

# ATTACHMENT 1 RECOMMENDED CONDITIONS – 2015SYW202 (DA-1070/2015)

## ABBREVIATIONS

|                 |                                                                  |
|-----------------|------------------------------------------------------------------|
| AEP             | Annual Exceedance Probability                                    |
| NCC             | National Construction Code (formerly Building Code of Australia) |
| Council         | Liverpool City Council                                           |
| DCP             | Liverpool Development Control Plan 2008                          |
| DECC            | Department of Environment and Climate Change and Water           |
| CC              | Construction Certificate                                         |
| 1% AEP Flood    | The 1 in 100 year flood                                          |
| EP&A Act        | <i>Environmental Planning and Assessment Act 1979</i>            |
| EP&A Regulation | <i>Environmental Planning and Assessment Regulation 2000</i>     |
| LPI Service     | Land and Property Information Service                            |
| OC              | Occupation Certificate                                           |
| PCA             | Principal Certifying Authority                                   |
| POEO Act        | <i>Protection of the Environment Operations Act 1997</i>         |
| RMS             | Roads and Maritime Services                                      |

## 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:
  - (a) Site plan, prepared by Group GSA, drawing number 15187 – 1101, issue A, dated 30 October 2015;
  - (b) Basement plans, prepared by Group GSA, drawing number 15187 – 2000 to 15187 – 2003 (inclusive), issue A, dated 30 October 2015;
  - (c) Ground floor plan, prepared by Group GSA, drawing number 15187 – 2004, issue C, dated 17 October 2016;
  - (d) Level 1 plan, prepared by Group GSA, drawing number 15187 – 2005, issue A, dated 30 October 2015;
  - (e) Level 2 to 7 plan, prepared by Group GSA, drawing number 15187 – 2006, issue A, dated 30 October 2015;
  - (f) Level 8 to 9 plan, prepared by Group GSA, drawing number 15187 – 2007, issue A, dated 30 October 2015;
  - (g) Roof plans, prepared by Group GSA, drawing number 15187 – 2008 and 15187 – 2009, issue A, dated 30 October 2015;
  - (h) Elevations plans (East), prepared by Group GSA, drawing number 15187 – 3002, issue A, dated 30 October 2015; **(amended wording)**
  - (i) Elevations plans (South, West and North), prepared by Group GSA, drawing number 15187 – 3000, 15187 - 3001 and 15187 - 3003, issue C, dated 17 October 2016; **(amended wording)**

#### Applicant's Justification:

*"To update the references for the elevations for drawings 3001 and 3003 as these drawings were updated to include the substation back into the building."*

Council agrees to these amendments to provide drawings that relocate the substation back into the proposed building.

- (j) Section plans, prepared by Group GSA, drawing number 15187 – 3100 to 15187 – 3120 (inclusive), issue A, dated 30 October 2015;
- (k) Drainage Concept plan, prepared by Van Der Meet, job number SY151-024, drawing number DA011, revision A, dated September 2015;
- (e) Waste management plan, prepared by Taylor, dated 29 October 2015;
- (f) Schedule of external colours and finishes, prepared by Group GSA; and
- (l) Statement of Heritage Impact, prepared by NBRS and Partners, revision A, dated November 2015.

except where modified by the undermentioned conditions.

**Works at no cost to Council**

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

## **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:**

**Provision of Services**

3. 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. 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.

4. 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.
5. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
  - The requirements of the Telecommunications Act 1997:
  - For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation; and
  - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

### **Fee Payments**

6. 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.

7. 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.

### **Site Development Work**

8. 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.
9. 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**

10. 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.

### **S138 Roads Act – Minor Works in the public road**

11. Prior to the issue of a Construction Certificate a S138 Roads Act application/s, including payment of fees shall be lodged with Liverpool City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:
- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
  - Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
  - Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Liverpool City Council's specifications.

**Note:** Approvals may also be required from the Roads and Maritime Service (RMS) for classified roads.

### **Liverpool CBD – Street Lighting Upgrade**

12. The developer shall upgrade street lighting system for entire frontage of the development including any side streets, *excluding the land or adjoining streets at Lot 1 in DP 153264 (being the laneway land)*. The street light pole shall be multi-function pole including all necessary accessories. The specification and accessories details are to be obtained from Infrastructure and Environment Group of Council. The applicant/developer shall engage services of Endeavour Energy accredited ASP Level 3 service provider to prepare electrical design and obtain certification from Endeavour Energy. The electrical design shall include undergrounding of existing aerial power lines and communication cables for entire frontage of the development including frontage to side streets. The approved design shall be submitted to Council for review and approval prior to any construction works. **(amended wording)**

#### Applicant's Justification:

*"Changes to qualify that this requirement relates to the development site and not that of the laneway site, which is understood to be embellished by Council once acquired."*

Council's Land Development Engineers reviewed this amended condition and raised no objection as the laneway is not being constructed as per the subject DA.

### **Liverpool CBD – Communication Conduits**

13. The applicant/developer shall also supply and install two 50mm white communication conduit with draw wires approximately 300mm behind kerb and gutter connecting multifunction poles. Details can be obtained from Infrastructure and Environment Group of Council. Please contact the Coordinator – Roads and Transport on 1300 36 2170.

### **Retaining Walls on Boundary**

14. 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.

### **Stormwater Concept Plan**

15. A stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Van Der Meer Consulting, reference number DA0114, revision A, dated September 2015.

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**

16. 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 car parks.

### **Water Quality**

17. 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**

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

### **Footpath Paving**

19. Core Type paving shall be installed along the entire Scott Street frontage of the development (not including Lot 1 in DP 153264, also known as 37 Scott Street), as part of this development. Footpath paving and Landscaping works shall be strictly in accordance with the Revision of the Liverpool CBD Streetscape and Paving Guidelines 2005 – implementation Note 12:2015. **(amended wording)**

Detailed plans are required to be submitted to and approved by Council showing the proposed tree locations, species and planting sizes, paving location and layout, including references to the relevant details and specifications as contained in the abovementioned document.

A Section 138 Roads Act Approval for all works within Council's road reserve will be required.

#### Applicant's Justification:

*"Changes to qualify that this requirement relates to the development site and not that of the laneway site, which is understood to be embellished by Council once acquired."*

Council's Land Development Engineers reviewed this amended condition and raised no objection as the laneway is not being constructed as per the subject DA.

### **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. **(to be removed)**

Applicant's Justification:

"this requirement relates to residential development and therefore is not relevant to the development."

Council agrees that this condition is not necessary, as the development is not residential.

### **Driveway/Services**

- 21. 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.

### **Construction Traffic Management Plan**

- 22. A traffic management plan is to be submitted to Liverpool City Council's Traffic Committee for approval. Works within the road reserve shall not commence until the traffic management plan has been approved.
- 23. The traffic management plan is to be prepared by an accredited designer and submitted to and stamp approved by Council via a standard Section 138 Roads Act Permit application available at Council's customer service counter. The stamped approved Roads Act Permit is to be obtained by the PCA. A copy of the stamped approved Roads Act Permit and traffic management plan is to be available on the works site for inspection at any time by an authorised Council officer.

### **Heritage Matters**

- 24. Photographic archival recording of all extant structures is to be undertaken and submitted to Council for approval prior to the issue of a construction certificate. The recording is to be undertaken in accordance with pertinent Office of Environment and Heritage guidelines. Three copies are to be produced; one for Liverpool City Council archives, the second for the Liverpool Heritage Library, and the third to be retained by the site owner. **(to be removed)**

Applicant's Justification:

*"This requirement for photographic archiving cannot now be undertaken as the buildings on the subject site are now demolished as per the separate approved DA for this work."*

Council agrees that this condition is not necessary, as separate DA for demolition at site already approved at the subject site and these works have commenced.

- 25. Prior to CC an unexpected finds procedure is to be provided to the satisfaction of Council's Heritage Officer, which would be used to address any unexpected archaeological deposits found during excavation.

26. A heritage component within the site induction is to be provided to workers prior to excavation and construction, informing them of the potential for heritage items and what archaeological deposits might look like, and providing guidance on the use of the agreed unexpected finds procedure. The content and delivery of the heritage site induction is to be logged and submitted to Council for review prior to the issue of a Construction Certificate.

#### **Voluntary Planning Agreement (VPA) and Acquisition of Land for Pedestrian Laneway**

27. Upon the successful acquisition of Lot 1 in DP 153264 known as 37 Scott Street, Liverpool for the purpose of a public laneway for pedestrian access, evidence shall be provided that the VPA has been registered on the title of the land with Land Property Information (LPI).

### **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**

28. 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.
29. 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.
30. 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.

#### **Notification/Principal Certifying Authority**

31. 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.
32. 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.
33. 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.

34. 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**

35. 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*.

### **Construction Requirements**

36. 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.
37. 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.
38. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer. Retaining walls on any boundary are to be of masonry construction.
39. 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**

40. 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 **unless prior written consent is obtained from Council, and at Council's sole discretion. (amended wording)**

Applicant's Justification:

*"The client would like the opportunity to potentially use the laneway land during construction, but understands that this hasn't been agreed to by Council or the current landowner. So we've put in the qualifying text to enable the potential for this outcome if Council was later agreeable to this outcome and has control over the laneway site."*

Council's Senior Property Officer, Mr. Kabok has reviewed this amended conditions and raises no objection, subject to the applicant obtained prior approval from Council.

### **Site Notice Board**

41. 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**

42. A construction hoarding of class A or 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 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**

43. The approved development must be approved through the 'Sydney Water Tap in' service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met. A receipt must be provided to Council.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for more information.

### **Dial Before You Dig**

44. 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.

### **Sediment and Erosion Control**

45. 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.

### **Waste Classification**

46. 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 1997, POEO Waste Regulation 2014 and NSW EPA 'Waste Classification Guideline' (dated November 2014) 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**

47. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:
- (a) Measures to control noise emissions from the site;
  - (b) Measures to suppress odours and dust emissions;
  - (c) Minimal impact to Water, Air and Land;
  - (d) Waste;
  - (e) Soil and sediment control measures;
  - (f) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos;
  - (g) Environmental objectives and control strategies
  - (h) Environmental monitoring and reporting plan; and
  - (i) Community consultation
48. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean

and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. Measures must include, as a minimum:

- (a) Siltation fencing;
- (b) Protection of the public stormwater system; and
- (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

### **Dilapidation Reporting**

- 49. Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Scott 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 10m either side of the development.
- 50. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

**Note:** This documentation is for record keeping purposes only, and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

### **Road Signage**

- 51. The applicant is to submit a plan showing the following for Council's Local Traffic Committee approval:
  - i. 'No Parking' restrictions is to be installed across the rear frontage in the Service Way subject to Traffic Committee approval.
  - ii. "No Stopping" restrictions on the northern kerb-side lane in Railway Street to prohibit parking and accommodate right turning vehicles into the Service Way.

### **Heritage/ Archaeological Findings**

52. A heritage component within the site induction is to be provided to workers prior to excavation and construction, informing them of the potential for heritage items and what archaeological deposits might look like, and providing guidance on the use of the approved unexpected finds procedure.

## **D. DURING CONSTRUCTION**

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

### **Building Work**

53. In the case of a class 5, 6, 7, 8 or 9 building, critical stage inspections must be carried out by the appropriate person in accordance with 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 any stormwater drainage connections; and
  - (c) 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

### **Identification Survey Report**

54. 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**

55. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 5:00pm Monday to Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

### **Construction Noise**

56. 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.

Construction activities, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

### **Security Fence**

57. 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**

58. 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;
- (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**

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

### **General Site Works**

60. 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.
61. All roofwater is to be connected to the existing stormwater system.
62. Stormwater pipeline connections to the street kerb shall be constructed in the following manner:

- (a) the kerb shall be sawcut on both sides of the proposed pipe outlet.
  - (b) an approved rectangular kerb adaptor shall be installed with the base matching the invert level of the gutter.
  - (c) The kerb shall be reinstated to its original profile using a cement mortar containing an epoxy additive for adherence to the existing kerb.
63. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
64. 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.
65. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
66. 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.

#### **Sediment and Erosion Control**

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

#### **Contamination**

68. 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).
69. 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 EPA Waste Classification Guidelines (dated November 2014), 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 EPA Waste Classification Guidelines (dated November 2014).
  - (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.

### **Air Quality**

70. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
71. 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 transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
72. 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.

### **Pollution Control**

73. 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.
74. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

### **Car Parking Areas**

75. 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.

76. Directional signage indicating the location of customer parking, "in" and "out" crossings and directional arrows are to be provided in accordance with the approved plans.

### **Traffic Management**

77. 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.
78. 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.

79. 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.
80. 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.

### **Completion of Traffic Engineering Works**

All traffic engineering related works associated with the development shall be completed during construction.

### **Aboriginal Relics/ Artefacts**

81. Should any historical relics be unexpectedly discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*;

## **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**

82. The premises must not be utilised until an Occupation Certificate is issued by the PCA. Copies of all documents relied upon for the issue of the Occupation Certificate must be attached to the OC and registered with Council.
83. The Principal Certifying Authority 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.
84. All required Compliance 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.
85. 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.
86. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.

87. Prior to the issue of an Occupation Certificate written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

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

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

#### **Works as executed – General**

89. 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**

90. Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:
- a) Stormwater pre-treatment system/s; and
  - b) 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**

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

- c) Stormwater pre-treatment system/s; and
- d) 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.

### **Rectification of Damage**

92. Prior to the issue of select an Occupation 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 Scott Street will require a Roads Act application. The application is to be submitted and approved by Liverpool City Council prior to such works commencing.

### **Dilapidation Report**

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

### **Completion of Traffic Engineering Works**

94. Prior to the issue of an occupation certificate the developer shall complete all traffic engineering works, all footpath paving along the property frontage and shall provide all required parking areas onsite.

### **Display of Street Numbers**

95. 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**

96. 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.

### **Land Consolidation**

97. Prior to the issue of an Occupation Certificate all separate lots must be consolidated. The applicant shall provide evidence that the linen plan, for the required lot consolidation endorsed by Council, has been registered with the LPI Service.

## NSW Police Conditions

98. Prior to the issue of an Occupation Certificate the following conditions provided by NSW Police shall be provided for the development:
- Fires doors are to be alarmed, closed and unable to be accessed from the outside of the building;
  - Adequate signage shall be placed around the building indicating fire exits;
  - Installation of CCTV cameras covering all main areas and access to the building and car parking areas;
  - Installation of anti-theft mail boxes;
  - Signs shall be provided in the basement reminding people to lock and secure their vehicles; and
  - Install adequate lighting in the basement parking levels.

## Heritage Signage

99. Prior to the issue of an Occupation Certificate the following heritage related design matters shall be incorporated in the site design:
- An interpretation strategy is developed in conjunction with the Liverpool Historical Society (LHS) to provide material which illustrates the local historical significance of the streetscape and its history as indicated in the Heritage Impact Statement and that at least two interpretive panels are provided on the Scott Street frontage in locations which are accessible and readable from the public space.

## G. CONDITIONS RELATING TO USE

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

### Use of building

100. From the date of the operation of this consent the building shall be used by Family and Community Services (FACS) and associated state clusters and agencies for a period of ten (10) years. **(condition to be removed).**

#### Applicants Justification:

*"Although the clear intention is that the proponent has designed the building to suit the FASC tenant's requirements and NSW Government building standards, the proponent does not have full control over maintaining this tenant for this stated period of time. We and the proponent have been clear about this all along and there has be no commitment by the proponent that this will be the tenant for this period of time either.*

*Hence, we wish to have this condition removed from the draft conditions on the basis that:*

- This condition would bind a third party to the consent*** – therefore, if for whatever reason that NSW Government elects to replace the tenant with another Government agency or more importantly retracts their lease arrangements later on within the ten year period, the proponent does not have full control to retain the FASC tenant or its subsidiaries, despite best endeavours.
- To further constrain the use of the building to limit the use of the building to one tenant for a 10 year period is highly and unnecessarily restrictive*** - any change to this would require a Section 96 amendment to the consent to enable the building to be used by any other tenant.

Moreover and in the context of section 80A of the EP&A Act:

- *The extent of approval sought for a development rests with the use of the premises and is not ordinarily linked to the tenant. We are unclear on what planning basis the Council could require that only one singular tenant occupy and use the premises for such an extensive period of time.*
- *The FASC tenant does not provide any further substantial benefits or lesser environmental impacts over any other Government or non-Government tenant that could occupy the development; so why should there be a limitation to this particular Government tenant? Again, we question what the planning purpose is for the proposed conditional restriction.*
- *The aim of the project was to enable the delivery of employment opportunities in the Liverpool CBD. The restriction of one tenant to the premises could potentially undermine this objective if there is no opportunity to enable other tenants to occupy the building within the ten year period. This scenario could arise if for whatever reason the NSW Government later changes its mind and no longer wishes to tenant the premises (such as could be the case if there is a change in policy or Government).*

*In this instance the proponent could therefore be restricted to a tenant it cannot no longer secure, which means the proponent can't then secure alternative commercial operators to then continue to offer employment opportunities in the Liverpool CBD. In this way the proposed condition is unreasonable as it is dependent on a third party agreement, and could (worse case) mean the proponent may then have to surrender the consent if FACS or its associated businesses could no longer be the secured tenant.*

- *Under the EP&A Act the 'use' of land is tied to the type of development that is carried out, which in this case is an office premises with a café. Therefore, it is questionable that a development consent has the ability or authority to further restrict that use to a specified tenant if a similar type of business could be carried in an office premises such as that proposed. Although the design of the development has been drafted to accommodate the FASC tenant, the effect of this means more generous floor areas and increased numbers of lifts and improved accessibility. These design features are extras rather than design compromises, such that these would continue to make the development suitable to any other office business.*
- *Any other tenant carrying out the same type of business within the development would be reasonably be expected to have the exact same level of impact as that of FASC, therefore there does not appear to be any planning reason that there be restriction placed to limit the use of the building to one particular tenant."*

#### Council's justification

*The Director of Planning and Growth (Toni Averay) has agreed to the removal of this condition from the recommended conditions, providing the following justification:*

- *Condition No.99 is not an enforceable condition as per the Environmental Planning and Assessment Act 1979.*

### **Car Parking/Loading**

101. A total of ninety-five (95) off street car parking spaces must be provided in accordance with Council's Development Control Plan, 2008, including three (3) spaces to be designed and signposted/marked for the specific use of persons with a disability.
102. A total of fifty-eight (58) bicycle parking spaces and six (6) motor cycle spaces shall be provided within the basement onsite.
103. All parking areas shown on the approved plans must be used solely for this purpose.
104. 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.

105. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, with the exception of garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with AS 2890.1 Parking Facilities – Off Street Car Parking.

### **Activation of Pedestrian Laneway**

106. Any substations associated with the approved building shall be located onsite and not on the proposed laneway to ensure the pedestrian laneway remains activated and allows casual surveillance to and from this area from Scott Street and the Service Way. **(to be removed)**

#### Applicants Justification:

- The condition does not relate to the proposed development as there are no substations in the laneway.
- The condition reads more like a control – regulating ‘if’ and ‘when’ substations are or could be placed in the laneway.
- This condition is at odds with what we understood was agreed in principle with Council - in that if the proponent could in the future obtain Endeavour Energy’s agreement to the substations in the laneway the proponent would seek to try and obtain a Section 96 amendment to the DA to relocate the substations. The proposed amendment will be subject to its own merit assessment, if this is to later be proposed.
- The condition suggests that putting the substations will no activate the laneway, and yet the proponent was persuaded to include a café in the building to help this outcome despite the substations in the laneway as was proposed at that time.

#### Council’s justification

Amended plans received omitting substation from pedestrian laneway and back inside proposed building, containing these features on the subject site where there is likely to be no impacts to adjoining sites or public land is considered appropriate. (See amended Condition 1 (i) and (h) above)

## **H. ADVISORY**

- a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 82A of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 12 months after the date on which the application is taken to have been determined.
- b) If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 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 Section 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.

- 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) 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.
- l) 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.

- m) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- n) 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.