

DATE OF DETERMINATION	Monday 11 December 2017
PANEL MEMBERS	Bruce McDonald (Acting Chair), Nicole Gurran, Peter Brennan, Mazhar Hadid and Tony Hadchiti
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Liverpool City Council Chambers, Francis Greenway Centre, 170 George Street, Liverpool on 11 December 2017, opened at 1.40 pm and closed at 2:20 pm.

MATTER DETERMINED

2016SYW134 – Liverpool – DA-616/2016 at 95- 105 Seventeenth Avenue, Austral (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was 4:1 in favour, against the decision was Tony Hadchiti.

REASONS FOR THE DECISION

The reasons for the majority decision of the Panel were:

1. The proposed development will provide additional school facilities servicing the needs of the community in the rapidly expanding South West Growth Centre sector of the Sydney Western City District and the Liverpool local government area.
2. The proposed development adequately satisfies the State Environmental Planning Policies (SEPP), including SEPP (Sydney Regional Growth Centres) 2006 and associated Indicative Layout Plan. In that regard, the elements of the proposed buildings that exceed the prescribed maximum height within the zone constitute architectural roof features which will have no unacceptable environmental impacts. Further, it is noted that a Special Infrastructure Contribution is required.
3. The proposal adequately satisfies SEPP 55 – Remediation of Land, SEPP (Infrastructure) 2007 and deemed SEPP No 20 – Hawkesbury Nepean River
4. The proposal adequately satisfies the applicable provisions and objectives of Liverpool Growth Centre Precincts Development Control Plan (DCP) (2014) and Liverpool DCP 2008.
5. Subject to the conditions imposed the proposed development will be provided with adequate services consistent with the timing of construction.
6. The proposed development, subject to the conditions imposed, will have no unacceptable adverse impacts on the natural or built environments including the local ecology, or riparian systems, the operation of the local road system, the amenity of existing or planned residential premises or development potential of adjacent land.
7. In consideration of conclusions 1-6 above, it is considered the proposed development is a suitable use of the site and approval is in the public interest.

Tony Hadchiti chose not to support the proposal for the following reasons:

1. No demonstration of safe overflow treatment for the pick-up and drop off on public streets.
2. No demonstrated need for the operating hours, especially weekends, that have been requested.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report, subject to the following amendments:

- **Replace Condition No. 87 - Soil testing**

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

- **Replace Condition No. 124 - Operating Conditions**

124. The use of the school is limited to the following hours of operation:

(a) 7:00am – 6:00pm Monday to Friday, with the exception of two days per week Monday to Friday in which the operating hours extend to 9pm.

(b) 7:00am – 9.00pm for a maximum of thirty (30) Saturdays per calendar year; and

(c) 7.00am-7.00pm on Sundays and/or public holidays, for a maximum of thirty (30) Sundays per calendar year.

All uses shall be associated with the educational establishment. No unrelated uses are permitted.

- **Replace Condition No. 127**

127. The premises and the immediate surrounds are required to be entirely vacated, other than security staff, outside the approved hours of operation.

- **Replace Condition No. 132**

132. Council may request the approved Plan of Management to be reviewed in conjunction with the applicant, once the school is functioning, to ensure the amenity of the emerging locality is maintained.

Note: The area is undergoing transition from semi-rural land to a dense suburban residential form.

- **Replace Condition No. 150**

150. 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.




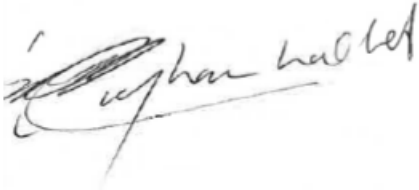

(c) The emission of an "offensive noise" as defined under the POEO Act.

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.

Further, amendments to the conditions of consent are inclusive of the amendment to Condition 29(a) as outlined in the revised report dated 4 December 2017:

- **Replace Condition 29(a)**

29. The following design amendments and details are required to be shown on amended plans and submitted to and approved by Council's Traffic Section prior to the issue of any Construction Certificate: (a) The construction of the at the intersection of Seventeenth and Craik Avenues shall be designed in accordance with Austroads Guidelines to accommodate a roundabout.

PANEL MEMBERS	
 Bruce McDonald (Acting Chair)	 Peter Brennan
 Nicole Gurran	 Mazhhar Hadid
 Tony Hadchiti	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYW134 – Liverpool – DA-616/2016
2	PROPOSED DEVELOPMENT	Proposed Educational Establishment (School) Over 4 Stages Providing For 800 Kindergarten to Year 12 Students and 35 Staff, Involving the Demolition of Existing Dwellings and Structures, Removal of Trees, Bulk Earthworks, Construction of Roads and School Building Structures
3	STREET ADDRESS	95- 105 Seventeenth Avenue, Austral
4	APPLICANT/OWNER	AL Mabarrat Benevolent Society Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Sydney Region Growth Centre) 2006 State Environmental Planning Policy No. 55 – Remediation of Land Sydney Regional Environmental Plan NO. 20 – Hawkesbury Nepean River (No 2 – 1997) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Liverpool Growth Centre Precincts Development Control Plan 2014 Liverpool Development Control Plan 2008 (LDCP 2008) - Part 1- General Controls for all Development. Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Consideration of the provisions of the Building Code of Australia Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Supplementary Council Assessment Report and revised Draft Conditions of Consent dated 4 December 2017. Council assessment report: 29 November 2017 Written submissions during public exhibition: Four (4) Verbal submissions at the public meeting: <ul style="list-style-type: none"> Object – Ryan Camillos On behalf of the applicant – Richard Smyth
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing meeting Monday 11 December 2017 Final briefing meeting to discuss council's recommendation, 11 December 2017, 11:30 am Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Bruce McDonald (Acting Chair), Nicole Gurran, Peter Brennan, Mazhar Hadid and Tony Hadchiti <u>Council assessment staff</u>: George Nehme, Ivan Kokotovic, Lina Kakish
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report