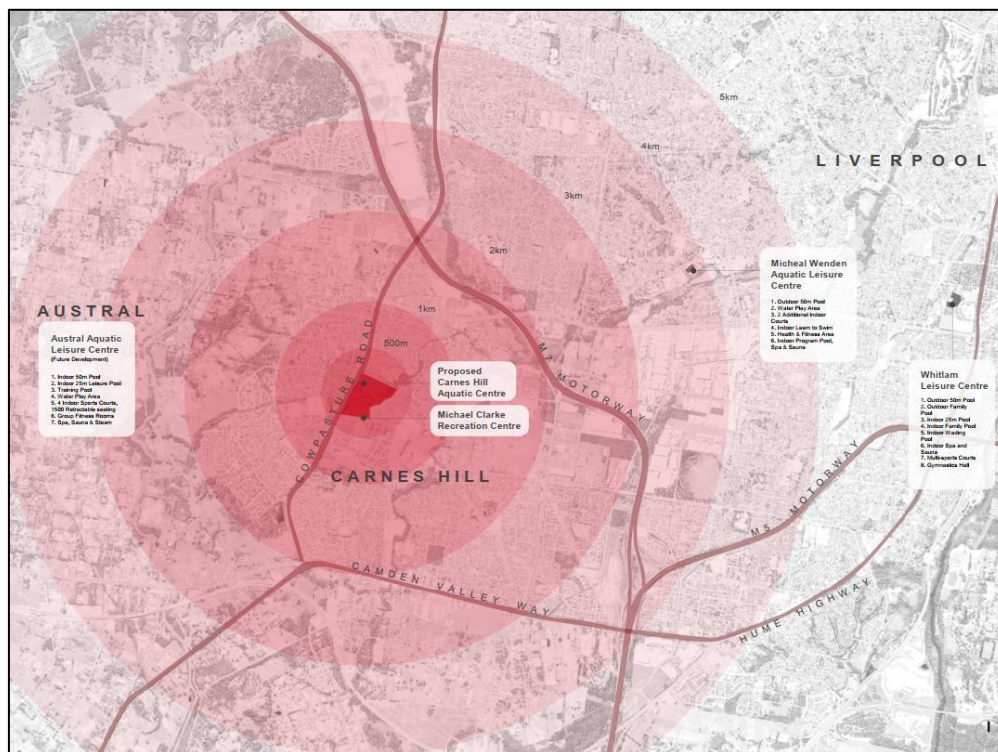


Figure 3: Map of the site in context of Liverpool LGA,
marked to show relative distance to local aquatic centres
Source: Brewster Hjorth Architects

3. THE PROPOSAL AND BACKGROUND

3.1 The Proposal

The proposal is for the construction of the Carnes Hill Aquatic and Recreation Centre (CHARC) and associated works, including lot consolidation and subdivision, tree removal, car parking, internal road, landscaping, signage and civil works.

The proposal will consolidate and subdivide (2) existing allotments, Lot 100 of Deposited Plan 1204810 and Lot 11 of Deposited Plan 1043935. This creates three (3) new allotments, with Lot 1 containing the existing Carnes Hill Recreation Centre and Lots 2 and 3 containing the proposed Carnes Hill Aquatic Centre as indicated below.

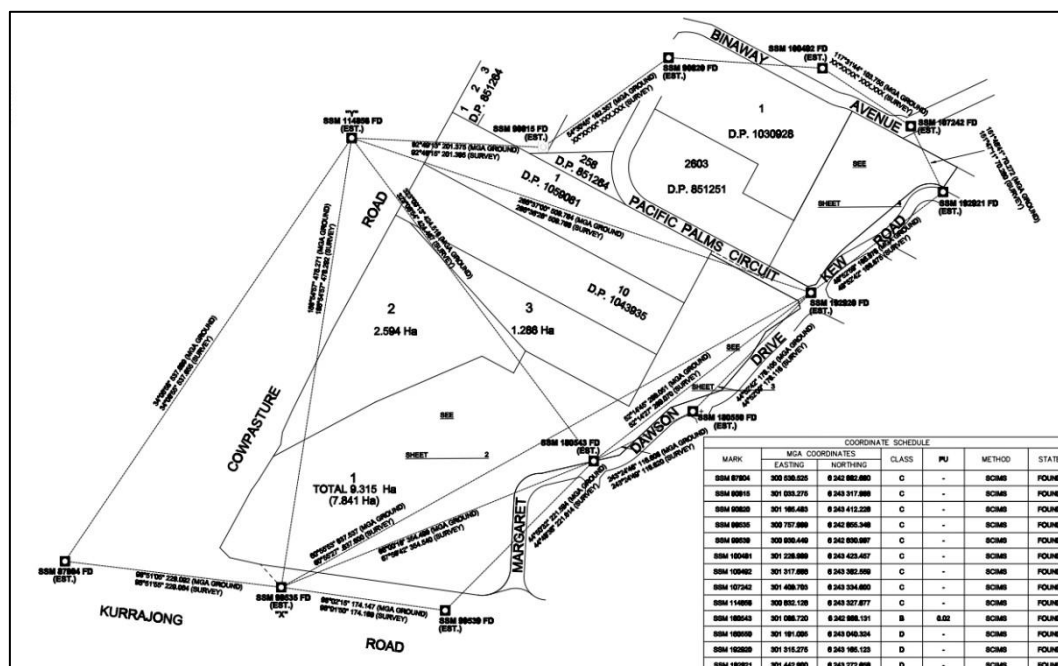


Figure 4: Proposed Subdivision Plan

Source: McDonald T.D

The development application seeks consent for the following works:

- Demolition of four (4) existing kerb and refuge islands on Pacific Palm Circuit and vehicular crossover on Cowpasture Road.
- Removal of 17 trees.
- Remediation pertaining to existing asbestos and potential TRH C16-C36 and cadmium-impacted deep fill on site through a containment cell. This is to be located under the proposed car parking.
- Civil works including stormwater works, a bio-basin, bulk earthworks, internal road construction and landscaping, and safety upgrades to Pacific Palm Circuit.
- Construction of:
 - Indoor aquatic centre at the western portion of the site, comprising a 25m lap pool, learn-to-swim pool, splash play area, and grandstand. The building also includes an admin office, lunchroom, kitchen and café servery, meeting room, change rooms and toilets, pool storerooms, aquatic plant room with access to a roof plant, main switch room, comms room, and first aid room.
 - Enclosed outdoor area comprising an outdoor deck, outdoor lawn, seating, reception and foyer.
 - Car park to provide 103 car parking spaces, including three accessible spaces, as well as 24 bicycle spaces.
 - New internal access road, service bay, footpaths, fencing, landscaping, and signage.
- Operational hours:

- Monday to Friday 5:30am – 9:30pm.
- Saturday and Sunday 7:00am – 7:00pm.

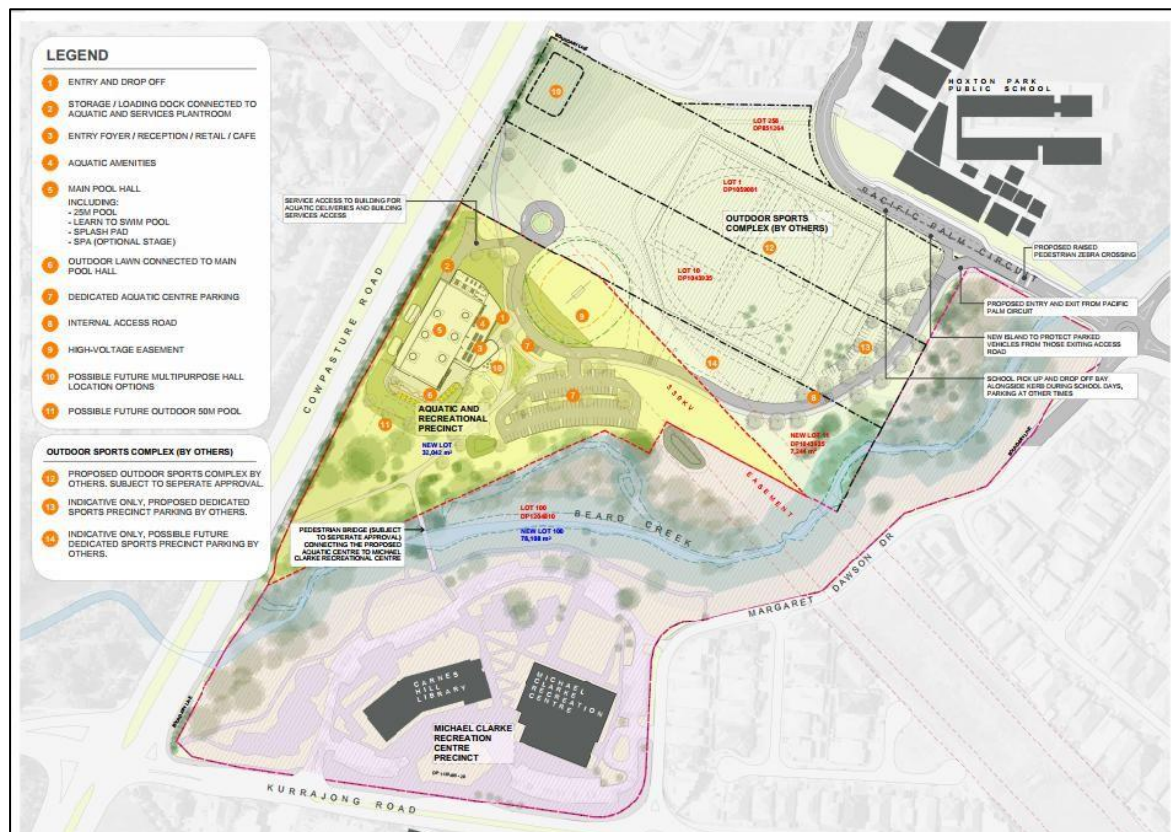


Figure 5: Proposed Site Plan
Source: Brewster Hjorth Architects, 15 May 2026

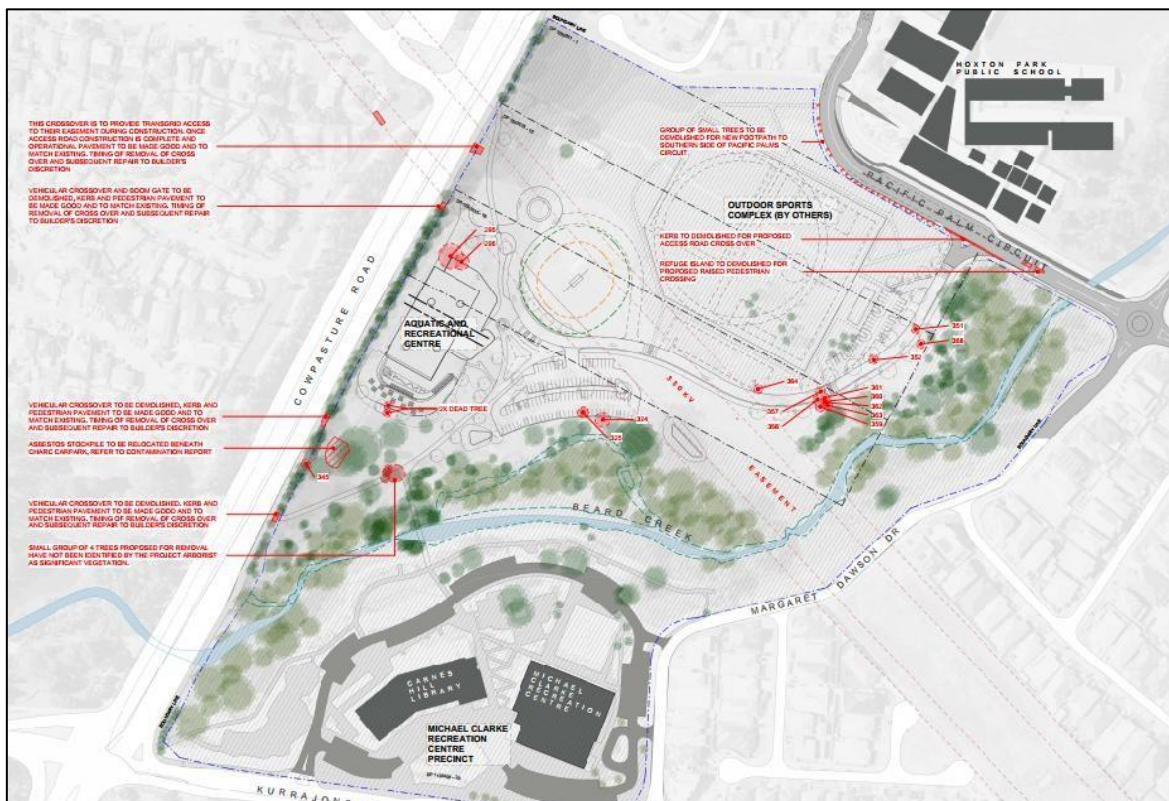


Figure 6: Proposed Demolition Plan
Source: Brewster Hjorth Architects, 15 May 2026



Figure 7: Proposed Ground Floor Plan

Source: Brewster Hjorth Architects, 15 May 2026

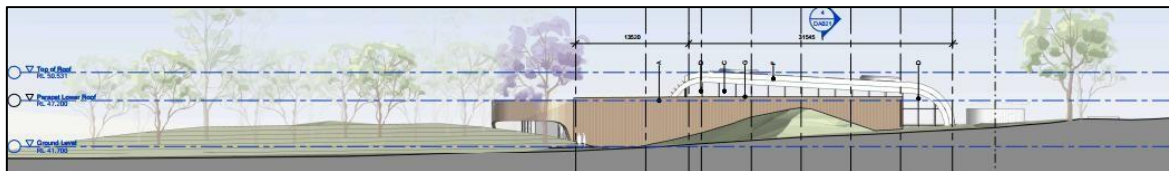


Figure 8: North Elevation

Source: Brewster Hjorth Architects, 15 May 2026



Figure 9: East Elevation

Source: Brewster Hjorth Architects, 15 May 2026

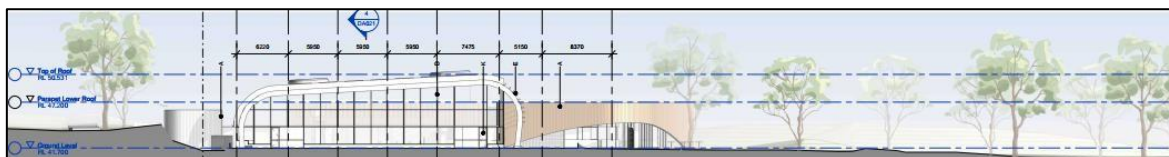


Figure 10: South Elevation

Source: Brewster Hjorth Architects, 15 May 2026



Figure 11: West Elevation

Source: Brewster Hjorth Architects, 15 May 2026



Figure 12: Photomontage depicting the view proposal viewed from the east
Source: Brewster Hjorth Architects, 7 November 2025



Figure 13: Photomontage looking north and depicting internal areas
Source: Brewster Hjorth Architects, 15 May 2026

3.2 Background

The subject application (DA-505/2025) is for the construction of the CHARC and associated works.

The development application was submitted on 19 November 2025 and formally lodged on 28 November 2025. A chronology of the development application since lodgement is outlined below.

Table 2: Chronology of the DA-505/2025

Date	Event
28 November 2025	Lodgement of subject application
27 January 2026 – 23 February 2026	Subject application on advertisement
12 February 2026	Design Excellence Panel Meeting
18 March 2026	Second Design Excellence Panel Meeting
14 April 2026	A Request for Further Information ('RFI') was sent to the Applicant, generally relating to the following issues: • Works within Transgrid easement • Biodiversity and conservation • Building sustainability • Café permissibility in the RE1 zone • Plan of Management • Social impacts • Remediation • Environmental health • Traffic and transport • Natural environment • Lacking signage package • Design excellence • Conflict of Interest – Management Statement required
22 April 2026	Applicant requested an extension to provide additional information by 20 May 2026
26 May 2026 – 1 July 2026	Additional information provided by Applicant
14 July 2026	A second RFI was sent to the Applicant, generally relating to the

	following issues: • Works within Transgrid easement • Biodiversity and conservation • Building sustainability • Kiosk permissibility in the RE1 zone • Remediation • Natural environment
20 August 2026	Additional information provided by Applicant responding to the remaining issues

3.3 Site History

The recent application history of the site is listed below, in reverse chronological order.

Table 4: Development History of the Site

DA Number	Proposal	Outcome
DA-968/2020	Construction of an amenities building and café terrace associated with an existing community facility	Approved by Local Planning Panel on 31 May 2021
DA-904/2020	Night Markets proposing a series of food truck pop-up events to occur monthly at the Carnes Hill Community and Recreation Precinct	Approved by Council on 25 November 2020
DA-611/2019	Construction of waste storage room at Carnes Hill Community Centre	Approved by Local Planning Panel on 16 December 2019
DA-590/2017	Construction of an awning for an existing café at Carnes Hill Community Centre	Approved by Council on 25 September 2017
DA-1786/2012/B	Modification to DA 1786/2012 pursuant to section 96(1A) of the Environmental Planning & Assessment Act. The modification sought: 1) Amend Street address to include Primary Address 2 Margaret Dawson Drive, Carnes Hill. 2) Operational hours. 3) Alcohol Free zone/Prohibitive areas	Approved by Council on 28 July 2016
DA-1786/2012/A	Section 96 application to modify Carnes Hill Recreation Centre. Amendment to the lower ground floor and ground floor layout of the	Approved by Council on 18 September 2014

	library/community centre building. Relocation and expansion of cafe and outdoor seating area on ground floor of library. Changes to library/community centre facade.	
DA-1786/2012	Construction and operation of a community facility consisting of an indoor leisure centre, public library, community centre and public open space	Approved by Joint Regional Planning Panel on 4 July 2013

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in section 4.14 and section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('the Act'). These matters are considered below.

These matters are further considered below.

4.1 Section 4.14 - Consultation and development consent—certain bush fire prone land

The subject site is identified as bushfire-prone land, with the bushfire risk associated with vegetation surrounding Beards Creek. Section 4.14 requires the application to be considered against *Planning for Bush Fire Protection 2019* ('PBP').

A Bushfire Protection Assessment was submitted with the application, and it requires that a 42m asset protection zone (APZ) be maintained as an inner protection area, with a maximum of 15% mature canopy cover. This is unlikely to conflict with the proposed landscape scheme, as the APZ will partly accommodate areas of parking and hardstand, and the APZ does not capture the densely vegetated strip to the north-west of the building.

Other recommendations of the Bushfire Protection Assessment include construction to a BAL 12.5 standard, provision of underground electricity supply, and preparation of a Bushfire Emergency Management and Evacuation Plan.

4.2 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Biodiversity and Conservation) 2021 ('SEPP BC 2021')

State Environmental Planning Policy (Planning Systems) 2021 ('SEPP PS 2021')
State Environmental Planning Policy (Industry and Employment) 2021 ('SEPP IE 2021')
State Environmental Planning Policy (Transport and Infrastructure) 2021 ('SEPP TI 2021')
State Environmental Planning Policy (Resilience and Hazards) 2021 ('SEPP RH 2021')
State Environmental Planning Policy (Sustainable Buildings) 2022 ('SEPP SB 2022')
Liverpool Local Environmental Plan 2008 ('LLEP 2008')

4.2.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The BC SEPP 2021 applies to the site.

Chapter 2 Vegetation in Non-Rural Areas

The application seeks the removal of 17 trees from the site to accommodate the proposed development. The tree removal is supported by the Natural Environment referrals in order to accommodate the proposed development. Additional tree planting is proposed to offset the tree removal.

Chapter 6 Water Catchments

The site is located within the Georges River Catchment. Council's Floodplain Engineer has reviewed the Stormwater Management Report prepared by Northrop and is satisfied that the proposed development will maintain pre-development hydrologic conditions, achieve the required water quality objectives, and avoid adverse impacts on downstream waterways and drainage infrastructure. Council's engineer further advised that the findings of the MUSIC modelling and flood assessment provide robust evidence that the development ensures that downstream flow regimes and flood behaviour remain unaffected, thereby satisfying the intent and requirements of Clause 6.6 of the SEPP and Council's water quality targets.

4.2.2 State Environmental Planning Policy (Planning Systems) 2021

SEPP PS 2021 applies to the site.

Schedule 6 Regionally Significant Development

Pursuant to Clause 3 of Schedule 6, as Council is the landowner and developer, the subject development application, with a capital investment value of \$54,327,725, requires determination by the LLPP.

While the LLPP is the body responsible for determining the application, the LLPP exercises the functions of the Council as the consent authority. Consequently, the proposal meets the definition of a council-related development application. As this is a council-related development application, the management of conflict of interest procedures must be followed in accordance with the Regulations and Council's relevant policies.

The Liverpool City Council *Managing Conflict of Interest Policy* was adopted on 12 May 2026, approximately 6 months after the lodgement of the application. The Applicant did not initially provide a Conflict of Interest Management Strategy Statement, but a satisfactory statement was provided in response to the first information request.

4.2.3 State Environmental Planning Policy (Industry and Employment) 2021

SEPP IE 2021 applies to the site as the proposal seeks consent for indicative signage. The proposed signage location is shown on the Architectural Plans (DA050 – Wayfinding Site Strategy) and includes backlit building identification signage, backlit wayfinding signage pylons (2.5mH x 0.9mW), operational signage, and vehicular signage.

The signage is considered below against the assessment criteria given within Schedule 5.

1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is compatible with the existing and desired future character of the locality and is consistent with the type of signage found within the recreation precinct. The proposed building identification sign is located on the external walls and will primarily be viewable upon entry to the facility. The wayfinding signage provides connection to different parts of CHARC, Cowpasture Road and the existing Michael Clarke Recreation Centre.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Outdoor advertising in the form of business identification signage is common within nearby recreational and commercial parts of the locality. The proposed signage is not advertising signage, but is consistent with the theme for existing outdoor signage in the recreational area. The proposed building identification sign is of a similar style as existing signage within the Michael Clarke Recreation Centre Precinct, and the size of the sign is deemed proportionate for the exterior features of the building. Wayfinding signage is sized appropriately for the size of the precinct.	Yes
2 Special Areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal does not have any impact on environmentally sensitive areas, heritage areas, natural or conservation areas, residential areas or open spaces.	Yes
3 Views and Vistas		
Does the proposal obscure or	The proposed signage will not obscure or compromise	Yes

compromise important views?	any important views.	
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is of an appropriate scale for the area and location which will not dominate the skyline.	Yes
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure any existing surrounding signage or potential future signage and will respect the viewing rights of other advertisers.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate given the size of the building and surrounding buildings and their respective signage.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage is of a satisfactory quality design and finish that will not negatively impact the streetscape amenity of the locality.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is of a size and scale that is compatible with the subject building and existing signage and does not result in signage clutter.	Yes
Does the proposal screen unsightliness?	The proposed building identification signage provides visual interest to the building, but does not screen unsightly elements. All signage maintains the theme in this location.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage does not protrude above the building.	Yes
Does the proposal require ongoing vegetation management?	The proposed signage is not directly impacted by vegetation and, as such, ongoing vegetation management is not required.	Yes
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The scale, proportion and form of the signage is appropriate given the size of the building and scope of development.	Yes
Does the proposal respect important features of the site or building, or both?	The signage has been designed to be consistent with the built form and that of surrounding development.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage appropriately relates to the proposed building facades and its features.	Yes
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms,	The building identification signage will be directly	Yes

lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	mounted onto the building façade and off the external wall. No associated devices are proposed or required.	
7 Illumination		
Would illumination result in unacceptable glare?	The proposed signage will not result in any unacceptable glare.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The proposed signage will not cause any safety issues to any vehicles or pedestrians as any illumination is unlikely to impact on pedestrians, vehicles or aircraft.	Yes
Would illumination detract from the amenity of any residence or other form of accommodation?	The signage will not cause amenity issues for any surrounding amenity and accommodation as the signage is small in scale and will primarily be visible upon entry, and from within, the facility.	Yes
Can the intensity of the illumination be adjusted, if necessary?	Given the absence of sensitive nearby properties, it is not necessary for the intensity of the illumination to be adjustable.	Acceptable
Is the illumination subject to a curfew?	Given the location in the RE1 zone and sufficient removal from neighbouring residential properties, the signage is not prominent when viewed from surrounding streets and properties. A curfew is not necessary	Acceptable
8 Safety		
Would the proposal reduce the safety for any public road?	The signage is not likely to have any adverse impacts upon the safety of any public road. No moving features are proposed.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The signage is unlikely to create any adverse impacts upon the safety for any pedestrians or bicyclists.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage is not considered to have any adverse impacts upon the safety of pedestrians and is consistent with other nearby signs. The signage is to be located on an existing building façade and will not obscure any sightlines.	Yes

4.2.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

SEPP TI 2021 applies to the site. It should be noted that the commencement of *State Environmental Planning Policy Amendment (Concurrences and Consultations) 2026* on 1 July 2026 has repealed parts of SEPP TI 2021 and partly transferred its requirements to SEPP PS 2021. The savings provision within section 4.46 of SEPP PS 2021 indicates that applications lodged, but not finally determined, before the commencement of the Amendment must be determined as if that amendment had not commenced.

Chapter 2 Infrastructure, Part 2.3 Development Controls

Section 2.48 Determination of Development Applications – Other Development

The development is affected by section 2.48 as it seeks works within an electricity easement, works within 5m of an exposed overhead powerline, and a swimming pool within 30m of a structure supporting an overhead electricity transmission line. The site contains a Transgrid asset “Transmission Line 13 | Kemps Creek 500kV to Sydney South 330kV | Structure Spans 245-247” and the development is within 5m of an exposed overhead power line. In accordance with this section, a referral was sent to Transgrid, who initially raised additional information requirements. Transgrid has considered these to be satisfactorily addressed and has provided authorisation for the proposed development, subject to conditions.

For reference, the equivalent provision to the former section 2.48 of SEPP TI 2021 is now found within section 4.31 of SEPP PS 2021.

Section 2.119 Development with a Frontage to Classified Road

The development has a frontage to Cowpasture Road, which is a State Classified Road. The application was referred to Transport for New South Wales (**TfNSW**), and TfNSW concluded that the proposed development is unlikely to have a detrimental impact on the surrounding classified road network.

Section 2.122 Traffic-Generating Development

The site has vehicular access from Pacific Palm Circuit, and Cowpasture Road is greater than 90m from the connection to Pacific Palm Circuit.

State Environmental Planning Policy Amendment (Concurrences and Consultations) 2026 has repealed Schedule 3 of the SEPP TI 2021 and partly transferred its requirements to Schedule 7 of SEPP PS 2021. The development is not a purpose listed in either applicable schedule, but the development is of a type captured by the former requirement of the TI SEPP that affected development for “any other purpose” with a size capacity of 200 or more motor vehicles per hour. The Traffic and Parking Assessment indicates that the development may generate up to 196 vehicle movements per hour, and this would not meet the threshold of 200 vehicles per hour. The broad listing of development for “any other purpose” was not transferred to SEPP PS 2021. Notwithstanding, the application was referred to TfNSW under section 2.119, which concluded that the proposed development is unlikely to have a detrimental impact on the surrounding classified road network.

4.2.5 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

The provisions of Chapter 4 have been considered in the assessment of the development application as recreational uses are a specified land use in section 4.6(4). The application is accompanied by a Detailed Site Investigation (DSI), as well as a Remediation Action Plan (RAP). These reports have denoted that the site is contaminated by asbestos impacted stockpiles, asbestos impacted fill material, and potential TRH C16-C36 and Cadmium impacted deep fill (AEC 5). A containment cell is proposed underneath the carpark.

The Applicant team has worked with Council's Environmental Health officer to resolve remediation concerns. The assessment concludes that, subject to remediation, the site can be made suitable for the development and Section 4.6 of the RH SEPP is satisfied, subject to conditions. Refer to discussion within Section 0 relating to the internal referral comments from Environmental Health.

4.2.6 State Environmental Planning Policy (Sustainable Buildings) 2021

Chapter 3 Standards for Non-Residential Development

Clause 3.1(a) is reproduced below:

- (1) This chapter applies to development, other than development for the purposes of residential accommodation, that involves –*
 - (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or*

Accordingly, as the development cost exceeds \$5 million, the development must be designed to enable the sustainability measures within Section 3.2(1) of the SB SEPP 2022:

- (1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following –*
 - (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,*
 - (b) a reduction in peak demand for electricity, including through the use of energy efficient technology,*
 - (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,*
 - (d) the generation and storage of renewable energy,*
 - (e) the metering and monitoring of energy consumption,*
 - (f) the minimisation of the consumption of potable water.*

(1) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

A comment on each subsection is provided below, and it is noted that conditions are recommended to strengthen and/or confirm each commitment.

(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials

The Operational, Demolition & Construction Waste Management Plan prepared by Tandem Solutions indicates on-site reuse of non-contaminated excavation material and on-site recycling of timber for formwork. Up to 80% of demolition and construction waste is otherwise proposed to be diverted from landfill for recycling purposes as used by separate contractors.

(b) a reduction in peak demand for electricity, including through the use of energy efficient technology

The Ecologically Sustainable Development (ESD) Report prepared by JHA Consulting Engineers indicates the use of heat-pumps for hot water generation, air-cooled heat rejection system for cooling of the building, LEDs and enhanced ductwork systems.

(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design

Substantial glazing is provided throughout the development, enabling the provision of excellent natural light. According to the ESD Report, the proposal also provides automatic control system featuring timer controls, daylight sensors, and occupancy sensors.

Energy efficiency of the glazing, walls, roof and flooring have been provided within the Section J report and are compliant with Section J1P1 requirements. The proposal also relies upon heat pumps for the heating of the swimming pools, and additional conditions are recommended to also require a heat recovery ventilation system. The glazed areas feature extensive operable doors that can be used to allow for passive cooling in warmer months.

(d) the generation and storage of renewable energy

The ESD Report indicates integration of solar photovoltaic (PV) panels over at least 20% of the proposed roof area. As the proposed development will predominantly receive and use renewable energy simultaneously, the ESD report indicates that battery storage is not proposed.

(e) the metering and monitoring of energy consumption

The ESD Report indicates that sub-metering is to be provided to enable individual time-of-use energy data recording of the on-site renewable energy equipment & on-site electric vehicle charging equipment. The EDS Report further indicates that sub-meters required will be interlinked by a communication system that collates the time of-use energy data to a single interface monitoring system where it can be stored, analysed, and reviewed.

(f) the minimisation of the consumption of potable water

The ESD Report indicates that the development provides rainwater tanks to capture water which will be used for irrigation and toilet flushing. The project is also setting minimum WELS ratings to further reduce potable water demands and the landscape design has provided for native and low water use species.

Each of the above measures are recommended to be reinforced or strengthened through conditions of consent.

4.2.7 Liverpool Local Environmental Plan 2008

The relevant local environmental plan applying to the site is the LLEP 2008. The aims of the LLEP 2008 include the following:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,*
- (b) to foster economic, environmental and social well-being so that Liverpool continues to develop as a sustainable and prosperous place to live, work, study and visit,*
- (c) to provide community and recreation facilities, maintain suitable amenity and offer a variety of quality lifestyle opportunities to a diverse population,*
- (d) to strengthen the regional position of the Liverpool city centre as the service and employment centre for Sydney's south west region,*
- (e) to concentrate intensive land uses and trip-generating activities in locations most accessible to public transport and centres,*
- (f) to promote the efficient and equitable provision of public services, infrastructure and amenities,*
- (g) to conserve, protect and enhance the environmental and cultural heritage of Liverpool,*
- (h) to protect, connect, maintain and enhance the natural environment in Liverpool, and promote ecologically sustainable development which takes into account the environmental constraints of the land,*

- (i) *to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires, by managing development in sensitive areas,*
- (j) *to promote a high standard of urban design that responds appropriately to the desired future character of areas,*
- (k) *to improve public access along waterways and vegetated corridors while ensuring the natural environmental values of riparian and bushland corridors and the habitat they provide are protected and enhanced,*
- (l) *to improve public transport accessibility, and facilitate the increased use of public transport, cycling and pedestrian activity,*
- (m) *to enhance the amenity and positive characteristics of established residential areas,*
- (n) *to ensure the agricultural production potential of rural land and prevent its fragmentation,*
- (o) *to encourage development opportunities for business and industry so as to deliver local and regional employment growth.*

The proposal is consistent with these aims as the proposal:

- Promotes a high standard of urban design that complements the existing character of Carnes Hill Recreation Centre and the desired future character of the area as depicted in the Carnes Hill Masterplan 2024.
- Promotes employment within the Carnes Hill locality and the wider Liverpool area.
- Encourages and services a specified recreational use.
- Provides accessible, diverse and quality amenity opportunities for the wider Liverpool community.
- Effectively integrates with an underutilised yet unique natural landscape to improve public access to existing vegetation corridors.

Zoning and Permissibility (Part 2)

The site is primarily zoned RE1 Public Recreation (64.9%), as well as being zoned SP2 Infrastructure (24.5%), R2 Low Density Residential (4.8%), and R3 Medium Density Residential (1.3%) (see **Figure 12**). Importantly, the proposed development is wholly located within the RE1 Public Recreation zone.

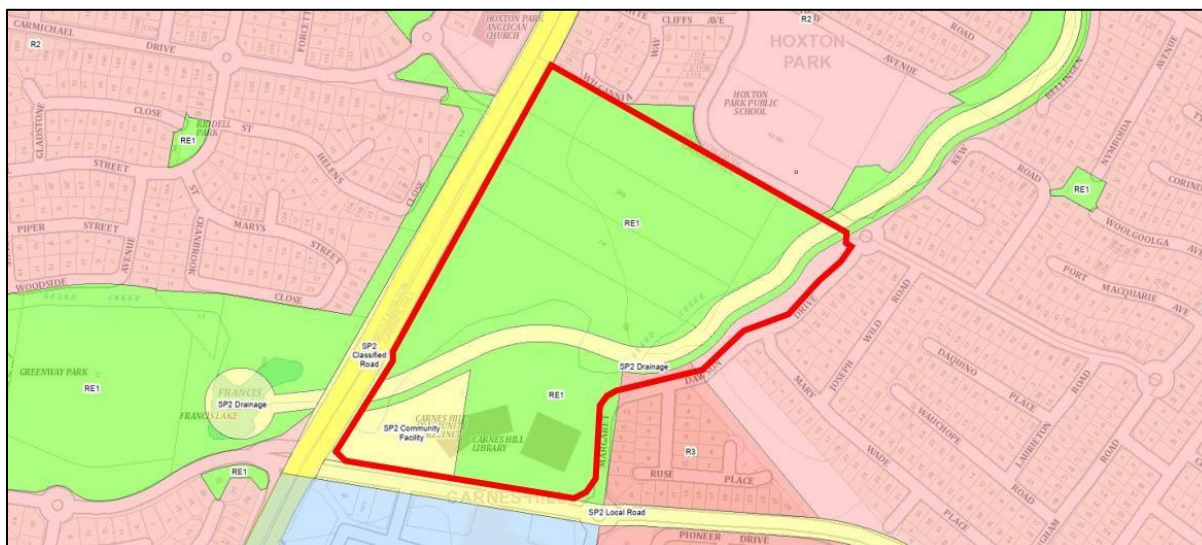


Figure 12: Land Zoning map (site delineated with red border)

Source: NSW Spatial Viewer, 15 January 2026

According to the definitions contained in the Dictionary, the proposal satisfies the definition of a “*recreation facility (indoor)*” which is a permissible use with consent in the Land Use Table in RE1 Public Recreation zone. Additionally, the application initially included a “*food and drink premise*” (café). While “*restaurants or cafes*” are currently prohibited in the RE1 zone under the LLEP 2008, Council exhibited a Planning Proposal for a new Liverpool Local Environmental Plan (exhibition period 20 April 2026 to 12 June 2026) which seeks to make “*food and drink premises*” a permissible use with consent in the RE1 Public Recreation zone. Pursuant to Section 4.15(1)(a)(ii) of the Act, this draft environmental planning instrument must be considered in the assessment of the application. Further discussion is provided below in **Table 3**.

The zone objectives for the RE1 Public Recreation include the following (pursuant to the Land Use Table):

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

The development is considered to be consistent with the zone objectives as the proposal:

- Provides high quality infrastructure for recreational use both as an independent project and extension of existing recreational uses southward of the site.
- Diversifies the recreational facilities within the locality to meet the open space needs of local residents.
- Suitably unlocks currently vacant, contaminated land for recreational purposes.

General Controls and 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 3** below.

Table 3: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply (Y/N)
Minimum subdivision lot size (CI 4.1)	No minimum subdivision lot size for most of the site. For comparison, a minimum 300m ² subdivision lot size is specified for part of Lot 100 DP1204810, north of Pacific Palm Circuit.	Subdivision/boundary adjustment will only occur on the parcel of land south of Pacific Palms Circuit. The resultant subdivision will continue to exceed 300m ² .	N/A
Height of buildings (CI 4.3(2))	No maximum building height for most of the site. For comparison, a maximum 8.5m building height is specified for part of Lot 100 DP1204810, north of Pacific Palm Circuit.	8.83m	N/A
Floor Space Ratio (CI 4.4(2))	No floor space ration is applicable for most of the site. For comparison, a maximum FSR of 0.6:1 is specified for part of Lot 100 DP1204810, north of Pacific Palm Circuit.	0.2:1	N/A

Exceptions to development standards (CI 4.6)	None applicable	None applicable	N/A
Development on land intended to be acquired for the public purpose (CI 5.1A)	Lot 10 DP1043935 and part of Lot 100 DP1204810 are zoned RE1 Public Recreation and marked on the Land Reservation Acquisition Map (LRA Map) as “local open space”. Only Earthworks and Recreation Areas are permitted.	The mapped area approximately coincides with Lot 1 on Figure 4. The definition of <i>recreation area</i> expressly excludes development for the purposes of <i>recreation facility (indoor)</i>, which would capture the swimming pool development. The proposed access roads and car park are affected by the LRA Map, and these elements are ancillary to the proposed swimming pool development. However, the carpark and access road are also ancillary to the wider use of the <i>recreation area</i> that surrounds the swimming pool to the north, east, and south. These elements are therefore also ancillary to a <i>recreation area</i>, and clause 5.1A is therefore satisfied.	Yes
Controls relating to miscellaneous permissible uses (CI 5.4(6))	If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 30 square metres.	The proposed development nominates a 40m ² kiosk at the facility entry. A larger café was previously proposed in a similar location, but as food and	Yes

		drink premises are currently prohibited within the RE1 zone, the kiosk has been provided to address concerns that the application sought consent for prohibited development. The Applicant was asked to provide further information considering whether the 30m² floor space limit could be set aside because the kiosk is ancillary to a permitted use, or whether the 30m² limit also applied to any kiosk ancillary development. It is noted that clause 5.4 is excluded from the operation of clause 4.6, so there is no avenue for a variation request. The Applicant provided further information demonstrating why the development is ancillary. The assessment concludes that it is correct to characterise the entirety of the proposed building as being for the purpose of a <i>recreation facility (indoor)</i>, inclusive of its ancillary elements, meaning that clause 5.4(6) is not enlivened by the application. To reinforce that the kiosk is ancillary to	
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		the swimming pool, a condition of consent is recommended which limits the operating hours of the kiosk to those associated with the pool. As also indicated elsewhere, a planning proposal was exhibited during the assessment of the application seeks to make <i>food and drink premises</i> a permitted use at the site.	
Heritage (CI 5.10)	The subject site does is not listed as a heritage item or within a heritage conservation area, and is not in the vicinity of either. With respect to Aboriginal heritage, an Aboriginal Cultural Heritage Assessment has been prepared, confirming that the site contains recorded AHIMS sites and requires management under an AHIP. Conditions are recommended by Council's Heritage Officer to reinforce the report recommendations, and to provide necessary checkpoints during delivery to ensure follow-on requirements, such as heritage interpretation and Aboriginal consultation, are undertaken and appropriately documented.		
Flood Planning (CI 5.21)	The proposed development lies in the catchment area of Beard Creek, which is a tributary of Cabramatta Creek, and partly falls within the flood planning area. A Flood impact Assessment Report was submitted, which demonstrates that the flood velocities at the proposed development are in an acceptable range. A Stormwater Management Report has appropriately addressed stormwater quality treatment and demonstrates consistency with Liverpool City Council (LCC) stormwater quality targets and the applicable flood management requirements. Council's Floodplain Engineer has reviewed and supports the proposal, subject to conditions.		

Public Bushland (CI 5.23)	The proposal seeks to remove trees on land that is owned by Council and that may constitute public bushland. The proposed is supported by an Arboricultural Impact Statement and Flora and Fauna assessment, and the conclusions of each report is supported by the Council Natural Environment teams.
Environmentally significant land (CI 7.6)	The subject site is not identified on the Environmentally Significant Land Map. However, the site is known to contain an endangered ecological community, and this is discussed further within Section 0 relating to the internal referral comments from Natural Environment – Flora and Fauna.
Earthworks (CI 7.31)	The proposed development seeks consent for extensive earthworks for the purposes of swimming pool excavation, remediation, mounding, and establishing other ground and floor levels. The various matters for consideration within clause 7.31(3) are largely captured by assessments of other instruments and provisions, including in relation to stormwater drainage, water quality, and environmental protection. Given the size of the subject site, the earthworks are unlikely to create amenity impacts on neighbouring properties

4.3 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

Council has exhibited a Planning Proposal for a new Liverpool Local Environmental Plan, with an exhibition period from 20 April 2026 to 12 June 2026. As the draft instrument has been exhibited, it is a matter for consideration in the assessment of the application.

The most relevant matter relates to the inclusion of food and drink premises as a permitted use within the RE1 Public Recreation zone. A food and drink premises was initially proposed within the application; refer to discussion of clause 5.4 within Section 0.

Other relevant changes include new provisions, which are each discussed below:

- Public Art provision similar to that given within the Inner West LEP 2022 and City of Sydney LEP 2012 – this provision will likely provide an avenue to the provision of public art, rather than prescribing a mandatory requirement for the delivery of public art. It therefore does not affect the proposal.
- Urban heat provision similar to that given within the Penrith LEP 2010 – as the proposal meets the minimum \$5 million threshold for consideration against section 3.2 of SEPP SB 2021, it has largely addressed these requirements.

- Stormwater management and water sensitive urban design provision – refer to comments in relation to section 6.6 of SEPP BC 2021 (Section 0).
- Recycled water provision – this is likely satisfied by the measures given within the Stormwater Management Report.
- Provision recognising waste management as an essential service – unlikely to pose an issue, given the size of the subject site.

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

The following Development Control Plan is relevant to this application:

4.5 Liverpool Development Control Plan 2008

The Liverpool Development Control Plan 2008 is applicable to the development. Compliance tables are provided within Attachment B. The proposal is non-compliant with the provision of bicycle parking, and this is discussed in Section 0 relating to the internal referral comments from Traffic and Transport referral.

4.6 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

No planning agreements are applicable to the proposed development.

4.7 Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 4.15(a)(iv) of the Act requires a consent authority to consider the Regulations, to the extent that they prescribe matters for the purposes of that paragraph (i.e., paragraph (iv)). The relevant provisions are clauses 61 – 66A of the *Environmental Planning and Assessment Regulation 2021*.

Clause 61 relates to compliance with Australian Standards AS 2601-2001: The Demolition of Structures, and this will be subject to recommended standard condition of consent, although no demolition work is proposed.

Clause 65A relates to factors not of relevance to the application. This clause precludes the consent authority from considering future developments that do not form part of the subject application. While the masterplan and supporting documentation for the CHARC identify future provisions for a 50m pool and a multipurpose hall, these elements are not proposed under DA-505/2025 and must not be considered as part of this assessment.

Clause 66A relates to Council-related development applications, and it requires the consent authority to consider a conflict of interest policy as part of the determination of the

application. In addition, clause 30B requires that a council-related development application be accompanied by either:

- (a) a statement specifying how the council will manage conflicts of interest that arise in connection with the application because the council is the consent authority (a management strategy) or*
- (b) a statement that the council has no management strategy for the application.*

As Liverpool City Council is the owner and developer, the proposal is classified as a council-related development application.

The Liverpool City Council *Managing Conflict of Interest Policy* was adopted on 12 May 2026, approximately 6 months after the lodgement of the application. The Applicant did not initially provide a Conflict of Interest Management Strategy Statement, but one was provided in response to the first information request. A Conflict of Interest – Management Strategy Statement was provided by the Applicant.

4.8 Section 4.15(1)(b) – Significant Likely Impacts of Development

The significant likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to the relevant planning instruments and development controls, and the impacts are acceptable as discussed throughout.

4.9 Section 4.15(1)(c) - Suitability of the site

The development will seek to provide a new aquatic centre. The site has been historically used for pasture and the like, but it is well sited to accommodate expanded recreation offerings, associated with the recent urbanisation of the surrounding area. There are no environmental constraints that render the site unsuitable for the development; the land use is permitted with consent within the RE1 zone, and the assessment has demonstrated that, subject to conditions, the site is suitable to accommodate the development.

4.10 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 0 of this report.

4.11 Section 4.15(1)(e) - Public interest

The proposed development is deemed to be in the public interest as it will facilitate the provision of new and improved delivery of local public recreational infrastructure and services. This development is for the use of the surrounding community, including existing

and forecasted populations within the Liverpool Local Government area, and, having regard to the absence of significant impacts, will aid in providing an improved local service to the public.

The initial Building and Open Space Planning referral had raised concerns that some of the ancillary elements of the proposal, such as car parking and footpaths, are sited in a manner that is inconsistent with the Carnes Hill Aquatic and Recreation Centre Plan of Management, dated November 2025. A subsequent referral recommended a condition of consent requiring discrepancies within the Plan of Management to be resolved.

Firstly, it should be noted that the Plan of Management was prepared to fulfill Council's obligations under the *Local Government Act 1993* (LG Act), and it was prepared for that purpose, rather than for the purposes of the subject application.

Section 35 of the LG Act (found within Chapter 6, Part 2, Division 2) states that:

Community land is required to be used and managed in accordance with the following—

- *the plan of management applying to the land*
- *any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land*
- *this Division.*

Figure 14 of the Plan of Management is reproduced below:



Figure 13: Categorisation of Carnes Hill Aquatic and Recreation Centre

Source: Carnes Hill Aquatic and Recreation Centre Plan of Management

Table 10 provides the following Guidelines for the use of each category.

Category	Guidelines ¹	Areas of CHARC
General Community Use	Land that may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public.	Footprint of aquatic and recreation centre, roads, carparks
Park	Land that is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.	Parkland, play spaces, landscaped areas

Figure 14: Guidelines for categories of community land at CHARC

Source: Carnes Hill Aquatic and Recreation Centre Plan of Management

The design of the carparks and footpaths differs from those provided within the categorisation plan (**Figure 13**). It may be that there is an inconsistency between the subject application and the Plan of Management, and the initial Building and Open Space Planning had recommended that legal advice be obtained to better understand this.

Although there is an obligation on Council to ensure that the site is used and managed in accordance with the Plan of Management, there is no requirement for a consent authority to consider whether a development application is consistent with a Plan of Management prepared under the LG Act. It is a matter of public interest that there have been inconsistencies identified, and it may be that Council is obligated to resolve these inconsistencies. However, the discrepancies are relatively minor, and have largely evolved as a consequence of the assessment of the development application. The recommended condition creates a degree of uncertainty that is not reasonable or necessary in this context.

The assessment of this application has concluded that the proposal is acceptable. If changes to either the Plan of Management or the development application (for example, by way of a modification application) are required, then Council can consider whether those changes are necessary after the determination of the application. However, the independent assessment has concluded that this is not a matter which should be reflected in the conditions of consent, and it is not recommended that the condition be imposed.

5. REFERRALS AND SUBMISSIONS

5.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

Table 4: Concurrence and referrals to agencies and other bodies

Agency/body (reason for referral)	Comments
Design Excellence Panel (Section 4.15 of the Act)	DEP Minutes – 12/02/2026: • The design has responded positively to the feedback provided prior to DA lodgement on 12/06/2025, particularly with regard to integration with the existing landscape. The majority of the earlier feedback had been addressed. • Primary remaining concerns relate to the placement of functional areas around the perimeter of the main pool area, and the impact on the visual and physical relationship between the indoor and outdoor areas. • Other concerns include the potential safety impacts of the siting of the building alongside Cowpasture Road, improvements to landscape diversity, potential amenity impacts of lowered ceiling heights, and provision of natural light and ventilation.
	DEP Minutes – 18/03/2026: At the Applicant's request, a draft amended proposal was considered by the Panel for review, who made the following recommendations: • Further refinement of the placement of perimeter facilities, configuration of the curved external wall at foyer, and landscape mounding, to improve views from the facility to bushland south-eastward. Recommended that this be achieved by moving the adult change room and the pool store to the west façade of the building and adjusting the 25m swimming pool to place the access ramp closer to the adult change room. Further recommendations relating to design reconfiguration to improve outlook to the north. • Potentially integrate public art on the northern internal wall of the pool hall. • Panel was highly supportive of café, but acknowledges the constraints within the RE1 zone. • Minimise or eliminate access doorways through the northern wall adjacent to the children's pool. Necessary access to be on the eastern and western sides of the service facility instead. • Improvements recommended to natural light and ventilation to the change rooms, through the introduction of skylights in the low skillion roof. The amended proposal provided significant improvements to the visual aspect towards the south-western facade, as well as increasing the

	length of the glazed wall along the south-eastern façade. It has also concentrated access doors along the northern wall, so as to minimise conflict with users of the children's pool. Skylights were not added to the change room, but were provided elsewhere within the development. No further DEP referral was sought following the receipt of amended plans; however, the amended proposal was reviewed by Council's Urban Design and Public Domain Team.
Endeavour Energy	Supported, subject to standard conditions.
NSW Department of Climate Change, Energy, the Environment and Water (' NSW DCCEEW ') (Controlled Activity Approval)	Proposed works are exempt from the need to obtain a controlled activity approval per Section 64(2) of Water Management (General) Regulation 2025, given that the development is carried out by a public authority. It should be noted that the geotechnical report submitted with the application indicates that exploratory boreholes encountered groundwater at depths of 2.8 metres, 2.0 metres, and 2.8 metres within the vicinity of the pool area. The application will potentially require an aquifer interference. Public authorities are not exempt from aquifer interference activities approvals that are required by section 91F of the <i>Water Management Act 2000</i>. However, the applicant has not sought approval via integrated development provisions, and this approval can be obtained prior to carrying out the development. A condition is recommended for this purpose.
NSW Police Force (CPTED Review)	No objections, subject to the adoption of standard CPTED recommendations.
Sydney Water (Water and wastewater service availability and asset protection)	No objections, subject to section 73 Compliance Certificate and building plan approval.
Transport for NSW (' TfNSW ') (Section 2.119 of SEPP TI 2021)	No objections, noting that the proposed development is unlikely to have a detrimental impact on the surrounding classified road network.

Transgrid (former section 2.48 of SEPP TI 2021t)	Transgrid raised concerns relating to earthworks, stormwater works and roadworks within the exclusion zones associated with the assets contained within the electricity easement, as well as the potential impact of the development on vehicular access for maintenance purposes. These issues partly remained as of Transgrid's second letter of 19 July 2026. In a third letter dated 19 August 2026, Transgrid provided conditional support for the application; however, during the intervening period between the two letters no further information was submitted to Council for assessment. This information was later provided to Council in September 2026, and the relevant plans are reflected within the recommended conditions.
Integrated Development (S 4.46 of the EP&A Act) – N/A, noting earlier comments from DCCEEW.	

5.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 7**.

Table 5: Consideration of Council Referrals

Officer	Comments
Building	Supported, subject to conditions.
Building and Open Space Planning (formerly Community Planning (Social Infrastructure))	Various issues raised within the initial referral and subsequent clarifying emails. Some of the initial issues related to elements located elsewhere on the site, which the Applicant confirmed were not part of the proposal, and are therefore not relevant pursuant to clause 65A of the <i>Environmental Planning and Assessment Regulation 2021</i>. Some other issues that were raised had been addressed in the initial application documentation or by other referral officers, and this was confirmed in the clarifying emails. The initial referral also raised the absence of specific ESD measures, which was later addressed by the Applicant as discussed within Section 4.1.6. The initial referral also indicated that some of the ancillary elements, such as car parking, are sited in a manner that is inconsistent with the Plan of

	Management for the Carnes Hill Aquatic and Recreation Centre, dated November 2025. A second referral was provided which supported the application, subject to a condition requiring discrepancies within the Plan of Management to be resolved. This is discussed further in Section 0.
Community Planning (Social Planning)	Supported, with no conditions recommended.
Contributions	Supported, no conditions required. As a Council submitted community precinct, the development is not subject to developer contributions. Funding has already been provided through a combination of State and local contributions, including developer contributions previously collected under the Liverpool Contributions Plan 2009.
Economic Development (inc. Economy and Engagement)	Supported, no conditions recommended.
Environmental Health	The proposal was referred to Council's Environmental Health Officer on three (3) separate occasions (referrals received on 6 February, 10 June, 31 August 2026). A meeting was also held with the Applicant on 5 April 2026. Due to the complex contamination history of the site and the proposed remediation method of consolidation and encapsulation via a containment cell, a B2 Site Audit Statement and Site Audit Report was requested. Three (3) Interim Audit Advice Statements and an amended Remediation Action Plan were submitted within the amended DA package on 11 August 2026, and the proposal is now supported by Council's Environmental Health Officer, subject to conditions. The referrals also requested that the Applicant provide details of compliance with relevant Australian standards for food premises and mechanical ventilation, as well provide further information to demonstrate satisfactory health impacts relating to swimming pool design, chemical storage, and waste storage. These issues were partly addressed, and the

	final referral had indicated that the remaining issues could be addressed by condition.
Fire Safety	Supported, subject to condition relating to location of substations.
Flooding	Supported, subject to conditions, refer also to comments relating to section 6.6 of SEPP BC 2021 (Section 0) and clause 5.21 of the LEP (Section 0).
Heritage	Supported, subject to conditions.
Land Development	Supported, subject to conditions.
Natural Environment – Landscape Officer (inc. Trees Private Property)	Supported, with no conditions required.
Natural Environment – Flora and Fauna	The proposal was referred to Council’s Natural Environment – Flora and Fauna Officer on three (3) separate occasions (referrals received on 4 March, 16 June, 2 September 2026). The initial referral sought additional information, including a targeted search and detailed assessment for the Cumberland Plain land snail, as well as changes to the Vegetation Management Plan and the landscape plan. The second referral indicates that a Test of Significance was required for the Cumberland Plain land snail, and this was provided in the final revision of the Flora and Fauna Report. Each version of the Flora and Fauna Report concluded that there are no triggers for a biodiversity development assessment report (BDAR). The final referral supported the application, subject to conditions.
Property Services (inc. Commercial Development)	Supported, no conditions required.
Strategic Planning	Referred, but not applicable.
Traffic and Transport	The proposal was referred twice to Council’s Traffic and Transport Engineer (response received 6 February, 8 July 2026). Various matters

	relating to traffic and transport were resolved throughout the submitted Traffic & Parking Assessment, Operational Traffic Management Plan and Road Safety Audit. In relation to bicycle parking, Part 20.3 of the Liverpool Development Control Plan 2008 requires 1 space per 10 staff and 1 space per 15m² of pool area. This equates to 57 spaces, whereas 24 spaces have been provided. The amended application documentation had provided additional justification regarding the proposed bike parking provision with respect to anticipated demand and comparable aquatic centres in Sydney. The documentation also indicates that there is capacity for additional racks to be installed in future should demand exceed expectations. The application was supported, subject to conditions, including that the Applicant ensure that capacity will remain for additional bicycle racks to be installed in the future.
City Design and Public Domain	The application was considered once prior to both DEP meetings, and once following the submission of an amended application. The suggestions from the referrals are summarised and considered below. • Scope for improvements to ESD commitments, including relating to rainwater capture – refer to discussion of SEPP SB 2021 within Section 820. • Opportunities for car park redesign to enable further tree retention – the proposed tree removal is offset by replacement species, and is supported by Council’s Natural Environment referrals. • Consider opportunities to integrate Connecting with Country co-design approach to provide a material selection that is unique, rather than similar to other recent pool developments in Sydney – as there is no provision requiring a consideration of design excellence or Connecting with Country, there are no means to insist on this approach. • The introduction of the mechanical plant room at the interface between the building and Cowpasture Road is a deviation from the design intent previously presented to the Panel – there is significant cut in this location, meaning that the relocated areas will not be highly visible from Cowpasture Road. Comments were also provided in relation to elements located elsewhere on the site, which the Applicant confirmed were not part of the proposal. Pursuant to clause 65A of the <i>Environmental Planning and Assessment</i>

	<i>Regulation 2021</i>, these elements constitute <i>other development</i>, and are not relevant to the assessment of the application. The proposal is supported, subject to conditions primarily requiring detailed design documentation for the endorsement of the City Design and Public Domain Team. The independent assessment has concluded that these conditions require refinement in order to account for matters that have been addressed satisfactorily within the application.
Public Art	The original application had provided the indicative location for future public art, and further information was sought in order to better understand what was proposed. However, as there is no requirement to provide public art at this site, the application was amended to omit reference to future public art, and no further referral was required.

5.3 Community Consultation

The proposal was advertised and notified in accordance with Council's Community Participation Plan from 27 January 2026 until 23 February 2026. The notification included the following:

- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties
- Notification on Council's website

Council received a total of two (2) unique submissions, comprising two (2) objections, one of which was labelled by the submitter as being in support of the proposal. The issues raised in these submissions are considered in **Table 8**.

Table 6: Community Submissions

Issue	Quantity	Council Comments
Existing asbestos contamination on site	1	Remediation of the asbestos contamination has been adequately implemented via a containment cell. Refer to Section 0 for further details.
Potential community garden	1	No community garden is proposed, nor staged for future works. The concerns relating to the potential future community garden are not relevant to the subject application.

6. DEVELOPER CONTRIBUTIONS

No contributions are required to be imposed.

7. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the issues identified in this report, it is considered that the application warrants approval, subject to conditions.

8. RECOMMENDATION

That the Development Application DA-505/2025 for the construction of Carnes Hill Aquatic and Recreation Centre and associated works, including tree removal, car parking, internal road, landscaping, signage and civil works be **APPROVED** pursuant to section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, subject to the draft conditions of consent attached to this report at **Attachment 1**.

ATTACHMENTS See Councils ePlanning portal for the following attachments

<https://eplanning.liverpool.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=624608>

1. Draft Conditions of Consent (Under separate cover)
2. DCP Compliance Table
3. Architectural Plans
4. Landscape Plans
5. Civil Engineering Package
6. Subdivision Plan
7. Aboriginal Cultural Heritage Assessment
8. Arborist Report
9. Bushfire Assessment
10. Consolidated External Agency Referrals
11. Data Gap Investigation
12. DEP Minutes 12 February 2026
13. DEP Minutes 18 March 2026
14. Detailed Site Investigation
15. ESD Report
16. Flood Study Report
17. Flora and Fauna Assessment
18. Interim Audit Advice 1 to 3

19. Operational Traffic Management Plan
20. Plan of Management
21. Remedial Action Plan
22. Social Impact Assessment
23. Statement of Environmental Effects
24. Stormwater Management Plan
25. Traffic Impact Assessment
26. Vegetation Management Plan
27. Waste Management Report
28. Noise Impact Assessment