

**LIVERPOOL CITY COUNCIL**  
**JOINT REGIONAL PLANNING PANEL**

**2015**

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**Sydney West**

JRPP No	2014SYW155 DA
DA Number	DA-898/2014
Local Government Area	Liverpool City Council
Proposed Development	Removal of trees on site, four lot Torrens title subdivision and the construction of three residential flat buildings
Street Address	Lot 1 DP 774700 5 Rynan Avenue, Edmondson Park
Applicant/Owner	J. Farkash & Associates/ Mr M Taouk and Ms A Taouk
Number of Submissions	1
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment Value over \$20 million.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment.</li> <li>• State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development</li> <li>• State Environmental Planning Policy No.55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Liverpool Local Environmental Plan 2008</li> <li>• Liverpool Contributions Plan 2008 Edmondson Park</li> <li>• LDCP 2008; <ul style="list-style-type: none"> <li>- Part 1: General Controls for All Development.</li> <li>- Part 2.11 – Land Subdivision and Development in Edmondson Park</li> </ul> </li> </ul>
List all documents submitted with this report for the	<ol style="list-style-type: none"> <li>1. Architectural Plans</li> <li>2. Recommended Conditions of Consent</li> <li>3. Clause 4.6 Variations</li> </ol>

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panel's consideration	<b>4. Public Submission</b>
Recommendation	<b>Approval</b>
Report by	<b>George Nehme</b>
Report date	<b>29 July 2015</b>



## **1. EXECUTIVE SUMMARY**

### **1.1 Reasons for the Report**

Pursuant to the requirements of Schedule 4A of the Environmental Planning and Assessment (EP&A) Act 1979, the proposed development is referred to the Sydney West Joint Regional Planning Panel (JRPP) for consideration and determination as the Development Application has a Capital Investment Value over \$20 million.

This report summarises the key issues in consideration of the proposal in accordance with the provisions of Section 79C of the EP&A Act 1979.

### **1.2. The Proposal**

Council has received a Development Application for the removal of trees on site, four lot Torrens title subdivision and the construction of three residential flat buildings as follows:

- Building A: 5 storeys
- Building B: 5 storeys
- Building C: 4 storeys

The proposal seeks a total of eighty-two apartments and includes basement

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carparks, and associated works including landscaping, road construction and dedication of land to Council.

### **1.3 The Site**

The subject site is identified as Lot 1 in DP 774700, being 5 Rynan Avenue, Edmondson Park. The site is rectangular in shape with a total area of 2.03 hectares. The subject site is a corner allotment with two identifiable frontages. The primary frontage is to Rynan Avenue (69.2015m and a 9.12m splay), and a secondary frontage to Camden Valley Way (266.64m). The subject site is split zoned between an E3 Environmental Management zone, RE1 Public Recreation and R1 General Residential. The E3 zone, is isolated to the western portion of the site, the RE1 Public Recreation zone is isolated to the centre of the site, and an R1 General Residential zone which encompasses the eastern portion of the site, with a small pocket in the north-western corner of the site. The proposed development is isolated to the R1 General Residential zone located on the eastern portion of the site. The total development site area equates to 6,612m<sup>2</sup>.

### **1.4 The issues**

The key issues in relation to the proposal relate to the unresolved submission to the proposal and the proposed variations to the height of building and the floor space ratio controls as specified in Clauses 4.3 and 4.4 respectively of the Liverpool Local Environmental Plan (LLEP) 2008. The applicant has submitted requests pursuant to clause 4.6 of the LLEP 2008 to vary both development standards specified above. The proposed variations are discussed in detail further in the report.

### **1.5 Exhibition of the proposal**

The proposal was exhibited on two separate occasions. The first exhibition period was from 29 October 2014 to 28 November 2014. During the first exhibition period, one submission was received. The main concerns raised in the submission were relating to road widening, the provision of storm water management and the overland flow path, and the potential overshadowing resulting from the non-compliant building height.

Amended plans were subsequently received and the proposal was exhibited for a second time. The second exhibition period was from 27 May 2015 to 11 June 2015. During the second exhibition period no submissions were received.

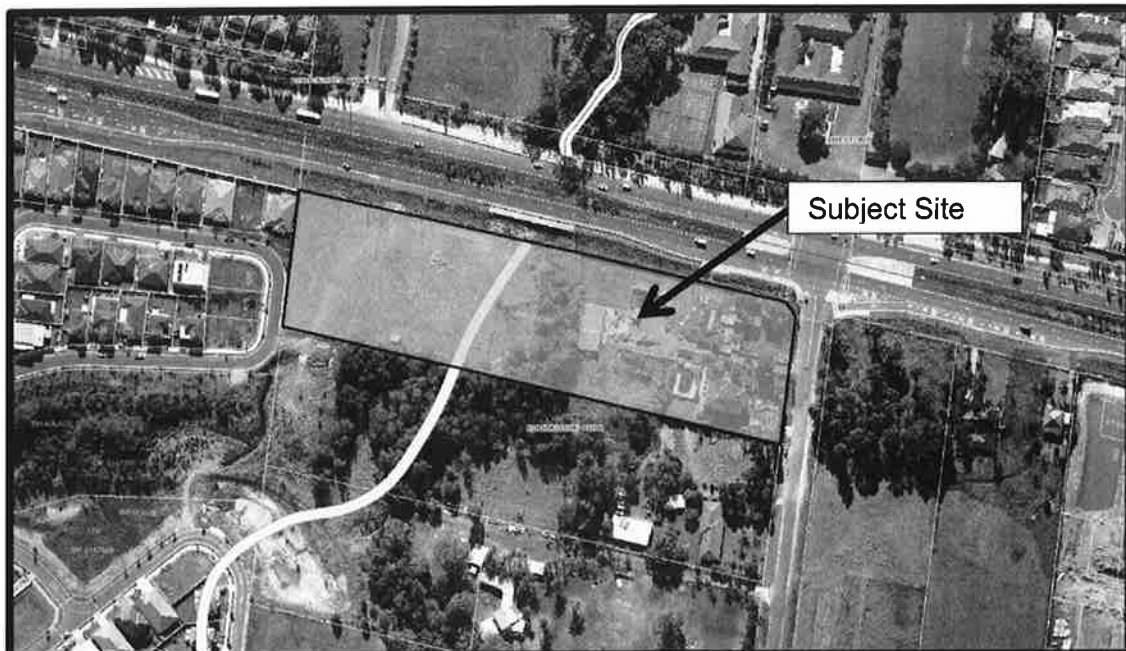
### **1.6 Conclusion**

The application has been assessed pursuant to the provisions of the EP&A Act 1979. Based on the assessment of the application and the consideration of the written requests to vary development standards, it is recommended that the application be approved subject to the recommended conditions of consent.

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

### **2.1 The Site**

The subject site is identified as Lot 1 in DP 774700, known as 5 Rynan Avenue, Edmondson Park. The site is rectangular in shape with a total area of 2.03Ha. The subject site is a corner allotment with two identifiable frontages. The primary frontage is to Rynan Avenue (69.2015m and a 9.12m splay), and a secondary frontage to Camden Valley Way (266.64m). The subject site is split zoned between an E3 Environmental Management zone, which is isolated to the western portion of the site; an RE1 Public Recreation, which is isolated to the centre of the site; and an R1 General Residential zone which encompasses the eastern portion of the site, with a small pocket in the north-western corner of the site. The proposed development is isolated to the R1 General Residential zone located on the eastern portion of the site. The total development site area equates to 6,612m<sup>2</sup>. Cabramatta Creek runs through the centre of the site from the northern boundary to the southern boundary. Currently the development site is vacant as all structures on site were approved for demolition under a complying development application on 11 June 2015. An aerial photograph of the subject site is provided in Figure 1 below.



**Figure 1: Aerial view of site.**

### **2.2 The Locality**

The surrounding locality is predominately characterised by large scale residential allotments that have been earmarked for future subdivision to create residential allotments.

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### **3. HISTORY**

#### **3.1 DA History**

- The application was lodged on 13 October 2014.
- The application was exhibited from 29 October 2014 to 28 November 2014.
- During the exhibition period one public submission was received.
- The proposal was presented to Council's former Design Review Panel (DRP) on 20 November 2014.
- Minutes from the DRP meeting were forwarded to Council on 17 December 2014
- A letter requesting amended plans was forwarded to the applicant on 6 February 2015.
- A meeting between Council staff and the applicant was undertaken on 16 February 2015 to discuss the concerns raised in Councils correspondence from 6 February 2015
- Further correspondence was forwarded to the applicant on 17 February 2015, requesting amended information due to traffic concerns.
- A briefing to the Sydney West Joint Regional Planning Panel (JRPP) was held on 25 February 2015.
- A request for an extension of time was forwarded by the applicant on 2 March 2015, requesting a 2 week extension as they were not able to meet the deadline in the letter forwarded by Council on 6 February 2015.
- Council granted the requested 2 week extension on 3 March 2015.
- Concept architectural plans were emailed to Council for comment on 16 March 2015.
- On 13 April 2015, Council provided comment, in response to the concept plans provided. Council outlined inconsistencies with the concept plans provided.
- A meeting was undertaken with the applicants and Council's development engineers on 15 April 2015, to discuss the requirements of the amended drainage plans, overland flow path and the need to increase the proposed road from a 6m wide laneway to a 14.2m wide local road.
- Amended plans and reports in response to Councils request for amended information was submitted on 15 May 2015.
- The application was again placed on exhibition from 27 May 2015 to 11 June 2015. No submission was received during this exhibition period.
- Further correspondence was sent to the applicant on 9 June 2015, detailing concerns raised from Councils Development Engineer, with regards to the amended plans provided.
- In response to the concerns raised in the correspondence sent on 9 June 2015, the applicant submitted amended engineering plans and an updated concept strategy on 18 June 2015.
- A further meeting was held between Council and the applicants on 10 July 2015, to discuss the engineering concerns, particularly regarding the road width of the proposed new road and the inconsistencies in the concept strategy and the impact on the overland flow path from Rynan Avenue.
- In response to the meeting held on 10 July 2015, the applicant submitted an updated set of stormwater plans and an updated stormwater concept strategy.

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**3.2 Pre DA Meeting**

A pre lodgement meeting with Council was held on 30 April 2014. The advice notes from the meeting identify the need for a Clause 4.6 variation, due to the non-compliant building height proposed. No other major concerns were raised in the pre lodgment meeting.

**3.3 Design Review Panel**

The subject application was presented to Council's former Design review Panel (DRP) on 20 November 2014. The DRP primarily raised concern that the proposed development did not respond to the intended character of the area indicated by Edmondson Park DCP, being a *Village Centre*. Having regard to the above, the DRP recommended the following design amendments;

- The development is to incorporate a mix of uses at the ground floor that would meet the need of the surrounding community and to stimulate street level access.
- Improved setbacks along Rynan Avenue and the proposed new road to improve exposure of the ground floor commercial units.

However comments received from Councils Strategic Planning Department, confirmed that the diagram in the Edmondson Park DCP 2008 incorrectly identifies the subject site as part of a village centre. The village centre is designated to the eastern portion of Rynan Avenue and not the subject site. Therefore the need to incorporate ground floor mixed uses is not considered necessary.

Other than the main concerns raised above, the DRP made recommendations requesting the relocation of the communal open space along the northern boundary between the ground floor northern units of building A and the acoustic barrier fronting Camden Valley Way.

Council concurred with these comments and as such, the applicant removed the communal open space along the northern boundary and increased the size of the ground floor courtyards of the northern units fronting Camden Valley Way. Council consider the proposed amendments satisfactory, as the amended design allows increased amenity and open space for the ground floor units.

The DRP also commented that the size of the communal open space for all buildings is insufficient. The size of the communal open space for all buildings have been significantly increased as part of the amended plans, from approximately 200sqm in the original design to approximately 1,250sqm on the latest plans..

Revised architectural plans were submitted following the DRP meeting. It is considered that the above recommendations have been incorporated into the revised plans and are satisfactory.

Notwithstanding the above it is noted that the DRP are no longer representing Council as they have been replaced by the Design Excellence panel (DEP), who commenced with Council in July 2015. It is therefore considered unreasonable to present the amended plans to the new panel as they have not reviewed the original

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proposal.

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

The specific details of the proposal are as follows;

Removal of trees on site, four lot Torrens title subdivision and the construction of three residential flat buildings as follows:

- Building A is proposed along the northern boundary of the development site fronting Camden Valley Way. Building A will be 5 storeys in height and contain 50 x 2 bedroom apartments.
- A one level basement will be constructed under building A and will contain 75 residential car spaces and 4 visitor spaces.
- Building B is proposed at the south eastern corner of the site and will be 5 storeys in height. Building B will contain 16 x 2 bedroom apartments.
- Building C is to be located at the south western portion of the site and will be 4 storeys in height. Building C will contain 8 x 2 bedroom apartments, 4 x 1 bedroom apartments and 4 x 3 bedroom apartments, equating to a total of 16 apartments.
- A two level basement is proposed under buildings B and C. The basement will cater for 49 residential spaces and 8 visitor spaces.
- The application also proposes a four lot Torrens title subdivision. One of the proposed lots is located at the north-eastern portion of the development site and has a site area of 3,079m<sup>2</sup>, which is to contain Building A. The second proposed lot is located at the south eastern corner of the development site and has a site area of 1,848m<sup>2</sup> and is to contain proposed buildings B and C. A proposed third lot 3 is located along the eastern portion of the development site and has a site area of 1,685m<sup>2</sup> and is to contain the proposed road that is to be dedicated to Council after construction.

A proposed fourth lot isolates the western portion of the site that is zoned RE1 Public Recreation and E3 Environmental Management Zone and the small pocket of R1 zoned land located at the far north-western corner of the development site. This residual lot equates to a total area of approximately 13,627m<sup>2</sup>. This lot is not proposed to be developed as part of the proposal.

Copies of the architectural plans are contained in attachments. Extracts of the plans for the proposal are shown below.

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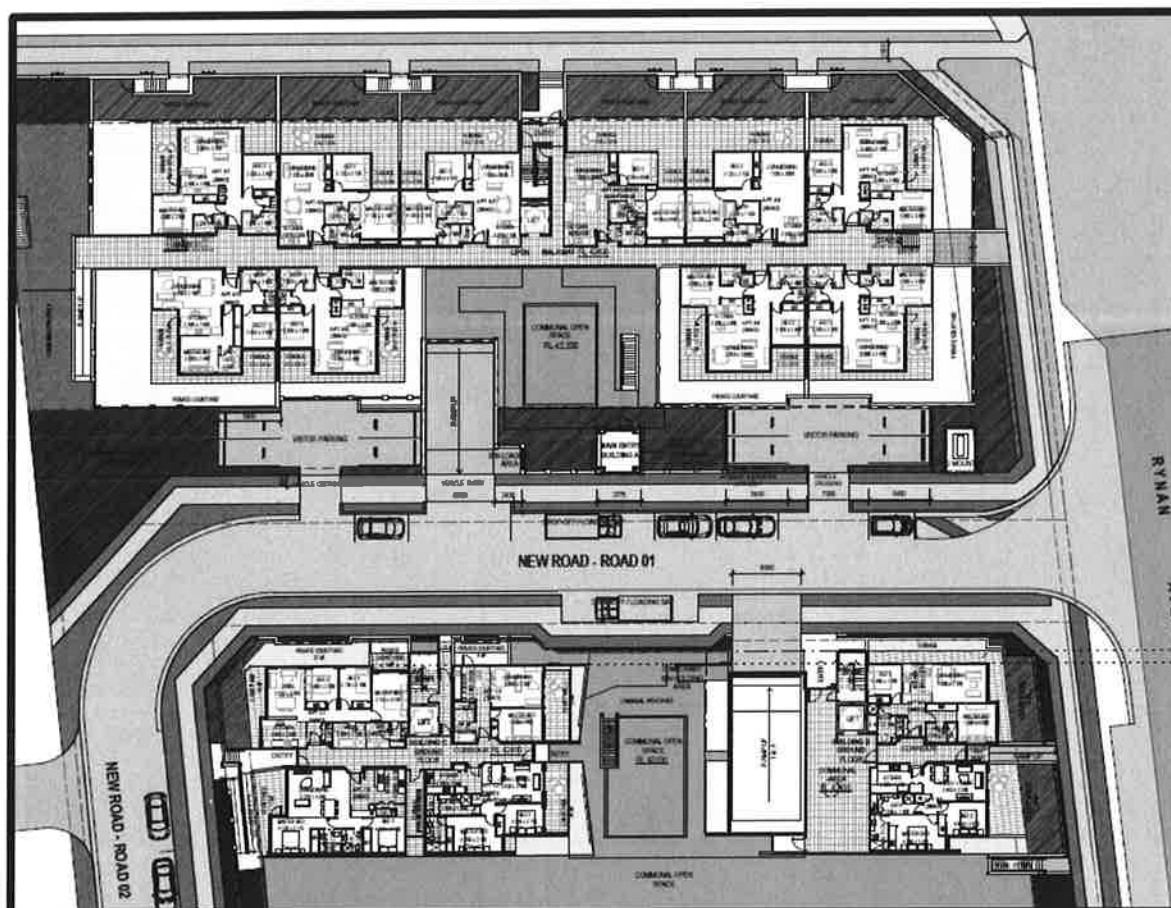


Figure 2: Ground floor plan



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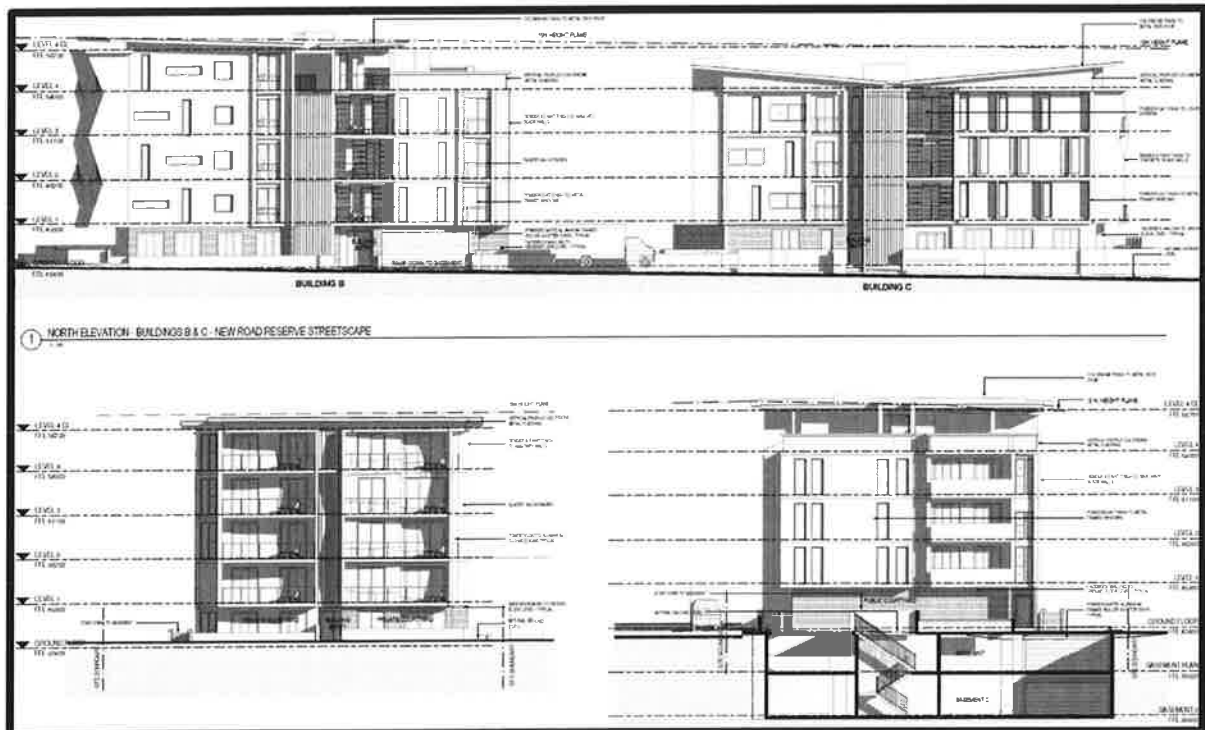


Figure 5: North Elevation Building B and C & East/West Elevation Building B

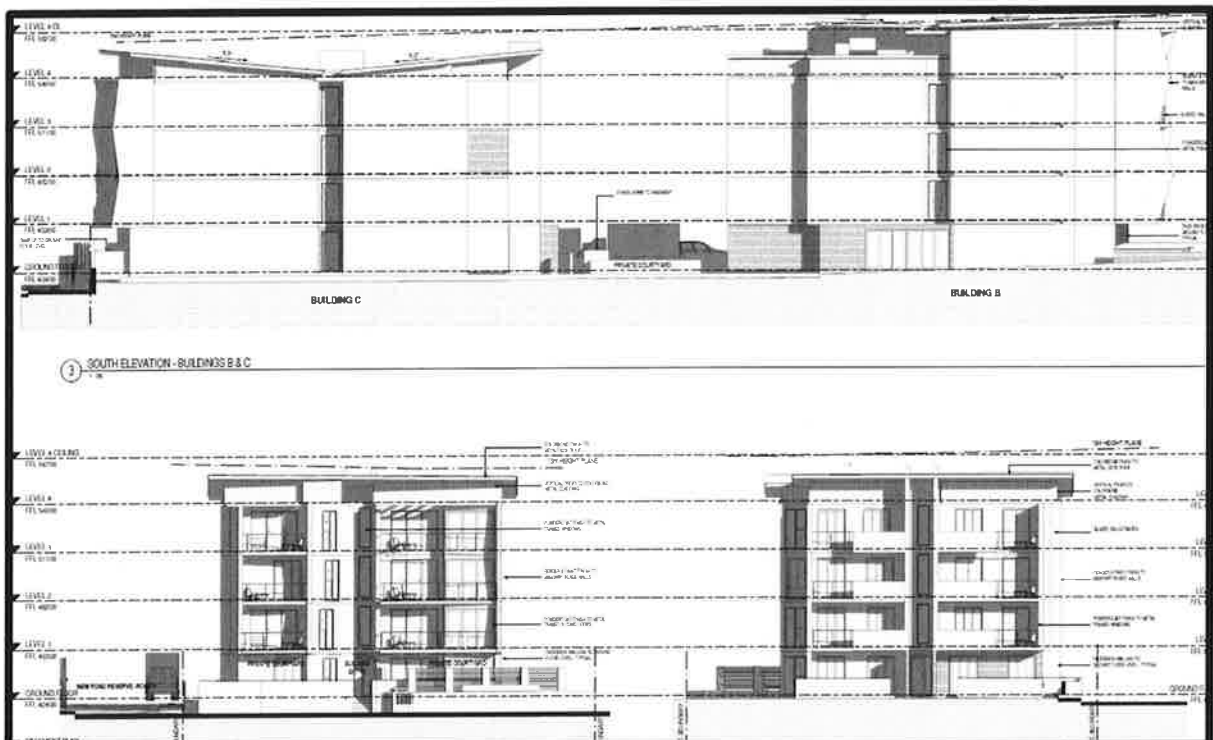


Figure 6: South Elevation Building B and C & East/West Elevation Building C

## 5. STATUTORY CONSIDERATIONS

### 5.1 Zoning and Permissibility

#### (i) Permissibility

The subject site is split zoned between an E3 Environmental Management zone, which is isolated to the western portion of the site, an RE1 Public Recreation Zone, which is isolated to the centre of the site and an R1 General Residential zone which encompasses the eastern portion of the site, with a small pocket in the north-western corner of the site. The proposed development is proposed on the eastern portion of the site that is zoned R1 General Residential.

The proposed development is most appropriately defined by the standard instrument as "Residential Accommodation" and more specifically "Residential Flat Building", which is a permitted land use in the R1 General Residential Zone. A residential flat building is defined as;

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

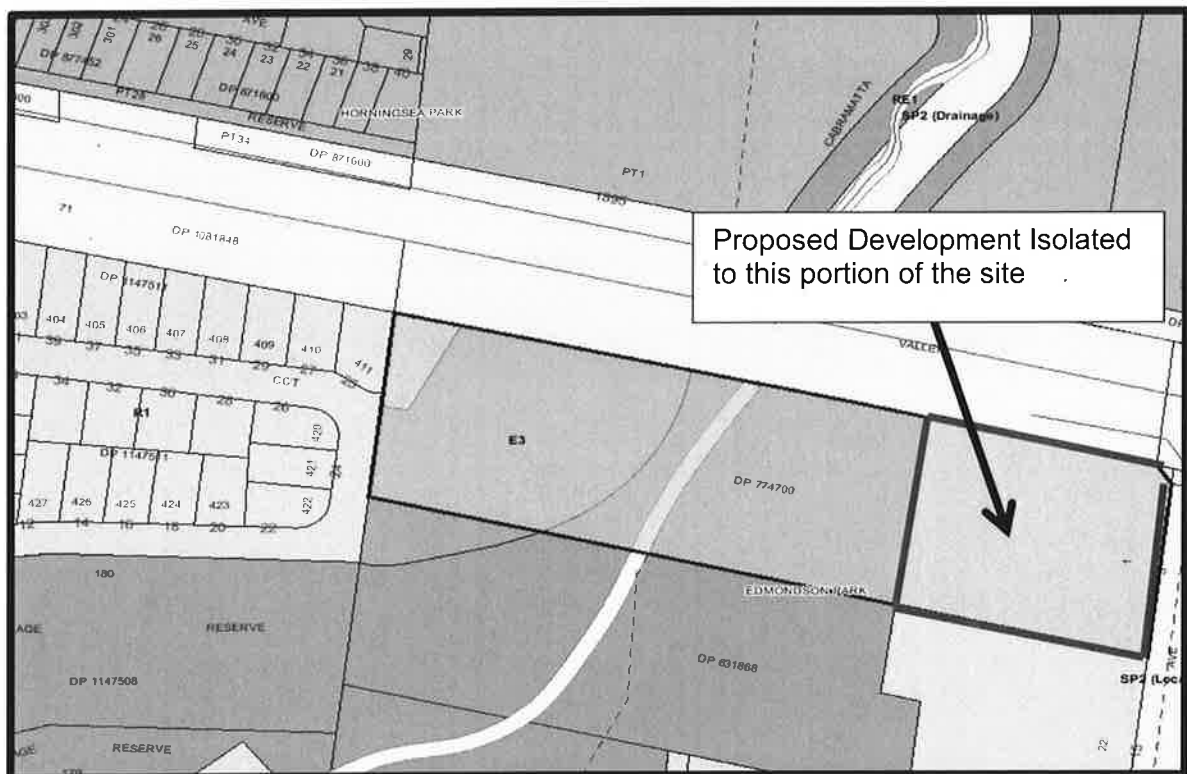


Figure 7: Extract from LLEP 2008 Zoning Map

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**(ii) Objectives of the Zone**

**5.2 Relevant matters for consideration**

The relevant planning considerations for the proposed development are listed below and are discussed in further detail in this report:

- Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment.
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Liverpool Local Environmental Plan 2008
- LDCP 2008;
  - Part 1: General Controls for All Development.
  - Part 2.11 – Land Subdivision and Development in Edmondson Park

**6. ASSESSMENT**

**6.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument**

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

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

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

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

<b>Clause 8 General Principles</b>	<b>Comment</b>
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	Proposal reviewed by Council's Engineers and considered satisfactory

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(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	A Stormwater concept plan was submitted and reviewed by Council's development engineers and is considered to be satisfactory.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	Consistent with the strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	All relevant State Government Agencies were notified of the proposal and invited to make comment. Specifically the NSW Office of Water.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential development.
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	<p>The proposal was referred to Councils Flooding Engineers and the following comments were provided;</p> <p><i>The property is affected by flooding under the 1% Annual Exceedance Probability (AEP) event and Cabramatta Creek runs through the site. However, the proposed residential buildings are located outside 1% AEP flood extent. The 1% AEP flood level in the vicinity of the proposed residential flat buildings is 41m Australian Height Datum (AHD).</i></p> <p>As the proposed development is not located within the floodway, the proposed development is recommended for approval subject to conditions of consent</p>
(4) Industrial discharges	Not applicable.

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(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss and is required prior to CC
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Stormwater Concept Plan submitted.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy.  The site is identified as being an Urban Release Area under LLEP 2008 and is suitable for residential development.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Erosion and sediment control to be implemented in construction. Salinity measures to be implemented during earthworks and construction.
(13) Wetlands	Not applicable.

Having regard to the above, it is considered that the proposal satisfies the provisions of the GMREP No.2. 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 No.65 – Design Quality of Residential Apartment Development**

The proposal has been assessed against the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65). Under the provisions of SEPP 65 Council is required to consider the following matters in the assessment of residential flat development:

- The advice from the relevant Design Review Panel.
- The design quality of the residential flat development when evaluated in accordance with the design quality principles.
- The Residential Flat Design Code prepared by the Department of Planning (sic).

The proposal was referred to the Design Review Panel as outlined earlier in this report above and their comments were incorporated into amended plans.

The design quality principles have been addressed by the design statement submitted by a registered architect which Council is generally in agreement with. It is considered that the proposal is in accordance with the design quality principles. The following table outlines compliance with the *Residential Flat Design Code*, where

numerical requirements ("controls") are specified.

Development Standard	Required	Proposed	Compliance
Building Depth	Max 10m – 18m	<p><b>Building A</b> = Reaches a maximum depth of 21.6m at the extremities of the building i.e. (eastern and western elevation)</p> <p><b>Building B</b> = 16.7m building depth</p> <p><b>Building C</b> = 17m building depth proposed</p>	<p><b>NO</b>(Even though building depth does not comply, building A has demonstrated that the building achieves the required solar access due to the majority of the units being orientated north and are appropriately ventilated.</p> <p>Yes</p> <p>Yes</p>
Building Separation	<p>Between building A &amp; B requires 18m</p> <p>Between building A &amp; C requires 18m</p> <p>Between building B &amp; southern boundary requires 12m for the first for storeys and 13m for the 5<sup>th</sup> storey. As it is a common boundary it is reasonable that the separation is divided equally among adjoining boundaries.</p>	<p>Proposed = 21.8m</p> <p>Proposed = 25m</p> <p>Proposed = 6m setback for all five storeys</p>	<p>Yes</p> <p>Yes</p> <p>The proposal complies for the first 4 storeys however does not meet the rule of thumb for the 5<sup>th</sup> storey. The proposed development would require a setback of 6.5m from the southern boundary to the fifth storey of building B. The setback proposed is 6m which fails to meet the required 6m. The 500mm shortfall is considered minor in this instance. The 500mm encroachment is to the southern elevation wall of building B. The southern elevation wall of building B contains</p>

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Development Standard		Required	Proposed	Compliance
		Between building C and southern boundary requires 12m. As above it is considered reasonable that the separation is divided equally among adjoining boundaries.	Proposed = 6m setback for all five storeys	no windows for the portion that encroaches. As such it is considered the proposed 500mm encroachment will not create a detrimental impact on privacy to Building B.  Yes
Deep Zones	Soil	25% of open space to be deep soil = Proposed development provides 2,330sqm of open space therefore 582.5m <sup>2</sup> of deep soil required	731.3sqm or 31%	Yes
Communal Open Space		25% of the total site area = 1,653sqm	1,250sqm or 19%	<b>NO</b> (Even though the proposed development has not achieved the required communal open space over all, when taking into account the separate lots upon subdivision the development will achieve the required communal open space per lot. Moreover, a large portion of the development site i.e.



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Development Standard	Required	Proposed	Compliance
	Provide safe entrance	is included requiring the entrances to the buildings along the ground floor be further defined to allow a clear connection to the streets.  As stated above the proposed entrances will be further enhanced for safety reasons through conditions of consent.	Yes (Through conditions of consent)
	Provide equitable entrance	All entrances provide accessibility ramps for entry	Yes
Parking	Provide underground car parking	Underground parking provided for vehicles and bicycles	Yes
	Provide bicycle parking		
Pedestrian Access	Barrier free access to at least 20% of dwellings	Access to apartments comply with the relevant Australian Standards	Yes
Vehicle Access	Max width of driveway is 6m	Driveway width is a maximum of 6m and is located away from pedestrian access	Yes
	Located vehicle entry away from pedestrian entry		
Apartment Layout	Single aspect max depth is 8m from a window	Single aspect apartments within building A have a maximum depth of 8m from a window. There	Yes

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Development Standard	Required	Proposed	Compliance
		are no single aspect apartments in building B and C	
	Back of kitchen should be no more than 8m from a window	All units achieve a maximum of 8m from the back of the kitchen to the window	Yes
	Width of cross-over or cross-through apartments over 15m, should be min. 4m deep	No crosses through apartments exceed a depth of 15m.	Yes
	Min apartment size:		
	1 Bed- 50 m <sup>2</sup>	All 1 bedroom apartments equate to a minimum 50sqm.	Yes
	2 Bed – 70m <sup>2</sup>	All 2 bedroom apartments equate to 75sqm or greater	Yes
	3 bed – 95m <sup>2</sup>	All 3 bedroom apartments equate to 80sqm	<b>NO</b> (Units still considered sufficient size and have demonstrated the capability of accommodating 3 bedrooms effectively)
Apartment Mix	Provide an apartment mix	Appropriate apartment mix provided. Of the total 82 apartments 4 one bedroom apartments are proposed, 74 two bedroom apartments are proposed and 4 three bedroom apartments are	Yes

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Development Standard	Required	Proposed	Compliance
		proposed.	
Building Configuration	Balconies have a minimum depth of 2m	All balconies have a minimum depth of 2m	Yes
	Ceiling Heights 2.7m habitable 2.4 non habitable	Ceiling heights of 2.9m proposed throughout all three buildings.	Yes
	Storage 1 bed – 6m <sup>3</sup> 2 bed – 8m <sup>3</sup> 3+ bed – 10m <sup>3</sup>	Adequate storage is provided for each unit, split between the basement and within the units.	Yes
Internal Circulation	Units accessed from a single corridor is 8	Maximum number of units accessed off a corridor in Building A is 10	<b>NO</b> (The proposed development has achieved the desired streetscape character, the proposal does not compromise the amenity of the residents and has demonstrated compliance with the BCA and relevant Fire Safety Standards.)
		Maximum number of units accessed off a corridor in Building B and C is 4	Yes
Acoustic Privacy	Like rooms together	This is primarily achieved throughout the proposed buildings	Yes
Daylight Access	70% of units to receive 3 hours of daylight between 9am – 3pm In dense urban areas a minimum of two hours is considered	80% of apartments achieve a minimum of 3 hours of solar access.	Yes

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Development Standard	Required	Proposed	Compliance
	acceptable.		
Natural Ventilation	60% of units to be naturally cross ventilated	85% of units are naturally ventilated. cross-	Yes

Planning Design Principle	Requirement	Comments
1. Context	<p>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</p> <p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	Built form is considered consistent with the desired future character of the area. The surrounding area is currently in a transition phase that is intended to cater for a variety of residential dwelling types.
2. Scale	<p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and</p>	Proposed development is considered to be of an appropriate bulk and scale. The development is found to be generally consistent with the objectives of the applicable height and FSR controls on the site and is consistent in terms of bulk and scale.

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	height needs to achieve the scale identified for the desired future character of the area.	
3. Built Form	<p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	Proposed building is the first of its kind in the area. The proposed development is considered to present an aesthetically pleasing presentation to the street. The proposal also incorporates suitable articulation techniques to enable a desirable design outcome.
4. Density	<p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	The development has proposed an appropriate density requirement; it proposes a compliant FSR when considering the development site as a whole and is consistent with desired future character of the area.
5.Resource, energy and water efficiency	Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process.	The proposed development is consistent with the BASIX requirements applicable and with the BASIX certificates and reports provided. The proposed development has maximised

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	<p>Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>solar access and natural ventilation, based on the design.</p>
6. Landscape	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p> <p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by coordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</p> <p>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical</p>	<p>An aesthetically pleasing landscape design has been proposed and corresponds well with the built form.</p>

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	establishment and long term management.	
7. Amenity	<p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	Amenity provided in terms of sunlight and natural ventilation is considered acceptable in this instance.
8. Safety and Security	<p>Good design optimises safety and security, both internal to the development and for the public domain.</p> <p>This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private space.</p>	Proposed development allows for an increase in safety and security through both mechanical and natural surveillance. The design of the units lends itself to appropriate natural surveillance within the site and along the street.
9. Social Dimensions	Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New	Development proposes an appropriate apartment mix to cater for a range of markets.



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	developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.	
10. Aesthetics	<p>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.</p> <p>Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</p>	Appropriate building materials are proposed to be used as part of the development. A range of building materials to create an interesting streetscape.

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

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The proposal involves a change of use of land with the potential (*agricultural/horticultural activities*) under the SEPP 55 guidelines to be a site that could be contaminated.

A stage 1 and 2 contamination assessment along with a salinity assessment was submitted as part of the application. The contamination and salinity assessment were prepared by EIS.

The contamination assessment identifies that the site is suitable for residential development provided that a hazardous building material survey is undertaken of the existing buildings prior to demolition; and a contingency plan is developed to manage any unexpected finds of asbestos containing materials.

During the assessment of the proposal the existing structures on site were demolished as part of a compliant development certificate approval. Therefore a hazardous building material survey can no longer be undertaken. The above reports were reviewed by Councils Environmental Health department and considered worthy of support in this instance.

<b>Clause 7 - Contamination and remediation to be considered in determining development application</b>	<b>Comment</b>
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	A contamination assessment has been submitted as part of this application and reviewed by Council's Environmental Health Department.
(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 submitted assessment concludes the site is suitable for residential development.
(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 contamination reports provided have indicated that no remediation is required.

Therefore it is considered the subject proposal is consistent with the requirements of SEPP 55 and is worthy of support in this instance.

**(c) State Environmental Planning Policy (Infrastructure) 2007**

The subject site has a secondary frontage to Camden Valley Way. Camden Valley Way is a Classified Road and as such the proposal must be considered under the relevant provisions of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). Specifically the following clauses have been considered during the assessment of this proposal.

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**101 Development with frontage to classified road**

*(1) The objectives of this clause are:*

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

*(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

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

**Comment:** Vehicular access and egress to the development site is provided off a new proposed road that is to be created as part of the proposal. The Roads and Maritime Services (RMS) have reviewed the application and considered it to be satisfactory, subject to conditions of consent. The conditions of consent from the RMS are attached to this report.

The applicants have provided an Acoustic Impact Assessment prepared by Acoustic Logic dated 25/2/15. The assessment recommended noise attenuation measures that will alleviate any detrimental acoustic impact on the proposed development that would be generated by the potential main road noise. The report was reviewed by Councils Environmental Health Department and considered satisfactory. As such conditions of consent will be imposed requiring the recommendations of the report be implemented during construction. Therefore with the implementations of the recommendation of the Acoustic report it is considered that the proposal will reduce the potential impact of traffic noise on the proposed development.

Given the above it is considered that the subject proposal meets the relevant objectives and regulations of Clause 101. The proposed development has incorporated practicable vehicular access and sufficient noise attenuation measures to ensure the proposed development is suitable and will not compromise the operation of Camden Valley Way.

**102 Impact of road noise or vibration on non-road development**

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*
- (a) a building for residential use,*
  - (b) a place of public worship,*
  - (c) a hospital,*
  - (d) an educational establishment or child care centre.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
  - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (4) *In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.*

**Comment:** In response to the above clause the applicant submitted an acoustic assessment, prepared by Acoustic Logic, dated 25 February 2015. The report recommended a variety of acoustic treatments to comply with the SEPP Infrastructure. The acoustic assessment was reviewed by Council's Environmental Health Department and found to be satisfactory. Therefore conditions of consent have been included, that ensure the recommendations specified in the acoustic report will be implemented during the construction.

Given the above it is considered that the subject proposal meets the relevant objectives and regulations of Clause 102. The proposed development has incorporated suitable acoustic treatments in accordance with the submitted acoustic report to comply with the relevant requirements of the Infrastructure SEPP.

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

The subject site is split zoned between an E3 Environmental Management zone, which is isolated to the western portion of the site, an RE1 Public Recreation Zone, which is isolated to the centre of the site and an R1 General Residential zone which encompasses the eastern portion of the site, with a small pocket in the north-western

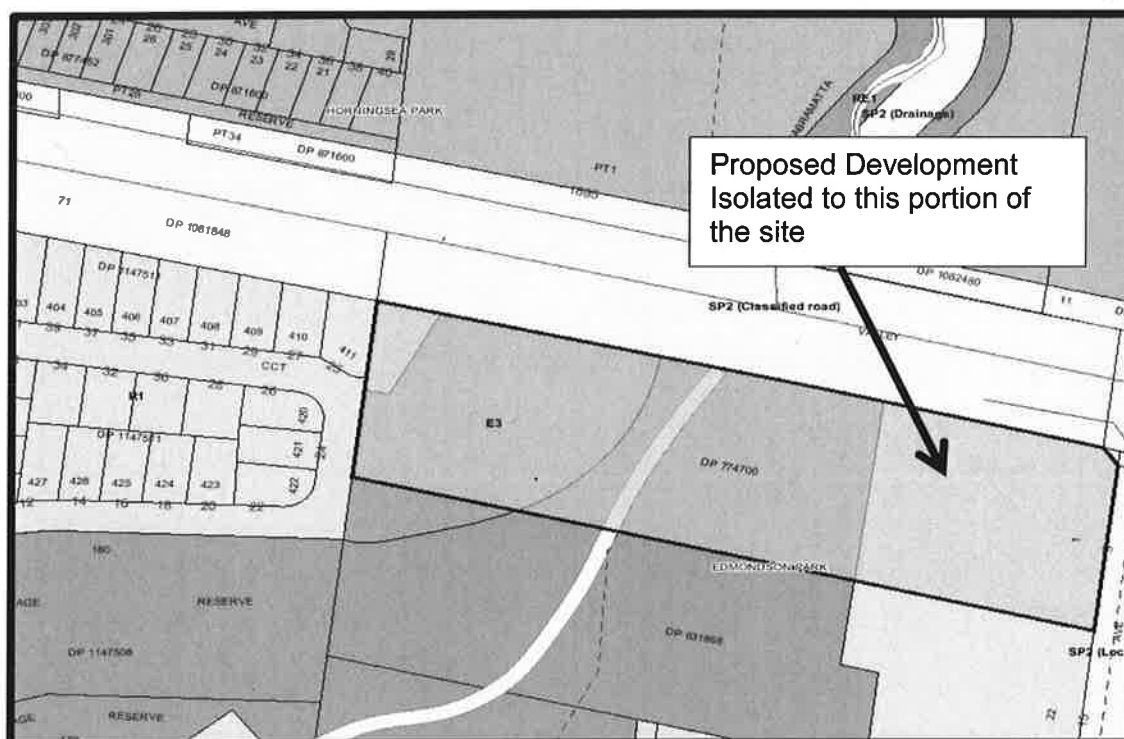
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corner of the site. The proposed development is proposed on the eastern portion of the site that is zoned R1 General Residential.

The proposed development is most appropriately defined by the standard instrument as “Residential Accommodation” and more specifically “Residential Flat Building”, which is a permitted land use in the R1 General Residential Zone. A residential flat building is defined as;

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



**Figure 8: Zoning Map**

**(ii) Objectives of the zone**

The objectives of the R1 General Residential Zone under the LLEP 2008 are as follows;

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents.*

The proposed development provides housing needs for the community. The proposed development also provides an opportunity for the provision of a variety of housing types and densities in a developing area. Having regard to the above it is

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considered that the proposed development is consistent with the objectives of the R1 General Residential Zone.

### (iii) Principal Development Standards

The following principal development standards are applicable to the proposal when assessed against the LLEP 2008:

DEVELOPMENT PROVISION	REQUIREMENT	PROPOSED	COMMENT
4.1 Subdivision Lot Size	Minimum 300m <sup>2</sup>	Lot 1 = 3,079m <sup>2</sup> Lot 2 = 1,848m <sup>2</sup> Lot 3 = 1,685m <sup>2</sup> (Road dedication) Lot 4 = 6,963m <sup>2</sup>	Yes Yes Yes Yes
4.3 Height of Buildings	Maximum 15m	Building A = Varies from 15m to 15.9m at its worst point to top of roof and 16m to top of lift overrun along the northern/western elevation.  Building B = Varies from 15.1m to 15.9m at its worst point along the western elevation inclusive of the lift overrun  Building C = 13.9m	<b>NO</b> (See clause 4.6 variation below), variation equates to 6.67%  <b>NO</b> (See clause 4.6 variation below) variation equates to 6%  Yes
4.4 Floor Space Ratio	Maximum 1:1	Overall FSR = 0.96:1 (6,330.5:6,612)  Lot containing building A = 1.2:1 (3,760:3,079) exceed by 681m <sup>2</sup>  Lot containing buildings B and C = 1.4:1 (2,570.5:1,848) exceed by 722.5m <sup>2</sup>	Yes  <b>NO</b> (See clause 4.6 variation below) variation equates to 22%  <b>NO</b> (See clause 4.6 variation below) variation equates to 39%

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5.9 Preservation of trees or vegetation	Provides when consent is required to be granted subject to the provision of this clause to remove trees or vegetation	Site has been identified as containing a threatened ecological community. However the proposed works are restricted to previously disturbed portions of the site. As such it is considered that no further assessment of ecological matters is required.  Subject site is also identified as 'certified' pursuant to the Sydney Region Growth Centres 2006 Biodiversity Certification Order. As such in accordance with Part 5 of the order a Flora and Fauna assessment is not required. Several trees are being removed which is considered acceptable in this instance.	Yes
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Provided by conditions of consent	Yes
7.8 Flood Planning	Compliance with clause discussed below	Compliance with clause discussed below	Yes
7.11 Minimum Dwelling Density	To be as per dwelling density map, 12 dwellings required.	82 Dwellings provided	Yes
7.13 Minimum Lot Width in Zones R1, R2, R3 and R4	Minimum width 10m	All lots accommodating residential development i.e. lots 1 and 2 exceed 10m in width	Yes
7.31 Earthworks	Council to consider matters listed (a)-(g)	Matters addressed by applicant and considered by Engineers – conditioned as required	Yes

### Clause 7.8 Flood Planning

The subject site is located on the Cabramatta Creek Floodplain. The site is affected by flooding under the 1% Annual Exceedance Probability (AEP) event and Cabramatta Creek runs through the site. As a consequence of the subject site being flood affected, the proposal has to be assessed under the relevant provisions of Clause 7.8 of the LLEP 2008, specifically clause 7.8(3) (a-f).

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Clause 7.8(3) states the following;

- (a) is compatible with the flood hazard of the land, and*
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
- (f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with the Floodplain Development Manual.*

**Comment:** The development proposal was referred to Council's flooding engineers. In response to the referral Council's flooding engineers advised the following;

The subject site is located on the Cabramatta Creek floodplain. The property is affected by flooding under the 1% Annual Exceedance Probability (AEP) event and Cabramatta Creek runs through the site. However, the proposed residential buildings are located outside 1% AEP flood extent. The 1% AEP flood level in the vicinity of the proposed residential flat buildings is 41m Australian Height Datum (AHD). The habitable floor level of all three buildings begin at RL 42.4 AHD at the ground floor.

Council undertook a study titled "Modification of Creeks in Edmondson Park" with the objective of implementing flood mitigation measures within the Cabramatta Creek riparian corridor so that the developments in Edmondson Park area can be implemented as per Council's LEP 2008. FloodMit Pty Ltd conducted the flood modelling for this study and a concept design was prepared under the study for implementing flood mitigation measures and water quality basins within the Cabramatta Creek corridor. The proposed development is considered achievable as per the findings of the Flood Report by FloodMit Pty Ltd (June 2014).

In response to the requirements of clause 7.8(3), the following comments are provided;

- (a) is compatible with the flood hazard of the land, and*

**Comment:** As advised by Council's flooding engineers above, the proposed development is considered viable and will not generate an adverse flood hazard or create a further detrimental impact with regards to flooding.

- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

**Comment:** - Hydraulic modelling (ref: Flood Report by FloodMit Pty Ltd, June 2014) undertaken as part of a Council's study titled "Modification of Creeks in Edmondson Park" has confirmed that the site can be developed as per Council's LEP 2008. The riparian corridor of Cabramatta Creek is located within the



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proposed rear residue lot and no physical work is proposed within this lot. The proposed residential flat buildings are located outside the 1% AEP flood extent and hence the development will not adversely affect the flood behaviour in the vicinity and will not adversely impact other adjacent developments or properties.

- (c) incorporates appropriate measures to manage risk to life from flood, and*

**Comment:** - The proposed building structures are located outside the main flood flow areas and the 1% AEP flood extent. As such, the proposed development will not have adverse impact on flood flow distributions and velocities and therefore will not pose a risk to life from flood

Moreover the floor levels of the proposed buildings will be constructed at levels, which are higher than the 1% AEP flood plus half a metre freeboard and hence the building floors are not subject to flooding up to 1% AEP flood event. The proposed development will have reliable access for pedestrians and vehicles from the lowest habitable floor level to a location above the Probable Maximum Flood. As such it is considered that the development will enable the safe occupation and evacuation of human life.

- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*

**Comment:** The proposed development sites are located outside the 1% AEP flood extent and therefore, the developments will not cause change to flow depth, flow distribution and velocities. Hence the development will not induce erosion, siltation or instability of watercourse and will not cause destruction of riparian vegetation.

- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*

**Comment:** The proposed development site is located outside the 1% AEP flood extent. As per Council's conditions of consent, the proposed development will be designed to minimize potential flood related damages in terms of building floor levels and material selection. Thus the proposed development offers a sustainable approach to the social and economic costs of the local and general community.

- (f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with the Floodplain Development Manual.*

**Comment:** The proposed development is consistent with the flood study undertaken for Edmondson Park, prepared by FloodMit as stated above.

**Conclusion:** Having regard to above it is considered the proposed development is compliant with clause 7.8 and will not create any detrimental impact with regards to flooding on the surrounding properties and the locality as a whole.

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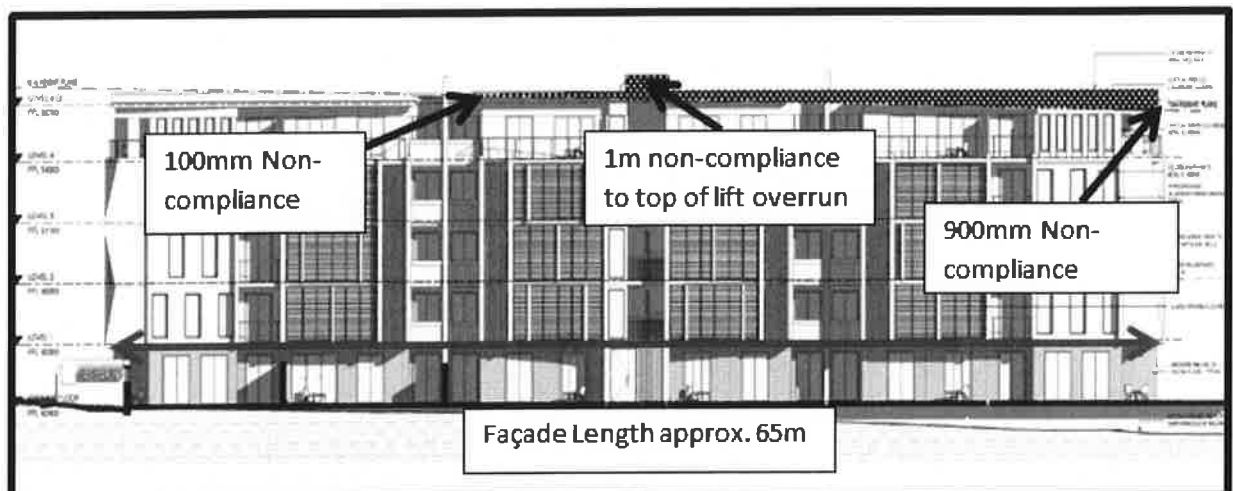
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Clause 4.6 variation to Clause 4.3– Height of Buildings

Clause 4.3 of the LLEP 2008 states;

- (1) *The objectives of this clause are as follows:*
- (a) *to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
  - (b) *to permit building heights that encourage high quality urban form,*
  - (c) *to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
  - (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The maximum building height permitted on this site is 15m. Both Buildings A and B exceed the maximum height of 15m. Building A proposes a varying height of 15m to maximum height of 15.9m, reaching the highest point along the furthestmost western portion of the north elevation as shown in Figure 9 below. The proposed building height also presents a maximum height of 16m at its highest point to top of lift overrun at the centre of the northern elevation façade. The extent of the height non-compliance for Building A equates to a maximum 6.67%

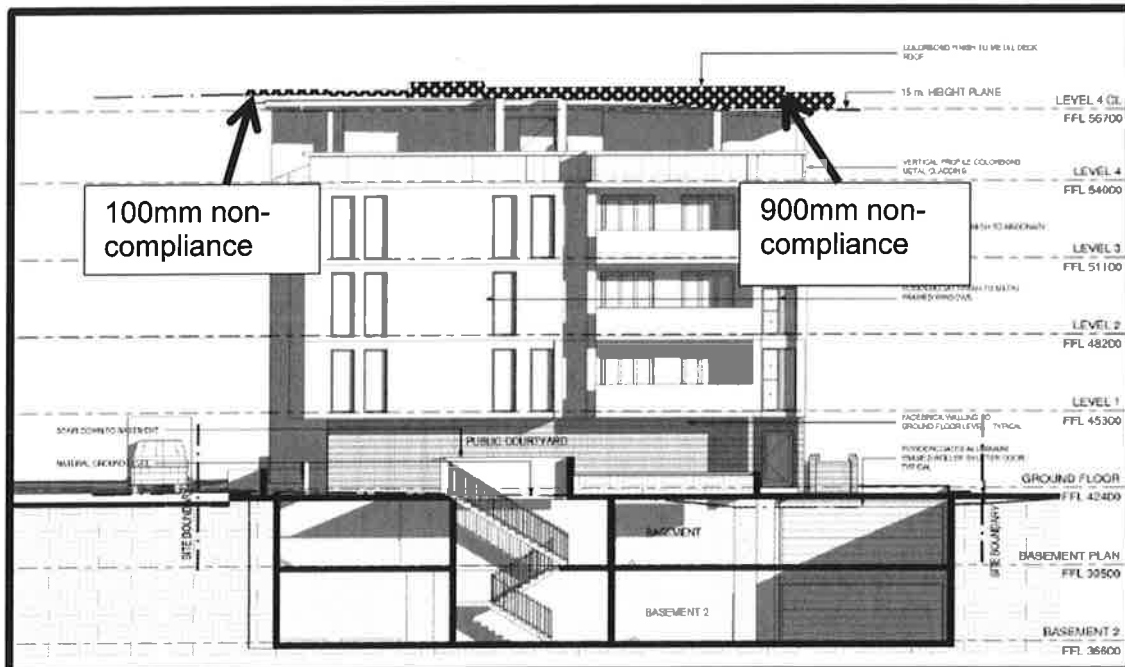


**Figure 9: Building Height Non-Compliance Building A**

Building B proposes a varying height of 15m to a maximum height of 15.9m, reaching the highest point, along the western elevation inclusive of the lift overrun as shown in Figure 10 below. The extent of the non-compliance for building B equates to 6%.

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**Figure 10: Building Height Non-Compliance Building B**

As a consequence of the height non-compliance for buildings A and B the applicant has, pursuant to Clause 4.6 of the LLEP 2008 submitted a written request seeking a variation to the height of building, as prescribed by Clause 4.3.

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes:

*"Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

The applicant has provided justification for the departure to the development standard summarised as follows:

- *The permissible floor space is achieved by the proposal with the distribution of floor space between three residential building. This breaks up the overall built form and reduces the bulk of the proposal.*

- *The proposal displays high quality urban form. The height and floor plate size and layout of each building is distinctly different and this adds variety and interest to the streetscape. The buildings enhance the aesthetic quality, utility and amenity of the locality and are of a form that is anticipated by the applicable planning controls.*

*The separation between the buildings exceeds the requirements of the RFDC. In conjunction with three separate building forms this allows for a large proportion of dual aspect apartments. All apartments have primary orientation to a public road and/ or large areas of open space which enhances the privacy and amenity of apartments.*

*The degree to which Building A exceeds the maximum height limit does not substantially change the overall appearance of the buildings and would not be readily apparent to the casual observer at street level. The site is a prominent corner and a 'gateway' point to Edmondson Park. Tall buildings distinguish this entry point and are exemplary of the desired character for this location as described in LDCP 2008.*

*The lift overruns are recessed from the perimeter of both buildings and will not be readily apparent to the casual observer from adjoining streets. The lift overruns are the minimum required to accommodate essential mechanical equipment and will not detract from the aesthetic and architectural quality of the buildings.*

- *The proposed building height does not result in detrimental amenity impacts due to shadow in comparison to a compliant building height. The non-compliant section of the roof of Building A is at a maximum 800mm above the 15m height limit and does not significantly add to the overall shadow cast by the building onto neighboring properties between 9am and 3pm in midwinter.*

*The lift overruns are located in the centre of Building A and B and do not contribute to shadowing.*

- *The proposed building heights are consistent with the desired future character and intensity of development for the site as described in the Liverpool DCP 2008.*

*The proposed height encroachment will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the Environmental Planning & Assessment Act 1979.*

- *The proposal requests a variation to the height controls that will enable delivery of a well-designed medium density housing development. In the absence of any significant amenity impacts the minor breach for the western portion of Building A and for the lift overruns of Building A and B are far more desirable than lower bulkier buildings, increased site coverage and reduced building separation that may result from the redistribution of floor space horizontally.*
- *There is no planning purpose to be served by limiting the height strictly to the 15m allowable given the achievement of high quality design and absence of*

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*amenity related impacts and the minor nature of the non-compliance. The proposed height will not offend the objectives of the LEP height control.*

The following comments are offered in response to the Clause 4.6 variation sought to Clause 4.3:

- The extent of the encroachment being a maximum of 1m for both buildings is considered minor in this instance and does not result in any significant additional or detrimental overshadowing or privacy impacts to the surrounding properties.
- The proposed non-compliance is limited to the upper roof level of the proposed buildings and does not generate the ability for additional floor space to be created.
- The proposed buildings have been designed to accommodate the east to west slope of approximately 1m that exists on site. As a consequence of the slope, both buildings A and B reach a maximum height non-compliance along the western portions of the buildings.
- Despite the non-compliance, it is considered that the proposed development is capable of meeting the objectives of clause 4.3, in that the proposal demonstrates a high quality design and is able to accommodate a reasonable gross floor area (GFA), given the site characteristics.
- The proposed development is considered to be of a suitable bulk and scale.

Clause 4.6 variation to Clause 4.4– Floor Space Ratio

Clause 4.3 of the LLEP 2008 states;

(1) *The objectives of this clause are as follows:*

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

(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 (FSR) permitted on site is 1:1. When taking into account the development site as a whole the proposed FSR is 0.96:1, which is

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compliant with the maximum FSR permitted.

Notwithstanding the above, as the proposal incorporates Torrens title subdivision, the FSR of each lot containing residential development must be calculated separately as each lot will eventually be independent. Therefore when calculating FSR on a site by site basis the maximum FSR is exceeded. On this basis the variation is considered to be of a technical nature as a result of the interpretation of FSR as defined within the LLEP 2008.

With regards to the proposed lot that is to contain Building A, the proposed site area is 3,079m<sup>2</sup>. As such, when calculating the GFA for building A, the total FSR for the lot equates to 1.2:1, exceeding the maximum FSR permitted by 681m<sup>2</sup> and representing a variation of 22%.

Similarly when taking into account the proposed lot that is to contain buildings B and C, the proposed site area is 1,848m<sup>2</sup>. As such, when calculating the GFA for buildings B and C, the total FSR for the lot equates to 1.4:1, exceeding the maximum FSR permitted by 722.5m<sup>2</sup> and representing a variation of 39%.

As a consequence of the FSR non-compliance, the applicant has, pursuant to Clause 4.6 of the LLEP 2008 submitted a written request seeking a variation to the height of building, as prescribed by Clause 4.3.

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes:

*"Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (c) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (d) *that there are sufficient environmental planning grounds to justify contravening the development standard."*

The applicant has provided justification for the departure to the development standard summarised as follows:

- *The subject site is a large residentially zoned parcel of land that is identified as having a maximum FSR of 1:1. The site as a whole, has been designed to provide less than the maximum permitted gross floor area that has been afforded to the site. The density that was applied to the site was done so in light of the strategic context of the area and the ability of the local infrastructure, roads and services to accommodate that density. As the*

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*proposal relates to a technical non-compliance arising from subdivision of the site into smaller parcels of land, the level of density provided across the development site as a whole, is commensurate with the level of activity that was expected as part of drafting the FSR controls.*

- *The proposed FSR non-compliance is technical and would not arise if it was not for the subdivision of the land.*
- *The development has been designed and sited to ensure that no significant or adverse environmental impacts result on the adjoining properties.*

The following comments are offered in response to the Clause 4.6 variation sought to Clause 4.3:

- Despite the non-compliance, the proposed GFA when taking into account the entire development site of 6,612m<sup>2</sup> is 281.5m<sup>2</sup> under the maximum GFA permitted, represents a compliant FSR.
- The ability to comply with the maximum FSR in this instance is further restricted by the fact the proposal is to dedicate a land area equating to 1,685m<sup>2</sup> for the purpose of a local road.
- The proposed development is considered to be of an appropriate bulk and scale when taking into account the development site as a whole.
- Despite the non-compliance the proposal will remain consistent with the desired future character of the area.
- It is noted that the proposed local road is not required under the LDCP 2008; however, the road was requested by Council to ensure a quality design outcome is achieved for the development in respect to building frontages and accessibility

Having regard to the above it is considered the clause 4.6 variation to the FSR development standard is worthy of support in this instance.

**6.2 Section 79C(1)(a)(ii) - Any Draft Environmental Planning Instrument**

No applicable draft planning instruments apply to the proposal.

**6.3 Section 79C(1)(a)(iii) - Provisions of any Development Control Plan**

Liverpool Development Control Plan 2008 (LDCP 2008), Part 1 and Part 2.11 apply to the site. An assessment of the proposal against the controls contained within LDCP 2008, Part 1 are outlined in the table below.

LDCP 2008, Part 2.11, does not contain specific controls relating to Residential Flat Buildings. The controls contained within part 2.11 are more general in nature and are summarized within the table below. The LDCP 2008 does not contain specific controls for Residential Flat Building development, unless it is located within the Liverpool City Centre or within an R4 zone.

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Controls	Comment	Complies
<b>PART 1 – General Controls For All Development</b>		
2. TREE PRESERVATION	Several trees removed as part of the proposal. Subject trees proposed to be removed are considered insignificant and therefore their removal is considered acceptable.	Yes
3. LANDSCAPING	A proposed landscape plan has been submitted. The proposed plantings are considered acceptable	Yes
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	<p>Site has been identified as containing a threatened ecological community. However the proposed works are restricted to previously disturbed portions of the site. As such, it is considered that no further assessment of ecological matters is required.</p> <p>Subject site is also identified as 'certified' pursuant to the Sydney Region Growth Centres 2006 Biodiversity Certification Order. As such in accordance with Part 5 of the order a Flora and Fauna assessment is not required. Several trees are being removed and is considered acceptable in this instance.</p>	Yes
5. BUSH FIRE RISK	At the time of lodgment the development site was identified as bushfire prone land, however during the assessment process, Council's bushfire maps were updated and the subject site is no longer bushfire affected.	N/A
6. WATER CYCLE MANAGEMENT	A Stormwater Concept Plan was submitted. The Storm water plans were reviewed by Council's	Yes



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	<p>development engineer and are considered acceptable.</p> <p>As Cabramatta Creek runs through the site the application was referred to the NSW Office of Water.</p> <p>The NSW Office of Water responded on 7 November 2014 and stated that they have reviewed the documentation submitted with the DA and considers for the purpose of the Water Management Act 2000, a controlled activity approval is not required, as the proposed activity is not occurring on waterfront land.</p>	
7. DEVELOPMENT NEAR A WATERCOURSE	As above Cabramatta Creek runs through the site. The NSW Office of WATER have reviewed the documentation and advised that a controlled activity approval is not required, as the proposed activity is not occurring on waterfront land.	Yes
8. EROSION AND SEDIMENT CONTROL	An Erosion and Sediment Control plan has been submitted as part of the Soil and Water Management plans. Appropriate conditions of consent will be imposed.	Yes
9. FLOODING RISK	The property is affected by flooding under the 1% Annual Exceedance Probability (AEP) event and Cabramatta Creek runs through the site. However, the proposed residential buildings are located outside 1% AEP flood extent. The proposal was reviewed by Councils Flooding Engineers and consider the application is	Yes

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	worthy of support.	
10. CONTAMINATION LAND RISK	The applicants have submitted a phase 1 and phase 2 contamination assessment. The conclusion of the phase 2 contamination assessment, stipulated that the subject site is suitable for residential development. Details of the contamination assessment are provided above under the SEPP 55 assessment.	Yes
11. SALINITY RISK	The salinity assessment submitted with the application identifies management practices to be undertaken during earthworks and construction. The recommendations of the salinity assessment will form part of the conditions of consent	Yes
12. ACID SULFATE SOILS	The subject site is not identified on the Acid Sulfate Soils Map.	N/A
13. WEEDS	Noxious plants to be removed.	Yes
14. DEMOLITION OF EXISTING DEVELOPMENT	Site is currently vacant.	Yes
15. ON-SITE SEWERAGE DISPOSAL	No on-site sewage disposal proposed. The site is capable of connecting to the Sydney Water Sewerage system.	Yes
16. ABORIGINAL ARCHAEOLOGICAL SITES	The applicants have provided an Aboriginal Heritage Due Diligence Assessment. The assessment concluded that the subject site has not been identified as having archaeological sensitivity pertaining to Aboriginal cultural heritage and most of the site is considered so disturbed	Yes

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	that archaeological deposits are unlikely to remain. The Due Diligence Assessment was reviewed by Council's Heritage Officer and concurred with the findings of the assessment.	
17. HERITAGE AND ARCHAEOLOGICAL SITES	As above	Yes
18. NOTIFICATION OF APPLICATIONS	<p>The proposal was exhibited twice. The first exhibition period was from 29 October 2014 to 28 November 2014. During the first exhibition period one public submission was received. The concerns raised in the submission and the response to these submissions are discussed in detail later in the report.</p> <p>The second exhibition period was from 27 May 2015 to 11 June 2015. During the second exhibition period no public submissions were received.</p>	Yes
19. USED CLOTHING BINS	N/A	N/A
20. CARPARKING AND ACCESS  1 space per small dwelling (<65sqm) or 1 bedroom  1.5 spaces per medium dwelling (65-110sqm) or 2 bedrooms  2 spaces per large dwelling (>110sqm) or 3 or more bedrooms  1 visitor car space for every 4 dwellings or part thereof	<p><b>Residential Spaces</b></p> <p>Required = 123 residential spaces. Provided = 124 residential spaces</p> <p><b>Visitor Spaces</b></p> <p>Required = 20 visitor spaces Provided = 20 visitor spaces</p>	<p>Yes</p> <p><b>Yes</b> (The development has provided 2 additional residential spaces and one less visitor space. As such, a condition on the consent requiring one of the residential spaces within the basement for Building A, to be allocated as a visitor space.)</p>

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<p>21. SUBDIVISION OF LAND AND BUILDINGS</p>		
<ul style="list-style-type: none"> <li>6 x 6m splays are to be provided</li> </ul>	<p>Appropriate corner splays are provided.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Lot widths in 300m<sup>2</sup> lot size area need a 9m width</li> </ul>	<p>All lots comply with the minimum lot width</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Minimum Road width: 18m unless specified elsewhere</li> </ul>	<p>Due to the proposed increased pedestrian traffic as a consequence of the development, it was requested the proposed road be increased from a 6m wide laneway to a 14.2m wide local road.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Road works</li> </ul>	<p>A sealed road system is proposed</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Stormwater: Stormwater: Legal easements of width as determined by the Council Codes and Specifications are to be provided over stormwater drains and watercourses.</li> </ul>	<p>Addressed in conditions of consent</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Water and sewerage</li> </ul>	<p>Connections to services proposed</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Electricity</li> </ul>	<p>Connections to services proposed</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Street Lighting</li> </ul>	<p>Street lighting is required. Details to be submitted prior to construction</p>	<p>Yes</p>
	<p>Connection to services</p>	<p>Yes</p>

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<ul style="list-style-type: none"> <li>• Telephone</li> <li>• Stormwater Runoff</li> <li>• Street tree planting</li> <li>• Street signage: required with approval by Council prior</li> </ul>	<p>proposed</p> <p>A Stormwater Concept Plan submitted and considered satisfactory</p> <p>Landscape plan proposed adequate street tree</p> <p>Street signage required. Details to be submitted prior to construction</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
22. WATER CONSRVATION	Development to be designed in accordance with the submitted and approved BASIX report.	Yes
23. ENERGY CONSERVATION	Development to be designed in accordance with the submitted and approved BASIX report.	Yes
24. LANDFILL	Fill proposed in accordance with the relevant requirements	Yes
25. WASTE DISPOSAL & RE-USE FACILITIES	A waste management plan has been provided and considered satisfactory.	Yes
26. OUTDOOR ADVERTISING AND SIGNAGE	N/A	N/A

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CONTROLS	PROVIDED	COMPLIES
<b>PART 2.11 – LAND SUBDIVISION AND DEVELOPMENT IN EDMONDSON PARK</b>		
1.1 INDICATIVE LAYOUT To be in accordance with Figure 2.	The indicative road layout indicates that the subject site will contain a laneway. However due to the high density nature of the proposal, it was requested that the laneway be upgraded to a local road. As such amended plans have been provided to accommodate a local road within the centre of the site.	Proposed road width exceeds the minimum road required.
1.2 DEVELOPMENT WITHIN SUB PRECINCTS	Development site maintains the level and access to fixed roads, the proposal will allow for the provision of drainage and services through conditions of consent and storm water design and does not create a detrimental impact on adjoining sub-precincts.	Complies
1.5 PUBLIC TRANSPORT	Proposed development does not impact the ability of Rynan Avenue to maintain the bus route	Complies
2.1 STREET NETWORK AND ACCESS Subdivision plans must indicate street type.	Submitted plans and SEE indicate street type. As stated above the proposal has been designed with a local road, which is an increase from the indicative laneway applicable to the site	Yes
2.3 STREETScape AND TREES Minimum of two trees per six metres of frontage	Two trees per six metres of frontage proposed along Rynan Avenue and the proposed new road.	Yes
2.7 CONTAMINATION Potential for contamination to be assessed.	Contamination assessment submitted as discussed previously in the report. The contamination assessment concluded the subject site is suitable for residential development.	Yes

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8. CONTROLS FOR CERTAIN SITES	Appropriate residential mix of apartments proposed. 5% of units are 1 bedroom, 5% of the units are 3 bedroom and 90% are 2 bedroom	Yes
8.5 Residential choice and mix for apartment buildings		

**6.4 Section 79C(1)(a)(iv) – The Regulations**

No additional items for consideration.

**6.5 Section 79C(1)(b) – The Likely Impacts of the Development**

**Natural and Built Environment**

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause adverse impacts. Issues considered included, but were not limited to: soil contamination; earthworks; stormwater management; erosion and sediment control; and landscaping.

The impacts on the built environment have also been assessed and are also considered to be acceptable and unlikely to have significant negative impacts. Issues considered included, but were not limited to: the traffic impacts; adequacy of car parking; built form (height, bulk, scale); streetscape and visual impacts; overshadowing; compatibility with the future character of the locality; design; acoustic impacts; access; site layout; compliance with Building Code of Australia (BCA) and Australian Standards (AS); fire safety requirements; adequacy of site services; waste management; and potential impact on amenity of locality.

**Social Impacts and Economic Impacts**

The proposal is unlikely to cause any adverse social impacts in the locality. Overall, the proposal is likely to contribute positively to the locality by providing required housing to the community and is acceptable with respect to any potential social impacts.

The potential economic impacts of the development in the locality are acceptable. The development is likely to have a minor but positive contribution to the local economy via the capital investment value associated with the proposal.

**6.6 Section 79C(1)(c) – The Suitability of the Site for the Development**

The site location and size is considered to be suitable for the proposed development given its characteristics and design.

**6.7 Section 79C(1)(d) – Any submissions made in relation to the Development**

**(a) Internal Referrals**

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

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DEPARTMENT	COMMENTS
Engineering	After the receipt of amended plans, that amended the proposed road from a 6m laneway to a 14.2m wide local road, and the provision of amended drainage plans and storm water strategy, redirecting the overland flow path;, the proposal was considered worthy of support subject to conditions of consent.
Building	Approval subject to conditions
Environmental Health	After the provision of a stage 2 contamination assessment and an amended acoustic assessment to address the impact of road traffic noise the proposal was considered worthy of support.
Strategic Planning	Proposal was considered worthy of support
Traffic	Proposal is considered worthy of support subject to conditions
Floodplain engineering	Approval no issues raised
Natural Resources - Flora and Fauna Assessment	Proposal considered worthy of support subject to conditions
Heritage	Proposal considered satisfactory, as no significant items of heritage significant are evident on site
Access Committee	It was requested that the proposal be accompanied by an access report, which has been provided
Natural Resources - Landscaping	Proposal considered worthy of support subject to conditions of consent.

**(b) External Referrals**

DEPARTMENT	COMMENTS
RMS	General Terms of Approval issued
RFS	The subject site is no longer bushfire prone as such conditions from the RFS are no longer required
NSW Office of Water	Comments received from the NSW Office of Water have advised the proposed development is not considered integrated development pursuant to the Water Management Act 2000.
Design Review Panel	Comments from DRP received, discussed previously in this report.
NSW Police	Comments from the NSW Police have not been provided for the proposal
Transgrid	Comments from Transgrid have not been



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	received as part of the proposal, however site inspections undertaken, have not shown any evidence that overhead power lines exist on the development site. Notwithstanding the above a condition of consent will be imposed requesting the application be forwarded to Tansgrid for comment prior to the issue of a CC. The 88B instrument applying to the site does not reveal any evidence of an easement burdening the development site.
Endeavour Energy	No concerns were raised from Endeavour Energy.

**(c) Community Consultation**

The proposal was exhibited twice. The first exhibition period was from 29 October 2014 to 28 November 2014. During the first exhibition period, one submission was received. The main concerns raised in the submission were relating to road widening, the provision of storm water and the overland flow path, and the potential overshadowing resulting from the non-compliant building height.

Due to the submission of amended plans the proposal was exhibited for a second time. The second exhibition period was from 27 May 2015 to 11 June 2015. During the second exhibition period no submissions were received.

A summary of the concerns and a response to the concerns are detailed below;

- 1) Concern:** The application does not appear to make provision for road widening to accommodate the DCP required road section applicable for Rynan Avenue

**Comment:** The amended plans provided, make the provision for road widening on Rynan Avenue. Appropriate conditions of consent have been imposed, ensuring the road widening has been accommodated.

- 2) Concern:** The application does not appear to address the provision of stormwater and overland flow from the east of Rynan Avenue.

**Comment:** The concerns regarding the provision of stormwater and the overland flow path from the east of Rynan Avenue were raised with the applicant. As part of amended stormwater plans the applicant has adequately demonstrated that the overland flow path originating from the east of Rynan Avenue has been addressed. Through consultation with Council's Development Engineers, it was agreed to re-grade a portion of Rynan Avenue fronting the site, to re-direct the overland flow path from the east of Rynan Avenue to the new road proposed as part of the development.

- 3) Concern:** Building A and B exceed Liverpool LEP 2008 Maximum building height. The greatest exceedance occurs at the eastern ends of the rooflines of these buildings which results in unreasonable afternoon overshadowing of

residential zoned land located at 1880 Camden Valley Way, which is subject to future development.

**Comment:** It is acknowledged the proposal exceeds the maximum height permitted under the LLEP 2008. However the greatest exceedance for Buildings A and B are along the western end of the buildings and not the east. Notwithstanding the above, the proposed non-compliant building height is considered worthy of support in this instance for the following reasons;

- The extent of the encroachment being a maximum of 1m for both buildings is considered minor in this instance and does not result any additional or detrimental overshadowing or privacy impacts on the surrounding properties.
- The proposed non-compliance is limited to the upper roof level of the proposed buildings and does not generate the ability for additional floor space to be created.
- The proposed buildings have been designed to accommodate the east to west slope of approximately 1m that exists on site. As a consequence of the slope, both Buildings A and B reach a maximum height non-compliance along the western portions of the buildings.
- The proposed development is considered to be of a suitable bulk and scale.

#### **6.8 Section 79C(1)(e) – The Public Interest**

The proposal is considered to be in the public interest as it will provide a significant community benefit. The merits of the proposal and the potential impacts have been assessed and it is considered that the objectives of the planning controls can be achieved whilst applying flexibility to the numerical controls.

### **7. DEVELOPMENT CONTRIBUTIONS**

The Liverpool Contributions Plan 2008 (Edmondson Park) applies to this development. The contributions applicable to this development equate to \$324,788.00. The requirement for payment of the contribution has been imposed as a condition of consent and may be adjusted to account for changes to the CPI at the time of payment.

### **8. CONCLUSION**

Development Application DA-898/2014 has been assessed under the provisions of the EP&A Act 1979. The subject site is zoned R1 General Residential pursuant to LLEP 2008. Residential Flat Buildings are permissible development in the R1 General Residential Zone.

The application has submitted a variation pursuant to clause 4.6 of the Liverpool Local Environmental Plan 2008. The standards that are proposed to be varied are the maximum height permitted on site, pursuant to clause 4.3 and the maximum FSR applicable on site, pursuant to clause 4.4.

The variation to the maximum height and FSR permitted was considered during the

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assessment of the application and considered worthy of support in this instance. The applicant has demonstrated that enforcing strict compliance with the above-mentioned controls are unreasonable and unnecessary. The merits of the variations are discussed in detail previously in this report.

The application has been assessed against the relevant development controls; the impact and suitability of the site for the development has been considered and the submission submitted has been considered in the assessment of the application. The proposal is considered to generally accord with the objectives of the relevant planning instruments and represents an orderly development of the land that is generally in the public interest. Approval of the application is therefore recommended subject to conditions.

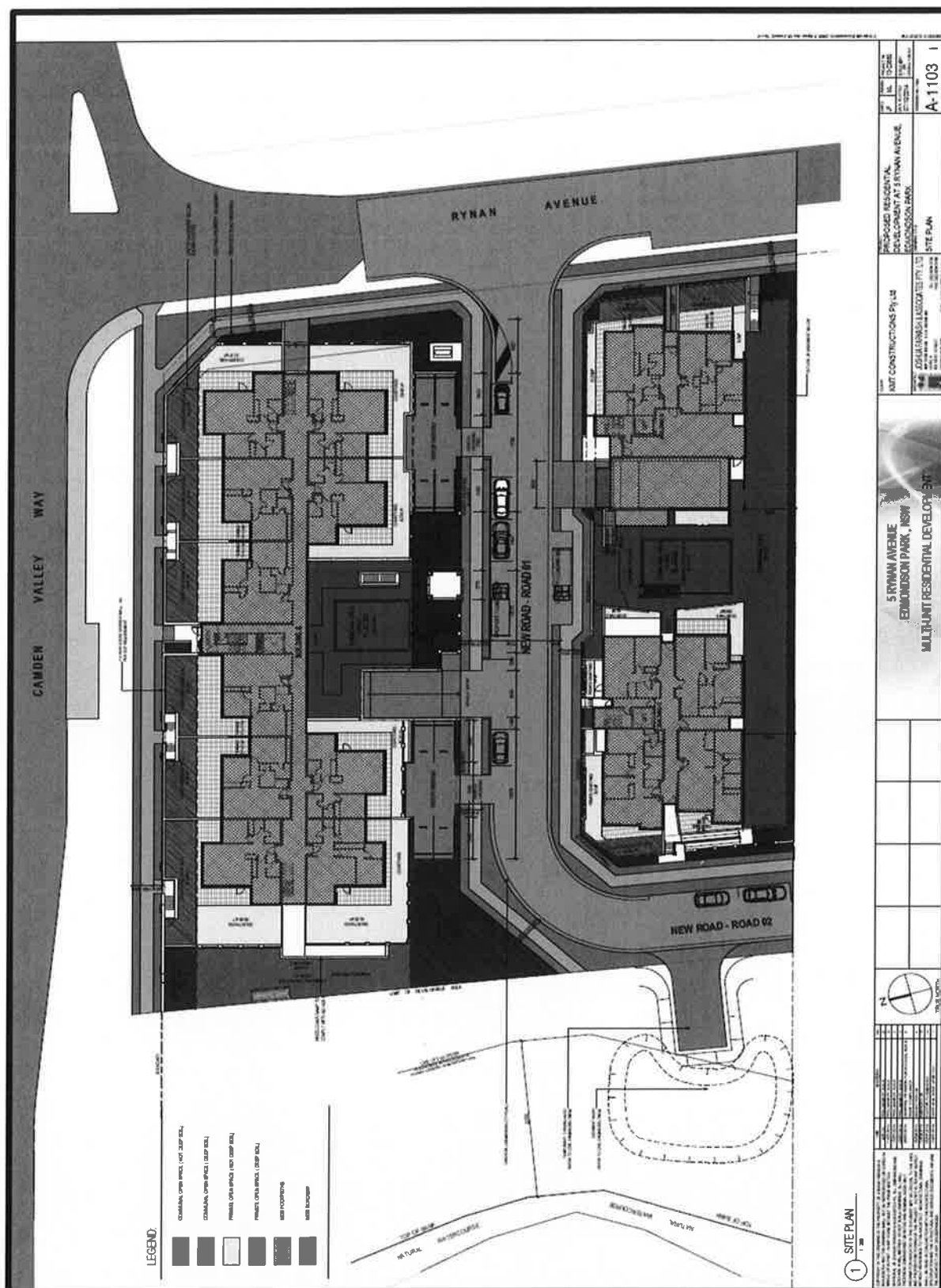
**9. RECOMMENDATION**

- 9.1 That the report for Development Application DA-898/2014 for the removal of trees on site, four lot Torrens title subdivision and the construction of three residential flat buildings be approved subject to conditions contained in Attachment 10.2.

# **10. ATTACHMENTS**

- 10.1 Architectural Plans**
- 10.2 Recommended Conditions of Consent**
- 10.3 Clause 4.6 Variations to development standards**
- 10.4 Submissions**

## Site Plan



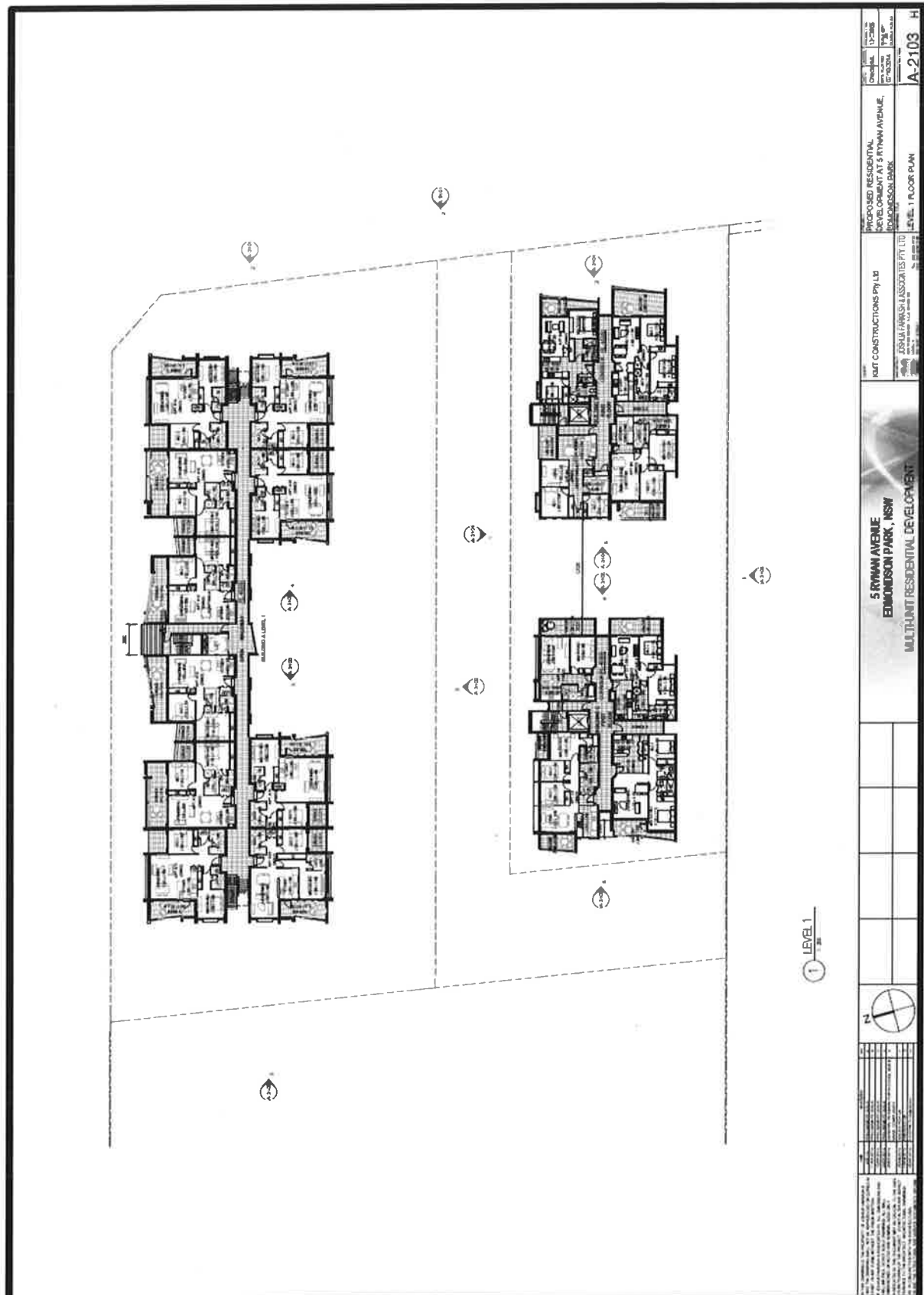
## 2015

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**Level 1 Floor Plan**



## 2015

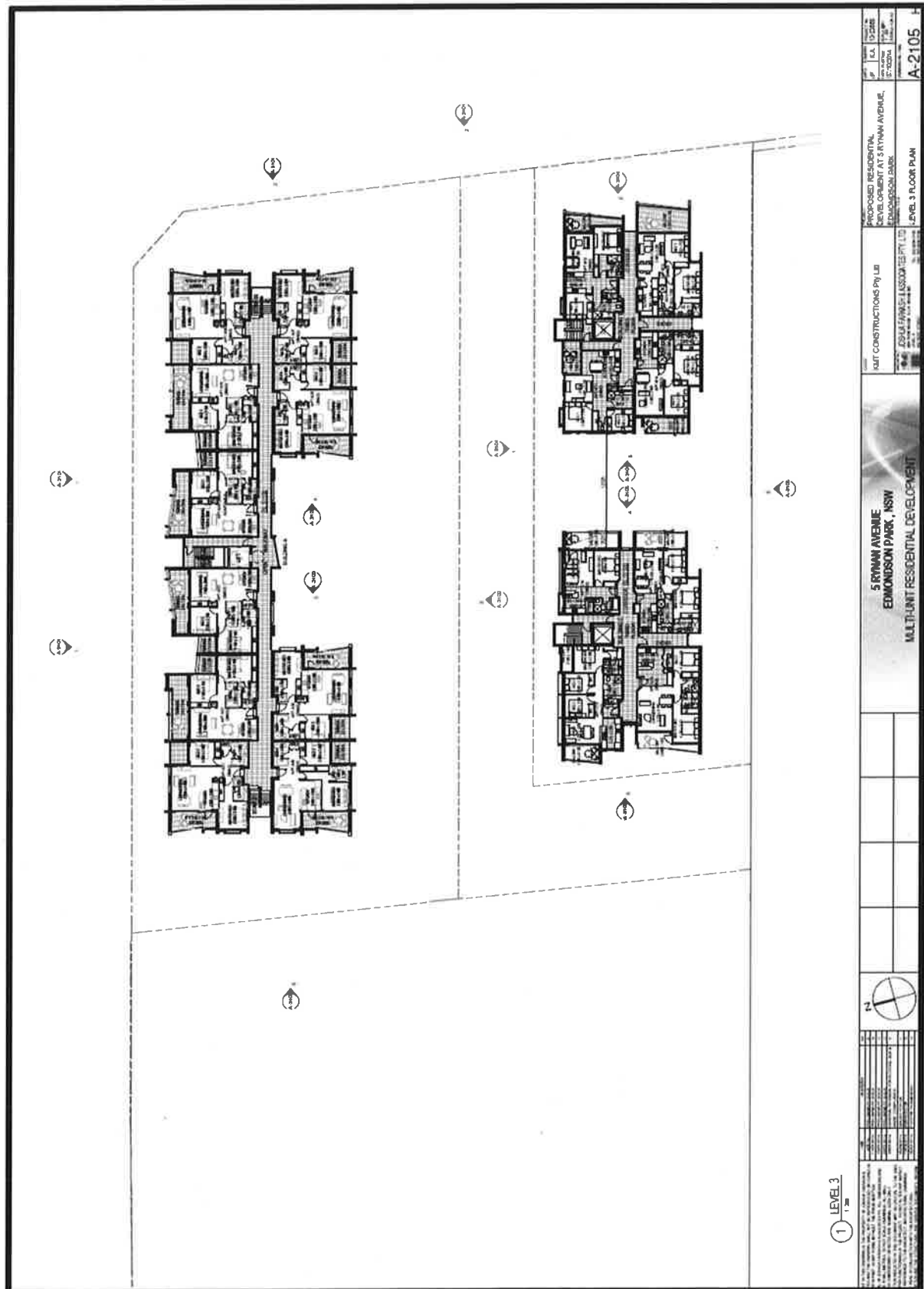
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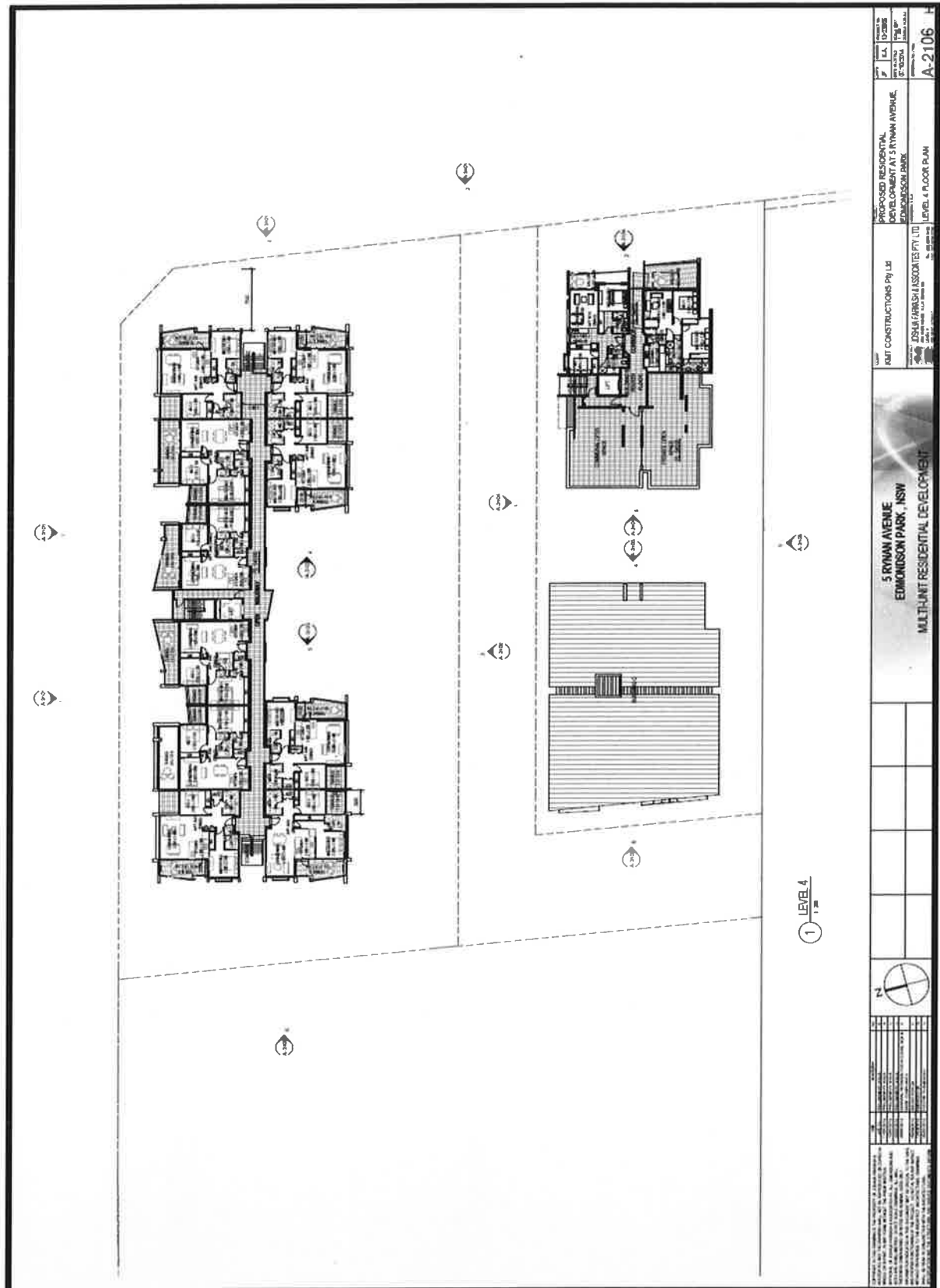
**Level 3 Floor Plan**



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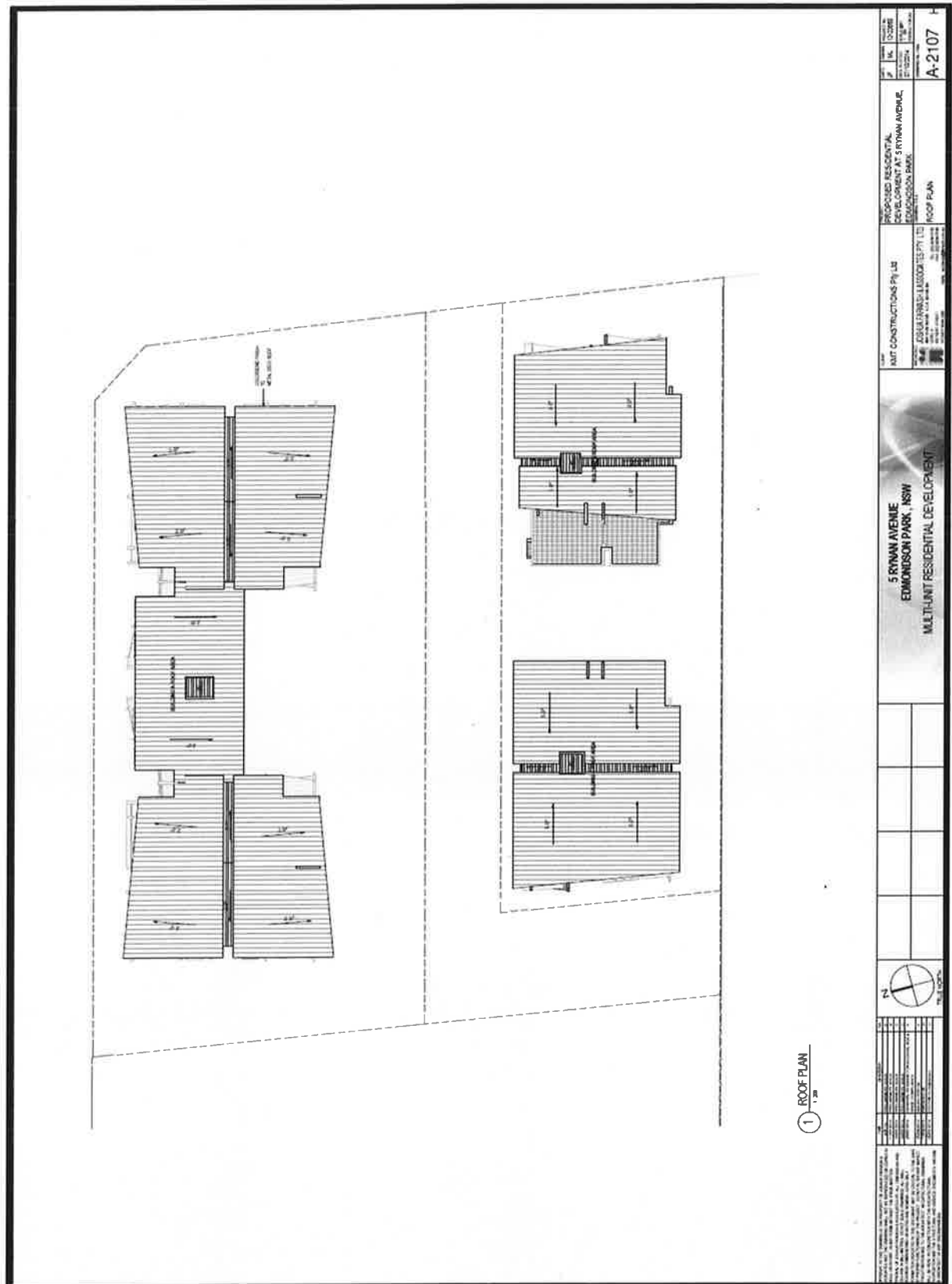
**Level 4 Floor Plan**



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**2015**

**Roof Plan**



## 2015

**1 NORTH ELEVATION - BUILDING A**

**2 EAST ELEVATION - BUILDING A**

**5 RYAN AVENUE  
EDMONSON PARK, NSW  
MULTI-UNIT RESIDENTIAL DEVELOPMENT**

**AMT CONSTRUCTIONS Pty Ltd**  
1/100 RYAN AVENUE, EDMONSON PARK, NSW 2170  
02 9600 1234  
www.amtconstructions.com.au

**PROPOSED RESIDENTIAL DEVELOPMENT AT 5 RYAN AVENUE, EDMONSON PARK**

**ELEVATIONS - BUILDING A VS**

**A-3101**

**NOTES:**  
BUILDING APPROVAL (BAL) BUILDING A IS TO BE CONSTRUCTED TO BAL 39 AS PER AS PER ON THE SCHEMATIC & BUREAU ELEVATION AND OF THE BUILDING A BUREAU ELEVATION TO BAL 39 REFER TO THE PROTECTION DOCUMENT DATED 28 FEBRUARY 2024

## 2015

**3 SOUTH ELEVATION - BUILDING A - NEW ROAD RESERVE STREETSCAPE**

**4 WEST ELEVATION - BUILDING A - COURTYARD VIEW**

**5 RYAN AVENUE  
EDMUNDSON PARK, NSW  
MULTI-UNIT RESIDENTIAL DEVELOPMENT**

**A-3102**

## 2015

PROPOSED RESIDENTIAL DEVELOPMENT AT 5 RYMAN AVENUE, EDMONDSON PARK, NSW

ELEVATIONS & LAYOUT A 30'

5 EAST ELEVATION - BUILDING A - COURTYARD VIEW

6 WEST ELEVATION - BUILDING A

LEVEL 4  
FRL 146700

LEVEL 3  
FRL 146000

LEVEL 2  
FRL 145300

LEVEL 1  
FRL 144600

GROUND FLOOR  
FRL 143900

BASEMENT FLOOR  
FRL 143200

LEVEL 4  
FRL 146700

LEVEL 3  
FRL 146000

LEVEL 2  
FRL 145300

LEVEL 1  
FRL 144600

GROUND FLOOR  
FRL 143900

BASEMENT FLOOR  
FRL 143200

PROPOSED RESIDENTIAL DEVELOPMENT AT 5 RYMAN AVENUE, EDMONDSON PARK, NSW

ELEVATIONS & LAYOUT A 30'

5 EAST ELEVATION - BUILDING A - COURTYARD VIEW

6 WEST ELEVATION - BUILDING A

LEVEL 4  
FRL 146700

LEVEL 3  
FRL 146000

LEVEL 2  
FRL 145300

LEVEL 1  
FRL 144600

GROUND FLOOR  
FRL 143900

BASEMENT FLOOR  
FRL 143200

PROPOSED RESIDENTIAL DEVELOPMENT AT 5 RYMAN AVENUE, EDMONDSON PARK, NSW

ELEVATIONS & LAYOUT A 30'

5 EAST ELEVATION - BUILDING A - COURTYARD VIEW

6 WEST ELEVATION - BUILDING A

LEVEL 4  
FRL 146700

LEVEL 3  
FRL 146000

LEVEL 2  
FRL 145300

LEVEL 1  
FRL 144600

GROUND FLOOR  
FRL 143900

BASEMENT FLOOR  
FRL 143200

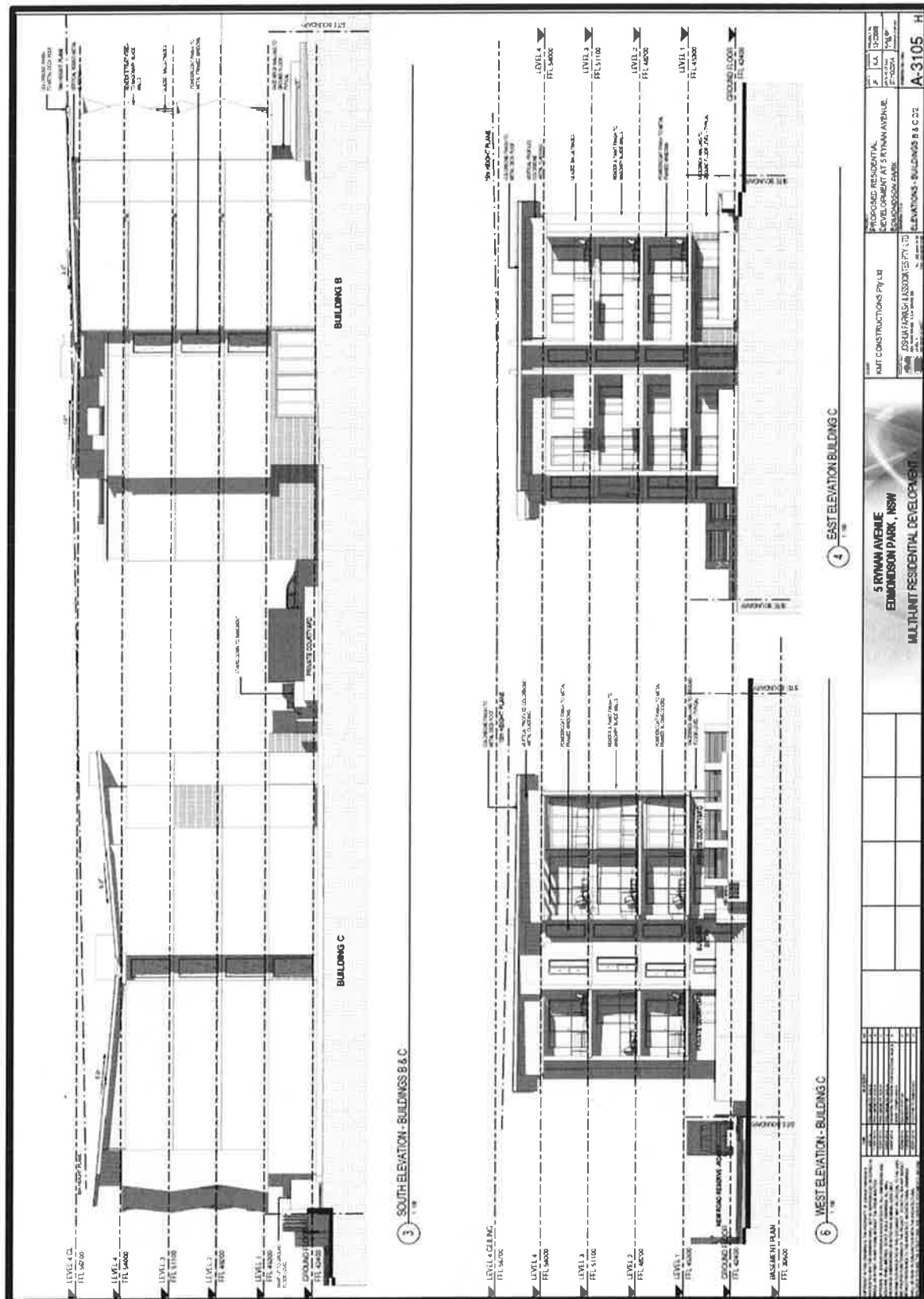
## 2015

The image displays architectural drawings for Buildings B and C. At the top, a perspective view shows the buildings' facades, with labels for 'BUILDING B' and 'BUILDING C'. Below this, two elevation drawings are provided: '1 NORTH ELEVATION - BUILDINGS B & C - NEW ROAD RESERVE STREETSCAPE' and '2 WEST ELEVATION - BUILDING B'. The drawings include level markers (LEVEL 1 to LEVEL 4) and elevation heights (e.g., 11.4000, 11.5000, 11.6000, 11.7000, 11.8000, 11.9000, 12.0000, 12.1000, 12.2000, 12.3000, 12.4000, 12.5000, 12.6000, 12.7000, 12.8000, 12.9000, 13.0000, 13.1000, 13.2000, 13.3000, 13.4000, 13.5000, 13.6000, 13.7000, 13.8000, 13.9000, 14.0000, 14.1000, 14.2000, 14.3000, 14.4000, 14.5000, 14.6000, 14.7000, 14.8000, 14.9000, 15.0000, 15.1000, 15.2000, 15.3000, 15.4000, 15.5000, 15.6000, 15.7000, 15.8000, 15.9000, 16.0000, 16.1000, 16.2000, 16.3000, 16.4000, 16.5000, 16.6000, 16.7000, 16.8000, 16.9000, 17.0000, 17.1000, 17.2000, 17.3000, 17.4000, 17.5000, 17.6000, 17.7000, 17.8000, 17.9000, 18.0000, 18.1000, 18.2000, 18.3000, 18.4000, 18.5000, 18.6000, 18.7000, 18.8000, 18.9000, 19.0000, 19.1000, 19.2000, 19.3000, 19.4000, 19.5000, 19.6000, 19.7000, 19.8000, 19.9000, 20.0000, 20.1000, 20.2000, 20.3000, 20.4000, 20.5000, 20.6000, 20.7000, 20.8000, 20.9000, 21.0000, 21.1000, 21.2000, 21.3000, 21.4000, 21.5000, 21.6000, 21.7000, 21.8000, 21.9000, 22.0000, 22.1000, 22.2000, 22.3000, 22.4000, 22.5000, 22.6000, 22.7000, 22.8000, 22.9000, 23.0000, 23.1000, 23.2000, 23.3000, 23.4000, 23.5000, 23.6000, 23.7000, 23.8000, 23.9000, 24.0000, 24.1000, 24.2000, 24.3000, 24.4000, 24.5000, 24.6000, 24.7000, 24.8000, 24.9000, 25.0000, 25.1000, 25.2000, 25.3000, 25.4000, 25.5000, 25.6000, 25.7000, 25.8000, 25.9000, 26.0000, 26.1000, 26.2000, 26.3000, 26.4000, 26.5000, 26.6000, 26.7000, 26.8000, 26.9000, 27.0000, 27.1000, 27.2000, 27.3000, 27.4000, 27.5000, 27.6000, 27.7000, 27.8000, 27.9000, 28.0000, 28.1000, 28.2000, 28.3000, 28.4000, 28.5000, 28.6000, 28.7000, 28.8000, 28.9000, 29.0000, 29.1000, 29.2000, 29.3000, 29.4000, 29.5000, 29.6000, 29.7000, 29.8000, 29.9000, 30.0000, 30.1000, 30.2000, 30.3000, 30.4000, 30.5000, 30.6000, 30.7000, 30.8000, 30.9000, 31.0000, 31.1000, 31.2000, 31.3000, 31.4000, 31.5000, 31.6000, 31.7000, 31.8000, 31.9000, 32.0000, 32.1000, 32.2000, 32.3000, 32.4000, 32.5000, 32.6000, 32.7000, 32.8000, 32.9000, 33.0000, 33.1000, 33.2000, 33.3000, 33.4000, 33.5000, 33.6000, 33.7000, 33.8000, 33.9000, 34.0000, 34.1000, 34.2000, 34.3000, 34.4000, 34.5000, 34.6000, 34.7000, 34.8000, 34.9000, 35.0000, 35.1000, 35.2000, 35.3000, 35.4000, 35.5000, 35.6000, 35.7000, 35.8000, 35.9000, 36.0000, 36.1000, 36.2000, 36.3000, 36.4000, 36.5000, 36.6000, 36.7000, 36.8000, 36.9000, 37.0000, 37.1000, 37.2000, 37.3000, 37.4000, 37.5000, 37.6000, 37.7000, 37.8000, 37.9000, 38.0000, 38.1000, 38.2000, 38.3000, 38.4000, 38.5000, 38.6000, 38.7000, 38.8000, 38.9000, 39.0000, 39.1000, 39.2000, 39.3000, 39.4000, 39.5000, 39.6000, 39.7000, 39.8000, 39.9000, 40.0000, 40.1000, 40.2000, 40.3000, 40.4000, 40.5000, 40.6000, 40.7000, 40.8000, 40.9000, 41.0000, 41.1000, 41.2000, 41.3000, 41.4000, 41.5000, 41.6000, 41.7000, 41.8000, 41.9000, 42.0000, 42.1000, 42.2000, 42.3000, 42.4000, 42.5000, 42.6000, 42.7000, 42.8000, 42.9000, 43.0000, 43.1000, 43.2000, 43.3000, 43.4000, 43.5000, 43.6000, 43.7000, 43.8000, 43.9000, 44.0000, 44.1000, 44.2000, 44.3000, 44.4000, 44.5000, 44.6000, 44.7000, 44.8000, 44.9000, 45.0000, 45.1000, 45.2000, 45.3000, 45.4000, 45.5000, 45.6000, 45.7000, 45.8000, 45.9000, 46.0000, 46.1000, 46.2000, 46.3000, 46.4000, 46.5000, 46.6000, 46.7000, 46.8000, 46.9000, 47.0000, 47.1000, 47.2000, 47.3000, 47.4000, 47.5000, 47.6000, 47.7000, 47.8000, 47.9000, 48.0000, 48.1000, 48.2000, 48.3000, 48.4000, 48.5000, 48.6000, 48.7000, 48.8000, 48.9000, 49.0000, 49.1000, 49.2000, 49.3000, 49.4000, 49.5000, 49.6000, 49.7000, 49.8000, 49.9000, 50.0000, 50.1000, 50.2000, 50.3000, 50.4000, 50.5000, 50.6000, 50.7000, 50.8000, 50.9000, 51.0000, 51.1000, 51.2000, 51.3000, 51.4000, 51.5000, 51.6000, 51.7000, 51.8000, 51.9000, 52.0000, 52.1000, 52.2000, 52.3000, 52.4000, 52.5000, 52.6000, 52.7000, 52.8000, 52.9000, 53.0000, 53.1000, 53.2000, 53.3000, 53.4000, 53.5000, 53.6000, 53.7000, 53.8000, 53.9000, 54.0000, 54.1000, 54.2000, 54.3000, 54.4000, 54.5000, 54.6000, 54.7000, 54.8000, 54.9000, 55.0000, 55.1000, 55.2000, 55.3000, 55.

**LIVERPOOL CITY COUNCIL**  
**JOINT REGIONAL PLANNING PANEL**

**2015**

**Elevation 5**

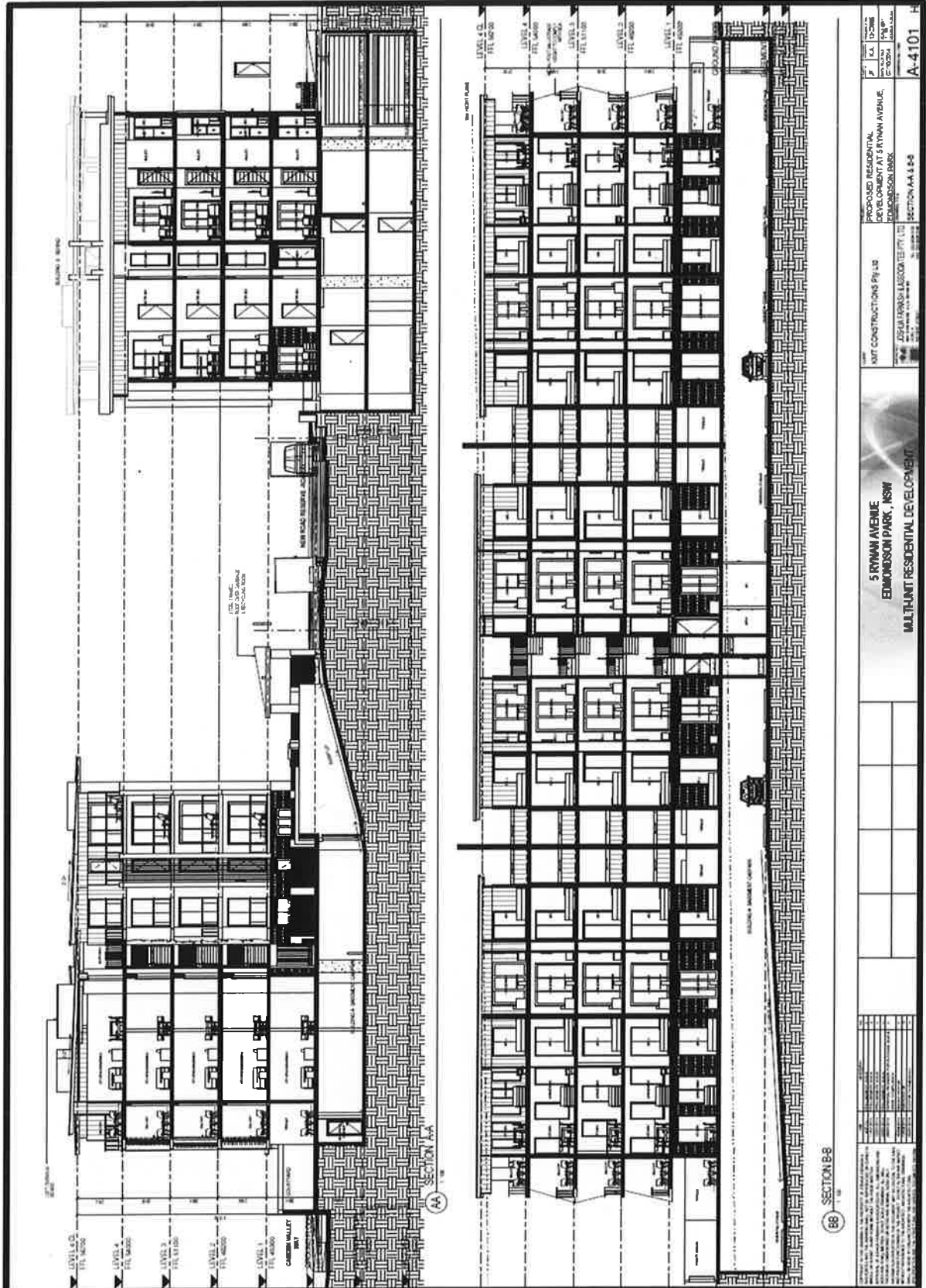




LIVERPOOL CITY COUNCIL  
JOINT REGIONAL PLANNING PANEL

2015

Section 1



## 2015

Architectural drawings of a multi-unit residential development at 5 Ryman Avenue, Edmonson Park, NSW. The drawings include a detailed floor plan of Level 4, a cross-section labeled 'SECTION CC', and a perspective view of the building facade. The floor plan shows a grid of units with various room layouts, including bedrooms, living areas, and bathrooms. The cross-section shows the building's structure, including floors, walls, and roof. The perspective view shows the building's exterior, including windows, doors, and landscaping. The drawings are labeled with 'SECTION CC' and 'SECTION DD'.

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## 2015

**1 STREETSCAPE ELEVATION - CAMDEN VALLEY WAY**

LEVEL 10  
FL 46700

LEVEL 9  
FL 46700

LEVEL 8  
FL 46700

LEVEL 7  
FL 46700

LEVEL 6  
FL 46700

LEVEL 5  
FL 46700

LEVEL 4  
FL 46700

LEVEL 3  
FL 46700

LEVEL 2  
FL 46700

LEVEL 1  
FL 46700

GROUND FLOOR  
FL 46700

**2 STREETSCAPE ELEVATION - RYMAN AVE**

LEVEL 10  
FL 46700

LEVEL 9  
FL 46700

LEVEL 8  
FL 46700

LEVEL 7  
FL 46700

LEVEL 6  
FL 46700

LEVEL 5  
FL 46700

LEVEL 4  
FL 46700

LEVEL 3  
FL 46700

LEVEL 2  
FL 46700

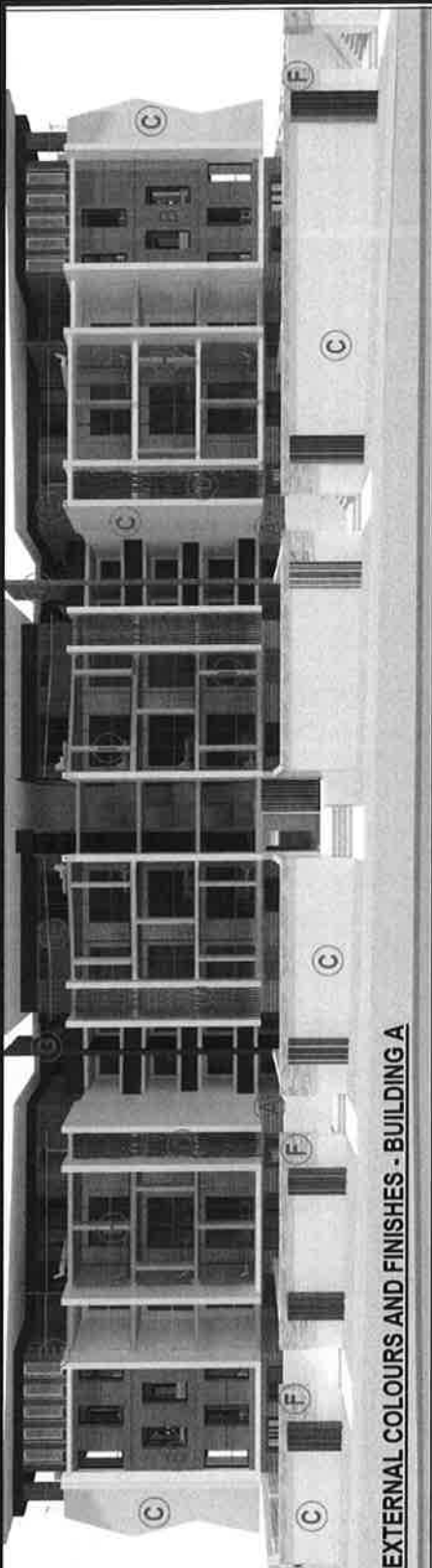
LEVEL 1  
FL 46700

GROUND FLOOR  
FL 46700











LIVERPOOL CITY COUNCIL  
JOINT REGIONAL PLANNING PANEL

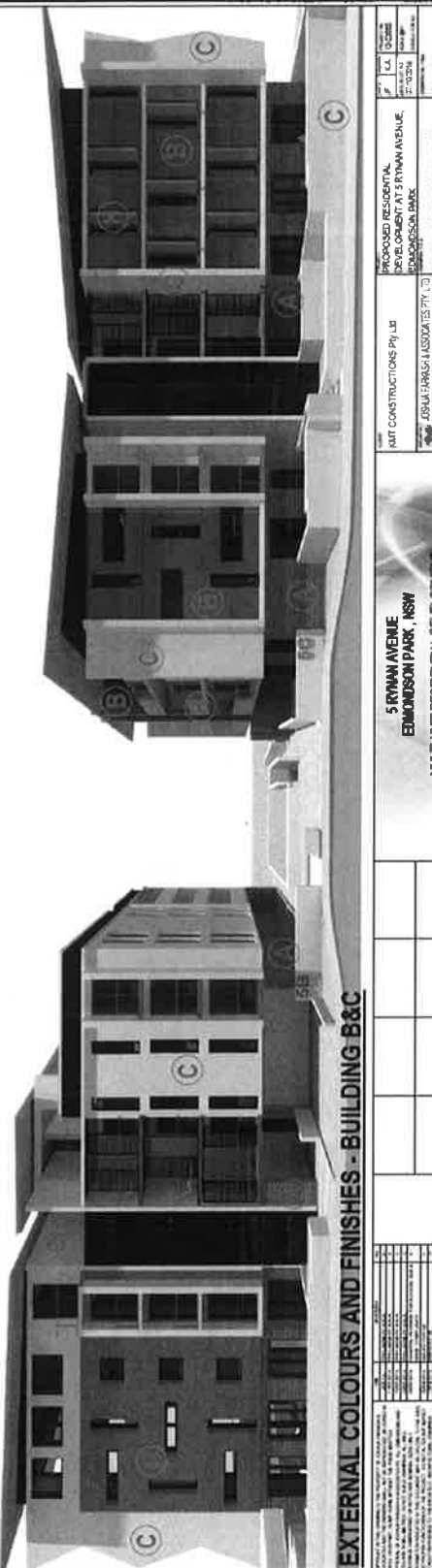
2015

External Colours and Finishes











**EXTERNAL COLOURS AND FINISHES - BUILDING A**

									
UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS



**EXTERNAL COLOURS AND FINISHES - BUILDING B & C**

									
UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS	UPPER LEVEL EXTERNAL WALLS - POWDERCOAT FINISH COLOUR: "SHAMROCK GRANITE" BRICKS

**5 RYMAN AVENUE  
EMMONSDEN PARK, NSW  
MULTI-HANT RESIDENTIAL DEVELOPMENT**

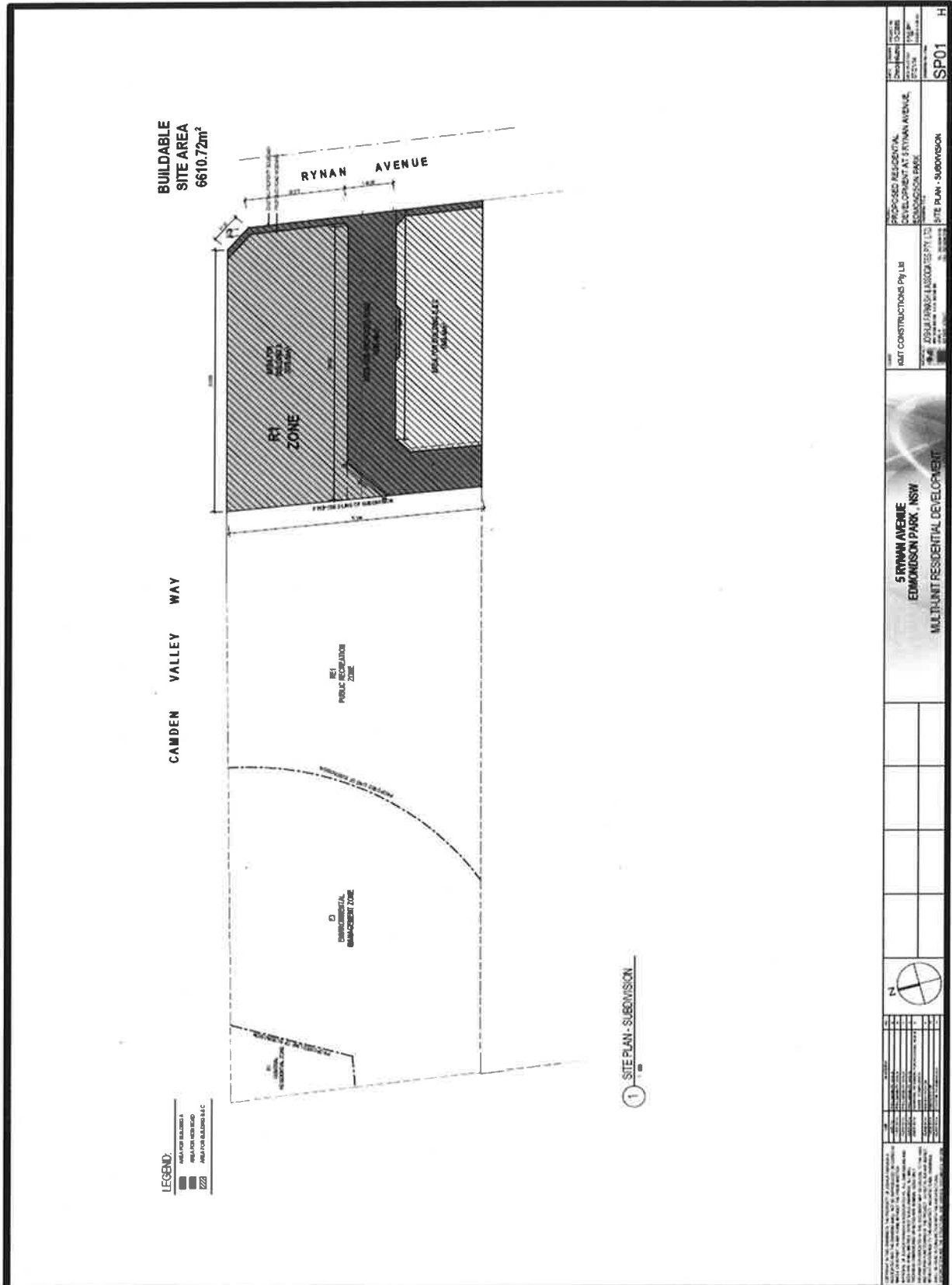
PREPARED BY: JSM CONSTRUCTIONS PTY LTD  
DATE: 10/01/2015

PROJECT NO: A-12101 G

LIVERPOOL CITY COUNCIL  
JOINT REGIONAL PLANNING PANEL

2015

Subdivision Plan



**LIVERPOOL CITY COUNCIL**  
**JOINT REGIONAL PLANNING PANEL**

**2015**

**10.2 Recommended conditions of consent**

**A. THE DEVELOPMENT**

**Approved Plans**

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

**Plans**

<b>Plan Name</b>	<b>Plan Number</b>	<b>Reference/Revision</b>	<b>Date</b>	<b>Prepared By</b>
BASIX Commitments 1/2	A-1000	13-23665/C	12/03/2015	Joshua Farkash & Associates Pty Ltd
BASIX Commitments 2/2	A-1001	13-23665/C	12/03/2015	Joshua Farkash & Associates Pty Ltd
Site Plan	A-1103	13-23665/I	10/07/2015	Joshua Farkash & Associates Pty Ltd
Basement Floor Plan – Level B1	A-2101	13-23665/G	12/03/2015	Joshua Farkash & Associates Pty Ltd
Basement Floor Plan – Level B2	A-2101/AG	13-23665/G	12/03/2015	Joshua Farkash & Associates Pty Ltd
Ground Floor Plan	A-2102	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Level 1 Floor Plan	A-2103	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Level 2 Floor Plan	A-2104	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Level 3 Floor Plan	A-2105	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Level 4 Floor Plan	A-2106	13-23665/H	06/07/2015	Joshua Farkash &

**LIVERPOOL CITY COUNCIL**  
**JOINT REGIONAL PLANNING PANEL**

**2015**

				Associates Pty Ltd
Roof Plan	A-2107	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Elevations – Building A 1/3	A-3101	13-23665/G	12/03/2015	Joshua Farkash & Associates Pty Ltd
Elevations – Building A 2/3	A-3102	13-23665/G	12/03/2015	Joshua Farkash & Associates Pty Ltd
Elevations – Building A 3/3	A-3103	13-23665/G	12/03/2015	Joshua Farkash & Associates Pty Ltd
Elevations – Buildings B & C 1/2	A-3104	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Elevations – Buildings B & C 2/2	A-3105	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Sections A-A & B-B	A-4101	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Sections C-C & D-D	A-4102	13-23665/G	06/07/2015	Joshua Farkash & Associates Pty Ltd
Adaptable Housing Buildings A, B, & C	A-6102	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Streetscape Elevations	A-9101	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
External Colours & Finishes	A-2101	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Site Plan- Subdivision	SP01	13-23665/H	06/07/2015	Joshua Farkash & Associates Pty Ltd
Landscape	000	SS14-2860/G	10.07.2015	Site Image



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Plan/Cover Sheet				
Landscape Plan	101-104	SS14-2860/C	10.07.2015	Site Image
Landscape Details	501	SS14-2860/F	06.05.2015	Site Image
Civil Engineering Works Drawings	DA02	14075/F	July 2015	Diversi Consulting
Civil Engineering Works Drawings	DA03	14075/E	July 2015	Diversi Consulting
Civil Engineering Works Drawings	DA04	14075/E	July 2015	Diversi Consulting
Civil Engineering Works Drawings	DA05	14075/E	July 2015	Diversi Consulting
Civil Engineering Works Drawings	DA06	14075/D	July 2015	Diversi Consulting
Civil Engineering Works Drawings	DA07	14075/E	July 2015	Diversi Consulting
Hydraulic Services Plans	H01-H05	20140150/A	22.09.14	BSE

### Reports

Report Name	Reference/Revision	Date	Prepared By
Access Report	Revision C	07.10.14	Ergon Consulting
BCA Compliance Statement	Reference 2014/1123/14	1 October 2014	Steve Watson & Partners
Fire Engineering Compliance Statement	Reference 112799.DAL001	2 October 2014	Holmes Fire
Aboriginal Heritage Due Diligence Advice	Reference 140530-2	5 August 2014	AHMS
Flood Assessment Report	Reference S14311	15 August 2014	Neilly Davies & Partners Pty Ltd
Preliminary Stage	Reference: E27532KGrpt	8 July	Environmental

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1 Environmental Site Assessment		2014	Investigation Services
Stage 2 Environmental Site Assessment	Reference: E27532KGrpt2	23 April 2015	Environmental Investigation Services
BASIX Report	Revision 1	07/04/2015	Windtech
Waste Management Plan	N/A	May 2015	Joshua Farkash & Associates Pty Ltd
Acoustic Assessment	Reference: 20140687.1/2502A/R2/RL Revision 2	25/02/2015	Acoustic Logic
Traffic Impact Report	Reference S14311.02.1 Revision E	26 May 2015	Neilly Davies & Partners Pty Ltd
Salinity Assessment and Management Plan	Reference: E27532KHrpt-SAL	27 August 2014	Environmental Investigation Services
Geotechnical Assessment	Reference: 27532SBrpt	10 September 2014	JK Geotechnics
Concept Drainage Strategy	Reference: DC14075-SWM-L04	21 July 2015	Diversi Consulting

except where modified by the undermentioned conditions.

**Parking Allocation**

- Residential Parking space numbered 63, within the basement of Building A, as shown on plan No. A-2101, Revision G, prepared by Joshua Farkash and Associates, dated 12/03/2015 is to be re-designated for the purpose of visitor parking. These changes are to be clearly indicated on plans submitted with any future CC application.

**Building Entries**

- The entrance to each building (being Buildings A, B and C) are to be redesigned to provide a distinguished and clearly defined entry point to the building, which is easily identifiable from the street. Amended plans are to be submitted to the satisfaction of Council's Manager – Development Assessment, prior to the release of any CC.

Reason: To create identifiable and aesthetically pleasing entry points to the buildings within the development.

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**Restriction to Traffic**

4. Upon the completion of the proposed local road for the southern adjoining lot (i.e. 15 Rynan Avenue), traffic movement from the subject site is to be restricted to left in – left out only from the intersection of the proposed new road and Rynan Avenue.

**Works at no cost to Council**

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

**Mechanical Plant**

6. Mechanical plant equipment shall be selected in consultation with a suitably qualified and experienced consultant to ensure compliance with the internal noise levels detailed within the DA Acoustic Assessment (Project Number 20140687.1, Document Ref 20140687.1/2502A/R2/RL) Revision 2 prepared by Acoustic Logic Consultancy Pty Limited dated 25 February 2015.

**B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

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

**Special Infrastructure Contribution**

7. A special infrastructure contribution is to be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011.

Information about this special infrastructure contribution can be found on the Department of Planning and Environment's website. Please contact the NSW Department of Planning and Environment regarding arrangements for the making of a payment.

**SECTION 94 PAYMENT (Liverpool Contributions Plan 2008 Edmondson Park)**

8. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2008 Edmondson Park as amended.

The total contribution is **\$324,788.00**

A breakdown of the contributions payable is provided in the attached payment form.

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**Capital Works, Administration, Professional and Legal Fees Components**

Capital works, Administration, Professional and Legal Fees components will be adjusted quarterly in line with the Consumer Price Index (all groups index number for Sydney) using the following formula:

$$\text{Contribution at the time of payment} = \frac{C \times CPI_2}{CPI_1}$$

Where:

**C** = Original contributions as shown on the consent

**CPI<sub>2</sub>** = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics at the time that the contribution is to be paid

**CPI<sub>1</sub>** = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics as at the time of granting the development consent

**Land Component**

The value of the land component will be adjusted quarterly in line with the latest average land value estimate published by Council. The average land value estimate will be reviewed on a quarterly basis and determined by averaging residential land values per square metres with the relevant catchment, over the previous quarter.

$$\text{Contribution at the time of payment} = \frac{C \times L_2}{L_1}$$

Where:

**C** = Original contributions as shown on the consent

**L<sub>2</sub>** = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time that the contribution is to be paid

**L<sub>1</sub>** = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time of granting the development consent

Where a developer undertakes to transfer land or provide a work which is included in the Contributions Plan, the appropriate payments may be reduced accordingly.

The Contributions Plan may be inspected at Council's Administration Centre, 33 Moore Street, Liverpool or at [www.liverpool.nsw.gov.au](http://www.liverpool.nsw.gov.au).

*Please note. Payment must be accompanied by the attached form.*

**Provision of Services**

9. An application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, must be lodged with Sydney Water. To facilitate this, an application must be made through an authorised Water Servicing Coordinator.

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Please refer to the "building and developing" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

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

10. Written clearance from Endeavour Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.
11. Certification from an approved telecommunications carrier shall be submitted to Council confirming that satisfactory arrangements have been made to ensure the provision of underground telephone services to the approved development.
12. Written approval must be gained from Transgrid stating they have reviewed the proposed engineering design plans and that they consent to the issue of a CC by the PCA.

**Fee Payments**

13. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

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

These fees are reviewed annually and will be calculated accordingly.

14. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

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**Site Development Work**

15. Site development work in the form of excavation, underpinning or shoring works must not take place, until such time as a CC has been issued.
16. All aspects of construction shall comply with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:
  - (a) *Complying with the Deemed to Satisfy Provisions; or*
  - (b) *Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).*

**Notification**

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

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

**Fire Safety Measures**

18. A schedule specifying all of the essential fire safety services, both existing and proposed, which are required for the building, shall be attached to the CC and submitted to Council, in compliance with the provisions of the EP&A Regulation.

**Design Verification Statement**

19. In accordance with the EP&A Regulation and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Flat Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
  - (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
  - (b) That the qualified designer has designed or directed the design of the subject development; and
  - (c) That the plans and specifications lodged with the CC achieve or improve the design quality of the development for which the subject development consent was granted, having regard to the design principles set out in Part 2 of SEPP 65.

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Note: The design verification statement must provide an explanation of the design in terms of the design quality principles set out in Part 2 of SEPP 65.

**Crime Prevention Through Environmental Design**

20. It is recommended that the following Crime Prevention Through Environmental Design (CPTED) principles be incorporated into the building. Where necessary, plans shall be amended to reflect incorporation of the principles and/or details of such to be submitted to the PCA.
- (a) Back to base alarm systems shall be considered;
  - (b) Basement parking areas shall be painted a light colour;
  - (c) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be considered;
  - (d) 'Way finding' signage should be utilised at all major interchanges such as lifts and stair wells;
  - (e) Lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard AS 1158. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant, especially external lighting;
  - (f) Corrugated ramps should be considered to prevent skate boarding activities;
  - (g) Glazed tiling, patterned, porous and non solid surfaces reduce the reward for graffiti offenders;
  - (h) Any external approved palisade or pool style fencing shall be black in colour, unless otherwise noted on the approved plans/details;
  - (i) Access to the basement parking levels relating to the residential component of the building shall be controlled via a security controlled device.

**Driveway/Services**

21. All driveways are to be graded in such a manner as to provide continuous surface drainage flow paths to appropriate points of discharge. In this context, these are to be into roads or swales, as appropriate, connecting into the major trunk drainage system.
22. Driveways entry points must be located clear of all utility services. It is recommended that discussion be held with the relevant authorities before construction works commence. Council does not accept any responsibility towards these services.

**Recommendations of Acoustic Report**

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

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**Retaining Walls on Boundary**

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

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

**S138 Roads Act – roadworks requiring approval of civil drawings.**

25. Prior to the issue of a Construction Certificate for building or subdivision works the Certifying Authority shall ensure that a S138 Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by Liverpool City Council (being the Roads Authority under the Roads Act), for provision of road and drainage construction in Rynan Avenue

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

**Note:**

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

**Construction Certificate for Subdivision Works**

26. Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that engineering plans are consistent with the Concept Drainage Strategy, Reference DC14075-SWM-L04, dated 21 July 2015 and with the stamped approved concept plan/s prepared by Diversi Consulting, listed below;

Reference/ Drg No	Rev	Drawing title	Date
14075- DA04	E	Bulk earthworks plan	10/07/2015
14075- DA05	E	Road and drainage plan	15/07/2015
14075- DA06	D	Road longitudinal sections and typical section	10/07/2015

and that all subdivision works have been designed in accordance with conditions of this consent, Liverpool City Council's Design Guidelines and Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.



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

- Public and private roads
- Stormwater drainage including water quantity and quality treatment measures
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Overland flowpaths
- Flood control measures
- Traffic facilities including roundabouts, intersection treatments, car parks, bus stops, cycleways, pathways etc.
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

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

**Road design criteria table**

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

Road No.	Road Reserve Width	Carriageway Width	Verge	Footpath (1.5m wide)	ESA
Road No 1	14.2m	7.2m	3.5m on both side	1.5m on both sides	3x10 <sup>5</sup>
Road No 1 adjacent to public reserve	12.9m	7.2m	1.7m	1.5m on one side	3x10 <sup>5</sup>
Rynan Avenue Approx from CH105 to intersection Rynan Ave and Hoxton Park Road.	Half road construction	7.0m	4.8m	1.8m	2x10 <sup>6</sup>
Rynan Avenue Approx from CH105 to intersection Rynan Ave and Road 1	Half road construction	7.8m	4.0m	1.8m	2x10 <sup>6</sup>

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**Stormwater Concept Plan**

28. A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Diversi Consulting, reference number 14075,, revision, dated 17/07/2015 and in accordance with the Concept Drainage Strategy, Reference: DC14075-SWM-L03, dated 21/07/2015 prepared by Daversi Consulting.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and shall accompany the application for a Construction Certificate. The plan shall indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finish surface levels and sizes of all pipes.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

**Stormwater Discharge – Basement Car parks**

29. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3:2003 and Council's Stormwater Drainage Design Specifications for pump out systems for basement carparks.

**Water Quality**

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

The Construction Certificate must be supported by:

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

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

**Access, Car Parking and Manoeuvring – General**

31. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking

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areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Liverpool City Council's Development Control Plan.

32. Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that:
- a) Off street access and parking complies with AS2890.1.
  - b) All cars can enter and exit the site in a forward direction

**Impervious Areas**

33. The detailed drainage design required for the Construction Certificate is to assume the post development scenario impervious areas of 75% for all internal subdivided lots, 95% for road reserves and 85% for all contributing neighbouring catchments.

**Overland Flow Path**

34. The stormwater plan shall take into consideration the upstream catchment areas that will drain through the site. The overland flow path proposed along Road 1 shall be capable of catering the flows for the 100 year ARI storm event. A freeboard of 300mm shall be provided to all habitable floor levels of the development site and adjoining properties.

**Modification of Inlet Pit**

35. The existing inlet pit at the low point on Rynan Avenue shall be modified with a double grated inlet pit to increase the pit inlet capacity. The increased capacity is to be consistent with the submitted and approved Concept Drainage Strategy, reference DC14075-SWM-L04, dated 21 July 2015 and prepared by Diversi Consulting

**Road Construction**

36. All roads to have Asphaltic Concrete constructed in 2 layers minimum 25mm each AC10 a total of 50mm.

**Cut and Fill**

37. Cut and fill plans with details of design levels for proposed lots and proposed roads are to be submitted with any CC application to the satisfaction of the Principal Certifying Authority..

**Redundant Laybacks**

38. The redundant laybacks are to be removed and the kerb and gutter restored to the Councils standard.

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**Finished Land Levels**

39. Finished land levels of Lot 1, 2 and 3 shall be no lower than the 1% AEP flood (i.e. 41m Australian Height Datum).

**Habitable Floor levels**

40. Habitable floor levels shall be no lower than the 1% AEP flood plus half a metre freeboard (i.e.  $41\text{m} + 0.5\text{m} = 41.5\text{m}$  Australian Height Datum).

**Flood Compatible Building Components**

41. The buildings shall be constructed from flood compatible building components below the 1% AEP flood plus half a metre freeboard (i.e.  $41\text{m} + 0.5\text{m} = 41.5\text{m}$  Australian Height Datum).

**Traffic**

42. Plans are to be submitted for the local Traffic Committee's approval detailing the following;
- Internal roads designed for 50km/h including speed controlling facilities.
  - Street names, if available;
  - Road widths, traffic lanes, and footpath reserve, pedestrian and cycle path including pram-ramps in accordance with the LDCP 2008;
  - Street name sign locations;
  - Locations of the street lighting poles;
  - Driveway locations including design of kerb and gutter.
  - Location of bus stops on both sides of Rynan Avenue and a bus shelter adjacent to the proposed development.
43. The following traffic facilities detailed below are to be provided to prioritise traffic movements at the proposed intersection. Plans detailing the requirements below are to be submitted to the Local Traffic Committee for approval.
- 'BB' (double-barrier) line at least 10m on all approaches to the pram ramps or the kerb returns.
  - Pavement markings for safe and efficient circulation of traffic.
  - 'No Stopping' restrictions at intersections in accordance with the RMS guidelines and marked with yellow (Y14) edge-line (in accordance with AS 2700S). The yellow edge-line should be 6m past the BB line on both sides of the street in lieu of No Stopping signs; C3 yellow line-marking should be used at locations where No Stopping restrictions are required.
  - Pedestrian refuge should be in accordance with the RMS Technical Direction TDT-2011/01a.

## **C. PRIOR TO WORKS COMMENCING**

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

### **Construction Certificates**

44. Detailed Civil engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the Act, and a copy registered with Council.
45. Detailed engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
46. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

### **Residential Building Work**

47. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*), must not be commenced until such time as a contract of insurance is in force in accordance with Part 6 of that Act.
48. Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be commenced unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) In the case of work for which a principal contractor is required to be appointed:
    - i. The name and licence number of the principal contractor; and
    - ii. The name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit,

Note: A certificate supporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part.

49. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates (not being the Council) has given the council written notice of the updated information.

**Notification/Principal Certifying Authority**

50. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
51. The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days notice must be given.
52. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
- (a) Any excavation, below the base of the footings of a building on an adjoining allotment of land.
  - (b) The notice shall be given seven (7) days prior to the commencement of work.
53. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.

**Facilities**

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

Each toilet must:

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

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**Construction Requirements**

55. Lifting or craning materials over a public footway or roadway is not permitted unless a "B" class construction hoarding has been installed in compliance with work cover authority requirements.
56. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.
57. Structural supporting elements or bracing of the building must be designed and certified by a qualified chartered structural engineer having regards to supporting ground conditions.

**Site Facilities**

58. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

**Site Notice Board**

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

**Hoarding**

60. A construction hoarding of class B must be erected to prevent any substance from, or in connection with the construction site, falling onto a public area:

This applies, as follows:

- (a) If the work is likely to cause pedestrian or vehicular traffic in a public area to be obstructed or rendered inconvenient; or
- (b) If craning of materials is to occur across a public area or road reserve area.

Such hoarding or barrier must be designed and erected in accordance with Council's guidelines on hoarding construction. Relevant application under the

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Roads Act approval must be completed and fees paid prior to the construction of a hoarding on Council road reserve area.

**Notification of Service Providers**

61. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick check agents details – see Building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Developing then Building and Renovating

or telephone 13 20 92.

**Reports**

62. No work or craning shall be undertaken within the adjoining public lands without the prior written consent of Council. In this regard Council may require a Traffic Management Plan to be submitted before giving its approval.

**Waste Classification**

63. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act and NSW DECCW, (EPA) 'Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes'. The classification of the material is essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non liquid waste advice should be sought from the DECCW (EPA).

**Environmental Management**

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

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



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**Traffic Control Plan**

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

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

Note:

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

**Dilapidation report**

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

**Matters to be addressed prior to commencement of Subdivision Works**

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

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

**D. DURING CONSTRUCTION**

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

**Building Work**

68. In the case of a class 2, 3 or 4 building, critical stage inspections must be carried out by the appropriate person in accordance with the EP&A Regulation, with Compliance Certificates issued for each inspection. The last critical stage inspection must be carried out by the PCA. The following components of construction are relevant:

- (a) after excavation for, and before the placement of, any footings, and
- (b) prior to covering of waterproofing in any wet areas for a minimum of 10% of rooms with wet areas within a building, and
- (c) prior to covering any stormwater drainage connections; and
- (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Note: These certificates or documentary evidence must be submitted to Council with any OC issued for the development.

69. The building and external walls are not to proceed past ground floor/reinforcing steel level until such time as the PCA has been supplied with an identification survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels and setbacks to boundary/boundaries. The slab shall not be poured, nor works continue, until the PCA has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

*In the event that Council is not the PCA, a copy of the survey shall be provided to Council within three (3) working days.*

On placement of the concrete, works again shall not continue until the PCA has issued a certificate stating that the condition of the approval has been complied with and that the slab has been poured at the approved levels.

#### **Hours of Construction Work and Deliveries**

70. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 6:00pm Monday to Friday and 8:00am to 1:00pm Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

#### **Security Fence**

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

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

#### **Termite Protection**

72. To protect the buildings from subterranean termite, termite barriers must be installed in accordance with AS 3660.1 to the underside and penetrations of the concrete slab floor. In addition a durable notice must be permanently fixed inside the metre box indicating:

- (a) The method of protection;
- (b) The date of installation of the system;
- (c) Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label;

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- (d) The need to maintain and inspect the system on a regular basis

Certification from a licensed pest controller shall be submitted to the PCA certifying that the termite protection system installed complies with AS3660.1.

**Disabled Access**

73. Access, parking and facilities for persons with disabilities to be provided in accordance with the provisions of the National Construction Code.

**General Site Works**

74. Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.
75. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
76. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.
77. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
78. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor, licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of in accordance with DECCW (EPA) requirements.

**Car Parking Areas**

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

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

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

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**Traffic Management**

80. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA's Traffic Control at Worksites Manual and the RTA's Interim Guide to Signs and Markings.
81. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
82. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.
83. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

**Waste Management Plan**

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

Note: Any non-compliance with this requirement will result in penalties being issued.

**Vegetation**

85. No additional trees are to be removed without the prior approval of Council.
86. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.
87. Clearing of bushland in addition to any clearing approved for this development application, whether it be removal of trees, groundcover or understorey, requires development consent.
88. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.

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- 89. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
  - 90. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.

**Landscaping Works**

- 91. Premium quality organic garden soil shall be incorporated into all planting areas in sufficient quantity to achieve optimum plant growing conditions.

**Fencing**

- 92. Any gate associated with a front fence shall swing inwards from the property.

**External**

- 93. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.
- 94. Any external lighting is to incorporate full cut-off shielding and is to be mounted so as to not cause any glare or spill over light nuisance within the development, neighbouring properties or road users.
- 95. The plant associated with any air conditioning system is to be located a minimum of 3 metres from any property boundary, to the satisfaction of the PCA.
- 96. The windows of all first floor bathrooms, W.C. and ensuite shall be fitted with translucent obscure glazing to the satisfaction of the PCA.

**Graffiti**

- 97. A graffiti resistant coating shall be applied to any fences or structures that have frontage to a public area, for example a roadway, public reserve etc.

**Salinity**

- 98. Any works or activities shall adhere to the recommendations outlined in the approved Salinity Management Plan prepared for the site.
- 99. All building materials utilised below dampcourse level or water proof membranes are to be resistant to damage from salt damp. Dampcourses and water proof membranes are to have a high resistance to construction damage, are to be themselves resistant to damage from salt damp and are not to be bridged in any manner by porous materials.
- 100. Any site drainage or landscaping works are not to result in the significant mobilisation of soil salts on or off the site.

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**Contamination**

101. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).
102. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
  - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
  - (b) clearly indicate the legal property description of the fill material source site;
  - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
  - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
  - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.
103. Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:
  - (a) The course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
  - (b) The results of a preliminary contamination assessment carried out on any fill material used in the development.
  - (c) The results of any chemical testing of fill material.
104. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately after discovery. A Section 96 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

**Air Quality**

105. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
106. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust

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transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.

- 107. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
- 108. Gaseous emissions from the development shall comply with the requirements of the POEO Act and Regulations there under. Processes producing airborne particulate matter shall incorporate a suitable dust collection system.
- 109. All woodworking machines shall be fitted with a approved dust collection system and no sawdust or off-cuts shall be burnt on the premises.

**Erosion Control**

- 110. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
- 111. Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 112. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

**Water Quality**

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

**Pollution Control**

- 114. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
- 115. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

**Ventilation**

- 116. The premises shall be ventilated in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 & 2)

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117. The design, construction, installation and commissioning of the mechanical ventilation systems(s) serving the premises shall be carried out in accordance with Australian Standard 1668 Parts 1 & 2.

The mechanical exhaust discharge point shall be designed and installed by an appropriately qualified person, and shall be positioned to comply with Section 3.7 of Australian Standard 1668 Part 2 – 1991.

**Street Lighting**

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

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

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

**Major Filling/ Earthworks**

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

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

**Soil testing – Subdivisions**

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

**Service Conduits**

121. Services conduits must be placed across carriageways prior to the placing of any pavement material. In this regard, a copy of the services plans must be submitted to the Principal Certifying Authority prior to the placement of pavement material. Alternatively, the services crossings must be under bored.

**Noise During Construction**

122. Construction noise shall not exceed the management levels defined within the Interim Construction Noise Guideline published by the NSW Department of Environment and Climate Change dated July 2009.



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**Complaints Register**

123. Prior to the commencement of Construction, the Applicant must ensure that the following is available during the construction of the Development:
- (a) a postal address to which written complaints may be sent;
  - (b) an email address to which electronic complaints may be transmitted; and
  - (c) a telephone contact line to enable complaints associated with the Development to be registered by the community.
124. The Applicant must keep a legible record of all complaints received in an up-to-date Complaints Register. The Complaints Register must record, but not necessarily be limited to:
- (a) the date and time, where relevant, of the complaint;
  - (b) the means by which the complaint was made (telephone, mail or email);
  - (c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
  - (d) the nature of the complaint;
  - (e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and
  - (f) if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.
  - (g) allocate an individual "complaint number" to each complaint received.

The Complaints Register must be made available for inspection on request of the Consent Authority and Liverpool City Council.

## **E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifying Authority:**

### **Certificates**

125. The premises must not be utilised until an OC is issued by the PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.
126. The Principal Certifying Authority (Building) and/or the Accredited Certifier (Subdivision) shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that the works as constructed comply fully with the required condition of consent being acted on by the certifier.
127. All required Compliances Certificates for the critical stage inspections carried out prior, during and at the completion of construction, must be submitted to Council together with the required registration fee payment.

128. A final fire or interim safety certificate is to be attached to any OC, except in the case of a Class 1a or Class 10 building(s). This must include all the "essential fire services" installed in the building.
129. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.

**Display of Street Numbers**

130. Street numbers must be prominently displayed at the front of the development in a contrasting colour to the building materials and at the front of each individual unit to comply with the Local Government Act 1973, Section 124(8). The number should be a minimum height of 120mm and be visible at night.

**Smoke Alarms**

131. Should the construction of the development (bulkheads etc) reveal that the smoke detectors cannot operate effectively, additional smoke detectors may be required to be installed in order that the detectors effectively protect the occupants of the building in accordance with the provisions of National Construction Code Part 3.7.2.

**BASIX**

132. Supporting documentation issued by a suitable qualified person who has installed or carried out the works associated with the BASIX commitments shall be submitted to Council.

**Landscaping**

133. Upon completion of the approved landscape works associated with the development and prior to the issue of any OC, an Implementation Report is to be submitted to the PCA attesting to the satisfactory completion of the landscape works in accordance with the approved landscape plan. The report is to be prepared by a suitably qualified person.

**Design Verification Statement**

134. In accordance with the Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Flat Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA assessing the development, upon completion of all works subject of this consent and its accompanying CC. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
- (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
  - (b) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the CC, having regard to the design principles set out in

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Part 2 of SEPP 65.

**Recommendations of Acoustic Report**

135. A Compliance Certificate or other documentation deemed suitable to the PCA is to be submitted to the PCA, detailing compliance with the following:
- (a) Certification is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report and that all recommendations have been adopted.

**Air Conditioners**

136. All air handling, evaporative cooling, humidifying, warm water and water cooling systems installed on the premises shall comply with the Public Health Act 1991 and Public Health (Microbial Control) Regulation 2000, in accordance with the following:
- (a) All water cooling and warm water systems shall be designed, constructed and installed in accordance with AS 3666.1:1995, the Public Health Act 1991 and Public Health (Microbial Control) Regulation 2000 before being commissioned.
  - (b) All cooling towers and warm water systems shall be operated and maintained in accordance with AS 3666.2:1995, (or AS 3666.3:2000 subject to prior notification to Council) the Public Health Act 1991, and Public Health (Microbial Control) Regulation 2000.
  - (c) A true copy of the annual certificate as stipulated in Clause 9(2) of the Public Health (Microbial) Regulation 2000 that certifies the effectiveness of the process of disinfection used for the water cooling system, shall be submitted to Council prior to the period ending 30 June each year.
  - (d) The owner or occupier of the building shall be advised of the need to register and provide particulars of any water cooling, and warm-water systems as required under the provisions of the Public Health Act, 1991 and Regulation thereunder. Registration forms are available from Council.

**Garbage Services**

137. The owner/developer of the site is to contact Liverpool City Council – Sustainable Environment section to determine the required number of waste/garbage bins for the residential component of the development as well as serving requirements. These waste/garbage bins are to be kept at all times within the residential waste/garbage compartment rooms except before and after collection days. Waste/garbage bins are to be returned to the compartment room as soon as practical after waste has been collected.

**Liverpool City Council clearance – Roads Act/ Local Government Act**

138. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68

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Local Government Act approval have been inspected and signed off by Liverpool City Council.

**Works as executed – General**

139. Prior to the issue of an Occupation Certificate, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Liverpool City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Liverpool City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

**Stormwater Compliance**

140. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:

a) Basement Carpark pump-out system

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to been undertaken have been satisfactorily completed.

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

**Restriction as to User and Positive Covenant**

141. Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:

a) Basement carpark pump-out system

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Liverpool City Council's standard wording as detailed in Liverpool City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

**Pump-out system**

142. Stormwater runoff from the proposed driveway to the underground garage shall be via a pump-out system subject to the following conditions:

- (a) The pump-out system shall be independent of any gravity drainage lines except at the site property boundary inspection pit where a surface grated inlet pit shall be constructed, from which a connection may be permitted to

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- the gravity stormwater system.
- (b) Engineering details and manufacturer's specifications for pumps and switching system shall be submitted for approval prior to issue of construction certificate.
  - (c) An 88B positive covenant shall be placed on the property title. This requires the property owner to be responsible for the proper maintenance and repair of the abovementioned pumps, pipes and pit system. Council is the Authority benefited and the property owner is burdened by this restriction. Evidence of the creation of the positive covenant shall be forwarded to Council prior to the issue of an OC.

**Road Access**

143. Prior to issue of any occupation certificate, full width dedicated public road access shall be made available to the residential flat building site.

**F. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of a Subdivision Certificate by Council:**

**Completion of subdivision works**

144. Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Liverpool City Council for any outstanding works.

**Rectification of Damage**

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

Any rectification works within the adjoining road reservewill require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

**Splay**

146. Prior to the issue of a Subdivision Certificate a 6m x 6m splay corner at all intersections is to be dedicated as road to Liverpool City Council on a plan of subdivision registered with the Land & Property Information Division of the Land & Property Management Authority. The dedication of road and subsequent registration shall be at no cost to Council.

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**Linemarking & Signage**

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

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

**Street Naming**

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

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

Notes:

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

**Subdivision Compliance documentation**

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

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

- f) Documentation for all road pavement materials used demonstrating compliance with Council Design Guidelines and Construction Specification.
- g) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Council's Design Guidelines and Construction specifications. The report shall include:
  - Compaction reports for road pavement construction
  - Compaction reports for bulk earthworks and lot regrading.
  - Soil classification for all residential lots
  - Statement of Compliance
- h) Structural Engineer's construction certification of all structures

**Linen Plans & 88B**

- 150. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.
- 151. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release
- 152. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Councils standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.
- 153. Where common drainage lines or other drainage lines are required, a drainage easement shall be created in accordance with Council's minimum widths as scheduled in councils design specification for subdivisions (as amended).
- 154. The final plan of subdivision is to show the dedication of a road widening/service way/easement/right-of-way/6m x 6m/3m x 3m cut-off corner to Council, whichever is relevant.
- 155. A Restriction as to User over Proposed rear residue lot is to be created under Section 88B of the Conveyancing Act 1919 in the following terms:

No further development of the lot burdened is to take place unless it is approved by a Development Consent. Such approval is likely to require, but not be restricted to, construction of road and drainage works, the provision of lot fill, and payment of Section 94 Contributions and Special Infrastructure Contributions.

The restriction as to User may not be extinguished or altered except with the

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consent of Liverpool City Council.

**Note.** The final wording of the recital of the Restriction as to User is to be to Council's satisfaction.

156. Prior to the issuing of a Subdivision Certificate a restriction as to user and positive covenant shall be placed over the temporary sediment basin. , within the Lot 1 in favour of Council to ensure the continued maintenance and performance of the stormwater management system in accordance with Council's standard wording. The position of the on-site detention system is to be clearly indicated on the Final Plan of Subdivision.

**Temporary Turning Heads**

157. Prior to issue of a Subdivision Certificate a temporary turning facility shall be provided at the end of proposed road No 1 and designed in accordance with Council's standard cul-de-sac design requirements to accommodate recirculation of garbage truck traffic.

**Service Providers**

158. The following documentation is to be provided prior to the issue of the Subdivision Certificate
- a) Written evidence (Section 73 Certificate) is to be submitted to the PCA prior to the issue of the subdivision certificate.
  - b) Notification of arrangement for the development from Endeavour Energy shall be submitted to Council.
  - c) Compliance Certificate for the development from an approved local telecommunications carrier shall be submitted to Council.

**Footpaths**

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

**Dilapidation Report**

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

**Bonds**

161. A maintenance bond in the form of a bank Guarantee or cash bond (\$TBA) at time of payment, shall be lodged with Council prior to the issue of a Subdivision Certificate. The bond shall cover maintenance and any damage to roads, drainage lines, public reserves or other council property or works required as a



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result of work not in accordance with Council's standards, and /or development consent conditions. The bond will be held by Council for a minimum period of 12 months from the date of Council acceptance of final works.

**Amended Subdivision Plan**

164. The approved subdivision shall be amended to incorporate 6m x 6m cut-off corner at the intersection of Rynan Avenue and Road No.1 and at the 90° bend of proposed Road No.1.

**Easement**

165. An easement to drain water must be created over the stormwater drainage line proposed to be constructed within the residue lot 1 at the rear of the development site

**Right of Carriageway**

166. A "Right of Carriageway" must be created over the temporary turning head to benefit Council.

**Residue Lot**

167. The proposed residual Lot 1 is to remain as residual lot and shall not be released until the temporary basin and turning head is removed. At the end of the temporary use period all temporary structure shall be removed and the site shall be restored to pre-existing conditions.

**Street Trees**

168. All proposed street trees must be planted or bonded prior to issue of a subdivision certificate.

**Existing Drainage Lines**

169. All existing drainage line within the site that are to be used as part of the new development are to be checked via a CCTV investigation and result to be submitted to Council's Senior Land Development Engineer for approval prior to issue of any Construction Certificate.

**Sediment Basin**

170. All necessary fencing and/or bollards must be provided to the sediment basin prior to the issue of any Subdivision Certificate.

**Works-in-Kind**

171. Any Works in Kind to be carried out for the Council covered in Council's Section 94 Contribution Plan must be agreed to in writing prior to any works

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commencing. Any works carried out prior to receiving written approval from Council can not be paid by the Council or credits given.

## **G. CONDITIONS RELATING TO USE**

**The following conditions relate to the ongoing use of the premises:**

### **Waste**

172. All solid and liquid waste is to be removed from the site by a registered waste contractor.
173. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
174. All solid waste stored on site is to be covered at all times.

### **Car Parking/Loading**

175. A total of 144 off street car parking spaces must be provided in accordance with Council's requirements. The parking spaces shall be allocated as follows:
  - 124 Spaces within the allocated basements for residential parking
  - 20 spaces designated for visitor parking relating to the residential units, inclusive of the requested change specified in condition 2 above.
176. All parking areas shown on the approved plans must be used solely for this purpose.
177. All loading and unloading must take place from the designated loading dock. This area is to be clearly marked/signposted for use by delivery vehicles only.
178. Any alarm installed on the site is to be "silent back to base" type.
179. The use of the premises including music and other activities shall not give rise to any one or more of the following:
  - (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
  - (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB(A) above the L90 background level or greater than 5db(A) at the boundary of any affected property in any octave band from 31.5Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00am to midnight daily and 0dB(A) above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
  - (c) During the period of 12 midnight to 7.00a.m. the use shall be inaudible in any habitable room of any residential premises.

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- (d) The emission of an "offensive noise" as defined under the POEO Act.

The method of measurement of vibration in (a) and sound levels in (b), (c) and (d) shall be carried out in accordance with AS 2973 for vibration measurements, AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

180. Noise associated with the use of the premises, including mechanical plant and equipment, shall not give rise to any one or more of the following:

- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
- (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB(A) above the L90 background level or greater than 5db(A) at the boundary of any affected property in any octave band from 31.5Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00a.m to 10.00p.m daily and 0dB(A) above the L90 background between 10.00pm and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
- (c) The emission of an "offensive noise" as defined under the POEO Act.

The method of measurement of vibration in (a) and sound levels in (b) and (c) shall be carried out in accordance with AS 2973 for vibration measurements, AS1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

**Environment**

181. The use of the premises shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.

**Waste Storage Area**

182. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties.

183. Any bin bays must be:

- (a) Provided with mechanical ventilation;
- (b) Provided with a hose cock for hosing the garbage bin bay and a sewered drainage point in or adjacent to the bin storage area. The drainage point should have a fine grade drain cover sufficient to prevent coarse pollutants from entering the sewer. If the hose cock is located inside the bin storage bay, it is not to protrude into the space indicated for the placement of bins;
- (c) Provided with sufficient light to permit usage at night;

- (d) Allocated with sufficient space within the bin bay to allow for access to all required bins by residents and waste collectors, as well as manoeuvring of bins within the bay and for the removal and return of bins by the waste collector;
  - (e) Provided with signage to be prominently displayed in each bin bay, or waste service room, as appropriate indicating that:
  - (f) Garbage is to be placed wholly within the garbage bins provided;
  - (g) Only recyclable materials accepted by Council are to be placed within the recycling bins;
  - (h) The area is to be kept tidy;
  - (i) A phone number for arranging disposal of bulky items;
  - (j) Graphic illustrative content to be 50%.
  - (k) Bin bay signs are available from Council;
  - (l) Operation, maintenance and cleaning of the garbage chutes and associated waste cupboards, rooms, or equipment is the responsibility of the occupier and not of Council.
184. A permanent record of receipts for the removal of both liquid and solid waste from the site shall be kept and maintained up to date at all times. Such record shall be made available to the Consent Authority and Liverpool City Council's Officers, upon request.
185. Waste and recyclable material generated from the operations of the premises shall be managed in a satisfactory manner that does not give rise to offensive odour or encourage pest activity. All waste material shall be regularly removed from the premises. Waste shall not be permitted to accumulate near the waste storage bins.

## H. ADVISORY

- a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 96AB of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within six months after the date on which the application is taken to have been determined.
- b) If you are dissatisfied with this decision, Section 97AA of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after the date on which the application is taken to have been determined.
- c) In accordance with Section 95 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within two (2) years of the date of this notice.
- d) In accordance with Section 98 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for designated development (including designated development that is integrated development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- e) These conditions are imposed to control development, having regard to 79C of the Environmental Planning and Assessment Act 1979.
- f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- g) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- h) "DIAL BEFORE YOU DIG" DIAL 1100

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

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**i) TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800 810 443.

- j) Letter boxes must be provided in accordance with the requirements of Australia Post. In this regard, the developer is required to obtain approval from Australia Post for address numbering, and letter box positioning and dimensions.
- k) You are advised that the placement of a concrete path around your home may render your home vulnerable to termite attack. To minimise the possibility of any damage, ensure that a minimum of 75mm clearance is provided between the base of the weephole and the level of the path.
- l) The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required by other conditions of this consent.
- m) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- n) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- o) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicant's agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.

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**ATTACHMENT (A)**

**CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL  
PLANNING & ASSESSMENT ACT, 1979**

**Liverpool Contribution Plan Edmondson Park 2008**

**Note to the applicant:** When remitting payment as specified in the Conditions of Consent to the approval, this Form must be submitted with your payment.

These figures have been calculated to the June 2015 CPI Quarter and will be adjusted at the time of payment in accordance with the conditions of consent.

**APPLICATION NO.:** DA-898/2014

**APPLICANT:** J. Farkash & Associates

**PROPERTY:** 5 Rynan Avenue Edmondson Park

**PROPOSAL:** Removal of trees on site, four lot Torrens title subdivision and the construction of three residential flat buildings

<b><u>Facilities</u></b>	<b><u>Amount (\$)</u></b>	<b><u>Job No.</u></b>
Community Facilities - Land	\$8,072	GL.10000001870.10174
Community Facilities - Works	\$20,793	GL.10000001870.10175
Open Space and Recreation - Land	\$97,543	GL.10000001869.10176
Open Space and Recreation - Works	\$51,308	GL.10000001869.10177
Transport and Access - Land	\$62,787	GL.10000001865.10178
Transport and Access - Works	\$53,102	GL.10000001865.10179
Drainage - Land	\$3,763	GL.10000001866.10180
Drainage - Works	\$23,170	GL.10000001866.10181
Technical Study Fees Recoverable	\$997	GL.10000001872.10182
Professional Fees	\$3,253	GL.10000001872.10183
<b>TOTAL</b>	<b>\$324,788</b>	

----- OFFICE USE ONLY -----

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***RECORD OF PAYMENT***

**Total Amount paid:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Receipt No.:** \_\_\_\_\_ **Cashier:** \_\_\_\_\_



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**ATTACHMENT (B)**  
**General Terms of Approval RMS**



**Transport  
Roads & Maritime  
Services**

10 November 2014

Our Ref: SYD14/01218 (A7883198)  
Your Ref: DA-898/2014

Received By

13 NOV 2014

Records

The General Manager  
Liverpool City Council  
Locked Bag 7064  
Liverpool BC NSW 18714

**Attention: George Nehme**

**CONSTRUCTION OF 3 RESIDENTIAL FLAT BUILDINGS  
5 RYNAN AVENUE, EDMONDSON PARK**

Dear Sir/Madam,

I refer to your letter dated 20 October 2014 (Council Ref: DA-898/2014) with regard to the abovementioned development proposal, which was referred to Roads and Maritime under State Environmental Planning Policy 2007 (Infrastructure) for comment.

Roads and Maritime has reviewed the subject application and provides the following comments to Council for its consideration:

1. All construction activity associated with the proposed development is to be contained on site as no construction zones will be permitted on Camden Valley Way in the vicinity of the site.
2. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Camden Valley Way during construction activities.
3. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Roads and Maritime for determination prior to the issue of a construction certificate.
4. The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
5. Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works.

Details should be forwarded to:

Sydney Asset Management  
Roads and Maritime Services  
PO BOX 973 Parramatta CBD 2124

**Roads and Maritime Services**

27-31 Argyle Street, Parramatta NSW 2150 | PO Box 973 Parramatta NSW 2150 | [www.rms.nsw.gov.au](http://www.rms.nsw.gov.au) | 131 782

6. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004.
7. The proposed development should be designed such that road traffic noise from adjacent public roads is mitigated by durable materials, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999). Roads and Maritime's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.
8. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

Telephone 8848 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

9. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

Any inquiries can be directed to Jana Jegathesan by telephone on 8849 2313.

Yours sincerely



Pahee Rathan  
Senior Land Use Planner  
Network and Safety Management

10.3 Clause 4.6 Variation to development standards

a) Clause 4.6 for Height non-compliance

**Height of Buildings**

Clause 4.3 (2) of LLEP 2008 relates to the maximum height requirements and refers to the *Height of Buildings Map*. A maximum building height of 15m applies to the site. Building height is defined as:

“ *building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*”

As indicated in the extracts of the building section diagrams in Figures 9, 10 and 11, Building A exceeds the maximum building height to a minor degree along the roof line. The lift overrun of Buildings A and B exceed the building height control. An orange line in the Figures below indicates a level 15m above existing ground level. At the greatest extent the breach is approximately 800mm for the roof of

Building A and 1m for the lift overruns of Buildings A and B. These variations are equivalent to a maximum of 5% for the western section of the roof of Building A and 6% for the lift overruns.



Figure 9: West Elevation Building A

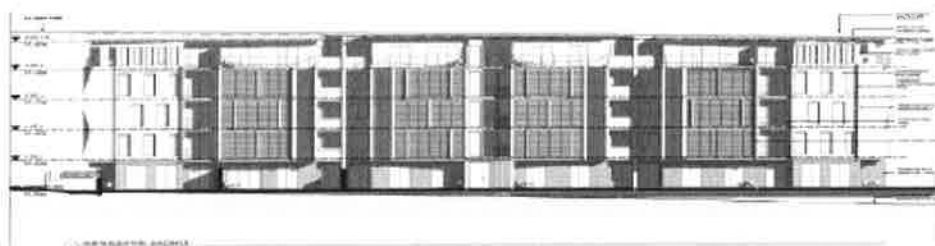


Figure 10: North elevation Building A



Figure 11: South Elevation Building A

Clause 4.6(3) of the LEP contains inbuilt flexibility for varying the height standard and provides the following:

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

With regard to point (a) above, in *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

*" An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."*

The judgement goes on to state that:

*" The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."*

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

This request relies on demonstrating that the objectives for the building height standard and for development in Zone R1 are achieved despite numeric non-compliance (as underlined above).

The relevant objectives of the maximum building height standard are stated in Clause 4.3 (1) of LLEP 2008 below:

- "(1) The objectives of this clause are as follows:*
- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
  - (b) to permit building heights that encourage high quality urban form,*
  - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity."*

The proposed height variation is considered to be consistent with the objectives as follows:

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***Objective (a):***

The permissible floor space is achieved by the proposal with the distribution of floor space between three residential buildings. This breaks up the overall built form and reduces the bulk of the proposal.

***Objective (b):***

The proposal displays high quality urban form. The height and floor plate size and layout of each building is distinctly different and this adds variety and interest to the streetscape. The buildings enhance the aesthetic quality, utility and amenity of the locality and are of a form that is anticipated by the applicable planning controls.

The separation between the buildings exceeds the requirements of the RFDC. In conjunction with three separate building forms this allows for a large proportion of dual aspect apartments. All apartments have primary orientation to a public road and/or large areas of open space which enhances the privacy and amenity of apartments.

The degree to which Building A exceeds the maximum height limit does not substantially change the overall appearance of the buildings and would not be readily apparent to the casual observer at street level. The site is a prominent corner and a 'gateway' point to Edmondson Park. Tall buildings distinguish this entry point and are exemplary of the desired character for this location as described in LDCP 2008.

The lift overruns are recessed from the perimeter of both buildings and will not be readily apparent to the casual observer from adjoining streets. The lift overruns are the minimum required to accommodate essential mechanical equipment and will not detract from the aesthetic and architectural quality of the buildings.

***Objective (c):***

The proposed building height does not result in detrimental amenity impacts due to shadow in comparison to a compliant building height. The non-compliant section of the roof of Building A is at a maximum 800mm above the 15m height limit and does not significantly add to the overall shadow cast by the building onto neighbouring properties between 9am and 3pm in midwinter.

The lift overruns are located in the centre of Buildings A and B and do not contribute to shadowing.

***Objective (d):***

The proposed buildings heights are consistent with the desired future character and intensity of development for the site as described in Liverpool DCP 2008 (see Section 4.2.7 and Annexure C).

In conclusion the proposed development is therefore consistent with the objectives for building height despite the numeric non-compliance.

With regards to Clause 4.6(3)(b), there are sufficient environmental planning grounds to justify contravening the maximum height standard of the LEP for the roof of Building A and the lift overruns of Buildings A and B.

The proposed height encroachment will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the *Environmental Planning and Assessment Act, 1979* and in a manner consistent with the intentions of the DCP for the Edmondson Park Urban Release Area.

As outlined in Annexure B, the proposal is consistent with the objectives for development in Zone R1, which are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents."*

The proposal requests variation to the height controls that will enable delivery of a well designed medium density housing development. In the absence of any significant amenity impacts the minor breach for the western portion of Building A and for the lift overruns of Buildings A and B are far more desirable than lower bulkier buildings, increased site coverage and reduced building separation that may result from the redistribution of floor space horizontally.

There is no planning purpose to be served by limiting the height strictly to the 15m allowable given the achievement of high quality design and absence of amenity related impacts and the minor nature of the non-compliance. The proposed height will not offend the objectives of the LEP height control, as previously demonstrated.

In light of the above reasons demonstrating compliance with the relevant objectives it would be unreasonable and unnecessary to insist on strict compliance with the 15m height standard. Furthermore, to insist on strict compliance would frustrate the orderly and economic development of the site thereby hindering the attainment of the objectives of the *Environmental Planning and Assessment Act, 1979*. In this case the variation to the maximum building height standard is considered reasonable and consistent with the requirements of Clause 4.6(3) of the LEP.

**b) Clause 4.6 for FSR non-compliance**

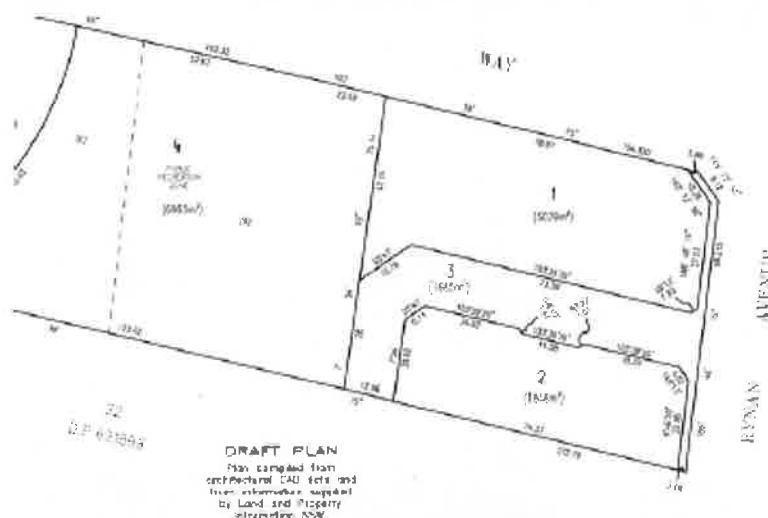
**CLAUSE 4.6 VARIATION STATEMENT 5 RYNAN AVENUE EDMONSON PARK- FLOOR SPACE RATIO (CLAUSE 4.4)**

Clause 4.4 of Liverpool Local Environmental Plan 2008 relates to maximum floor space ratio (FSR) requirement and refers to the *Floor Space Ratio Map*. The relevant map identifies the eastern portion of the subject site as having a maximum FSR of 1:1 as indicated at Figure 1.



*Figure 1: Subject site on the LEP FSR Maps*

As indicated in the submitted Statement of Environmental Effects, the proposal includes a 4 lot subdivision. Lot 4 will be subdivided to create a large parcel of land that will contain a riparian zone and open space. The remaining lots (Lots 1, 2 and 3) are located within the R1 – General Residential zoned portion of the site and constitute the “development site” for the purpose of calculating FSR pursuant to Clause 4.5 of the LEP. The configuration of Lots 1, 2 and 3 on the site is provided at Figure 2.



*Figure 2: Configuration and areas of proposed Lots 1, 2 and 3*



When calculated in accordance with the definition of gross floor area, the proposed development, comprising Buildings A, B and C will provide a total gross floor area of 6,316.02m<sup>2</sup>. The total gross floor area relates to the development site (Lots 1, 2 and 3) with a resultant FSR of 0.96:1. Therefore, in the absence of subdivision, the proposed development provides the permitted gross floor area which is appropriately massed across the site.

However, the proposal includes the subdivision of the site into the 3 respective allotments to allow for the construction of the proposed residential flat buildings and the construction and dedication of the roadway that traverses the sites. The implications of the subdivision of the site is technical non-compliance in with the FSR control in relation to Lots 1 and 2. The post-subdivision FSR for each respective lot and the FSR for the whole development site is provided in Table 1 below.

TABLE 1: SITE AREA AND FSR FOR EACH RESPECTIVE LOT ON THE DEVELOPMENT SITE				
Lot	Lot 1	Lot 2	Lot 3	Total
Site Area	3,381m <sup>2</sup>	2,077m <sup>2</sup>	1,153m <sup>2</sup>	6,611m <sup>2</sup>
Buildings	Building A	Buildings B and C	Road	-
Gross Floor Area	3,757m <sup>2</sup>	2,559.02m <sup>2</sup>	0m <sup>2</sup>	6,316.02m <sup>2</sup>
FSR	1.11:1	1.23:1	0:1	0.96:1

In light of the above, the maximum permitted FSR has been provided across the site as a whole and the form of development and resultant yield across the development site is consistent with the intended density under the LEP. However, the proposal results in a technical non-compliance as each part of the site is to be subdivided to allow for the construction of the residential flat buildings and the construction and dedication of the proposed road.

Therefore, should the subject application not include subdivision, the proposal would be entirely consistent with the permitted FSR controls and there would be no such need for a justification pursuant to Clause 4.6 in relation to the FSR.

It is a reasonable expectation and widely accepted practice that density can be extracted out of land which is dedicated as part of either a development application process or voluntary planning agreement. In the case of the subject site, the density that is afforded to the site collectively is allocated to proposed buildings A, B and C and the technical non-compliance with the FSR control results from the necessary land subdivision.

Maximum FSR is a "development standard" to which exceptions can be granted pursuant to clause 4.6 of the LEP. The objectives and provisions of clause 4.6 are as follows:

- " **4.6 Exceptions to development standards**
- (1) *The objectives of this clause 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.*
- (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.*

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

*Note.* When this Plan was made it did not include all of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
  - (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
  - (c) clause 5.4,
  - (ca) clause 6.4, 6.5, 6.6, 7.22, 7.23, 7.24, 7.25, 7.26, 7.26A, 7.27, 7.28, 7.29 or 7.30.

The development standard in clause 4.4 is not expressly excluded from the operation of clause 4.6.

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

Objective 1(b) of clause 4.6 is addressed later in this request.

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The objectives of clause 4.4 are as follows:

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

As previously noted, the *Floor Space Ratio Map*, nominates a maximum FSR of 1:1 at the site and the proposal results in a technical non-compliance by virtue of subdividing the development site to create lots 1, 2 and 3. Specifically, the proposal seeks to provide an FSR of 1.15:1 in relation to the proposed Lot 2 and an FSR of 1.27:1 in relation to proposed Lot 3. It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 so as to permit the proposed FSR on each of the proposed lots.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of clause 4.4 are addressed in turn below.

***Objective (a):***

Objective (a) seeks to establish standards for the maximum permitted density to manage impacts on the availability of infrastructure and the generation of vehicle and pedestrian traffic. The subject site is a large residentially zoned parcel of land that is identified as having a maximum FSR of 1:1. The site as a whole, has been designed to provide less than the maximum permitted gross floor area that has been afforded to the site. The density that was applied to the site was done so in light of the strategic context of the area and the ability of the local infrastructure, roads and services to accommodate that density. As the proposal relates to a technical non-compliance arising from subdivision of the site into smaller parcels of land, the level of density provided across the development site as a whole, is commensurate with the level of activity that was expected as part of drafting the FSR controls.

***Objective (b):***

Objective (b) seeks to achieve the desired future character for different locations through massing and the density of development. As previously discussed, the proposed FSR non-compliance is technical and would not arise if it was not for the subdivision of the land. Notably, the development could be configured to provide a road that consisted of a right of way across two separate lots, rather than the creation of a lot that was to be dedicated as a road. In this instance there would be no numerical non-compliance. That being said, there is no difference between the resultant density and form of development as proposed, to that which does not include subdivision. As such, the proposal represents a form of development across the site that is consistent with the level of density afforded to the site. The proposal is therefore consistent with Objective (b).

***Objective (c):***

Objective (c) seeks to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain. The development has been designed and sited to ensure that no significant or adverse environmental impacts result on the adjoining properties. This has been considered in detail in the submitted Statement of Environmental Effects which details with impact arising from overshadowing, view loss and aural and visual privacy. Despite the technical non-compliance proposed, in relation to Lots 1 and 2 there are no adverse environmental impacts on adjoining properties, future adjoining properties or the public domain.

***Objective (d)***

Objective (d) intends on maintaining 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. As discussed, the proposal complies with the applicable FSR across the site which is located in an area that is undergoing significant change. The permitted density is comfortably accommodated across the site and despite the technical non-compliance, the proposal will result in a development that will sit comfortably within the desired future built form context.

***Objective (e)***

Objective (e) seeks to provide an appropriate correlation between the size of a site and the extent of any development on that site. This objective is satisfied by the imposition of the FSR control, of which the proposal complies with across the entirety of the site. Redevelopment of the subject site in the form proposed is therefore consistent with objective (e)

***Objective (f)***

Objective (f) applies to the Liverpool Centre and is therefore not relevant to the site.

The proposed development is therefore consistent with the relevant objectives for FSR, despite the technical numeric non-compliance that arises from the subdivision of the land into the three separate lots.

Clause 4.6 (4) also requires consideration of the relevant zone objectives. The objectives of the *R1 – General Residential* zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents.*

The proposal is consistent with the objectives as it provides housing that is compatible with the needs of the community and adds to the variety of housing types by proposing a suitable range of residential apartment types in an area that is currently dominated by detached dwellings. The density of housing is compatible with the future provision of public transport to the Edmondson Park Urban Release Area and the proposal will not hinder the development of social and community infrastructure.

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered

that there is an absence of significant impacts of the proposed non-compliance on the amenity of future building occupants, on area character and on neighbouring properties.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", it is considered that applying flexibility to the FSR controls in this instance will allow for the permitted density to be provided across the development site and the associated subdivision will assist with realising the intended development form in the area. Specifically, the subdivision proposed will allow for the construction of the proposed apartments and the dedication of a local road to Council that will ultimately assist with access and redeveloping the adjoining property to realise the intended development outcome at the site and the area.

Insistence on strict compliance with the FSR control would require the withdrawal of the subdivision aspect of the proposal and would result in a less desirable urban outcome.

Returning to Clause 4.6(3)(a), in *Wehbe V Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

*"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."*

The judgement goes on to state that:

*"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."*

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

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Having regard to all of the above, it is our opinion that compliance with the FSR development standard is unnecessary in the circumstances of this case as the development meets the relevant objectives of that standard and the zone objectives.

The non-compliance proposed is technical in nature and would result in the same development form at the site without the subdivision aspect of the proposal. The subdivision is reasonably necessary and appropriate as part of this application and as such the outcome achieved by this proposal is superior to that of a scheme that has been designed to comply on each lot, with resultant implications on the ability to provide the intended residential density.

Therefore, insistence upon strict compliance with the standard would be unreasonable. On this basis, the requirements of clause 4.6(3) are satisfied.

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**10.4 Submission**

We make the following submission in relation to DA 898/2014 - 5 Rynan Avenue - Edmondson Park on behalf of the landowners of 1880 and 1882 Camden Valley Way, Edmondson Park, which is located opposite (east of) the land which the application applies.

We have concerns with the following matters in relation to this application:

- a) The application does not appear to make provision for road widening to accommodate the DCP required road section applicable for Rynan Avenue.
- b) The application does not appear address the provision of stormwater and overland flow from the East of Rynan Avenue.
- c) Building A and Building B exceed Liverpool LEP 2008 Maximum building height. Greatest exceedance occurs at the Eastern ends of the rooflines of these buildings which results in unreasonable afternoon overshadowing shadowing of residential zoned land located at 1880 Camden Valley Way, which is subject to future development.

The clause 4.6 variation proposed by the applicant in relation to clause 4.3 Height of buildings is inadequate. Objective (c) on page 22 of the Statement of Environmental Effects (Planning Ingenuity – October 2014) states:

*The non-compliant sections of the buildings relate to the central roof ridge and not to the edges of each building.*

As this is not the case, as shown in Shadow Diagram A-5103, Elevations A-3101 and A-3103 and therefore does not provide adequate justification for the contravening the development standard of building height.

We request the applicant adequately address all matters raised above. Should these matters not be adequately