



Liverpoolcitycouncil
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**MATTERS FOR
INDEPENDENT HEARING & ASSESSMENT
PANEL'S CONSIDERATION**

THURSDAY 1 AUGUST 2013

To be held at the
'Francis Greenway Centre'
171 George Street
LIVERPOOL

Doors open at **5.45 PM** to commence at **6:00 PM**

Note: Submissions by the applicant and concerned parties will be considered at the hearing. A concerned party is deemed to be a person who has made a written submission in respect to the application. The Panel shall, upon request, hear submissions from persons who identify prior to a hearing that they wish to make a submission to be considered by the Panel. Presentations to the Panel by the applicant and concerned parties shall be restricted to **3 minutes each**. The Panel Chairperson has the discretion to extend the period if considered appropriate.

Should you wish to address the Panel, please advise Melanie Prior on 98219162, no later than 4pm, Thursday 1 August 2013.

INFORMATION ABOUT THE INDEPENDENT HEARING AND ASSESSMENT PANEL

History:

Council, at its meeting of 10 March 1997, resolved that an Independent Hearing and Assessment Panel be established to provide an independent hearing forum for objectors and applicants and to independently make recommendations to Council on development applications.

The Panel consists of four members to represent the areas of:

- Law
- Environment
- Urban Design
- Community
- Town Planning

Purpose:

An independent forum for stakeholders – applicants, the community and objectors – to discuss the following types of Development Applications:

- 1.1 Those Class 2 to 9 Buildings under the Buildings Code of Australia (BCA) plus residential townhouses and subdivisions which create more than twenty (20) allotments and where there are three or more unresolved objections; and
- 1.2 Where the General Manager or the Director, City Planning has determined that the public interest is of such a significant nature to refer the application to an independent body.
- 1.3 Any building over three storeys that is in the Liverpool CBD area, as defined in Liverpool Development Control Plan 2008;
- 1.4 Any matter that involves significant variation to Council policy, or other significant variations to Council's Local Environmental Plan via submission of an exception to development standards;
- 1.5 Any Development Application lodged on behalf of Council or by Council, where it has a commercial interest in the development;
- 1.6 Any application lodged to Council for a Section 82A Review of Determination;

The Development Applications referred to above will only be considered by the IHAP in circumstances where the Joint Regional Planning Panel is not the determining authority.

Quorum:

The quorum for a meeting of the Panel shall be three (3) members.

Frequency of Meetings:

One meeting will be held each month.

Recommendations of the Panel:

After the Panel has considered submissions made by interested parties, the Panel will make recommendations to the Council. The Panel's recommendations become public on the Friday afternoon prior to this Council meeting.

Information:

Should you require information about the Panel, please contact Council's City Planning during normal business hours.

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The following development applications are referred to the Independent Hearing and Assessment Panel for its consideration and recommendation.

ITEM No.	SUBJECT	PAGE No.
1	TWO TORRENS TITTLE SUBDIVISION	3
2	SUBDIVISION OF EXISTING LOT INTO 29 RESIDENTIAL LOTS, ONE RESIDUE LOT AND ASSOCIATED WORKS INCLUDING ROAD CONSTRUCTION	29
3	TWO STAGED TORRENS TITLE SUBDIVISION CREATING 25 LOTS WITH ASSOCIATED CONSTRUCTION OF ROADS AND DRAINAGE. (NOTE: PROPOSAL IS IDENTIFIED AS NOMINATED INTEGRATED DEVELOPMENT PURSUANT TO S.91 OF THE WATER MANAGEMENT ACT 2000 (OFFICE OF WATER)	64

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ITEM No.	1
Application Number	DA-160/2013
Proposed Development	TWO TORRENS TITTLE SUBDIVISION
Property Description	LOT 45 DP 841782 AND LOT 9 DP 1118870 2 MELALEUCA PLACE, PRESTONS NSW 2170
Applicant	R S CANCERI PTY LTD
Land Owner	BORAK ENTERPRISES PTY LTD
Cost of Work	Nil
Recommendation	Approval

1. EXECUTIVE SUMMARY

1.1 Referral to IHAP

Pursuant to the requirements of the endorsed Independent Hearing and Assessment Panel (IHAP) Charter and Procedure, the proposal is referred to the IHAP for consideration, and to the full Council for determination, as the proposal includes a request to vary development standard by 10% or more pursuant to Clause 4.6 of the Liverpool Local Environmental Plan 2008 (LLEP 2008).

1.2 The Proposal

The application seeks to re-subdivide a recently approved lot into two Torrens Title lots in Melaleuca Place, Prestons.

The subject lot is proposed Lot 9 in recently approved consent 159/2013 which entailed subdivision of Lot 45 DP 841782 and Lot 9 DP 1118870 into 9 residential lots.

The application is accompanied by a written request, pursuant to Clause 4.6 of the LLEP 2008 to vary Clause 7.13 Minimum Lot Width.

1.3 The Site

The site is known as Lot 45 DP 841782 and Lot 9 DP 1118870 and is approximately 4715m² in area. The site is situated on the southern side of the road intersection between Melaleuca Place and Beech Road with the South Western Motorway bordering the site along the southern boundary in Prestons.

1.4 The Issues

The key issues to the development relate to the variation to the minimum lot width.

1.5 Conclusion

Pursuant to the assessment of the application in accordance with the provisions of the Environmental Planning and Assessment Act 1979, LLEP 2008 and Liverpool DCP

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2008, it is considered that the proposed development including the variation to the minimum lot width standard of the LLEP is acceptable for reasons as outlined in this report. Accordingly, the application is recommended for approval.

2. SITE DESCRIPTION AND LOCALITY

2.1 The Site

The site consists of two allotments, Lot 45 DP 841782 and Lot 9 DP 1118870 and is approximately 4715m² in area. The site is situated on the southern side of the road intersection between Melaleuca Place and Beech Road with the South Western Motorway bordering the site along the southern boundary in Prestons.

The site has a triangular shape measuring about 130m along Melaleuca Place and Beech Road, with an approximate 65m southern boundary as shown below in Figure 1.

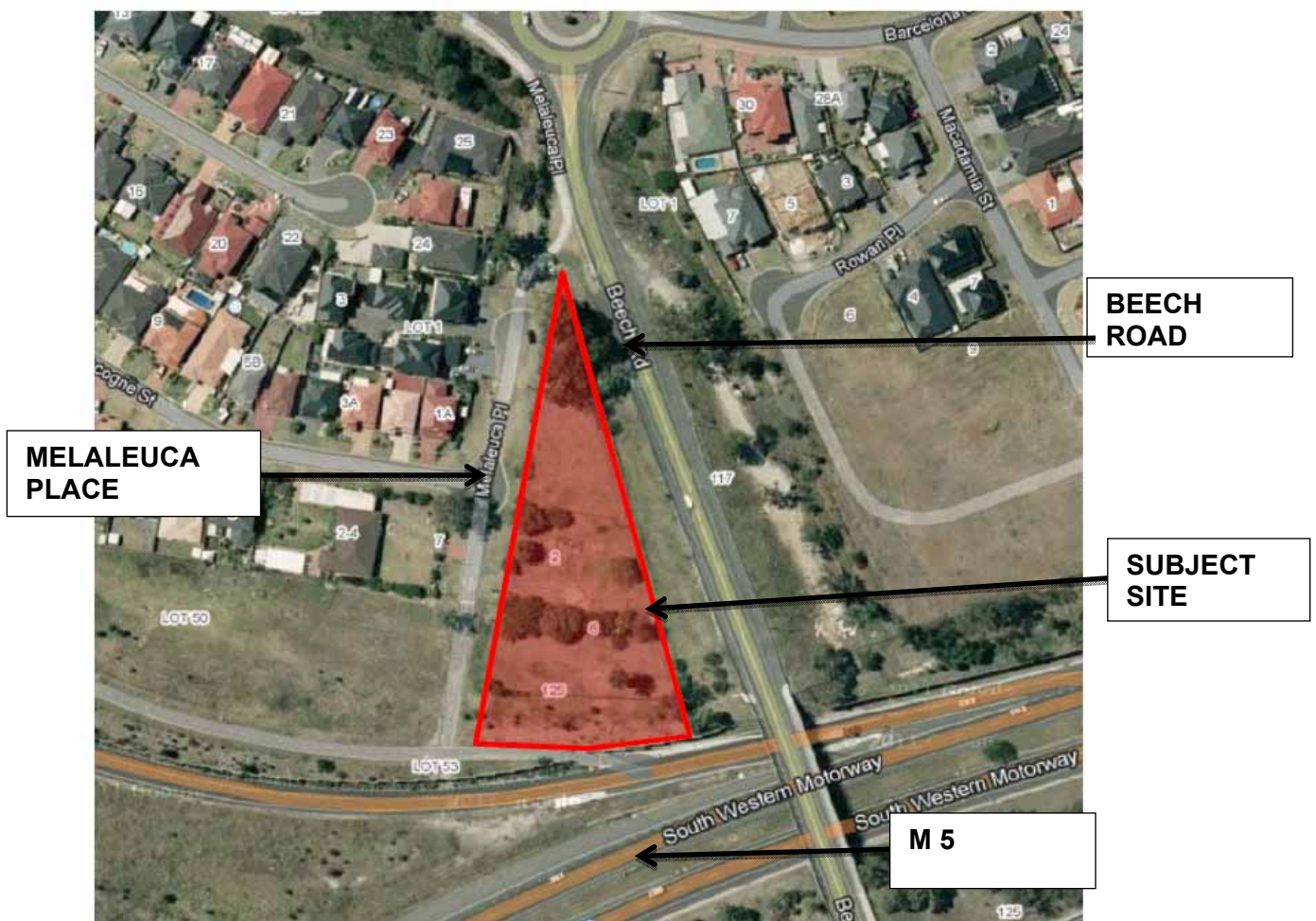


Figure 1: Location of the site

3. DETAILS OF THE PROPOSAL

The proposal involves Torrents Tittle subdivision proposed Lot 9, a residue lot in Stage

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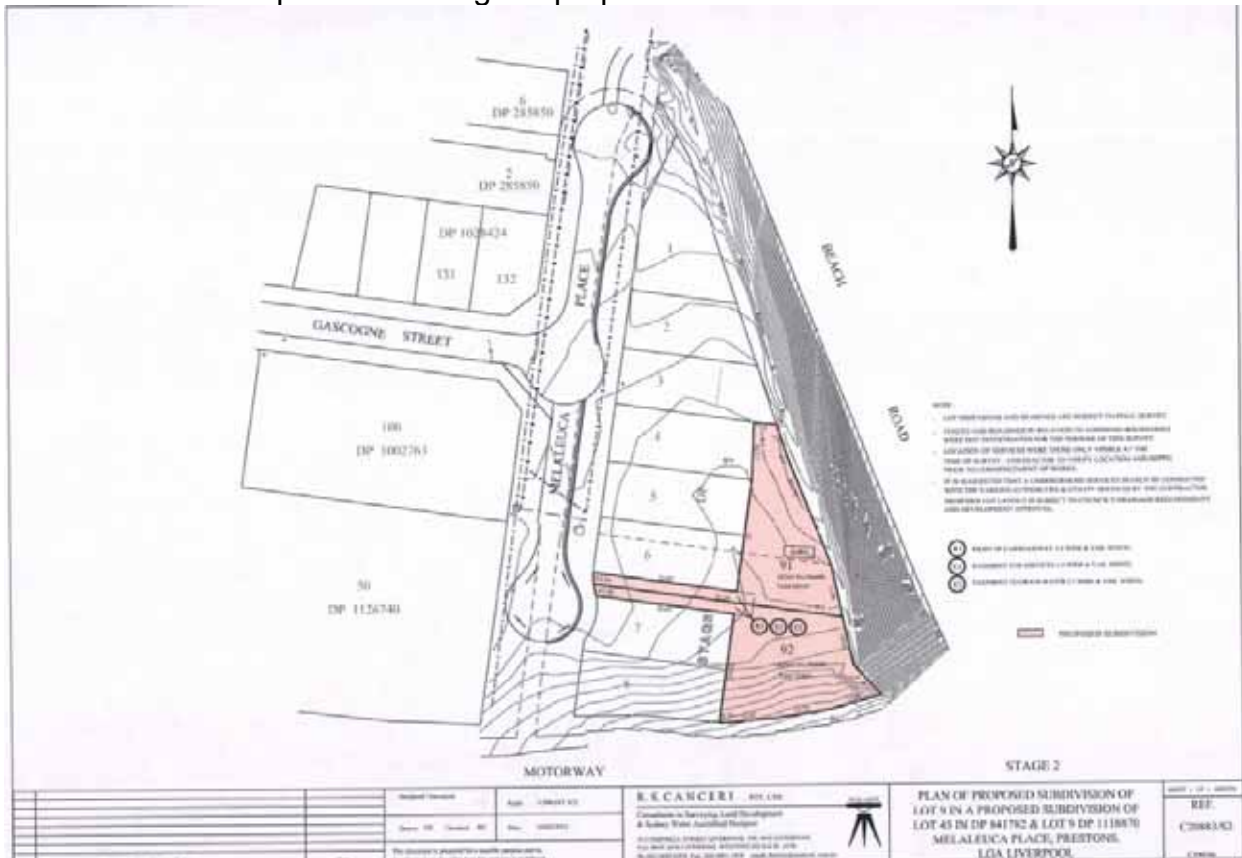
1 of previously approved DA159/2013. The proposal consists of:-

- Two Torrens title residential allotments resulting in battle axe lots of stand size
- The lots sizes are as follows:-

Lot Numbers	Lot size
Lot 91	582m ² ex-handle (total 661m ²)
Lot 92	656m ² ex-handle (total 734m ²)

- The proposed lots will have access to a fully formed carriageway to connect to Melaleuca Place via 5m access handle with a 2.5 handle in each onwership.
- The access handle will be created by a Section 88B Instruments to provide each lot Right of Carriageway and Easment for services.
- The application is accompanied by a written request to vary principal development standards pursuant to Clause 4.6 of the LLEP 2008 to vary Clause 7.13 Minimum Subdivision Lot Width.

Plans of the development showing the proposed Plan of Subdivision is shown below.



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4. STATUTORY CONSIDERATIONS**4.1 Zoning**

The subject land is zoned R2 Low Density Residential under the provisions of LLEP.

4.2 Relevant matters for consideration

The planning controls that relate to the proposed development are:

1. Section 5A of Environmental Planning and Assessment Act, 1979 – Significant effect on threatened species, populations or ecological communities, or their habitats.
2. State Environmental Planning Policy No. 55 – Remediation of Land.
3. State Environmental Planning Policy (Infrastructure) 2007
4. Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
5. Liverpool Development Control Plan 2008, specifically:
 - Part 1.1 – General Controls for all development.
 - Part 1.2 – Controls for all development.
 - Part 2.2 – Subdivision of land in Carnes Hill Hoxton Park Prestons.
6. Liverpool Development Control Plan 2008

5. ASSESSMENT

The development has been assessed in accordance with the Environmental Planning and Assessment Act 1979, and the following issues have been identified for further consideration:

Environmental Planning and Assessment Act, 1979***Section 5A – Significant effect on threatened species, populations or ecological communities, or their habitats.***

Under *Section 5A of Environmental Planning and Assessment Act, 1979* a Seven Part Test is required to be determine whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats listed under Schedule 1 or 2 of the Threatened Species Conversation Act 1995 and consequently whether a Species Impact Statement is required.

The site would have once comprised Cumberland Plain Woodland however due to the high levels of structural and floristic degradation through clearing and modification through its use as a residential allotment and due to the highly degraded nature of the

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site there are no individual threatened flora species detected on site. No threatened fauna species occur and a search for the Cumberland Plain Land Snail detected no live specimens or empty shells.

A Flora and Fauna Assessment and Seven Part Tests of Significance (Anderson Environmental Consultants, dated January 2013) was submitted and assessed under the previous application (DA159/2013) which concluded that there are some over storey trees present that would have once formed Cumberland Forest Plain Woodland however the vegetation no longer comprises this community due to high levels of degradation and no longer conforms to the Endangered Ecological Community.

Council's Sustainable Environment Natural Resources Planner has reviewed the Flora and Fauna Assessment and Seven Part Tests of Significance and has provided the following comments:-

"The Flora and Fauna Assessment is considered to have limitations (e.g. lack of details for methodology, lack of justification for assumed absence of threatened species, lack of consideration of threatened fauna species which may utilise the site on occasion). However, it is evident that the site contains highly disturbed habitats which have had a long history of severe disturbances. Therefore it is considered that in this instance, the submitted Flora and Fauna Assessment is adequate.

The proposal would not result in the removal of any significant habitat for any threatened species, populations or endangered ecological communities and a Species Impact Statement is not deemed to be required.

Section 79C(1)(a)(i) – Any Environmental Planning Instrument**(a) State Environmental Planning Policy (SEPP) No.55 – Remediation of Land**

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

A consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated, suitable for the proposed use and whether remediation is required.

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The issue of site contamination was considered under Development Consent No. 159/2013. A Phase 1 Contamination and Salinity Investigation prepared by Geotest Services Pty Ltd, Ref:JE12515A-r1 dated 1 February 2013 was submitted for consideration.

The report concludes that the risk of significant soil contamination within the site to be generally low and recommends a number of measures to be undertaken in order to ensure suitability of the site for the proposed residential subdivision development. These recommendations are as follows:

- *All surface rubbish fill and household rubbish be removed from the site and disposed to a landfill.*
- *The shed (Site Feature C) with asbestos roofing should be demolished and removed from site by an asbestos licensed contractor. Care must be taken to ensure removal of asbestos sheetings do not result in contamination of the soil. All works must be carried out in accordance with Workcover and other regulatory requirements.*
- *Validation sampling and laboratory testing of the underlying soil be carried out after site clearing. The samples should be tested for presence of Heavy metals, Organochlorine Pesticides, Polychlorinated Biphenyls, TRH, BTEX and PAH.*
- *All soil to be removed offsite should be classified in accordance to the DECC 2008 guidelines – “Part 1- Classifying Waste”.*

Council's Health Officer had reviewed the Phase 1 report and considers that it is appropriate that conditions of consent be imposed for a remedial action plan and once remedial works have been carried out, that validation report be submitted to the PCA certifying that the site has been remediated for its intended use.

Accordingly proposed development is recommended for approval, subject to recommended conditions.

(b) State Environmental Planning Policy (Infrastructure) 2007

The proposal is subject to the provisions of Clause 102(1) and (3) in part as it adjoins the M5 and M7 motorway:

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

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*

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(a) a building for residential use,

(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

(a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

An Acoustic Report prepared by PKA Acoustic Consulting considered pursuant to Development Consent 159/2013 provided an assessment of Clause 102. The report outlined measures that need to be undertaken to comply with State Environmental Planning Policy (infrastructure) 2007. The report also details and identifies each lot and the type of works required to comply.

Council's Health Officer has reviewed the report and considers that it is appropriate that conditions of consent be imposed for the recommendations as contained in the report be incorporated in the approval.

(c) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

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

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

The proposed development involves a facilitating subdivision involving minimal works. Standard conditions are recommended for sediment control measures to be implemented during carrying out of works to ensure water quality is not detrimentally impacted.

(d) Liverpool Local Environmental Plan 2008

The subject application has been assessed against the relevant provisions contained within Liverpool Local Environmental Plan 2008 (LEP 2008). The proposal's compliance with LEP 2008 is addressed below.

(i) Permissibility

The subject land is zoned R2- Low Density Residential pursuant to the provisions of LEP 2008.

Clause 2.6 of the LLEP 2008 addresses the consent requirements for subdivisions and

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is outlined as follows:

Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

The proposal seeks consent for the Torrens title subdivision of an existing lot into two lots. The development application has been lodged pursuant to the above requirement seeking the consent of Council.

(ii) Objectives of the zone

The subject site is zoned R2 Low Density Residential zone pursuant to LLEP 2008. The proposed development is classified as “*subdivision*” under the LLEP 2008, which is permissible with development consent pursuant to Clause 2.6.

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

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

The following comments are made in relation to how the development is consistent with the objectives of the R2 Low Density Residential Zone:

- The proposed development will provide for housing needs of the community by facilitating an additional lot for the future development of a dwelling.
- The additional lot will accommodate a dwelling house that will be of a low scale residential character.
- The lots sizes will allow for high level of residential amenity to be achieved and maintained.

The proposal is to create two Torrens Title lots for the purposes of providing for the housing needs of the community within a low density residential environment, which will be in keeping with the low scale residential character of the area.

It is considered that the proposal is consistent with the objectives of the R2- Low Density Residential Zone. Therefore, it is considered that the proposal satisfies the relevant objectives of the R2 Low Density Residential zone.

(iii) Principal Development Standards

The LLEP contains a number of principal development standards which are discussed with respect to the proposal as follows: -

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Development Provision	Requirement	Proposed	Comment
4.1 Minimum subdivision lot size	Minimum lots size 450sqm in green area, 2000sqm in red area, 300sqm in blue area (see Figure 3 for lot size map)	Lot 91 = 661m ² Lot 92 = 734m ²	Yes Yes
5.9 Preservation of trees or vegetation	Provides when consent is required to be granted subject to the provision of this clause to remove trees or vegetation	No removal proposed	Complies
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Provided by conditions of consent	Complies
7.13 Minimum Lot Width in Zones R1, R2, R3 and R4	Minimum width of at least 10 metres and a minimum width of at least 5 metres for battle-axe lots.	The proposed Lots 91 and 92 share an access handle with an overall width of 5m. However each lot would own half the width of the access (i.e. 2.5m). Accordingly, the minimum width of the battle-axe lots is technically 2.5m and does not comply.	No, 50% variation
7.31 Earthworks	Council to consider matters listed (a)-(g)	No works proposed	N/A

The applicant has submitted a written request seeking a variation to the minimum lot width prescribed by Clause 7.13 as required by Clause 4.6 of the LLEP. Clause 4.6(2) which provides that in certain circumstances, consent *...may be granted for development even though the development would contravene a development standard imposed...* by the LLEP. As the variation is in excess of 10%, the application is referred to IHAP for consideration for determination.

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes:

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

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demonstrating:

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

The applicant in their submission has requested that Council give consideration to the variation of minimum lot width by demonstrating that in the circumstances of this case, there is no negative environmental impact as a result of the variation; and that strict compliance would in fact have undesirable impacts. The submission demonstrates that on the basis of environmental planning grounds, strict compliance is therefore unnecessary.

The issues arising from the submission can be summarised as follows:

- *The variation sought to the minimum lot width for baffle-axe allotments relates to proposed Lots 91 and 92. While Lots 91 and 92 will have an average width greater than 10 metres, they will be accessed from a shared access handle which will be 5 metres wide with reciprocal Rights of Carriageway.*

The lots will have a minimum 2.5 metre wide width along the access handle, which does not affect the siting or setbacks of any future development.

- *This submission is made on the basis that the proposed width of the access handle is in compliance with the specific controls for hatchet shaped allotments which are contained in Section 3.6 of Part 1.2 of the Liverpool Development Control Plan 2008. Section 3.6 allows for a maximum of 2 allotments within a residential zone to be serviced from a 5 metre wide access way to a public street, with reciprocal rights of way created over each of the access ways in order to minimise separate driveway access points.*
- *The Development Control Plan allows a maximum of two (2) allotments to be accessed from a 5 metre wide handle. As the handle is 5 metres wide, it will allow sufficient area for vehicles to access the battle-axe allotments.*
- *The objective of the control is to ensure that lot dimensions are able to accommodate residential development that is suitable for its purpose and is consistent with relevant development controls. The proposed re- subdivision of Lot 9 complies with the minimum lot size requirements and average lot width requirements. Each lot is large enough to accommodate a future dwelling, vehicular access and private open space. The proposal complies with all other relevant controls of the Local Environmental Plan.*

The following comments are offered in response to the variation to Clause 7.13:

- The proposed development would result in a reciprocal right-of-carriageway and easement for services with the combined driveway handle achieving a width of

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5.2 metres. This is considered adequate to service vehicles generated by a future dwellings on each site.

- Clause 3.6 of Part 1.2 of the LDCP 2008 enables the opportunity for two (2) allotments to be created with access ways with reciprocal rights of way to minimise separate driveway access points.
- The provision of individual driveways would create excessive hard stand areas which would not be desirable in the residential streetscape. The shared access handle provides for a driveway that would be in keeping with the typical residential streetscape.
- Council's Development Engineers have assessed the proposal and have raised no objection to the proposal.

Having regard to the above, it is considered that strict compliance with Clause 7.13 – Minimum lot width is unnecessary and unreasonable in this case.

Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instruments

There are no applicable draft EPIs.

Section 79C(1)(a)(iii) – Any Development Control Plan

Liverpool Development Control Plan 2008

PART 1.1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIANCE
2.Tree Preservation	The subject site is cleared of any significant trees.	Yes.
3.Landscaping	The proposed subdivision will involve street tree planting in accordance with the DCP and it is considered that this matter can be appropriately conditioned as part of Consent No 159/2013.	Yes.
4.Bushland and Fauna Habitat Preservation	Flora and Fauna has been submitted as part of the application and the findings are considered satisfactory.	Yes.
6.Water Cycle Management	Conditions imposed addressing stormwater management.	Yes.
7.Development Near Creeks and Rivers	The subject site is not located within 40m of a water course, creek or river (Hinchinbrook Creek)	Yes.

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CONTROLS	PROVIDED	COMPLIANCE
8.Erosion and Sediment Control	Appropriate conditions applied.	Yes.
10.Contamination Land Risk	A Contamination Assessment was previously undertaken under Development Consent No 159/2013 confirming that the site was suitable for its intended residential uses.	Yes.
12.Acid Sulfate Soils Risk	The subject site is not identified on the Acid Sulfate Soils Map.	Yes
13. Weeds	Appropriate conditions of consent have been imposed to address the issue of weed management	Yes
14.Demolition of Existing Development	No demolition proposed.	Yes
15.On-Site Sewerage Disposal	No on-site sewage proposed.	Yes
16.Aboriginal Archaeology	No Aboriginal sites, places or relics have been identified on the subject site.	Yes.
17.Heritage And Archaeological Sites	The site is not heritage listed. The site has traditionally used for market gardening, and there is no evidence to suggest that the site contains any heritage or archaeological item.	Yes.
PART 1.2 – ADDITIONAL GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIANCE
3. Subdivision of Land and Buildings	<u>Minimum Lot Size</u> All lots are >300m ²	Yes.
3.6 Hatchet Shaped lots	Minimum access way for hatchet shaped lots to be 5m width and maximum of 2 hatchet shaped allotments permitted from any access way with reciprocal right of which the proposed subdivision provides.	No – Justification applied
6. Landfill	No landfill proposed. Neutral cut and fill.	Yes.

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

No additional items for consideration.

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

The likely impacts of the development are those associated with demolition works. Measures will be implemented to mitigate against impacts.

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

The subject development will assist in the development of the site in accordance with zone objectives.

Section 79C(1)(d) – Any Submissions made in relation to the Development**Internal Comments**

INTERNAL REFERRALS:	
Engineer	Referral – Yes
No objection subject to conditions of consent.	
Traffic	Referral – Yes
No objection subject to conditions of consent.	
Health	Referral – Yes
No objection subject to conditions of consent.	
Natural Resources	Referral – Yes
No objection subject to conditions of consent	

Section 79C(1)(e) – The Public Interest

The proposal will assist in the development of the land in accordance with the zone objectives and is considered to generally be in the public interest.

Developer Contributions

Contributions are applicable and are imposed in the consent.

6. CONCLUSION

The application has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, and the relevant Environmental Planning Instruments including the applicable Liverpool Local Environment Plan 2008, Liverpool Development Control Plan 2008, and the relevant codes and policies of Council.

The proposed development is generally compliant with the provisions contained within LLEP 2008 with the exception of Clause 7.13 Minimum lot width. The applicant has submitted a written request to justify the contravention of the development standard by

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demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard, pursuant to Clause 4.6 Exceptions to development standards.

Following detailed assessment of the proposal and consideration of the Clause 4.6 variation to the minimum lot width, the development application has been assessed on its merits and is considered satisfactory. Accordingly it is recommended that the development application be approved subject to conditions of consent.

7. RECOMMENDATION

That Council:

1. Approved Development Application DA-160/2013 which seeks consent for the subdivision of existing lot into two lots at 2 Melaleuca Place, Prestons subject to conditions of consent;
2. Support the variation to Clause 7.13 of LLEP 2008 which has been made pursuant to Clause 4.6 – Exceptions to Development Standards.

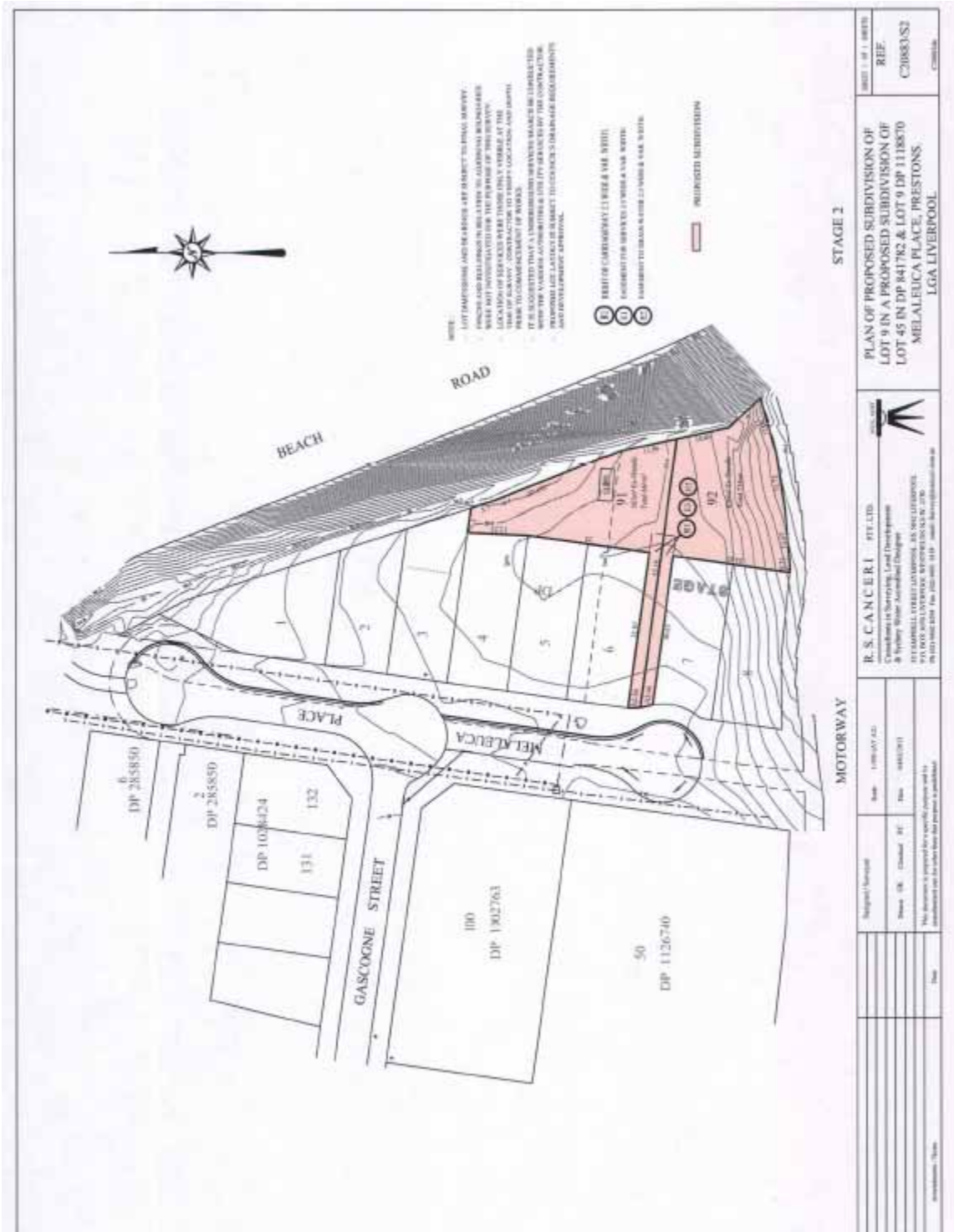
8. ATTACHMENTS

- 8.1 Plans of the proposal**
- 8.2 Recommended conditions of consent**

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Attachment 1:



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Attachment 2:**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:
 - Plan of Proposed Subdivision prepared by R. S. Canceri Pty Ltd, Reference C20883/S2, Sheet 1, dated 04/02/2013.
 - Plan of Proposed Stormwater prepared by R. S. Canceri Pty Ltd, Reference C20883swd, Sheet 1, dated 04/02/2013.

except where modified by the undermentioned conditions.

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:

SECTION 94 PAYMENT (Liverpool Contributions Plan 2009)

2. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2009 as amended.

The total contribution is **\$26009.00**.

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

Whitlam Centre Extensions, Liverpool Central Library and Local Land - Early acquisition (Prestons)

Contributions, with the exception of those for the Whitlam Centre Extensions, Liverpool Central Library and Local Land - Early acquisition (Middleton Grange) will be adjusted at the time of payment.

Capital Works, Administration, Professional and Legal Fees Components

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

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$$\text{Contribution at the time of payment} = \frac{\mathbf{C} \times \mathbf{CPI}_2}{\mathbf{CPI}_1}$$

Where:

C = Original contributions as shown on the consent

CPI₂ = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics at the time that the contribution is to be paid

CPI₁ = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics as at the time of granting the development consent

Land Component

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

$$\text{Contribution at the time of payment} = \frac{\mathbf{C} \times \mathbf{L}_2}{\mathbf{L}_1}$$

Where:

C = Original contributions as shown on the consent

L₂ = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time that the contribution is to be paid

L₁ = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time of granting the development consent

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

The Contributions Plan may be inspected at Council's Administration Centre, Level 2, 33 Moore Street, Liverpool or at www.liverpool.nsw.gov.au.

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

This contribution involves contributions for Local Streets and Traffic Facilities and Local Drainage. It should be noted that any further development consents for the development of a particular site will contain a condition requiring contributions for the following facilities.

- (i) District Roads and Traffic Facilities
- (ii) District Drainage Basins
- (iii) Landscape Buffer Land
- (iv) Landscape Buffer Embellishment
- (v) Professional and Legal Fees

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- (vi) Tree Planting

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, 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 Integral 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. Certification from an approved telecommunications carrier shall be submitted to Council confirming that satisfactory arrangements have been made to ensure the provision of underground telephone services to the approved development.

Recommendations of Acoustic Report

6. The recommendations provided in the approved acoustic report prepared by PKA Acoustic Consulting, Project 212206, File: 212206R01V1-0 dated January 2013 shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the CC application.

C. PRIOR TO WORKS COMMENCING

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

Environmental Management

7. 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.

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Contamination

8. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
 - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
 - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.

Air Quality

9. 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.
10. 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

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

Recommendations of Acoustic Report

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

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D. DURING CONSTRUCTION**General Site Works**

13. 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.
14. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
15. 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.
16. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

Traffic Management

17. 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.
18. 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.
19. 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.
20. 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.

General Site Works

21. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
22. 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.

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23. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

Vegetation

24. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.
25. Clearing of bushland in addition to any clearing approved for this development application, whether it be removal of trees, groundcover or understorey, requires development consent.
26. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
27. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
28. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.

Contamination

29. 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).
30. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
- (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary

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- 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.

Site Remediation Works

31. Remediation and validation works must be carried out in accordance with the Phase 1 Contamination and Salinity Investigation prepared by Geotest Services Pty Ltd, Ref:JE12515A-r1 dated 1February 2013. Any variation to the proposed remediation works must be approved in writing by Council or the PCA prior to the commencement of these works. The applicant must inform Council or the PCA in writing of any proposed variation to the remediation works. Council or the PCA must approve these variations in writing prior to commencement of works approved under the development consent.
32. 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.
33. 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.

Erosion Control

34. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
35. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
36. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

Water Quality

37. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road

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surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

Road Works

38. The applicant shall arrange for the construction of a 1.2 metre wide by 75mm deep concrete footpath paving together with associated turbing adjustments along the full frontage of the site in Council's road pedestrian way. The construction shall only be carried out to plans and specifications approved by Council and via Roads Act Permit to Carry Out Works. This footpath construction shall be completed (or bonded by agreement with Council) prior to the Issue of the OC by the PCA for building works.

Recommendations of Acoustic Report

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

Environmental Management

40. 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.

General Site Works

41. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
42. 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.
43. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

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Vegetation

44. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.
45. Clearing of bushland in addition to any clearing approved for this development application, whether it be removal of trees, groundcover or understorey, requires development consent.
46. No known environmental or noxious weeds or known invasive plant species shall be included in the landscaping/revegetation.
47. Mulch generated from exotic trees or other weed species cleared shall not be used on site. It shall be removed from the site and disposed of appropriately and in accordance with legislative requirements.
48. Any imported soil and/or mulch shall be free of contaminants, seed and propagules of weeds and undesirable species. Mulch shall not be used on flood liable land.

Contamination

49. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
 - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
 - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.
50. 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

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

51. 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.
52. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

F. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

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

General

53. Two(2) copies, both marked up in red of a "Work As Executed" drawing must be submitted to and approved by Council identifying all features of the physical works as set out in Council's specification for subdivision (as amended).

Linen Plans and 88B Instruments

54. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.
55. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.

Service Providers

56. Written evidence (Section 73 Certificate) is to be submitted to the PCA prior to the issue of the subdivision certificate.
57. Notification of arrangement for the development from Integral Energy shall be submitted to Council.
58. Compliance Certificate for the development from an approved local telecommunications carrier shall be submitted to Council.
59. A reciprocal right of way for the access handle, off Melaleuca Place should be established and maintained

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ITEM No.	2
Application Number	DA-211/2013
Proposed Development	SUBDIVISION OF EXISTING LOT INTO 29 RESIDENTIAL LOTS, ONE RESIDUE LOT AND ASSOCIATED WORKS INCLUDING ROAD CONSTRUCTION
Property Description	LOT 92 DP 843489 290 JARDINE DRIVE, EDMONDSON PARK NSW 2174
Applicant	GAT & ASSOCIATES
Land Owner	MR V MAGGIOTTO
Cost of Work	Nil
Recommendation	Approval

1. EXECUTIVE SUMMARY

1.1 Reasons for the Report

Pursuant to the requirements of the endorsed Independent Hearing and Assessment Panel (IHAP) Charter and Procedure, the proposal is referred to the IHAP for consideration, and to the full Council for determination, as the proposal includes a request to vary a development standard in excess of 10% pursuant to Clause 4.6 of the Liverpool Local Environmental Plan 2008 (LLEP 2008).

1.2. The proposal

The application seeks consent for subdivision of the existing allotment into 29 residential Torrens Title lots, one residue lot, the retention of the existing dwelling on an allotment and the construction of road and drainage.

Proposed Lots 2026 and 2027 would be battle-axe type lots sharing a 5m wide access handle with the creation of reciprocal rights of way.

The access handle serving the battle-axe lots is 5m wide, however half its width is over each battle-axe lot. In this regard, the battle-axe lots provide a minimum lot width of 2.5m which is non-compliant with the LLEP's minimum 5m standard prescribed by Clause 7.13.

The application is accompanied by a written request, pursuant to Clause 4.6 of the LLEP to vary Clause 7.13 and addresses the sharing of access handles.

The proposal was referred to the NSW Rural Fire Service as Integrated Development. A Bushfire Authority has been issued for the development.

1.3 The site

The site is identified as Lot 92 DP 843489 and is located at 290 Jardine Drive, Edmondson Park.

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1.4 The issues

The main issues identified with respect of the proposal relates to the proposed variation to the minimum lot width development standard prescribed by Clause 7.13 of the LLEP.

1.5 Exhibition of the proposal

In accordance with the Liverpool Development Control Plan 2008 (LDCP 2008), the application was not required to be notified or advertised.

1.6 Conclusion

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act 1979, LLEP 2008 and Liverpool DCP it is considered that the proposed development including the variation to the minimum lot width standard of the LLEP is acceptable for reasons as outlined in this report.

Accordingly, the application is recommended for approval.

2. SITE DESCRIPTION AND LOCALITY**2.1 The Site**

The site is identified as Lot 92 DP 843489 and is located at 290 Jardine Drive, Edmondson Park. The location of the allotment is shown below in Figure 1. The site is located within the vicinity of the intersection of Diamond Hill Circuit. The allotment is irregular in shape and is sized 2.1 hectares. The site currently contains an existing dwelling and the remnants of cleared woodland.

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Figure 1: Aerial view of subject site (with 1m contours)

2.2 The Locality

The surrounding locality is generally characterized as a residential development area containing a mixture of recently constructed dwellings and new roads with existing semi rural properties as shown below in Figure 3.

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Figure3: The site and locality

3. DETAILS OF THE PROPOSAL

The development application submitted to Council proposes the following:

- Subdivision of the existing lot into 29 residential Torrens title lots, one residue lot and construction of road
- Proposed residential lots to be sized between 450m² to 1270m²
- Proposed Lots 2026 and 2027 to each have an access handle of 2.5m (5m total) and would maintain reciprocal rights of way for access
- An existing dwelling to be retained on Lot 2001
- Removal of trees

An extract from the proposed plan of subdivision is shown below in Figure 4.

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Figure 4: Plan of proposed subdivision

4. STATUTORY CONSIDERATIONS

4.1 Zoning

The subject site is zoned R1 General Residential, and SP2 (Local Road) pursuant to the LLEP 2008. Clause 2.6 and Clause 2.7 of LLEP 2008 provides that subdivision is permissible subject to Council consent. An extract of the zoning map is provided within Figure 4 below.

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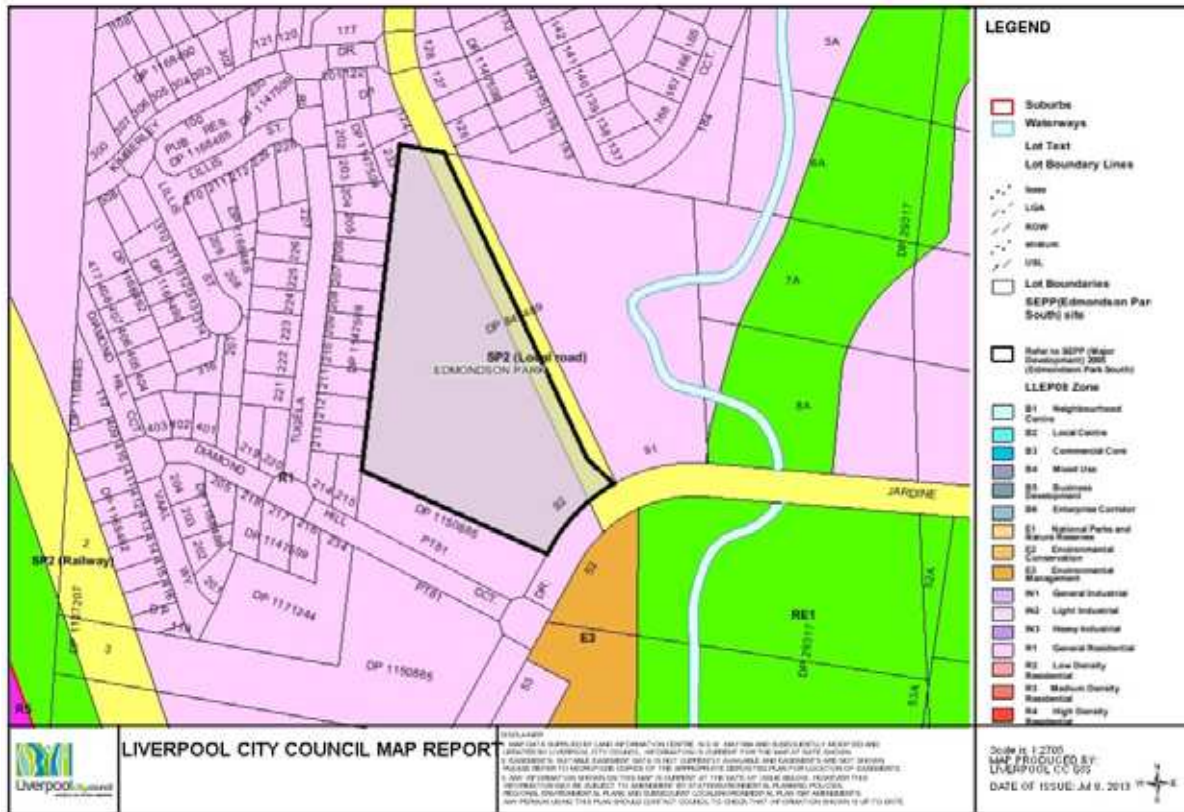


Figure 5: Extract of LLEP 2008 zoning map

4.2 Relevant matters for consideration

The following Environmental Planning Instruments (EPI's), Development Control Plan and Codes or Policies are relevant to this application:

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (a deemed SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- Liverpool Local Environmental Plan 2008
- Liverpool Development Control Plan 2008

5. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation as follows:

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

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

The proposed development is not in conflict with the objectives of the Plan which seeks to promote the protection of the Georges River Catchment. It is considered that appropriate

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conditions of consent may be imposed relation to erosion and sediment control and stormwater runoff mitigation.

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

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

A preliminary contamination assessment was submitted as part of the application. The assessment concludes that the land is suitable for residential development and remediation works are not required.

(c) State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The subject site is located within Edmondson Park, a suburb located within the Sydney Southwest Regional Growth Centre. The SEPP contains broad provisions for the coordinated release of land for residential, employment and other urban development within the identified growth centres. The SEPP does not contain additional items for assessment.

(d) Liverpool Local Environmental Plan 2008**Permissibility**

The subject land is zoned R1 General Residential and SP2 (Local Road) Zone under the provisions of LLEP. The proposed development includes “subdivision”, demolition works and tree removal. Pursuant to Clause 2.6 of the plan, subdivision is permitted on subject site with development consent.

Objectives of the R1 General Residential Zone are:

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

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Objectives of the SP2 (Drainage) Infrastructure Zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To reserve land for the provision of infrastructure.

The proposal satisfies the relevant objectives of the zone with respect to enabling the land to be used to provide future housing and proposing a subdivision pattern that will encourage the development of suitable scale and density.

Principal Development Standards

The following principal development standards and provisions of the LLEP listed below are relevant to the proposal. The proposal has been assessed against the provisions and is found to be satisfactory despite the variation to Clause 7.13 with the respect to the minimum lot width as outlined below.

DEVELOPMENT PROVISION	REQUIRED	PROPOSED	COMPLIANCE (and percentage variation)
Clause 4.1 Minimum subdivision lot size	Minim lots size 450m ²	Lots sized between 450m ² to 1270m ²	Complies
Clause 4.3 Height of Buildings	As per Height of Buildings Map	The proposal retains the existing single storey dwelling on proposed Lot 2001. No other building works proposed.	Complies
Clause 5.9 Preservation of trees or vegetation	Provides when consent is required to be granted subject to the provision of this clause to remove trees or vegetation	Consent is sought for removal of trees	Complies
Clause 6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Provided by conditions of consent	Complies
Clause 7.11	Minimum density 14 dwellings / ha, 26 dwellings required	30 lots proposed	Complies
Clause 7.13 Minimum Lot Width in Zones R1, R2, R3 and R4 Battle Axe Allotments	Average width 10m, Minimum width 5m	Average widths greater than 10m. Lots 2026 and 2027 minimum width 2.5m (sharing of 5m access handle)	Does not comply and 50% variation is sought.

The application has submitted a written request seeking a variation to the minimum lot width prescribed by Clause 7.13. This written request has been made pursuant to Clause 4.6 of LLEP. Clause 4.6(2) provides in certain circumstances, consent...*may be granted for a*

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development even though the development would contravene a development standard imposed.

The proposed allotment width represents a 50% variation to the LLEP development standard. As this variation is in excess of 10%, the application is referred to IHAP for consideration and will be reported to the full Council for determination.

The objectives of Clause 4.6 are as follows:

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

The applicant in their submission has requested that Council give consideration to the variation of minimum lot width by demonstrating that in the circumstances of this case, there is no negative environmental impact as a result of the variation and that a better design outcome will be achieved with the provision of one driveway. The submission demonstrates that on the basis of environmental planning grounds, strict compliance is therefore unnecessary.

The issues arising from the submission can be summarised as follows:

The variation does not prevent the objective of Clause 7.13 from being satisfied. The objective is to ensure that lot dimensions are able to accommodate residential development that is suitable for its purpose and is consistent with relevant development controls. Suitable residential development can still be accommodated on the battle-axe lots as the non-compliant width is associated only with the access handles and not the developable area.

Strict compliance with the 5m access handle per lot would reduce the developable land area without providing a significant environmental benefit.

By utilising a shared access handle, the applicant argues that a better design outcome is achieved for pedestrian safety, reduced hardstand area and residential amenity.

Clause 4.6(4) prescribes that:

Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In reviewing the applicant's written request, it is considered that the submission has generally addressed the matters required to be demonstrated by Clause 4.6(3). The following additional factors have also been considered:

The variation relates only to the width of the access handle and not the developable land area. The developable portion of the lots exceeds Council's minimum lot size and lot width

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requirements as expressed in the LLEP. In this regard, suitable residential development will not be prevented from occurring over proposed Lots 2026 and 2027 despite the variation.

The development is still capable of achieving the overall minimum required access width of 5m necessary for a vehicular driveway 3m wide with 1m of landscaping on both sides; and a shared access that will be formalised via a registered reciprocal right of way.

The development as proposed achieves the intent of the control, which is to provide for a 3m wide driveway that is sufficient for vehicle movements in and out of the site, and to provide extra separation or buffer to the residences adjoining the access handle via the provision of a 1m wide landscaped strip on either side.

A shared access serving no more than 2 lots is acceptable and consistent with the character of the locality and the objectives of the zoning.

After considering these factors, it would be unreasonable to require that each battle-axe lot achieve the minimum 5m lot width for the access handle as it would result in negligible environmental benefit. There are sufficient environmental planning grounds to justify contravening the standard in this case.

It must be noted that the recommendation for approval is based on the individual circumstances of the proposal. The approval of the proposed variation does not set a precedent for other battle-axe subdivisions to vary the minimum lot width standard. Rather, any future proposal must still be assessed based on the circumstances of the site; the merits of the proposal; and the provisions of Clause 4.6 of the LLEP.

With respect to Clause 4.6(4)(a)(ii) the proposed development is considered to be in the public interest as it is consistent with the objectives of the minimum lot width standard and the objectives of the R1 General Residential zone.

The variation to Clause 7.13 is satisfactory and is supported in this instance.

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

There are no applicable draft EPIs.

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

(a) Liverpool Development Control Plan 2008

The application has been assessed against the relevant controls of the Liverpool Development Control Plan 2008 (LDLCP) particularly Part 1.1 General Controls for All Development and Part 2.11 Edmondson Park, and demonstrates general compliance with the relevant controls.

CONTROLS	COMMENT	COMPLIES
PART 1.1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
2.TREE PRESERVATION	Tree removal proposed. Tree assessment report required prior to CC identify trees for removal.	Yes
3.LANDSCAPING	Street trees to be planted in accordance with Part 2.11 of LDLCP	Yes

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4.BUSHLAND AND FAUNA HABITAT PRESERVATION	Land part of biocertified area of south west growth centre	Yes
5.BUSH FIRE RISK	Land identified as Bushfire prone, referred to NSW RFS as integrated development. Bushfire Authority issued.	Yes
6.WATER CYCLE MANAGEMENT	A Stormwater Concept Plan submitted.	Yes
7.DEVELOPMENT NEAR CREEKS AND RIVERS	Development does not impact on creek or river.	N/A
8.EROSION AND SEDIMENT CONTROL	Erosion and sediment control measures shown on engineering plans.	Yes
9.FLOODING RISK	Land not identified as flood affected.	Yes
10.CONTAMINATION LAND RISK	A Contamination Assessment has been provided, no works required.	Yes
11.SALINITY RISK	The salinity assessment submitted with the application identifies risk for salinity is low.	Yes
12.ACID SULFATE SOILS RISK	The subject site is not identified on the Acid Sulfate Soils Map.	N/A
13.WEEDS	Noxious plants to be removed as required.	Yes
14.DEMOLITION OF EXISTING DEVELOPMENT	No demolition proposed.	N/A
15.ON-SITE SEWERAGE DISPOSAL	No on-site sewage disposal proposed.	Yes
16.ABORIGINAL ARCHAEOLOGY	No items of significance identified.	N/A
17.HERITAGE AND ARCHAEOLOGICAL SITES	The subject site does not contain a heritage item.	N/A
18.NOTIFICATION OF APPLICATIONS	The proposal was not required to be advertised or notified in accordance with LDCP.	Yes
PART 2.11 – LAND SUBDIVISION AND DEVELOPMENT IN EDMONDSON PARK		
CONTROLS	PROVIDED	COMPLIES
1.1 INDICATIVE LAYOUT To be in accordance with Figure 2.	Generally in accordance with Figure 2, local link road amended in accordance with development on adjoining land.	Variation supported
2.1 STREET NETWORK AND ACCESS Subdivision plans must indicate street type.	Submitted plans and SEE indicate street type	Yes
Hierarchy of roads in accordance with Figure 8.	Road hierarchy in accordance with Figure 8.	Yes
Street sections to comply with Chapters 2.2 and 2.3 Neighbourhood connector road 17-20m wide, Local access street 15.2m wide	In accordance with Figure for Local Access Street.	Yes
2.3 STREETSCAPE AND TREES Minimum of two trees per six metres of frontage	Two trees per six metres of frontage.	To be conditioned

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2.7 CONTAMINATION Potential for contamination to be assessed.	Contamination and salinity assessment submitted.	Yes
6.2 SITE PLANNING – 14 Dwellings / Hectare Ensure dwellings are sensitive to site attributes.	Subdivision plan allows for dwelling design that is sensitive to site attributes.	Yes

5.4 Section 79C(1)(a)(iv) – The Regulations

The proposal was referred to the NSW Rural Fire Service as Integrated Development in accordance with the Regulations.

5.5 Section 79C(1)(b) – The Likely Impacts of the Development**(a) Natural and Built Environment**

The impacts of the development will be those associated with the construction of roads, and drainage infrastructure.

Measures have been proposed and will be implemented to reduce any impact on the natural and built environment.

(b) Social Impacts and Economic Impacts

The proposal provides land for residential development in accordance with the relevant planning controls and would have a positive social and economic impact in the locality.

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

The site is suitable for the development and is consistent with the desired character of the surrounding locality.

5.7 Section 79C(1)(d) – Any submissions made in relation to the Development**(a) Internal Referrals**

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

DEPARTMENT	COMMENTS
Engineering	Approval
Traffic	Approval
Environmental Health	Approval
Strategic Planning	Approval

(b) External Referrals

A Bushfire Authority has been issued for the proposal by the NSW Rural Fire Service.

5.8 Section 79C(1)(e) – The Public Interest

The development is considered to be in the public interest as it is consistent with the objectives of the zone and the objectives of the principal development standards relating to subdivision.

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Further, the development represents orderly and efficient use of land and is therefore considered to be acceptable and recommended for approval.

6. CONCLUSION

The application has been assessed having regard to the provisions of Section 79C of the EP&A Act, 1979, the provisions of the LLEP and LDCP and the merits of the proposed development.

The proposal is generally compliant with the provisions contained within the LLEP with the exception of Clause 7.13 Minimum lot width in Zones R1, R2, R3 and R4. The applicant has submitted a written request to justify the variation of the development standard and generally demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard, pursuant to Clause 4.6 Exceptions to development standards. The proposal is also consistent with the specific subdivision controls contained within the LDCP.

Based on a detailed assessment of the proposal and consideration of the provisions of Clause 4.6 in view of the merits of the proposal, the proposal is considered to be satisfactory. Accordingly it is recommended that the application be approved subject to the draft conditions of consent provided in Attachment 7.

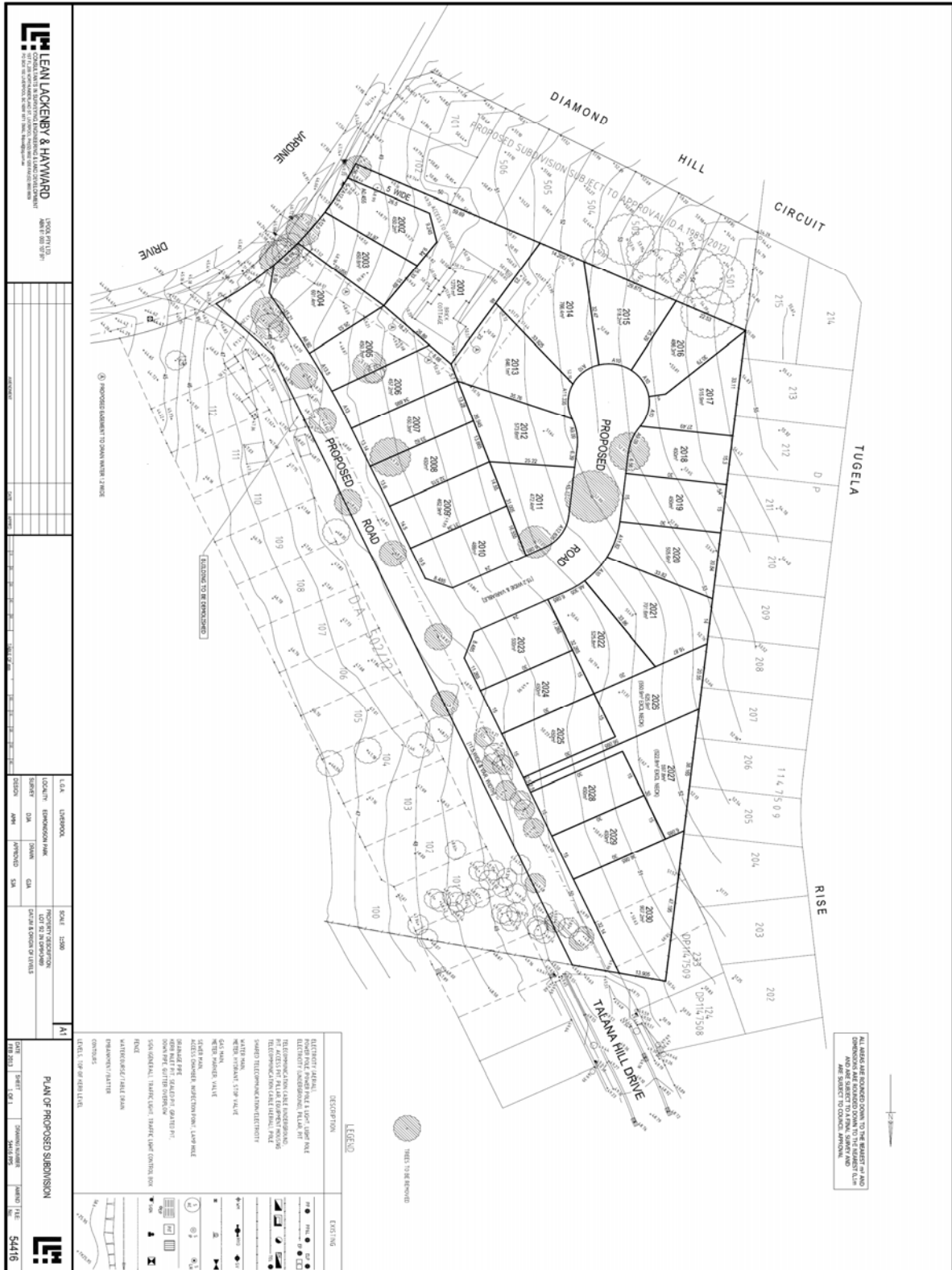
7. ATTACHMENTS

- 7.1 Plans of the proposal**
- 7.2 Recommended conditions of consent**

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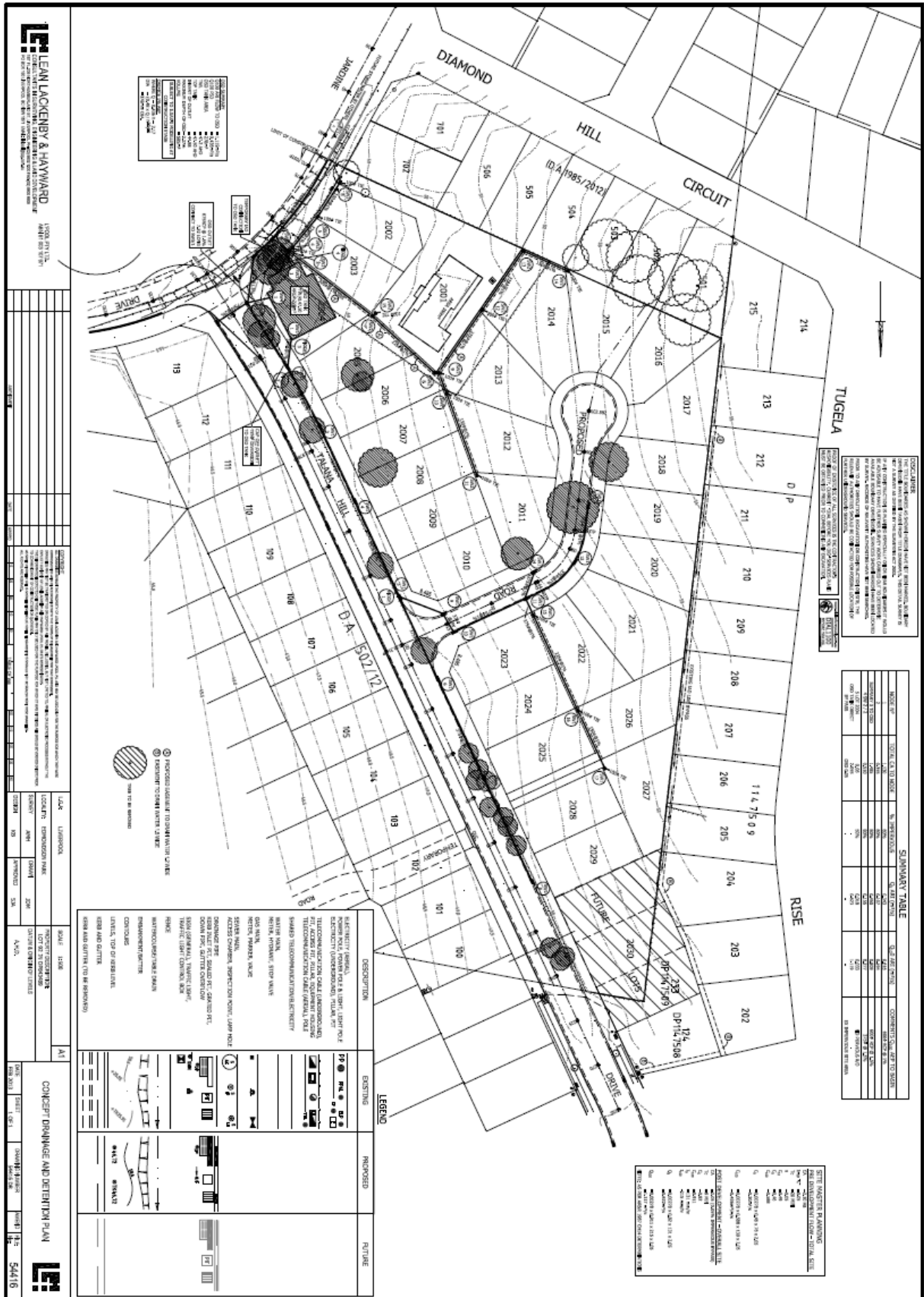
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Attachment 1:



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Attachment 2:

DEFINITIONS

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

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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) Subdivision plan prepared by Lean Lackenby & Hayward, Drawing No. 54416 PPS, Dated Feb 2013.
 - (b) Statement of Environmental Effects prepared by GAT & Associates, Ref February 2013.
 - (c) Concept Drainage plan prepared by Lean Lackenby & Hayward, Drawing No. 54416 DR, Dated Feb 2013.
 - (d) Salinity and Contamination Assessment, Ref. 111049B, Dated 03.06.11
 - (e) Waste management plan prepared by GAT & Associates Dated 27.02.13
 - (f) Archaeological report prepared by Navin Officer, Dated June 2007.

except where modified by the undermentioned conditions.

General Terms of Approval

2. All General Terms of Approval issued by NSW Rural Fire Service, shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 10 April 2013. A copy of the General Terms of Approval are attached to this decision notice.

SECTION 94 PAYMENT (Liverpool Contributions Plan 2008 Edmondson Park)

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

The total contribution is \$720,673

The contribution is to be paid prior to the release of any subdivision certificate.

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

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Capital Works, Administration, Professional and Legal Fees Components

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

$$\text{Contribution at the time of payment} = \frac{\mathbf{C} \times \mathbf{CPI}_2}{\mathbf{CPI}_1}$$

Where:

C = Original contributions as shown on the consent

CPI₂ = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics at the time that the contribution is to be paid

CPI₁ = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics as at the time of granting the development consent

Land Component

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

$$\text{Contribution at the time of payment} = \frac{\mathbf{C} \times \mathbf{L}_2}{\mathbf{L}_1}$$

Where:

C = Original contributions as shown on the consent

L₂ = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time that the contribution is to be paid

L₁ = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time of granting the development consent

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

The Contributions Plan may be inspected at Council's Administration Centre, 1 Hoxton Park Road, Liverpool or at www.liverpool.nsw.gov.au.

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

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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:

Fee Payments

4. 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.

5. 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.

Dilapidation Report

6. A dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to Council.

Permit to Carry out Works

7. A separate application for a permit to carry out works must be issued by Council for –
 - (a) A Permit to carry out works in Council's road reserve, pursuant to Section 138 of the Roads Act, 1993. The work(s) in the existing road reserve requiring a Council Section 138 permit are/is Jardine Drive.

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Drainage

8. Engineering plans will be required defining all physical works necessary on the site and adjacent to it. These plans are to be certified by Council or an accredited certifier.
- (a) These plans must satisfy the following requirements:
- i. Council's current Design and Construction specification for subdivisions (as amended), and supplementary code,
 - ii. Council's Trunk Drainage Scheme(s),
 - iii. Council's Development Control Plans,
 - iv. All proposed road and drainage works must adequately match existing infrastructure
- (b) These plans must incorporate the following:
- i. A geotechnical report forming the basis of a road pavement design
 - ii. An acoustic report identifying the height of the required acoustic fence to achieve the noise levels as defined in Council's D.C.P. No.4.
 - iii. A geotechnical report identifying any contamination of the site, the chemicals present, and proposed remediation required
 - iv. A drainage study identifying the location and design required of any drainage channel, or detention basin.
9. All on site detention shall be checked and certified by an accredited stormwater drainage designer.

Stormwater

10. Stormwater is to be collected within the site and conveyed in a pipeline to the appropriate point of discharge as directed by Council and as detailed on the approved plans.
11. A stormwater drainage plan, including hydraulic calculations based on a 1 in 5 year storm (ARI), is required. The plan must show how the stormwater generated by this site, and other inter-allotment overland flow water entering onto this site, is to be collected within the site and conveyed in a suitable pipeline to the most appropriate point of discharge as advised by Council.

This plan shall also show existing and proposed surface contours within the site and along its boundaries with immediately adjacent properties, and shall define overland flow paths for storms which exceed the capacity of the underground pipe system.

The applicant is to contact Council to determine maximum allowable discharge from site. (Council engineers to nominate maximum discharge flow from site). If drainage investigations reveal that downstream drainage pipes are not capable of

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catering for the discharge, then Council requires the design and construction of an on-site detention system. This is to be designed in accordance with Council's On Site Detention Policy

12. Common drainage lines are required to be designed for stormwater disposal where land falls to the rear.

General

13. All roads are to be designed to be graded in such a manner as to provide continuous surface drainage flow paths to appropriate points of discharge. In this context, these are to be into their roads or swales, as appropriate, connecting into the major trunk drainage system.
14. Road construction (half width) – full formation and half width road minimum 5.5m wide shall be designed at Jardine Drive – adjacent to the subject land to include kerb and gutter, footpath formation, drainage, pavement construction, sealing and service adjustments in accordance with Council's current design and construction specification for subdivision (as amended) and to the satisfaction of the roads authority. Engineering details shall be submitted in conjunction with the CC application for approval, to the roads authority. Where the works are within an existing dedicated road reserve, the Section 138 Roads Act Permit to Carry Out Works permit is to be obtained from Council by the applicant prior to other CC's being issued by the PCA (subdivisions) for works under the EP&A Act.
15. All lots are to be designed to have a continuous fall of minimum 1%. The fall is to be to the front and continuous across the footpath wherever practicable.
16. Lots are to be designed with a minimum 150mm of top soil required over all lots and footpaths.
17. Erosion and sediment control measures shall be designed in accordance with the requirements of Liverpool DCP and Council specifications, and to the satisfaction of the PCA. Approved measures shall be implemented prior to commencement and maintained during construction and until all disturbed areas have been revegetated and established to the satisfaction of the PCA.
18. The applicant is to provide a road lighting design plan for the development with due consideration given to all areas operating characteristics, proposed traffic management devices and intersections including all works within the road reserve and adjoining public spaces. The applicant shall request from Council's Transport Planning Section, the appropriate lighting subcategories required for the development. The lighting subcategory provided to the applicant from Council will be consistent with the requirements of Australian Standard AS/NZS 1158 – Road Lighting.

The design shall be prepared by a level 3 service provider (listing of accredited providers may be obtained from the Ministry of Energy and Utilities, telephone 9901 8816).

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On completion of the road lighting design plans, the plans and a schedule of annual charges shall be forwarded to Council's Transport Planning Section for their acceptance of the ongoing maintenance charges. These plans shall include a statement by the designer certifying that the design meets Council's specification and all requirements of AS/NZS 1158. CC's for the development shall not be issued prior to Council providing this letter of acceptance.

This letter of acceptance and approved plans shall then be submitted to Integral Energy for their approval and certification for connection to their public lighting network.

Subdivision Certificate/OC shall not be issued prior to Council receiving a compliance certificate from Integral Energy stating that the applicant has made the necessary arrangements with Integral Energy for the provision of the approved public lighting works.

19. The proposed retaining walls on the property associated with the aboveground Onsite Detention system must be of masonry construction. Details are to be included with the plans and specifications to accompany the CC.
20. An agreement in writing from the adjoining properties, including Lot 91 DP843489, stating that approval is given for the construction of drainage through their property shall be submitted to Council. An easement to drain water shall be created by the applicant over the areas affected by downstream drainage. All cost associated with value of land and easement created is to be borne by the applicant.
21. A temporary sediment basin is to be design and installed in accordance with the requirement of Liverpool City Council and Council specification.
22. All necessary fencing and/or bollards must be provided to the On-Site Detention Basin when the depth of ponding exceeds 300mm and the side slopes exceed 1 in 6.
23. A Council approved Gross Pollutant Trap shall be designed and provided prior to discharge the stormwater from the proposed site prior into downstream waterways. The details shall be shown on the plans prior to issue of a construction certificate.
24. Onsite detention must be provided in accordance with Council's Onsite Detention Policy and Construction Specification. Details are to be included with any application for a Construction Certificate. All OSD basins must be located on private property and those lots classified as residue lots until the basin is removed. The basin can not be removed without written consent from the Council and until a connection to a Council owned system is provided. Suitable easements and restrictions must be placed over the OSD basins in accordance with Council requirements.
25. A suitable energy dissipater and erosion protection work must be constructed to minimise possibility of embankment and waterway erosion at the outlet structure and neighbouring properties.

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26. Vehicular access is to be provided to properties fronting Jardine Drive. Plans and details of proposed vehicular access are to be provided with the construction plan.

Landscape Plan

27. A detailed landscape plan prepared by a suitably qualified person is to be submitted to the PCA prior to the issue of any CC. The detailed landscape plan is to incorporate the following tree plantings in accordance with Part 2.11 of Liverpool Development Control Plan 2008.

C. PRIOR TO WORKS COMMENCING**The following conditions are to be complied with or addressed prior to works commencing on the subject site/s:**

28. 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.
29. 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.
30. Where this consent requires both engineering and building works to be undertaken, a separate construction certificate shall be issued for each category of works ie., a separate Civil Engineering CC and a separate Building CC.
31. Prior to any works being carried out on adjoining property Lot 91 DP843489, written permission with reference to the construction plan from the owners must be obtained and submitted to Council.
32. Any Work in Kind to be carried out for the Council covered in Council's Section 94 Contribution Plan must be agreed to in writing prior to any works commencing. Any works carried out prior to receiving written approval from Council can not be paid by the Council or credits given.

Notification/Principal Certifying Authority

33. 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.
34. 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.

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35. 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.

Facilities

36. 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*.

Site Notice Board

37. 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.

Waste Classification

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

Environmental Management

39. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a

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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) Selection of traffic routes to minimise residential noise intrusions;
 - (d) Soil and sediment control measures;
 - (e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
 - (f) Community consultation.
40. 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.

D. DURING CONSTRUCTION

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

Hours of Construction Work and Deliveries

41. 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.

Security Fence

42. 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.

General Site Works

43. 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.

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44. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
45. 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.
46. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

Contamination

47. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
 - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
 - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.
48. Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:
 - (a) The course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
 - (b) The results of a preliminary contamination assessment carried out on any fill material used in the development.
 - (c) The results of any chemical testing of fill material.

Air Quality

49. 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.

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50. 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.
51. The overflow spillway is not to directly discharge on to any neighbouring property other than through an existing watercourse.
52. The site surface levels are to be designed so that site surface stormwater is deflected away from buildings and neighbours boundary fences and does not cause nuisance or flooding of those areas for storm events less than a 1% AEP.

Erosion Control

53. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
54. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
55. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways it shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

Water Quality

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

Pollution Control

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

F. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

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

Engineering Work

58. The following compliance certificates will be required to be submitted with an application for a Subdivision Certificate. The list indicative only and assumes a

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conventional subdivision. Other compliance certificates may be required for “one off” components not covered by this list. All compliance certificates are to be submitted by the accredited certifier for the development.

(a) General Certificates:

- i. Lodgement of Bonds
- ii. Lot Filling
- iii. Geotechnical Testing and Reporting Requirements
- iv. Service Authority Clearances
- v. Lot Classification Report

(b) Construction:

- i. Implementation of Soil Erosion Plan (several required at appropriate stages)
- ii. Implementation of Traffic Control Plan
- iii. Log book listing details of all inspections undertaken during construction
- iv. String Line all roads prior to seal
- v. Road pavement
 - Subgrade (Reduced Levels, Roller Test)
 - Each Subbase Layer (Depth, Roller Test)
 - Base Course Layer (Depth, Roller Test)
 - Wearing Course (Depth, grading)
 - Subsoil Drains
 - Service Crossings

(c) Pipework:

- i. Trench Excavation (Line, Grade, Location)
- ii. Bedding (Type, compaction)
- iii. Pipework (before backfill)
- iv. Backfill (compaction)

(d) Stormwater Pits:

- i. Pit Base
- ii. Walls
- iii. Lintel sizes
- iv. Steel reinforcement (if required)

(e) Kerb and Gutter:

- i. Kerb line and level
- ii. Concrete compaction
- iii. Finish
- iv. Kerb Line, level and profile.

(f) Footpath formed to profile

(g) Acoustic fence constructed as specified by the Construction Certificate

(h) A compliance certificate will be required to demonstrate that the site has been remediated in accordance with the Construction Certificate and the supporting

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contamination report. To this effect a site remediation report must be produced by an EPA accredited geotechnician, or to the satisfaction of the EPA.

- (i) Traffic management works undertaken in accordance with construction certificate Traffic Management Plan
 - (j) Final inspection
59. Two(2) hard copies & one PDF copy in a CD disk, both marked up in red, of a "Work As Executed" drawing must be submitted to and approved by Council identifying all features of the physical works as set out in Council's specification for subdivision (as amended).
60. All necessary fencing and/or bollards must be provided to the On-Site Detention Basin prior to the issue of any Subdivision Certificate.
61. The OSD shall remain in place until the downstream system is capable of conveying the proposed additional flows and written consent for the removal is given by Council.
62. The proposed Lot 2004 should remand as residual lot and shall not be released until the temporary basin is removed , the area restored and the permanent stormwater system including GPT's is constructed in accordance with DCP and approved plans.
63. The common driveway to the proposed Lot 2026 and 2027 shall be constructed prior to issue of Subdivision Certificate. The driveway shall be designed and constructed in accordance with A.S. 2890.1-1993 off-street car parking.
64. The final plan of subdivision shall not be released until full and complete dedicated public road access is available to all lots.
65. Prior to the issue of a Subdivision Certificate, a "Work As Executed Plan", prepared by a registered surveyor, must be submitted to and approved by Council clearly showing all aspects of the constructed Drainage and/or On-site Detention system. The plan must include:
- viii) Sufficient levels and dimensions to verify the constructed storage volumes;
 - ix) Location and surface levels of all pits;
 - x) Invert levels of the internal drainage line, orifice plates fitted and levels within the outlet control pit;
 - xi) Finished floor levels of all structures;
 - xii) Verification that trash screen and/or GPT's have been installed;
 - xiii) Locations and levels of any overland flow paths;
 - xiv) The work-as-executed plan information should be shown on a copy of the approved civil works drawings.
66. Land filled in excess of 300mm to be compacted to 98% Standard dry density ratio (AS1289 E4.1). Each lot, whether filled or not, to be classified in terms of the

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Australian Standard for Residential Slabs and Footings (AS2870) prepared by a NATA registered soil testing consultant. Where the lot classification is H, a restriction will be required on the title of that lot that special footings for any building may be required. A classification of E or P is unacceptable.

Linen Plans and 88B Instruments

67. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.
68. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.
69. A "positive covenant" and "restriction as to user" must be placed over the Onsite Detention System in accordance with Council's Onsite Detention Policy and Construction Specification. Details should be submitted with the application for a Subdivision Certificate.
70. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Councils standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.
71. Where common drainage lines or other drainage lines are required, a drainage easement shall be created in accordance with Council's minimum widths as scheduled in councils design specification for subdivisions (as amended).
72. Correct notation concerning easements is required. The prepared 88B Instrument should be forwarded initially to Council. The land value of the easement and costs associated with checking the instrument are to be borne by the applicant. Part 2 of the 88B Instrument shall contain a provision that the easement may not be extinguished or altered without the written consent of Council.

Service Providers

73. Written evidence (Section 73 Certificate) is to be submitted to the PCA prior to the issue of the subdivision certificate.
74. Notification of arrangement for the development from Integral Energy shall be submitted to Council.
75. Compliance Certificate for the development from an approved local telecommunications carrier shall be submitted to Council.

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Footpaths

76. A contribution shall be paid to Council in accordance with Council fees and charges for the construction of 1.2m wide by 75mm deep concrete path paving on one side of all residential access roads and both sides of all collector and distributor roads. Path paving will not be required in minor cul-de-sac with less than fifteen lots.

The path/paving will be constructed when building works within the development have been substantially completed.

Dilapidation Report

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

Bond

78. A maintenance bond in the form of a bank Guarantee or cash bond (\$TBA), shall be lodged with Council prior to the issue of a Subdivision Certificate. The bond shall cover maintenance and any damage to roads, drainage lines, public reserves or other council property or works required as a result of work not in accordance with Council's standards, and /or development consent conditions. The bond will be held by Council for a minimum period of 6 months from the date of Council acceptance of final works.
79. Payment of Section 94 contribution is to be paid prior to the release of any subdivision certificate.

Special Infrastructure Contribution

80. The applicant is to make a special infrastructure contribution in accordance with any determination made by the Minister administering the Environmental Planning and Assessment Act 1979 under Section 94EE of that Act and is in force on the date of this consent, and must obtain a certificate to that effect from the Department of Planning (Growth Centres Commission) before a subdivision certificate, is issued in relation to any part of the development to which this consent relates.

G. CONDITIONS RELATING TO USE**The following conditions relate to the ongoing use of the premises:**

81. At the end of the temporary use period all temporary structure and measure shall be removed and the site shall be restored as nearly as possible to its former condition
82. When the final stormwater system is provided (to allow the stormwater runoff from the site to be conveyed downstream with no adverse flooding impacts, for all

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storms up to and including the 1 in 100 year storm event) the temporary stormwater the drainage pipes discharging into the On Site Detention Basin shall be connected into the appropriate drainage system as advised by Council.

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 6 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 6 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) The Planning Assessment Commission has not, conducted a review of the application.
- e) These conditions are imposed to control development, having regard to 79C of the Environmental Planning and Assessment Act 1979.
- f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- g) "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 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.

- h) 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

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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.

- i) 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.
- j) You are advised that the placement of a concrete path around your home may render your home vulnerable to termite attack. To minimise the possibility of any damage, ensure that a minimum of 75mm clearance is provided between the base of the weephole and the level of the path.
- 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 cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- m) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicant's agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.

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ATTACHMENT (2)**CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT, 1979****Liverpool Contribution Plan 2008**

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

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

APPLICATION NO.: DA-211/2013

APPLICANT: GAT & ASSOCIATES

PROPERTY: 290 JARDINE DRIVE, EDMONDSON PARK NSW 2174

PROPOSAL: SUBDIVISION OF EXISTING LOT INTO 29 RESIDENTIAL LOTS, ONE RESIDUE LOT AND ASSOCIATED WORKS INCLUDING ROAD CONSTRUCTION

<u>Facilities</u>	<u>Amount (\$)</u>	<u>Job No.</u>
Community Facilities - Land	\$15,478	GL.10000001870.10174
Community Facilities - Works	\$53,553	GL.10000001870.10175
Open Space and Recreation - Land	\$187,052	GL.10000001869.10176
Open Space and Recreation - Works	\$132,145	GL.10000001869.10177
Transport and Access - Land	\$120,402	GL.10000001865.10178
Transport and Access - Works	\$136,765	GL.10000001865.10179
Drainage - Land	\$6,940	GL.10000001866.10180
Drainage - Works	\$57,392	GL.10000001866.10181
Technical Study Fees Recoverable	\$2,568	GL.10000001872.10182
Professional Fees	\$8,378	GL.10000001872.10183
<u>TOTAL</u>	<u>\$720,673</u>	

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

RECORD OF PAYMENT

Total Amount paid: _____

Date: _____

Receipt No.: _____ **Cashier:** _____

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ITEM No.	3
Application Number	DA-66/2013
Proposed Development	TWO STAGED TORRENS TITLE SUBDIVISION CREATING 25 LOTS WITH ASSOCIATED CONSTRUCTION OF ROADS AND DRAINAGE. (NOTE: PROPOSAL IS IDENTIFIED AS NOMINATED INTEGRATED DEVELOPMENT PURSUANT TO S.91 OF THE WATER MANAGEMENT ACT 2000 (OFFICE OF WATER))
Property Description	DP 2475 Cnr Lot 315 130 FLYNN AVENUE (CORNER OF KINGSFORD SMITH AVENUE) MIDDLETON GRANGE NSW 2171
Applicant	MS K CHOHAILI
Land Owner	MS K CHOHAILI and MR Z CHOHAILI
Cost of Work	Nil
Recommendation	Approval

1. EXECUTIVE SUMMARY

1.1 Reasons for the Report

Pursuant to the requirements of the endorsed Independent Hearing and Assessment Panel (IHAP) Charter and Procedure, the proposal is referred to the IHAP for consideration, and to the full Council for determination, as the proposal includes a request to vary a development standard in excess of 10% pursuant to Clause 4.6 of the Liverpool Local Environmental Plan 2008 (LLEP).

1.2. The proposal

The application seeks consent for subdivision of an existing allotment into 25 Torrens Title residential lots over two stages and the associated construction of road and drainage. Proposed Lots 3169, 3170, 3171 are sized 335m² which represents a variation to the LLEP minimum lot size standard of 16.25%. Proposed Lots 3169 to 3174 each have widths of 9.3 metres which represents a variation to the LLEP minimum width standard of 7%.

The application is accompanied by a written request, pursuant to Clause 4.6 of the LLEP to vary the minimum lots size and minimum width standards.

1.3 The site

The site is identified as Cnr Lot 315 DP 2475 and is located at 130 Flynn Avenue, Middleton Grange.

1.4 The issues

The main issues identified with respect of the proposal relates to the proposed variation to the minimum lot size development standard prescribed by Clause 4.1 of the LLEP.

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1.5 Exhibition of the proposal

In accordance with the Liverpool Development Control Plan 2008 (LDCP) and the Environmental Planning and Assessment Act Regulations 2000 (the Regulations), the application was advertised and notified to adjoining and nearby properties from 20 February 2013 to 22 March 2013. No submissions were received during the advertising period.

1.6 Conclusion

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act 1979, Liverpool Local Environmental Plan 2008 and Liverpool Development Control Plan 2008. It is considered that the proposed development including the variation to the minimum lot size standard and minimum width standard of the LLEP is acceptable for reasons as outlined in this report.

Accordingly, the application is recommended for approval.

2. SITE DESCRIPTION AND LOCALITY**2.1 The Site**

The subject site is identified as Cnr Lot 315 DP 2475 and is located at 130 Flynn Avenue, Middleton Grange at the corner of Flynn Avenue and Kingsford Smith Avenue. The allotment is sized 1.214 hectares and is rectangular in shape with a frontage of 80.47 metres to Flynn Avenue and 120.53 metres to Kingsford Smith Avenue. An aerial view of the allotment is shown below in Figure 1.

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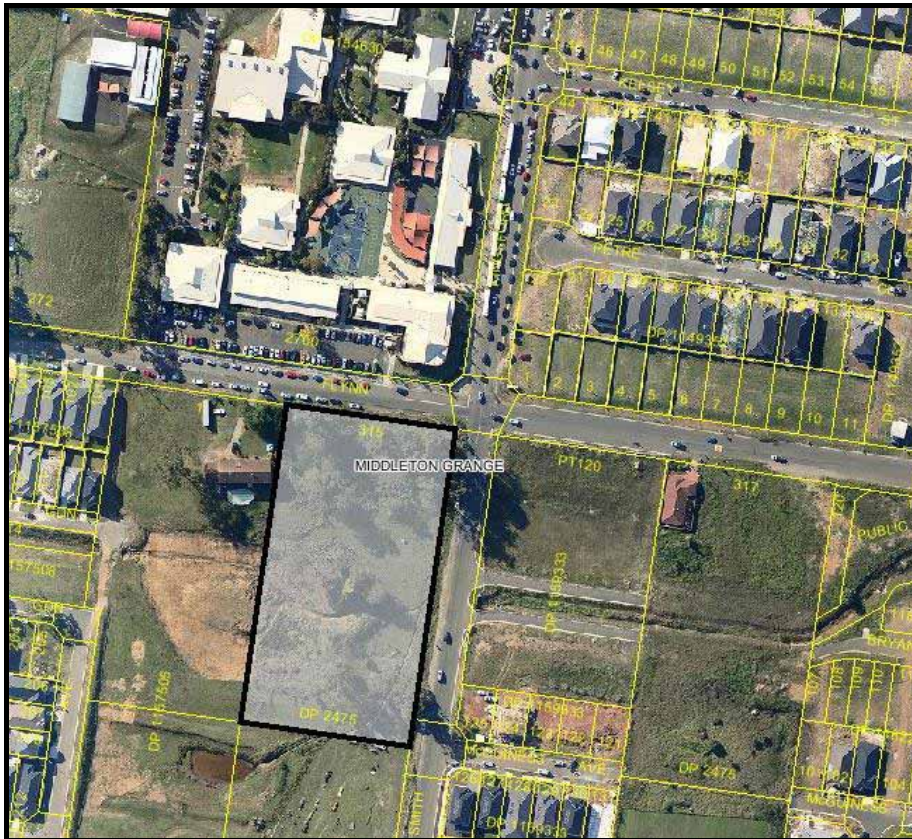


Figure 2: Locality

3. HISTORY

A previous consent was granted on the site under consent DA-214/2007 for a similar subdivision to this proposal. A subsequent modification to that application, DA-214/2007/B, approved on 8 August 2012 granted approval to a subdivision layout which matches the current proposal. The reason for this new application as stated in the submitted Statement of Environmental Effects is “to take advantage of the reduced Section 94 figures” for Middleton Grange as compared to those which apply to the previous consent.

4. DETAILS OF THE PROPOSAL

The development application submitted to Council proposes the following:

- Subdivision of the existing lot into 25 Torrens Title allotments in two stages as follows
- Stage 1: The creation of Lots 3150 to 3155, sized between 435.1m² to 43.5.5m²
- Stage 2: The creation of Lots 3156 to 3174, sized between 330m² to 349.5m²
- Road construction
- Drainage works
- Earthworks

An extract from the proposed plan of subdivision is shown below in Figure 3.

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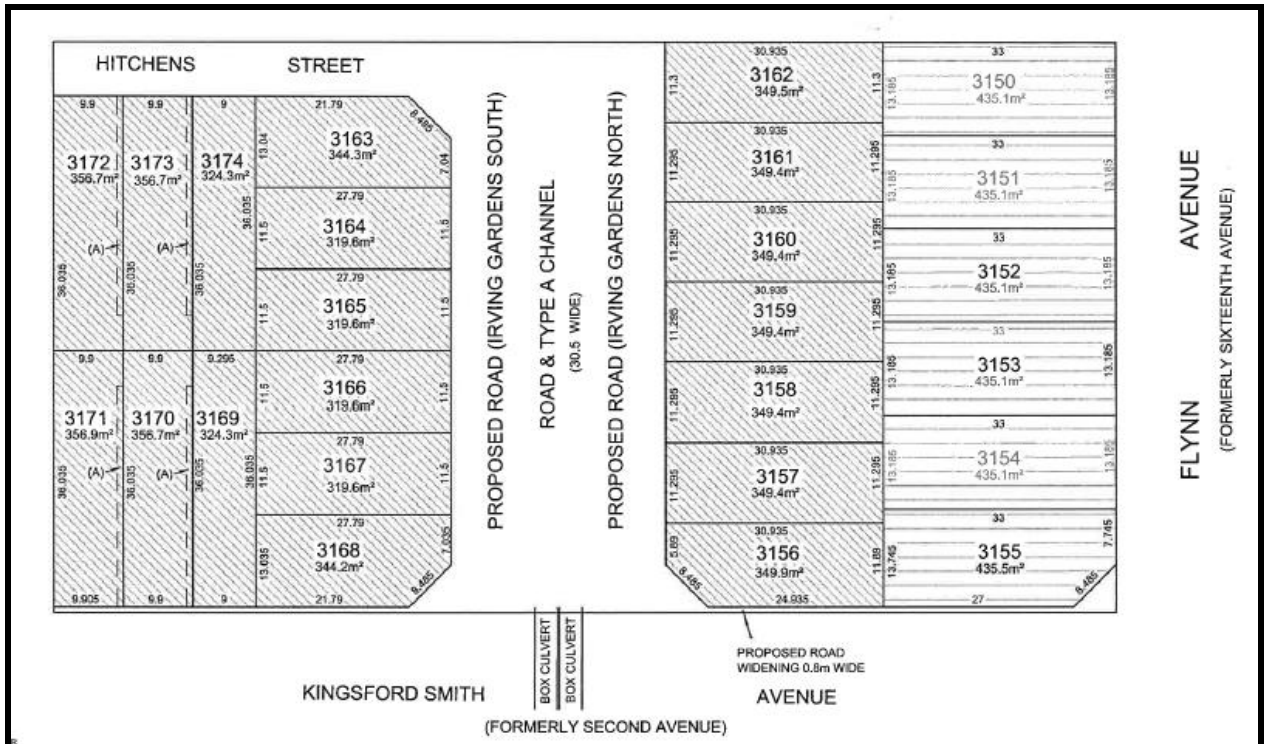


Figure 3: Proposed plan of subdivision

5. STATUTORY CONSIDERATIONS

5.1 Zoning

The subject site is zoned R1 General Residential with a portion land zoned SP2 (Drainage) Infrastructure pursuant to the LLEP. An extract of the zoning map is provided within Figure 4 below.

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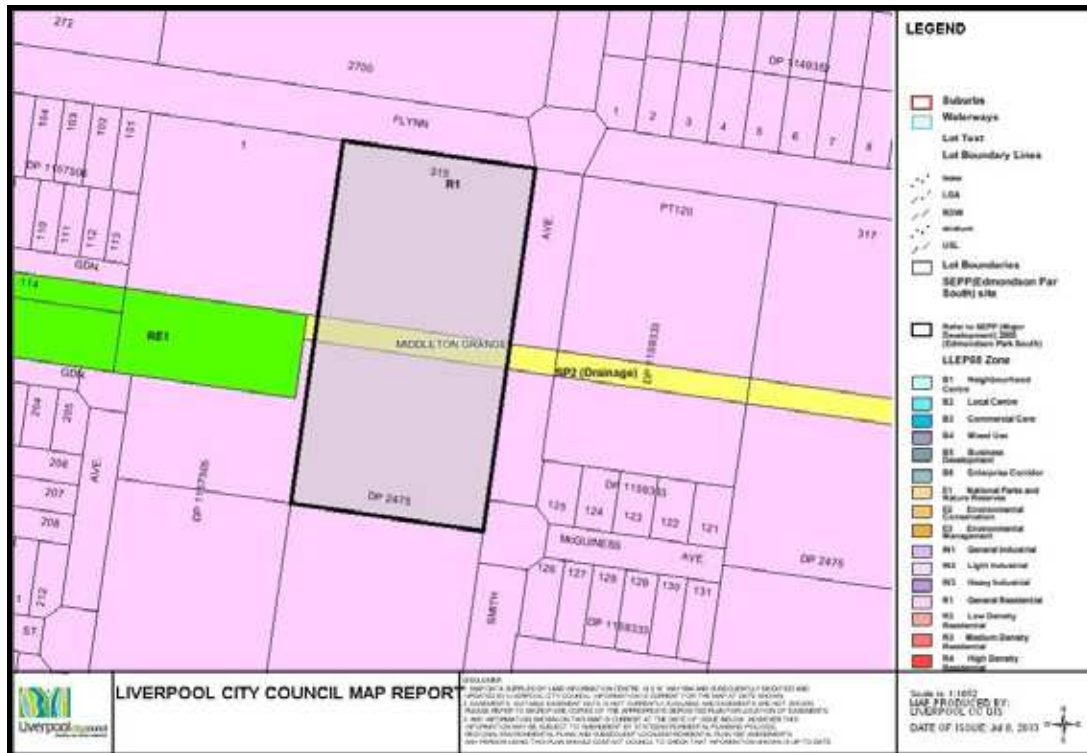


Figure 4: Extract of LLEP 2008 zoning map

5.2 Relevant matters for consideration

In addition to LLEP, the following Environmental Planning Instruments (EPI's), Development Control Plan and Codes or Policies are relevant to this application:

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land
- Liverpool Local Environmental Plan 2008
- Liverpool Development Control Plan 2008

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation as follows:

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

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

The proposed development is not in conflict with the objectives of the Plan which seeks to promote the protection of the Georges River Catchment. It is considered that appropriate conditions of consent may be imposed relation to erosion and sediment control and stormwater runoff mitigation.

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

The objectives of SEPP 55 are:

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

Pursuant to the above, Council must consider:

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

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

A geotechnical assessment and a review of the previous Phase 1 (Preliminary) contamination assessment for the site was submitted as part of this application. The updated review of the contamination assessment concludes that the subject site is suitable for residential development and remediation works are not required.

(c) Liverpool Local Environmental Plan 2008**Permissibility**

The subject site is zoned R1 General Residential with a portion land zoned SP2 (Drainage) Infrastructure pursuant to the Liverpool Local Environmental Plan 2008 (LLEP). Clause 2.6 and Clause 2.7 of LLEP 2008 provides that subdivision is permissible in the zone subject to Council consent.

Objectives of the zone

Objectives of the R1 General Residential Zone are:

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

Objectives of the SP2 (Drainage) Infrastructure Zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To reserve land for the provision of infrastructure.*

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The proposal satisfies the relevant objectives of the zone with respect to enabling the land to be used to provide future housing and proposing a subdivision pattern that will encourage the development of suitable scale and density of dwellings.

Principal Development Standards

The following principal development standards and provisions of the LLEP listed below are relevant to the proposal.

DEVELOPMENT PROVISION	REQUIRED	PROPOSED	COMPLIANCE (and percentage variation)
Clause 4.1 Minimum subdivision lot size	Minim lots sizes: Green F 400m ² , Blue D 300sqm	Green F areas: Lots 3150 to 3154: 435.1m ² Lot 3155: 435.5m ² Lots 3169 to 3171: 335m ² Blue D areas: Lot 3156: 349.9m ² Lots 3157 to 3162: 349.4m ² Lot 3163: 356.2m ² Lots 3164 to 3167: 330m ² Lot 3168: 356.1m ² Lots 3172 to 3174: 335m ²	Complies Complies Does not comply, variation of 16.25% Complies
Clause 4.3 Height of Buildings	As per Height of Buildings Map	No building works proposed.	N/A
Clause 5.9 Preservation of trees or vegetation	Provides when consent is required to be granted subject to the provision of this clause to remove trees or vegetation	Consent is sought for removal of trees.	Complies
Clause 6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Provided by conditions of consent	Complies
Clause 7.11 Minimum dwelling density	Subdivision to meet minimum dwelling density 25 lots required	25 lots proposed	Complies
Clause 7.13 Minimum Lot Width in Zones R1, R2, R3 and R4	Must not be less than 10m	Lots 3150 to 3168: over 10m Lots 3169 to 3174: 9.3m	Complies Does not comply variation of 7%

Extracts from the LLEP map showing minimum lots size and minimum density mapping are shown below in Figures 5 and 6.

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Figure 5: Extract of LEP lots size mapping

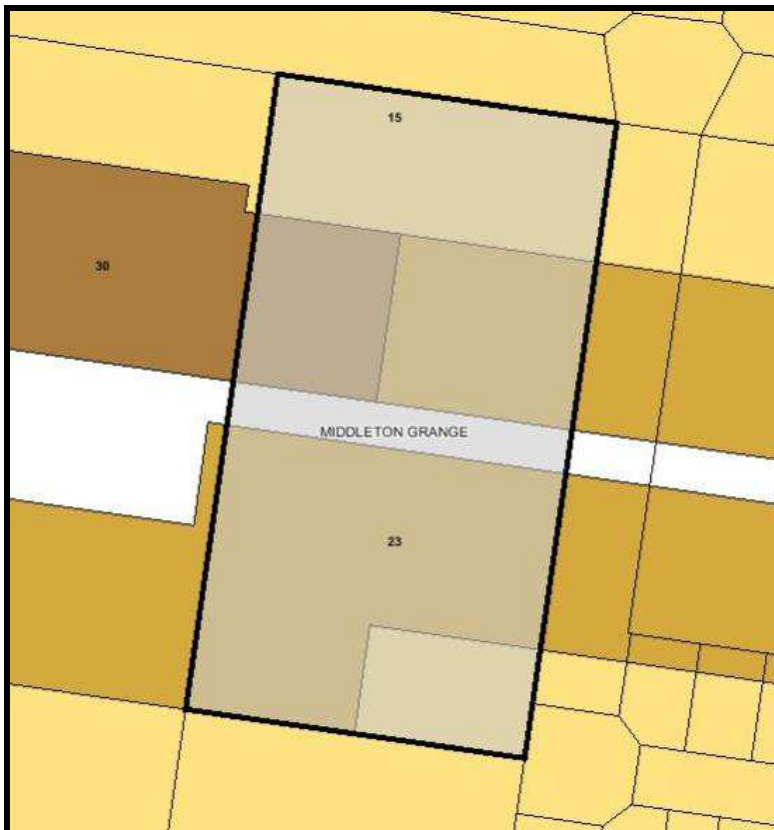


Figure 6: Extract of LEP densities mapping

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The application has submitted a written request seeking a variation to the minimum lot size and minimum lot width standards prescribed by Clauses 4.1 and 7.13 of LLEP. The written request has been made pursuant to Clause 4.6 of LLEP. Clause 4.6(2) provides in certain circumstances, consent...*may be granted for a development even though the development would contravene a development standard imposed.*

The variation to the lots size of Lots 3169 to 3171 represents a 16.25% variation to the LLEP development standard. As this variation is in excess of 10%, the application is referred to IHAP for consideration and will be reported to the full Council for determination.

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes:

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

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

The applicant in their submission has requested that Council give consideration to the variation to the minimum lots size and minimum lot width standards by demonstrating that in the circumstances of this case, there is no negative environmental impact as a result of the variations and that a better design outcome will be achieved through the proposed subdivision layout. The submission demonstrates that on the basis of environmental planning grounds, strict compliance is therefore unnecessary.

The issues arising from the submission can be summarised as follows:

- The variation does not prevent the objectives of Clauses 4.1 and 7.13 from being satisfied.

The objectives of the clauses are to ensure that lot sizes are consistent with the desired residential density for the location; that lots are able to accommodate development suitable for its purpose; to ensure subdivision reflects the predominant subdivision pattern of the area; to ensure orderly development of land; and to ensure lot dimensions are able to accommodate residential development is suitable for its purpose and is consistent with relevant development controls.

The proposed subdivision layout represents an orderly development of the site that meets the required dwelling density control. The subdivision pattern fits within a plan for subdivisions on the adjoining sites in terms of road layout and lot sizes. The proposed lots are able to accommodate residential development that is compatible with the desired dwelling types for the Middleton Grange area.

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- The proposed layout matches the layout of a previous subdivision approved by Council.

The previous consent (in the form of its latest modification) DA-214/2007/B, matches the plan being proposed. The applicant has submitted that in this respect the current proposal retains “the status quo”. Whilst this application is required to be assessed on its own merits, the previous consent demonstrates that the subdivision pattern as approved meets the objectives of the zone and there was sufficient grounds to vary the development standards in that case.

- Compliance with the standards is unreasonable and unnecessary in the circumstance of the case.

The applicant has submitted that the previous approvals on the site demonstrate that compliance with the standards is unreasonable and unnecessary. The previous approval demonstrates the plan of subdivision represents and orderly development and results in lots that are capable of supporting suitable dwellings.

Clause 4.6(4) prescribes that:

Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

In reviewing the applicant’s written request, it is considered that the submission has generally addressed the matters required to be demonstrated by Clause 4.6(3). Further it is noted that the proposed number of lots only meets and does not exceed the required minimum dwelling density for the site.

It must be noted that the recommendation for approval is based on the individual circumstances of the proposal. The approval of the proposed variation does not set a precedent for other subdivisions to vary the minimum lot size and lot width standards. Rather, any future proposal must still be assessed based on the circumstances of the site; the merits of the proposal; and the provisions of Clause 4.6 of the LLEP.

With respect to Clause 4.6(4)(a)(ii), the proposed development is considered to be in the public interest as it is consistent with the objectives of the minimum lot width standard and the objectives of the R1General Residential zone.

The variation to Clauses 4.1 and 7.13 is considered to be satisfactory and is supported in the circumstances of this instance.

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

There is currently no draft planning instrument available that is applicable to the proposal.

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

Liverpool Development Control Plan 2008 is applicable to the proposed development. The following key controls are discussed in the following table.

PART 1.1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	COMMENT	COMPLIES
2.TREE PRESERVATION	Does not contain significant species.	Yes
3.LANDSCAPING	Street trees to be planted – one per lot. Landscape plan required prior to CC.	Conditioned
4.BUSHLAND AND FAUNA HABITAT PRESERVATION	Land not ESL, assessment of flora and fauna in SEE concludes land does not contain significant species.	Yes
5.BUSH FIRE RISK	Land not bushfire prone.	Yes
6.WATER CYCLE MANAGEMENT	A Stormwater Concept Plan submitted.	Yes
7.DEVELOPMENT NEAR CREEKS AND RIVERS	Referred to Office of Water, control activity approval received.	Yes
8.EROSION AND SEDIMENT CONTROL	An Erosion and Sediment Control plan submitted.	Yes
9.FLOODING RISK	Land not flood affected.	Yes
10.CONTAMINATION LAND RISK	A Contamination Assessment has been provided. Investigation concludes low levels of contamination with some further investigation required prior to the removal of fill.	Yes
11.SALINITY RISK	The salinity assessment submitted with the application identifies the land as having potential saline land. Methods to be adopted to minimise impacts.	Yes
12.ACID SULFATE SOILS RISK	The subject site is not identified on the Acid Sulfate Soils Map.	Yes
13.WEEDS	N/A	N/A
14.DEMOLITION OF EXISTING DEVELOPMENT	N/A	N/A
15.ON-SITE SEWERAGE DISPOSAL	No on-site sewage disposal proposed.	N/A
16.ABORIGINAL ARCHAEOLOGY	No items of significance. Where any relics encountered works to be stopped and appropriate investigations undertaken and relevant authorities contacted.	Yes
17.HERITAGE AND ARCHAEOLOGICAL SITES	The subject site does not contain a heritage item.	Yes
18.NOTIFICATION OF APPLICATIONS	The proposal was advertised and notified.	Yes
PART 2.5 MIDDLETON GRANGE		
CONTROL	COMMENT	COMPLIES
SECTION 2 PUBLIC DOMAIN		

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2.1 STREET NETWORK Subdivision to be in accordance with Figures 2 & 3	In accordance with street network.	Complies
2.2 PEDESTRIAN AND CYCLE PATHS To be provided in accordance with Figure 6	Cycle lane on road, cycle path on street.	Complies
2.3 STREETScape AND STREET TREES Street trees required for creation or extension of street	Landscape plan required prior to CC.	Complies
2.5 STORMWATER MANAGEMENT Hydrologic and hydraulic assessment required in flood plain or adjacent to watercourse	Stormwater assessment reviewed by Council's engineers.	Complies

The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008.

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

The proposal was advertised and referred to the Office of Water in accordance with the Regulations.

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

(a) Natural and Built Environment

The impacts of the development will be those associated with the construction of roads, and removal of contaminants from the site.

Measures have been proposed and will be implemented to reduce any impact on the natural and built environment.

(b) Social Impacts and Economic Impacts

The proposal provides land for residential development in accordance with the relevant planning controls and would have a positive social and economic impact in the locality.

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

The site is suitable for the development and is consistent with the desired character of the surrounding locality.

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

(a) Internal Referrals

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

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DEPARTMENT	COMMENTS
Engineering	Approval
Strategic	Approval
Flooding	Approval
Environmental Health	Approval
Traffic	Approval

(b) External Referrals

General Terms of Approval have been issued by the Office of Water and will be incorporated into any approval.

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

The development is considered to be in the public interest as it is consistent with the objectives of the zone and the objectives of the principal development standards relating to subdivision. Further, the development represents orderly and efficient use of land and is therefore considered to be acceptable and recommended for approval.

7. CONCLUSION

The application has been assessed having regard to the provisions of Section 79C of the EP&A Act, 1979, the provisions of the LLEP and LDCP and the merits of the proposed development.

The proposal is generally compliant with the provisions contained within the LLEP with the exception of Clauses 4.1 Minimum lot size and 7.13 Minimum lot width in Zones R1, R2, R3 and R4. The applicant has submitted a written request to justify the variation of the development standards and generally demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards, pursuant to Clause 4.6 Exceptions to development standards. The proposal is also consistent with the specific subdivision controls contained within the LDCP.

Based on a detailed assessment of the proposal and consideration of the provisions of Clause 4.6 in view of the merits of the proposal, the proposal is considered to be satisfactory. Accordingly it is recommended that the application be approved subject to the draft conditions of consent provided in Attachment 8.1

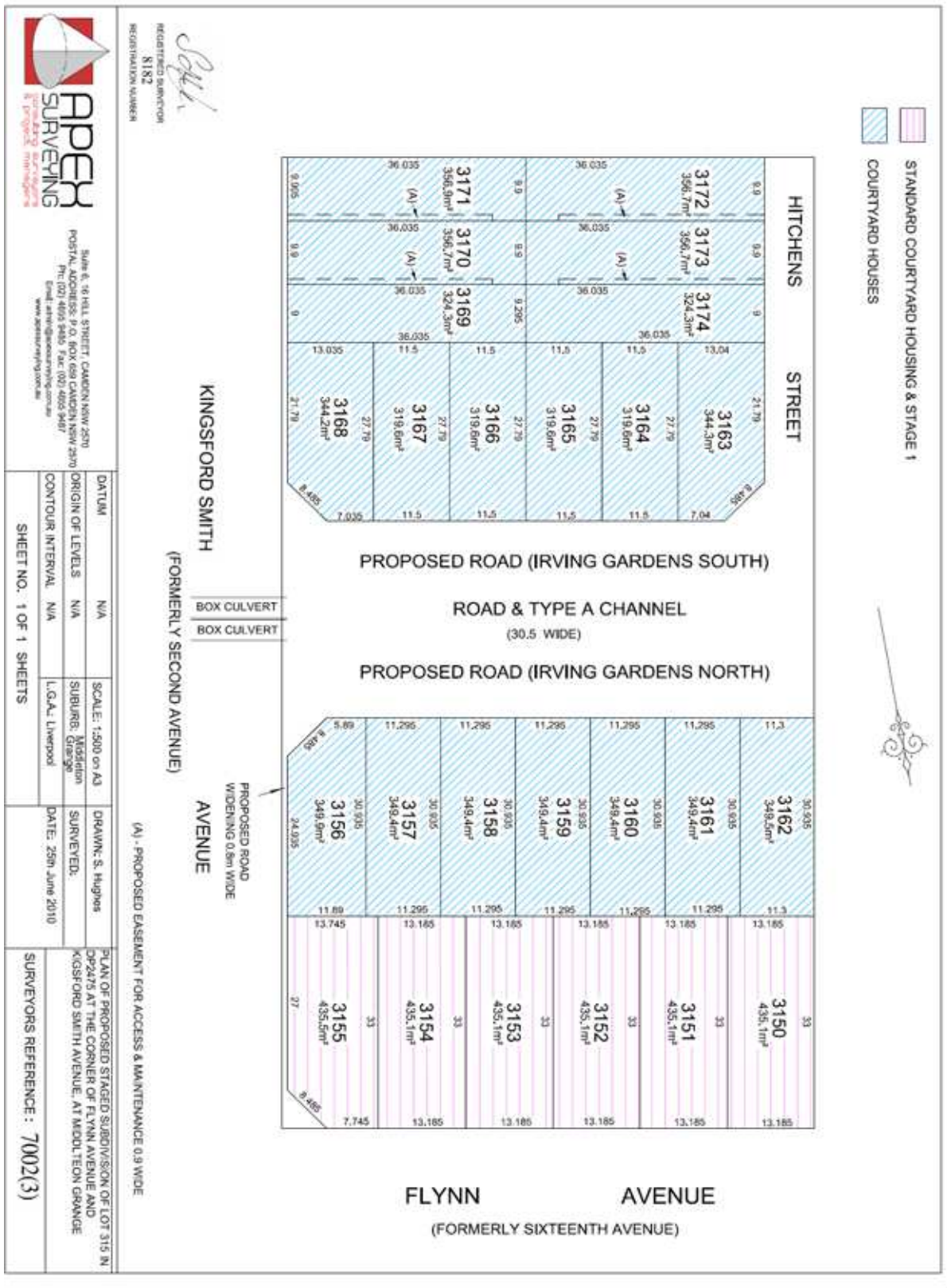
8. ATTACHMENTS

- 8.1 Plans of the proposal**
- 8.2 Recommended conditions of consent**

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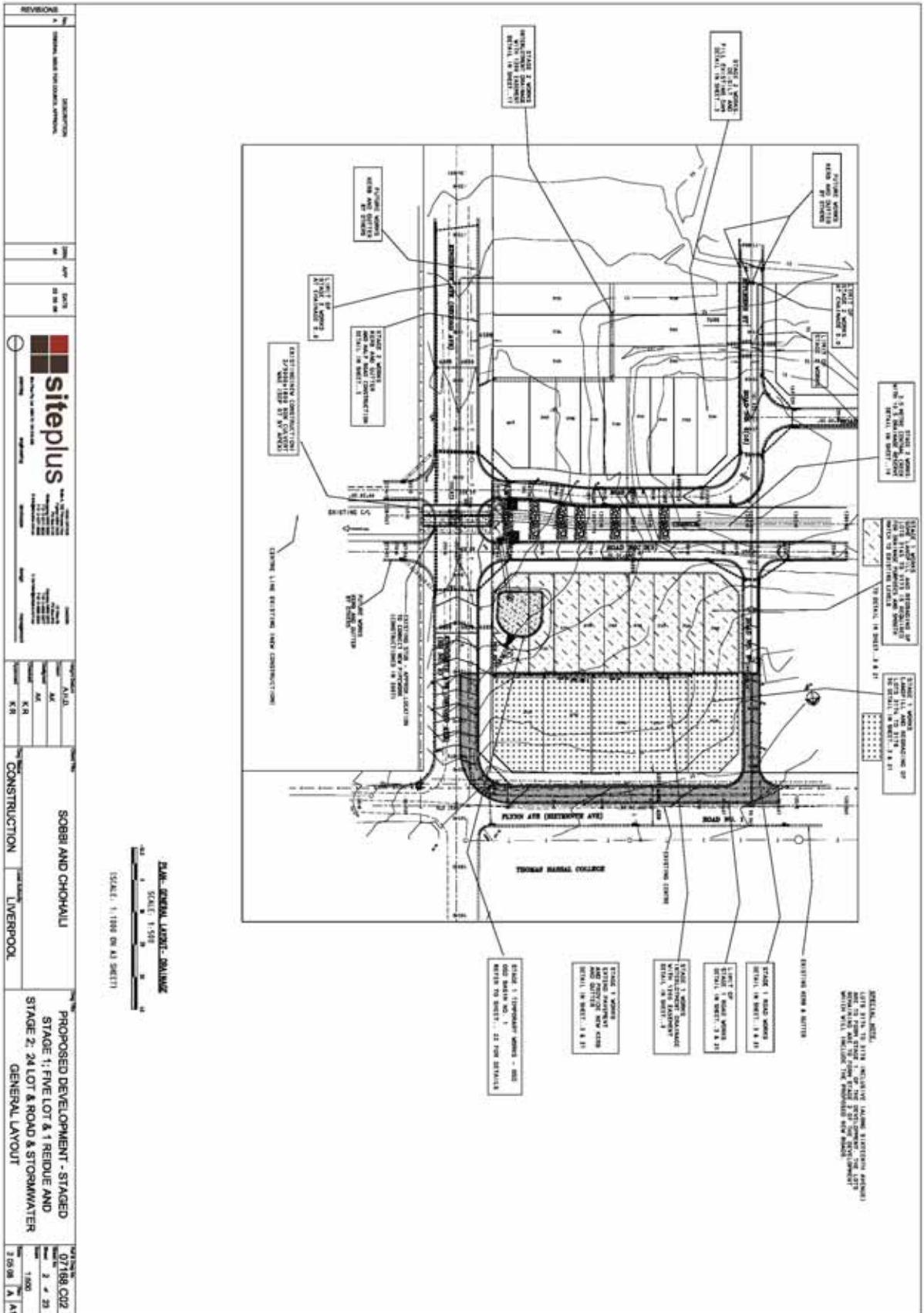
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Attachment 1:



INDEPENDENT HEARING & ASSESSMENT PANEL REPORT

1 AUGUST 2013

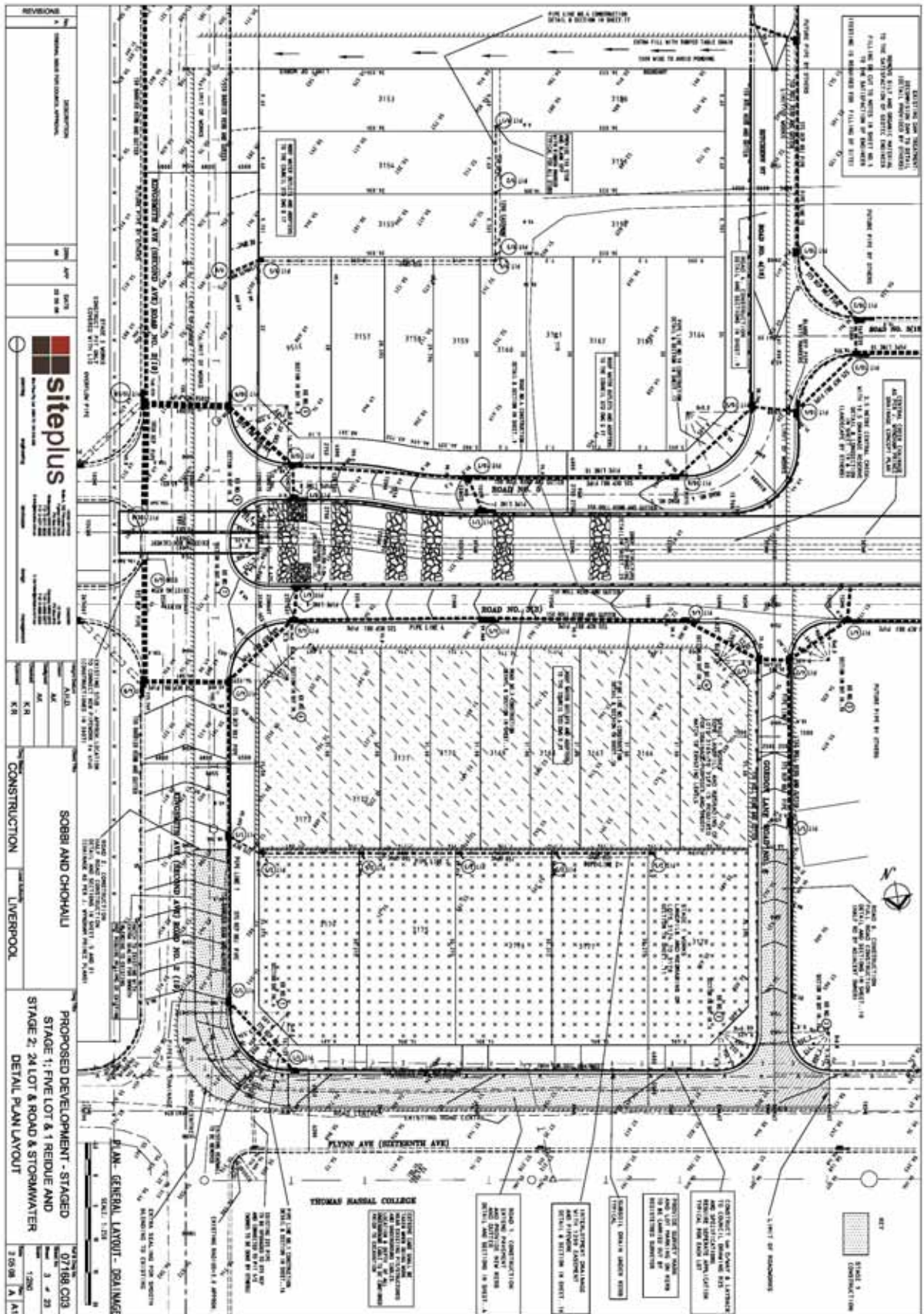


NO.	REVISIONS	DATE	BY
1	ISSUED FOR CONSTRUCTION	20 APR 2013	AK

		SOBBI AND CHOHALI CONSTRUCTION LIVERPOOL	
PROPOSED DEVELOPMENT - STAGED STAGE 1: FIVE LOT & 1 REDUCE AND STAGE 2: 24 LOT & ROAD & STORMWATER GENERAL LAYOUT		07188.002 2 of 23 1:1000 1 AUG 2013	

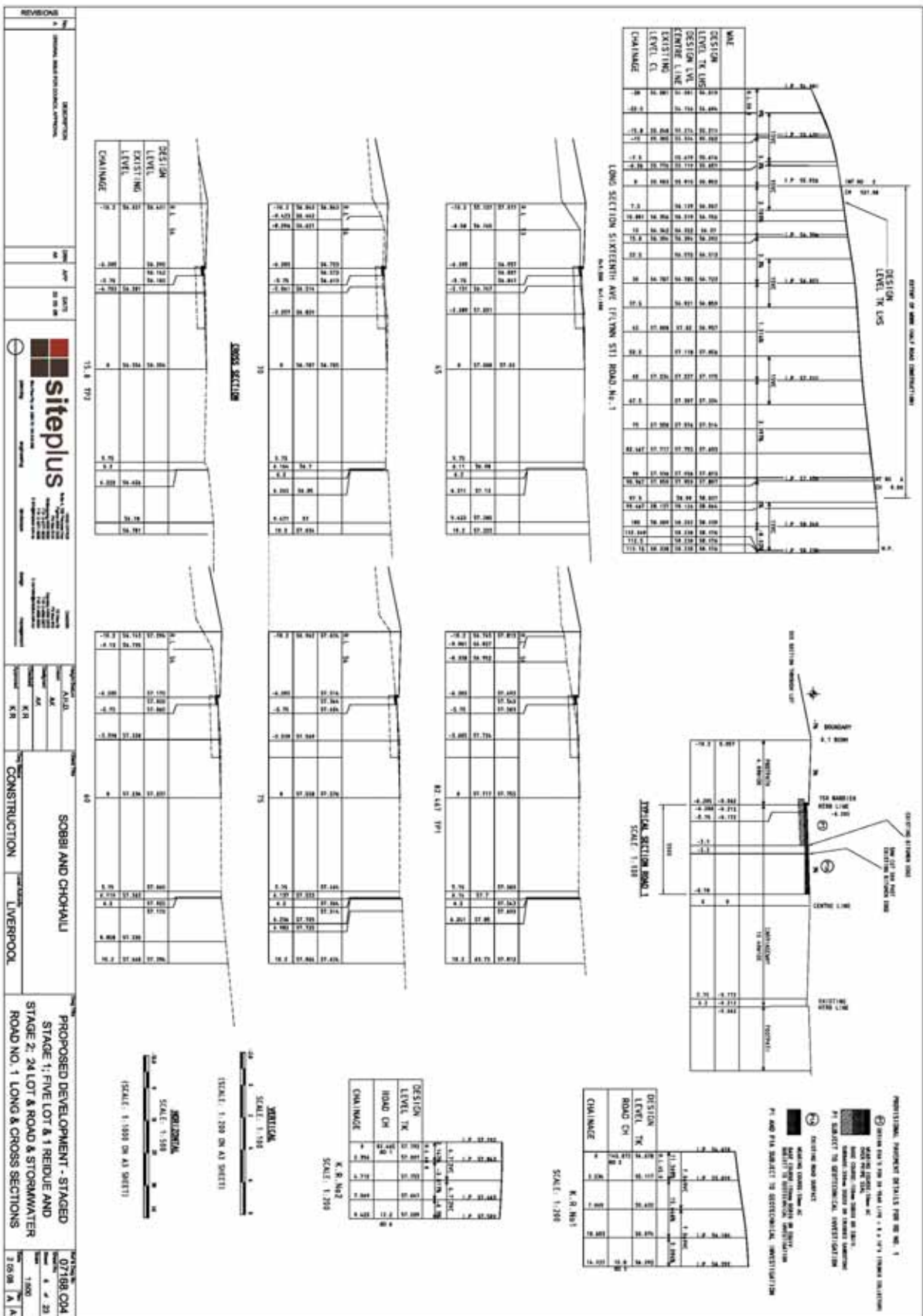
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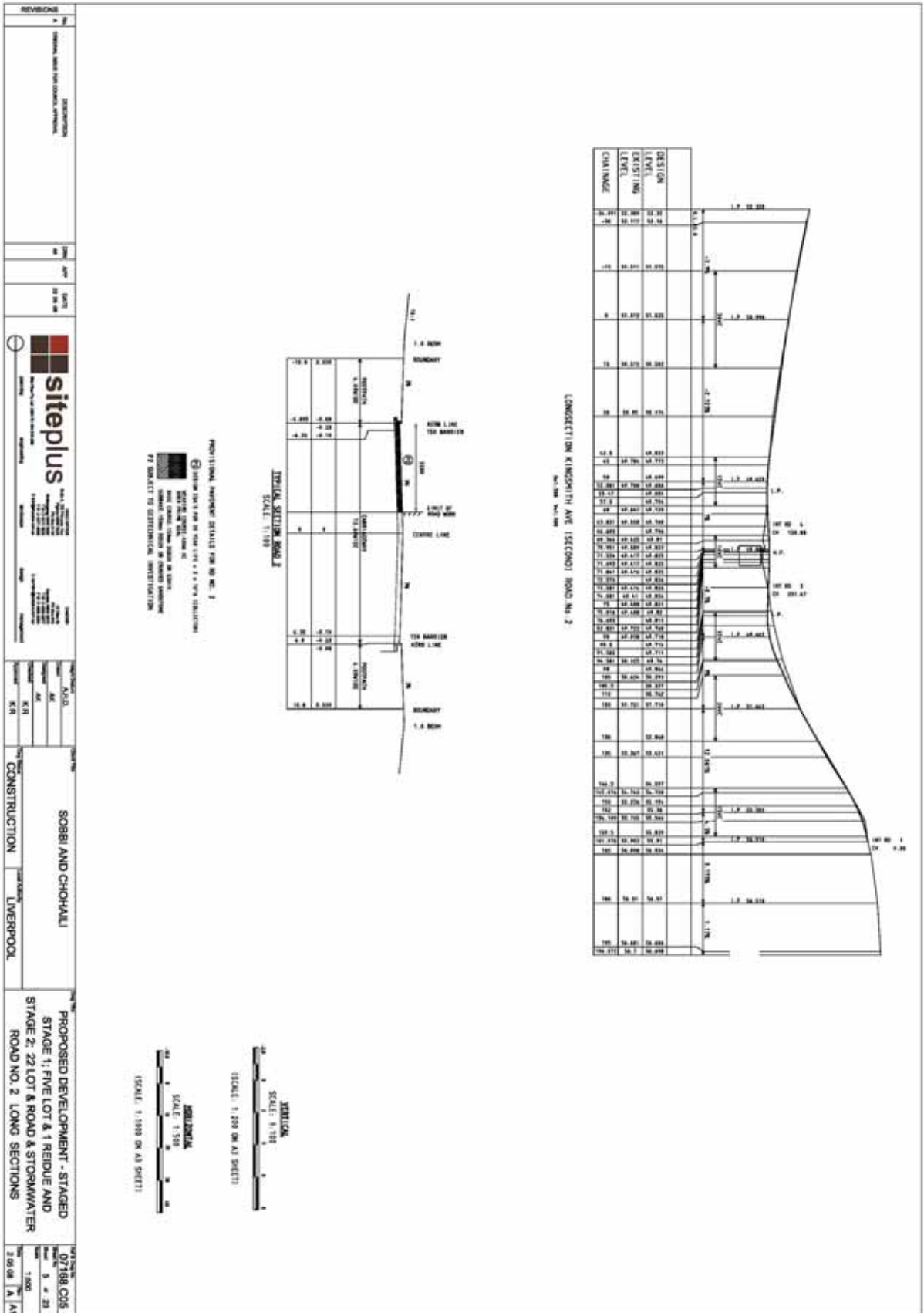
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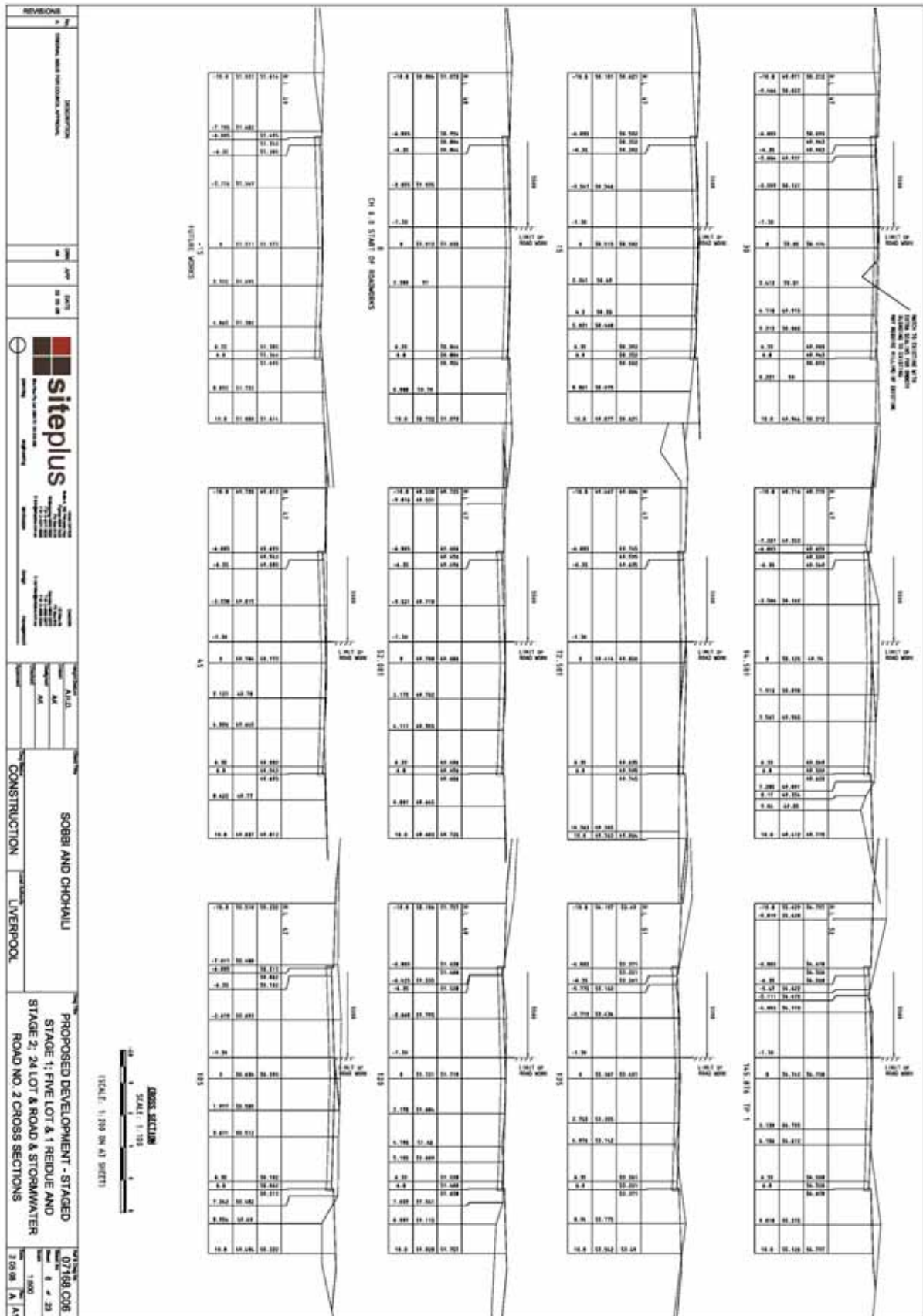
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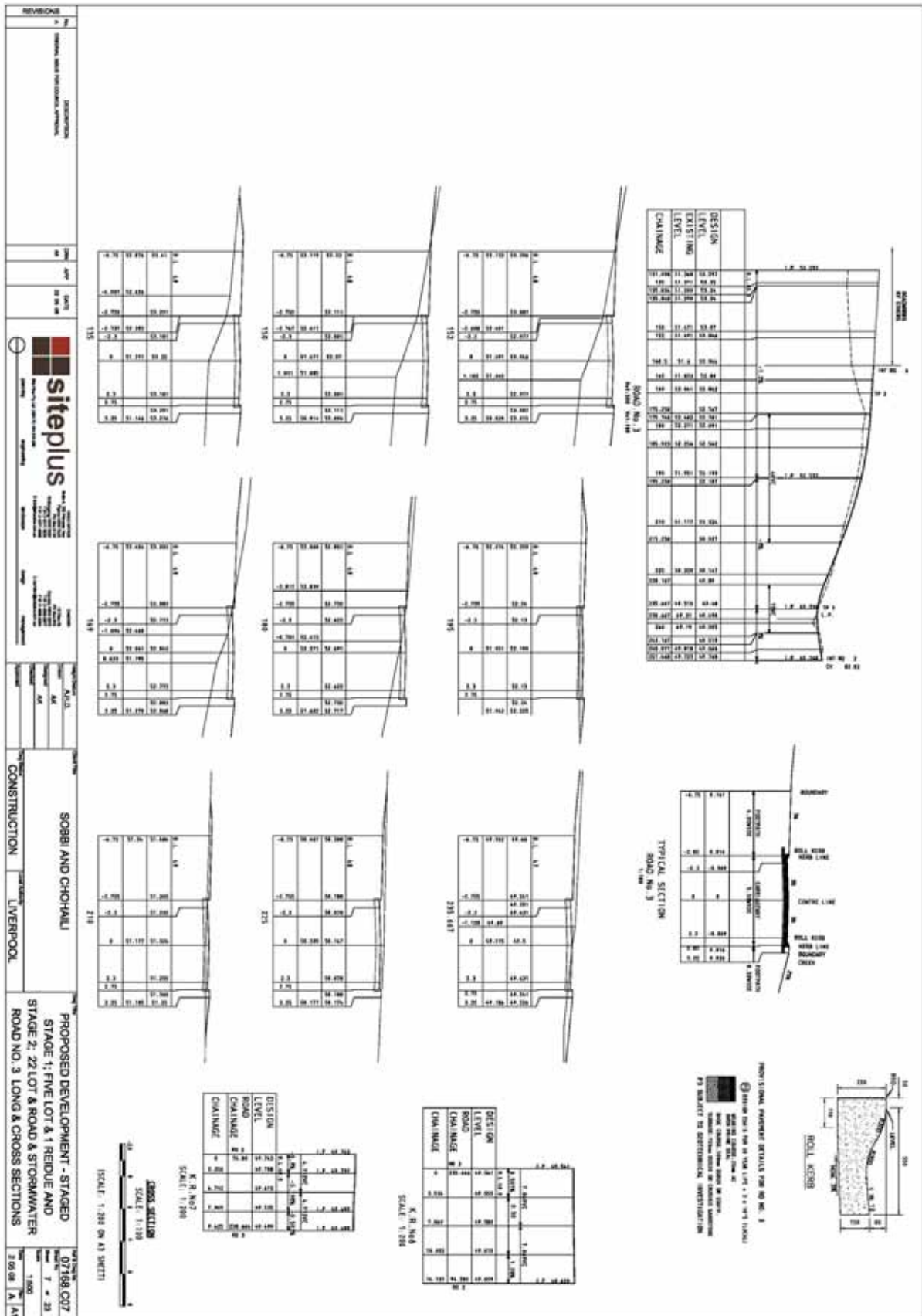
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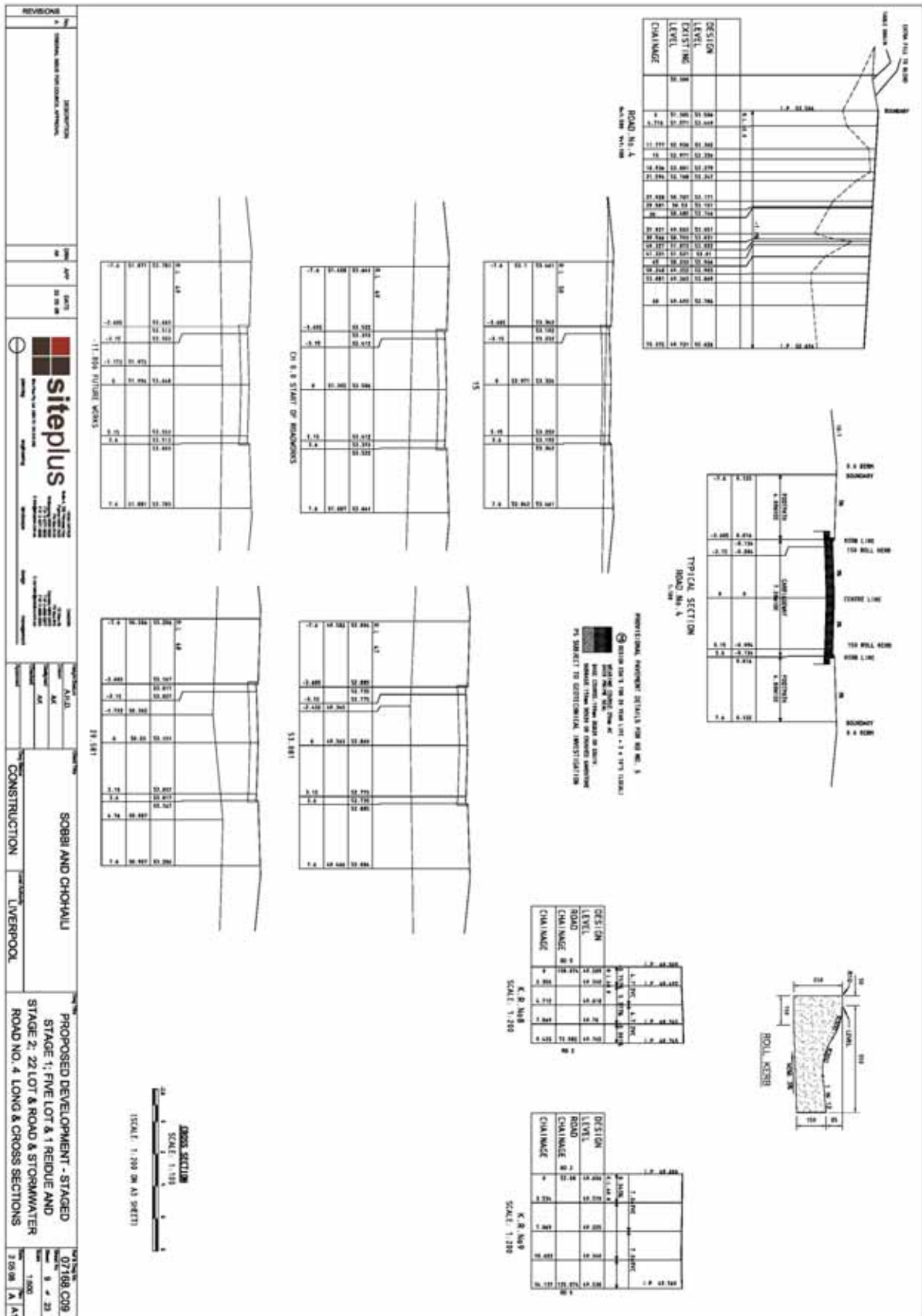
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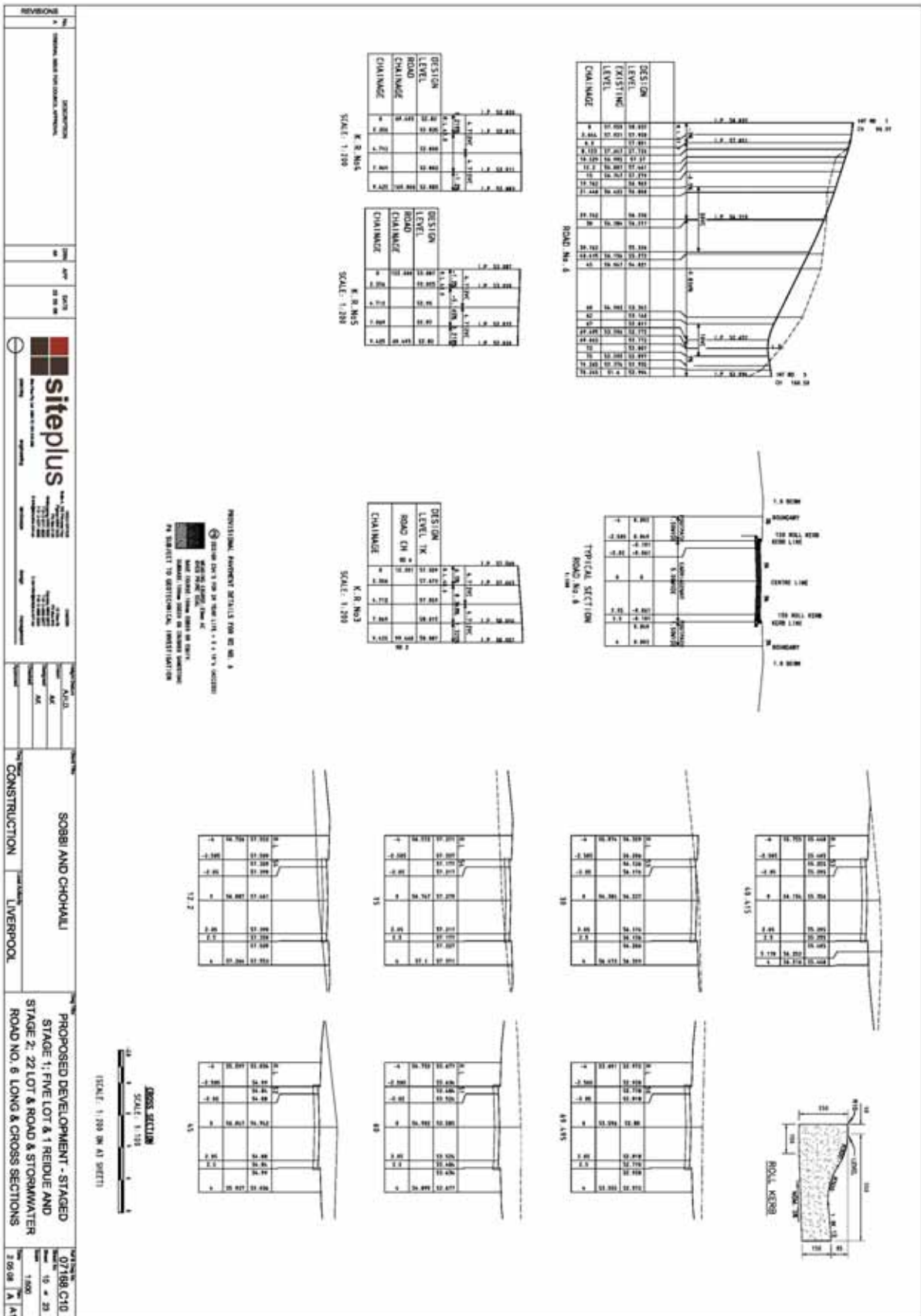
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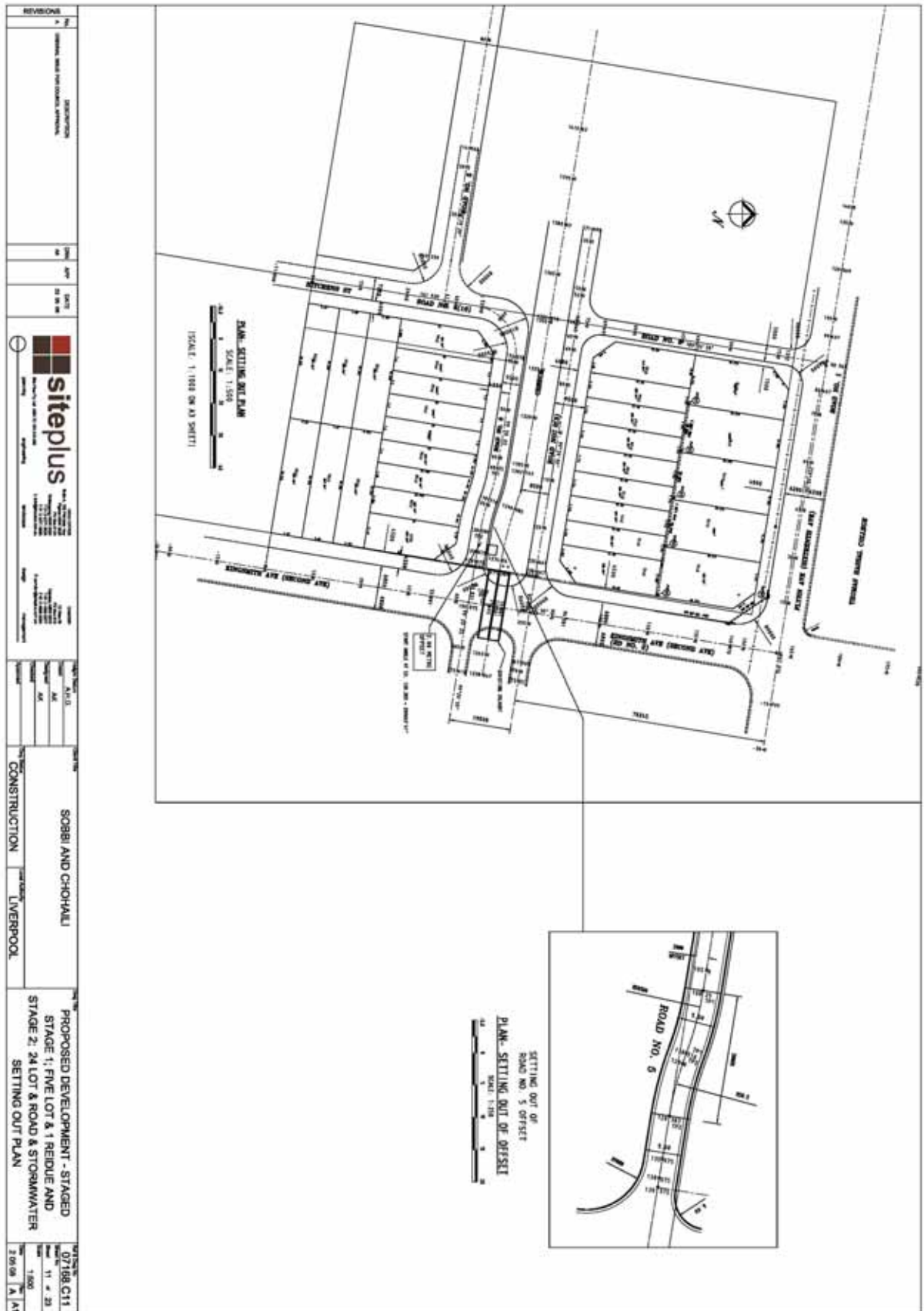
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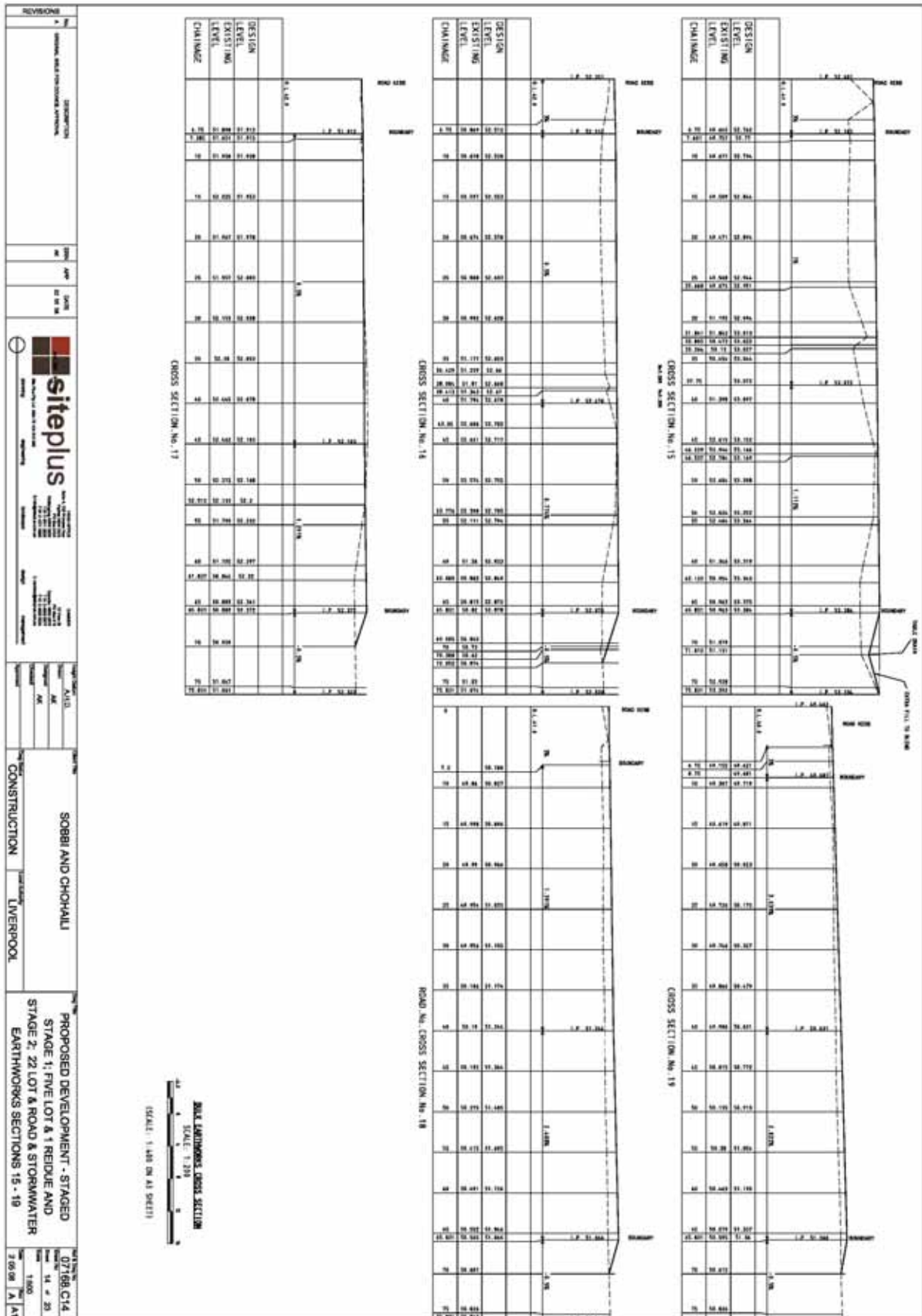
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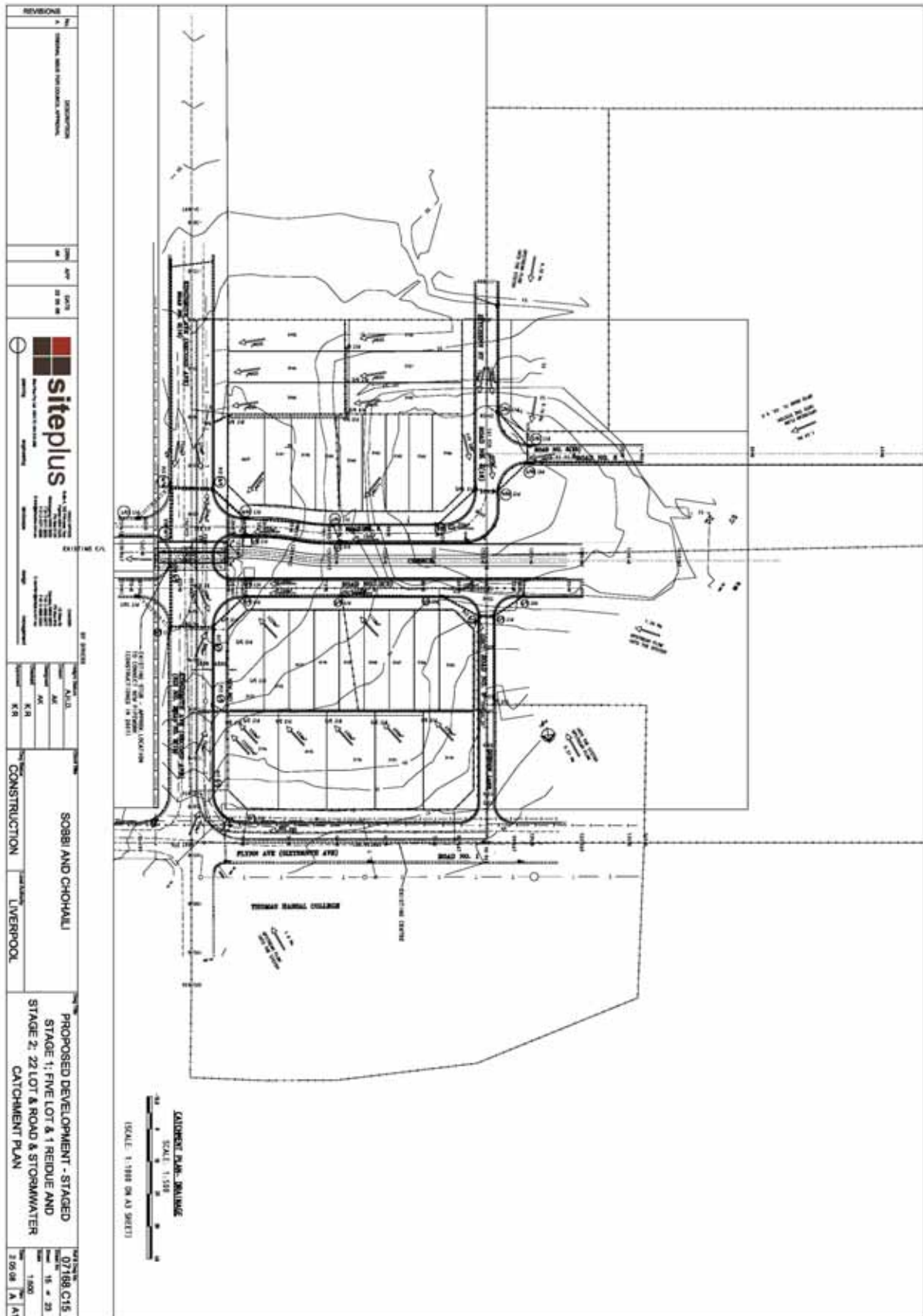
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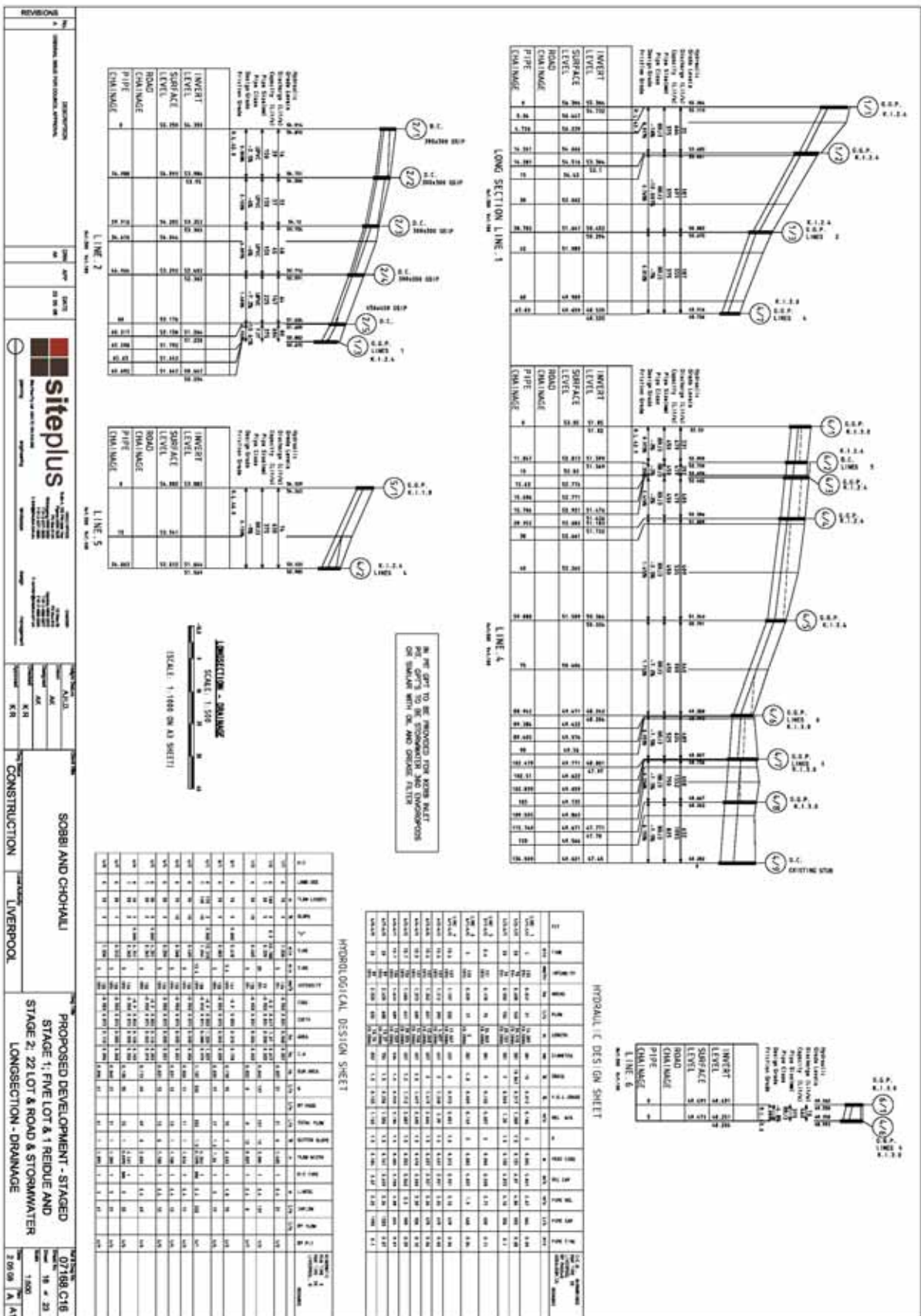
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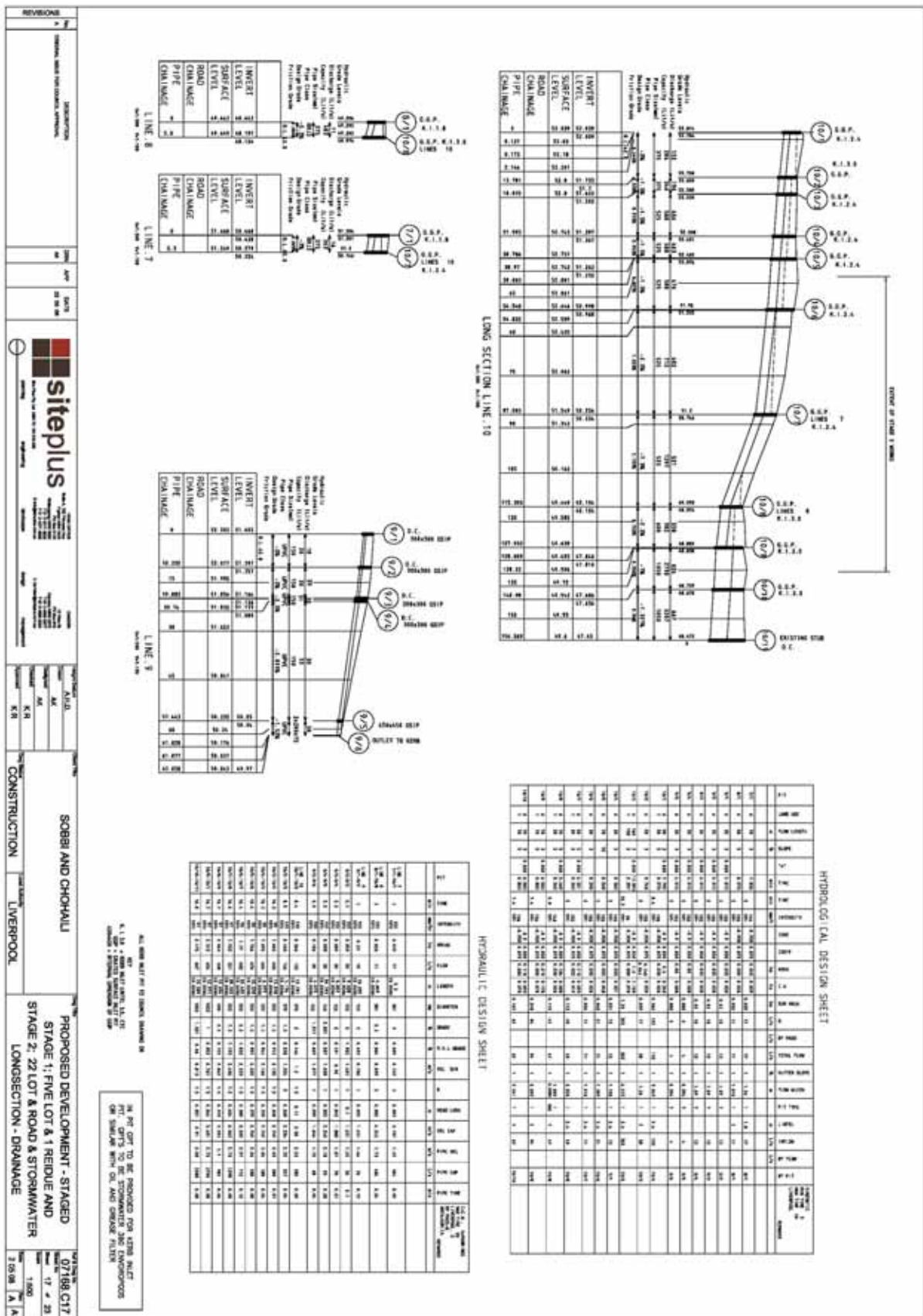
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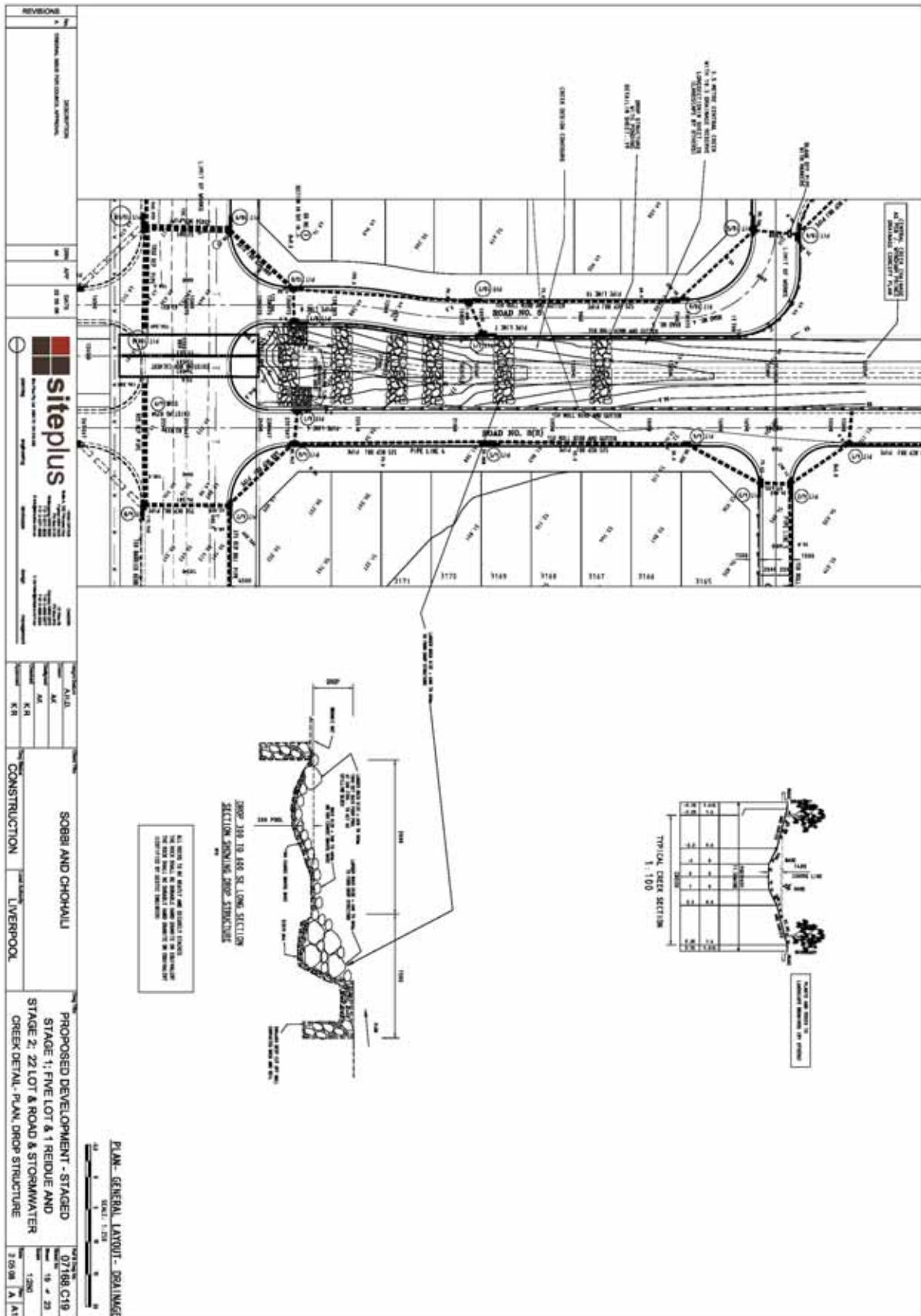
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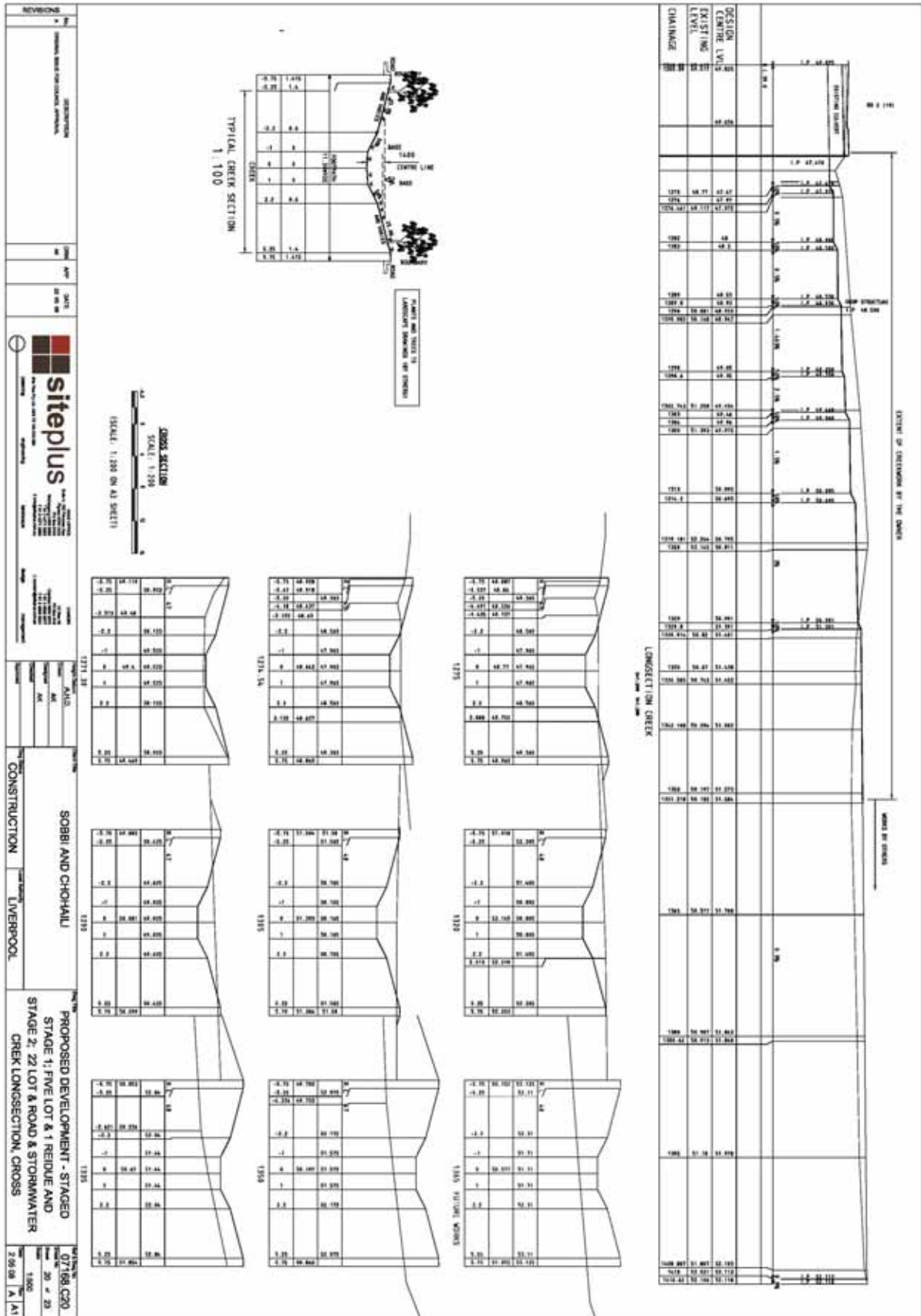
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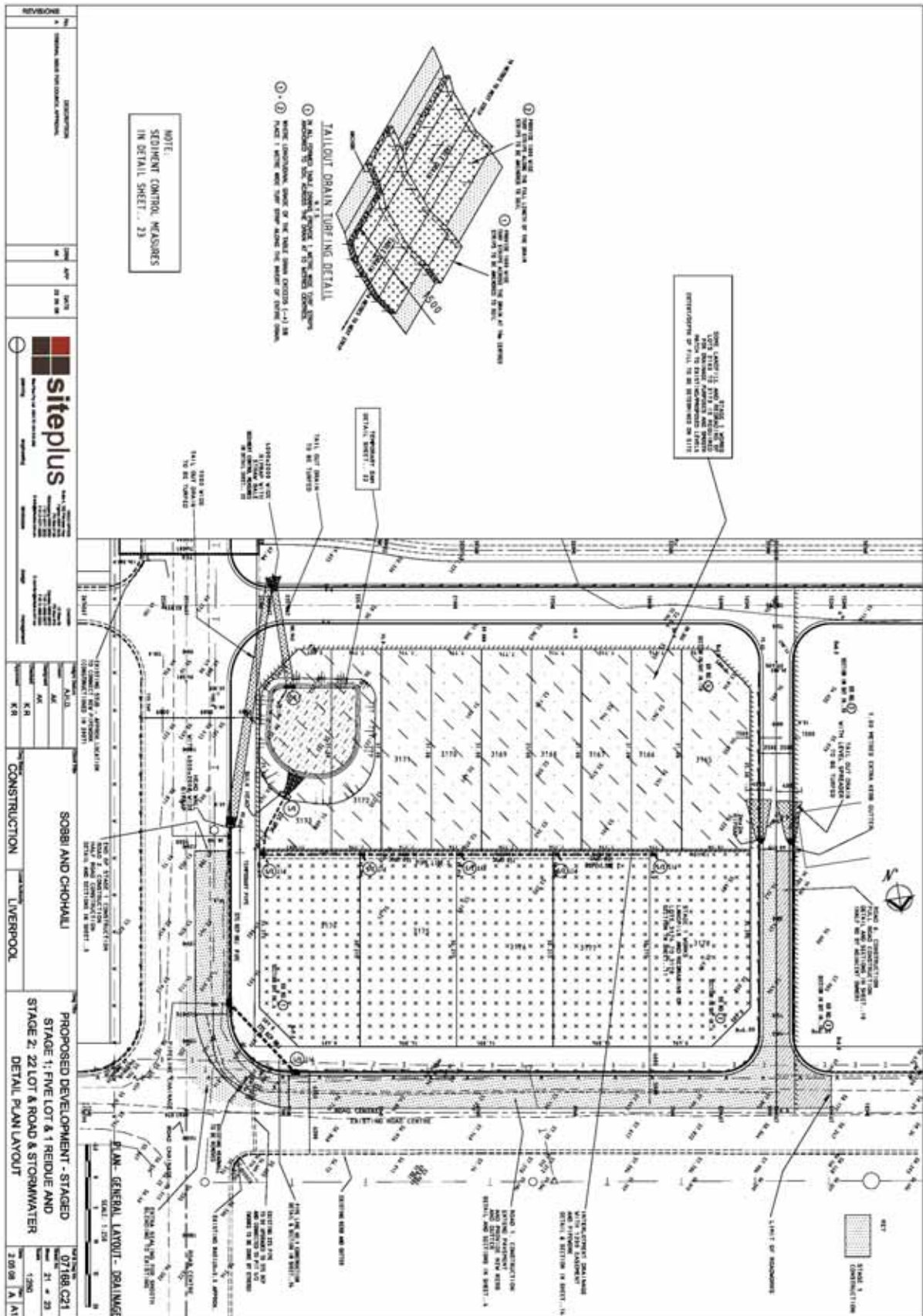
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REVISIONS	NO.	DESCRIPTION
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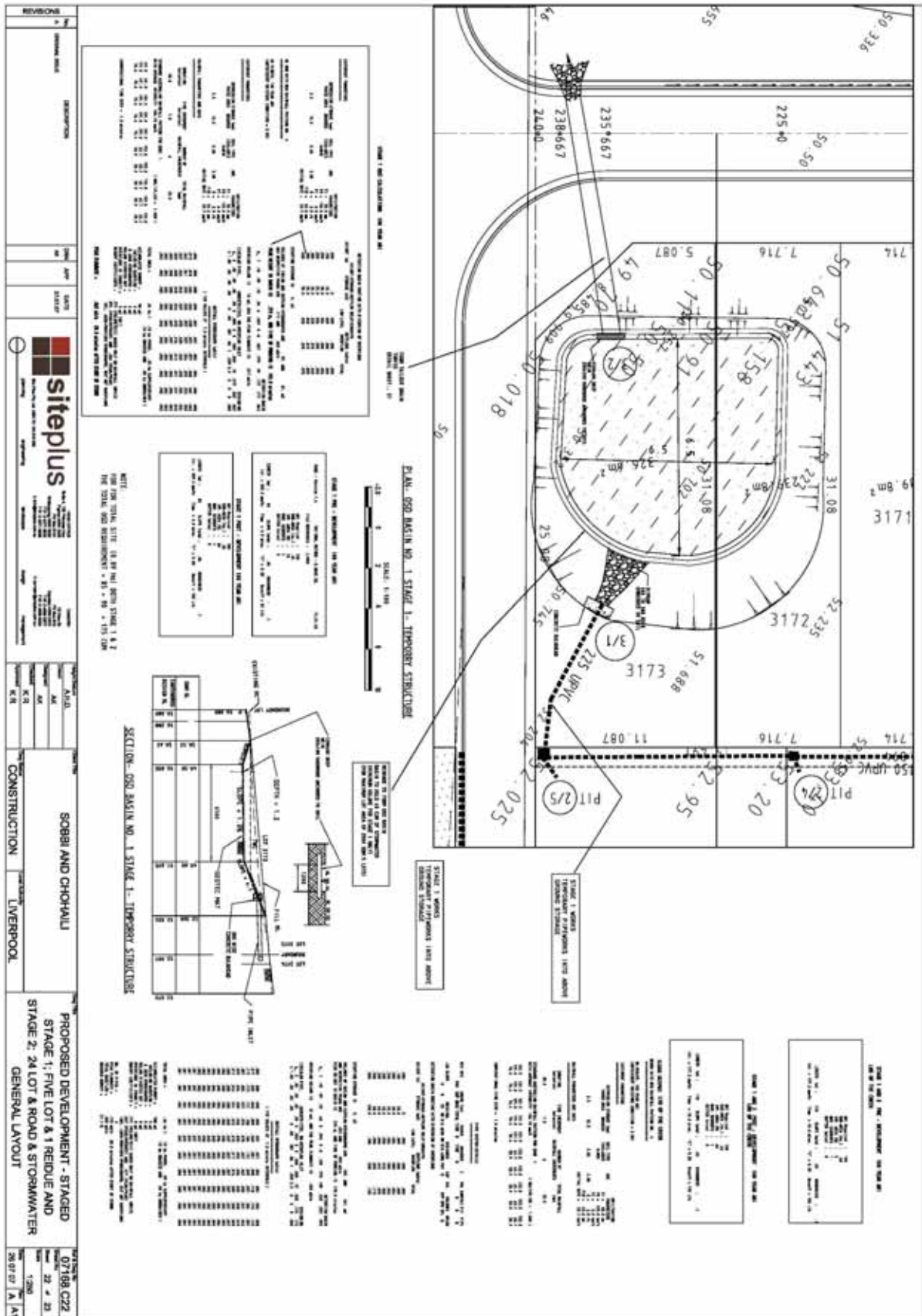
DATE	DATE	DATE	DATE
2013	2013	2013	2013
APR	MAY	JUN	JUL

PROJECT	PROPOSED DEVELOPMENT - STAGED
STAGE	STAGE 1: FIVE LOT & 1 RESIDUE AND STAGE 2: 22 LOT & ROAD & STORMWATER
DRAWING	DETAIL PLAN LAYOUT
CLIENT	SOBBI AND CHOHALI
LOCATION	LIVERPOOL

SCALE	1:100
DATE	2013
PROJECT NO.	07198-C21
DRAWING NO.	21 - 23
DATE	12/08
SCALE	1:100

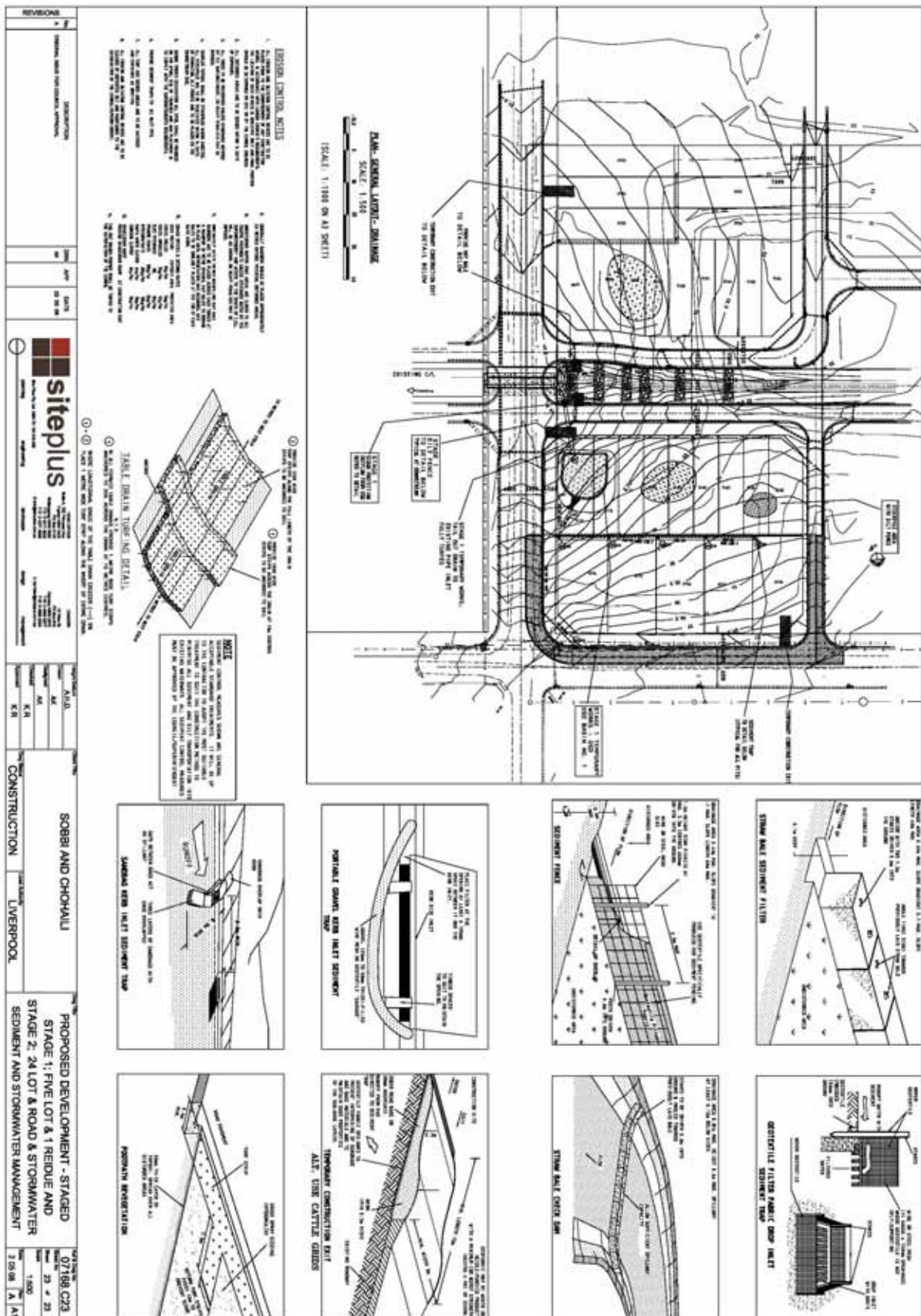
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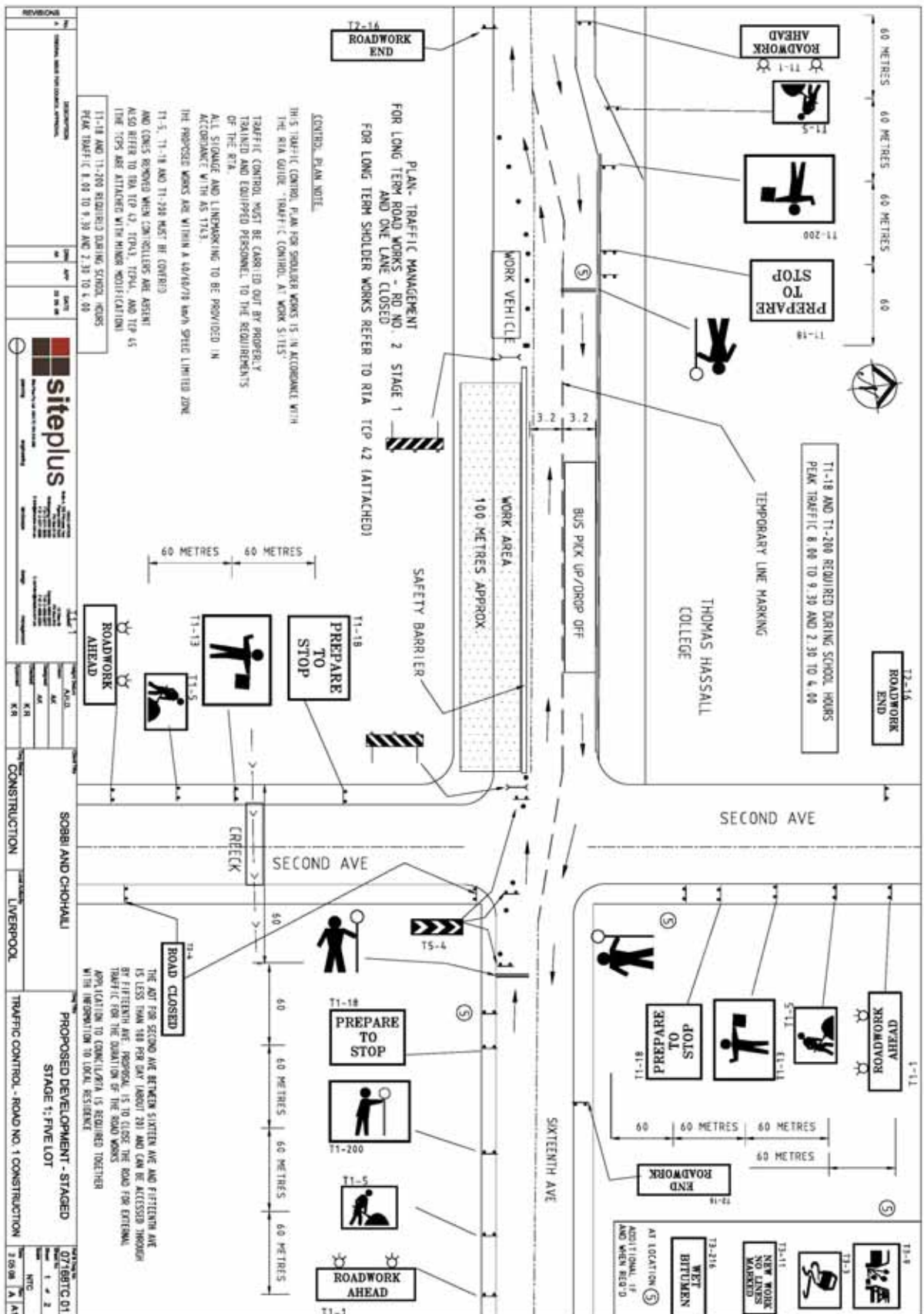
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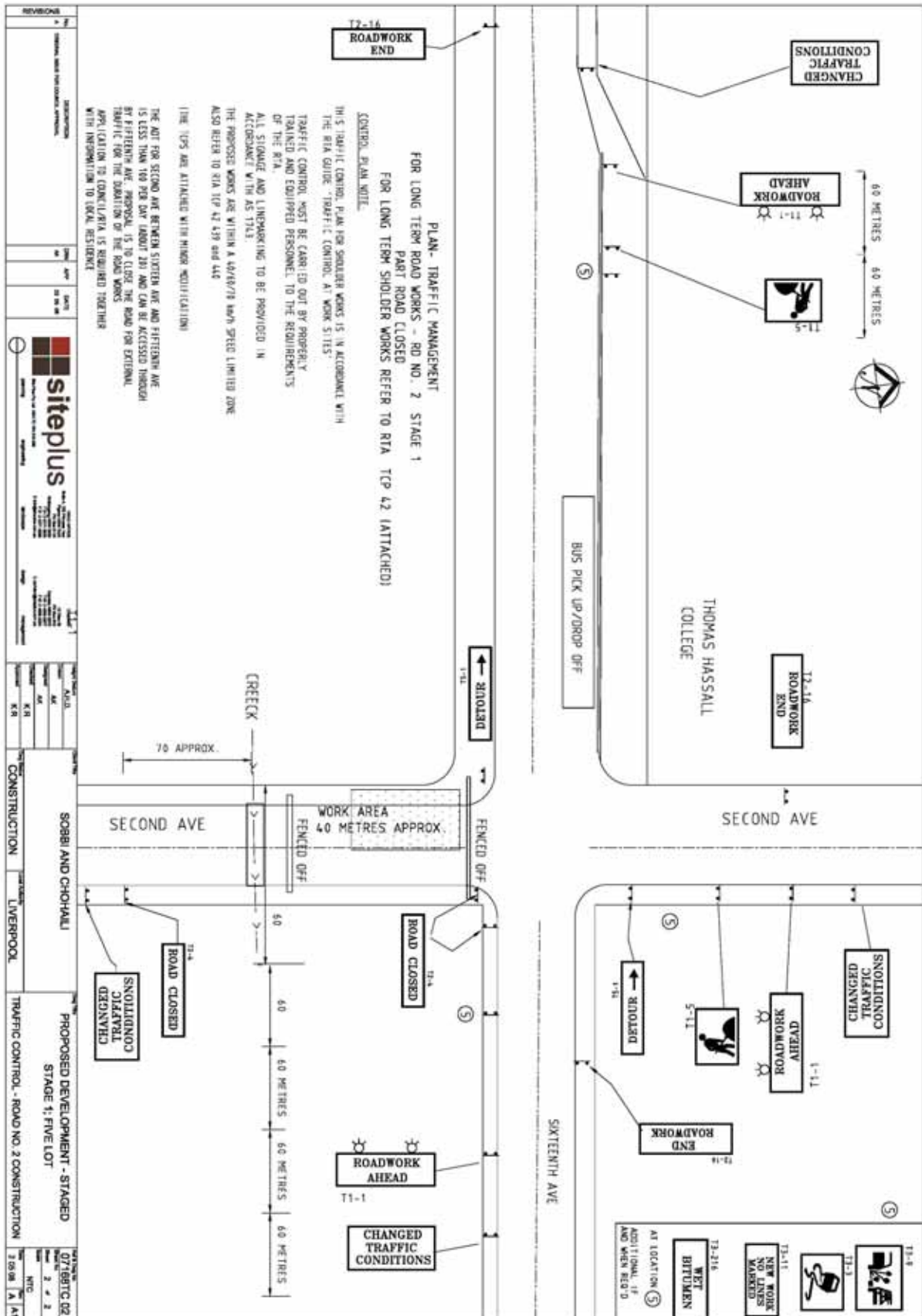
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Attachment 2:**DEFINITIONS**

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

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STAGED APPROVAL

STAGE	DEVELOPMENT WORKS	PART REFERENCE	CONDITION REFERENCE
1	Creation of Lots 3150 to 3155	Parts A, B, C, D, E, F	Conditions 1 to 81
2	Creation of Lots 3156 to 3174, construction of road and drainage	Parts A, B, C, D, E, F	Conditions 1 to 81

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) Subdivision plan prepared by Apex Surveying, Ref: 7002(3), Dated 25.06.10
 - (b) Statement of Environmental Effects prepared by GAT & Associates, Dated January 2013.
 - (c) Engineering Drainage plans prepared by Siteplus, Ref. 7168.C01, Sheets 1 to 23, Dated 26.07.07
 - (d) Updated Geotechnical review prepared by Douglas Partners, Ref: 40578.01, Dated 27.11.12
 - (e) Waste management plan prepared by Khosron Chohaili, Dated 22.01.13
 - (f) Geotechnical Assessment prepared by Douglas Partners, Ref: 40578, Dated May 2006.

except where modified by the undermentioned conditions.

General Terms of Approval

2. All General Terms of Approval issued by Office of Water NSW, shall be complied with prior, during, and at the completion of construction, as required in accordance with the General Terms of Approval dated 15 February 2013. A copy of the General Terms of Approval are attached to this decision notice.

SECTION 94 PAYMENT (Liverpool Contributions Plan 2009)

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3. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2009 as amended.

The total contribution is

Stage 1:\$183,316

Stage 2:\$559,349

The contribution is required to be paid prior to the release of a subdivision certificate for each stage.

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

Whitlam Centre Extensions, Liverpool Central Library and Local Land - Early acquisition (Middleton Grange)

Contributions, with the exception of those for the Whitlam Centre Extensions, Liverpool Central Library and Local Land - Early acquisition (Middleton Grange) will be adjusted at the time of payment.

Capital Works, Administration, Professional and Legal Fees Components

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

$$\text{Contribution at the time of payment} = \frac{\mathbf{C} \times \mathbf{CPI}_2}{\mathbf{CPI}_1}$$

Where:

C = Original contributions as shown on the consent

CPI₂ = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics at the time that the contribution is to be paid

CPI₁ = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics as at the time of granting the development consent

Land Component

The value of the land component will be adjusted quarterly in line with the latest average land value estimate published by Council. The average land value estimate will be reviewed on a quarterly basis and determined by averaging

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residential land values per square metres with the relevant catchment, over the previous quarter.

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

Where:

C = Original contributions as shown on the consent

L₂ = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time that the contribution is to be paid

L₁ = Latest Average Estimated Land Acquisition Cost per square metre published by the Council at the time of granting the development consent

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

The Contributions Plan may be inspected at Council's Administration Centre, 1 Hoxton Park Road, Liverpool or at www.liverpool.nsw.gov.au.

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

This contribution involves contributions for Local Streets and Traffic Facilities and Local Drainage. It should be noted that any further development consents for the development of a particular site will contain a condition requiring contributions for the following facilities.

- (i) District Roads and Traffic Facilities
- (ii) District Drainage Basins
- (iii) Landscape Buffer Land
- (iv) Landscape Buffer Embellishment
- (v) Professional and Legal Fees
- (vi) Tree Planting

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:

Fee Payments

4. 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.

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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.

Dilapidation Report

- 5. A dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to Council.

Permit to Carry out Works

- 6. A separate application for a permit to carry out works must be issued by Council for –
 - (b) A Permit to carry out works in Council's road reserve, pursuant to Section 138 of the Roads Act, 1993.

Drainage

- 7. Engineering plans will be required defining all physical works necessary on the site and adjacent to it. These plans are to be certified by Council or an accredited certifier.
 - (a) These plans must satisfy the following requirements:
 - i. Council's current Design and Construction specification for subdivisions (as amended), and supplementary code,
 - ii. Council's Trunk Drainage Scheme(s),
 - iii. Council's Development Control Plans,
 - iv. All proposed road and drainage works must adequately match existing infrastructure
 - (b) These plans must incorporate the following:
 - i. A geotechnical report forming the basis of a road pavement design.

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Stormwater

8. Stormwater is to be collected within the site and conveyed in a pipeline to the appropriate point of discharge as directed by Council and as detailed on the approved plans.
9. A stormwater drainage plan, including hydraulic calculations based on a 1 in 5 year storm (ARI), is required. The plan must show how the stormwater generated by this site, and other inter-allotment overland flow water entering onto this site, is to be collected within the site and conveyed in a suitable pipeline to the most appropriate point of discharge as advised by Council.

This plan shall also show existing and proposed surface contours within the site and along its boundaries with immediately adjacent properties, and shall define overland flow paths for storms which exceed the capacity of the underground pipe system.

The applicant is to contact Council to determine maximum allowable discharge from site. (Council engineers to nominate maximum discharge flow from site). If drainage investigations reveal that downstream drainage pipes are not capable of catering for the discharge, then Council requires the design and construction of an on-site detention system. This is to be designed in accordance with Council's On Site Detention Policy

10. Common drainage lines are required to be designed for stormwater disposal where land falls to the rear.
11. All stormwater drainage must be sized to allow for all catchments upstream of the development.

Flooding

12. The lowest habitable floor levels of future residential buildings shall be no less than the 1% AEP flood level plus half a meter freeboard. The flood levels shall be as per Council approved "Proposed Channel and Water Management Strategy, Middleton Grange", Southern Creek by J. Wyndham Prince Pty. Ltd. (Plan Nos. 7576/E1(B) - 7576/E34(B) dated 20/02/06).
13. The structure of future residential buildings shall be constructed from flood compatible building components below the 1% AEP flood plus half a metre freeboard.
14. Construction of drainage reserve running through the property shall be undertaken as per Council approved Water Cycle Management Plan and associated design documents, "Proposed Channel and Water Management Strategy, Middleton Grange", Southern Creek by J. Wyndham Prince Pty. Ltd. (Plan Nos. 7576/E1(B) - 7576/E34(B) dated 20/02/06).

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15. The subdivision work shall not commence until the section of drainage channel/reserve are constructed and operational in its full capacity. In absence of fully developed drainage channel/reserve, temporary on-site stormwater detention shall be provided to ensure that flows leaving the property in post-development scenario must not increase with respect to pre-development discharge. The design of such detention basin shall be submitted for Council's approval.
16. Finished land levels of the site shall be no less than the 1% AEP flood. The flood levels shall be as per Council approved "Proposed Channel and Water Management Strategy, Middleton Grange", Southern Creek by J. Wyndham Prince Pty. Ltd. (Plan Nos. 7576/E1(B) - 7576/E34(B) dated 20/02/06).

Public Road Design/Construction Within Road Reserve Areas

17. All roads are to be designed to be graded in such a manner as to provide continuous surface drainage flow paths to appropriate points of discharge. In this context, these are to be into their roads or swales, as appropriate, connecting into the major trunk drainage system.
18. Road construction (half width) – full formation and half width road minimum 5.5m wide shall be designed at Kingsford Smith Ave, Flynn Ave – adjacent to the subject land to include kerb and gutter, footpath formation, drainage, pavement construction, sealing and service adjustments in accordance with Council's current design and construction specification for subdivision (as amended) and to the satisfaction of the roads authority. Engineering details shall be submitted in conjunction with the CC application for approval, to the roads authority. Where the works are within an existing dedicated road reserve, the Section 138 Roads Act Permit to Carry Out Works permit is to be obtained from Council by the applicant prior to other CC's being issued by the PCA (subdivisions) for works under the EP&A Act.
19. All lots are to be designed to have a continuous fall of minimum 1%. The fall is to be to the front and continuous across the footpath wherever practicable.
20. Lots are to be designed with a minimum 150mm of top soil required over all lots and footpaths.
21. Erosion and sediment control measures shall be designed in accordance with the requirements of Liverpool DCP and Council specifications, and to the satisfaction of the PCA. Approved measures shall be implemented prior to commencement and maintained during construction and until all disturbed areas have been revegetated and established to the satisfaction of the PCA.
22. The applicant is to provide a road lighting design plan for the development with due consideration given to all areas operating characteristics, proposed traffic management devices and intersections including all works within the road reserve and adjoining public spaces. The applicant shall request from Council's Transport Planning Section, the appropriate lighting subcategories required for the

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development. The lighting subcategory provided to the applicant from Council will be consistent with the requirements of Australian Standard AS/NZS 1158 – Road Lighting.

The design shall be prepared by a level 3 service provider (listing of accredited providers may be obtained from the Ministry of Energy and Utilities, telephone 9901 8816).

On completion of the road lighting design plans, the plans and a schedule of annual charges shall be forwarded to Council's Transport Planning Section for their acceptance of the ongoing maintenance charges. These plans shall include a statement by the designer certifying that the design meets Council's specification and all requirements of AS/NZS 1158. CC's for the development shall not be issued prior to Council providing this letter of acceptance.

This letter of acceptance and approved plans shall then be submitted to Integral Energy for their approval and certification for connection to their public lighting network.

Subdivision Certificate/OC shall not be issued prior to Council receiving a compliance certificate from Integral Energy stating that the applicant has made the necessary arrangements with Integral Energy for the provision of the approved public lighting works.

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.
24. The traffic movements should be restricted to left turns only at the water management median street cross intersections with Kingsford Smith Avenue.
25. Design plans for the required treatments for the proposed intersections on Kingsford Smith Avenue and Hitchens Street are to be submitted to Council for review/approval prior to the issue of the construction certificate and the required treatments are to be implemented prior to the release of the subdivision certificate.
26. The developer must provide detailed plans of access by means of bicycle, walking and vehicles as per Master Plan.

Landscape Plan

27. A detailed landscape plan prepared by a suitably qualified person is to be submitted to the PCA prior to the issue of any CC. The detailed landscape plan is to incorporate street tree plantings in accordance with Part 2.5 of Liverpool Development Control Plan 2008.

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C. PRIOR TO WORKS COMMENCING

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

28. 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.
29. 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

30. 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.
31. 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.

Facilities

32. 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*.

Site Notice Board

33. 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

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- (c) Unauthorised entry to the premises is prohibited.

Waste Classification

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

Environmental Management

35. 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) Selection of traffic routes to minimise residential noise intrusions;
 - (d) Soil and sediment control measures;
 - (e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
 - (f) Community consultation.
36. 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.

D. DURING CONSTRUCTION

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

Hours of Construction Work and Deliveries

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37. 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.

Security Fence

38. 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.

General Site Works

39. 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.
40. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
41. 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.
42. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

Erosion Control

43. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.
44. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
45. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

Water Quality

46. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road

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surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

47. 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.

Contamination

48. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
- (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
 - (b) clearly indicate the legal property description of the fill material source site;
 - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
 - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
 - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.
49. Records of the following must be submitted to the principal certifying authority monthly and at the completion of earth works:
- (a) The course (including the address and owner of the source site), nature and quantity of all incoming loads including the date, the name of the carrier, and the vehicle registration;
 - (b) The results of a preliminary contamination assessment carried out on any fill material used in the development.
 - (c) The results of any chemical testing of fill material.

Site Remediation Works

50. Remediation and validation works must be carried out in accordance with remediation plans prepared by Douglas Partners, Ref: 40578 & 40578.01. Any variation to the proposed remediation works must be approved in writing by Council or the PCA prior to the commencement of these works. The applicant must inform Council or the PCA in writing of any proposed variation to the remediation works. Council or the PCA must approve these variations in writing prior to commencement of works approved under the development consent.

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Air Quality

51. 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.
52. 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

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

E. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

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

General

54. Two(2) copies, both marked up in red of a "Work As Executed" drawing must be submitted to and approved by Council identifying all features of the physical works as set out in Council's specification for subdivision (as amended).

Engineering Work

55. The following compliance certificates will be required to be submitted with an application for a Subdivision Certificate. The list indicative only and assumes a conventional subdivision. Other compliance certificates may be required for "one off" components not covered by this list. All compliance certificates are to be submitted by the accredited certifier for the development.

(a) General Certificates:

- vi. Lodgement of Bonds
- vii. Lot Filling
- viii. Geotechnical Testing and Reporting Requirements
- ix. Service Authority Clearances
- x. Lot Classification Report

(b) Construction:

- vi. Implementation of Soil Erosion Plan (several required at appropriate stages)
- vii. Implementation of Traffic Control Plan

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- viii. Log book listing details of all inspections undertaken during construction
 - ix. String Line all roads prior to seal
 - x. Road pavement
 - Subgrade (Reduced Levels, Roller Test)
 - Each Subbase Layer (Depth, Roller Test)
 - Base Course Layer (Depth, Roller Test)
 - Wearing Course (Depth, grading)
 - Subsoil Drains
 - Service Crossings
 - (c) Pipework:
 - v. Trench Excavation (Line, Grade, Location)
 - vi. Bedding (Type, compaction)
 - vii. Pipework (before backfill)
 - viii. Backfill (compaction)
 - (d) Stormwater Pits:
 - v. Pit Base
 - vi. Walls
 - vii. Lintel sizes
 - viii. Steel reinforcement (if required)
 - (e) Kerb and Gutter:
 - v. Kerb line and level
 - vi. Concrete compaction
 - vii. Finish
 - viii. Kerb Line, level and profile.
 - (f) Footpath formed to profile
 - (g) Acoustic fence constructed as specified by the Construction Certificate
 - (h) A compliance certificate will be required to demonstrate that the site has been remediated in accordance with the Construction Certificate and the supporting contamination report. To this effect a site remediation report must be produced by an EPA accredited geotechnician, or to the satisfaction of the EPA.
 - (i) Traffic management works undertaken in accordance with construction certificate Traffic Management Plan
 - (j) Final inspection
56. Land filled in excess of 300mm to be compacted to 98% Standard dry density ratio (AS1289 E4.1). Each lot, whether filled or not, to be classified in terms of the Australian Standard for Residential Slabs and Footings (AS2870) prepared by a NATA registered soil testing consultant. Where the lot classification is H, a restriction will be required on the title of that lot that special footings for any building may be required. A classification of E or P is unacceptable.

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Linen Plans and 88B Instruments

57. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.
58. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.
59. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Councils standards, codes and policy's. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.
60. Where common drainage lines or other drainage lines are required, a drainage easement shall be created in accordance with Council's minimum widths as scheduled in councils design specification for subdivisions (as amended).
61. Correct notation concerning easements is required. The prepared 88B Instrument should be forwarded initially to Council. The land value of the easement and costs associated with checking the instrument are to be borne by the applicant. Part 2 of the 88B Instrument shall contain a provision that the easement may not be extinguished or altered without the written consent of Council.
62. Prior to the issue of a Subdivision Certificate, all drainage pipes within the proposed road reserve must be inspected using a CCTV camera by an experienced operator. A copy of the video footage and a report must be submitted to Council for approval and sign off. Any defects found in the lines will need to rectified to the satisfaction of Council.
63. Temporary turning heads must be provided at the end of any dead end roads and at other locations if the road does not connect to an existing road.
64. All lots must have full dedicated public road access available to them.
65. All proposed street trees must be planted or bonded prior to the issue of a Subdivision Certificate.
66. Minimum half width road construction must be completed to the full frontage of the development site to Kingsford Smith Ave and Flynn Ave including all stormwater drainage works, kerb and footpath formation.
67. The proposed drainage channel through the site including any works required to the inlet headwall structure of the culvert must be completed in accordance with approved designs by JWP.

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68. Minimum 5.5 of road pavement must be constructed and dedicated as public road for the full length of Hitchens Street and a temporary turning facility provided to the satisfaction of the Council.
69. Amended plans must be submitted with any application for a Subdivision Certificate indicating correct street names. The road either side of the proposed Channel is Affleck Gardens with no reference to North or South.
70. The proposed Drainage channel must be dedicated to the Council as Drainage Reserve with any application for a Subdivision Certificate.
71. If a design is not in place for the proposed intersection at Kingsford Ave and Flynn Ave and the works cant be carried out, a bond must be submitted to the Council to cover the construction of the south western corner of the intersection. The bond will be calculated at the time of issue of the Subdivision Certificate.
72. All streets will be legibly signposted with street names as per Council's specification.

Site Contamination Validation Report

73. After completion of the remedial works, a copy of the Validation Report shall be submitted to the PCA. This Report shall be prepared with reference to the EPA guidelines, Consultants Reporting on Contaminated Sites, and must:
 - (a) describe and document all works performed;
 - (b) include results of validation testing and monitoring;
 - (c) include validation results of any fill imported on to the site;
 - (d) outline how all agreed clean-up criteria and relevant regulations have been complied with; and
 - (e) include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

Service Providers

74. Written evidence (Section 73 Certificate) is to be submitted to the PCA prior to the issue of the subdivision certificate.
75. Notification of arrangement for the development from Integral Energy shall be submitted to Council.
76. Compliance Certificate for the development from an approved local telecommunications carrier shall be submitted to Council.

Footpaths

77. A contribution shall be paid to Council in accordance with Council fees and charges for the construction of 1.5m wide by 75mm deep concrete path paving on one side of all residential access roads and both sides of all collector and

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distributor roads. Path paving will not be required in minor cul-de-sac with less than fifteen lots.

The path/paving will be constructed when building works within the development have been substantially completed.

Dilapidation Report

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

Bond

79. A maintenance bond in the form of a bank Guarantee or cash bond (\$TBA), shall be lodged with Council prior to the issue of a Subdivision Certificate. The bond shall cover maintenance and any damage to roads, drainage lines, public reserves or other council property or works required as a result of work not in accordance with Council's standards, and /or development consent conditions. The bond will be held by Council for a minimum period of 6 months from the date of Council acceptance of final works.

Special Infrastructure Contribution

80. The applicant is to make a special infrastructure contribution in accordance with any determination made by the Minister administering the Environmental Planning and Assessment Act 1979 under Section 94EE of that Act and is in force on the date of this consent, and must obtain a certificate to that effect from the Department of Planning (Growth Centres Commission) before a subdivision certificate, is issued in relation to any part of the development to which this consent relates.
81. Payment of Section 94 contributions is required for each stage prior to the issue of a subdivision certificate for each stage.

F. 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 6 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 6 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.

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- d) The Planning Assessment Commission has not, conducted a review of the application.
- e) These conditions are imposed to control development, having regard to 79C of the Environmental Planning and Assessment Act 1979.
- f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- g) "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 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.

- h) 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.

- i) 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.
- j) You are advised that the placement of a concrete path around your home may render your home vulnerable to termite attack. To minimise the possibility of any damage, ensure that a minimum of 75mm clearance is provided between the base of the weephole and the level of the path.
- 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 cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

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- m) Care shall be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicant's agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.

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ATTACHMENT (2)**CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT, 1979****Liverpool Contribution Plan 2009**

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

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

APPLICATION NO.: DA-66/2013 – Stage 1

APPLICANT: Ms K CHOHAILI

PROPERTY: 130 FLYNN AVENUE, MIDDLETON GRANGE NSW 2171

PROPOSAL: TWO STAGED TORRENS TITLE SUBDIVISION
CREATING 25 LOTS WITH ASSOCIATED
CONSTRUCTION OF ROADS AND DRAINAGE

Facilities	Amount (\$)	Job No.
Liverpool Contributions Plan 2009		
Central Library Extensions	\$1,030	GL.10000001870.10112
Powerhouse	\$782	GL.10000001870.10114
Whitlam Centre Extensions	\$1,518	GL.10000001869.10110
District Community Facilities - Land	\$571	GL.10000001870.10130
District Community Facilities - Works	\$6,301	GL.10000001870.10131
Local Community Facilities - Land	\$260	GL.10000001870.10128
Local Community Facilities - Works	\$4,051	GL.10000001870.10129
District Recreation - Land	\$6,903	GL.10000001869.10126
District Recreation - Works	\$5,948	GL.10000001869.10127
Local Recreation - Land	\$36,811	GL.10000001869.10123
Local Recreation - Works	\$12,788	GL.10000001869.10124
District Transport Facilities - Land	\$4,438	GL.10000001865.10121
District Transport Facilities - Works	\$12,590	GL.10000001865.10122
Local Transport Facilities - Land	\$7,082	GL.10000001865.10119
Local Transport Facilities - Works	\$21,580	GL.10000001865.10120
Local Drainage Facilities - Land	\$33,444	GL.10000001866.10116

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Local Drainage Facilities - Works	\$17,137	GL.10000001866.10117
Administration	\$1,622	GL.10000001872.10133
Professional Services	\$764	GL.10000001872.10132
Implementation	\$7,696	GL.10000001872.10134
TOTAL	\$183,316	

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

RECORD OF PAYMENT

Total Amount paid: _____

Date: _____

Receipt No.: _____ Cashier: _____

INDEPENDENT HEARING & ASSESSMENT PANEL REPORT

1 AUGUST 2013

**CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT, 1979****Liverpool Contribution Plan 2009**

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

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

APPLICATION NO.: DA-66/2013 – Stage 2

APPLICANT: Ms K CHOHAILI

PROPERTY: 130 FLYNN AVENUE, MIDDLETON GRANGE NSW 2171

PROPOSAL: TWO STAGED TORRENS TITLE SUBDIVISION
CREATING 25 LOTS WITH ASSOCIATED
CONSTRUCTION OF ROADS AND DRAINAGE

<u>Facilities</u>	<u>Amount (\$)</u>	<u>Job No.</u>
Liverpool Contributions Plan 2009		
Central Library Extensions	\$3,070	GL.10000001870.10112
Powerhouse	\$2,332	GL.10000001870.10114
Whitlam Centre Extensions	\$4,524	GL.10000001869.10110
District Community Facilities - Land	\$1,702	GL.10000001870.10130
District Community Facilities - Works	\$18,776	GL.10000001870.10131
Local Community Facilities - Land	\$774	GL.10000001870.10128
Local Community Facilities - Works	\$12,078	GL.10000001870.10129
District Recreation - Land	\$20,569	GL.10000001869.10126
District Recreation - Works	\$17,723	GL.10000001869.10127
Local Recreation - Land	\$109,751	GL.10000001869.10123
Local Recreation - Works	\$38,126	GL.10000001869.10124
District Transport Facilities - Land	\$13,227	GL.10000001865.10121
District Transport Facilities - Works	\$37,525	GL.10000001865.10122
Local Transport Facilities - Land	\$21,115	GL.10000001865.10119
Local Transport Facilities - Works	\$64,341	GL.10000001865.10120
Local Drainage Facilities - Land	\$108,094	GL.10000001866.10116
Local Drainage Facilities - Works	\$55,374	GL.10000001866.10117
Administration	\$4,865	GL.10000001872.10133

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Professional Services	\$2,293	GL.10000001872.10132
Implementation	\$23,089	GL.10000001872.10134
TOTAL	\$559,349	

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RECORD OF PAYMENT

Total Amount paid: _____

Date: _____

Receipt No.: _____ Cashier: _____