

<b>JRPP No:</b>	2010NTH015
<b>DA No:</b>	DA 135-2010
<b>PROPOSED DEVELOPMENT:</b>	<p><u>Proposed Development:</u> New Motel with 51 guest rooms, Manager's Unit and car park, modifications to existing Armidale Ex-Services Memorial Club and Belgrave Twin Cinema buildings, modification of existing car park and site remediation works.</p> <p>The development is proposed to be undertaken in three (3) stages - consent is sought for all three stages as part of this Application.</p> <p><u>Address:</u> 137 Dumaresq Street, Armidale (comprising Lots 1 and 2 DP 770624, Lot B DP 157581 and Lot 22 DP 869146) and 86-88 Dangar Street Armidale (comprising Lot 3 DP 1131420 and Lot 1 DP 1136216).</p>
<b>APPLICANT:</b>	Armidale Ex-Services Memorial Club, c/- Team Design Aust.
<b>REPORT BY:</b>	Paul Creenaune, Planner, Armidale Dumaresq Council
<b>REPORT REVIEWED BY:</b>	Stephen Gow, Director Planning and Environmental Services, Armidale Dumaresq Council.

## Assessment Report and Recommendation

### EXECUTIVE SUMMARY

<b>Background:</b>	
Owner:	<p>Armidale Ex-Services Memorial Club Lots 1 and 2 DP 770624, Lot B DP 157581 and Lot 22 DP 869146 (137 Dumaresq Street, Armidale)</p> <p>Armidale Dumaresq Council Lot 3 DP 1131420 and Lot 1 DP 1136216 (86-88 Dangar Street, Armidale)</p>
DA Lodgement date:	7 June 2010
Integrated Development:	Section 91(2) Water Management Act 2000 – controlled activity approval
Public notification and exhibition:	<p>Advertised Development (EP&amp;A Regulation – clause 5(1)(b)(ii) and SEPP 55 – clause 13).</p> <p>Exhibition period: 16 June 2010 to 16 July 2010 (one submission)</p> <p>Re-exhibition: (amended plans and Category 1 remediation work – SEPP 55): 25 August 2010 to 24 September 2010 (no submissions)</p>

Additional information requested:	25 June 2010
Additional information received:	Final submission received 15 October 2010
Zoning:	Zone 6(b) Open Space (Private)
Permissibility:	Permissible with consent
Determining Authority:	Northern Region Joint Planning Panel

### **Reasons for consideration by Joint Regional Planning Panel**

The Joint Northern Region Planning Panel is the determining authority pursuant to State Environmental Planning Policy (Major Development) 2005 as the proposed development has a capital investment value of more than \$10 million. The capital investment value of the project, as estimated by the Applicants, is \$13,200,500 (excl. GST).

### **Proposal**

The proposed development involves the construction of a new Motel and multi-deck parking facility over 4 levels as an infill building linking the existing Armidale Ex-Services Memorial Club building to the Belgrave Twin Cinema building, along with internal modifications to the Club, modification of an existing car parking area and site remediation works. A detailed description of the proposed development is outlined in Part 2 of this Report.

The Applicant proposes to carry out the development in three (3) stages, as summarised below. This development application seeks approval for all three (3) stages of the development. Plans of each Stage of the proposed development are included in Appendix 2.

The proposal is Integrated Development, as it involves work within 40m of Dumaresq Creek and will require a controlled activity approval under Section 91(2) of the Water Management Act 2000.

### **Permissibility**

The site of the proposed development is within Zone 6(b) Open Space (Private) under provisions of Armidale Dumaresq Local Environmental Plan 2008. The proposed development is permitted under this Plan with development consent.

### **Key Issue**

The key issue arising from the assessment of this application relates to the site being subject to flooding and the Applicant's proposed response to flooding of the site. The site is situated on the Dumaresq Creek floodplain and is affected by flooding below the adopted flood planning level.

The proposal relies on a flood emergency response plan that allows for two response scenarios, being on-site refuge where staff and guests remain in the motel complex for the duration of a storm or flood event (whilst moving resident motor vehicles to higher flood free car park levels), or evacuation of staff and guests via a prescribed evacuation route along Dumaresq Street to higher ground.

Along with several concerns regarding the submitted flood emergency response plan, the reliance on such a plan to respond to flooding of the site is considered to be contrary to provisions of the NSW Government's Floodplain Development Manual (2005). The proposal is also considered to be inconsistent with provisions of Council's Floodplain Management Policy (POL038) and Armidale Dumaresq LEP 2008, clause 37 – development on land below flood planning level, and is therefore recommended for refusal.

### **Recommendation**

It is recommended that DA-135-2010 be refused for the following reasons:

- i. The proposed development is considered to be inconsistent with the objectives of Armidale Dumaresq LEP 2008, Clause 37(1):
  - (b) to enable safe occupation of land below the flood planning level, and
  - (e) to limit uses to those compatible with flow conveyance function and flood hazard; and
- ii. The proposed development is not considered to satisfy the matters for consideration in relation to development below the flood planning level, as outlined in Armidale Dumaresq LEP 2008, Clause 37(3)(c)(e) and (g), namely that consent must not be granted unless the consent authority is satisfied that the development:
  - (c) will enable safe occupation of land below the flood planning level, and
  - (e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding, and
  - (g) is compatible with the flood hazard within the flood way; and
- iii. Therefore, the granting of consent would not be in the public interest.

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## **ASSESSMENT REPORT**

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### **1. Site and Locality**

The site is located at 137 Dumaresq Street and 86-88 Dangar Street Armidale, comprising Lots 1 and 2 DP 770624, Lot B DP 157581 and Lot 22 DP 869146 (137 Dumaresq Street, owned by the Applicant) and Lot 3 DP 1131420 and Lot 1 DP 1136216 (86-88 Dangar Street, owned by Armidale Dumaresq Council). The site has a total area of approx. 14510 square metres.

The site is generally bounded by Dumaresq Creek to the north and north-west, Dangar Street to the east, Dumaresq Street to the south and a pedestrian / cycle path and sporting fields to the west. A plan and aerial photograph of the site and surrounding area are included in Appendix 1.

The site is located along the northern perimeter of the Armidale CBD and is in close proximity to the main Armidale shopping precinct. The land immediately adjacent to

the north, east and west is primarily public parkland and sporting fields. The site of the proposed development is within the Dumaresq Creek floodplain as identified in Council's Flood Study (2004).

Currently situated on the site are the Armidale Ex-Services Memorial Club (the Club), two bowling greens, the Belgrave Twin Cinema (the Cinema), car parking areas and a pedestrian / bicycle path along the southern bank of Dumaresq Creek.

The two storey Club building occupies the south-east corner of the site, with its primary frontage to Dumaresq Street. An existing car park is situated to the north, between the Club building and Dumaresq Creek, with its access from Dangar Street. Two bowling greens area situated relatively centrally within the site and the Cinema and its associated car parking area occupy the western part of the site. Access to the Cinema and its car park are from Dumaresq Street, with the car park access driveway adjacent to the eastern side of the Cinema building. The Cinema and Club buildings are currently separated by one of the bowling greens. A Greenkeeper's shed and associated out-buildings are located to the north of the bowling green.

The site is relatively flat with very little vegetation other than a row of pine trees along the western boundary, which provide screening to the western façade of the Cinema building, and a landscaped area comprising mixed small ornamental trees and shrubs between the bowling greens and the Dumaresq Creek footpath / cycleway. Existing concrete footpaths are currently located along the frontage to the property on both Dumaresq Street and Dangar Street, and along the Dumaresq Creek footpath / cycleway.

A Council sewer main traverses the site in an east-west direction (generally parallel to Dumaresq Creek) through the site of the proposed motel.

## **2. Proposed Development**

The proposed development involves the closure of one of the two existing bowling greens, the construction of a new Motel, Club entry area and multi-deck parking facility as an infill building linking the existing Club building to the Cinema building, and internal modifications to the Club itself. Internal Club modifications and renovations include new gaming and lounge bar areas, relocated administration and modified dining areas. There are no proposed modifications to the Cinema building, apart from the provision of new disabled access from the car parking area to the Cinema entry and connection of the Cinema building to the Club reception area. The existing Club entry from Dumaresq Street would be closed, with pedestrian access from Dumaresq Street directed to the new Club / Motel reception area. An existing Club entry from the Dangar Street car park would likewise be closed to public access and a new covered walkway provided to direct public access to the new reception area.

The proposed development also involves modifications to existing car parking areas, including the eventual closure of vehicular access from Dumaresq Street to the Cinema car park, construction of a new access driveway from the Dangar Street car park, along the northern property boundary, to the Cinema and Motel car parks. Construction of the access driveway would require relocation of an existing public footpath / cycleway adjacent to Dumaresq Creek. Stage 1 of the proposed development also includes remediation of soil contaminated with coal tar fill material.

The Applicant proposes to carry out the development in three (3) stages, as summarised below. The development application seeks approval for all three (3)

stages of the development. Plans of each Stage of the proposed development are included in Appendix 2.

#### Stage 1:

- removal of one (1) existing bowling green in conjunction with archaeological excavation / investigation for remains of an outbuilding from a flour mill known to have occupied the site at the end of the 19th Century.
- remediation of soil contamination.
- construction of three storey Motel and Club Reception area, comprising ground level (Level 1) Manager's residence and 23 motel units and 2 executive suites over Levels 2 and 3.
- construction of an internal disabled access ramp and steps to link the existing Club to the new reception area. Access to the Motel units and suites from the Reception area would be provided via a lift from the Reception Lobby and a separate access stair to Level 2.
- construction of a two-storey car park at the rear of the Motel, occupying the rear of Levels 1 and 2 and having direct access to the Motel lobbies at those levels.
- construction of access driveway from Dumaresq Street to the rear Motel car park and construction of a one-way drop-off driveway at the Motel / Club Reception area, with appropriate directional signage. The driveway to the motel car park and drop-off area would enter from Dumaresq Street adjacent to the Cinema car park driveway and exit further east along Dumaresq Street adjacent to the existing Club building.
- minor modification of the Dangar Street car park, including new line markings
- construction of an access path from the Dangar Street car park to new Club Reception area. The existing Club entry from Dangar Street car park and Dumaresq Street would be closed to public access and used for egress only.
- minor modifications to the existing Club building, including removal of the existing bowlers' meeting room and mens' lockers to allow for access to the Club from the new Reception area and removal of the registration desk in the existing Club foyer. A new service lift will be installed on the northern side of the existing Club building adjacent to the Dangar Street car park to provide better service access to the Auditorium on Level 2. An existing air-conditioning and mechanical ventilation plant currently housed in a Plant Room on the northern side of the Club building would be de-commissioned and relocated to a new plant room on Level 2.

#### Stage 2:

- realignment of Dumaresq Creek footpath / cycleway.
- modification of Dangar Street car park to provide new exit driveway to Dangar Street.
- construction of new access driveway along the northern boundary of the site to provide access from the Dangar Street car park to the Motel and Cinema car parks. An existing Greenkeeper's shed and associated out buildings would be demolished to enable construction of the new driveway. The driveway would be elevated over the existing ground level to achieve necessary levels, with a retaining wall constructed between the driveway edge and realigned Dumaresq Creek footpath / cycleway.
- closure of Stage 1 access driveway from Dumaresq Street to Motel car park, keeping the drop-off driveway.
- construction of additional motel car parking spaces on Levels 1 and 2.
- construction of additional 6 Motel units and Motel Manager's residence on Level 3.
- construct link from Motel Reception area to the Cinema, including closure of existing Cinema driveway from Dumaresq Street.

- construction of awning over access path from Dangar Street car park to Club Reception area.
- modifications to ground floor layout of Club building and removing plant room from Level 2 and relocating to the roof (Level 4).
- new disabled access ramp to from Cinema car parking area to the Cinema building.
- construct new Bowler's amenities and Greenkeeper's building at the northern edge of the Level 1 motel car park.

### Stage 3:

- construction of an additional residential level to Motel (Level 4) containing 20 motel units.
- installation of a new lift in the motel lobby to service additional units.
- construction of a glazed Porte Cochere over the Dumaresq Street drop-off driveway.
- construction of a footpath awning to the Dumaresq Street facade of the Club building.
- aesthetic modifications to the facades of the Club and Cinema buildings, similar to the Motel building, to provide a coordinated appearance to Dumaresq Street.

## **3. Submitted Documents and Plans**

Documents and plans submitted with the Application have been amended during the course of assessment. The documents and plans relied upon for this report are listed below.

Statement of Development Intent and Environmental Effects (prepared by Team Design Australia, April 2010), amended by Team Design Australia Project Memo No.25 (11 June 2010), Project Memo No.36 (2 August 2010), Project Memo No.37 (17 August 2010) and Project Memo No. 38 (15 October 2010).

Architectural plans (see Appendix 2)

	Site Analysis Plan
DA001/2	Development Proposal
DA002/1	Existing Site
DA003/1	Existing Ex-Services Club Plans
DA004/1	Development Staging Analysis
DA005/1	Floor Area Analysis
DA101/4	Stage 1 – Site Layout Plan
DA102/4	Stage 1 – Level 1 Floor Plan
DA103/3	Stage 1 – Level 2 Floor Plan
DA104/1	Stage 1 – Levels 3 & 4 Floor Plan
DA105/2	Stage 1 - Elevations
DA106/1	Stage 1 – Sections & Perspective Views
DA201/4	Stage 2 – Site Layout Plan
DA202/4	Stage 2 – Level 1 Floor Plan
DA203/3	Stage 2 – Level 2 Floor Plan
DA204/1	Stage 2 – Levels 3 & 4 Floor Plan
DA205/2	Stage 2 - Elevations
DA206/1	Stage 2 – Sections & Perspective Views
DA301/3	Stage 3 – Site Layout Plan
DA302/2	Stage 3 – Level 1 Floor Plan
DA303/2	Stage 3 – Level 2 Floor Plan
DA304/2	Stage 3 – Levels 3 & 4 Floor Plan & Roof Plan
DA305/2	Stage 3 - Elevations

Revised Flood Impact Report – prepared by Eclipse Consulting Engineers, August 2010 (ref: 6126-005-fir) – Appendix 3.

Shelter-in-Place Policy Review – prepared by Eclipse Consulting Engineers, 15 October 2010 (ref: 6126-007-sip) – Appendix 4.

Archaeological Assessment and Research Design, May 2010 – prepared by Pamela Watson, University of New England.

Traffic Assessment Report – prepared by Team Design Australia.

Site Contamination Assessment – prepared by Coffey Geotechnics, 19 February 2010 (ref: GEOTCOFH02681AA-AC).

Additional Site Contamination Investigation – prepared by Coffey Geotechnics, 28 April 2010 (ref: GEOTCOFH02681AB-AB).

Remedial Action Plan – prepared by Coffey Geotechnics, 16 August 2010 (ref: GEOTCOFH02681AC-AB).

Sewer Report – letter to Team Design Australia from Cooper & Associates, Hydraulic Consultants Pty Limited, 19 March 2010.

#### 4. Referrals

As indicated above, the proposed development is Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979, requiring a controlled activity approval from the NSW Office of Water under the Water Management Act 2000.

The following Table provides a summary of external Agency referrals and their responses.

Referral Agency:	Response Date:	Summary of Advice / Issues:
NSW Office of Water	29 June 2010	General Terms of Approval for “works” requiring a controlled activity approval under the Water Management Act 2000
	25 August 2010	No further requirements for amended proposal
NSW Police Force – New England Area Command	24 June 2010	Need alternative entry/exit point for emergency vehicles. Concern about potential use of area beneath suspended roadway adjoining cycleway unless adequate screen or barrier in place.
NSW Department of Planning – Heritage Branch	29 June 2010	Recommended conditions: - before any excavations take place, the applicant should obtain a permit for the excavation of relics under s.139 of the

	20 Sept 2010	Heritage Act 1977; - development of an interpretive strategy. Notes proposed extent of remediation works and that this will have no impact on the archaeology. No further comments.
Country Energy	12 July 2010	No objections. New substation likely to be required.
	24 August 2010	No further comments regarding amended proposal.

## 5. Political Donations

At the time of lodging the development application the Applicant indicated, pursuant to Section 147(4) of the Environmental Planning and Assessment Act 1979, that no reportable political donation or gift had been made by the Applicant or any person with a financial interest in this Application to a local Councillor or employee of Armidale Dumaresq Council.

## 6. Section 79C Evaluation

### ***Matters for Consideration***

The assessment of this Development Application has been undertaken in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979, as amended. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development, the subject of the development application:

***Section 79C(1)(a) the provisions of the following that apply to the land to which the development application relates:***

***(i) any environmental planning instrument***

### **State Environmental Planning Policies (SEPPs):**

The following SEPPs have been considered in connection with this development:

### ***SEPP No. 44 – Koala Habitat Protection***

SEPP 44 – Koala Habitat Protection applies to the Armidale Dumaresq local government area and aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. Relevant provisions of the SEPP are discussed below.

Clause	Subject	Comments
6	Land to which this Part applies	Pursuant to clause 6(c)(ii), the site of the proposed development is subject to SEPP 44 – Koala Habitat Protection as it has an area of more than 1 hectare.
7	Is the land potential koala habitat ?  c.7(2) – source of information used to	Council's Civic and Recreation Services Officer, Mr Richard Morsley (an expert in the identification of native vegetation), has assessed the site and concluded that none of the feed tree species for Koalas listed in Schedule 2 of SEPP 44 were found to occur on the land.



	determine if the land is a potential koala habitat	<p>A street tree on Dumaresq Street proposed to be removed to enable construction of the motel access is a <i>Eucalyptus nicholii</i>, which is a known local Koala feed tree, but is not listed in Schedule 2 of SEPP 44.</p> <p>Reference was also made to Council's Flora and Fauna Study, undertaken for Council by University of New England personnel in the 1990's. None of the feed tree species for Koalas listed in Schedule 2 of SEPP 44 are identified on the subject site in this study.</p> <p>It is therefore considered that the site does not constitute Potential Koala Habitat under the SEPP.</p>
	c.7(3)(a) – land that is not a potential koala habitat	Council is not prevented, because of this Policy, from granting consent to the development application.

Having regard to the above, it is considered that no further assessment is warranted under SEPP 44.

#### **SEPP No.55 – Remediation of Land**

This Policy requires Council to consider whether land is suitable for a proposed use having regard to any known or potentially contaminating land use activities. Soil contamination investigation reports have been requested by Council having regard to SEPP 55, the current Department of Planning Contaminated Land Guidelines and Council's Policy on Contaminated Land, which forms Chapter B9 of DCP 2007 (discussed below).

A Site Contamination Assessment (ref: GEOTCOFH02681AA-AC) and Additional Site Contamination Investigation (ref: GEOTCOFH02681AB-AB), were submitted with the Application. On 17 August 2010, the Applicant submitted an amendment to DA-135-2010 to include remediation of contaminated soil on the site. The proposed remediation is identified as Category 1 remediation work under SEPP No.55, and as such, requires development consent. Included with the modified development proposal was a Remedial Action Plan (ref: GEOTCOFH02681AC-AB) prepared by Coffey Geotechnics. The site investigations, reporting and preparation of the Remedial Action Plan have been carried out in accordance with the SEPP 55 Managing Land Contamination Guidelines, EPA Guidelines for Consultants Reporting on Contaminated Sites and requirements of Armidale Dumaresq DCP 2007 – Chapter B9 Contaminated Land Code.

The preliminary site assessment and additional site investigation suggest that contaminated soil identified on the site appears to be confined to imported fill material encountered beneath the access road adjacent to the Cinema building and in the area between the existing Greenkeepers shed and bowling green identified for removal. During investigations, hydrocarbon odours were noted in fill material beneath the access road and traces of coal tar were also observed in the fill material. The source of the fill is unknown, but is suspected to have originated from the former Armidale Gasworks site. The area of the bowling green identified for removal was assessed in the additional site investigation and subsequently considered to have low potential for contamination.

Pursuant to recommendations of the initial site investigations, a RAP was prepared for the site. The management and remediation goals identified in the RAP are:

- i. to remove the contamination by excavation of impacted soils;*
- ii. to validate the excavation to a condition which does not pose a risk to current and future site users and/or the general public and to assess that the site is suitable for the proposed new motel development;*
- iii. to prepare a waste classification for the excavated soils which allow its removal and proper disposal; and*
- iv. to prepare a Site Validation Assessment report summarising the remediation works undertaken, the results for validation testing and an assessment of the suitability of the site for its future use as a new motel development. A copy of the SVA report is to be provided to Council.*

As a consequence of the site being located on flood liable land within close proximity to Dumaresq Creek, risks associated with on-site stock-piling and remediation of the contaminated soils are considered unacceptable. The RAP therefore identifies the preferred remediation strategy as excavation and disposing of the contaminated soil to a licensed landfill facility.

It is proposed to stockpile the excavated material while a waste classification is prepared by Coffey Geotechnics. Council has confirmed its ability to stockpile the excavated material at its waste management facility in south-east Armidale, while this classification is undertaken. Subject to the waste classification result, the excavated material will be either accepted to landfill for disposal or further treated to immobilise contaminants prior to disposal to landfill. Any further treatment would be carried out in accordance with a NSW EPA general immobilisation approval (Approval Number 2005/14) which applies to coal tar contaminated soil from former gasworks sites.

Council has held discussions with the Department of Environment Climate Change and Water regarding variations to the Operating Conditions of its existing licence for the Armidale waste management facility to enable receipt of the excavated material.

Having regard to the above investigation reports and RAP, the relevant provisions of SEPP 55 are discussed below.

Clause	Subject	Comments
7	Contamination and remediation to be considered in determining development application	
	7(1)(a) – whether the land is contaminated	Investigations indicate that the site does contain an area of contaminated soil associated with previously imported fill material.
	7(1)(b) – if the land is contaminated, is the land suitable in its contaminated state (or will it be suitable, after remediation) for the purpose for which the development is proposed	Subject to implementation of remediation works in accordance with the submitted Remediation Action Plan, it is considered that the land will be suitable for its proposed use.

	to be carried out  7(1)(c) – if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	Could be achieved through conditions of consent
7(2)	consideration of a report specifying the findings of a preliminary investigation of the land concerned	A preliminary site assessment and additional site investigation have been carried out to inform the Remedial Action Plan.
7(3)	Applicant to carry out investigation required under clause 7(2)	As above
8	Category 1 remediation work requires consent	DA-135-2010 as originally submitted, was amended to include proposed remediation as outlined in the Remedial Action Plan.
9	Category 1 remediation work	The proposed remediation work is Category 1 Remediation Work under clause 9(e)(vi) as it will be carried out on land in a floodway.
13	Category 1 remediation work is Advertised Development	The amended Application was advertised for 30 days in accordance with the Environmental Planning and Assessment Regulation 2000.
17	Guidelines and notices for remediation work	Requirements regarding guidelines and notices could be addressed through conditions of consent.
18	Notice of completion of remediation work	As above

Measures and procedures outlined in the RAP to address soil contamination are considered satisfactory, having regard to the nature of contamination identified on the site and the proposed use of land. Any conditions of consent should include requirements for remediation to be carried out in accordance with relevant guidelines identified in SEPP 55 and the Remedial Action Plan, including validation of the remediated site and implementation of site controls, submission of notices required under SEPP 55 and limitations on the timeframe for stockpiling and rehabilitation of excavated material (if required).

Further discussion regarding the provisions of Armidale Dumaresq DCP 2007 – Chapter B9 Contaminated Land Code, is included below.

**SEPP (Major Development) 2005**

SEPP (Major Development) 2005 applies to the Armidale Dumaresq local government area. Part 3 – Regional Development of the SEPP is relevant to this development application as outlined below.

Clause	Subject	Comments
13B	General development to which Part applies	Part 3 – Regional Development applies pursuant to clause: <ul style="list-style-type: none"> <li>• 13B(1)(a) as the development has a capital investment value of more than \$10 million; and</li> <li>• 13B(2)(b) as the development has a capital investment value of more than \$5 million and Council is the owner of part of the land on which the proposed development is to be carried out.</li> </ul>
13F	Council consent functions to be exercised by regional panels	Pursuant to Clause 13F(1)(a), the Northern Region Joint Planning Panel is the determining authority for DA-135-2010.
13G	Staged development functions	Although the proposal is intended to be constructed in various stages, consent is sought for the entire development under DA-135-2010.

**SEPP (Infrastructure) 2007**

The Application has been considered having regard to the relevant provisions of this SEPP. Clause 45 relating to development likely to affect an electricity transmission or distribution network applies. The SEPP requires consultation with the electricity supply authority for the area (Country Energy) and consideration of any response prior to determining a development application.

Clause	Subject	Comments
45	Development likely to affect an electricity transmission or distribution network	Country Energy has been consulted and indicated it has no issues with the proposed development. Advice is that a new or up-graded substation may be required. Preferred location is the location of the current substation on the northern side of the Club building adjacent to Danger Street.

Further works would be subject to an Application for Connection to Country Energy at which time the networks ability to supply the new load would be assessed. The location of any necessary works and a requirement for further application to Country Energy prior to the commencement of such works could be the subject of a condition of consent.

**Regional Environmental Plans (REPs):**

At the time of preparing this report, no regional environmental plans (deemed State Environmental Planning Policies) applied to the Armidale Dumaresq Local Government Area.

### Local Environmental Plans (LEPs):

The following LEP has been considered in connection with this development:

#### ***Armidale Dumaresq Local Environmental Plan 2008***

Clause	Subject	Comments
7	Adoption of Model Provisions	<p>The following clauses of <i>Environmental Planning and Assessment Model Provisions 1980</i> are adopted and are relevant to the proposed development:</p> <ul style="list-style-type: none"><li>• 5(1) requires consideration of probable aesthetic appearance of the proposed building or work when viewed from adjacent land zoned for open space.</li><li>• 5(2) requires consideration of, in relation to a motel, the adequacy of vehicular entrance / exit, parking, loading / unloading and pick-up / set-down of passengers.</li><li>• 30 requires availability of services (water supply and facilities for removal or disposal of sewage and drainage) or satisfactory arrangement for provision of such services.</li></ul> <p>Refer to comments on likely impact of the development, below.</p>
10	Zones indicated on the map	<p>The site of the proposed development is in Zone No. 6(b) Open Space (Private).</p>
30	Zone No. 6(b) Open Space (Private)  30(1) Zone objectives	<p>The objectives for development in Zone No. 6(b) are:</p> <p><i>(a) to identify land used or to be used for private open space, recreation and associated purposes that is not owned by Council or another public authority, and</i></p> <p><i>(b) to enable development of the land for recreational purposes and uses associated with recreation.</i></p> <p>The proposed development (as defined below) is not inconsistent with the zone objectives.</p>
	30(3) Only with development consent	<p>The proposed development is defined under the LEP as a <i>club</i> and <i>tourist facility</i>, both of which are permitted with development consent in the Zone. Development of the new car park, modifications to the existing car park and site remediation works are considered ancillary to the above uses.</p> <p>The Dictionary of Armidale Dumaresq LEP 2008 provides the following definitions:</p> <p><b><i>club</i></b> means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or a different kind and whether or not the</p>

		<p>whole or a part of any such building is the premises of a club registered under the <i>Registered Clubs Act 1976</i>.</p> <p><b>tourist facility</b> means an establishment providing for holiday accommodation or recreation and may include a boatshed, boat handling facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any tourist activities.</p> <p><b>motel</b> means premises used for the temporary or short-term accommodation of travellers but does not include premises defined elsewhere in this Dictionary.</p>
37	Development on land below flood planning level	Refer to further discussion of relevant issues following this Table.
39	Development on land in riparian buffer areas	<p>The site includes a riparian buffer area, as defined by this clause, being land within 50m of Dumaresq Creek. Under the clause, the consent authority must be satisfied that adequate measures have been, or will be, taken to offset the likely effects of the development on stream bank instability, stream water quality and aquatic habitat. For this purpose, adequate measures include (if practicable):</p> <ul style="list-style-type: none"> <li>(a) retention of endemic vegetation,</li> <li>(b) new plantings comprising endemic riparian vegetation, including emergent vegetation,</li> <li>(c) replacing exotic vegetation with endemic vegetation,</li> <li>(d) protecting instream vegetation, including trees, snags, macrophytes and algae,</li> <li>(e) keeping hard surfaces, such as cycle ways and footpaths, to a minimum and constructing these surfaces from permeable material, and</li> <li>(f) staging development so that improvements to the riparian buffer areas are in place and acting to minimise erosion and runoff prior to carrying out the remainder of the development.</li> </ul> <p>The proposal is Integrated Development, subject to General Terms of Approval from the NSW Office of Water for “works” requiring a controlled activity approval under the <i>Water Management Act 2000</i> (i.e. works within 40 metres from the top of the highest bank of a watercourse – Dumaresq Creek). The General Terms of Approval issued for the development include conditions requiring a Controlled Activity Approval and the preparation of a vegetation management plan and erosion and sediment control plan, prior to the commencement of any works. It is</p>

		considered that the NSW Office of Water's General Terms of Approval adequately address the matters for consideration under clause 39 in relation to development in a riparian buffer area and could be satisfactorily conditioned, along with conditions regarding construction of the realigned cycleway.
58	Tree preservation	<p>Clause 58 requires consent, subject to certain exceptions, for the removal of a tree with an overall height of 5 metres or more in Zone No. 6(b). Matters to be assessed in determining such a proposal include:</p> <ul style="list-style-type: none"> <li>(a) <i>the reason for the proposed work,</i></li> <li>(b) <i>the visibility and contribution of the tree or trees in the local landscape or streetscape,</i></li> <li>(c) <i>the type and rarity of the species,</i></li> <li>(d) <i>the number of trees in the vicinity,</i></li> <li>(e) <i>whether the tree may become dangerous or damage property or utility services,</i></li> <li>(f) <i>whether new plantings are proposed or are desirable,</i></li> <li>(g) <i>the effect of the tree or trees on local views, on solar access to properties and on local amenity,</i></li> <li>(h) <i>any heritage significance of the tree, and</i></li> <li>(i) <i>soil conservation and erosion issues.</i></li> </ul> <p>The Application proposes removal of the following:</p> <ul style="list-style-type: none"> <li>• Stage 1 - one street tree (<i>Eucalyptus nicholii</i>) in Dumaresq Street for proposed Motel access.</li> <li>• Stage 2 – approximately six (6) small (less than 5 metre high) ornamental trees and shrubs on northern side of remaining bowling green to enable access driveway, and a tree on the western boundary (behind Cinema building) to allow for alternate emergency vehicle access.</li> </ul> <p>Included in Stage 1 and 2 is the proposed planting of shade trees in the Dangar Street car park and adjacent to the access driveway.</p> <p>The trees proposed for removal are not of heritage significance, rare or of a particularly significant nature. It is considered that appropriate replacement or compensatory planting and site landscaping requirements could be conditioned in any development consent.</p>
59	Roads, bridges, footpaths, cycleways, drainage, recreation areas and parking.	Clause 59 allows for the carrying out of development on land in any zone for the purposes of roads, cycleways, stormwater drainage (or other utility service infrastructure), recreation areas, landscaping, gardening or parking, by or on behalf of Council. Consent is required if the proposed development is to be carried out on land on which a heritage item is

		<p>situated.</p> <p>The Application includes the relocation and reconstruction of part of the Dumaresq Creek cycleway, utility infrastructure works, landscaping and parking.</p> <p>The site does not contain a heritage item, and although nothing in clause 59 prevents the works from being carried out, it is considered that appropriate conditions should apply to such works to protect the environment and amenity of the area.</p>
61	Waste management	<p>Clause 61 requires consideration of the following matters relating to waste management that are relevant to the application:</p> <ul style="list-style-type: none"> <li><i>(a) re-use and recycling of building and construction materials,</i></li> <li><i>(b) re-use and recycling of household, commercial and industrial waste,</i></li> <li><i>(c) site storage requirements for construction, and for managing household, commercial and industrial waste.</i></li> </ul> <p>It is considered that the above matters, relevant to the Application, could be appropriately conditioned.</p>
63	Solar access	<p><i>Under clause 63, consent must not be granted for the purposes of erecting a building on land if, in the opinion of the consent authority, the building would significantly affect the access of solar radiation between the hours of 9 am and 3 pm Eastern Standard Time (as measured on 21 June) to existing or likely developments on adjoining land or on other land in the locality.</i></p> <p>The proposed motel is located on the northern side of Dumaresq Street and has a finished height of approximately 18m from ground level. A shadow analysis submitted by the Applicant (Plan DA010/1 – Appendix 2) shows that the motel building would create shadowing over Dumaresq Street and Dangar Street during the above times. Existing development on the southern (opposite) side of Dumaresq Street consists of a loading/unloading area for an adjacent commercial development with the façade of the commercial building set back behind the loading/unloading area. There are no window openings on the northern commercial building façade. Shadowing over Dangar Street, the footpath and a small area of the adjacent public park is shown to occur at 3:00pm. Solar access would not be adversely or significantly restricted from any existing building or public open space area by the proposed</p>



		motel development.
67	Heritage conservation	<p>Included with the Application is an <i>Archaeological Assessment and Research Design (May 2010)</i> prepared by archaeological consultant Pamela Watson from the University of New England.</p> <p>Research outlined in the above report has identified <i>that the south east quadrant of the bowling green (site of proposed Motel) and the intervening space between the green and the club house to the east, once contained a substantial outbuilding, chimney and annex associated with a flour mill that operated on the site of the club house from the 1860s until the end of the 19th century. The mill building was an impressive two storey stone structure which was renovated and reused as the original club house from 1950, and was progressively demolished as the club house was remodelled and extended over subsequent years.</i></p> <p>The site is considered to have moderate archaeological potential and any potential archaeological relics associated with the site of the flour mill have been assessed to be of local significance.</p> <p>The above report recommends archaeological monitoring of the removal of the bowling green infrastructure, followed by test excavations in order to clarify the potential of the site, to establish significance and to determine appropriate further action.</p> <p>Although the site is not within a heritage conservation area and does not contain a heritage item or archaeological site, as identified in Schedule 2 of Armidale Dumaresq LEP 2008, potential archaeological deposits would be defined under LEP 2008 as <i>relics</i> and their demolition or movement would require consent under clause 67(2).</p> <p>Council has consulted the NSW Department of Planning (Heritage Branch) with respect to the Application and the site's potential archaeological significance. The Department's response is summarised above in Part 4 of this report. Council's Heritage Advisor has also assessed the Application and his comments generally concur with the recommendations of the above archaeological assessment.</p> <p>It is considered appropriate that the recommendations of the NSW Department of Planning (Heritage Branch) and recommendations contained in the above archaeological assessment be incorporated into any consent conditions.</p>

		<p>The Archaeological Assessment also notes the protection afforded to Aboriginal items under the National Parks and Wildlife Act 1974. Under a report titled <i>Armidale Dumaresq Council Aboriginal Potential Areas Report 2008</i>, the site is identified as having a moderate potential for Aboriginal sites to exist. Having regard to the highly modified nature of the site, its lengthy European occupation and the lack of any known or registered Aboriginal sites in the vicinity of the proposed development, it is considered that appropriate conditions could be applied to protect any Aboriginal items discovered during the archaeological excavations.</p>
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### ***Clause 37 - Development on land below flood planning level***

#### Background

The site of the proposed development is within the Dumaresq Creek floodplain as identified in Council's Flood Study (2004). For planning purposes, Council's Floodplain Management Policy (POL038 – Drainage) and Armidale Dumaresq LEP 2008 both adopt a flood planning level, which is defined in LEP Clause 37(4) as meaning *the 1% AEP flood level, shown on the flood maps for Armidale held in the offices of the Council, + 0.5 metres*. The flood planning level for the site of the proposed motel has been assessed as 971.90m.

A Revised Flood Impact Report (ref: 6126-005-fir, August 2010) has been prepared for the proposed development by Eclipse Consulting Engineers. A copy is included in Appendix 3.

The Flood Impact Report identifies the site as being subject to flooding at varying depths and velocities relative to the extent of the corresponding flood event and notes that the site is not only subject to rising floodwaters from Dumaresq Creek to the north, but that during more severe flood events the upstream flood waters will split at the Dumaresq Street / Jessie Street roundabout, directing flood water down Dumaresq Street itself.

The ground floor level of the proposed motel and Stage 1 Manager's Unit is equivalent to the flood planning level (971.90m) while the ground level (Level 1) motel car parking area is below the flood planning level (lowest point at 970.115m). Part of the Stage 2 infill between the motel reception and Cinema building, immediately adjacent to the Cinema, has a floor level of 971.67m.

The Flood Impact Report acknowledges that Dangar Street would become inundated during a 20% AEP (annual exceedence probability) flood event, and Dumaresq Street and the ground level (Level 1) motel car park would become inundated during a 5% AEP flood event with depths >400mm in places. Parts of the motel car park would become a high hazard floodway below a 1% AEP flood event. The area adjacent to Dumaresq Creek, including motel access driveway from Stage 2 onwards, is identified in the Flood Impact Report (Pt 6.9) as a *high hazard floodway area and not suitable as an emergency access route during any significant flood events above the 10% AEP storm event*.

The proposal relies on a flood emergency response plan that allows for two response scenarios, being on-site refuge where staff and guests remain in the motel complex for the duration of a storm or flood event (whilst moving resident motor vehicles to higher flood free car park levels), or evacuation of staff and guests via a prescribed evacuation route along Dumaresq Street to higher ground.

#### Legal Responsibility and Indemnity

Section 733 of the Local Government Act 1993 protects Council from liability in its determination of a development application in relation to flood liable land if it has followed the requirements of the relevant manual. In this regard, the following assessment of this Application has been undertaken with due reference to the NSW Government's current Floodplain Development Manual (April, 2005).

#### Armidale Dumaresq LEP 2008 – Clause 37

The following Table summarises matters of compliance / non-compliance with the provisions of LEP Clause 37 – Development on land below flood planning level. Issues relating to matters of non-compliance are further discussed below.

LEP Clause 37	Comments
<p>(1) The objectives of this clause are:</p> <ul style="list-style-type: none"> <li>(a) to maintain the existing flood regime and flow conveyance capacity, and</li> <li>(b) to enable safe occupation of land below the flood planning level, and</li> <li>(c) to avoid significant adverse impacts on flood behaviour, and</li> <li>(d) to avoid significant adverse affects on the flood plain environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and</li> </ul>	<p>Demonstrated as satisfactory in the submitted Flood Impact Report.</p> <p>While the motel's residential component and Level 2 car park would be above the flood planning level, the lower level car park, motel access driveway (including Dangar Street) and Dumaresq Street would all be subject to flooding below the 1% AEP flood level.</p> <p>The proposed development relies on a flood emergency response plan to address issues of occupant safety and site operation for flood events below the flood planning level, and in this respect, is not considered to provide safe occupation of the site below the flood planning level (see discussion below).</p> <p>Demonstrated as satisfactory in the submitted Flood Impact Report.</p> <p>No significant adverse impacts have been identified. Works immediately adjacent to Dumaresq Creek would be subject to a controlled activity approval under the Water Management Act 2000, as outlined above.</p>

<p>(e) to limit uses to those compatible with flow conveyance function and flood hazard.</p>	<p>Having regard to the assessed flood hazard along Dumaresq Street in a 1% AEP flood event, the flood emergency response plan option for site evacuation is considered unsafe and therefore incompatible with the localised flood hazard (see discussion below).</p>
<p>(2) Development may be carried out for the following purposes, on land below the flood planning level, but only with consent:</p> <ul style="list-style-type: none"> <li>(a) subdivision of land,</li> <li>(b) filling and earthworks,</li> <li>(c) the erection of a building,</li> <li>(d) the carrying out of a work,</li> <li>(e) flood mitigation works.</li> </ul>	<p>Development consent is required for the proposed development.</p>
<p>(3) Consent under subclause (2) must not be granted unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>(a) will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the flood plain, and</li> <li>(c) will enable safe occupation of land below the flood planning level, and</li> <li>(d) will not significantly detrimentally affect the flood plain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and</li> <li>(e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding, and</li> </ul>	<p>Demonstrated as satisfactory in the submitted Flood Impact Report.</p> <p>Demonstrated as satisfactory in the submitted Flood Impact Report.</p> <p>The proposed flood emergency response plan is not considered to provide for safe occupation of the site below the flood planning level.</p> <p>Demonstrated as satisfactory in the submitted Flood Impact Report.</p> <p>The proposed flood emergency response plan relies on third parties for certain response measures. Whether or not these measures can be provided during a flood event, as proposed, is untested (e.g. medical emergency treatment / evacuation).</p>

<p>(f) is compatible with the flow conveyance function of the flood way, and</p> <p>(g) is compatible with the flood hazard within the flood way.</p>	<p>Increased occupation of the floodplain can have an adverse cumulative impact on the availability of emergency response resources. The proposed development has potential to require diversion of emergency response personnel away from assisting other existing flood affected properties during flood events.</p> <p>Demonstrated as satisfactory in the submitted Flood Impact Report.</p> <p>Proposed access (vehicular and pedestrian) and evacuation measures are considered incompatible with the localised flood hazard during a 1% AEP flood event.</p>
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#### Flood Hazard

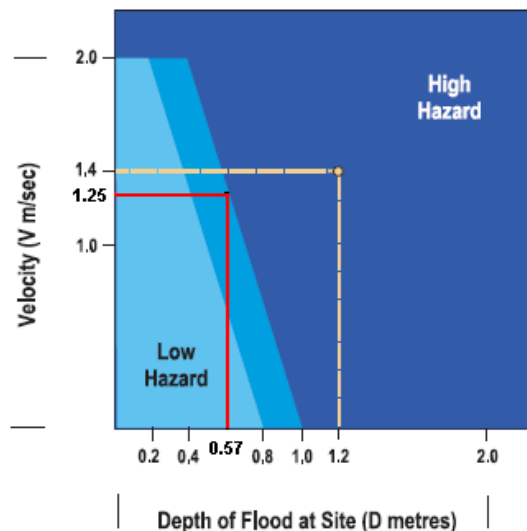
Based on the flood hazard parameters in Dumaresq Street and Provisional Hydraulic Hazard Categories contained in the NSW Floodplain Development Manual (April 2005), the Flood Impact Report identifies the flood hazard levels for a 1% AEP flood event as:

Dumaresq Creek – high hazard floodway

Dumaresq Street – intermediate hazard floodway / flood fringe

Council has concerns with this analysis as the two hazard levels, as identified in the Floodplain Development Manual - Appendix L Hydraulic and Hazard Categorisation, are either Low hazard or High hazard. An analysis of the 1% AEP flood data supplied by the Consultant shows a depth of 0.57 metres and a velocity of 1.25m/s in Dumaresq Street outside the entrance to the development. Further analysis of the information supplied indicates that the depth of water increases along the proposed evacuation route to at least 0.65m, and to 0.8m at the gutter crossing near the corner of Dumaresq and Dangar Streets.

Figure L2 of the Floodplain Development Manual (reproduced below showing relevant flood depth of 0.57m and velocity of 1.25m/s marked) indicates that the Provisional Hydraulic Hazard Category for the site falls between Low and High Hazard (closer to high).



The Floodplain Development Manual (pg. L-4) states that *it is not appropriate to use Figure L2 to determine the hazard implications of individual developments*. Further hydraulic categories are provided in the Floodplain Development Manual, being flood ways, flood storage and flood fringe. In this case the Hydraulic Category is Floodway as Dumaresq Street operates as a secondary floodway when flood flows split at the Jessie and Dumaresq Streets intersection. Noting the above, it is considered that the Provisional Hydraulic Hazard Categorisation for the site would be High Hazard Floodway, not Intermediate Hazard as purported in the Flood Impact Report.

Establishing the true flood hazard depends on a number of factors, including size of the flood, effective warning time, flood readiness, rate of rise of floodwaters, depth and velocity of floodwaters, duration of flooding, evacuation problems, effective flood access and type of development. The Dumaresq Creek catchment is relatively small and is considered a responsive catchment where flood conditions can change quickly. Peak flood levels in Dumaresq Creek would be expected to be reached within 4.5 to 9 hours of a storm event commencing.

The type of development is also important in determining flood hazard as motels can involve occupants who are not conversant with the locality or flood risk management strategies for a development.

#### Flood Emergency Response Plan

As noted above, the proposal relies on a flood emergency response plan that allows for two response scenarios, being on-site refuge where staff and guests remain in the motel complex for the duration of a storm or flood event (whilst moving resident motor vehicles to higher flood free car park levels), or evacuation of staff and guests via a prescribed evacuation route along Dumaresq Street to higher ground.

The reliance on a Flood Emergency Response Plan for new development is not supported in the Floodplain Development Manual which states (Pt 3.6) *it should be noted that a private or site specific flood plan for the proposed development is not an appropriate measure to rectify adverse impacts or to manage the consequences of inappropriate decisions*.

Emergency response plans for individual developments are recognised as having inherent limitations, as outlined in the Floodplain Development Manual (Pt N7.1), reproduced below:

*Any form of response planning, but private planning in particular, is unreliable as a long term risk mitigation measure. This is because all plans must be prepared using assumptions about conditions (environmental and organisational) that are expected to apply in the future and which may prove to be wrong or at least very different to the actual event.*

*Floods are highly variable in frequency and severity and this influences two critical planning assumptions, available flood warning time and likely consequences. If, in an actual flood, there is a significant variation between assumptions and reality, even a well written plan will fail unless intelligent on-the-day adaptation is implemented.*

*Implementation of a plan depends explicitly on a thorough understanding of the risks and of the roles and responsibilities of participants. To experienced emergency managers these are areas well known for their uncertainty and the SES trains and practices continually to minimise their impact. Businesses and households will have a much lower capacity to undertake necessary training and practice and so the plans they own will be much more prone to failure*

With regard to the emergency response plan for the proposed motel, reliance is placed on external warning systems and motel staff to declare a 'flood situation', and on motel staff to implement the response measures.

The level of occupant awareness of the site, general locality and flood conditions can also impact on the effectiveness of emergency response plans. With regard to emergency response plans for motel developments in particular, the Floodplain Development Manual also states (Pt L6.9.2) that ***“due to the transient nature and special needs of occupants, such plans should not be used as the basis of development consent for new developments of this type”***.

Notwithstanding the above concerns with reliance on an emergency response plan for the proposed development, the following specific issues are also identified in the Flood Impact Report and flood emergency response plan:

(a) Access and parking

The Flood Impact Report identifies the following impacts of flooding on site access:

- Dangar Street (access from Stage 2 onwards) would be inundated in a 20% AEP flood event;
- Dumaresq Street would be inundated during a 5% AEP storm event;
- the proposed access driveway along the northern boundary adjacent to Dumaresq Creek would be inundated during a 5% AEP flood event; and
- the ground level (level 1) car park would be inundated during a 5% AEP flood event.

These restrictions and impacts on site access (pedestrian and vehicular), identified as occurring during flood events with greater frequency than a 1% AEP flood and at flood levels below the 1% AEP flood, indicate that the development does not allow for safe occupation (with respect to access and egress) below the flood planning level.

Council's Flood Management Policy (POL038 – Drainage) requires under Part 5(c) that *Council shall not grant consent unless it has taken into consideration – the availability of safe access to the development, at or above the flood planning level.* The proposal, as outlined above, does not satisfy this criteria.

The emergency response plan relies on staff moving vehicles to higher parking levels and putting in place barriers to prevent vehicles entering and leaving the car park. These measures do not respond to flooding of Dangar Street and the Stage 2 access driveway adjacent to Dumaresq Creek, the potential for guests not already on-site trying to access the car park during a flood event below the 1% AEP level, or the potential for guests to ignore instructions and take unnecessary risks trying to move their own vehicles.

(b) On-site refuge

Concerns with the on-site refuge policy outlined in the Flood Impact Report include:

- back-up power supply for heating, lifts or cooking facilities is not considered necessary;
- different response actions are proposed for day and night time flood events in relation to staff presence, moving vehicles from flood affected car parks and providing guidance and directions to guests;
- the on-site refuge policy assumes *a low probability that a medical emergency requiring urgent medical assistance would occur during the flood event, with a probability of around 5% being considered a conservative estimate*. If a medical emergency did arise, the plan assumes that emergency personnel could access the site by 4WD or trucks, or that evacuation of critical patients could occur by helicopter or boat.
- the Flood Impact Report relies on an expected short duration of flooding to determine that issues of post-event anxiety and trauma related disorders, shortages of food and water, and medical emergencies *are not critical for the proposed development site*.
- the plan does not clearly state when and at what stage of a flood the building should be evacuated or when the residents of the hotel will be told to stay in place as the evacuation route is unsafe.

The inability of occupants to leave the motel site safely and without external assistance during a 1% AEP flood event, and the reliance on external assistance for emergency situations arising during a flood event, would create inherent safety risks for occupants of the site. Coupled with the likelihood that motel guests would be unfamiliar with the locality, have a low awareness of localised flood behaviour and would not be conversant with the measures proposed in the flood emergency response plan, the proposal for on-site refuge is not considered a safe response to flooding of the site, particularly as some measures would need to be instigated below the 1% AEP flood level and flood planning level.

On 15 October 2010, the Applicant submitted a Shelter-in-Place Policy Review (Appendix 4). This report cites a shelter-in-place policy for flood prone development adopted by Tweed Shire Council as a precedent to enable the development as proposed. Discussions with the Tweed Shire Council staff member referenced in this report suggest that the circumstances which led Tweed Shire Council to adopt a shelter-in-place policy are significantly different to the circumstances in Armidale. Such matters include:

- the Tweed has a large floodplain area that experiences frequent short duration floods with low warning time;
- the area experiences high rates of development;
- evacuation is not a practical option for large areas of the floodplain, and rather than sterilising large areas of land from development, adoption of a policy for



shelter-in-place above the PMF (probable maximum flood) was seen as a preferable risk management option as opposed to doing nothing.

It was acknowledged that the Tweed Shire Council policy for shelter-in-place was not consistent with Department of Planning guidelines and that the State Emergency Services had not endorsed the policy. No other Councils in NSW had been identified as taking a similar approach to development on the floodplain. Evacuation is still the preferred option for flood liable development in the Tweed LGA.

The Applicant's latest submission proposes a flood response that is inconsistent with requirements for development in Council's adopted Floodplain Management Policy (POL038). Council's existing Policy does not consider on-site refuge during flood events as a response option. While it may be open to Council to review its existing Floodplain Management Policy in this respect, the determination of this single development application on the basis of the Applicant's submission would be a significant policy shift undertaken on an ad-hoc basis. Such an approach is not supported by the Floodplain Development Manual which states (Pt 3.1.3(c)) that ***a fundamental principle of floodplain risk management is to assess development applications within the strategic framework of a floodplain risk management plan and not in isolation or individually.***

After considering the Shelter-in-Place Policy Review and meeting with the report's author, Applicant and members of the Armidale Ex-Services Memorial Club, the conclusions outlined in this report remain unchanged.

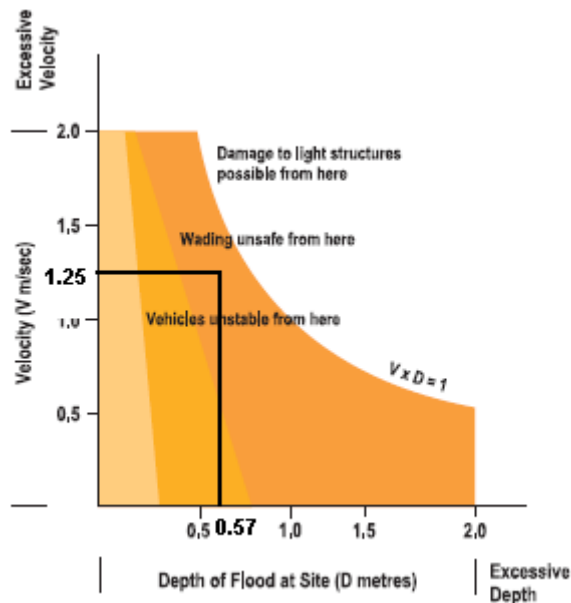
(c) Evacuation

The flood emergency response plan includes an option for evacuation in certain circumstances. Despite the Flood Impact Report indicating, in relation to flood hazard classification, that evacuation is not feasible during the peak of a 2% AEP (or less frequent) flood event, the Report goes on to say that *the following aspects of the development will assist in the evacuation in the event of a major flood event such as the 1% AEP event or larger floods:*

- *the depth of flood waters in Dumaresq Street in the 1% AEP storm event will be less than 0.6 metres deep with a velocity less than 1.3 metres per second. Under this extreme flooding event these flood water conditions can be waded through safely by the development occupants and emergency staff.*
- *the evacuation route is fully sealed with even grades for safe access even when partially flooded.*
- *the distance to flood free ground is relatively close, being within half a block from the motel entrance.*

Applying the depth and flow velocity data for the site to the Floodplain Development Manual Figure L1 – Velocity and Depth Relationships (reproduced below showing flood depth of 0.57m and velocity of 1.25m/s marked), it can be seen that evacuation during a 1% AEP flood event is inherently unsafe as vehicles become unstable and wading is unsafe, contrary to claims in the Report.

Furthermore, Council's analysis indicates that flood depths would increase along the designated evacuation route up to 0.65m on the footpath at the south-west corner of Dumaresq / Dangar Streets. The depth of water in the gutter at this location would be at least 0.8m. Occupants evacuating from the site would also be required to cross the submerged gutter in Dumaresq Street during a 1% AEP flood. In this regard, the evacuation route also does not provide *even grades* along its route, as suggested.



The Flood Impact Report and flood emergency response plan make the assumption that any decision or requirement to evacuate would be made prior to flood waters reaching their peak and that adequate prior warning and time for evacuation would be available. Should this scenario not eventuate, any requirement to evacuate during a 1% AEP flood event would rely on external assistance and be potentially dangerous for occupants.

It is also assumed that evacuation would be carried out in conjunction with emergency personnel (e.g. State Emergency Services). This assumption relies on the availability of emergency services when required and places additional demand on such services at times when they may be required elsewhere during a flood event.

#### Climate Change

The NSW Climate Impact Profile 2010, published by Department of Environment, Climate Change and Water predicts for the New England North West region that despite the potential for drier conditions for much of the year, flood-producing rainfall events are likely to increase in frequency and intensity. In relation to smaller urban streams the Profile states that *increase in flood-producing rainfall intensities, particularly during short storms, are likely to cause additional flooding from local streams and for drainage systems through levees. Towns such as Inverell and Armidale are sensitive to such changes.*

While these predictions are not quantifiable at present, the inference is that the issues associated with flooding of the site, as identified above, are more likely to increase in the future rather than decrease.

#### Conclusion

The proposed motel development, including car parking area, vehicle access driveway and pedestrian evacuation route, will be affected by floods with a greater frequency and at a lower level than the 1% AEP flood level. Flood impacts on the site will occur below the flood planning level defined in Armidale Dumaresq LEP 2008.

The proposed flood emergency response plan is inconsistent with Council's Floodplain Management Policy (POL038) and the Floodplain Development Manual.

The proposed development is therefore considered to be inconsistent with the objectives of Armidale Dumaresq LEP 2008, Clause 37(1)(b) and (e) and the requirements for development below the flood planning level outlined in Clause 37(3)(c), (e) and (g).

- (ii) any proposed instrument that is or has been the subject of public consultation under [the] Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)**

There are no draft local environmental plans applicable to the site or the proposed development.

Draft State Environmental Planning Policy (Competition) relates to 'commercial development', which by definition does not include 'hotel or motel accommodation'.

- (iii) any development control plan**

Armidale Dumaresq Development Control Plan 2007 applies to the land. The following Table outlines the Chapters and respective relevant provisions of Armidale Dumaresq DCP 2007 that apply to the proposed development.

Chapter	Comment
B3 – Development Applications and Assessment	Outlines Development Application requirements, notification procedures and assessment considerations. In addition to the procedures outlined in Chapter B3, DA-135-2010 has been advertised in accordance with provisions of the <i>EP&amp;A Act 1979</i> , <i>EP&amp;A Regulation 2000</i> and <i>SEPP 55</i> (category 1 remediation work).
B4 – Vehicle Parking Code	<p>The Code is intended to apply to developments incorporating less than fifty (50) uncovered surface level parking spaces. With regard to the proposed development, the Code adopts Australian Standards 2890 - Parking Facilities for car park design, while the required number of car parking, service vehicle and bicycle spaces are outlined in Appendix A of the Code as being:</p> <ul style="list-style-type: none"> <li>- car parking - 1 space per residential unit/room plus 1 space for any residential manager, and 1 space per 2 non-resident employees.</li> <li>- provision for coaches to pick up and set down may also be required for large establishments.</li> <li>- service vehicles - one space per 50 bedrooms or part thereof or bedroom suites for the first 300 bedrooms or bedroom suites</li> <li>- bicycles - 1 per 400 m2 GFA.</li> </ul> <p>The various stages of the proposal have been assessed as being satisfactory with regard to AS 2890 – Parking Facilities and DCP Chapter B4, subject to detailed design being provided for assessment prior to issuing of a Construction Certificate.</p>

	<p>Proposed parking, including modifications to the Dangar Street car park, should be conditioned to require compliance with AS 2890 – Parking Facilities and the number of bicycle parking spaces to comply with DCP Chapter B4.</p>
B5 – Design for Access and Mobility Code	<p>Chapter B5 provides detailed guidelines on the provision of access for people with temporary and permanent mobility impairments, including guidance as to the requirements of the <i>Building Code of Australia</i> and AS 1428.1 – <i>Design for Access and Mobility: General Requirements for Access – Buildings</i>.</p> <p>The Application has been assessed by Council's Access Advisor. In response to the issues raised in this assessment, the Application has been modified (shown on current plans) to include the following:</p> <ul style="list-style-type: none"> <li>• increase number of accessible motel rooms from two (2) to three (3),</li> <li>• increase number of motel car parks for people with disabilities from three (3) to four (4),</li> <li>• maintaining the two (2) existing car parks for people with disabilities in the Dangar Street car park and provision of a third parking space in Stage 2 adjacent to the Bowlers' amenities building and covered access pathway,</li> <li>• provision of a car parking space for people with disabilities in the new Club / Motel entry driveway adjacent to the taxi and bus set down area (NB: a parking space in this location would conflict with bus swept path in the set down area. Adequate parking for people with disabilities is provided elsewhere on site and sufficient area is available in the set down area for people with disabilities to disembark from vehicles); and</li> <li>• modification of the two (2) existing parking spaces for people with disabilities at the rear of the Cinema in Stage 2 to allow footpath access at the front of the spaces adjacent to the Cinema building and connecting to the proposed new access ramp.</li> </ul> <p>Comments regarding the height of benches in the Club / Motel reception can be addressed in future construction plans.</p> <p>Existing parking spaces for people with disabilities in the Dangar Street car park are shown on plan DA101/4 and DA201/4 as parking spaces numbered 1, 51 and 79 (refer to Appendix 2). Spaces numbered 1 and 51 would require the occupant to traverse through the car parking area in order to access the pathway connecting the car park to the Club reception area. Any consent conditions should require relocation of the car parks for people with disabilities (numbered 1 and 51) to enable direct access to the pathway, similar to parking space numbered 79, in order to provide safer access and reduced travel distance for people using these parking spaces.</p> <p>The Application is considered to adequately address the provisions of Chapter B5 in relation to new and existing buildings and can be conditioned to require compliance with the</p>

	<p><i>Building Code of Australia</i> and relevant current Australian Standards. DCP Chapter B5 also includes an Access Audit Checksheet which the Applicant could complete and return with any Construction Certificate application.</p>
B7 – Stormwater Drainage Code	<p>Chapter B7 references Council's Floodplain Management Policy (POL038) and the adopted flood planning level with respect to development below the flood planning level (refer to discussion above).</p> <p>Matters relating to drainage are discussed below under likely impacts of the development.</p>
B9 – Contaminated Land Code	<p>In addition to the matters discussed above in relation to SEPP 55 – Remediation of Land, Chapter B9 – Part 2.4 requires consultants undertaking investigations and reporting on potentially contaminated land to satisfy certain criteria regarding their experience and expertise in the field. All contaminated land investigation and reporting for this Application has been undertaken by Coffey Geotechnics Pty Ltd, a specialist ground engineering consultancy which is part of Coffey International Limited. Information submitted by Coffey Geotechnics Pty Ltd to Team Design Australia (dated 1 July 2010) and subsequently provided to Council (ref: I/2010/17576) adequately addresses the DCP criteria for consultant competency.</p> <p>An independent audit of the site investigation and Remediation Action Plan is not considered to be warranted.</p> <p>Chapter B9 – Appendix 3 also includes sample conditions of consent for remediation work which could be included, as relevant, with any consent conditions.</p>
D1 – Summary of Development Requirements for LEP Land Use Zones	<p>The proposal is consistent with requirements identified in Chapter D1 for Zone No.6(b) except the maximum height, which is 6m. The finished height of the building in Stage 3 is approximately 18m.</p> <p>Armidale Dumaresq DCP 2007 allows for variation of standards where the requirement would be unreasonable or unnecessary. A variation to the maximum height standard is considered appropriate, as discussed below in relation to DCP Chapter D5.</p>
D5 – Armidale Central Business District and Surrounding Precincts Code	<p><i>2.2 Local Context / 2.2.1 Landmarks</i></p> <p>While linking the existing Club and Cinema buildings, the motel building infill is designed to incorporate elements of both, yet still create its own architectural statement.</p> <p>Council's Heritage Advisor / Architect has provided comments on the following matters, which could be conditioned as relevant:</p> <ul style="list-style-type: none"> <li>the new building is consistent with the bulk and scale of existing buildings in the precinct and is unlikely to have any additional impact.</li> </ul>

	<ul style="list-style-type: none"> <li>• the new building will be screened (<i>from the north</i>) by existing vegetation along the edge of the adjacent parklands and Dumaresq Creek</li> <li>• it is important that the new building compliments both the existing Cinema Complex and Ex-Services Club. Further information and detail on the proposed colours, materials and finishes should be provided.</li> <li>• the proposed windows to the end of the facades at 1<sup>st</sup> and 2<sup>nd</sup> floor level are horizontally proportioned which appears to be out of character with the other proposed fenestration patterns to the southern elevation of the building.</li> </ul> <p><i>2.2.2 Consolidation and Subdivision</i> No specific standards apply, however, in conjunction with the proposed land swap with Council to rectify ownership of the car park and Dumaresq Creek cycle way, the existing lots over which the Ex-Services Club buildings and facilities are situated should be consolidated.</p> <p><i>2.2.3 Building Heights and Setbacks</i> For Zone No. 3(a) Business (southern side of Dumaresq Street), it is required that <i>the height of the building does not exceed 99.126m AHD (main ridge height of St Peters Cathedral)</i>. No height standards are outlined in relation to Zone No. 6(b) or the subject site. The proposed motel would have a finished (Stage 3) roof apex height of 98.310, approximately 10m below the maximum height standard for Zone No. 3(a). The finished motel building is approximately 8m above the height of the existing Club building. A commercial building on the opposite (southern) side of Dumaresq Street is similar in size, bulk and height to the existing Club building. The proposed motel is not inconsistent with the urban form or amenity of the locality, and its proposed finished height is therefore considered acceptable in this locality.</p> <p>Similar to height, no setback standards are outlined in the DCP for Zone No. 6(b). However, the motel building is designed to step back at Level 4, therefore increasing its setback from the front boundary. The front setback of the motel building is consistent with setback requirements for commercial premises in Zone No. 3(a) with the exception of two roof top open pergolas, included as an architectural feature. This minor setback encroachment is considered acceptable in relation to the proposed motel building.</p> <p><i>2.2.6 Landscaping Design and Open Space</i> A requirement for a Landscaping Plan that addressed Part 2.2.6 can be conditioned.</p> <p><i>2.2.8 Stormwater Management and Flooding</i> Refer to discussion above re: Armidale Dumaresq LEP 2008, clause 39 and DCP Chapter B7.</p> <p><i>2.2.10 Overshadowing</i> The areas likely to be overshadowed along Dumaresq Street are not areas of private open space or high pedestrian activity.</p>
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	<p><i>2.2.11 Views</i></p> <p>The motel development is unlikely to interrupt any existing significant views. The site is in a low lying area adjacent to Dumaresq Creek and is largely screened from view from the north by existing vegetation along Dumaresq Creek.</p> <p><i>2.2.13 Other Matters</i></p> <p>Matters relating to the construction of a proposed retaining wall between the access driveway and re-aligned Dumaresq Creek cycleway, general construction activities, environmental protection, public safety and waste storage can all be conditioned.</p> <p><i>2.2.14 Development Works in Public Areas</i></p> <p>Works proposed or required in public areas in association with the development can be conditioned and include:</p> <ul style="list-style-type: none"> <li>• requirement for full width segmental paving on Dumaresq and Dangar Street in accordance with specifications in Council's CBD Master Plan</li> <li>• replacement or compensation for loss of street tree as per Council's Policy 120 Valuation of Trees / New Trees in consultation with Council's Civic and recreation Services</li> <li>• modification of cycleway lighting along re-aligned route to maintain existing illumination levels</li> <li>• maintaining adequate street lighting at frontage of development along Dumaresq Street</li> <li>• requirement for an 'Application to Conduct Work on Council Land' for activities including street tree removal, driveways and footpath construction</li> </ul> <p><i>2.3 Community Safety</i></p> <p>The Application has been assessed by NSW Police New England Area Command with respect to the principles of Crime Prevention Through Environmental Design. The following issues were raised:</p> <ul style="list-style-type: none"> <li>• concern regarding potential use of area beneath suspended access roadway adjoining Dumaresq Creek cycleway</li> </ul> <p>The elevated access driveway in Stage 2 has been modified to include a retaining wall between the road edge and cycleway / footpath.</p> <ul style="list-style-type: none"> <li>• need for alternative entry/exit point for emergency vehicles</li> </ul> <p>Proposed emergency access to be provided via rear of existing Cinema building from Jessie / Dumaresq Street roundabout. Roadway and footpath modifications to enable access from roundabout would need to be conditioned.</p> <p><i>2.4 Access and Circulation</i></p> <p>Refer to comments below regarding likely impact of the development.</p> <p><i>3.4 Creeklands Open Space Precinct</i></p> <p>Retention of one of the existing bowling greens will ensure that proposal is consistent with the objective to retain existing recreational infrastructure facilities. The proposed development</p>
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	in situated in the 'Entertainment Area' of the Precinct and is not inconsistent with other broader precinct objectives.
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***(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F***

None applicable.

***(iv) any matters prescribed by the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

Pursuant to clause 92(1)(b) of the Environmental Planning and Assessment Regulation 2000, the demolition of existing structures, including Greenkeeper's shed and outbuildings, should be conditioned to comply with Australian Standard AS 2601-2001: The Demolition of Structures.

Pursuant to clause 94 of the Environmental Planning and Assessment Regulation 2000, it is considered appropriate to require the existing building to be brought into total or partial conformity with the *Building Code of Australia*. Any conditions of consent should require details of compliance with the Building Code of Australia to be provided prior to issuing a Construction Certificate.

***Section 79C (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***

### ***Building and Urban Design***

#### Context and setting

The proposed development is located on the northern fringe of the Armidale CBD and proposes an infill building between the existing Ex-Services Memorial Club and Cinema buildings. The proposal is in keeping with the scale and style of surrounding development, as outlined above in consideration of DCP Chapter D5 – Armidale Central Business District and Surrounding Precincts Code.

#### Site Design and Internal Design

Issues relating to privacy, visual impact, overshadowing and landscaping of the site are discussed above in consideration of DCP Chapter D5 – Armidale Central Business District and Surrounding Precincts Code.

The proposal provides for connectivity between the proposed motel and existing Club and Cinema buildings, and in doing so will focus access to a central common reception area while generally enhancing pedestrian access, and access for people with disabilities, to and within the site.

Concerns regarding the site layout with respect to flood impacts on access and egress are discussed above.

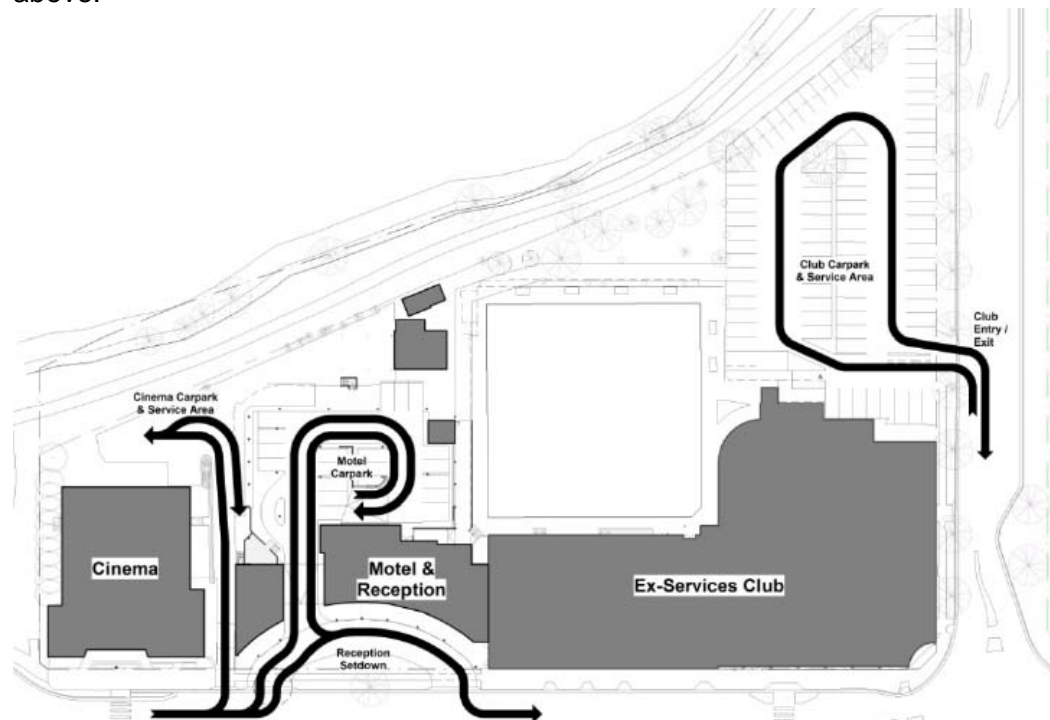
#### Traffic, Access and Transport

Vehicular access arrangements for the different stages of the proposed development

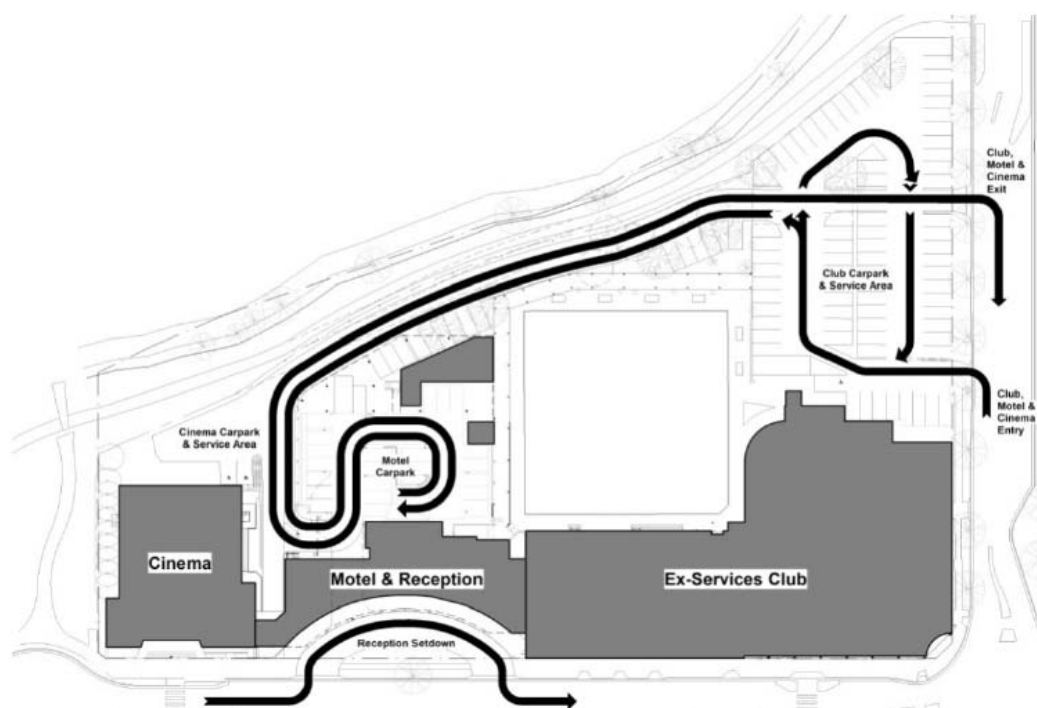


are shown below. Stage 1 access to the Cinema and proposed motel would be from Dumaresq Street, while access to the motel car park and Cinema would be diverted to Dangar Street in Stage 2. The motel reception drop-off area on Dumaresq Street would remain following Stage 1. The Dangar Street car park will remain unchanged except for internal modifications and establishment of a new exit in Stage 2.

Issues relating to flooding of the site access and egress routes have been discussed above.



Vehicular access in Stage 1



## Vehicular access from Stage 2 onwards

### Traffic volumes and traffic generation:

Dumaresq and Dangar Streets are both two-lane two-way roads with kerb lanes for parking on both sides of Dumaresq Street and on the eastern side of Dangar Street. Dumaresq Street has been assessed as a high volume road with 9226 vehicles per day (910 peak hour two-way traffic), while Dangar Street is a low volume road with 1433 vehicles per day (139 peak hour two-way traffic).

Traffic generation along Dumaresq Street in Stage 1 is expected to be less than 1% of total traffic volume in the street. Traffic generation from the completed development (Stage 3) in Dumaresq Street will be less than 2% of the existing traffic volume and just over 10% of the existing traffic volume in Dangar Street. Internal modifications to the Club building are not expected to generate additional traffic from the site.

Anticipated traffic volumes are within the mid-block capacity of Dumaresq and Dangar Street when assessed in accordance with the Austroad Guide 2009. Both the Dumaresq / Dangar Street roundabout and Dumaresq / Jessie Street roundabout are considered to have adequate capacity for expected increased traffic volumes.

A new median island is proposed in Dumaresq Street in Stage 1 to prevent right-turn into the Motel by west-bound traffic and to ensure the left-turn only onto Dumaresq Street from the development site.

### Parking:

Satisfactory provision of parking spaces for the motel is provided, as outlined above under DCP – Chapter B4. Proposed modifications to the existing Dangar Street car park will be undertaken in accordance with AS 2890 – Parking Facilities and are considered satisfactory. The existing number of Cinema car parking spaces would be retained, however their location would be reconfigured.

The Stage 2 loading bay between the Motel and Cinema buildings will require reversing of service vehicles in conflict with traffic flow out of the motel car park. It is expected that service vehicles will generally access the site outside of peak motel traffic generation times. In addition it is proposed to install a red flashing light which will be activated when service vehicles are reversing and a sign at the exit of the motel park to warn motorists coming out of the motel car park of potential service vehicles. The proposed arrangements are considered satisfactory.

### Reception drop-off / pick-up area and coach parking:

The circular driveway drop-off / pick-up area off Dumaresq Street includes taxi and bus set down area. The Applicant proposes to provide coach parking in Dumaresq Street at the frontage of the existing Club building at the expense of existing parking spaces. A reduction in existing on-street parking in this location is not appropriate. Existing coach parking space is available at the Armidale Visitor's Information Centre (approximately 400m east of the site) and is considered acceptable for the development when used in conjunction with the motel drop-off / pick-up area on Dumaresq Street.

### Emergency access:

Vehicular access to the motel and Cinema is limited to one-way in and out. It is proposed to construct an emergency access in Stage 2 to the rear of the site via the Dumaresq / Jessie Street roundabout. The proposed emergency access would require modification to the roundabout perimeter landscaping, fencing, drainage and

lighting, along with relocation of a Cinema car parking space, all of which can be addressed as a condition of consent.

#### Pedestrians:

Pedestrian access from the site to the Armidale CBD is currently available via a pedestrian crossing on Dumaresq Street towards the Danger Street intersection. A proposed awning on the Dumaresq Street frontage of the Club building in Stage 3 will provide increased amenity for pedestrians in inclement weather.

Pedestrian access to and within the site and existing buildings will be generally improved as a result of the proposed development.

#### Public Domain

The development is not considered likely to create an adverse impact on the public domain. Provision has been made for realignment and reinstatement of the existing Dumaresq Creek footpath / cycleway to accommodate the proposed motel access driveway. Stage 3 would include an awning along the Dumaresq Street frontage of the existing Club building to provide covered access between the Club / motel reception foyer and an existing pedestrian crossing on Dumaresq Street, linking the site to the Armidale CBD.

#### Utilities

Telecommunications, electricity, drainage, water and sewer services are all currently available to the site.

#### Electricity / Telecommunications:

Advice from Country Energy suggests that an up-graded substation may be required and that a new support structure would need to be constructed so that the upgraded electrical sub-station is positioned above the 1% AEP flood level. The proposed sub-station can be accommodated on-site near the existing substation on the northern side of the Club building. Electrical engineering details, as well as confirmation from Telstra for the provision of adequate Telecommunications infrastructure, could be conditioned.

#### Drainage:

The site generally falls gently towards Dumaresq Creek to the north. All road frontages to the subject site have existing kerb and gutter on both sides.

The proposal involves minor site filling works to achieve Finished Floor Levels and the required 500 mm freeboard relative to a 1 % AEP Flood level. This would mean the majority of the proposed development would be designed to gravity drain stormwater by pipes for up to and including 20% AEP storm event and overflow for major rainfall events directly to Dumaresq Creek. This is considered to be the most appropriate legal point of discharge for this site.

The proposed pedestrian concourse and access driveway at the motel entrance would drain to the northern side of Dumaresq Street. Stormwater flows in minor events (up to and including 20% AEP) would then drain west towards the existing kerb inlet pit at the northern side of the Jessie / Dumaresq Street roundabout and then finally to Dumaresq Creek.

From a review of the submitted site specific Flood Study, it is not clear if this has taken into account the additional stormwater run-off loading from the proposed development. However, this increase in stormwater flows resulting from the increase in impervious area from the proposed development is not expected to have any

upstream or downstream detrimental impacts particularly in a major storm event. The post-development stormwater run-off should be regarded as negligible compared to the volume of water that would be expected to flow within Dumaresq Creek for the same type of minor and major storm events.

It is considered that the increase in impervious area from the proposed development will not require the installation of an on-site detention system to attenuate stormwater flows. It is more preferable and advantageous to have the stormwater discharged from the site in advance of the arrival of peak flow waters arising from larger storm events from upstream in the Dumaresq Creek Catchment. Moreover, overland flow path of stormwater on Dumaresq Street relative to the subject site is expected to occur for rainfall events in excess of a 20 % AEP event.

The design and construction of the stormwater system would be required to be in accordance with the relevant national Design Guidelines, accepted Engineering practice, Council's Engineering Code, DCP 2007 Chapter B7 – Stormwater Drainage Code and the current version of Australian Rainfall and Runoff. It is recommended that the stormwater from the site is directed through gross pollutant traps to help protect the quality of the downstream watercourse. Stormwater outlet(s) to Dumaresq Creek would require the provision of effective long-term erosion and sediment control protection as per the NSW Office of Water General Terms of Approval and Council's Engineering Code requirements. Provision of engineering detail and supporting calculations from a Certified Professional Engineer can be conditioned.

#### Water:

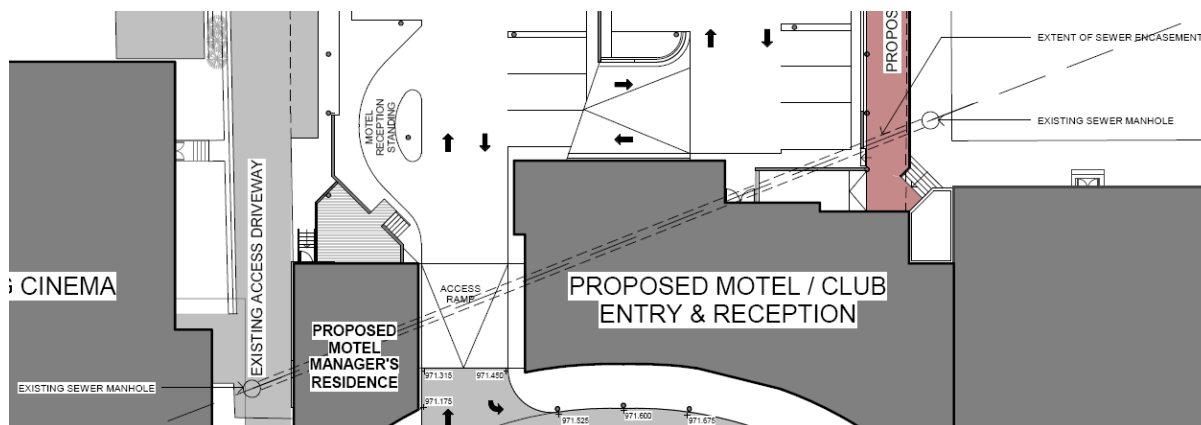
In the southern footpath area of Dumaresq Street there is an existing Council 250mm diameter water main. This water main provides a supply to the Armidale CBD as well as feeding into the existing 100 mm diameter under-road crossing and a hydrant directly opposite the south-west corner of the existing Armidale Ex-Services Club building.

Council's Engineering Code requires a reticulated system to provide for 11 litres per second fire fighting flow at full instantaneous system demand with a minimum residual system head of twenty-eight (28) metres. Pressure flow simulation checks of the water main infrastructure in the vicinity of the proposed development were undertaken by Council in June 2010 and indicated that there is more than sufficient flow and capacity available for domestic and fire fighting purposes for the required new water service to the proposed Class 3 Motel, Class 4 Manager's Unit and Class 7 Car Parking in accordance with BCA classifications.

The proposed development would require additional water connection points. Further engineering detail with regards to the water main connection(s) would be required prior to the issuing of any Construction Certificate.

#### Sewer:

Council has an existing 375mm diameter Vitreous Clay sewer main currently installed under the subject site. This section of sewer main drains in an easterly direction between Sewer Manhole 0454 located in the Cinema car park access to Sewer Manhole 0453 located between the existing bowling greens. The plan below shows the location of the existing main in relation to the proposed motel (Stage 1).



The section of sewer main located beneath the proposed motel would need to be either diverted or concrete encased under requirements of Council's Engineering Code - Design and Administration Specification (reproduced below).

*Sewer mains which are (or may be) affected by other development/works must be protected as follows. Council approval of proposals prior to construction is essential.*

- a) *Council's first preference is for diversion of the sewer main clear of the proposed works, including the influence of foundation loadings.*
- b) *Concrete encasement of the sewer main under the total development works area including the influence of foundation loadings. A minimum of 150mm of 15MPa concrete above and below the pipe and extending the full width of the trench shall be provided. Where shear failure may occur or where articulation joints are omitted, the encasement shall be reinforced appropriately. The encasement shall extend past the building an equivalent distance to the depth of the main below ground level.*

*Long lengths of encasement shall be articulated at pipe joints at approximately 6m intervals and incorporate a flexible joint filler and dowelled joint. Flexible joints in the pipeline are required at the limit of the concrete encasement.*

*The decision as to the appropriate action to be taken will be made by Council.*

Due to the installed depth of the existing sewer main and available pipe grades / invert levels, the Applicant's Engineer, Cooper & Associates Hydraulic Consultant Pty Ltd, has contended that the diversion of this infrastructure is uneconomical. Following an inspection of the sewer main by camera, the Applicant's Engineer recommended that:

- 1 *If the line is in good condition, encase the inside of the pipe with a continuous liner between manholes with a pier and beam construction over the pipe.*
- 2 *Should the line not be in good condition the existing line would have to be replaced and be installed on a concrete base and the pipe encased in 150 mm thick concrete.*

A more detailed investigation in regards to sewer main alignment, manhole invert levels and achievable pipe grades was undertaken by Council's Utilities Department. It was concluded that a sewer main diversion is possible from MH 0454 in the

existing Cinema access driveway to connect to MH 2601 which forms part of the larger sewer main on the opposite (northern) side of Dumaresq Creek.

This engineering solution is considered to be more beneficial for both Council and the proposed development. This option should prove to be more cost effective and permit long term maintenance access to the sewer main, as well as improving self cleansing flows. Preliminary calculations indicate a reduction in diameter for the new sewer main (compared to the existing sewer main of 375 mm diameter) could be utilised. Any sewer mains diversion would involve construction works and associated activities close to Dumaresq Creek and areas of possible soil contamination.

Full engineering detail with regards to the Sewer Main diversion would be required as a condition of any consent along with a requirement for works to be undertaken in accordance with current Occupational Health and Safety Regulations, the requirements of the General Terms of Approval issued by the NSW Office of Water, the Remedial Action Plan and Council's Engineering Code.

#### Headworks Contributions:

The proposal will increase demand for reticulated water supply and contribute to additional load on existing sewer services. In this regard, sewer and water headworks contributions would apply under Council's Development Servicing Plan on an equivalent tenement basis. Relevant contribution charges have not been calculated for the purpose of this report.

#### Heritage

Matters relating to heritage have been discussed above with respect to Armidale Dumaresq LEP 2008 – Clause 67. The site has potential to contain relics associated with its former use as a flour mill and the NSW Department of Planning (Heritage Branch) recommend that before any excavations take place, the applicant should obtain a permit for the excavation of relics under s.139 of the Heritage Act 1977.

#### Construction

A Construction Certificate would be required prior to the commencement of any construction works on site. Council routinely applies standard consent conditions regarding matters such as construction hours, provision of site safety measures and limiting / controlling erosion and sediment movement, and in this regard a detailed Construction and Environmental Management Plan should be submitted and approved before any construction commences. Conditions would also be required to ensure demolition work is undertaken in accordance with AS 2601.

### ***Environmental Impacts***

#### Water

Issues relating to water supply, drainage and potential flooding are discussed above. Other potential impacts associated with development adjacent to Dumaresq Creek are discussed above and could be adequately addressed through conditions of consent.

The motel development is not subject to BASIX requirements for the installation of water efficient devices, however the Applicant has indicated that discussion will be held with the Owner regarding the incorporation of sustainable aspects into the building design.

#### Soils

Subject to appropriate erosion / sediment controls and remediation of contaminated

soil in accordance with the submitted Remedial Action Plan, the proposed development is considered unlikely to adversely affect soils in the locality. Remediation of the contaminated soil will have a generally positive impact on the site.

#### Air and microclimate

The proposed development is not considered likely to create any on-going adverse impacts in relation to air quality or the micro-climate of the locality. Measures to prevent potential impacts of dust and pollutants generated during construction could be addressed through conditions of consent.

#### Flora and Fauna

The existing site is highly modified from its natural state and does not contain any identified critical habitats or wildlife corridors. Existing vegetation that will be disturbed by the development is primarily landscaping associated with previous site works and areas of regularly mown grass along the Dumaresq Creek footpath / cycleway. Council's Flora and Fauna Study does not identify any significant species or habitat in the vicinity of the site and the separate assessment under SEPP 44 – Koala Habitat Protection, outlined above, did not identify the site as potential Koala habitat.

The proposed development is considered unlikely to adversely affect any significant flora or fauna in the locality.

#### Waste

The proposed development has potential to generate construction waste, including contaminated soil, and on-going waste from operation of the motel. Potential impacts relating to waste management are discussed above and could be adequately addressed through conditions of consent.

### **Hazards**

#### Noise and vibration

The location of the site is in an area that is generally free of development that would be sensitive to external noise generation, and other than potential construction related noise, the proposed development is not likely to generate any on-going offensive noise. Potential construction noise can be addressed through conditions of consent.

#### Natural / Technological Hazards

The site is not identified as being subject to land slip, steep slopes, subsidence, spring activity, erosion or bush fire hazard. The site is within the Dumaresq Creek floodplain and issues relating to flooding, including potential impacts of climate change are discussed above.

The site has also been assessed as containing an area of contaminated soil which is proposed to be addressed in accordance with the submitted Remedial Action Plan, discussed above.

#### Safety, Security and Crime Prevention

The Application has been referred to the NSW Police Force New England Area Command who are satisfied that the Application satisfactorily addresses the four key principles of Crime Prevention Through Environmental Design (CPTED) (referral noted above). The areas of concern raised by the Police have been satisfactorily addressed in amendments to the Application.

## ***Social and Economic Impacts***

### **Social Impacts**

Other than potential additional demands on emergency services personnel associated with evacuation during flood events, the proposal is not expected to create any adverse social impacts.

### **Economic Impacts**

The proposed development is likely to create, or at least sustain, employment opportunities during its construction phase and for the on-going operation of the motel. Refurbishment of the Club building would also be expected to enhance and help sustain its current operational position. No issues have been raised in relation to the potential economic impact of the motel development on other motels in Armidale.

### ***Cumulative Impacts***

Other than potential additional demands on emergency services personnel associated with evacuation during flood events, the proposal is not expected to have any negative cumulative impacts.

## ***Section 79C (1)(c) the suitability of the site for the development***

The proposal is permissible in Zone 6(b) and is generally consistent with the scale and nature of surrounding development. The site is generally considered to be suitable for the proposed development, with respect to the availability of services and the likely impacts of the development on the surrounding locality and environment (subject to appropriate conditions of consent), with the exception of flood risk.

With respect to flooding, as discussed above, the proposal is not considered to provide for safe occupation of the site below the flood planning level, and in this regard, the site is not considered suitable for the proposed development in its current form.

## ***Section 79C (1)(d) any submissions made in accordance with this Act or the Regulation***

The Application is 'advertised development' and was publicly exhibited in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000. Following amendment of the Application to include Category 1 remediation work, the proposal was re-exhibited pursuant to the requirements of SEPP 55. The Application was also notified to adjoining land holders in accordance with Council's DCP 2007 – Chapter B3.

Other than relevant Agency submissions (summarised in Part 4), only one (1) public submission was received, which is summarised below.

<b>Author</b>	<b>Summary of Issues Raised</b>	<b>Applicant's Response</b>
Adam F Blakester	wish to see Creek orientation in new development, as well as solar energy infrastructure	Will accommodate these issues in design and implementation.



	in development.	
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## **Section 79C (1(e) the public interest**

### **Public Land**

Council and the Ex-Services Club Management have discussed a potential land swap arrangement which would see the car park land (86-88 Dangar Street) transferred to the Club in exchange for Council obtaining separate Title over land containing Dumaresq Creek and the adjacent public footpath / cycleway.

The existing car parking area (Lot 3 DP 1131420 and Lot 1 DP 1136216) is currently classified as Community Land for the purpose of the Local Government Act 1993. There is currently no Plan of Management applying to this land and accordingly, pursuant to Sections 44 and 45 of the Local Government Act, pending the adoption of a plan of management for the land, the nature and use of the land must not be changed and Council must not sell, exchange or otherwise dispose of the land.

The area of public land is currently used for car parking and access to the Ex-Services Club and its facilities, and in this sense, the nature and use of this land will not change as a result of the proposed development, although it will be intensified following Stage 2 when the motel and Cinema access is diverted to Dangar Street.

While the proposed land swap is not part of this Application, it is in the public interest that the process established under the Local Government Act 1993 be followed by Council for any reclassification and disposal of the land.

### **Ecologically Sustainable Development**

A relevant and related aim of the Council's LEP (clause 2(f)) is to ensure that development has regard to the principles of ecologically sustainable development, defined as follows:

*Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:*

- (a) the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
  - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
  - (ii) an assessment of the risk-weighted consequences of various options,*
- (b) inter-generational equity - namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) conservation of biological diversity and ecological integrity - namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) improved valuation, pricing and incentive mechanisms - namely, that environmental factors should be included in the valuation of assets and services, such as:*

- (i) polluter pays - that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
- (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
- (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

While the development generally satisfies the above principles, taking a broader view of sustainability with regard to potential impacts and consequences of the proposed development on the community, concerns remain in relation to the risks posed by the flood response measures proposed by the Applicant.

### **Other matters**

The submissions received from public authorities and from the public in response to exhibition of the Application have been considered in this report.

Matters relating to construction (e.g. compliance with the BCA), provision of servicing, food handling and general site amenity, as recommended by relevant Council officers following assessment of the Application, should be included in any conditions of consent.

## **7. Recommendation**

Having regard to the matters discussed in this report it is recommended that DA-135-2010 be refused for the following reasons:

- i. The proposed development is considered to be inconsistent with the objectives of Armidale Dumaresq LEP 2008, Clause 37(1):
  - (b) to enable safe occupation of land below the flood planning level, and
  - (e) to limit uses to those compatible with flow conveyance function and flood hazard; and
- ii. The proposed development is not considered to satisfy the matters for consideration in relation to development below the flood planning level, as outlined in Armidale Dumaresq LEP 2008, Clause 37(3)(c)(e) and (g), namely that consent must not be granted unless the consent authority is satisfied that the development:
  - (c) will enable safe occupation of land below the flood planning level, and
  - (e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding, and
  - (h) is compatible with the flood hazard within the flood way; and
- iii. Therefore, the granting of consent would not be in the public interest.