

**COUNCIL ASSESSMENT REPORT**  
SYDNEY WESTERN CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSWC-251 – DA-267/2022
<b>PROPOSAL</b>	The Construction of 6 Residential Flat Buildings and the construction of 2 Shop top housing developments, containing a total of 219 apartments. Construction of a Centre based Child Care Centre above 2 basements for 93 children.
<b>ADDRESS</b>	Lot 20 DP 1228502 225 Croatia Avenue, Edmondson Park
<b>APPLICANT</b>	KRV Investments Pty Ltd
<b>OWNER</b>	Mr I and Mrs LM Doriguzzi
<b>DA LODGEMENT DATE</b>	14 March 2022
<b>APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: Development that has a capital investment value of more than \$30m.
<b>CIV</b>	\$56,977,200 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Clause 4.3 – Height of Buildings – 4.6 variation provided but insufficient. Clause 4.4 – Floor Space Ratio – No 4.6 variation submitted with the application
<b>KEY SEPP/LEP</b>	Housing SEPP, Biodiversity and Conservation SEPP, LEP, SEPP 65 – Design Quality for Residential Apartments, SEPP Transport and Infrastructure.
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	One submission received. The following issues were raised. <ul style="list-style-type: none"> <li>• Building separation with the adjoining house.</li> <li>• Building height and scale difference between a 2-storey development and the development proposal.</li> <li>• Privacy impacts.</li> </ul>

	<ul style="list-style-type: none"> <li>• Loss of daylight.</li> <li>• No details have been provided as to fencing between the development site and the adjoining house, being the objector's property.</li> <li>• The plan shows pedestrian path adjoining the objector's property and thus there is a concern with people passing by the adjoining house.</li> <li>• Impact of the basement construction onto the objector's property.</li> </ul>
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Attachment A – Statement of Facts and Contentions
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Applies
<b>RECOMMENDATION</b>	Refusal
<b>DRAFT CONDITIONS TO APPLICANT</b>	No
<b>SCHEDULED MEETING DATE</b>	24 April 2023
<b>PLAN VERSION</b>	Select Date Version No
<b>PREPARED BY</b>	Nabil Alaeddine
<b>DATE OF REPORT</b>	24 April 2023

## EXECUTIVE SUMMARY

The development application (DA-267/2022) seeks consent for the Construction of 6 Residential Flat Buildings and the construction 2 Shop top housing developments, containing a total of 219 apartments. Construction of a Centre based Child Care Centre above 2 basements for 93 children.

The subject site is known as 225 Croatia Avenue, Edmondson Park ('the site') and comprises a corner lot with three (3) road frontages including frontage to Bernera Road to the east, Poziers Road to the south and Brennan Avenue to the north. The site occupies an irregularly

shaped allotment with an area of 2.1ha (21,000sqm). There are multiple vehicle access points to the site, including from Bernera Street and Brennan Avenue.

Existing development on the site consists of a rural residential building, with the main building comprising a single-storey brick veneer building supporting outbuilding with access from Bernera Road.

The site is located in the R1 zone and has a portion of the site zoned R3 in the south-west corner. The development is related to a previous development application DA-1122/2021 for Torrens title subdivision of the site in 20 lots, with associated civil works. The proposal is Integrated Development requiring approval from the NSW RFS which is also currently also under appeal.

The application was placed on public exhibition from 28 June 2022 and 13 July 2022, with One (1) submission being received. The submission raised issues relating to building separation, building height, privacy impacts, loss of daylight, not enough details, basement construction impacts and details of the proposed path and its impact to neighbouring properties. These issues are considered further in this report.

The application is referred to the Sydney South West City Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development with a CIV over \$30 million.

The key issues associated with the proposal included:

1. **Accessible Area** - The proposed development relies upon DA-1122/2021 for the subdivision of the lot to be approved and intended to provide affordable housing and indicated the site is acceptable within 800m of the railway station, however insufficient has been provided that adequately details the distance of the site from the railway station. Furthermore, the bonus FSR is reliant on the Affordable apartment component however, there is a lack of information on the affordable housing component which contributes to the inconsistency and insufficient information provided.
2. **Floor Space Ratio** – In relation to the accessible area provided for the affordable housing component, the application proposes to utilise the bonus FSR for the site. However, the application has failed to calculate FSR correctly and the development is exceeding the FSR with no 4.6 variation provided.

3. **Height of Building (HoB)** – The development proposed to exceed the HoB requirement under the LLEP 2008. A 4.6 variation request has been submitted but is deemed insufficient due to the calculations being incorrect and the proposed height cannot be determined accurately until the revised natural ground level of DA-1122/2021 is established under that application due to earthworks being proposed.
4. **Amenity Issues** - The application does not comply to objective and controls in the ADG in particularly relating to ground level unit arrangement, privacy concerns, insufficient plans, solar access to communal area, insufficient cross ventilation and light penetration into the buildings.
5. **Shop top Housing** – Noting the distance from the Edmondson Park Town Centre, the application hasn't justified the need for retail premises.
6. **Child Care Facility** – The proposed centre is not supported by internal fit out plans, no Plan of Management, unresolved arrangements of entry and separate car parking for the centre.
7. **Traffic and Parking** – Insufficient parking arrangement provide in addition to insufficient traffic assessment undertaken.
8. **Contamination** – The contamination assessment is considered incomplete. The Stage 1 report indicted as potentially contaminated on site therefore a stage 2 and Remediation Action Plan is to be provided and was not submitted with the application.

**Further details are provided in the Key issue section in this report.**

Other issues include the inadequacy of the Acoustic Report, insufficient deep soil and landscaping, waste management, non-complaint solar access, insufficient parking arrangement, insufficient storage in units, unresolved flooding, traffic matters, RFS matters, Water NSW matters, and insufficient childcare centre information. Further details are provided in the Key issue section in this report.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, in particular 4.15(1)(a), (b), (c), (d) & (e) the proposal cannot be supported.

The FSR and HOB are fundamental issues and does not allow the application to be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA-267/2022 is recommended for refusal subject to the reasons contained at **Attachment A** of this report.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The subject site (**Site**) consists of one allotment that is legally described as Lot 20 in Deposited Plan 1228502 and is located at 225 Croatia Avenue, Edmondson Park. The site has a total area of 2.1ha (21,000sqm). The western boundary adjoins the Bernera Road reserve (previously Croatia Avenue), whilst the eastern boundary several dwellings and streets, including McCay Lane, a semi-attached dwelling (Lot 35 DP1242681) located at the western end of a row of attached dwellings, the Dunkirk Road turning head and a cleared area adjacent to Lillian Bratkovic Park. The northern boundary adjoins 50 Brennan Way which is improved by residential flat buildings and the turning head of Hutton Road. 215 Croatia Avenue, which comprises of two allotments, adjoins the subject site to the south, with a double storey dwelling located on the western allotment.

The site has the following area and dimensions:

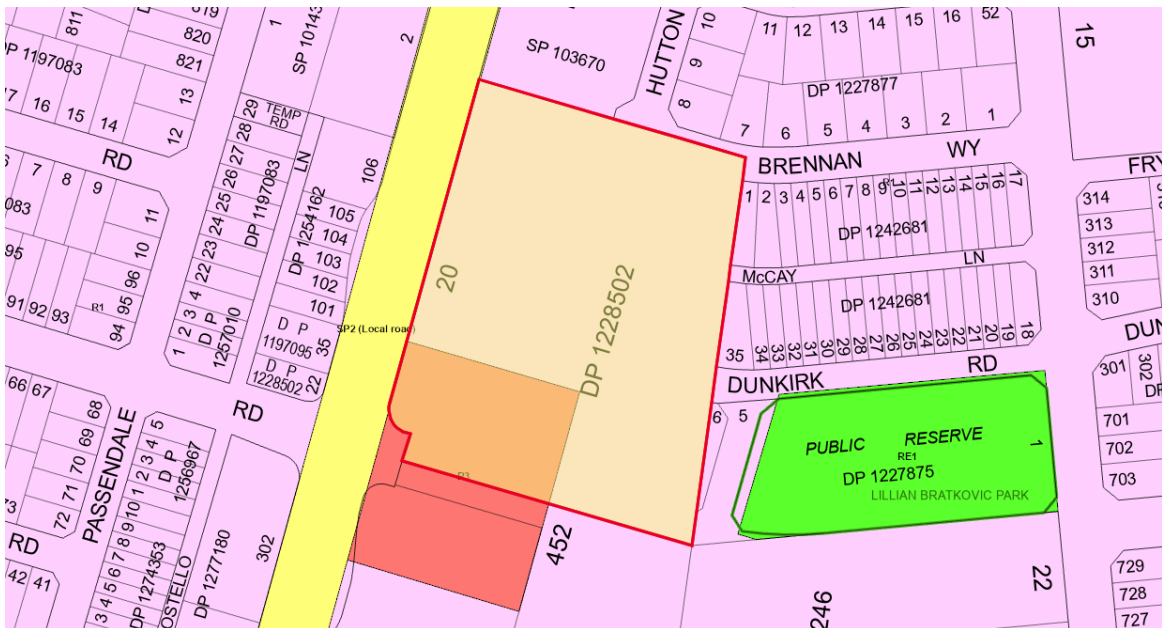
- Area – 2.1ha (21,000sqm)
- Northern Boundary - 117.965m
- Western front boundary (Bernera Road Frontage) - 142.09m
- Arc Splay corner – South-West - 16.115m
- Return Boundary arc splay – Southern Boundary 11.755m
- Southern Boundary - 128.05m
- Eastern Boundary - 165.945m

The northern boundary has a length of 117.965 metres, whilst the southern boundary has a length of 128.05 metres. The site generally falls from the south to the north, with a fall of approximately 7.53 metres.



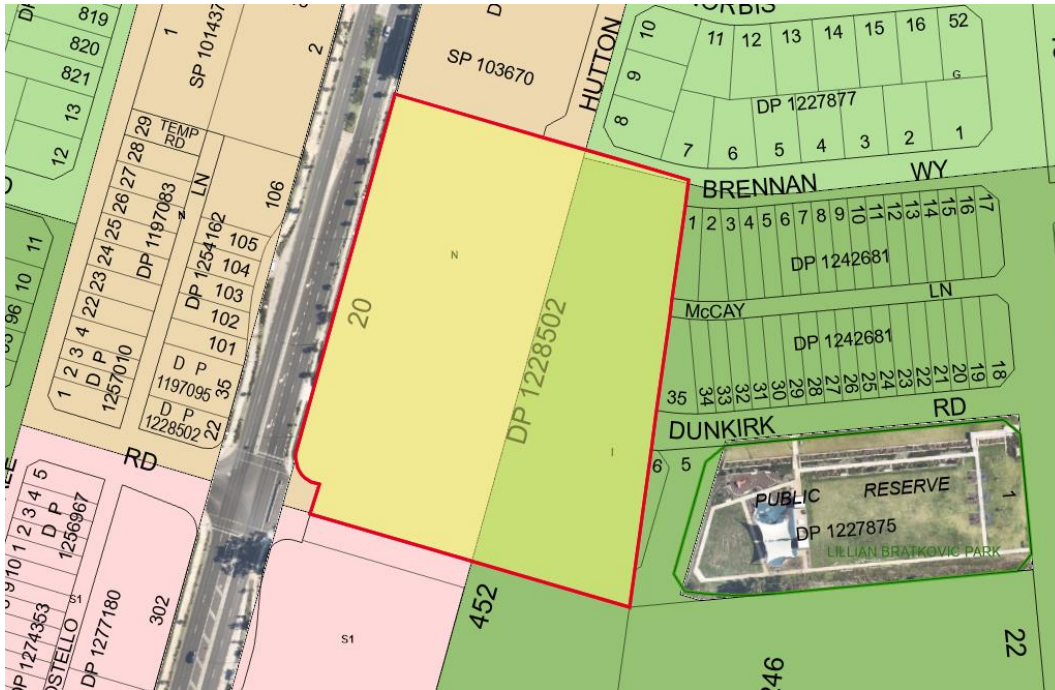
**Figure 1:** Subject site (225 Croatia Avenue, Edmondson Park) outlined in red.

The Site is zoned R3 – Medium Density Residential and R1 General Residential Zone under the *Liverpool Local Environmental Plan 2008 (LLEP 2008)*.



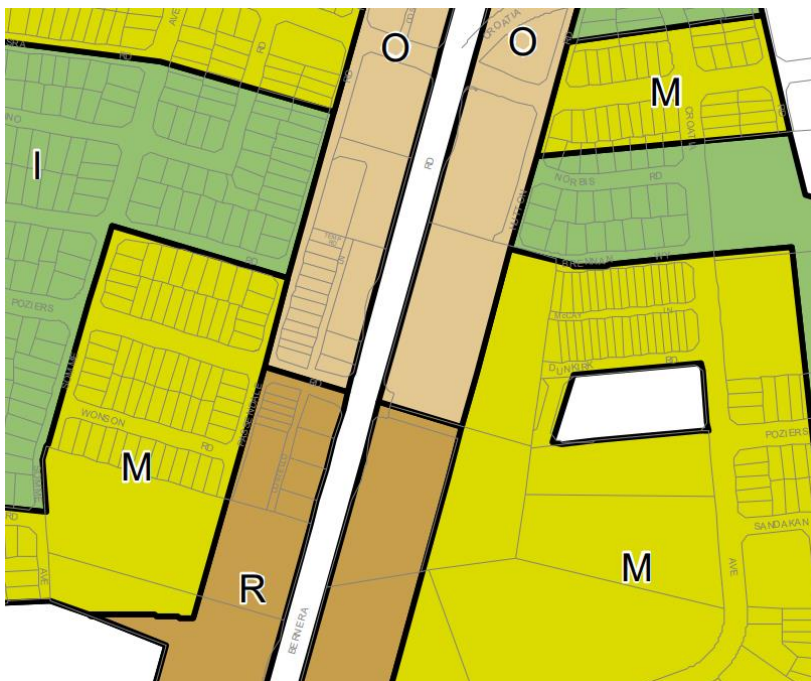
**Figure 2:** Zoning Map Extract





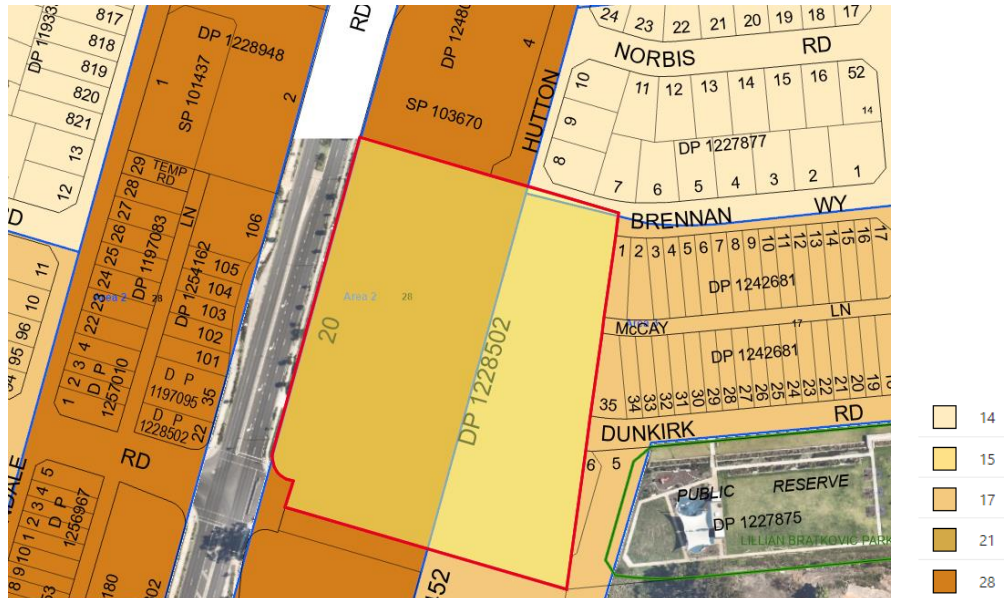
**Figure 3:** Maximum Floor Space Ratios

Clause 4.4 prescribes a maximum height. The site is mapped within “Area M” and “Area O” under the provisions of Clause 4.3 of the LLEP 2008. Area “M” has a maximum height of 12m, and Area “O” has a maximum height of 15m.



**Figure 4:** Height of Building Map Extract

Clause 7.11 prescribes a minimum dwelling density. Two separate minimum dwelling densities apply to the site. The western section of the site has a minimum density of 28 dwellings per hectare and the eastern portion has a minimum density of 17 dwellings per hectare.



**Figure 5:** Dwelling Density Map Extract

## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

The application proposes *the Construction of 6 Residential Flat Buildings and the construction 2 Shop top housing developments, containing a total of 219 apartments. Construction of a Centre based Child Care Centre above 2 basements for 93 children.*

The development proposes the following works:

- Earthworks including excavation for basement parking and stormwater works,
- The proposed development includes construction of a multi-unit, medium density residential development within 8 separate built forms spread across the site including 6 residential flat buildings and 2 shop top housing developments containing a total of 219 apartments including 43 x 1 bedroom, 84 x 2-bedroom, 12 x 2 bedroom plus study, 74 x 3 bedroom and 16 x 3 bedroom plus study apartments distributed across the 8 buildings.
- The dwelling mix proposed development includes larger 2 storey terrace style apartments on the ground and first floor levels of buildings A1, A2, A3, A4, D1 and D2 and a mix of single and 2 storey apartments on the upper levels of the buildings. The



apartment types comprise a larger number of 3 and 3+ bedroom apartments with some 1- and 2-bedroom options included in the overall mix.

- The development proposes a mix of apartments throughout the 8 buildings and also proposes affordable housing distributed throughout buildings A, D and E (Table 2 below indicates GFA of affordable housing and non-affordable housing).
- The shop top housing developments comprise 5 ground floor retail premises with a combined floor area of 615.4m<sup>2</sup> of retail floor space, as well as a loading dock, plant rooms, foyers, lift and stair cores, communal open space's (COS) and bin storerooms.
- The childcare centre includes the following arrangement:
  - No. of Children = 90
  - Staff = 21
  - Hours of Operation 7am to 6pm, Mon to Fri.
  - Parking = 10 Dropoff/pickup spaces, 8 Staff spaces on ground level and 13 staff in the basement
- The development provides several COS areas distributed across the sites including on the ground floor level between the buildings and within the setback areas of each building.



**Figure 6:** Proposed site plan and building arrangement.

## 2.2 Background

- DA-1002/2021 - Subdivision of Existing Allotment into a Torrens Title Subdivision of 20 Residential Lots, and Construction of Roads and associated Civil Works, Site Remediation, Demolition
  - Application rejected on 15/09/2021 at lodgement for missing documentation.
  
- DA-1121/2021 - Torrens title subdivision of the site in 20 lots, with associated civil works. The proposal is Integrated Development requiring approval from the NSW RFS.
  - Class 1 Deemed refusal – Under Appeal.
  - Main issue is Minimum Dwelling Density not achieved.

## 2.3 Development Application Assessment History

- On 14 March 2022, the Development Application was lodged to the Respondent.\
- The proposed Development Application was notified between the 28 June 2022 until the 13 July 2022. Council received one letter of objection and is below.
- On 17 October 2022, the Applicant filed a Class 1 Application in the Land and Environment Court of NSW for a deemed refusal of DA-267/2022.
- It is noted that Development Application No. DA-1460/2021 was lodged with Council on 27 September 2021. That application seeks consent for subdivision to create four (4) lots including three (3) residential super lots and one childcare centre lot, as well as the demolition of existing structures, construction of public roads, stormwater drainage and other associated site works on the site. The above application creates the lots that form part of the building allotments associated with this proposal, that is for DA-267/2022.
- Development Application No DA-1460/2021 is currently undetermined and has also been appealed. This matter is before the Land and Environment Court as a separate appeal matter being case No. 2022/299473. It is not a regionally significant application.

## **2.4 Class 1 Appeal**

- As indicated a Class 1 appeal was lodged for the deemed refusal of the application on 17 October 2022.
- The Statement of Facts and Contentions (SOFAC) was filed.
- A Section 34 conference was scheduled for 3 April 2023 and was postponed allowing the application to address additional information related the design and the matters to discussed below in the 'Assessment Issues' section. The section 34 hearing is now scheduled for 28 April 2023.
- The applicant is to address the matters raised by that time.

## **3. STATUTORY CONSIDERATIONS**

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

### **3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

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

The following Environmental Planning Instruments are relevant to this application.

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Liverpool Local Environmental Plan 2008*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 1** and considered in more detail below.

**Table 1: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 11: Georges River Catchment	Y
BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Y
State Environmental Planning Policy (Housing) 2021	Chapter 2: Affordable Housing Infill affordable housing, boarding houses, boarding houses – Land and Housing Corporation, supportive accommodation, Residential flat buildings—social housing providers, public authorities and joint ventures, Residential development—Land and Housing Corporation	N
SEPP 65	<ul style="list-style-type: none"> <li>• <b>Clause 30(2)</b> - Design Quality Principles - The proposal is contrary to the design quality principles and the proposal is contrary to the ADG requirements for Amenity including communal open space, interface of ground floor units, cross ventilation, privacy, solar access, noise and acoustic issues, building separation issues, basement car parking arrangements, apartment layout concerns, waste requirements, and insufficient information on plans such as bike parking location, storage, fire services.</li> </ul>	N
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> <li>• Section 2.19(1) declares the proposal regionally significant development pursuant to Clause # of Schedule 6 as it comprises.</li> <li>• Section 3.10 – declaration as regionally significant development</li> </ul>	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>• Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.</li> </ul>	N
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>• Section 2.118(2) - Development with frontage to classified road.</li> <li>• Section 2.119(2) Impact of road noise or vibration on non-road development.</li> <li>• Section 2.121(4) - Traffic-generating development.</li> </ul>	N
LEP	<b>Clause 4.1</b> – Minimum lot size for subdivision <b>Clause 4.3</b> – Height of Buildings developments	N



	<b>Clause 4.4 – Floor Space Ratio</b> <b>Clause 4.6 – Exceptions to Development Standards</b>	
DCP	<b>Part 1 - Part 1 – General Controls for all developments; and</b> <b>Part 2.11 – Edmondson Park</b>	N

The proposal is considered to be generally inconsistent with a number of SEPPs, LEP, DCP.

### **(b) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

#### **Demolition Proposed - Provisions of AS 2601**

- The proposal is relying on another application DA-1122/2021 for Torrens title subdivision of the site in 20 lots, with associated civil works which is currently also under Class 1 appeals and at the writing of this report is not approved and awaiting a section 34 conference.

These provisions of the 2021 EP&A Regulation have been considered and the proposal does not comply with the provisions due to insufficient information being provided.

### **3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.3 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

### **3.4 Section 4.15(1)(e) - Public interest**

On balance the proposal is contrary to the public interest.

## **4. REFERRALS AND SUBMISSIONS**

## 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 2.

**Table 2: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
RFS	S4.14 – EP&A Act Development on bushfire prone land	Referral rejected	N
Electricity supply authority	Clause 45 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	No issues raised	Y
Sydney Water	Sydney Water Act 1994, Section 78	No issues raised	Y
Water NSW	Water Management Act 2000 s90(2) water management work approval	Not Supported and RFI requested. <ul style="list-style-type: none"> <li>- Issues with ground water monitoring</li> <li>- Confirmation of below ground structures are waterproofed along with the dewatering management.</li> <li>- Duration of dewatering</li> <li>- Methods to measure the water.</li> </ul> Further details are provided in the 'Key Issues' section below.	N
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	Not Supported and RFI requested. <ul style="list-style-type: none"> <li>- SIDRA modelling for the signalled intersections as follows: <ul style="list-style-type: none"> <li>▪ Dalmatia Avenue/ Croatia Avenue (Bernera Road),</li> </ul> </li> </ul>	N

		<ul style="list-style-type: none"> <li>▪ Poziers Road/ Croatia Avenue (Bernera Road)</li> <li>- The Traffic impact assessment report is to include cumulative traffic impacts of the development.</li> </ul> <p>Further details are provided in the 'Key Issues' section below.</p>	
Design Review Panel	CI 28(2)(a) – SEPP 65  Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed in the SEPP 65 assessment and the Key Issues section of this report.	N
<b>SGSP (Assets) known as Jemena Gas</b>	SEPP (Infrastructure) Clause 66C	Referral returned as the site is just outside the Gas Pipeline catchment area.	N/A

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 3**.

**Table 3: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	<p>No supported with RFI requested. The following information was requested.</p> <ul style="list-style-type: none"> <li>• Provide a plan which shows temporary easements that will be required to support the proposed temporary OSD tank arrangement.</li> <li>• Provide a staging plan for the eventual decommissioning of the temporary OSD tank proposed. The plan should consider how the infrastructure will be decommission and potential clashes with the proposed built structures. It is noted that the footprint of the OSD tank encroaches extents of buildings A1 and A2.</li> <li>• Stormwater plans showing proposed stormwater infrastructure is to note and reference the relevant Development Application.</li> <li>• Clarify how emergency overflows from the OSD tank to the street have been catered for in the event of a blockage or storm event exceeding the 1% AEP.</li> <li>• DRAINS model submitted incorrectly models the downstream nodes as discharging freely to the atmosphere. This is not the case as they will be</li> </ul>	N

	<p>discharging to 2 existing pits within Hutton Road. HGL levels of the downstream sites are to be adopted where known otherwise the grate surface level is to be adopted as the control level.</p>	
Traffic	<p>No supported and RFI requested as follows:</p> <ul style="list-style-type: none"> <li>The application is to be deferred for the applicant to submit a revised traffic impact assessment report that clearly indicates the vehicular access arrangements to the site and the impacts of those access locations on the intersections nearby, for example the intersection of Bernera Road and Poziers Road, and how traffic is to be managed. It should also address the need for parking restrictions along roads near the proposed driveways.</li> </ul> <p>Revised swept path diagrams that can clearly show how vehicles manoeuvre at the driveway and within the parking area needs to be provided. From the submitted diagrams it is not possible to ascertain if two vehicles can pass each other at the base of the ramp.</p>	N
Building and Fire Safety	<p>No supported and RFI requested as follows:</p> <ul style="list-style-type: none"> <li>The Applicant is to provide details in accordance with Endeavour Energy Document No MCI 0006 (Current Version).</li> </ul>	N
Health	<p>Not Supported and RFI requested as follows:</p> <ul style="list-style-type: none"> <li>Design, construction and fit out of childcare centre food area must comply with food standard code AS4674-2004</li> <li>Contamination matters to be addressed with additional documentation requested that meets the relevant criteria.</li> <li>Acoustic report to be confirmed if undertaken by suitably qualified professional.</li> </ul> <p>Further details are provided in the 'Key Issues' section below</p>	N
Waste Management	<p>Not supported but can be conditioned to comply as indicated by referral if required. RFI was requested.</p> <p>Further details are provided in the 'Assessment Issues' section below.</p>	N
Community Planning	<p>No supported and RFI requested as follows:</p> <ul style="list-style-type: none"> <li>Insufficient information in documentation for the childcare centre.</li> <li>Insufficient information regarding Affordable housing.</li> </ul>	N

	<ul style="list-style-type: none"> <li>Insufficient open space, communal space, and common areas in the development.</li> </ul> <p>Further details are provided in the 'Key Issues' section below</p>	
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

### 4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 28 June 2022 until 13 July 2022.

The Council received a total of one (1) unique submission objecting to the development details are as follows:

- Building separation with the adjoining house.
- Building height and scale difference between a 2-storey development and the development proposal.
- Privacy impacts.
- Loss of daylight.
- No details have been provided as to fencing between the development site and the adjoining house, being the objector's property.
- Plan shows pedestrian path adjoining the objector's property and thus there is a concern with people passing by the adjoining house.
- Impact of the basement construction onto the objector's property.

## 5. KEY ISSUES

### 5.1 State Environmental Planning policy (Housing) 2021 (SEPP Housing 2021)

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- The application has not demonstrated that the site is within an accessible area as defined under SEPP Housing 2021.
- The proposed buildings are to be constructed on lots that form part of DA 1122/2021, which includes roads, which is yet to be determined and subject to a separate appeal before the Land and Environment Court.



- The applicant relies on two future lots to facilitate the development and intends to provide for affordable housing over the two future lots.
- The applicant relies on the site being 800m “walking distance” to the entrance to a railway station. “Accessible area” and “walking distance” is defined under the SEPP Housing 2021. The application relies on measurements taken from Google maps.

The application relies on the bonus FSR under the affordable housing SEPP for building footprint and apartment yield. Compliance with the “accessible area” provisions will determine whether the bonus floor space ratio would apply for this development. To ensure the proposal meets the requirements and given the distance is at its most outer limits, a survey plan should be prepared to demonstrate compliance based on the creation of the two separate lots.

## **5.2 Floor Space Ratio (FSR)**

The proposal fails to comply with the floor space ratio development standard within Clause 4.4 of the LLEP 2008 and the bonus allowed under Clause 17 of the SEPP Housing 2021.

- Under Clause 4.4 of the LLEP 2008, the maximum floor space ratio permitted for proposed lot 4 under DA-1122/2021 is 1:1 and for proposed lot 1 under DA – 1122/2021 is 0.75:1.
- A bonus FSR under Clause 17 of 0.5:1 applies under the SEPP Housing 2021 should the site meet the accessible area requirements.
- In the event that SEPP housing matters are satisfied, the proposal would still be in breach of the FSR control as there have been areas that have been excluded from the calculations including enclosed lobbies, bin areas at ground and within each level, horizontal elements within stair corridors beyond what could be defined as landings as well as the entire central void within the two shop top housing buildings as they are partly covered and too deep. The stairs within the two storey units also appear to have been excluded from the FSR calculations. In addition, the shop top housing buildings seem to have plant rooms at ground level that are excessive in size and require clarification as to what their functions may be to satisfy their exclusion.
- No 4.6 Variation has been provided.
- The affordable housing allocation has not been adequately detailed.
- It is noted in the Statement of Environmental Effects that the childcare centre floor area is included the floor space calculations of the residential shop top housing.

### 5.3 Height of Building

The proposal fails to comply with the height of buildings development standard within Clause 4.3 of the LLEP 2008 and the written request under Clause 4.6 of the LLEP 2008 fails to demonstrate sufficient environmental planning grounds to justify the variation or that the variation is in the public interest by being consistent with the zone objectives and standard.

- **Control** - 12m (Eastern Portion of the site) and 15m (Western Portion of the Site)
  - **Proposed** - 14m (Eastern Portion of the site) and 15.3m (Western Portion of the Site)
  - A 4.6 variation has been provided.
- (a) The applicant contents that the proposal seeks a maximum height of 15.35m for the building on proposed lot 4. The clause 4.6 states the breach for the built form on proposed lot 1 is 1m, but the height is stated as 14m, which means a breach of 2m.
- (b) Earthworks are still to be done under the approved DA-1122/2021 and that will mean changes to the natural ground level. The application has not factored in, and this points to the application being premature.

### 5.4 Amenity

The application has not demonstrated high level of amenity pertaining to solar access, ventilation, privacy (acoustic and visual) and general internal amenity and conflicts with relevant provisions contained within the Apartment Design Guide (ADG).

- (i) Under Section 3C of the ADG, level changes on ground units should provide surveillance and visual privacy. The units to building A2 and A4 are sunken well below the Bernera Road street level providing an unacceptable level of amenity.
  - (ii) In addition, all ground floor units that face the street should have a greater degree of confirmation as to fencing and landscaping to ensure Objective 3C-1, of ADG has been met.
  - (iii) The ground floor units are also from a design perspective in conflict with Objective 4L-2, which encourages ground floor units to be above street level.
- The courtyards to some units of building A3 are shown within the internal elevation as being all at one level yet the floor plans indicate a drop in levels given stairs are shown. Accordingly, there appears to be inconsistencies in the plans as to levels. Although the proposal complies with the communal open space provisions under ADG as a percentage, the landscaping on proposed lot 1 relies on land that that appears to be

under a different owner and uses in part this land, which has been set aside as a residual lot under DA 1122/2021.

- Although the communal area on proposed lot 4 provides a minimum of 50% of direct sunlight to the principal useable area, this does not occur to proposed lot 1 based on the location of that space under the landscape plan. Accordingly, the proposal is in conflict with Objective 3D-1 of the ADG provisions.
- There are several ground floor units on proposed lot 1 that have direct interface with paths with no separation. These units fail to meet Objective 3F-2 and reconsideration of the treatments/interface with those common paths need greater attention.
- While building entries are clearly visible to the buildings located within proposed lot 4, concern is raised by the open central areas to the shop top housing buildings. Consideration should be given to providing a secure environment as there is no casual surveillance within this space. Doors on the edge of this space would make the entries secure and more clearly identifiable from the street.
- The entries for the buildings proposed on proposed lot 1 are located within the site and are not to the street edge. Accordingly, the proposal conflicts with Objective 3G-1 of the ADG provisions.
- The proposed development provides for 49% of the apartments, located on proposed lot 4, as having cross ventilation and 58% for the apartments, on proposed lot 1. This is non-compliant with the requirement of a minimum of 60% under the ADG requirements.
- The corridors within the buildings on proposed lot 4 and to a lesser extent to those on proposed lot 1 provide for a poor level of amenity as they have limited daylight or natural ventilation as required by Objective 4F-1. This also extends to the length of the corridor where in part, the corridors are long than 12m.

## **5.5 Shop Top Housing**

The application has not demonstrated that amount of retail space provided can be achieved in the form of 5 separate food and drink premises.

- The proposed development provides for two separate shop top housing developments that collectively have 5 separate tenancies that vary from 46.2sqm to 203.9sqm. In total 549.6sqm.
- Under the R3 Medium Density zone shop top housing is permitted.
- The applicant in their submission relies on Schedule 1(5) of the LLEP, which allows a food and drink premises to meet permissibility.
- The applicant has provided no evidence that this development can in fact support this amount of food and drink activity noting that the site is just over 800m from the

Edmondson Park town centre. The plans show no amenities to support this activity and concern is raised that these spaces will remain unoccupied with limited opportunity for alternative uses.

- Based on this concern the layout/configuration of this space is considered unacceptable.
- The plans fail to show how the retail spaces will be serviced by the loading dock. There is no practical connection.

## **5.6 Childcare Centre**

The proposal provides for a three-storey childcare building which contains parking and entry at ground, with some parking within the basement.

- There are no fit-out plans or children numbers based on age groups to ensure compliance with the relevant guidelines.
- Council's waste officer requires a separate dedicated bin storage room within Building C within basement 1.
- The applicant has not submitted a POM as to its operation.
- The acoustic report conflicts in its assessment by noting a detail assessment is still required but then introduces limits on number of children within the play areas including the need for acoustic barriers that are not reflective in any plans associated with the fit out.
- The car park does not show safe movement of children and cars through dedicated pedestrian paths or the like.
- The entry/lobby of the childcare is within the site and not at the street edge.
- The ground floor car park is screened and provides a poor architectural treatment to the street.
- Issues of contamination have not yet been resolved to form the view that the site is suitable. This is discussed in the 'Assessment Issues' section below.
- Traffic issues through appropriate modelling has not been addressed as detailed within the 'Assessment Issues' section below.
- The area is characterised by low scale development and residential flat buildings. The design of this development architecturally reads as a commercial development that is not in character with the area or with the future character of the area.

- There are no details as to how this use will operate in conjunction with the residential flat development that forms part of proposed lot 1 and how by title will this building integrated.
- There should be a minimum of 12 m separation between the subject outdoor spaces and the adjoining units to ensure an acceptable level of amenity to the residential units.
- The approval of a three-storey purpose-built building with no fit out or operational management plan is not sound planning.
- The site falls within a bush fire zone and the SEE states that a Bushfire report has been prepared but this has not form part of this development application.

## 5.7 Traffic and Parking

Council's traffic expert has requested a revised traffic impact assessment report that clearly indicates the vehicular access arrangements to the site and the impacts of those access locations on the nearby intersections, such as the intersection of Bernera and Poziers Road. The report should address the need for parking restrictions along roads near the proposed driveways. It is noted in part that this is also a request from TfNSW.

- The applicant is required to provide revised swept path diagrams that can clearly show vehicles manoeuvre at the driveway and within the parking area needs to be provided. From the information provided it is not possible to ascertain if two vehicles can pass each other at the base of the ramp.
- TfNSW has reviewed the proposed development and in order to complete the review requested the following information:
  1. *The traffic Impact Assessment (TIA) is required to include the cumulative traffic impacts associated with the development and any other proposed/approved developments in the area.*
  2. *SIDRA modelling is required for the following signalised intersections:*
    - *Dalmatia Ave/Croatia Ave (Bernera Road); and*
    - *Poziers Road/Croatia Avenue (Bernera Road)*

*The proponent can consider the following scenarios:*

    - a) *Existing base case – this scenario should include baseline traffic based on existing traffic with no development traffic.*
    - b) *Existing base case with development traffic*



- c) *Future base case – considers background traffic growth on the future year without development traffic.*
  - d) *Future year with development – included background traffic growth with cumulative traffic impact associated with the proposed development and any other proposed/approved developments in the area. SIDRA modelling outputs are required to be submitted to TfNSW for further assessment.*
3. *The accounts appear low, TfNSW requests further information on the traffic counts undertaking for the abovementioned signalised intersections.*
  4. *TfNSW raises concern with the applied traffic generation rates. The TIA uses traffic generation for medium density development and traffic generation for office blocks for the proposed retail/neighbourhood shops. The sites used for the basis of the office blocks in the Technical Direction are located within major centre with good public transport links. Further clarification is sought on this matter.*
  5. *Further clarification on the traffic split of the 40%/60% split of traffic for what is primarily a residential development is sought. This split should be calculated and presented for each of the uses particularly as residential generally has more vehicles exiting than entering during the AM peak.*
  6. *TfNSW requests swept path analysis for the prescribed intersections for further review. The design is to include swept paths with the following requirements:*
    - I. *Swept paths should be a smooth, single radius and not have 'kinks' as currently demonstrated (in line with Austroads Standards).*
    - II. *A 12.5m vehicle should be included to be assessed as a checking vehicle for the swept path analysis.*
  7. *Further clarification is sought on the construction of Poziers Road and the extent of the construction on the Poziers Road/ Croatia Avenue (Bernera Road) signalised intersection. Any modelling undertaken should reflect what is being proposed.*
  8. *Assessment reveals the application deviates from the ILP plan. Council is to be satisfied with the non-compliance.*
  9. *Garbage collection for Buildings A and B are expected to be undertaken by a variety of commercial vehicles up to and including a 12.5m long HRV garbage trucks. Council shall be satisfied with the provision of the service area for the proposed scale of the development.*
  10. *TfNSW highlights the additional comments with the submitted TIA:*
    - *The report describes Bernera Road as a "local unclassified rural road". This is required to be changed to 'multi-lane collector road'. Similarly in the following paragraph with Croatia Avenue also described as a rural road.*
    - *The report indicates "No Parking" restrictions along Bernera Road. This is required to be changed to "No Stopping".*

## 5.8 Contamination

A Site Contamination Investigation Report (Preliminary Site Investigation Report) has been prepared by Geotesta Pty Ltd (Report Number NE861, dated 17 May 2021) in support of the application.

- In accordance with the Department of Urban Affairs and Planning and Environment Protection Authority Managing Land Contamination: Planning Guidelines, State
  - Environmental Planning Policy No. 55— Remediation of Land 1998, the site is considered to have the environmental concerns of:
    - In the areas of possible dwellings/sheds, fibrous cement sheeting (containing asbestos) may have been used during construction and sheds may currently (or have previously) stored fuel, oils, asbestos sheeting, pesticides, zinc treated (galvanised) metals, and/or lead based paints.
    - Farming activities and the storage/mixing of chemicals may have inadvertently contaminated the underlying soil.
    - Contaminants from unknown contents of stockpiles/shipping containers and general refuse may have spilled or leaked onto underlying soil.
    - Use of imported fill materials for construction of the driveway may have introduced heavy metals or pesticides and hydrocarbons to the soil.
- a) Fieldwork for this investigation was carried out on 6th April 2021 and included excavation of 19 boreholes. Based on the proposed development plans being residential, Health Investigation levels (HIL) of Residential A with soil access (ASC NEPM 1999, amended 2013) have been adopted as the Site Assessment Criteria for heavy metals in this investigation.
- b) A clearly defined Stage 2 – Detailed Site Investigation is required for assessment. The relevant assessment is to be undertaken by a suitably qualified and experienced contaminated land consultant with regard to the potential effects of any contaminants on public health, the environment and building structures and shall meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995).
- c) Where the Stage 2-Detailed Site Investigation indicates that the site poses unacceptable risks to human health or the environment, a Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced Contaminated Land Consultant in accordance with applicable guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997. In these circumstances, the Remedial Action Plan shall be referred to Liverpool City Council for review. A 'Suitably qualified and experienced contaminated land consultant' means someone who is certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) Scheme (CEnvP (SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) Scheme.
- d) The submitted document titled Site Contamination Investigation Report (Detailed Site

Investigation (DSI) Report) prepared by Geotesta Pty Ltd (Ref. NE861) dated 17/5/21 does not appear to be prepared or reviewed and certified by a suitably qualified consultant.

- e) In this regard, the applicant must arrange for the submitted document to be peer reviewed by a suitably qualified contaminated land consultant who is certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP (SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme. The peer reviewer's comments and recommendations may need to be incorporated into revised reports supporting the Application.

The following is summary of the issues that will need to be further examined and require further information or amended plans.

## 5.9 Insufficient Documentation and Plans

- (a) **Deep Soil** - A preliminary assessment of the deep soil over proposed lot 4 indicates that the deep soil is only at 11.5%, based on the applicant's areas, rather than 15% as required under the SEPP. The deep soil should be calculated on each lot and not over both lots combined.
- (b) **Landscaping** - The landscape area plan needs to be updated to reflect the definition of landscape area under SEPP Housing 2021 to maintains the applicant's submission that the proposal is compliant. For instance, retail car spaces have been included in the area calculations including landscaping that is within the shop top housing building. The childcare building should be excluded from the landscape area requirements as it's a separate building and the calculations should be based on a site area that only relates to the residential part of the site.
- (c) **Solar Access** - The applicant claims compliance with CI18(2)(e) regarding solar access. The view of the sun diagrams is of a scale that it is difficult to access compliance. It is noted that solar access is required to the living areas in addition to the POS. The plans need to be of a scale to allow a proper review. The plans need to be prepared to confirm under the ADG provisions that no more than 15% of the apartments achieve no solar access. A matrix should be prepared.
- (d) **Acoustic Assessment** - The Acoustic Assessment provided with the application does not assess the impact of the retail uses, proposed on the ground floor, will have on the residential above noting the central void. The report also acknowledges that a further assessment is needed for the childcare use once children's numbers have been confirmed. Given the application identifies children numbers and staffing, this assessment should be undertaken as part of

this application noting the Acoustic Report recommends treatments due to the use so it's unclear what specific reassessment is needed.

- An Acoustic Report has been prepared by Acoustic Logic dated 13 December 2021 (document reference number 20210686.2/1312A/R0/GW) in support of the application. The acoustic report does not appear to have been prepared by a suitably qualified consultant. Liverpool City Council requires an acoustic report to be prepared by a suitably qualified acoustic consultant.
- (e) **Parking in Basement** - The applicant has provided basement plans but has failed to allocate parking to specific units. Although parking numbers are compliant, the plans should indicate their allocation to ensure all units and non-residential areas have been allocated it's parking provisions.
- Clarification is required whether the proposal is providing any motor bike or bicycle parking.
  - Clarification as to how the basement car parks will be ventilated given the vent details on the roof are not apparent.
  - Clarification as to how the car parks will be secure and how visitors will access the carpark, including location of intercom systems and the like.
- (f) **Storage in Units** - The proposal should ensure provision of adequate storage to residential units, based on the Part 4G-1 requirements. It is noted that some storage areas are blocked by car spaces. Adequate aisle widths are required to ensure appropriate access is available to the development.
- (g) Clarification as to the location of air conditioner units.
- (h) The plans are unclear as to the location of mailboxes and other services like fire hydrants and the like.
- (i) Advice from Endeavour Energy references the need for fire rated walls to protect the nearby buildings. Clarification is needed as to the nature of those walls including their heights and the like to ensure their integration into the architectural design of the building.
- (j) Given the scale of the plans, all floor plans are to have every room dimensioned so the proposal can be assessed under Section 4D Apartment Size and Layout provisions under the ADG, including balcony dimensions to ensure Section 4E has also been met.
- (k) Details of the location of clothes drying areas should be provided.
- (l) Council's waste officer has sought that consideration be given to some additional space to allow for waste streams can be stored for collection.
- (m) Issues associated with flooding and drainage cannot be considered until such time that the issues associated with DA-1122/2021.

- (n) The Development Application has been referred to NSW Rural Fire Service for their consideration. At the time of the preparation of this document, comments have not been provided however will be supplied to the applicant once received. Issues raised in this advice will need to be considered by the applicant.
- (o) WaterNSW has requested for the applicant to provide the following information to enable assessment of the application:
1. *As groundwater was not encountered in the boreholes, please confirm the depth of the monitoring bores were to a depth equivalent to the base level of the lower basement.*
  2. *Confirmation that the structures below ground level are waterproof (tanked basement) and dewatering management program is designed considering the Minimum requirements for building site groundwater investigations and reporting. Note: Department of Planning & Environment (DPE) require the perimeter walls and floor of the basement being constructed using a 'tanked' (waterproof) construction method.*  
[https://www.industry.nsw.gov.au/data/assets/pdf\\_file/0004/343291/mini-mum-requirements.pdf](https://www.industry.nsw.gov.au/data/assets/pdf_file/0004/343291/mini-mum-requirements.pdf)
  3. *Duration of the water take for dewatering.*
  4. *Method of measuring the water take and recording.*
  5. *Provide documents updated with the above information.*

*If a tanked basement design is not possible, DPE will require additional modelled data to support a hydro-geological review and assessment of the alternative drained basement design. The Geotech report will need to be updated accordingly.*

- (p) Council's Community Department needs additional information for further assessment of the application. Their review and comments are given below:

- **Clarity of Information:** *The submitted documents provide some inconsistent information. For example: in page 4, the SEE refers, the subject site is situated on the eastern side of **Benera Road**, Edmondson Park. However, the Urban Design Report refers as 225 **Croatia Avenue**, Edmondson Park.*

*Regarding the proposed childcare, the SEE states, 'A total of 2 indoor playrooms and 3 outdoor play spaces are proposed allowing a maximum capacity of 93 children' (pg 3). Though, in pg 22, the number of child places has been stated as up to 90.*

**Comment:** We recommend providing consistent information to avoid confusion.

- **ARH:** The SEE refers, 'The development proposes a mix of apartments throughout the 8 buildings and also proposes affordable housing distributed throughout buildings A, D and E. the development proposes 45.77% of the GFA on the western half of the site and 50.1% of the GFA on the eastern half of the site as affordable housing'.

We are not clear about the number and combination of affordable units among the proposed 219 units. Section 27 of SEPP (Housing) 2021 refers, 'Development consent must not be granted under this Division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued— (a) the affordable housing component of the residential development will be used for affordable housing, and (b) the affordable housing component will be managed by a registered community housing provider'.

The applicant didn't submit any PoM and Community Housing Provider's details.

The LCC Disability Inclusion Action Plan 2017 states<sup>i</sup>, 5.4% of people in Liverpool reported needing help in their day-to-day lives due to disability. That's over 9,500 people with a profound or severe disability, **1.0% greater** than the Sydney average. It is not clear whether the combination of the housing mix has considered the persons with disability or special needs.

**Comment:** We recommend providing clarity on the number of affordable units. Details of CHP and PoM should be submitted. A certain portion of the apartments (i.e., 10%) can be developed with SDA standard to accommodate access and intergenerational equity.

- **Childcare centre:** The SEE refers, 'Building C in the development is proposed as a 'centre-based childcare facility' within a 3-storey building. The building has been designed to operate in isolation of the adjoining residential flat buildings on the eastern half of the site and provides ground floor car parking with the centre to operate on the 2 levels above'.

The design documents refer, 'The Childcare centre activates the main street corner of Poiziers Road and Hutton Road through positioning of the main entry, and vertical transport point. The secure car parking for the childcare is located at ground level, but heavily screened from the public domain, and its design is integrated with the facade design of the childcare centre over'.

The application proposes the following hours of operation for the Centre: Mondays to Fridays 7:00am to 6:00pm.

*To promote high standard of design, we recommend, development of new free-standing childcare facilities should not exceed 2 stories in height. Childcare facilities should be located on the ground floor of a building. Any storey above ground floor level can be used for other purposes like storage or staff facilities. Proposed childcare centre is multistorey and located at an intersection which may raise safety concerns.*

*Regarding outdoor space requirements, NSW Childcare Planning Guideline refers, 'Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications. A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment (c4.9).*

*We didn't find adequate justification for placing the kids above ground floor and creating simulated outdoor play area. A new suburb like Edmondson Park should cater for childcare with adequate ground level area close to nature. Regarding landscaping of outdoor play area, NSW Childcare Planning Guideline 2017 refers, 'incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping' (c18).*

*Research suggests, 'Children's outdoor play is detrimental to both their cognitive, social, and physical development. **Young children should be outdoors as much as indoors, and need a well-designed, well-organized, integrated indoor-outdoor environment, preferably with indoors and outdoors available simultaneously.***

*Outdoor spaces must support **inclusion**, meet the needs of individuals, and offer diverse play-based experiences. Young children should participate in decisions and actions affecting their outdoor play.*

*The Early Childhood Education and Care National Quality Frameworks (2011) strongly advocates for the importance of both the design and delivery of curriculums that allow children to spend large blocks of time outdoors. Young children also need time (and places) to daydream, look on or simply relax outside<sup>ii</sup>.*

**Comment:** *We recommend scoping for alternate designs accommodating children at the ground floor and outdoor play area close to nature. A PoM and further details of the childcare centre should be submitted.*

- **Open space, recreation & communal areas:** *The proposal didn't include adequate information on recreation and community facilities.*

*The design statement refers, 'The site is broken into 4 individual buildings which face each other across a significant, deep soil planted courtyard. The Village centre site is broken into two separate buildings in order to continue the strong linear open space established on the North-western precinct. On this site it becomes instead a publicly accessible open space, that allows the*

*retail spaces to trade outwards into a village plaza space. This area will provide for alternative community uses in the future’.*

*This application is proposing 219 dwelling units which will impact on the earlier approved open space, recreation, and community facilities. The proponent is recommended to review Council’s Recreation, Open Space and Sports Strategy. Contribution towards development of existing parks and future sporting fields in Edmondson Park should be done to absorb the demand of additional population.*

*Proposed communal open space: of the DA is 25% of site. Is this accessible by all community or for the gated community only?*

*There is no community centre close by; district level community facility has been planned within Frasers Town Centre. Capacity of these community facilities may not cover this extensive increase of density cap in north part. There is one primary and one high school in state plan for the area which may not be adequate for this additional population.*

*There are no significant health care facilities in proximity. Liverpool Hospital is around 13km away from the site which is already overloaded<sup>iii</sup>.*

**Comment:** *The future residents of the site will need all essential services and basic amenities close to their homes. Further consultation should be undertaken with council to determine preferred mix of services and facilities to avoid duplication and meeting the needs of community. We recommend getting feedback from Council’s Contribution team on this DA.*

*A community hub can be developed to serve the need of childcare, health care, community function centre/integrated place of social activities. This should be publicly accessibly for serving wider community.*

## **5.10 Documentation and Plans for the Childcare centre**

Clarification is sought as to whether food, including milk bottles, will be prepared, and served to children on site. Detailed floor plans for the childcare centre food preparation and bottle preparation area have not been submitted for review.

In this regard, the submitted plans shall make provisions for the following:

- (i) Construction details/finishes for the floors (including coving), walls, ceiling, fixtures, and fittings in the food preparation area of the premises.
- (ii) Location and construction details of all light fittings and any floor wastes within the food preparation area.
- (iii) A designated hand washing facility, accessible and no further than 5 metres, except for toilet hand basins, from any place where food handlers are handling



open food, fitted with a single spout capable of delivering a supply of warm running water.

- (iv) A double-bowl wash sinks suitable for cleaning and sanitising food contact surfaces and equipment.
- (v) Details of proposed cooking appliances and mechanical ventilation system.
- (vi) Please note: In addition to the requirements of AS/NZS 1668.1 and AS 1668.2, an extraction system shall be provided where there is any dishwasher and other washing and sanitising equipment that vents steam into the area to the extent that there is, or is likely to be, condensation collecting on walls and ceilings.
- (vii) A cleaner's sink for disposal of liquid waste (which is not to be located in areas where open food is handled); and
- (viii) Details of storage facilities for cleaning equipment and staff personal belongings.

### **5.11 Public Interest**

- (a) The Respondent contends that the proposed application should not be approved having regard to the matters raised in the submissions received by Council insofar as those matters coincide with the contentions raised in this statement of facts and contentions (attached).
- (b) The assessment of this Development Application is premature given it reliance on roads and infrastructure that is linked to an application being DA-1122/2021, which is currently before the Land and Environment Court and yet, undetermined. This proposal cannot proceed until that application is determined and if not approved, this proposal can't be facilitated. Issues of levels and road layouts are still unresolved noting the applicant under DA-1122/2021 is amending the indicative road pattern set out under Council's DCP.

## **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

It is considered that the key issues as outlined in Section 5 have not been resolved satisfactorily through amendments to the proposal.

## 7. RECOMMENDATION

That the Development Application DA No. DA-267/2022 for the Construction of 6 Residential Flat Buildings and the construction 2 Shop top housing developments, containing a total of 219 apartments. Construction of a Centre based Child Care Centre above 2 basements for 93 children at 225 Croatia Avenue, Edmondson Park be REFUSED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal in the Statement of Facts and Contentions (SOFAC) and as discussed in this report.

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