

Development Assessment Report

Subject	Development Application: 10.2011.67.1 95-115 Liverpool Road ASHFIELD
File No	DA: 10.2011.67.1
Prepared by	Andrew Johnston – Development Assessment Officer
Reasons	Application to be heard at Joint Regional Planning Panel Meeting – Information for Council
Objective	For Council to receive and note contents of this report
Strategic Plan Link	N/A
Management Plan Activity	2.11 Development & Building Control, Strategic Planning

Overview of Report

1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent to demolish the existing western car park, undertake alterations and additions to the club premises including the construction of a hotel, retail occupancies, function room, gym, day spa, car park, and the consolidation of the allotments at 95-115 Liverpool Road, Ashfield.

This work is proposed for the existing Wests Ashfield Leagues Club.

An eight (8) storey building above three (3) underground car parking levels is proposed. This involves an additional gross floor area of 10,141m² and one-hundred and thirty-five (135) hotel rooms.

An additional three-hundred and thirty-five (335) car spaces are proposed, in addition to the existing one-hundred and ten (110) spaces onsite. This would result in a total of four-hundred and forty-five (445) onsite spaces.

Plans of the proposal are included at **Attachment 1**.

The proposal represents a type of development that the Minister of Planning has categorised as being of 'regional significance', i.e. it has value-of-work in excess of \$10 million. The Sydney East Joint Regional Planning Panel (JRPP) is the consent authority for the purposes of determining this application.

This assessment report will be forwarded to the Sydney East JRPP for the Panel's consideration. It is understood that the matter has been set down for hearing by the Panel on 17 August 2011 at Ashfield Council.

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2.0 Summary Recommendation

The proposed development satisfies the floor space ratio (FSR) and height controls of the Ashfield Local Environmental Plan (LEP) 1985 and the Ashfield Town Centre Development Control Plan (Part C3 of the Ashfield DCP 2007). In this regard, a FSR of 2.47:1 is proposed for the development (including the existing building) which is within the maximum allowable FSR of 3:1. A ceiling height of approximately 24.8m is proposed for the western (hotel) section of the building which is likewise within the maximum allowable height of 25m for the site.

A number of outstanding matters remain that require resolution, the most significant of which relates to onsite parking. The proposal fails to comply with the numerical car parking requirements of the Parking DCP (Part C3 of the Ashfield DCP). Based on the rates specified within the Parking DCP, the proposal is deficient by approximately three-hundred and fifty-seven (357) spaces. A Parking and Traffic Report submitted by the applicant in support of the proposal has been reviewed by a Traffic Consultant engaged by Council and is not supported. Council's Traffic Consultant has advised that the report is deficient in that it is based on a single survey only and does not take into account the extent of on-street car parking generated by the club.

Given the significant shortfall in onsite parking the proposal cannot be supported. It is therefore recommended that the Sydney East JRPP refuse the development.

Background

3.0 Application Details

Applicant	:	Western Suburbs Leagues Club Ltd
Owner	:	Wests Ashfield Leagues Club Ltd
Value of work	:	\$43,285,000.00
Lot/DP	:	Lot: 1 DP: 529827 (95-103 Liverpool Road) Lot: A DP: 17678 (105 Liverpool Road) Lot: B DP: 17678 (107 Liverpool Road) Lot: C DP: 17678 (109 Liverpool Road) Lot: 10 DP: 1013464 (111 Liverpool Road) Lot: D DP: 17678 (111A Liverpool Road) Lot: E DP: 17678 (111B Liverpool Road) Lot: 1 DP: 305206 (113-115 Liverpool Road) Lots: A & B DP: 379301 (113-115 Liverpool Road) Lots: 111 & 112 DP: 130232 (113-115 Liverpool Road)
Date lodged	:	18 March 2011
Date of last amendment	:	Not applicable
Application Type	:	Local
Construction Certificate	:	No
Section 94 Levy	:	Yes*

* See the Financial Implications Section of this report.

4.0 Site and Surrounding Development

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The subject site is located on the northern side of Liverpool Road, with a frontage to and vehicular access from this classified road. The property is triangular in shape and has a site area of approximately 6,941m². It shares its northern boundary with the Western Railway Line and its western boundary with Ashfield Boys High School.

The development is proposed for the western side of the property, which is currently used as a car park.

The property is located within the Ashfield Town Centre, with commercial and retail development dominating west along Liverpool Road. A mixture of residential flat buildings and dwelling houses exist south of the site. Dwelling houses generally dominate to the north of the site across from the railway line.

Refer to **Attachment 2** for a locality map.

5.0 Development History

Previous consents were noted in the assessment of this application. DA: 10.2000.300.1 approved the construction of the current club premises.

Assessment

6.0 Zoning/Permissibility/Heritage

- The site is zoned 5(a)-Special Uses – Club under the provisions of the Ashfield LEP.
- Clause 42(2) of the Ashfield LEP permits residential development on the site, including motels (hotels).
- Clause 42(3) (and Amendment 72) of the Ashfield LEP permits a maximum FSR of 3:1 for the site.
- Clause 42(3) of the Ashfield LEP permits a maximum ceiling height of 25m above natural ground level for the site.
- Map 2 of the Ashfield Town Centre DCP outlines a maximum of eight (8) storeys may be constructed onsite. This control is based on Amendment 72 of the Ashfield LEP.
- Section 10.2 of the Ashfield Town Centre DCP outlines specific controls for the site.

The proposed works are permissible with consent.

7.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

The subject site is zoned 5(a)-Special Uses – Club under the Ashfield LEP. The relevant provisions of Table 10 of the Ashfield LEP outline that the 5(a)-Special Uses zone allows the *“particular purpose indicated by red lettering on the map”*. As the associated Zoning Map

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identifies the subject site as having a 'Club' zoning, the proposed additions to the club premises, including the new Level 1 function room, restaurant and bar areas, would be permissible under Table 10 of the Ashfield LEP.

Section 42 of the Plan outlines site specific controls for the site, based on Ashfield LEP Amendment No. 75. This Section states:

- 1) *This clause applies to land adjacent to Liverpool Road and the railway line, Ashfield, being land zoned Special Uses (Club), as shown edged heavy black on the map marked "Ashfield Local Environmental Plan 1985 (Amendment No 75)".*
- 2) *Despite any other provisions of this plan, a person may, with the consent of the Council, carry out development for the purposes of auxiliary power generating plant and residential uses, including motel units and serviced apartments.*
- 3) *The Council must not grant consent for a building on land to which this clause applies if:*
 - (a) *the floor space ratio of the building would exceed 3:1, and*
 - (b) *the vertical distance between any level on the natural ground surface of the site area on which the building is proposed to be erected and the ceiling of the topmost habitable floor of the building exceeds 25 metres.*

The proposed hotel use, which would not ordinarily be permissible within the 5(a)-Special Uses – Club zone, is permissible subject to Clause 43(2). It is understood that the gym, pool and massage services are to cater for hotel patrons, and it is considered that these uses are ancillary to the main hotel use.

The remaining uses proposed with application, namely the three (3) retail tenancies proposed for Level 1, do not fall under the general 'club' use permitted under Table 10 or the hotel use permitted under Clause 42(2) of the Ashfield LEP. As such this retail (or shop) use is not permissible under Table 10 of the Ashfield LEP.

This permissibility issue has been raised with the applicant however at this stage no formal response has been received. Whilst it is expected that the applicant will argue that this retail use is ancillary to one of the primary hotel or club uses, this permissibility issue requires resolution before the application can be formally determined. Until this matter is resolved Council would have to recommend the refusal of the application.

The proposed addition of the western tower comprising of a hotel, retail occupancies, function room, gym and day spa is to consist of a floor area of approximately 10,141m². Given that the existing club premises has an area of approximately 6,067m², the addition will result in a total gross floor area of approximately 16,208m². This translates to a FSR of 2.47:1, which is within the permissible FSR of 3:1 established by Clause 42(3)(a) of the Plan.

At its highest point, Level 5 of the western tower (the top habitable level of the building) is to have a ceiling height of approximately 24.8m. This height satisfies Clause 42(3)(b) of the Ashfield LEP which sets a maximum height of 25m from the natural ground level to the

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ceiling of the topmost habitable floor of the building.

The plant room is not included as a level for the purposes of this clause.

The proposal therefore complies with the FSR and height controls of the Ashfield LEP.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 1 – Development Standards

Not applicable.

State Environmental Planning Policy No. 6 – Number of Storeys in a Building

With the inclusion of the three (3) level car park and the rooftop plant room, the proposed development would be defined as an eleven (11) storey building under this Policy. However, as detailed in Sections 7.1.1 and 7.3 of this report, the proposed western tower would be satisfy Council's height controls as only aboveground levels and habitable levels are included in these calculations.

Although the proposed development is considerably larger than any existing buildings within the vicinity, the western tower relates to the scale of the existing Leagues Club building. The site also has the potential to act as a 'gateway' site for the Ashfield Town Centre and the bulk, scale and height of the development is seen to be compatible with the desired character of the Ashfield Town Centre.

State Environmental Planning Policy No. 22 – Shops and Commercial Premises

Not applicable. The proposal does not involve a change of use.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7(1) of the Policy states a "*consent authority must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

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- (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”.*

A Phase 1 Contamination Assessment Report (Preliminary Site Investigation Report) has been submitted with the development application. No intrusive sampling was undertaken in the preparation of this report (even though the same company undertook sampling for the preparation of a Geotechnical Report). Instead the findings of the report are based on historical searches of the land.

The prepared Phase 1 Contamination Assessment Report indicates that the site was previously used for industrial purposes and on this basis there is a medium to low risk of contamination. The report suggests the site is likely to be contaminated for the following reasons:

- Sections of the site were previously used for industrial purposes. Potential contaminants associated with the past industrial uses may include polychlorinated biphenyls (PCB), total petroleum hydrocarbons (TPH), polycyclic aromatic hydrocarbons (PAH), heavy metals and volatile organic compounds (VOC).
- The former buildings onsite may have contained asbestos-based materials, particularly fibro. When the buildings were demolished the building materials containing asbestos may have impacted the filling of the car park.
- A previously prepared contamination report found that fill containing ash was located on the eastern side of the site. Ash impacted fill material could also potentially be found on the western side of the property. The presence of ash in the fill may result in elevated levels of PAH and benzo(a)pyrene.

The report concludes by recommending further testing and the preparation of a Detailed Site Investigation Report.

This Detailed Site Investigation has not been undertaken by the applicant. Council raised this issue during the assessment of this application however the applicant has been unable to provide with information within the timelines specified by the Sydney East JRPP.

Council's preference is always to get this information prior to the determination of an application to ensure appropriate conditions are imposed. However, given the amount of excavation proposed, and the proposed site coverage, there is little risk that the site cannot be remediated.

On this basis the imposition of 'deferred commencement' consent may be considered should the Sydney East JRPP be minded to go against the recommendation of this report and instead approve the application. This deferred commencement condition would require the preparation of a Detailed Site Investigation Report and Remedial Action Plan (RAP) within twelve months from the date of any deferred commencement consent. Should the method of remediation be acceptable and approved by Council, the consent may then become operative.

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State Environmental Planning Policy No. 64 – Advertising and Signage

No signage is proposed as a part of this application, although the submitted plans indicate where signage may be located. The future installation of signs would require the submission of a further development application.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

Not applicable. The proposed hotel development does not fall under the definition of a 'residential flat building' and as such the provisions of SEPP No. 65 – Residential Design Quality of Residential Flat Development are not applicable.

However, the proposal was referred to Council's Urban Designer for comment with respect to the overall design quality of the development. In the Urban Designer's assessment of the proposal the 'design quality principles' of SEPP No. 65 were used. The findings of the Urban Designer are discussed in Section 9 of this report.

State Environmental Planning Policy (Infrastructure) 2007

Sections 85 and 86 of the Infrastructure SEPP outline safety and excavation controls for developments that are adjacent to rail corridors. These clauses require such proposals to be referred to RailCorp for their concurrence.

Section 85 of the Policy states:

- (1) *This clause applies to development on land that is in or immediately adjacent to a rail corridor, if the development:*
 - (a) *is likely to have an adverse effect on rail safety, or*
 - (b) *involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
 - (c) *involves the use of a crane in air space above any rail corridor.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*

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Section 86 continues:

- (1) *This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:*
 - (a) *within or above a rail corridor, or*
 - (b) *within 25m (measured horizontally) of a rail corridor, or*
 - (c) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and*
 - (b) *take into consideration:*
 - (i) *any response to the notice that is received within 21 days after the notice is given, and*
 - (ii) *any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) *Subject to subclause (4), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor to which the development application relates, unless that rail authority is ARTC.*
- (4) *In deciding whether to provide concurrence, the chief executive officer must take into account:*
 - (a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - (i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*
- (5) *The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:*

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- (a) *the consent authority has given the chief executive officer notice of the development application, and*
- (b) *21 days have passed since giving the notice and the chief executive officer has not granted or refused to grant concurrence.*

The subject property immediately adjoins the Western Railway Line and was therefore referred to RailCorp for comment.

Comments received from RailCorp (**Attachment 3**) outlined that insufficient information had been provided to allow a complete assessment to be undertaken. In this regard RailCorp requested a cross-sectional drawing to be provided which showed the ground surface, rail tracks, sub-soil profile, proposed basement excavation and the structural design of the sub-ground support adjacent to the rail corridor. A cheque for \$250.00, made out to RailCorp, was also to be provided.

A response to the matters raised by RailCorp has not been received from the applicant. As such the concurrence of RailCorp has not been issued and until this is received an approval cannot be issued. Should the Sydney East JRPP be so inclined they may defer a formal determination of the application until such time that the concurrence of RailCorp is received, as has been done in the past with DA: 10.2010.301.1 for 2A Brown Street.

The Infrastructure SEPP also requires Council to consider traffic and rail noise impacts on a development. Whilst Section 102 of the Policy does not strictly apply as Liverpool Road has an annual average daily traffic volume of less than 40,000 vehicles, the provisions of Section 87 would apply given that the site is immediately adjacent to the Western Railway Line. Section 87 of the Infrastructure SEPP states:

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:*
 - (a) *a building for residential use,*
 - (b) *a place of public worship,*
 - (c) *a hospital,*
 - (d) *an educational establishment or child care centre.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

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- (a) *in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An Acoustic Report has been submitted with the application and has been considered in the assessment of the proposal. This report considers the impact of rail and traffic noise – as well as noise generated by club activities – upon the hotel component of the development. The report details a series of recommendations (e.g. glazing thickness, ceiling and wall insulation, floor coverings, mechanical ventilation and lift details) to ensure noise intrusion will be acceptable for hotel patrons.

The prepared report also covers noise impacts to surrounding residential properties, such as the dwelling houses to the north across the railway line and the residential flat buildings and dwelling houses on Liverpool Road to the south. The findings of the report detail that the noise levels generated by the development (the expanded club premises) will fall within acceptable noise criterion.

Should the application be approved it is recommended that compliance with the submitted Acoustic Report be conditioned.

Comments with respect to vibration are detailed in the submitted Geotechnical Report and will need to be considered at construction certificate stage.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Not applicable.

7.3 The provisions of any Development Control Plan.

The proposal has been considered against the provisions of the Ashfield DCP:

C1	ACCESS AND MOBILITY	See comments below.
C2	ADVERTISEMENTS AND ADVERTISING STRUCTURES	<p>No signage is proposed as a part of this application, although the submitted plans indicate where signage may be located. The future installation of signs would require the submission of a further development application.</p> <p>Any future application would need to be considered against the provisions of this Plan, SEPP No. 64 and Section 18 of the Ashfield LEP.</p>
C3	ASHFIELD TOWN CENTRE	See comments below.
C4	ASHFIELD WEST AREA	Not applicable.

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C5	MULTI-UNIT DEVELOPMENT IN RESIDENTIAL FLAT ZONES	Not applicable. The Multi Unit Development DCP (Part C5 of the Ashfield DCP) outlines controls for residential flat buildings located within residential zones. The provisions of this Plan do not apply on the basis that a hotel is proposed and the site is zoned 3(a)-General Business. The overshadowing controls detailed in this Plan have been used in the assessment of this application as the Ashfield Town Centre DCP does not outline relevant controls.
C10	HERITAGE CONSERVATION	Not applicable. The subject site is not located within the vicinity of any heritage items or conservation areas. See Section 8.1 of this report.
C11	PARKING	See comments below.
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	The proposal was notified as a 'major development' in accordance with the Public Notification DCP (Part C12 of the Ashfield DCP). See Section 7.7 of this report.

Ashfield DCP 2007 – Part C1 – Access and Mobility

Section 4.1 of the Access and Mobility DCP (Part C1 of the Ashfield DCP) outlines that access must be provided *"to and within the facilities provided in accordance with the provisions of the Building Code of Australia (BCA) and AS1428"*.

The installation of a number of lifts is proposed to provide access from the basement car park to all levels of the club premises and the hotel.

The proposal was considered at a Council Access Committee meeting on 2 May 2011, at which time the committee resolved to *"engage an independent access consultant ... to examine the access issues in the West leagues Club DA"*. In accordance with this resolution the proposal was referred to an independent Access Consultant for comment. A response from this consultant is yet to be received.

However, an 'in-house' assessment of the plans and the submitted Access Report indicates the submitted plans do not comply with the Access and Mobility DCP, BCA, AS 1428.1 or the Parking DCP. In this regard it is noted that the report states *"currently, there appear to be no accessible guest rooms"* and that an insufficient number of accessible parking spaces are to be provided.

Until such time that the proposal incorporates the recommendations of the submitted Access Report, i.e. accessible hotel rooms and a sufficient number of accessible parking spaces are provided, the proposal cannot be supported.

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Ashfield DCP 2007 – Part C3 – Ashfield Town Centre

The subject property is located within the Ashfield Town Centre. A table detailing the proposal's level of compliance with this policy is included below:

Ashfield Town Centre DCP				
Section 2 – Building and Landscape design Controls				
	DCP Control	Requirement	Proposal	Compliance
Overall building height	Clause 2.2.1 (Map 2)	A maximum of eight (aboveground) storeys are permitted for the site	A total of eight storeys are proposed above ground level	Yes
Site amalgamations	Clause 2.2.2	Site amalgamations may be required to achieve sufficient site area to accommodate new development	The site is to be consolidated	Yes
Ceiling heights (mixed-use developments)	Section 2.2.3	<p>The ground floor of a mixed-use development is to have a minimum ceiling height of 4m.</p> <p>Additional storeys should have a minimum height of 2.7m and a maximum of ceiling height of 3.2m</p>	<p>This clause does not strictly apply as it relates to mixed-use developments only.</p> <p>The proposed development is to have a ground floor ceiling height of approximately 2.7m, which is well below the 4m height control. However, this is considered acceptable as this western tower section of the building forms a distinct architectural element.</p> <p>With the exception of Level 1, the additional levels would satisfy the ceiling height requirements of the Plan. Level 1 has a ceiling height of approximately 4.2m but this is considered acceptable on the basis that it matches the existing height of the club premises.</p>	Not applicable
Height bonus	Section 2.2.4	Council may	The subject site is	Not

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	(Map 3)	consider a bonus of two (2) additional storeys within identified sites should a community benefit/affordable housing be provided	not an identified site for the purposes of this bonus.	applicable
Resource, energy and water efficiency	Section 10.2.5	The development should go beyond the minimum legislative requirements of the BCA in terms of resource, energy and water efficiency. The submission of a Sustainability report is required.	A BCA Capability Report has been submitted which details the proposal will satisfy the BCA. However, the provision of a Sustainability Report is recommended to satisfy the requirements of Section 10.2.5 of this Plan.	No
Building setback, scale and amenity (western boundary)	Sections 10.2.8(i) and (ii)	Any part of the building with a height greater than 6m shall have a minimum setback of 7.5m from the western boundary. This setback may be reduced to 5m should a Design Justification Statement be provided.	Level 1 of the development has a height in excess of 5m and is located in close proximity to the boundary. The front tower element is also located 2.5-3m off the western boundary. The upper levels of the hotel (Levels 2 to 5) are set 5m off the western boundary. The hotel's lift shafts and projecting windows are located within this setback, with the lifts having a setback of 1.7/2.8m and the windows having a setback of 4.4m.	No

Technically, with the inclusion of the mezzanine and plant room levels, the proposed development would consist of eight aboveground levels. This complies with the maximum height controls of Clause 2.2.1 and Map 2 of the Ashfield Town Centre DCP, which establishes a maximum of eight levels for the site.

As detailed previously, the Ashfield LEP outlines a maximum ceiling height for the habitable portion of the building, which the proposal satisfies. The plant room level, which extends beyond this height control, is excluded from these calculations. The provision of this plant room level, as well as the rooftop structures, obviously contribute to the overall height and

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bulk of the building. However, this is considered acceptable on the basis that they do not extend across the full length of the building and are therefore subservient to the compliant portion of the building. The provision of plant rooms are common features for commercial buildings.

The proposal fails to comply with the western setback controls of Sections 10.2.8(i) and (ii) of the Ashfield Town Centre DCP. Whilst a Design Justification Statement Report has been submitted to allow Council to consider a 5m setback, the club premises (Level 1) is located in close proximity to the boundary, whilst the front tower element is located 2.5-3m off the western boundary.

The upper levels of the hotel (Levels 2 to 5) are set 5m off the western boundary as required. However, the hotel's lift shafts and projecting windows are located within the required setback, with the lifts having a setback of 1.7/2.8m and the windows having a setback of 4.4m.

These non-compliances are considered acceptable as the resulting amenity impacts are expected to be minor. The resulting overshadowing impacts fall within acceptable limits (see Section 7.5 of this report) and projecting elements of the building help to articulate and 'break-up' the building.

Written support for the proposal has also been provided from the Principal of Ashfield Boys' High School (**Attachment 4**).

Ashfield DCP 2007 – Part C11 – Parking

The existing club premises has one-hundred and sixty (160) spaces onsite. The club also owns a site at 1-7 Victoria street which provides one-hundred and thirty (130) spaces. Finally, the club has an arrangement with Ashfield Boys' High School to provide an additional one-hundred and fifty (150) spaces outside of regular school hours.

This results in a total of four-hundred and forty (440) spaces for the existing club premises. The fact that the club has entered into an agreement with the school is seen as evidence that the existing premises generates a significant car parking demand.

Table 3 of the Parking DCP outlines the following parking rates:

Hotel: 1 space per hotel room,

Plus 1 space for every five (5) hotel rooms,

Plus 1.5 spaces for every two (2) full time staff.

Club: 1 space per 6m² space /6m² bar, lounge, and dining room floor area,

Plus 1 space per three (3) employees.

Staff numbers have not been provided, however, based on the number of hotel rooms and the floor area of the club additions, a total of three-hundred and sixty-two (362) spaces would be required for the new development.

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A total of four-hundred and forty-five (445) spaces are proposed for this development (including the existing club premises and the new additions). The parking spaces available within the adjoining school have not been considered in this figure as no legal arrangements (easements or covenants) are in place to ensure permanent access to these spaces. Also, given that the site at 1-7 Victoria Street is to be re-developed these spaces will be lost and will need to be catered for within this development.

Given the parking demand generated by the existing club premises (440 spaces), and the demand generated by the new development (362), the proposal is deficient by approximately three-hundred and fifty-seven (357) spaces.

A Traffic and Parking Report has been prepared which argues that full compliance with the requirements of the Parking DCP is unreasonable. This report argues that the Parking DCP overestimates parking requirements for hotels and clubs.

Council engaged the services of a Traffic Consultant to review this report. This review is included at **Attachment 5** and an extract is included below:

That proposed parking provision represents a considerable shortfall in car parking when assessed in accordance with Council's car parking code requirements.

In addition, there is no guarantee that the club can continue to use the adjacent school grounds for parking (150 spaces) indefinitely.

The justification provided in the CBHK report for the shortfall in club parking is based on a single survey conducted in the various club car parking areas on one weekend. The surveys do not take into account the extent of on-street parking generated by the club, nor is any information provided on events or entertainment held at the club on the weekend of those surveys.

It is considered that, if such a substantial variation from the Council's car parking code is to be accepted, that:

- the surveys of car parking accumulations should be conducted over several weekends, and*
- the surveys should include busier weekends that take into account the type of entertainment being offered to club patrons.*

In addition, the survey should also take into account the extent of on-street car parking generated by the club which has not been addressed in the CBHK report.

The Traffic Consultant therefore questions the findings of the submitted Traffic and Parking Report on the basis that the survey was undertaken over one weekend only. The prepared report is also deficient in that it does not take into account the extent of on-street car parking generated by the club.

The proposal is therefore deficient in onsite parking and cannot be supported until this matter is satisfactorily resolved.

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7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

These matters have been considered in the assessment of this application.

7.5 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality.

These matters have been considered as part of the assessment of the development application.

Section 2.2.5 of the Ashfield Town Centre DCP states “*development is not to compromise the ability of adjacent sites to build to their full floor space ratio potential, with regard to maintaining solar access*”. The Plan does not define acceptable overshadowing limits, however, Council generally uses the following standard (as per the Multi Unit Development DCP):

Sunlight to at least 50% of the principal private area of ground level private open space of adjacent properties is not reduced to less than three (3) hours between 9am and 3pm on 21 June.

The submitted shadow diagrams indicate that the proposed development will cast shadows on the adjoining school's sporting field. The shadows will be cast over the field in the morning, with shadows occupying the majority of the site until 11:00am. At this time approximately half of the field is to be in shadow. By 12:00pm (midday) less than a quarter of the site will be in shadow.

The sporting field will receive solar access to over 50% of its area for approximately four (4) hours. The resulting shadowing impacts from the development are therefore considered acceptable.

The existing club premises operates twenty-four (24) hours a day. The submitted documentation does not outline hours of operation for the facilities associated with the hotel, such as the swimming pool, gym and rooftop terrace. Given that these facilities are externally located it is recommended that conditions be imposed to limit their use to between the hours of 6:00am to 10:00pm should the application be approved.

7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. The proposed development would be considered suitable within the context of the locality subject to the resolution of the outstanding matters identified in this report.

7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners, occupants and Councillors from 1 April until 9 May 2011.

7.7.1 Summary of submissions

Five (5) submissions (**Attachment 6**) were received during the notification of the

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development application:

Submissions	Notification
Ms S Salter 11 Federal Avenue ASHFIELD NSW 2131	✓
Mr M Patterson 4 Ormond Street ASHFIELD NSW 2131	✓
Mrs K Barriston 11 Wallace Street ASHFIELD NSW 2131	✓
Mrs K Barlow 17 Wallace Street ASHFIELD NSW 2131	✓
Ms L Aswood 6/66 Victoria Street ASHFIELD NSW 2131	✓

The matters raised in these submissions are detailed below in *italics*, followed by a response from the assessing officer:

The development is excessive in bulk and represents an unsympathetic building scale.

Officer's comment: As discussed previously in this report, the proposed development complies with Council's height and FSR controls.

The development fails to satisfy the setback requirements of the Ashfield DCP.

Officer's comment: This non-compliance is discussed in Section 7.3 of this report.

The building will dominate the skyline in an otherwise low-level environment that is the gateway to the Ashfield Town Centre from the east.

Officer's comment: The subject site is the eastern-most property within the town centre and on this basis could form a gateway to the town centre area. As outlined previously, Council's controls allow a higher building on this site.

The building will dominate the skyline and views from properties in Wallace Street.

Officer's comment: Having considered the matter of Tenacity Consulting V Warringah (2004) NSWLEC 140, and the subsequent Planning Principle, the views available from the Wallace Street properties are not highly significant. The height and dominance of the building is also considered acceptable on the basis that it complies with the relevant height controls and similar buildings are also present within the town centre.

The development will negatively impact on the privacy of residential properties in Wallace and Oak Streets.

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Officer's comment: Given that a separation distance of over 50m would be provided between the raised hotel element and the residential properties on Elizabeth Street, it is considered that privacy impacts will be minimal.

Dwelling houses within Wallace and Oak Streets are located further north beyond these Elizabeth Street properties.

The development is not in-keeping with the traditional character of the area.

Officer's comment: The building is contemporary in style and matches the existing club building.

The building's northern façade does not adequately address the traditional character of the residential properties to the north.

Officer's comment: Given the separation distances involved, and the presence of the existing club building, which is to be integrated with the new building, the use of traditional materials associated with residential development are not considered appropriate or relevant.

The development will overlook and over-power one the few remaining intact heritage precincts in Ashfield (northern residential properties).

Officer's comment: The property is not within the vicinity of a heritage item or conservation area. See Section 8.1 of this report.

The proposal does not indicate overshadowing impacts for neighbours.

Officer's comment: Shadows diagrams have been submitted with the proposal. These plans show that the development will overshadow a portion of a sporting field within Ashfield Boys' High School. See Section 7.5 of this report.

The proposal will not impact significantly on nearby residential properties. In this regard it should be noted that only minimal overshadowing of the front yards of southern properties will occur.

The development will produce traffic congestion for Liverpool Road.

Officer's comment: See Section 7.3 of this report.

The development will negatively impact on the availability of street parking within the area.

Officer's comment: See Section 7.3 of this report.

The development will produce additional competition to any already struggling Ashfield Town Centre.

Officer's comment: The assessing officer is unaware of other hotel accommodation within the Ashfield Town Centre whilst other clubs within the area, such as the Ashfield RSL and Ashfield Catholic Community Club, have had re-developments approved or undertaken in recent years. Regardless, no anti-clustering policies are in place to restrict trade within the Ashfield Town Centre.

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The development's target market, i.e. tourists from an Asian background, may take advantage of the numerous Chinese restaurants within the town centre so the proposal could therefore be a positive economic driver.

The development will generate additional crime within the area.

Officer's comment: Alcohol-related crime and violence is often associated with drinking establishments such as pubs and clubs. The existing Wests Ashfield Leagues Club employs security staff and responsible service of alcohol practices to minimise the risk of such incidents. Surveillance cameras and identification procedures (swiping of licences) are also used to identify offenders.

The proposal was referred to Ashfield Police for comment and they did not object to the proposal, nor did they identify the existing club as being a significant crime risk.

The Statement of Environmental Effects is deficient in that it does not address impacts to northern residential properties.

Officer's comment: The submitted Statement of Environmental Effects (SOEE) provides little commentary with respect to the northern residential properties located within Elizabeth, Oak and Wallace Streets. However, the SOEE does summarise the findings of the submitted Acoustic Report which suggests noise impacts for neighbours will fall within acceptable noise limits.

The Acoustic Report is deficient in that it does not address impacts to the northern residential properties.

Officer's comment: This statement is incorrect as the Acoustic Report specifically addresses noise impacts to the northern neighbours across the railway line.

The submitted application form provides misleading information in that it suggests no demolition is to take place.

Officer's comment: Relatively minor demolition is proposed with the application.

The proposal was not notified to a sufficient area.

Officer's comment: The proposal was notified as a major development in accordance with Council's Public Notification DCP.

7.8 The public interest

Matters of the public interest have been taken into consideration in the assessment of the application. Subject to the resolution of the outstanding matters identified in this report the proposed development is considered to be suitable within the context of the locality.

However, at the time of writing these outstanding matters – in particular with respect to onsite parking – have not been resolved and for this reason the refusal of the application is recommended.

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8.0 Referrals

8.1 Internal

Engineering – Parking comments with respect to the proposal are included in Section 7.3 of this report.

Stormwater comments are detailed in Section 9 of this report.

Building – Council's Construction Assessment Team Leader has raised no objection to the proposal subject to the imposition of conditions. See Section 10 of this report.

Heritage – The subject property is not located within the vicinity of any heritage items or conservation areas.

A proposed conservation area, the Draft Federal-Fyle Conservation Area (Draft Ashfield LEP Amendment No. 105), is located north of the site and the Western Railway Line. The listing of this area as a heritage conservation area has been exhibited to the public and has been formally notified as a Draft Ashfield LEP Amendment. However, a Planning Circular released by the Department of Planning and Infrastructure indicates that Draft LEP Amendments exhibited prior to 1 March 2006 that have not yet been gazetted should no longer to be considered under Section 79C(1)(a)(ii) of the EP&A Act.

Despite this, no legal instrument has been introduced to repeal these Draft LEP Amendments and the creation of these conservation areas still represents Council's planning intent for the area. As such the provisions of Draft Ashfield LEP Amendment No. 105 and the Draft Federal-Fyle Conservation Area have been considered in the assessment of this application – although they have been given less weight than if it was a formal conservation area.

Regardless, significant separation exists between the site and the Draft Federal-Fyle Conservation Area. It is further recognised that the subject site is located within the Ashfield Town Centre and the existing Leagues Club building is contemporary in design. On this basis it is considered that the proposal will not negatively impact on the character or significance of the Draft Federal-Fyle Conservation Area.

Council's Heritage Adviser has not raised an objection to the proposal.

Environmental Health – The Environmental Health Team Leader requires garbage collection arrangements for the site to be clarified:

- Existing and proposed garbage storage areas are to be identified.
- Servicing arrangements are to be clarified (i.e. what sized trucks service the site? Are these trucks able to access the garbage storage area and collect the bins?)

Until such time that these matters are resolved Council cannot support the proposal.

Community Services – Comments received from Council's Community Services Department are included at **Attachment 7**.

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The majority of the matters raised are addressed elsewhere in this report. The Community Services Department does raise a concern with respect to the overlooking of the school from the private hotel rooms. Whilst there may be some validity to their concerns it should be noted that residences often overlook schools or other places where children may congregate. Prohibiting the overlooking of schools would unreasonably restrict the development of the site.

Trees – The Tree Management Officer has raised no objection to the proposed landscaping plan.

Despite this an inspection has revealed that the existing front landscaping strip to the eastern side of the property is in need of work. A number of the previously planted grass trees (*Xanthorrhoea sp.*) have succumbed to root rot and are in need of replacement.

The submission of a revised landscaping plan covering this area is therefore recommended.

8.2 External

Roads and Traffic Authority

The proposal is defined as 'traffic generating' development under Section 104 and Schedule 3 of the Infrastructure SEPP. In this regard it should be noted that the club premises and hotel have direct vehicular access from Liverpool Road (a classified road) and the addition of over two-hundred (200) parking spaces are proposed.

In accordance with Clause 61(2) of the EP&A Regulation 2000 documentation and copies of the submissions received during the notification period were forwarded to the Roads and Traffic Authority (RTA) for comment. This was in addition to Council's initial referral to the RTA on 3 May 2011.

Formal comments with respect to the issue of traffic generation are yet to be received from the RTA. Until such time as the concurrence of the RTA is received an approval cannot be issued. Should the Sydney East JRPP be so inclined they may defer a formal determination of the application until such time that the concurrence of RTA is received, as has previously been discussed in this report.

NSW Police

The proposal was referred to the Ashfield Police for comment. The response received from the Ashfield Police makes a number of recommendations which have been referred to the Leagues Club for their review and comment.

In their review the Ashfield Police have identified that the development represents a 'low crime risk'.

Should the application be approved it is recommended that a condition be imposed requiring the installation of a closed-circuit television (CCTV) surveillance system in accordance with the comments received from the Police. It is considered that the Leagues Club would have little objection to this as it is understood they already have such a system in place. This condition could read:

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Surveillance cameras are to be installed in and around the club premises, in particular in and around the basement car park areas and entry and exit points to the club and hotel. Monitors shall be appropriately located to enable staff to monitor activities with minimum effort.

The surveillance system is to include a twenty-four (24) hour digital, multi-camera network with thirty (30) day storage capacity and high resolution images to better assist Police with offender identification.

Details of the surveillance system are to be provided with the construction certificate. The system must be installed and operational before the release of the occupation certificate.

Ausgrid

Two (2) electricity substations exist onsite. Comments received from Ausgrid (formerly Energy Australia) suggest the applicant should contact them to determine if the existing substations will provide sufficient power for the new development. These comments have been referred to the applicant for their information.

RailCorp

See Section 7.1.1 of this report.

9.0 Other Relevant Matters

Urban Design

The proposal was referred to Council's Urban Designer for comment with respect to the design quality of the development and its relationship to the surrounding environment. Comments received from the Urban Designer are included below, followed by comments from the assessing officer:

1. Context

Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of an area. (SEPP No. 65)

Urban Designer comments: The site is located on the north side of Liverpool Road adjacent to the existing Ashfield Wests Leagues Club on the eastern side and is immediately west of the Ashfield Boys High School sports field. The North East corner of the site is adjacent to the Railway Lines.

The site is affected by noise and vibration from both the railway and the road.

The character of the area is dominated by the very busy Liverpool Road and the railway corridor to the north. The road bridge over the railway lines is a very

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important landscape feature of the area and the existing Wests Leagues Club building acts as a gateway marker to the Ashfield Town Centre.

Directly opposite the site on Liverpool Road are a number of single storey detached dwellings from the 1920's and some 3 storey walk-up flats from the 1930's. West of Victoria Street along Liverpool Road, the building stock is less consistent with some single storey commercial buildings and vacant sites.

The site is currently being used as an at-grade car park by the Leagues Club. The site is subject to easements for electricity and access purposes to State Rail land. The proposal is to consolidate the site with the Leagues Club site to provide parking for the Leagues Club and accommodation in the form of a hotel above. The provision of hotel accommodation in a location such as this, adjacent to the railway line and to a major road artery is appropriate.

The proposal meets the objectives of this principle.

Officer's comment: The subject site is located within the Ashfield Town Centre and the proposal satisfies the primary numerical controls (height and FSR) established for the site. It can therefore be said that the proposal achieves the desired future character and form of a building within the town centre.

The Urban Designer's comments with respect to this principle are supported.

2. Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area. (SEPP65)

Urban Designer comments: At about 28m high (equivalent to a 9 storey building), 90m long and 30m wide, the scale of the proposed building is considerably larger than any existing buildings in the area. The scale of the building relates to the scale of the Leagues Club but will appear out of scale with the single storey and 2-3 storey residential buildings in the area.

It is not unreasonable to expect that this stretch of Liverpool Road will be redeveloped in time and that other buildings of this scale may be proposed. Sites on the other side of the road closer to Ashfield Town centre could accommodate buildings of this scale.

The proposal meets the objectives of this principle.

Officer's comment: The proposed development relates to the scale of the existing club premises. It also complies with the height and FSR controls established for the site, thereby satisfying the scale controls established for the Ashfield Town Centre.

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The Urban Designer's comments with respect to this principle are supported.

3. Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of the building elements.

Appropriate built form defines the public domain, contributes to the character of streetscape and parks, including their views and vistas, and provides internal amenity and outlook. (SEPP No. 65)

As mentioned above, the proposed building has a very large footprint and when added to the footprint of the leagues club it represents a 100% site coverage of a site area of approximately 5000m².

The form of the building is of a rectangular prism running in a north south direction. The building has a principal entry onto Liverpool Road where it has a circular tower element to echo the architectural language of the Leagues Club.

Ashfield Boys High School oval is contiguous with the long side of the proposed hotel building and will be dominated in terms of scale by the building and will be overlooked by the rooms on the western side of the building.

No setbacks are proposed to the western boundary at the ground and first floors and only nominal setbacks of 4.3m are proposed above. This seriously compromises the development potential and amenity of the school site. A minimum 9m setback is required according to the Residential Flat Design Code.

The orientation of the building means that rooms face east or west and will be subject to significant heat loads, especially in summer.

The proposed building will overshadow the school's sports field in winter until 12:00 midday.

This will have a significant impact on the amenity of the sports field on winter mornings. The wind report by Windtech does not speak of the impact the building will have on the sports field. I would expect that the sports field would be significantly affected. Westerly winds will be bushed around the building and down the façade back onto the playing field. When the playing field is on the leeward side of the building, the negative air pressure may also have impacts on the field, potentially affecting ball sports or other activities.

I note the wind directions identified in the site analysis do not accord with the data contained in the Windtech report.

The proposal does not meet the objectives of the principle due to the inadequate setbacks on western sides, the overlooking of the school and the east and west facing rooms.

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Officer's comment: The setbacks proposed for the building are discussed in Section 7.3 of this report and are generally considered acceptable. The shadows to be cast by the development fall within an acceptable range and the Principal of Ashfield Boys' High School has given her written support for the proposal.

It is considered that the proposal will not compromise the development potential of the adjoining school as the reduced setbacks are limited in height. It is further considered that there is little likelihood that the school's main sporting field will be re-developed.

On account of the orientation of the building a Sustainability Report should be prepared for the development, although it is recognised that the BCA sets the requirements for energy efficiency and air movement.

The Urban Designer's comments with respect to this principle are not supported.

4. Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality. (SEPP No. 65)

Urban Designer comments: The density of a hotel building in a residential context is difficult to assess. The transient nature of occupation and the uncertainty of the levels of occupancy do not generate the same impacts as permanent residential densities. As mentioned in Principle 1, the area's proximity to transport and other infrastructure allows for even a maximum occupancy of the hotel to be absorbed into the local area.

The proposal generally meets with the objectives of this principle.

Officer's comment: The proposal satisfies Council's FSR controls and is seen to be in-keeping with the desired density of the Ashfield Town Centre.

The Urban Designer's comments with respect to this principle are supported.

5. Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and re-use of water. (SEPP65)

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Urban Designer comments: The proposed building makes no attempt to follow passive solar principles. The orientation of the building, as mentioned in the Built Form Principle, presents single orientation rooms to either the east or the west, which is the least desirable orientation in terms of heat gain.

The windows do not appear to be openable and there is no sun shading on the windows. The rooms appear to have large expanses of glazed windows. The building will need to be air-conditioned. The energy levels required to power the air-conditioning will be extremely high. No passive solar mitigation has been used to reduce energy consumption.

There are no deep soil zones and there appears to be non plans to re-use water on the site.

The proposal does not meet the objectives of this principle.

Officer's comment: Unlike a residential flat building, the BCA establishes the environmental sustainability requirements for a hotel. The BCA Capability Statement provided with the application suggests the proposal will satisfy these requirements.

The submitted plans detail that a rainwater tank will be installed onsite and should the application be approved conditions will be imposed requiring the use of sustainable timbers only.

The Ashfield Town Centre DCP does suggest that the development go beyond the minimum legislative requirements and for this reason a Sustainability Report should be provided.

The Urban Designer's comments with respect to this principle are not supported.

6. Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the site's natural and cultural features in responsible and creative ways. It enhances the development's natural environment performance by coordinating water and soil management, solar access microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity and provide for practical establishment and long-term management. (SEPP No. 65)

There is no landscaping to speak of in this proposal apart from the spa and pool area on the terrace and some planter boxes on the western side, which are unlikely to sustain much planting due to the harsh exposure to afternoon sun.

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The proposal does not meet the objectives of this principle.

Officer's comment: Whilst it is agreed that insufficient landscaping would be provided for a residential flat building, the proposal is seen to be acceptable for a club premises and hotel. Comments with respect to landscaping are detailed in Section 8.1 of this report.

The Urban Designer's comments with respect to this principle are not supported.

7. Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility. (SEPP No. 65)

A hotel is hard to assess in terms of residential amenity. Different kinds of amenity are required. The acoustic isolation of the rooms would seem to be prioritised over cross ventilation. There is no provision of private outdoor space.

The proposal does not meet the objectives of this principle.

Officer's comment: It is agreed that a different level of amenity may be acceptable for hotels are opposed to units within a residential flat building. The provision of balconies is not required and given the site's location it is understandable that acoustic isolation has been prioritised over ventilation.

The use of air-conditioning is allowed under the BCA.

The Urban Designer's comments with respect to this principle are not supported.

8. Safety and security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces. (SEPP No. 65)

The number of traffic movements across the footpath may be of concern. Perhaps a refuge between the in and out lanes of the car park could improve safety for pedestrians. The 20m driveway is not safe to cross in one go.

The proposal could meet with the objectives of the principle.

Officer's comment: The proposal has been reviewed by Ashfield Police and no major issues were identified. With respect to the driveway, it should be noted that a signalised crossing exists over the driveway.

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The Urban Designer's comments with respect to this principle are not supported.

9. Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs of the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. (SEPP No. 65)

Urban Designer comments: It is unlikely that the hotel occupants will have much interaction with residents of the area. They will be from elsewhere and be staying for a short period of time. The hotel is there to cater for the club patrons who are catered for within the club. It is unclear whether the hotel meets any particular need in the community or the neighbourhood.

If the hotel were to offer a permanent affordable housing option for service workers or other low income people it may be possible to consider the proposal as meeting some objectives of the principle.

The proposal does not meet the objectives of this principle.

Officer's comments: The Urban Designer's comments with respect to this principle is of little relevancy to a club or hotel development.

It is recognised that clubs provide services, facilities and recreational activities that a substantial section of the community value.

It is understood that the proposed hotel will aim to attract international travellers from Asia, and China in particular. Such development may expand Ashfield's reputation as a multi-cultural centre.

The Urban Designer's comments with respect to this principle are not supported.

10. Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area. (SEPP No. 65)

Urban Designer comments: The proposed building is designed to marry with the aesthetic of the Leagues Club. The hotel differs greatly from a residential building. The minimal articulation and large expanses of non-articulated glazing clearly define this as a non-residential building.

It is more akin to a commercial development in its scale and proportion of façade elements and in terms of its materials and their detailing. The non-opening windows,

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the lack of balconies and sun shading would not be acceptable as a residential building.

The proposal does not meet the objectives of this principle.

Officer's comment: The proposal employs a contemporary building style that achieves a high compositional standard and matches the existing club building.

Unlike the Urban Designer, it is considered that the proposed building is suitably articulated with its western tower, mixed palette of materials, projecting lifts shafts, vertical proportions and glazed elements.

The Urban Designer's comments with respect to this principle are not supported.

Conclusion

Urban Designer comments: The proposed hotel would not meet the objectives of the principles of good design for residential buildings for the reasons given above. I suggest that most of the principles can and should apply to a hotel building.

Officer's comment: The proposed development is considered acceptable within the context of the Ashfield Town Centre. The Urban Designer's comments with respect to amenity and energy use are acknowledged but are generally considered to be acceptable for a hotel development.

Stormwater Management Code

Council's Design and Development Engineer has advised that the submitted stormwater concept plan is deficient and does not satisfy the requirements of Council's Stormwater Management Code. The following issues have been identified:

- The submitted plan (Drawing C01 by M+G Consulting) suggests that drainage for the Level 1 and 2 roofs and terraces will be supplied with future details. This is not acceptable and needs to be shown now as the site falls to the rear away from the onsite detention (OSD) tank. In order for this proposal to work all roofs and terraces must be designed to cater for a 1:100 ARI (Australian Rainfall Intensity). Hydraulically this may not be achievable or it may be visually unsightly (100's of down-pipes). The Engineer will also need to check that the existing building roof network is able to cope now that the pump area is being removed.
- The orifice size does not appear to be correct and requires further clarification.
- The OSD pit opening above the orifice plate needs to be an open grate.

Council's Design and Development Engineer has advised that this issue may be addressed by way of condition.

Stormwater Pipes

Council's stormwater map does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes. A Council stormwater pipe and a number of pits

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are located to the south of the site within Liverpool Road. Stormwater for the site is to be disposed of to this Council pipe.

Dedication of Land to Council

To allow for a public footpath Council's Design and Development Engineer recommends that the existing western allotments (105, 107 and 109 Liverpool Road) be set back to the frontal building line. The remaining area would be dedicated to Council as a public footpath.

The current 'footpath' area is under the title of the Ashfield West Leagues Club, it is not public land.

This may be conditioned should the application be approved.

Guidelines for Food Premises

The creation of an additional bar area and the alterations to the restaurant within the club must be undertaken in accordance with Council's Guidelines for Food Premises Policy. This may be conditioned should be application be approved.

10.0 Building Code of Australia (BCA)

A construction certificate will be required should the application be approved.

A BCA Capability Statement has been submitted and reviewed by the Construction Assessment Team Leader. The report identifies a number of non-compliances with the 'Deemed-to-Satisfy' provisions of the BCA, which will require 'Alternative Solutions' to be prepared. Having considered the findings of the report the Construction Assessment Team Leader believes it is likely that these non-compliances may be addressed at construction certificate stage without the need for a substantial re-design that may necessitate the submission of a Section 96 Application.

Financial Implications

Council's Section 94 Development Contributions Plan outlines that a levy of \$690.83 is to be paid for every hotel bed. On the basis that one-hundred and thirty-five hotel rooms are proposed with this development a Section 94 Contribution of \$93,262.05 would be payable should the application be approved.

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

See Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into

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consideration. The proposed development satisfies the FSR and height controls of the Ashfield LEP and the Ashfield Town Centre DCP 2007.

However, onsite parking for the development fails to comply with the Parking DCP and the findings of the submitted traffic and parking Report are not supported. It is therefore recommended that the Sydney East JRPP refuse the development application.

Attachments

- Attachment 1 – Plans of the Proposal
- Attachment 2 – Locality Map
- Attachment 3 – RailCorp Comments
- Attachment 4 – Letter of Support from Principal of Ashfield Boys' High School
- Attachment 5 – Traffic Consultant's Report
- Attachment 6 – Submissions
- Attachment 7 – Community Services' Comments

Recommendation

- A That Council determine whether it wishes to make a submission to the Sydney East Joint Regional Planning Panel in relation to the proposal, and if so, the contents of such submission; and**
- B The Sydney East Joint Regional Planning Panel as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 refuse Development Application 10.2011.67.1 for the demolition of the existing western car park, alterations and additions to the club premises including the construction of a hotel, retail occupancies, function room, gym, day spa, car park, and the consolidation of the allotments at 95-115 Liverpool Road, Ashfield, for the following reasons:**

Reasons for Refusal

1. The proposal fails to comply with Table 3 of the Parking Development Control Plan (Part C11 of the Ashfield DCP 2007).

Particulars:

- (a) The proposed development provides a shortfall of three-hundred and fifty-seven (357) spaces.
 - (b) The submitted Parking and Traffic Report is unacceptable on the basis that its survey was undertaken over one weekend only.
 - (c) The submitted Parking and Traffic Report is deficient in that it does not take into account the extent of on-street car parking generated by the club.
2. The proposed retail uses are not permissible under the zone of 5(a)-Special Uses – Club.

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3. The architectural plans do not incorporate the recommendations of the submitted Access Report and fail to comply with the Access and Mobility Development Control Plan (Part C1 of the Ashfield DCP 2007), the Building Code of Australia (BCA), AS 1428.1 and the Parking DCP (Part C11 of the Ashfield DCP).

Particulars:

- (a) No accessible hotel rooms are to be provided.
 - (b) An insufficient number of accessible car parking spaces are to be provided for the development.
4. A Sustainability Report has not been provided to satisfy the requirements of Section 10.2.5 of the Ashfield Town Centre DCP (Part C3 of the Ashfield DCP 2007).
5. Insufficient information has been provided with respect to the garbage collection arrangements for the site.
6. The proposal is not in the public interest.