

JRPP No:	2009SYW011
DA No:	X/773/2009
PROPOSED DEVELOPMENT	Additions and alterations to an existing tourist facility (Hydro Majestic Hotel) on Lot 8 to Lot 22 DP 2450, Lot 1 DP 133407, Lot 20 DP 25570, Lot 2 DP 334630, Lot 2 DP 133410, Lot 134 DP 751657, Lot D DP 413431, Lot 1 DP 113904, Hydro Majestic Hotel, 52-88 Great Western Highway, Medlow Bath
APPLICANT:	Hydro Majestic Hotel Pty Ltd
REPORT BY:	William Langevad, Blue Mountains City Council

Assessment Report and Recommendation

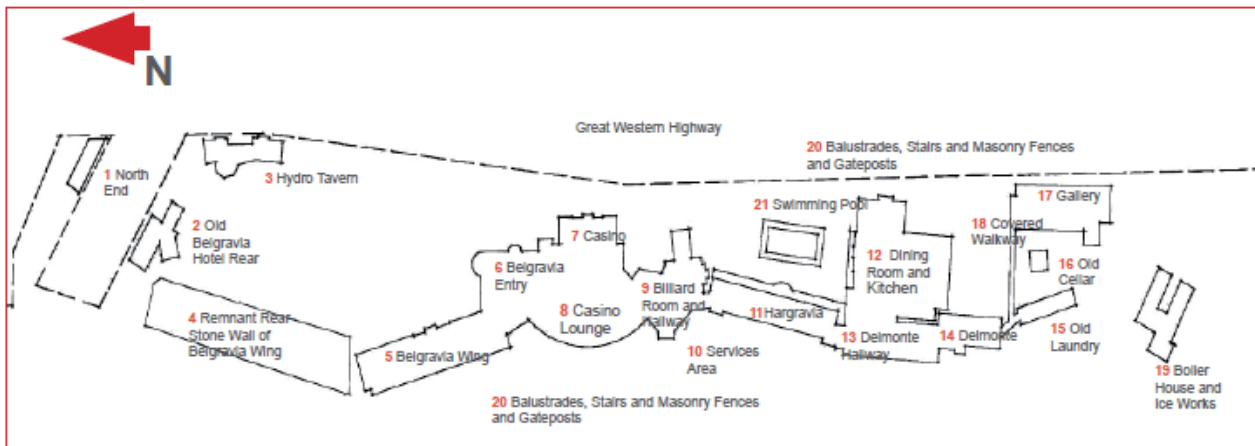
Recommendation:

That the Development Application No. X/773/2009 for additions and alterations to an existing tourist facility, the Hydro Majestic Hotel, on Lots 8 - 22 DP 2450, Lot 1 DP 133407, Lot 20 DP 25570, Lot 2 DP 334630, Lot 2 DP 133410, Lot 134 DP 751657, Lot D DP 413431, Lot 1 DP 113904, 52-88 Great Western Highway, Medlow Bath be determined pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.

Disclosure	Disclosure of any political donation and / or gift – Yes / No (add details)
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Report by Acting Group Manager, Environmental and Customer Services

Reason for report	The application is referred to the Joint Regional Planning Panel for determination as the development application is subject to Part 3 (Regional Development) of <i>State Environmental Planning Policy (Major Development) 2005</i> as the development has a capital investment value of more than \$10 million
Applicant	Hydro Majestic Hotel Pty Ltd
Owner	Majestique Holdings Pty Ltd
Application lodged	11 September 2009
Property address	Hydro Majestic Hotel, 52-88 Great Western Highway, MEDLOW BATH NSW 2780



Site plan – Current configuration of buildings at the Hydro Majestic
(Source: *Hydro Majestic Conservation Management Plan July 2010*).

Site description

The subject site consists of 22 allotments of land located on the western side of the Great Western Highway with 18 of the allotments having a direct highway frontage. The total property area is approximately 91.5 hectares, with the subject site extending west over the edge of the escarpment and into the Megalong Valley. Existing development on the site is located along the site's eastern portion between the highway and the top of the escarpment. The existing tourist accommodation building extends for approximately 400 metres north-south along the site and consists of an eclectic mix of approximately 17 co-joined buildings and associated facilities. The site has been developed incrementally since the late 19th Century, with each cycle of development seeing some of the earlier structures either altered, extended or demolished.

Development in the surrounding area is largely characterised by residential-scale dwellings. In addition to the surrounding residential development there is a service station directly to the south of the site and a car sales yard to the north. The Blue Mountains Railway Line runs parallel to the site on the opposite side of the Great Western Highway.

Background

Until recently the Hydro Majestic operated as a hotel and conference centre, with 84 accommodation rooms. However, despite numerous refurbishment schemes, the hotel had become increasingly outdated, with some of the earlier schemes creating difficult-to-resolve functional problems. The current application broadly identifies these issues and functional inadequacies as follows:

- Unresolved building junctions
- Poor entrance/foyer areas
- Inadequate/outdated facilities
- Poor accessibility both between floors as well as across adjoining buildings
- Inadequate and unviable accommodation rooms
- Poor access to valley views
- Unsuitable dining and conference facilities
- Inadequate on-site carparking facilities

- Decayed and inconsistent interiors
- Inadequate bush fire protection
- Significant non-compliance with Building Code of Australia.

The owner undertook a pre-lodgement meeting process with Blue Mountains City Council to discuss the best approach to resolving the identified inadequacies, with the following noted as key requirements:

- Heritage Impact Assessment
- Permissibility (Zoning, Existing Use provisions and Heritage Incentive)
- Historic effluent disposal, reticulated sewerage issues
- Appropriate bushfire protection measures
- Requirement for off-street car parking facilities
- Need to preserve/restore historic landscape setting
- Need for appropriately sited on-site stormwater detention
- Conflicting asset protection zone requirements and flora and fauna objectives
- Escarpment visibility

During June 2009, the current owners met again with Blue Mountains City Council to discuss final concept designs for the site. It is the outcome of these discussions that form the basis for the current application being assessed in this report.

Proposal

The proposed development intends to create a number of operational zones across the site to cater for different markets and functional requirements. These operational zones can be summarised as follows:

- Northern End Building – Maintenance purposes
- Hydro Tavern – gym facilities (resident guests only).
- Belgravia Entry, Belgravia Wing, Remanent Belgravia Wing
Old Belgravia – Accommodation rooms, spa facilities
- Billiard Room, Casino Foyer, Casino Lounge – Fine Dining (access for resident guests as well as the public)
- Dining Room, Delmonte, Delmonte Hallway, Hargravia (upper level) - conference and function facilities as well as accommodation rooms
- Old Boiler House – public café and day trippers
- Total of 110 accommodation rooms
- Total of 259 onsite car parking spaces

Whilst a significant amount of the proposed development involves the repair, refitting and/or reconfiguration of existing buildings, significant alterations are proposed in particular buildings or areas. Whilst the work is described more fully later in this report, a summary is provided below. The building numbers referred to relate to the numbering of existing building adopted in Site Plan above. This referencing to the building numbers will be used, as necessary, throughout this report.

Building 4 (Remanent Belgravia Wing) Construct new accommodation wing (Mark Foy Building), retain and reuse remnant stone wall.

Building 5 (Belgravia Wing) Retain entrance tower, staircase and hall fabric, demolish and redevelop accommodation rooms.

Building 6 (Belgravia Entry) Adapt western façade and provide lift access.

Building 7 (Casino) Adapted as main entrance/foyer area.

Building 8 (Casino Lounge) Replace non-sympathetic façade.

Building 9 (Billiard Room and Hallway) Extension to western elevation, new kitchen area, remove enclosure, repair degraded eastern parapet.

Building 11 (Hargravia) Remove eastern enclosure, service corridor to be developed under floor level.

Building 12 (Dining Room and Kitchen) Remove service structures, redevelop kitchen area, new external steps.

Building 13 (Delmonte Hallway) Remove services structures, expose original colonnade, new landscaped courtyard.

Building 14 (Delmonte) Adapt as conference lobby, reinstate western staircase and balcony, clad external fire stair.

Buildings 15-18 Buildings to be demolished, new conference/function facilities and vehicular drop-off area to be constructed.

Building 19 (Boiler House and Ice Works) Altered to allow visitor facilities, gallery and public cafe.

A copy of the plans showing the site area and extent of the proposed development are provided in Attachment 2 to this Report.

Environmental Planning Instruments

Local Environmental Plan 2005 (LEP 2005)

Local Environmental Plan 1991 (LEP 1991)

Drinking Water Catchments Regional Environmental Plan 1 (DWCREP 1)

State Environmental Planning Policy Infrastructure (SEPPINF)

Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River (SREP 20)

Development plans control

Better Living Development Control Plan (BLDCP)

Development Control Plan 35 – Community Consultation for Land Use Management (DCP 35)

Notification

The application was lodged with Council on 11 September 2009 and was on notification from 23 September 2009 until 26 October 2009. Notification included an advertisement in the local paper and a sign on site as well as a letter to property owners in the vicinity. A total of three submissions were received as a result of this notification process.

During the initial assessment phase of the application, a number of issues were identified and discussed with the applicant, which resulted in a set of amended plans being lodged with Council. These amended plans and related documentation was subject to further notification from 5 May 2010 until 4 June 2010.

A total of three further submissions were received in response to this subsequent notification process.

Evaluation

The application has been assessed in accordance with Section 79C (Evaluation) of the *Environmental Planning and Assessment Act 1979* ("the Act"). A commentary on the assessment of the development against the Section 79C evaluation matters has been detailed in this report for the consideration of the Joint Regional Planning Panel.

Issues

The "resident issues" identified below includes issues that were raised during both the initial and further notification periods.

Resident issues

- a. Flora and Fauna study not during ideal time of year.
- b. Significant adverse impact between escarpment area and bushfire hazard reduction.
- c. Loss of views to the escarpment from the highway.
- d. Impact from impervious parking area.
- e. Should seek comments from Local Traffic Committee and Sydney Regional Advisory Development Committee.
- f. Does not address RTA's Guide to Traffic Generating Development.
- g. Location of southern car parking area to adjoining residential properties (visibility).
- h. Vehicular light reflection into the escarpment area.
- i. Work proposed on walking track and Vegetation Management Areas that cross onto private property not subject to this application.
- j. The weed removal program in the VMP is more onerous than that used by National Parks.
- k. Need for appropriate boundary fences and ongoing maintenance of adjoining ground.
- l. Size of new wing (tennis courts) minimises visibility of ruins and escarpment views beyond.
- m. Stair nodes (new wing) obscures visibility of ruins.
- n. Site should be considered as a "State Heritage" listed item and referred to the Heritage Branch.

1.0 SECTION 79C(1)(a) – STATUTORY PROVISIONS

The proposed development site straddles five land use zones and is subject to the provisions of two Local Environmental Plans (LEPs), being LEP 2005 and LEP 1991. For the purposes of this assessment report, the components of the development have been divided into five areas, which coincide with the five zones as follows:

- Area A. The bulk of the existing and proposed buildings, main landscaping areas and on-site car parking, except as otherwise indicated. Area A is zoned “Village-Tourist” Zone (LEP 2005).
- Area B. The majority of the southern car park, as well as the Northern End (building 1). Area B is zoned “Living - Bushland Conservation” zone (LEP 2005).
- Area C. The western (rear) half of the Boiler House (building 19), some access ways and a small portion of the southern car park area. Area C is zoned “Bushland Conservation” zone (LEP 1991).
- Area D. The entire Delmonte Hallway (building 13) and Delmonte (building 14) along with the rear 0 to 3 metres of the Casino Lounge (building 8), Belgravia Wing (building 5) and Mark Foy Wing (building 4). Area D is zoned “Environmental Protection” (EP) zone (LEP 1991).
- Area E. The eastern 0 to 5 metres of the existing/proposed development site. Area E is zoned “Regional Transport Corridor” zone (LEP 2005).

Two maps have been provided as Attachment 3 to this report, which show the layout of the subject site in terms of the above identified areas and the relevant zones. Development in Areas A, B and E are subject to LEP 2005, with the remaining Areas C and D subject to LEP 1991. Each area will be addressed in turn under the “1.1 Local Environmental Plan 2005” and “1.2 Local Environmental Plan 1991” sections below.

1.1 Local Environmental Plan 2005

The proposed development (Areas A, B and E), has been assessed against the provisions of LEP 2005, with significant matters commented on in the following table.

Clause	Standard	Proposed	Compliance
cl. 9	Consideration before development consent	The development satisfactorily complies with the aims, principles, locality provisions and the assessment requirements relevant to the development.	Yes
Div. 2 Part 1	Planning principles	<p>The primary objectives of this plan are concerned with maintaining the unique identity and values of the City being within a World Heritage National Park. The objectives seek to meet the needs of residents, as well as those of visitors to the area and the business community. This is achieved through an appropriate balance of land uses and built forms that follow the broad principles of ecologically sustainable development.</p> <p>In relation to this proposal, the specific relevant objective includes the need to strengthen the local economic base, which includes tourism as an important element. Also relevant is the need to protect local amenity and character. The subject site is not only an important historic</p>	Yes

		<p>tourist related business but also provides an iconic landmark group of buildings for the Blue Mountains region as a whole.</p> <p>The proposal is considered to comply with the planning principles of LEP 2005 with relevant principles and objectives considered within the assessment process, and consequently incorporated into the discussions contained within the body of this report</p>	
cl.20	Zone objectives Village Tourist	The relevant objectives of this zone include the development of a variety of tourist related land uses and consolidation of major tourism precincts. This includes consideration of landscape and streetscape character as well as building form and amenity.	Yes
cl.24	Zone objectives Living Bushland Conservation	The relevant objectives of this zone include single detached dwelling form, preserve/re-establish native bushland, limit non-residential use in association with residential use and that form harmonises with bushland character. The North End (building 1) is a small scale single storey building, whilst the car park area is extensively set within a landscaped area.	Yes
cl.27	Zone objectives Regional Transport Corridor	The relevant objectives of this zone include ensuring development integrates with the surrounding natural, physical or built environment and contributes to the safe and effective operation of classified roads.	Yes
cl.32	Land use matrix	<p>Village Tourist zone “Tourist accommodation” and associated work within “Area A” is permissible under this clause.</p> <p>Living Bushland Conservation zone Car parking in “Area B”, when associated with another lawful use, is permissible under this clause in accordance with the defined land use “parking”.</p> <p>Use of the North End (building 1) for maintenance associated with tourist accommodation is not permissible under this clause.</p> <p>This building was originally built as a retail premises. It has been used intermittently for storage associated with the hotel use. Existing Use provisions, as provided by Division 10 of the Act and Part 5 of the <i>Environmental Planning and Assessment Regulations 2000</i> (EPAR), is not available to this site. Clause 41</p>	Yes

		<p>of EPAR relevantly restricts change under the Existing Use provisions from a commercial use to another commercial use, as defined in the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>. Therefore, even though a retail premise does fit this definition, a use associated with a tourist accommodation does not.</p> <p>Therefore, the application relies on cl.77 (Conservation Incentives) of LEP 2005 for permissibility in relation to use of the existing North End (building 1). This is discussed at 1.4 below.</p> <p>Regional Transport Corridor zone Landscaping and access work associated with the tourist accommodation is not permissible under this clause. Refer to clause 132 for permissibility.</p>	
cl.44	Environmental Impact	The proposed development, including asset protection zones, should be designed to have no adverse impact on identified environmental attributes including significant vegetation communities, hydrological aspect of the site or watercourses/wetland. The proposed development is considered to adequately address this issue. Refer to point 2.3.1 section of this report for further discussion.	Yes
cl.48	Protected Area – Water Supply Catchment	The application has been referred to the Sydney Catchment Authority and concurrence provided. The proposed development is considered to appropriately protect water quality and the natural systems. The development will have a neutral or beneficial effect on the hydrological catchment. Refer to Section 1.6 of this report for further discussion.	Yes
cl.49	Protected Area - Escarpment	The development includes an asset protection zone adjacent to a natural bushland area. However provision of bush fire protection measures will primarily involve the removal of exotic plants and weeds, which are currently intruding into the adjoining bushland as well as some regeneration of appropriate species. Refer to Section 2.3 of this report for further discussion.	Yes
cl.58	Modification of land form	The proposed development is largely contained within existing developed or disturbed areas of the site with the required cuts located within the building footprint.	Yes

cl.60	Consideration of Character and Landscape	The proposal is considered to appropriately continue the established scale and massing of the buildings on site, with this aspect being considered in more detail in relation to heritage conservation.	Yes
cl. 68-77	Heritage Conservation	<p>The subject site is identified as a Heritage Item under Schedule 6 of this LEP. Although not on the State Heritage register, the site is assessed as being of State Significance under the LEP. The relevant conservation objectives in cl.69 relate to the need to conserve the heritage significance of identified items. Any assessment must include the impact of the proposed development and conservation of heritage significance. The applicant is relying on cl.77 (Conservation Incentives) for permissibility in relation to use of the North End (building 1). Refer to Section 1.4 of this report for further discussion.</p> <p>Clause 77(2) of the LEP allows development of a heritage item, even though it may contravene a development standard relating to height, site coverage or development density. Where relevant areas of non-compliance are subject to cl.77(2), this will be noted accordingly and discussed further under Section 2.2 of this report.</p>	Yes
cl.94	Provision of Services	A reticulated water and sewer system is available to service the site and will be subject to a Section 73 approval by Sydney Water. An electricity substation is currently located to the east of the existing Dining Room (building 12). The application was referred to the electricity authority, which required that the development includes 2 substations of the specified capacity. The proposed development includes relocation of the substation to a designated room adjacent to the kitchen area of the new Function/Conference facilities.	Yes
cl. 98	Access to land from a public road.	<p>This clause states that consent shall not be granted to development that requires vehicular access from a public road, unless it includes a legally constituted access.</p> <p>The proposed development was referred to the Roads and Traffic Authority (RTA) for their agreement as well as assessed by Council's Development Engineers. Refer to the Clause 132 section of this table for further discussion.</p>	Yes

		<p>A number of matters were identified during this assessment process in relation to traffic and parking, including access from the public road. Following discussion with the applicant and the RTA an amended proposal was submitted. This was referred to the RTA who provided their initial agreement on 16 September 2010. The proposed intersection layout provided adequate access to the subject site, but significantly altered the intersection arrangement for the adjoining southern site (a service station). The RTA provided a further amended layout and conditions of consent on 23 September 2010, which included a revised approach to the intersection arrangement for the service station. The RTA conditions also require the final layout detail be subject for their approval, prior to construction. It is considered that the proposed development provides adequate access from the public road, subject to conditions of consent.</p>	
cl.99	Car Parking Provisions	<p>The LEP requires parking to be provided at the following rates</p> <ol style="list-style-type: none"> 1. 1 space per accommodation suite, plus 2 spaces per 3 employees, plus 2. 15 spaces per 100m² or 1 space per 3 seats for the Refreshment Room, which ever is greater, plus 3. appropriate parking (new Function/Conference facility) as determined by a Traffic Report. <p>The approved development will result in an increase in accommodation units from 84 units to 110 units, an increase of 26 units. The detailed Traffic and Parking Report (Colston Budd Hunt & Kafes Pty Limited) states that there is expected to be a total of 25 employees working on site at any one time. The development also includes two areas that would be defined as refreshment rooms being the Boiler House (building 19) with 75m², and the Fine Dining area (building 9) with 147m².</p> <p>The development, less function/conference facilities, results in the following parking demand:</p> <ol style="list-style-type: none"> 1. 110 units = 110 spaces. 2. 25 employees = 17 spaces 3. 222m² refreshment room = 34 spaces 	Yes

		<p>The above elements of the development result in a total demand of 161 spaces, whilst the proposed development provides a total of 259 car parking space. A surplus of 98 spaces will therefore be available for the conference centre facilities. It should be noted that the above calculation is considered the absolute maximum required, due to the probable combined use of the Fine Dining area (by both on site guests and the general public). This combined use is likely to reduce the overall demand for on site parking spaces. The submitted Traffic and Parking Report assessed the on site parking in terms of the proposed development, including the conference centre, and found that the proposal will provide a significant improvement to on site parking, site access, vehicle circulation and traffic safety, and the parking is sufficient to adequately cater for potential traffic generation impacts.</p>	
cl. 101	Loading facilities	<p>The proposed development provides delivery facilities to the southern end of the site at the basement level of the new conference centre. Delivery vehicles will gain access to the area by virtue of a service road running beside the Boiler Room (building 19). Deliveries to this area are not expected to be frequent or extensive.</p> <p>The service road is low set with the proposed vehicles using the site not expected to be obtrusively visible from areas to the west. It is required as a condition of consent that the loading dock is adjusted to avoid obstructing egress from a fire stair adjacent to the loading dock area. To ensure the revised delivery dock layout does not result in an increased visual impact to the west, it will be required as a condition of consent that the revised layout and the amended Landscape Plan are consistent with the aim of ameliorating any potential for obtrusive visual impact when viewed from the west.</p>	Yes
Div. 6	Equity Access of	<p>The development proposes significant works to provide a continuous accessible path of travel throughout the facility for all people, including those with a disability.</p> <p>The development has been considered against cl. 94 of the <i>Environmental Planning and Assessment Regulation 2000</i>, which provides discretion for the level of upgrade in relation to the BCA for development involving rebuilding,</p>	Yes

		<p>alteration, enlargement or extension. This extends to the level of access for people with a disability, and the provision of units that are accessible.</p> <p>Although the development involves an existing premises, the proposal provides for six (6) accessible units, which would conform with the level required under BCA for a new development of 110 units. LEP 2005 requires accessibility to be achieved in relation to new buildings, structures and facilities, and the development satisfies this requirement. In terms of the increase in the number of units (from 84 to 110), the equivalent of twenty percent of these units are accessible in accordance with cl. 108.</p> <p>It is a condition of consent that the proposal complies with the <i>Building Code of Australia</i>, as well as the principles of the <i>Disability Discrimination Act 1992</i>.</p> <p>Clause 109 of the LEP requires that all accommodation suites are adaptable in accordance with <i>Australian Standard 4299 – Adaptable Housing</i>. The proposed development provides an appropriate level of accessibility through the development to all common amenities, as required by this clause. It will be required as a condition of consent that all accommodation suites shall be designed to be adaptable. It will be necessary for the implication of this condition to be considered in relation to “deferred commencement” condition 2.</p>	
cl.132	Development in the Regional Transport Corridor	<p>A portion of the works associated with the tourist accommodation, as proposed in Area E, are located within the Regional Transport Corridor. This clause allows a Consent Authority to approve development within the Corridor, if it is of a type that is permissible in the adjoining land. The adjoining zone is “Village Tourist” with tourist accommodation and associated works permissible with consent. The proposed work must be consistent with the objectives of the “Village Tourist” zone (cl.20). Development in Area E is consistent with these objectives. The RTA has provided agreed, subject to conditions as provided in the consent.</p>	Yes
Sch 1	Medlow Bath Precinct	The objectives for this Precinct are:	

	(VT-MB01)	<p>a) <i>To encourage development that complements and is sympathetic to the heritage significance of the Hydro Majestic.</i></p> <p>b) <i>To encourage development that maintains the Hydro Majestic as the predominant feature in this precinct.</i></p> <p>c) <i>To minimise the impact of development on escarpment areas.</i></p> <p>The proposed development is assessed against the specific precinct controls, based only on that portion of the development located within the land zoned Village Tourist, as follows:</p>	
		Maximum building height 8m, proposed (new buildings) 18.5m	No (See 1.4.2)
		Maximum eaves height 6.5m, proposed (new buildings) 18.5m	No (See 1.4.2)
		Minimum setback 10m, the existing development already has an established minimum setback of 3m in vicinity of the existing function room, which is not altered by the proposed development.	-
		Maximum site coverage 35%, proposed site coverage 35%	Yes
		Maximum floor space ratio 0.4:1, proposed floor space ratio 0.35:1	Yes
		Landscaping to front setback, articulation of front facades, non reflective material.	Yes

1.2 Local Environmental Plan 1991

The proposed development, as defined by relevant Development Areas C and D, has been assessed against the provisions of LEP 1991, with significant matters commented on in the following table.

Clause	Standard	Proposed	Compliance
cl.6.2	Zone objectives Bushland Conservation	The relevant objectives of this zone include to conserve natural environment and to ensure that the built environment are consistent with the bushland character. That relevant part of the development (Area C) conforms to these objectives.	Yes
cl.6.8	Zone objectives Environmental Protection	The relevant objectives of this zone include the protection of environmentally sensitive land and to provide buffers around natural areas of	Yes

		ecological significance. It also includes encouraging the restoration of disturbed bushland.	
cl.7.3	Protected Area - Escarpment	The development needs to enhance the natural environment and to limit the presence of buildings on the perception of the escarpment as a significant natural feature. Refer to point 2.3.3 section of this report for further discussion.	Yes
cl.9	General Control of Development	<p>Bushland Conservation Refreshment rooms and car parking associated with an approved use, as proposed within Area C, is permissible with consent.</p> <p>Environmental Protection Tourist accommodation and associated work, as proposed in Area D, is not permissible under this clause. The applicant has relied on the Existing Use provisions of the Act for permissibility</p> <p>Refer to Section 1.3 of this report for further discussion.</p>	Yes
cl.10.2	Access	Appropriate vehicular access has been provided to the site. Vehicular access is not provided to the portion of the site associated with LEP 1991 except for deliveries to the basement level of the conference centre. This has been discussed and assessed within the LEP 2005 table under clause 101.	Yes
cl.10.4	Design and Character	The proposed development is considered appropriate in that it primarily involves minor additions to or use of existing buildings. The primary variation relates to development associated with the new Mark Foy building (building 4) and the Belgravia Wing (building 5). However, the proposed work is considered supportable. Refer to Sections 2.2.3 and 2.2.4 of this report for further discussion.	Yes
cl.10.5	Environmental Impact	The proposed development is considered to adequately address the issues of site disturbance, significant vegetation communities, hydrology and watercourses/wetland. Refer to Section 2.3 of this report for further discussion.	Yes
cl.10.6	Height of Buildings.	Development shall not exceed two storeys, maximum building height of 8m and eaves height of 6.5m. The existing and proposed development substantially exceeds both these	No

		height limits. This variation is considered acceptable as it continues the established historic form and scale of development on the site. The required variation is permissible in accordance with clause 108 (Existing Use provisions) of the Act, and the assessment of heritage impact. Refer to section 1.3 of this report for further discussion.	
cl.10.7	Heritage	The proposed development has been appropriately assessed in terms of heritage significance. Refer to Section 2.2 of this report for further discussion.	Yes
cl.10.8	Services	Adequate provisions have been made in relation to drainage, effluent and water.	Yes
cl.10.9	Site Coverage	This clause relates to Area C (Boiler Room) portion of the development. Maximum site cover is 160m ² , with the existing building site cover being 72m ² .	Yes
cl.11.4	Development Criteria - Escarpment	Clearing of vegetation requires an assessment of landscape and environmental Impact. The proposed building additions do not project above the height of adjoining buildings.	Yes
cl.25	Heritage Conservation	The subject site is identified as a Heritage Item under Schedule 2 of LEP 1991. The relevant conservation objectives relate to the need to conserve the heritage significance of identified items. Any assessment must include the impact of the proposed development and conservation of heritage significance. Refer to Section 2.2 of this report for further discussion.	Yes
cl.31	Public Notice of Certain Applications	The proposed development includes demolition and partial demolition of some buildings across the site. Notification included written advice to properties in the vicinity, two paper notifications within the advertising period and a sign on site.	Yes

1.3 Existing Use – Tourist Accommodation within EP Zone of LEP 1991

The portion of the proposed development located within the Environmental Protection zone (Area D) relies on Existing Use provisions for permissibility in accordance with Division 10 of the EPAAct. Clause 106(a) provides the definition for Existing Use, which, in relation to the Hydro Majestic, means the use of a building for a lawful purpose immediately before any environmental planning instrument that has the effect of prohibiting that use, in this case LEP 1991. It is also important to note clause 107(2)(e) which provides that for the Existing Use provision to continue, the use is not be have been abandoned, which may be considered the case if it ceases to be used for the defined purpose for a continuous period of 12 months. In this application the defined purpose is Tourist Accommodation.

Further, clause 108 allows that any provision in LEP 1991 that would have the effect of derogating from the Existing Use does not have effect. The proposed development will be assessed having regard to the provisions of LEP 1991, but tempered by Section 108 of the Act as relevant.

The proposed development includes an area (Area D) that extends up to 3m into the Environmental Protection (EP) zone of LEP 1991. Area D consists of the entire Delmonte Hallway (building 13) and Delmonte (building 14) as well as the rear 0-3m of the Casino Lounge (building 8), Belgravia Wing (building 5) and Mark Foy Wing (building 4). All affected buildings, except the Mark Foy Wing, consist of work to existing buildings that are already either partially or fully located within the Environmental Protection zone. The Mark Foy Wing proposes a development over the existing tennis court area with the rear 0-3m within the Environmental Protection zone. All development is within existing disturbed and built on areas. The tennis courts are used in association with the approved tourist accommodation use occurring across the site.

Original development on the site occurred between 1890s - 1903 and included Hargraves' house, Tucker's cottage and the Belgravia Hotel, which were all located outside the Environmental Protection zone as it exists today. However, between 1903-1909 Mark Foy began development of his Hydropathic Sanitorium. In addition to the existing buildings on site, the Dining Room, Billiard Room and Casino were constructed and linked by a series of lengthy walkways. The Hydropathic Sanitorium was transformed into tourist accommodation between 1909-1922, the Delmonte and Delmonte Hallway were built and linked, as well as the Belgravia Wing. The old Belgravia Wing (site of the new Mark Foy Wing) was burnt down during a bushfire in 1922. The western wall of the old Belgravia Wing was retained and reconfigured to become a landscape feature to surround two tennis courts. Following the fires of 1922, the site continued as tourist accommodation, focusing on family style rooms and facilities, including the tennis courts. During the period between 1922-1942, the North End and the Hydro Tavern were built. In addition, the Belgravia Wing and the northern enclosure of the Billiard Room were undertaken.

The above detail is consistent with the position that all the development occurring in Area D is within locations that have been physically used for tourist accommodation or tourist related facilities over an extended period of time. Although the hotel went through periods of closure due to previous renovations or as a result economic trends, this is not considered to constitute an abandonment of the use. The identified uses predate the Council's earliest planning scheme of January 1961. As a consequence, the existing use may be enlarged, expanded or intensified in accordance with Clause 107 of the EPAA and Clause 41 of EPAR.

1.4 Clause 77 LEP 2005 Conservation Incentives

1.4.1 North End Building

The North End building was constructed as part of development that occurred across the site between 1922-1942, a time when the hotel was being altered from a luxury tourist hotel into a family oriented hotel. The building was further extended between 1943-1976, with other major development on the site including the extension to the Belgravia Wing and the construction of the Belgravia Entry. However, during the period between 1976-2009 the extension to the rear of the building was demolished.

Clause 77(1) of LEP 2005 allows a consent authority to grant consent for any purpose of a building that is a heritage item or the land on which an item is, if it is satisfied of the following:

- a) retention of the item depends on the granting of consent, and
- b) the proposed use accords with an endorsed conservation management plan, and
- c) the consent ensures all conservation work in the conservation management plan is carried out, and
- d) the proposed use does not adversely affect the heritage significance of the heritage item or its setting, and
- e) the proposed use would not unreasonably affect the amenity of the surrounding area.

The Heritage Impact Assessment notes that viability of the Hydro Majestic Hotel is reliant on a comprehensive revitalisation of the now degraded tourism resort. This tourism role is a significant and fundamental character of the Hydro Majestic Hotel. The submitted HIA notes that *“Demonstrating a continuation of hospitality and tourism use since the late nineteenth century, the hotel has so far undergone seven major identifiable phases. Each major phase and hotel repositioning has been attended by significant refurbishment and architectural layering”*.

However, to remain viable in today’s market, the Hydro needs to provide a high quality guest rooms. The applicant suggests that *“Most five star hotels with commensurate facilities have between 200-300 rooms”*, whilst the Hydro will have 110 suites. Therefore it is considered essential that the quality of hotel accommodation is such that it is able to support and retain those components and characteristics of the site that make a high or exceptional contribution to overall significance of the historic hotel.

The North End building itself is a single storey structure with slightly raised floor levels. The structure has a fibro clad external walls and a recently installed corrugated iron roof. The building has a zero set back to the Great Western Highway and is separated from the remainder of the Hydro complex by virtue of an intervening private dwelling.

The submitted Conservation Management Plan included a “Grading of Significance” which graded each of the important components that contribute to the overall significance of the Hydro Majestic, including its social importance. This grading provides guidance for the *“adaptation and long term management”* of the site and ranges from Exceptional to Low as well as identifying Intrusive elements.

An “Exceptional” grading identified those components assessed as being a fundamental aspect contributing to the significance of the Hydro Majestic, whilst a “Low” grading identified incidental components that do not contribute to its overall significance. The North End building has been assessed as having a Low grading.

Use of the North End building for maintenance purposes is consistent with the provisions of the submitted CMP as the grading of the building allows an important, but sometimes obtrusive function to be located well clear of the components of the Hydro Majestic that have an “Exceptional” or “High” grading value.

Use of the North End building is considered consistent with the principle outlined in the CMP and is therefore supported.

1.4.2 Development Standards

Clause 77(2) of LEP 2005 states that development of a heritage item may contravene development standard set by the LEP if the Consent Authority is satisfied of the following:

- a) *the retention of the heritage item depends on the contravention of the development standard, and*

- b) *the proposed contravention is in accordance with a conservation management plan which has been endorsed by the Council, and*
- c) *the proposed contravention would ensure that all necessary conservation work identified in the conservation management plan is carried out, and*
- d) *the proposed contravention of the development standard would not unreasonably affect the heritage significance of the heritage item or its setting, and*
- e) *the proposed contravention of the development standard would not unreasonably affect the amenity of the surrounding area.*

The proposed development contravenes the development standards outlined under Schedule 1 of the LEP 2005 table in relation to maximum building and eaves heights.

The applicant submits that the Hydro Majestic is privately owned and operated as a hotel and conference centre, incorporating 84 accommodation rooms. In order to ensure the required economic income generation necessary not only to revive the hotel but to its ongoing presence in the tourist market, this development needs to overcome the existing shortfall in 5 star accommodation rooms and conform with current fire safety provisions.

The Conservation Management Plan submitted with the application outlined a steady decline of the Hydro Majestic despite numerous efforts to upgrade and modernise the hotel. The CMP found that *despite successive rounds of modest general refurbishments..., the interiors of the hotel were becoming increasingly degraded, occupancy rates were falling and it was becoming apparent that a comprehensive operational refreshment and functional overhaul was required...* Additionally compliance with fire orders was an issue due to *the eccentrically configured linear hotel complex...* The current owners purchased the site in 2008 and immediately closed the hotel operation and began planning the comprehensive revitalisation of the entire hotel complex currently being assessed. Section 6.9 (Principles for Design of New Elements) of the submitted CMP provided policies that should be employed in the proposed development. Policy 6.9.4 provides that new building works should complement existing historic structures, specifically referencing materials, scale, bulk and articulation. These policies have been incorporated into the proposed development and addressed within the submitted Heritage Impact Assessment. The HIA states that the proposed building heights and roof pitches of both new buildings have been designed to continue the historic idiosyncratic approach to such forms at the Hydro Majestic Hotel. The proposed additions complement the primary built heritage components whilst not inappropriately dominating them. In conclusion, the HIA considers that the proposal conserves the identified heritage significance of the overall place as an evolving historic tourist destination. It is accepted that the variation in building height is necessary not only for the economic protection of the use but to ensure the proposal results in a development that retains the established presence and character of the existing hotel.

1.5 Rural Fires Act 1997

The subject site is identified as being affected by Category 1 vegetation and buffer to Category 1 bushfire prone land. Under the provisions Section 100B of the *Rural Fires Act 1997* "Tourist Accommodation" is a special fire protection purpose that requires a Bush Fire Safety Authority to be issued by the Rural Fire Service.

The matter was referred to the RFS and their General Terms of Approval shall be included in the conditions of consent.

1.6. Drinking Water Catchments Regional Environmental Plan No. 1

The proposed development is located within a catchment identified under Drinking Water Catchments Regional Environmental Plan No. 1. The subject site is connected to the reticulated sewer and stormwater systems and will not adversely affect the water quality of

the catchment. Sydney Catchment Authority has provided their concurrence subject to conditions that have been incorporated into the recommended conditions of consent.

The subject site is also identified as being within the sub catchment of the Cox's River and is therefore subject to the provisions of Sydney Regional Environmental Plan No. 20 (Hawkesbury Nepean River). The development was assessed against the planning considerations as set out in Clause 5 and 6 of SREP 20 and considered acceptable.

1.7 State Environmental Planning Policy (Infrastructure) 2007.

The proposed development is subject to clause 104 (Traffic generating development) of *State Environmental Planning Policy (Infrastructure) 2007*, being development described in Column 2 of Schedule 3 of the SEPP. The application, both as lodged and as amended during the assessment process, was referred to the Roads and Traffic Authority (RTA) for comment, with the primary issue being the design for traffic integration with the Great Western Highway.

Conditions suggested by the RTA have been incorporated, as relevant, within the proposed conditions of consent in Attachment 1.

1.8 Citywide Community Infrastructure Contributions Plan 2010

On the 23 February 2010 Council adopted a Levy Plan under the provisions of Section 94A of the Act, known as Citywide Community Infrastructure Contributions Plan 2010. The plan commenced on 15 March 2010 and set the level of development contributions that are payable by a developer to Council, as the provider of local public facilities. Developer contributions are set as a percentage of the proposed cost of carrying out a development and will be used to help provide public infrastructure, amenities and services that are associated with new development in the City.

Under cl 1.09 of the policy, the contribution levy is set at 1.0% of the estimated cost of the development. A quantity surveyor's report was prepared on behalf of the applicant by MBMPL Pty Ltd. It prepared in accordance with cl. 1.10 of the plan and places the estimated cost of the proposed development of the Hydro Majestic at \$34,699,627 resulting in a levy of \$346,996.27.

During the assessment process the applicant had requested consideration of the "in kind" contribution, as provided under cl. 1.19 of the policy. This clause allows Council to accept alternatives to payment of the contribution, often land dedication or "off set" works if the value of the land dedicated or "off set" is at least equal value.

The applicant proposed an "off set" work for the levy on the basis that the proposal provides two material benefits for the public, these being 1) the provisions of a public look-out on site, and 2) a historical museum in the Boiler House. The applicant also noted that the Policy had not been finally adopted until well after the lodgement of the subject application.

The claim of public benefit was difficult to support for a number of reasons, not least because limited information was provided for assessment. The proposed historical museum is in accordance with the submitted Conservation Management Plan and is located at a lower level of the Boiler House, beneath the proposed café. The proposed viewing platform is an extension of vehicular drop off zone associated with the conference centre. Whilst these are beneficial components of the development, they do not represent the "in kind" works envisaged under the Plan.

Clause 1.16 of the Policy allows variations or exemptions if the proposal is for the adaptive reuse of a heritage item. Whilst some elements of the proposal may be considered in light of this provision (for instance the conversion of the former boiler room to a café and historical museum), the applicant has not provided a submission advancing this argument. However, the applicant has foreshadowed that further submissions will be made in relation to seeking an offset to a monetary contribution by way of a s. 96 modification of any consent, which is an avenue nominated under cl. 1.19.2 of the Contributions Plan itself.

Based on present information, it is considered appropriate to include the S94A contribution as a condition of consent.

2.0 SECTION 79(1)(b) and (1)(c) – LIKELY IMPACT/SUITABILITY OF SITE

2.1 Existing Encroachment into the Great Western Highway Road Reserve

The relevant portion of the development site, identified in this report as Area E, encroaches up to a depth of 5m into the Great Western Highway road reserve and is land that is zoned Regional Transport Corridor (LEP 2005). The encroachment contains the historically significant front fence of the Hydro Majestic, as well as some landscaping and forecourt elements. In effect, approximately 700m² of the Great Western Highway road reserve is contained within the 'site' behind the front masonry fence.

The Conservation Management Plan (CMP) submitted with the application identifies that the fence has been in existence since 1903. In overcoming this historical anomaly, it was considered necessary to facilitate the legal incorporation of that part of the Highway into the Hotel grounds.

To progress this matter, a report was presented to the Council at its Ordinary Meeting of 23 February 2010. That report outlines that the Highway is vested in Council and under Section 145 of the *Roads Act 1993*, the Council has fee simple ownership of the road reserve and is to determine whether it allows the owner of adjoining land to occupy part of the Council's road reserve. As a consequence, it was necessary for the Council to provide its consent, as owner, for the lodgement of the application as it relates to Council land.

The matter of encroachment could be resolved permanently by sale of the land. A lease of the land is also possible but would give to the lessee a legal interest over the relevant part of the Highway. However, the time period over which a lease can operate must be restricted. A licence would be the most effective mechanism to address the encroachment; however it would not confer certainty in relation to ongoing use of the land.

Any such sale, lease or licence would not be possible without the agreement of the Roads and Traffic Authority (RTA). The RTA have advised that they do not have a detailed future plan for that section of the Highway and therefore cannot relinquish the relevant part of the road reserve. After some further discussion between the RTA, Council and the applicant, the RTA suggested a future upgrade may be undertaken whilst retaining the heritage sandstone wall based on an indicative cross-section. The RTA has no objections to the continued encroachment until such time that the land is required for road widening, but they would not be prepared to relinquish any part of the Highway.

The 23 February 2010 Council report sought authorisation to undertake necessary action "for the formal and transparent integration of that part of the GWH currently operating as part of the Hydro Majestic site". A lease or licence would provide a mechanism to move forward with the development application with the view of identifying and achieving a permanent solution at a later stage.

Given this position, Council sought legal advice regarding the options available to resolve these issues, and it was advised that Council may proceed by one of two options. The first is a short term lease, which under the *Roads Act 1993*, which may be terminated at any time. This option would involve some cost in its preparation but lacks a sufficient level of certainty.

The second option is a non-exclusive licence, which would enable the encroachment to continue. Following concerns raised by the applicant about a non-exclusive licence, further consideration has been given to a licence which is exclusive, but does not limit the interests of the Council or the RTA. The Council and the applicant have agreed to a condition of consent, which provides for such a lease or licence to be in place prior to the issue of a construction certificate, unless the applicant can otherwise establish a title over the land. The detailed terms of any lease or licence would require the approval of the RTA.

The applicant has also requested that any fee for a licence or lease be a nominal amount. The determination of the applicable licence fee will be by way of an independent valuation, but will be informed by the historical circumstances giving rise to the encroachment.

As part of the assessment of the application, the Council's engineering staff are satisfied that the development could operate viably should the 700m² area be resumed by the RTA in the future, subject to modifications. By any measure, however, the masonry fence and forecourt area are an intrinsic and significant part of the Hydro Majestic. With this in mind, the Council resolved, in part, at its meeting of 23 February 2010:

That the Council make representations to NSW Government and the Roads and Traffic Authority emphasising the significance of the historic masonry fence, which is part of the State significant Hydro Majestic Hotel heritage item, and the desirability of providing certainty with respect to the incorporation of that part of the GWH currently delineated by the fence into the Hydro Majestic site. The RTA will be requested to facilitate an early resolution of this matter.

Whilst not a determinative issue for the subject DA, there is an expectation that this land will be permanently incorporated into the Hydro Majestic site in the future and that its significance would inform highway widening proposals through this part of Medlow Bath.

2.2 Heritage Considerations

Section 4.5 of the submitted Conservation Management Plan included a "Grading of Significance" which grades each of the important components that contribute to the overall significance of the Hydro Majestic. This grading ranges from "Exceptional" down to "Intrusive". The important component of each grading is summarised as follows:

- "Exceptional" identifies an element that provides a fundamental aspect of the site's heritage significance. These should be protected, retained, restored or, if necessary, reconstructed.
- "High" identifies an element that has a direct association with the site's heritage significance which is demonstrated in the element. These should be preserved, restored, reconstructed or sensitively adapted.
- "Moderate" identifies an element that has an incidental association with the site's heritage significance or elements that have a direct association but have been altered. These should be retained, restored, reconstructed or sensitively adapted if practical, although removal may be acceptable.
- "Low" identifies an element that has an incidental association with the site's heritage significance which is not demonstrated in the element. These may be retained, adapted or removed as necessary.
- "Intrusive" identifies an element that is later fabric and which adversely affects the site's heritage significance. These should be removed or adapted as the opportunity arises.

The proposed work that is most significant relates to development that is within locations graded as “Moderate”, “High” or “Exceptional” and that are considered substantial in scale or nature, relevant to the location’s grading. The fabric and physical analysis of this complex site is appropriate and will assist the development of Conservation Schedule of Works and maintenance plans. These detailed Conservation Schedule of Works should be developed in parallel with the architectural specification for the proposed works as they should inform the actual work proposed. The Conservation Schedule of Works should be supplementary material in consideration of the CMP.

During the assessment process a number of concerns were raised in relation to the proposed development. Discussion between the applicant and Council ultimately resulted in the submission of amended plans, which included some substantial changes to a number of elements within the proposal. However, the amended plans did not include the submission of a conservation work schedule. In view of the scale and complexity of the proposed repair, restoration, adaptation and new work at the Hydro Majestic it is critical that thorough conservation documents be completed. There is some potential for inappropriate works resulting from (i) the scale of the project, (ii) the heritage sensitivity of the place, and (iii) the scope of work is not clearly articulated in detailed conservation work schedules.

The applicant provided some detail in a ‘*Building Sensitivity Analysis*’ but it did not provide sufficient detail to address the earlier concerns.

A summary of proposed development, including the proposed modified plans, has been provided and assessed under points 2.2.1 to 2.2.15 below.

2.2.1 Old Belgravia – Building 2

The Old Belgravia is identified as a being of Moderate significance. The proposed work includes the repair and painting of surfaces to allow its operation as an accommodation suite. The proposal also includes the removal of existing external access stairs that will be replaced by internal stairs. The ground level façade is to be adapted, and the rooms reconfigured, refitted and redecorated for use.

The original proposal also included the construction of a new building located between the Old Belgravia and the Hydro Tavern. The proposed building provided secure covered parking to 10 on site car parking space in a stacked configuration. The proposed building is 14 metres in length and 12 metres in width, with a light weight wall cladding metal roof. Concern was raised with the applicant in terms of style and visual impact of this building. The applicant subsequently requested in writing that the building be deleted from the proposed development. The approved plans shall be marked accordingly.

2.2.2 Hydro Tavern – Building 3

The Hydro Tavern is identified as being of Moderate significance. The proposed work includes the refitting and redecoration of its interior for use as a hotel gymnasium. Elements that will be retained and restored include its octagonal form, its “Streamline Moderne” wrap-around façade, and fireplaces. The application also proposes the removal of an existing plane tree to the building’s eastern (highway) façade as it is damaging its footings. The proposed development includes landscaping in vicinity of the building which will be consistent with the overall landscaping scheme for the site.

2.2.3 New Mark Foy building (Remanent Stone Wall) – Building 4

The area of the remanent stone wall is identified as being of Moderate significance. The proposed work includes the construction of a substantive new accommodation wing providing 43 accommodation rooms over 4 levels as well as a basement level lap pool and plant equipment. This building will be built over the existing tennis court and allow the retention and stabilisation of the remnant wall as a stand alone item incorporated into the

building's exterior. The accommodation rooms will be aimed at the 5 star market, all with views to the escarpment and Megalong Valley to the west.

This wing reinforces the linear form of existing development on the site, with the original proposal being for a 3 storey building, considered appropriate in scale, bulk and form.

The design of the new Mark Foy building needed to balance modern architectural approaches with highly sensitive heritage contexts. The final design has responded well to the historic context of the Hydro as well as the escarpment location but avoided mimicry of the existing buildings on site. The articulation used in the new Mark Foy building continues the existing eclectic array of window designs and openings present in the existing group of buildings. The design allows the retention of the existing remanent stone wall to be a prominent feature. The upper levels of the Mark Foy building include significant glazed areas that not only breaks the bulk of the building but also allows views through the building to the escarpment beyond and from within the internal areas of the building, out. The configuration of the eastern (highway) façade and large glazed area works to visually merge floor levels and provide ambiguity about the number of floor levels the building contains. In addition, the upper level of the Mark Foy building is recessed from the main eastern façade line and utilises smaller window elements. This approach allows the upper level to be further visually recessive.

The proposal results in a creative design that has used modern design techniques to accentuate important elements but in a way that continues the historic philosophical approach to development of the site.

2.2.4 Belgravia Wing – Building 5

The Belgravia Wing is identified as being of Moderate significance. The proposed work includes the demolition and redevelopment of existing degraded and compromised accommodation rooms and hallways. The proposed layout will reinstate the original approach to accommodation rooms in this wing by allowing all rooms to have views across the escarpment and valley to the west. The reconfiguration will also provide level floor access into the adjoining Belgravia Entry (building 6) and the new Mark Foy building. The accommodation wing will provide 26 accommodation rooms over 3 levels as well as basement level spas, treatment rooms, and an outdoor pool. An existing external fire stair to the south eastern corner of the building will be removed and relocated inside the building. The proposed work will include the retention of the significant 1930s eastern entrance tower section and staircase hall fabric.

The Belgravia Wing is one of the areas that propose a substantial amount of demolition and reconstruction work that will alter the external appearance of this building, although it is also noted that the original building was largely reconfigured in 1963. The original proposal would reverse the 1963 work and construct new rooms all facing the west and construct a new eastern façade that reflects the original stairway element, which is supported. The original submitted plans did not provide clear detail of the proposed façade and fenestration work or the reconstruction of the castellated parapets. The upper floor was proposed to be setback from the eastern façade, which is appropriate. However, changes to the western façade were not clear.

The submitted amended plans included a redesign of the eastern façade, which will allow a 4-storey development, including a spa on the lower level. This component was identified as being critical to the overall viability of the site. The amended plans provided improved sight lines between built and internal elements out to the escarpment to the west.

Council requested that the applicant considered further options for the Belgravia Wing, which included removal or modification of the proposed additional storey and reconfiguration of the main façade closer to the spirit of its 1930s form. This would enable the continued articulation and variation in building height, which characterises the Hydro complex generally. It was acknowledged that in order to do this and still achieve the required economic threshold, there might be a need for accommodation elsewhere, either onsite or within the new Mark Foy Building.

Further amended plans were submitted, and whilst the amendment did not include the removal of the proposed additional storey, it did sufficiently achieve the intent. This was achieved by (i) redesigning the top floor to visually distinguish and physically separate it from the façade of the building, (ii) changing the materials of the top floor to reinforce the above separation (iii) redesigning the fenestration of the lower 2 floors to more appropriately relate to the Belgravia Entry and the Belgravia Wing (iv) extend the area of the central stair to be retained and (v) restoring a section of the facade either side of the central stair to provide greater context for its retention.

The finer points of detail of the proposed design still need to be documented and clarified such as the extent of the central stair tower to be retained, the junctions with the remaining 1930s stair to the lounge area and the choice of external finishes. Additionally, the 1940s image in the CMP indicates the original façade details and size/proportion of windows was greater than the proposal as well as the extent of the recessed portion being greater. This is required as a condition of consent.

2.2.5 Belgravia Entry – Building 6

The Belgravia Entry is identified as being of High Significance. The proposed work includes the retention of the existing significant eastern façade whilst the western façade, which does not contribute to the ‘Streamline Moderne’ character of the building will be adapted to provide external doors for balcony access. Unsympathetic partitioning and decorating to the ground floor lounge will be removed and redecorated to in a style that complements the significant “Streamline Moderne” character. The two upper level accommodation floors are to be sensitively redecorated and refitted to provide a total of 16 accommodation rooms.

2.2.6 Casino – Building 7

The Casino is identified as being of High significance. The proposed work includes instating the Casino as the main entrance/foyer area of the hotel, which will require the interior of the building to be reversibly adapted and the existing central external doors to be reinstated. New glazed

doors will be installed just inside the main entry doors to provide a glazed airlock element. The central section of the existing stage shall be removed, recorded and stored, with the remenant section of the stage to the altered to provide access. The internal floor level will be raised to re-establish at a consistent level across the building and into the adjoining Casino Lounge (Building 8). The existing timber floor will be retained and protected underneath this level. • Non original doors wall fabric within the alcove are to be removed to allow light access and light into the adjoining Casino Lounge.

The eastern balustrade parapet, over the entrance, shall be reconstructed and the zinc tiles on the western side of the dome are to be conserved and made watertight.

The use of the Casino as a main entry is supported as the Hotel entrance has been relocated a number of times over the years. The Casino is the visual heart of the complex and it is not unreasonable to use it as an architectural centrepiece if its significant fabric can be protected in the process. Further detail was required in relation to raising the timber floor with damaging the original fabric.

2.2.7 Casino Lounge – Building 8

The Casino Lounge is identified as being of Low significance. The proposed work will be aimed at replacing the existing façade (constructed in 1987) in a more sympathetic manner. The interior will be refitted and the remnant historic fireplace will be conserved and replicated on the opposite wall. The existing wall fabric between the Casino Lounge and the Casino will be removed.

2.2.8 Billiard Room and Hallway – Building 9

The Billiard Room and Hallway are identified as being of High significance. The proposed work includes the reversible adaptation of the area and partitioning of the hallway space to allow its use as a fine dining area. The building will be extended to the west to allow fine dining to occur on the western side of the existing hallway, with the kitchen located beneath this extension. The enclosure of the existing barley twist column along the buildings northern façade will be removed, as well as the degraded parapet between the Casino and Billiard Room. Hallway is to be repaired or reconstructed. Lead lights are to be conserved/reconstructed and the interwar glass doors (western side) are to be removed and the remnant timber fretwork screen restored.

2.2.9 Service Areas – Building 10

The Service Areas are identified as being of Low significance. The proposed work includes the refitting of the area, which then combines with the lower level extension of the Hallway (point 2.2.8) to provide a combined kitchen area for the Fine Dining within the Billiard Room.

2.2.10 Hargravia – Building 11

The Hargravia is identified as being of High significance. The proposed work includes the opening of the previously enclosed eastern verandah on the ground floor, with damaged or removed architectural elements to be reconstructed. The rooms adjacent to the reinstated verandah are to be fit out as hotel office space, hotel archives and the historic walking track operation.

A back of house service corridor is proposed to be developed under the floor level of Cats Alley, subject to engineering advice. The first floor level accommodation rooms, the spa facility rooms and the Cats Alley corridor will be redecorated.

2.2.11 Dining Room and Kitchen – Building 12

The Dining Room is identified as being of High significance, whilst the Kitchen is identified as being of Low significance. The proposed work includes the removal of intrusive services structure between Delmonte Hallway (building 13) and the Dining room is to be removed, uncovering the three arch colonnade on the eastern facade of the Delmonte Hallway. The Dining Room and Hargraves' house to be redecorated and the bathrooms are to be refurbished. The kitchen area, not part of the Dining Room structure or the former Hargraves' house will be redeveloped. New external stairs are to be provided to the porch along the northern side of the Dining Room. Unsympathetic and recent stained glass, joinery and interior elements are to be replaced.

The kitchen is one a number of areas that proposes total demolition. This is a complex process as the kitchen structure has been intertwined with some significant building elements such as the Dining Room and original Hargrave's House. Considerable care will be required in this area to avoid impacting significant fabric. It would be appropriate in terms of successfully assessing potential impact and avoiding potential harm, for a clearly articulated conservation work schedule to be provided prior to approval of this work.

2.2.12 Delmonte Hallway – Building 13

The Delmonte Hallway is identified as being of High significance. The proposed work includes retention of remnant marble tiles and signage from the hydropathic facilities and the clear finished timber staircase. The services structure between Delmonte Hallway and the Dining Room (building 12) to be removed. Accommodation to be redecorated.

2.2.13 Delmonte – Building 14

The Delmonte is identified as being of Moderate significance. The proposed work includes adaption of the ground floor as a lobby area for the conference/function rooms. New conference/function facilities building to be constructed to the east of the Delmonte. Reinstate the external staircase from the existing balcony along the western façade (ground floor) and the former entrance door on eastern façade. Interior is to be refitted and reconfigured. The external fire stair to the southern façade to be clad.

2.2.14 Old Laundry, Old Cellar, Gallery and Covered Walkway – Buildings 15-18

All the nominated buildings are identified as being of Low significance. The proposed work involves the demolition of the all existing structures and the development of the proposed new Conference and Function building as well as the vehicular drop-off facility and look out area.

The new Conference Facility is one of the major additions to the site. The original proposed works included construction of a two level conference facility with conferences on the ground level and deliveries and service facilities on the lower level. The scale of the proposed structure is relatively modest and appears to sit appropriately within the Hydro Majestic development. The original proposed works did not provide substantial detail regarding the external finishes.

2.2.15 Boiler House and Ice Works – Building 19

The Boiler House and Ice Works are identified as being of Moderate significance. The proposed works include to be altered and adapted for reuse as a gallery and refreshment room.

2.2.16 Heritage Council Comments

The Hydro Majestic is identified under LEP 2005 as a heritage item of State significance (MB02) however it is not listed on the NSW Heritage Register, under the provision of the Heritage Act 1997. Whilst a referral to the Heritage Office was not a legislative requirement, the application was referred because of its assessed significance under the LEP. The Heritage Council provided comment on both the original application as well as the amended proposal. They commented that the new top floor element (Belgravia Wing) is pulled back away from the facade which is appropriate, and that greater differentiation between it and the existing building has been created through the use of materials. This differentiation will also be further facilitated through the use of colours. The Heritage Office saw that the work associated with the proposed development allowed a better retention of original fabric.

However, the Heritage Office raised a concern the approach in the submitted Heritage Impact Statement (HIS) that a detailed Conservation Schedule of Works would be prepared at a later stage. They suggest that whilst it may be a complex document, it should be prepared prior to the issuing of any development consent as the specific impacts can be assessed and adherence to the policy provided in the conditions of consent. This is a similar position to that of the Council's Heritage Advisor.

An example of the inherent difficulty can be found in the submitted HIS (page 28) which states, in relation to the Casino (building 7), that "*as much significant fabric as practically possible within the paradigm of adaptive reuse, is to be protected and conserved*". The Casino has been assessed as "High" level of significance and the principal noted is sound. If

a detailed Conservation Schedule of Works had been prepared the extent of significant fabric to be impacted/removed would be clearly identified, able to be assessed and, if necessary, appropriate mitigation measure implemented. Similarly, when referring to the new Conference Centre, the submitted HIS (page 35) states that it will "touch the Delmonte building lightly to retain the historic buildings visible integrity", however appropriate detail has not been provided to assess how, its potential impact and any appropriate mitigation measures.

The Heritage Council raised similar concern with the comments in the submitted CMP which notes that the site has been highly disturbed throughout the 20th century with only two main areas of archaeological potential, these being the former Belgravia Hotel (building 2) and the Delmonte. The CMP then states that a archaeological report should be prepared by a "suitably qualified archaeologist". The Heritage Office advise that this assessment should also be completed prior to any Development Consent. It is considered that such an approach provides the best way to ensure that any significant fabric and/or archaeological resources are properly protected and potential impacts minimised by the conditioning of appropriate procedures.

It also provides the applicant with a greater degree of certainty relating to potential issues evident in the finer detail, allowing appropriate procedures to be in place early. The applicant was requested to provide an appropriate Conservation Schedule of Work. However the applicant suggested that the preparation of a Conservation Schedule of Work was a costly and time consuming process that could be appropriately provided prior to work commencing. As an alternative the applicant provided a revised and more detailed Building Survey and Sensitivity Analysis, which was appendix 1 to the submitted CMP. This Analysis provided detail of each building and its conservation requirements however did not provide the required level of specific detail.

To provide the applicant with some level of confidence regarding the application, and given the suggested time, cost and detail involved in preparing such a Schedule, it is recommended that the Schedule be provided as a matter to be addressed as a "Deferred Commencement" under Section 80 of the Act. This will also allow the Heritage Office and Council's Heritage Adviser to assess potential impact at an appropriate level, ensure adequate mitigation measures are in place and refine proposed conditions of consent.

2.2.17. Heritage Impact and Building Code of Australia

Assessment of the proposed development included the need for upgrading of the Fire Safety measures within the Hydro Majestic. The applicant provided detail in relation to Fire Safety measures necessary to comply with the Building Code of Australia and how they would be met. However, the submitted information did not assess the potential for heritage impact. The applicant was requested to provide this detail but suggested "*that these issues can be appropriately addressed at an appropriate time in the design and approvals process after the DA has been approved*". The applicant also suggests "*that it would be more appropriately be submitted for approval prior to the release of the Construction Certificate*" and that the submitted "*Building Survey and Sensitivity Analysis*" provides an appropriate level of detail for assessment. To resolve this issue, Council needed to determine whether the applicant's position was supportable or whether it more appropriate to continue pursuing a Conservation Schedule of Works prior to development consent. In determining this issue, a comprehensive review was undertaken of all proposed Fire Safety measures. These were reviewed for potential impact and then assessed whether the detail in the *Building Survey and Sensitivity Analysis* provided adequate detail to assess the potential impact on significant element.

Details of this review is summarised as follows:

- *Fire and smoke separation – Belgravia Entry* The submitted HIA identifies the Belgravia Entry as having “High” significance. The proposed measure to achieve fire/ smoke separation of the existing stairs includes the construction of fire doors to enclose this stairway on storeys above ground level. Whilst it is noted that the upper level accommodation rooms have previously been refurbished, impact on the stair itself needs to be considered.
- *Re-hanging existing doors that swing against egress* – The applicant identified the main entry doors into Belgravia Entry as the doors that are to be re-hung to provide an outswing. This is within an area that the CMP identifies as containing “*important significant remanent 1940’s fabric*”.
- *Fire or smoke doors* – The applicant provided detail of proposed fire and smoke doors throughout the site, some of which are in vicinity of significant elements. Detail has not been provided on how the installation of the fire and smoke doors will be achieved and whether any will impact on signification fabric.
- *Installation of fire equipment including sprinkler systems and fire hose reels.* This work will occur at various locations throughout the site. The applicant has advised that the location and type of fire equipment will be identified in as part of the Construction Certificate, with comments as necessary from the Applicant’s Heritage Architect. This means that detail is not available for assessment of the proposed location of equipment or its potential impact on signification fabric. It also means that there can be no specific condition that will guide the Applicant’s Heritage Architect when dealing with this issue. This is a function that could be served by an approved Conservation Schedule of Work.

It is considered that the level of potential impact is sufficient that significant elements should be assessed prior to development consent issued. However, as a way forward it is recommended that the previously recommended “Deferred Commencement” under Section 80 of the Act could, as part of the required Conservation Schedule of Work, also address the potential impact from the fire safety measures.

2.2.18. Heritage Impact and Accessibility

The proposed development will significantly improve the range of accommodation types and facilities available to all member of the community including those with a disability. This is achieved by a number of methods including the provision of numerous lifts across the development site. Whilst the overall approach to accessibility is comprehensive, there is the need to assess potential impacts on significant elements. The main area of continued concern relates to access for persons with disability into Belgravia Entry. Even though the Casino Lobby will function as the main reception area, the Belgravia Entry is the nearest entrance between the accessible parking spaces and some of the accommodation rooms, particularly guests that have already checked in. The applicant was requested to indicate appropriate access into the Belgravia Entry, which would include the need for an access grade between the car park level and the entrance verandah. The information subsequently submitted by the applicant did not identify the method of full access. This is a specific concern as the CMP has identified that the eastern façade, castellated “Streamline Moderne” style and the remanent 1940’s fabric as contributing to the Belgravia Entry have a “High” significance.

It is considered that the level of potential impact is sufficient that significant elements should be assessed prior to development consent issued. However, as a way forward it is recommended that the previously recommended “Deferred Commencement” under Section 80 of the Act could, as part of the required Conservation Schedule of Work, also address the potential impact in terms of accessibility.

2.3 Environmental Assessment

2.3.1 Impact on Vegetation Communities

A Flora and Fauna Study (FFS) and, subsequently a Vegetation Management Plan (VMP) were submitted with the proposed application. The flora and fauna study provides the ecological base for the Vegetation Management Plan. Assessment was focused on a study area being 60 metres in width and 1 kilometre in length to the west of the proposed development.

The prominent vegetation in the study area was determined to be Blue Mountains Ridgetop Forest, which is not under threat or listed under any legislation. No Endangered Ecological Communities, species or populations were found in the study area. Blue Mountains Hanging Swamp was found located approximately 60m to the north west of the study area, and is listed as a "Vulnerable Ecological Community" under the *NSW Threatened Species Conservation Act 1997*. It is also a component of the Temperate Highland Peat Swamps on Sandstone, which is an Endangered Ecological Community under the *Environment Protection & Biodiversity Conservation Act 1999*.

The Blue Mountains Ridgetop Forest, whilst not a community under threat, one of its components. *Eucalyptus oreades* is listed under *Blue Mountains Local Environmental Plan 1991* as a sensitive vegetation unit. The submitted Vegetation Management Plan provided recommendation for the management of bushland within the study area, including weed control and vegetation protection. Strategies to ameliorate impacts from the development and rehabilitate the bushland whilst complying with the requirements of the Bushfire Hazard Assessment.

Whilst the VMP is considered to be comprehensive, there were a few minor amendments or notations required to ensure the appropriate implementation of its requirements. Some of the land identified in management zones 3 and 4 are not part of the subject site and therefore cannot be approved by this consent. Also various amendments are suggested in relation to the management of Asset Protection Zone (APZ) to allow them to be more site responsive.

Late in the assessment process, the applicant sought a reduction in the VMP area so as to only apply to the APZ, rather than the management areas identified in the VMP submitted with the proposal. This is not considered appropriate as the VMP needs to be implemented, as necessary, across the site to be effective. The need for vegetation management, particularly in the area of weed control, arises from the historic and ongoing use of the Hydro Majestic. There is a clear nexus between the scale of this development and the management of the immediate receiving environment as identified in the VMP.

Conditions require amendments to the VMP to further consider issues such as the area directly affected by the proposed work, schedule vegetation and their receiving systems as well as soil disturbance and treatment of contaminated fill. The amendments will also include a performance based Inner Protection Zone, specification for conservation of regrowth trees, a work method statement for tree removal on steep land and clarification of objectives and performance indicators during monitoring stages.

2.3.2 Bushfire requirements

A *Bushfire Hazard Assessment* Report was prepared for the Hydro Majestic providing a bushfire hazard assessment together with appropriate recommendations for both building construction and the bushfire mitigation measures. The report notes that the proposed works will be over 110 metres from the bushfire hazard to the east and 41 metres from the hazard to the west. The area required for the Asset Protection Zone primarily consists of existing

managed bushland and previously disturbed area of *Eucalyptus oreades*. The concurrence issued by the Rural Fire Service included a minimum 41metre Inner Protection Zone and APZ on slopes greater than 18 degrees to be landscaped or managed.

In addition to the required Asset Protection Zones, the RFS also required measures relating to water provision, evacuation management and design. Whilst most the measures are easily assess the proposed design requirements include a number of elements with potential heritage impact. Of particular note is the need to provide steel mesh over openable windows along the eastern façade, as well as sub floor areas to be fully enclosed. Clear detail was not available to assess the potential impact of this requirement on significant fabric.

To remain consistent with the recommendation for a Conservation Schedule of Work (point 2.2.16 above) to be provided as a “Deferred Commencement”. It is recommended that the potential impact the RFS’s Design and Construction measures is also incorporated into the Schedule.

2.3.3 Viewlines and Escarpment

During the assessment of the application, concern was raised in relation to both views from the site to the escarpment and Megalong Valley, as well as views from the areas surrounding the site, particularly *in order to properly assess, guide and manage tree growth within the bushland and asset protection zones*. The applicant submitted a View Analysis Report that assessed the potential impact of vegetation management on view lines. Existing views of the Hydro Majestic from the escarpment and to the west of the site consists of a visible group of buildings that extends along the escarpment ridge. Views to the site from the west shows continuation of the texture and quality of the vegetation that exists in the broader area across the base of the Hydro Majestic. Due to the optical distance of the view, exotic species blend in with the dominant native quality of the vegetation presenting a continuation of the general vegetated quality of the area. Views from public places are long distance with the vegetation forming a thin line along the base of the development and exotic vegetation blending with the overall native vegetation on the slopes. The proposed buildings and their resultant envelopes, have been established as a result of a Heritage Impact Assessment and is considered to be a logical extension to the existing facilities and visually integrates the scale and visibility of the existing buildings with the proposed development.

The Report found that the VMP will not have any substantial effect on the scenic amenity of the area. The main viewing points are long distance such that discrete textural change of vegetation will not be perceived. The panoramic views from the site will be improved allowing for discrete framing of views. In addition, the immediate foreground, when viewed from the subject site will be improved by the proposed establishment of all native ecosystems and the removal of invasive vegetation communities.

3.0 SECTION 79(1)(d) and (1)(e) – SUBMISSION and PUBLIC INTEREST

The application was lodged with Council on 11 September 2009 and was on notification from 23 September 2009 until 26 October 2009. Notification included an advertisement in the local paper and a sign on site as well as a letter to property owners in the vicinity. A total of three submissions were received as a result of this notification process.

During assessment of the application, a number of issues were identified and discussed with the applicant, which resulted in a new set of amended plans being lodged with Council. These amended plans were subject to further notification from 5 May 2010 until 4 June 2010.

A total of three further submissions were also received as a result of this subsequent notification process.

The majority of issues raised during this notification process have been identified in the body of this report. Issues not addressed thusly have been identified and commented on in the following points

Flora and Fauna study not occur during the ideal time of year.

Comment

This issue is acknowledged and is indicative of one of the inherent problems when undertaking any Flora and Fauna Study. Even though the FFS only identified threatened species to be some distance clear of the study area, the application was assessed as if there was the potential for unidentified species to occur. It was this approach that resulted in the requested Vegetation Management Plan and subsequent conditions of consent that reinforce the management approach in the VMP.

Impact from impervious parking area.

Comments

The overflow southern car parking area and the accommodation access road and car parking area is mainly surfaced in semi pervious gravel or reinforced grass cells. The primary impervious parking areas are associated with the main southern, accessible parking area and service road. The hard stand areas are appropriately captured and drained.

Should seek comments from Local Traffic Committee and Sydney Regional Advisory Development Committee.

Comment

Development applications do not get referred to the Local Traffic Committee (LTC). Under the former SEPP11 policy (Traffic Generating Development) this development would have fallen within Schedule 1 (tourist facility with 50 to 250 cars) and would have required referral to the Sydney Regional Development Advisory Committee with direct referrals to the RTA, Police and LGA representative. The RTA would have chaired a meeting to discuss the proposal. SEPP11 has been repealed and the proposal is considered against the provisions of the Infrastructure SEPP.

CI 104 of the Infrastructure SEPP only requires referral to the RTA if the proposal falls within the parameters of Schedule 3 of the SEPP. The proposal would fall within Column 3 of Schedule 3 (tourist facility with more than 50 car parking spaces). The application was duly referred to the RTA and is commented on in this report.

Location of southern car parking area to adjoining residential properties (visibility).

Comment

The proposed development is located approximately 10 metres from the nearest residential property boundary to the south and 5 metres to the south east and the west. It will be required as a condition of consent that these areas to appropriately landscaped to mitigate potential visibility as well as light spill issues.

Need for appropriate boundary fences and ongoing maintenance of adjoining ground.

Comment

This is noted and will be required as a condition of consent.

In this instance the public interest is well served by the provision of high quality tourist accommodation facilities and continued operation of a significant heritage item. It is instructive to note that the majority of submissions received were in favour of the proposal

but had matter that they wanted addressed. Being a largely self contained site means the operation of the tourist accommodation can be contained on site but the proposal also allows access for the general public.

CONCLUSION

It is recommended that the development application be approved subject to conditions, which are contained at Attachment 1. The development satisfies the planning provisions as set out in LEP 2005 but moreover it is considered that the development would make a significant contribution to the retention of an iconic tourist facility, providing for a range of accommodation units. The development also satisfies both local and tourist expectations by facilitating continued public access to the views that result from the sites escarpment location. The development will overcome the previous problems created by a historic adhoc approach to the upgrading of facilities and the implementation of required fire safety measures. The proposed development is considered important in terms of retaining the viability of a heritage significant item as well as building on the importance of the item to the character and identification of the area.

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BYRON TULLY

Acting – Executive Principal

Date 15 October 2010



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WILL LANGEVAD

Acting Manager – Land Use Management

Date 15 October 2010



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LEE MORGAN

Acting Group Manager – Environment & Customer Services

Date 15 October 2010