

# COUNCIL AGENDA ADDENDUM

ORDINARY COUNCIL MEETING

29 May 2024

## ADDENDUM ITEMS

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**To:** The Mayor and Councillors  
**Cc:** Executive Management Team  
**From:** William Attard, Manager Development Assessment  
**Date:** 24 May 2024  
**Subject:** PLAN 02 - Quarterly Report – Clause 4.6 Variations to Development Standards – Incorrect Attachment Published  
**Reference:** 114980.2024

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For the information of the Mayor and Councillors.

A Quarterly Report on the Clause 4.6 Variations to Development Standards approved for the period of January to March 2024 is being presented to Council at the 29 May 2024 Council Meeting (PLAN 02). The report recommends that Council receives and notes the report.

Following review of the published Council Agenda, the incorrect Clause 4.6 Variation Register attachment has been found to have been published. Please find attached the correct Clause 4.6 Variation Register.

Apologies for any confusion caused.

If you have any further enquiries in relation to the above, please do not hesitate to contact me.



**William Attard**  
Manager Development Assessment

**Attachments**

1. Clause 4.6 Variation Register

**PLAN 02**

**Quarterly Report - Clause 4.6 Variations to  
Development Standards**

<b>Strategic Objective</b>	Liveable, Sustainable, Resilient Deliver effective and efficient planning and high-quality design to provide best outcomes for a growing city
<b>File Ref</b>	114980.2024
<b>Report By</b>	William Attard - Manager Development Assessment
<b>Approved By</b>	Lina Kakish - Director Planning & Compliance

**EXECUTIVE SUMMARY**

The Department of Planning and Environment (DPE) Planning Circular PS 20-002 requires a quarterly report be tabled at a Council meeting for information only, which outlines Development Applications that have been determined by the Sydney Western City Planning, the Liverpool Local Planning Panel, or by planning officers under delegated authority; where there was a variation to a Development Standard pursuant to Clause 4.6 of the respective Environmental Planning Instrument.

Council also simultaneously publishes the variations to Council's website.

There were five (5) development applications approved in the last reporting quarter with a Clause 4.6 variation

**RECOMMENDATION**

That Council receives and notes this report.

**REPORT**

Clause 4.6 of the Standard Instrument permits a consent authority to consider Development Applications that do not comply with specified Development Standards contained within the Liverpool Local Environmental Plan 2008 (LEP) or other Environmental Planning Instruments, such as State Environmental Planning Policies. This is a common rule that applies to all Councils across NSW.

Generally, a Development Standard is a requirement of an Environmental Planning Instrument that has a numerical value. Common development standards include Height of Building,

Minimum Lot Size and Floor Space Ratio. Development Control Plan numerical values are not development standards.

Clause 4.6 is common to all standard instrument LEPs across all NSW Councils. The objectives of the Clause are:

- To provide an appropriate degree of flexibility in applying certain Development Standards to development, and
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Planning Circular PS20-002 specifies how Councils throughout NSW can use and interpret the Clause. The Circular also contains information about reporting requirements. For example, Council is required to report its (or the Local or Regional Panel's) use of Clause 4.6 on Council's website on a quarterly basis.

To ensure transparency and integrity in the planning framework, and consistency with Planning Circular PS 20-002, quarterly reporting to a Council meeting is also required.

The Clause 4.6 Variation Register for the quarter between January to March 2024 is provided within **Attachment 1** for the information of the Council and community.

## **FINANCIAL IMPLICATIONS**

There are no financial implications relating to this recommendation.

## **CONSIDERATIONS**

<b>Economic</b>	There are no economic and financial considerations.
<b>Environment</b>	There are no environmental and sustainability considerations.
<b>Social</b>	There are no social and cultural considerations.
<b>Civic Leadership</b>	There are no civic leadership and governance considerations.
<b>Legislative</b>	This report fulfils Council's obligation with Planning Circular PS 20-002.
<b>Risk</b>	There is no risk associated with this report.

## **ATTACHMENTS**

1. Clause 4.6 Variation Register

**ITEM 1 – DA-639/2021 - Lot 231 Changsha Road, Edmondson Park**

<b>DA Number:</b>	DA-639/2021
<b>Property Address:</b>	Lot 231 Changsha Road, Edmondson Park Lots 231 DP 1287558
<b>Development Category:</b>	Residential
<b>Description:</b>	The construction of two x 4-storey residential flat buildings comprising 39 residential apartments, with one level of basement car parking, and associated landscaping and site works.
<b>Environmental Planning Instrument:</b>	Liverpool LEP 2008
<b>Zoning of Land:</b>	R1 – General Residential and SP2 – Infrastructure (Local Road)
<b>Development Standard Varied:</b>	Clause 4.3 – Height of Buildings
<b>Justification of Variation:</b>	<p>The variation to the maximum Height of Buildings development standard was considered acceptable in this instance as strict compliance was unlikely to reduce any impacts. The height variation does not negatively impact on the local area in terms of additional overshadowing or detrimental impact to the design of the building. Further, the additional height is not contributing to any detrimental increases in bulk and scale over the site including compliance with the floor space ratio provisions for the development. Additionally, the height exceedance allows for an added amenity for the residents of the building by having a better communal open space area on the rooftop and sufficient floor to floor heights.</p> <p>The objectives of Clause 4.3 as well as the R1 General Residential zone are upheld as a result of the development.</p> <p>The maximum height of buildings is 15m. The maximum height approved as part of this DA is 16.83m to the lift overrun. This equates to a variation of 1.83m / 12.2% to the development standard.</p>
<b>Extent of Variation:</b>	1.83m / 12.2%
<b>Concurring Authority:</b>	Local Planning Panel under assumed concurrence
<b>Date Determined:</b>	20 February 2024

## ITEM 2 – DA-120/2023 – 7-9 Sutton Road, Ashcroft

<b>DA Number:</b>	DA-120/2023
<b>Property Address:</b>	7-9 Sutton Road, Ashcroft Lots 176 & 177 DP 216017
<b>Development Category:</b>	Residential
<b>Description:</b>	Demolition of existing structures, partial tree removal and construction of a six-storey residential flat building comprising 21 units with two levels of basement carparking, associated landscaping and civil works. The application is identified as affordable housing under State Environmental Planning Policy (Housing) 2021.
<b>Environmental Planning Instrument:</b>	Liverpool LEP 2008
<b>Zoning of Land:</b>	R4 – High Density Residential
<b>Development Standard Varied:</b>	Clause 4.3 – Height of Buildings
<b>Justification of Variation:</b>	<p>The variation to the maximum Height of Buildings development standard was considered acceptable in this instance as strict compliance was unlikely to reduce any impact and it is argued the height variation provides improved amenity for future residents and does not negatively impact on the local area in terms of additional overshadowing or determinantal impact to the design of the building. Further, the additional height is not contributing to any detrimental increases in bulk and scale over the site including compliance with the floor space ratio provisions for the development. The increase in the height proposed ensures that better amenity can be provided to the future occupants of the buildings with sufficient floor to floor heights being maintained, which allows for the minimum floor to ceiling heights to be achieved as well as space for services between floors.</p> <p>The objectives of Clause 4.3 as well as the R4 High Density Residential zone are upheld as a result of the approved development. The development was not contrary to the public interest and was therefore supported in this instance.</p> <p>The maximum height of buildings is 18m. The maximum height approved as part of this DA is 19m to the lift overrun. This equates to a variation of 1m / 5.55% to the development standard.</p>
<b>Extent of Variation:</b>	1m / 5.55%
<b>Concurring Authority:</b>	Local Planning Panel under assumed concurrence
<b>Date Determined:</b>	25 March 2024



**ITEM 3 – DA-23/2023 – 2-3 Wilga Close, Casula**

<b>DA Number:</b>	<b>DA-23/2023</b>
<b>Property Address:</b>	2-3 Wilga Close, Casula Lots 82 & 83 DP 244786
<b>Development Category:</b>	Residential
<b>Description:</b>	Alterations to the upper level of an approved residential flat building (DA-1305/2021) involving the construction of three additional units above the fourth storey to be provided as affordable rental housing under SEPP (Housing) 2021, minor façade changes, the addition of nine carparking spaces, rearrangement of the basement carpark and a modification to the approved communal open space.
<b>Environmental Planning Instrument:</b>	Liverpool LEP 2008
<b>Zoning of Land:</b>	R4 – High Density Residential
<b>Development Standard Varied:</b>	Clause 4.3 Height of Buildings
<b>Justification of Variation:</b>	<p>The variation to the maximum Height of Buildings development standard was considered acceptable in this instance as strict compliance was unlikely to reduce any impacts. The height variation does not negatively impact on the local area in terms of additional overshadowing or detrimental impact to the design of the building. Further, the additional height is not contributing to any detrimental increases in bulk and scale over the site including compliance with the floor space ratio provisions for the development. Additionally, the height exceedance allows for an added amenity for the residents of the building by having a better communal open space area on the rooftop and sufficient floor to floor heights.</p> <p>The objectives of Clause 4.3 as well as the R4 High Density Residential zone are upheld as a result of the approved development. The development was not contrary to the public interest and was therefore supported in this instance.</p> <p>The maximum height of buildings is 15m. The maximum height approved as part of this DA is 16.2m to the lift overrun. This equates to a variation of 1.2m / 8% to the development standard.</p>
<b>Extent of Variation:</b>	1.2m / 8% of the development standard
<b>Concurring Authority:</b>	Local Planning Panel under assumed concurrence
<b>Date Determined:</b>	25 March 2024





**CFD 02**

**Public Hearing Report - Plan of Management  
Hammondville Park**

<b>Strategic Direction</b>	Healthy, Inclusive, Engaging Improve liveability and quality of life for the community by delivering vibrant parks, places and facilities
<b>File Ref</b>	159228.2024
<b>Report By</b>	Mark Taylor - Social Infrastructure Planner
<b>Approved By</b>	Shayne Mallard - Director City Futures

**EXECUTIVE SUMMARY**

In August 2023 Council resolved to place the Draft Hammondville Park Plan of Management (PoM) on public exhibition.

The Draft Plan of Management was placed on public exhibition from 28 November 2023 to 16 January 2024.

Under Section 40A of the Local Government Act 1993, Council was required to hold a public hearing due to the proposed re-categorisation and use of the Community land in the Plan of Management. Ten people attended the public hearing regarding the proposed re-categorisation of parts of Hammondville Park.

Feedback on the proposed recategorisation of parts of Hammondville Park was received via community members who attended the public hearing, and the twenty-four written submissions received.

The public hearing report is presented in full to Council for its information, along with the final PoM for endorsement. It is recommended Re-categorise parts of Hammondville Park according to the proposed categorisation map which was publicly exhibited.

**RECOMMENDATION**

That Council:

1. Notes the Hammondville Park Public Hearing Report;
2. Supports the exhibited Categorisation including General Community Use for the proposed areas reflecting the Hammondville Park Masterplan layout; and
3. Endorses the Hammondville Park Plan of Management for the purpose of adoption and implementation, in accordance with the provisions of Section 38 of the *Local Government Act 1993 (LG Act)*

## **REPORT**

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### **Background**

All Community land managed by Council and used by the community, must have a Plan of Management (PoM), as required under the Local Government Act 1993 (LG Act).

The draft PoM for Hammondville Park reflects the proposed re-categorisation of community land due to the completed Hammondville Park Leisure Precinct Masterplan. Council is also planning for a new aquatic centre and leisure precinct to be developed on site. Upon adoption, this PoM will supersede the 2003 Hammondville Park PoM.

Hammondville Park is primarily an area of active open space comprising several sporting facilities, including a rugby league field, 4 soccer fields, 5 netball courts, 2 cricket fields, and senior and junior baseball diamonds. Associated car parking areas and amenities such as toilets, change rooms, clubhouses, and a grandstand support sporting activity.

Hammondville Park also has an informal parkland area for passive recreation, with a new children's playground and outdoor fitness equipment hub, and associated seating and shelter. Informal walking paths along the edge of the sporting fields above Harris Creek and along the northern boundary, and internal vehicle accessways allow circulation around and within the park. Riparian vegetation lines Harris Creek on the eastern and north-eastern boundaries of the reserve.

### **Public Hearing**

Under Section 40A of the Local Government Act 1993, Council was required to hold a public hearing due to the proposed re-categorisation and use of the Community land in the Plan of Management.

A public hearing is required under Section 40A of the Local Government Act 1993 if:

- a Plan of Management proposes to categorise (that is, the Plan has not been previously prepared and adopted by Council or has not categorised Community land) the public land covered by the Plan of Management.
- a Plan of Management proposes to re-categorise (changing the adopted category) the public land covered by the Plan of Management.

Public hearings regarding categorisation or re-categorisation of community land are not related to reclassification. Reclassification is when community land is re-classified as operational land that can then be managed differently and has the ability to be sold by Council. Community land is protected under the Local Government Act 1993 and cannot be sold.

## Land Categorisation

The Hammondville Park Plan of Management outlines the categorisation, purpose and intended use of the land. The Hammondville Park precinct identifies different Council land categories to support the intended use. The LG Act specifies that all community land is required to be categorised according to the future use and management of the land.

Under the LG Act community land is categorised as either:

- Natural Area – subcategorised as Bushland, Wetland, Watercourse, Foreshore, Escarpment
- Park
- Sportsground
- Area of Cultural Significance
- General Community Use

The guidelines for categorising community land are in Clauses 102 to 111 of the **Local Government (General) Regulation 2021**. Each site must be managed and maintained according to the reserve's purpose and captured in the PoM. The categorisation of Hammondville Park adopted in 2003 does not match the current Hammondville Park Leisure Precinct Masterplan. Council proposes to recategorise parts of the community land in Hammondville Park as Sportsground, Park, General Community Use, Natural Area-Bushland and Natural Area-Wetland as shown in Figure 1 below which is consistent with the guidelines and core objectives for each category, and with the Draft Masterplan for the Hammondville Park Leisure Precinct.

The proposed changes to the categorisation of Hammondville Park are to:

- add the General Community Use category to apply to the proposed grandstand, aquatic fitness and community hub, and the boundary between the park and the Moorebank Sports Club.
- change the boundary of the Park category to reflect the recent children's play space and outdoor gym, the informal grassed spaces between the sporting facilities and on the boundary of the park, and the proposed path on the eastern side of the cricket/rugby league fields.
- remove the operational land from the categorisation map.



**Figure 1** Proposed re-categorisation of Hammondville Park

**Public exhibition and hearing**

As per the *Local Government Act 1993* requirements, the following forms of engagement were conducted to inform the community of the changes in categorisation, the draft Plan of Management and public hearing:

- Draft Plan of Management placed on public exhibition on Council’s public exhibition web page from the 28 November 2023 to the 16 January 2024.
- Draft Plan of Management webpage created for Hammondville Park on Council’s Liverpool Listens website on the 28 November 2023, with a project overview, information regarding the re-categorisation of land and public hearings.
- Online survey on Council’s public exhibition and Liverpool Listens web page active from 28 November 2023 to the 16 of January 2024.
- Two social media posts on Council’s Instagram page on the 27 November 2023 and the 5 December 2023.
- Two social media posts on Council’s Facebook page on the 27 November 2023 and the 5 December 2023.
- Council also notified park users and the community about the public hearing by posting and distributing flyers at Mayors Forum in Wattle Grove on 27 November 2023, Moorebank Sports Club (Sporties), Holsworthy Early Childcare Centre and Moorebank Library and Community Centre.
- Public hearing held on 11 of December 2023.

The public hearing was conducted by an independent Chairperson regarding the proposed re-categorisation of part of the community land owned by Council. The Chairperson presented the proposed re-categorisation of the community land in Hammondville Park as Sportsground, Park and General Community Use, Natural Area- Watercourse and Natural Area-Wetland for review and feedback.

The Public Hearing Report, provided by the Chairperson was placed on Council’s website on within four business days of receipt, as per the LG Act.

Clause 114 of the **Local Government (General) Regulation 2021** states that if Council receives any submission objecting to the proposed categorisation of land, and the Council adopts the categorisation without amending the categorisation that gave rise to the objection, the resolution by which Council adopts the categorisation must state the Council’s reasons for categorising the relevant land in the manner that gave rise to the objection. In this case, three submissions that did not agree with the proposed recategorisation were received by Council.

If Council wishes to proceed with the proposed recategorisation as publicly exhibited, it must state its reasons for doing so in its resolution to adopt the proposed recategorisation of Hammondville Park. The table below includes the 3 objection submissions, Officer comments and any recommended changes are included.

Submission Reasons	Council Comment	Recommended changes exhibited to Categorisation
<p>1. Funding issues</p> <p><b>Please tell us Why?</b></p> <p>Council is pulling the wool over the eyes of the ratepayers by not telling us up front ...going to sell other community assets to fund the vision!!</p>	<p>The categorisation process has no relevance to funding of improvements The works proposed in the Masterplan and Plan of Management are subject to the availability of funding in Councils Capital Works program and funding arrangements.</p>	<p>No change to the Categorisation is required based on funding.</p>
<p>2. Too expensive and existing infrastructure already in place.</p> <p><b>Please tell us Why?</b></p> <p>Keep it as is. Too many infrastructure changes already and keep it all natural.</p>	<p>The categorisation process has no relevance to funding of improvements.</p> <p>The works proposed in the Masterplan and Plan of Management are subject to the availability of funding in Councils Capital Works program and funding arrangements.</p> <p>Existing natural areas and waterways are categorised to be retained.</p>	<p>No change to the Categorisation is required based on the cost.</p> <p>Natural areas and waterways are already categorised.</p>



<p>3. A child care centre next to a licenced club, and on the wrong side of a motor road is not appropriate</p> <p><b>Please tell us Why?</b></p> <p>General Community use altos seriously degrade the cricket and footy field.</p>	<p>The childcare is included in the masterplan as part of the integrated Community hub.</p> <p>The General Community Use category best fits the proposed areas identified for the public recreation and the physical, cultural, social, and intellectual welfare or development of individual members of the public.</p> <p>The cricket and football fields are categorised as Sportfield, the masterplan includes improvements to the fields and facilities.</p>	<p>No change to the categories is recommended. The proposed categories are consistent with the approved masterplan and best reflect the existing and proposed community use.</p>
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The Chairperson’s recommendations to Liverpool City Council are that Council:

1. Note the submissions made at the public hearing as set out in Section 5 of the public hearing report.
2. Re-categorise parts of Hammondville Park according to the proposed categorisation map which was publicly exhibited.

**Next steps**

- Re-categorisation of the Community land in Hammondville Park will be established through the adoption of Hammondville Park Plan of Management (PoM).
- Implementation of the Plan of Management by Council, including leasing and licensing agreements and ensuring that activities taking place in the park are consistent with the Plan of Management.

**FINANCIAL IMPLICATIONS**

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There are no direct financial implications for Council in adopting the draft Plan of Management for Hammondville Park. All improvements are included for consideration in the Delivery and Operational Plan and Capital Works budgets.

**CONSIDERATIONS**

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<p><b>Economic</b></p>	<p>Funds are required for development of new or (to be) updated of Plans of Management to ensure Council is compliant to LG Act and Crown Land Management Act.</p>
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<p><b>Environment</b></p>	<p>Manage the environmental health of waterways.</p> <p>Protect, enhance and maintain areas of endangered ecological communities and high-quality bushland as part of an attractive mix of land uses.</p>
<p><b>Social</b></p>	<p>Preserve and maintain heritage, both landscape and cultural as urban development takes place.</p> <p>Support community organisations, groups and volunteers to deliver coordinated services to the community.</p>
<p><b>Civic Leadership</b></p>	<p>Provide information about Council’s services, roles and decision-making processes.</p> <p>Deliver services that are customer focused.</p> <p>Operate a well-developed governance system that demonstrates accountability, transparency and ethical conduct.</p>
<p><b>Legislative</b></p>	<p><b><i>Local Government Act 1993</i></b></p> <p>Division 2 – Use and Management of Community Land</p> <p style="padding-left: 40px;">Section 36 – Preparation of draft Plans of Management for Community Land</p> <p style="padding-left: 40px;">Section 38 – Public notice of draft Plans of Management</p> <p style="padding-left: 40px;">Section 40 – Adoption of Plans of Management</p> <p style="padding-left: 40px;">Section 44 – Use of Community Land pending adoption of Plan of Management</p> <p><b><i>Local Government (General) Regulations 2021</i></b></p>
<p><b>Risk</b></p>	<p>Immediate risks are deemed to be low in relation to Hammondville Park, but the updated Plan of Management is required to support current future uses and user groups and renewal of lease and licence agreements.</p>

**ATTACHMENTS**

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1. Hammondville Park - Public Hearing Report
2. Hammondville Park Plan of Management



















































































































































































































































































































































