

## SYDNEY WEST JOINT REGIONAL PLANNING REPORT

10 October 2013

<b>JRPP Reference No.</b>	2012SYW035
<b>Development Application No.</b>	DA-846/2012
<b>Proposed Development</b>	Marina Development
<b>Property Description</b>	Lot 7 DP 1065574, 146 Newbridge Road, MOOREBANK
<b>Applicant</b>	Benedict Industries Pty Ltd
<b>Land Owner</b>	Tanlane Pty Ltd
<b>Capital Investment Value</b>	\$44.2 Million
<b>Recommendation</b>	<b>Deferred Commencement Consent</b>



## 1. EXECUTIVE SUMMARY

### 1.1 Reasons for the Report

The proposed development for the construction and operation of a marina has a capital investment value that exceeds \$20 million for the purposes of 'General Development' and is a 'particular designated development' with respect to Clause 3 and Clause 8 of Schedule 4A of the Environmental Planning and Assessment Act 1979 respectively.

Consequently, the subject Development Application is referred to the Sydney West - Joint

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Regional Planning Panel for determination in accordance with State Environmental Planning Policy (State and Regional Development) 2011.

**1.2. The proposal**

Construction and operation of a marina development comprising of a maritime building for kiosk, function centre and public clubhouse area and associated wet and dry berth facilities, private marina clubhouse, public open space works and associated car parking.

**1.3 The site**

The subject site is identified as Lot 7 in DP 1065574 being No.146 Newbridge Road, Moorebank.

**1.4 The issues**

Key issues which emerged during the Development Assessment process included:

- Flooding; and
- Vehicular access;

The above issues have been addressed and are discussed throughout this report.

**1.5 Exhibition of the proposal**

The subject Development Application was placed on public exhibition on three (3) separate occasions from 28 March 2012 to 3 May 2012, 9 May 2012 to 8 June 2012 and from 3 July 2013 to 2 August 2013. Each exhibition period observed a minimum 30 day public exhibition period in accordance with the Environmental Planning and Assessment Regulation 2000 and the Liverpool Development Control Plan 2008.

A total of six (6) separate submissions were received, of which four (4) expressed support for the proposal and the remaining submissions from the same author raising specific objection to vehicular access arrangements. The matters raised are canvassed later in this report.

**1.6 Conclusion**

The subject Development Application was assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979.

The current activities being carried out at the site for the purposes of extractive industries and resource recovery are to cease operation and all existing infrastructure would be removed in preparation of the development. The rehabilitation of the site to its landform as approved in the Development Consent issued for extractive industries are to be realised in respect to achieving the final landform height as well as existing settlement basins would be used in the formation of the marina basins. The proposed marina is considered to be an appropriate form of development and efficient use of land which is in keeping with the recreational use of the area as reflected in the zoning of the land.

The proposal is considered to be a significant project for Liverpool and would exhibit a high quality design benchmark and reflect an iconic development for the local area and the greater region. The proposed development is considered an appropriate form of development for the

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site with a number of measures which would mitigate the impacts identified during the assessment process. The proposed development represents a significant opportunity to reactivate an inaccessible and highly degraded stretch of the Georges River and would seek to return the natural landscape to the community through a development that enables active and passive forms of recreation that represents substantial economic and social benefits for the Liverpool and the greater community and maintains the environmental quality of the area and embellishment of the riverine character of the land.

The application was referred to a number of external authorities including the Roads and Maritime Services, NSW Office of Water, NSW Fisheries and the Office of Environment and Heritage, of which no objection was raised, subject to conditions. The application was placed on public exhibition, of which no submissions were received in response to the proposed development.

The subject site is identified with a maximum high flood risk. The application has been accompanied with a flood modelling report which concludes that the proposed development would have a negligible impact on the behaviour of flooding in the flood storage area located to the southwest of the proposed marina and nil or negligible impact on any other adjoining property.

The subject site has experienced a long history of legal proceedings in addressing vehicular access to the surrounding street network. It is confirmed that this matter has been resolved in the NSW Land and Environment Court and the NSW Court of Appeal. It should be noted that final vehicular access arrangement do not form part of the subject application. Notwithstanding, the subject application has been accompanied with detailed information in respect road and intersection design and traffic modelling to allow an assessment of traffic impact as part of the subject application.

Council Officers have considered traffic impact and have concluded that vehicular access to the proposed development is satisfactory and would have an unlikely adverse traffic impact to the surrounding street network. In this respect, the consideration of the subject application is not impeded by these aspects, however it should be noted that these elements are to be formally addressed in a separate Development Application. It is recommended that a Deferred Commencement Condition be the appropriate pathway in ensuring that these matters are resolved.

It is for these reasons that the proposed development is considered to be satisfactory and notwithstanding the submissions received, the subject application is recommended for approval, subject to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

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

The subject site is located on the southern side of Newbridge Road, Moorebank and is irregularly shaped with a total site area of approximately 22.3 hectares.



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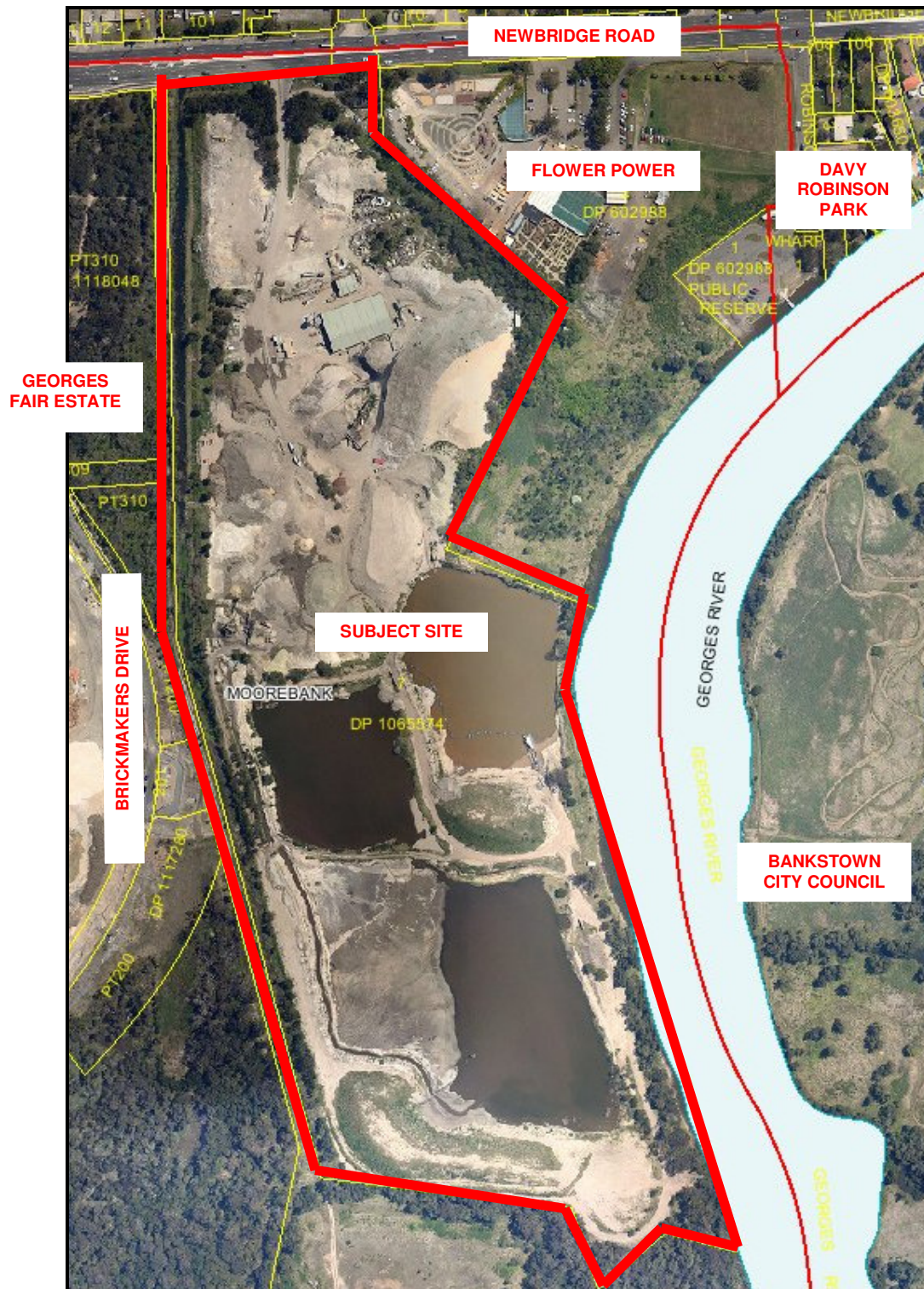


Figure 1: Aerial photograph of the site (Source: Liverpool City Council)

The site is expansive and irregular in shape with a total site area of 22 hectares. The current operations at the site include extractive industry for the purposes of sand extraction via dredging and dry extraction methods. It is noted that the site also conducts resource recovery activities.

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The site has been highly degraded having regard to the extractive industry, which has occurred due to the existing operations at the site. A number of refuse stockpiles is scattered throughout the site as well as a number of dredging ponds in association with extraction. A number of outbuildings are located towards the front of the site, which accommodate various plant and equipment associated with the use as well as office space for daily operations.

## 2.2 The Locality

The site is located adjacent to the Georges River to the east, Newbridge Road to the north and Georges Fair residential estate to the west. Land to the east of the Georges River is located within the Bankstown Local Government Area and is characterised as expansive recreational open space.

Existing vehicular access from the site to Newbridge Road would eventually be decommissioned with formal vehicular access to the proposed development be permitted only via an approved collector street with connection to Brickmakers Drive and Newbridge Road.

## 2.3 Background

- The site currently conducts extractive industries of which is noted to these current operations are reaching the end of its economic life. Sand extraction had been granted by the NSW Land and Environment Court in *Maron Investments Pty Limited V. Liverpool City Council* [1993] NSWLEC 25 on 31 March 1993. As part of the approval, the rehabilitation of the site was required on cessation of extractive industries and enables the importation and processing of waste materials to fill empty cells and return these areas to its natural landform.

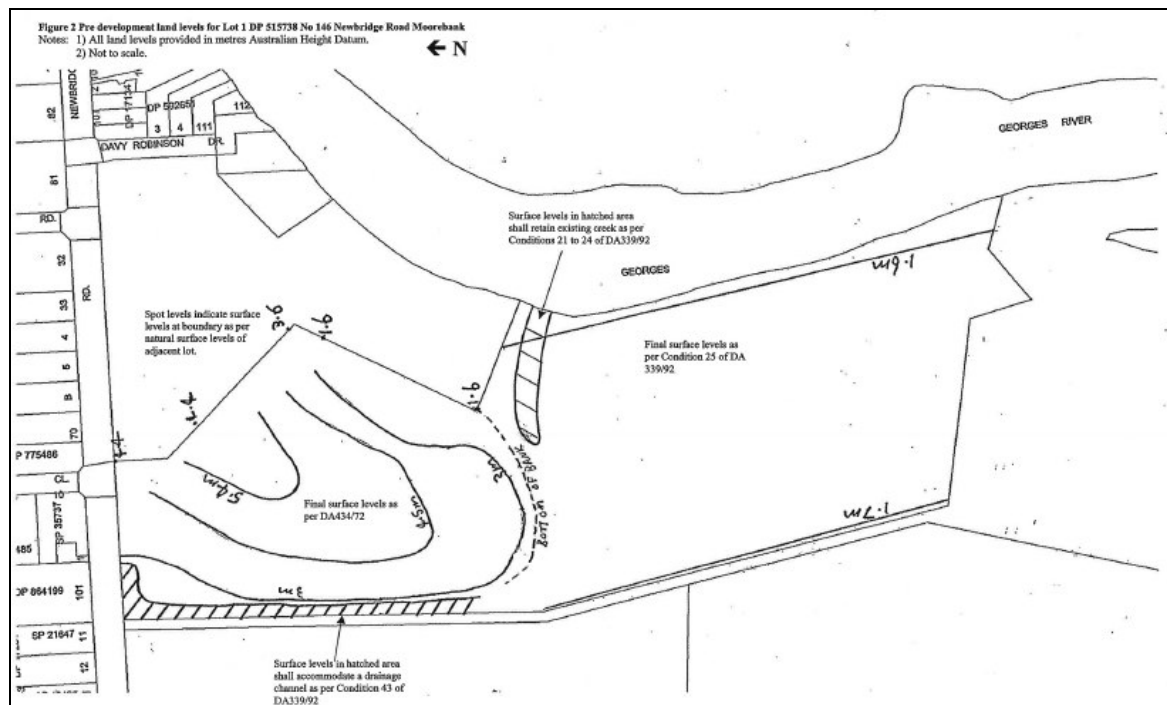


Figure 2: Approved rehabilitation plan under DA339/92

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- DA-1552/2006 was approved by Council on 24 April 2007 for the construction of a road bridge connecting from the subject site to Council land. It should be noted that the consent issued did not involve connection to Brickmakers Drive. The road bridge required an easement to enable a right of carriageway over an existing portion of an access handle adjacent to the site owned by Lot 6 DP 1065574.
- DA-1552/2006 was subject to Class 4 legal proceedings in the NSW Land and Environment Court. The judgment in *Moorebank Recyclers Pty Ltd v Liverpool City Council [2009] NSWLEC 100* concluded that the consent was valid. The matter was appealed in the NSW Court of Appeal with judgment made in *Tanlane Pty Ltd v Moorebank Recyclers Pty Ltd [2008] NSWSC 1341* which was dismissed.
- Subsequent legal proceedings which sought to grant an easement over Moorebank Recycler's land pursuant to Section 88K of the Conveyancing Act 1919 was heard in *Tanlane Pty Ltd v Moorebank Recyclers Pty Ltd (No 2) [2011] NSWSC 1286*.
- In *Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd [2012] NSWCA 445*, the matter was appealed in the NSW Court of Appeal of which the judgment was made that the easement for the purposes of construction, maintenance, repair and use which traverses over the access handle associated with Lot 6 DP 1065574 be granted on terms with an additional order in relation to compensation to the owner of Lot 6 for the imposition of that easement.



Figure 3: location of easement on Lot 6 DP 1065574

- A Voluntary Planning Agreement (VPA) pursuant to Section 93F of the Environmental Planning and Assessment Act 1979 had been agreed to between Liverpool City Council and Tanlane Pty Ltd dated 11 June 2008. The VPA applies to the subject site and contains a series of contributions/works which are summarised as follows:
  1. Embellishment of river foreshore land;
  2. Dedication of river foreshore land to Council subject to a 50 metre wide easement for maritime vessel access as well as two easements for the drainage of water;
  3. Development of a Vegetation Management Plan;
  4. Completion of works described in the Vegetation Management Plan;
  5. Conduct of maintenance works described in the Vegetation Management Plan;
  6. Construction of a Bike/Pedestrian Oath through the river foreshore land



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7. Construction of passive recreation facilities on the river foreshore land
8. Dedication of a drainage channel;
9. Construction and dedication of a road bridge over drainage channel, embankment and road to Brickmakers Drive;
10. Construction and dedication of Pedestrian Access to Newbridge Road and a pedestrian path within the public verge along the entire length of the land frontage to Newbridge Road;
11. Dedication of an easement over land for access for the purpose of allowing Council to undertake maintenance to the river foreshore land.

A copy of the Voluntary Planning Agreement and the associated plan of designated land applicable to the VPA and the schedule of works are outlined in Attachment.

## 2.4 Site Photographs



Photo 1 View west towards Georges Fair Estate



Photo 2 View east towards Bankstown LGA



Photo 3 View south



Photo 4 View north east towards Davy Robinson Park and proposed mouth of marina basin

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Photo 5 View to South



Photo 6 View to the west over creek in approximate location of future road bridge with connection to Brickmakers Drive



Photo 7 Existing stockpiles



Photo 8 Location of workshop buildings, site office and storage



Photo 9 Existing dredging ponds



Photo 10 Plant and Equipment



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**3. DETAILS OF THE PROPOSAL**

The proposed development involves a marina with the following key elements: -

- Erection of maritime building including dry berth facility providing 250 berths for small craft, function centre and associated kiosks, tourist, entertainment, recreation and club facilities;
- Provision of a wet berth facility for 186 small craft berths (including casual berths) including public recreational facilities, and associated works and infrastructure;
- Construction of a private marina club house; and
- Construction of three (3) car parking area including a basement car park providing a total of 560 carspaces.

The proposed development, in detail as per the accompanying drawings and are summarised as follows:

Component	Description
<b>Maritime Building</b>	<ul style="list-style-type: none"> <li>▪ The Maritime Building with a total floor area of 6,779sqm<sup>2</sup>, a maximum height of 24.4 metres (from FFL 4.6m AHD) and constructed with a concrete slab, steel framed and colourbond clad structure.</li> <li>▪ The colour is predominantly light grey and a large component of translucent panels to maximise the use of natural light.</li> <li>▪ The dry berth store has been designed to accommodate approximately 250 small crafts</li> <li>▪ Launching and retrieval from the facility is to be undertaken by a lifting device assisted by a large forklift operated on the ground floor of the dry berth facility. The forklift removes small crafts from the vertical lift for placement into the racking system incorporated within the building.</li> <li>▪ The function centre comprising approximately 3,062m<sup>2</sup> including shared amenities and marina offices.</li> <li>▪ Kiosk, Commercial, Tourist Recreational and Club Facilities combined have a total site area of 1,276m<sup>2</sup> of area and service casual visitors utilising the village square and marina spit precinct.</li> <li>▪ The public marina clubhouse being a 600m<sup>2</sup> in area and incorporates a public marina club lounge and a terrace for public marina members. These facilities will include amenities, change rooms and bar and servery facilities and dining space.</li> <li>▪ Chandlery and Retail Sales and Small Craft Showroom with an area of 1,605m<sup>2</sup> to be split into two main functional areas. The chandlery and retail sales area provide for all maritime, hardware and supplies required for day to day maintenance.</li> <li>▪ The second functional area comprises the small craft sales showroom and sales administration and dominated by a display of small craft for sale.</li> <li>▪ A workshop comprising 236m<sup>2</sup> in area and to be used to provide service and maintenance facilities for marina club members and accommodates not more than four small craft time at any one.</li> </ul>
<b>Marina Basin</b>	<ul style="list-style-type: none"> <li>▪ The proposal includes a marina basin of approximate dimensions of 150 metres by 350 metres.</li> <li>▪ The marina would open to the Georges River with a short entrance channel 40 metres – 50 metres wide.</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ The basin would be formed by filling the existing quarry to shape it into the final landform using a dredge and land based earth moving machinery. The dredge would operate as at present in a water filled basin.</li> <li>▪ The excavated sand and other materials would be used for forming the vessel access channel and associated land areas required for the marina. This work would commence at the landward end forming the basin and land base prior to breakthrough of the banks to the river.</li> <li>▪ The breakthrough to the river would be undertaken as the last activity after the water quality in the basin had stabilised and was suitable to discharge to the river once the banks are excavated.</li> </ul>
<b>Embellishment and Re-vegetation of River Foreshore</b>	<ul style="list-style-type: none"> <li>▪ These works will be protected by rock revetment put in place to protect the stretch of the river foreshore from the effects of flooding and erosion.</li> <li>▪ These works will be carried out in accordance with a Voluntary Planning Agreement which requires a detailed vegetation management plan (VMP) to be submitted to Council.</li> <li>▪ The VPA entered into by the Landowner with Council specifies the provision of public recreation facilities including bike paths, BBQ facilities and shelters on the foreshore zone which is earmarked to be dedicated back to Council under the terms of the Voluntary Planning Agreement referred to above.</li> </ul>
<b>Wet Berths</b>	<ul style="list-style-type: none"> <li>▪ A total of 186 wet berth storage areas are to be provided with accommodation from small vessels from 8 metres in size up to large vessels up to 20 metres in length.</li> <li>▪ The marina berths would be a floating system of walkways with finger units branching off at right angles to the walkways creating the berthing pens and providing access alongside vessels.</li> <li>▪ Create a navigation channel having a minimum width of 40 metres located in the foreshore.</li> <li>▪ Adequate width is provided for small craft movement and allow for public access to the marinas, manoeuvring at the fuel and sewage pumpout facilities.</li> <li>▪ No mooring or anchoring will be allowed within this channel or within the marina basin.</li> <li>▪ Main walkways of the marina would be made available to the public during marina opening hours. Access control gates would be located at the walkways leading to the marina berths which will control access 24 hours a day.</li> </ul>
<b>Signage</b>	<ul style="list-style-type: none"> <li>▪ Various directional signage is proposed throughout the site.</li> </ul>
<b>Berth Services</b>	<ul style="list-style-type: none"> <li>▪ Marina berths would be supplied with water, power, lighting and communications.</li> <li>▪ Fire fighting equipment including fire hose reels, fire hydrants booster, fire extinguishers and signage</li> <li>▪ Separate facilities storing 60,000 litres of diesel and 60,000 litres of petrol to be installed on the hardstand on RL 7.3 and over 1:100 year flood levels. The fuel bowsers would be located on the dedicated fuel wharf which is located at the end of berth row D.</li> <li>▪ The pumpout facility would discharge into the existing sewer connections on the site.</li> <li>▪ All marina berth holders would be supplied with a complimentary bilge water absorbing pad. The bilge absorbing pad would absorb any oil from the bilges and be disposed of at the sewage pumpout facility.</li> </ul>

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<b>Public Emergency Access</b>	<ul style="list-style-type: none"> <li>The areas allocated for casual public berthing would be available to the Water Police and Emergency Service agencies if required. The main walkway width would provide ample space for emergency evacuation.</li> </ul>
<b>Car Parking</b>	<ul style="list-style-type: none"> <li>A total of 560 cars space to be provided in a series of three (3) separate at-grade parking areas and a basement car park throughout the site. Vehicular access is proposed from a collector street with a future connection to Brickmakers Drive.</li> </ul>
<b>Private Marina Clubhouse</b>	<ul style="list-style-type: none"> <li>The private marina clubhouse is to be located to the north of the maritime building and have a maximum height of 13.1 metres. The building would be constructed of steel and colourbond materials and incorporate large glassed areas to utilise natural light.</li> <li>The clubhouse would accommodate a number of uses including office space, dining areas, amenities and wet berth areas.</li> <li>It is intended that the Private Marina Clubhouse will provide for the marina dress circle precinct with waterfront access for the future residential development on the northern portion of the site.</li> </ul>
<b>Hours of Operation</b>	Seven (7) days a week, 7.00 am to 10.00 pm (function centre 12.00am)

### Plans

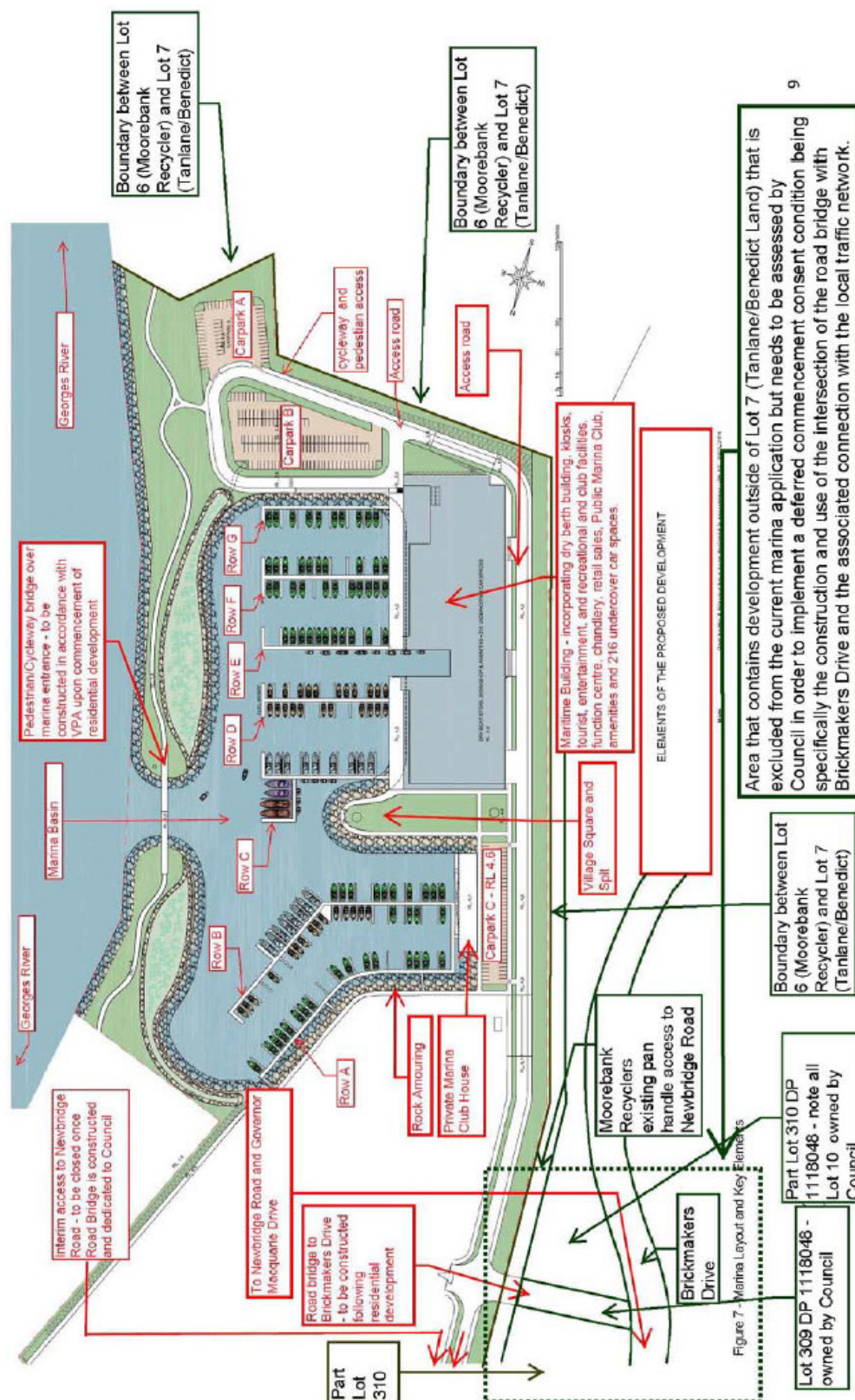
The following reports have accompanied the subject Development Application and used throughout the planning assessment:

- Georges Cove Marina, Moorebank, Preliminary Marina Concept Design and Environmental Assessment – Worley Parsons October 2010;
- Georges River Marina, Moorebank Aquatic Ecology Aspects and Environmental Assessment of Marina Concept Design – Marine Pollution Research Pty Ltd March 2010;
- Traffic Report for Proposed Georges Cove Marina, Moorebank NSW – Colston Budd Hunt and Kafes Pty Ltd July 2010;
- Noise Impact Assessment Georges Cove Marina – Parsons Brinckerhoff November 2010;
- Georges Cove Marina, 146 Newbridge Road, Moorebank Visual Impact assessment - Richard Lamb and Associates September 2010;
- Projection Estimates of Plant Heights of Potential Native Vegetation Reconstruction Plantings at Benedict Industries George Cove Marina Site – Ecohort Pty Ltd;
- Flora and Fauna Assessment – Total Earth Care January 2006;
- Indigenous and Non Indigenous Heritage Aboriginal Archaeological Assessment – Mary Dallas Consulting Archaeologists and Non Indigenous Heritage Assessment – Heritech Consulting May 2003;
- Flood Impact Assessment Report prepared by Cardno dated 29 January 2013;
- Voluntary Planning Agreement – 146 Newbridge Road, Moorebank June 2008;
- Bushfire Hazard Assessment – Total Earth Care January 2006;
- Acid Sulfate Soil Management Plan for Georges Cove Marina;
- Waste Management Plan for Georges Cove Marina;
- Elements of the Proposed Development; and
- Concept Georges Cove Marina.



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## Development of Georges Cove Marina ■ Environmental Impact Statement January 2012



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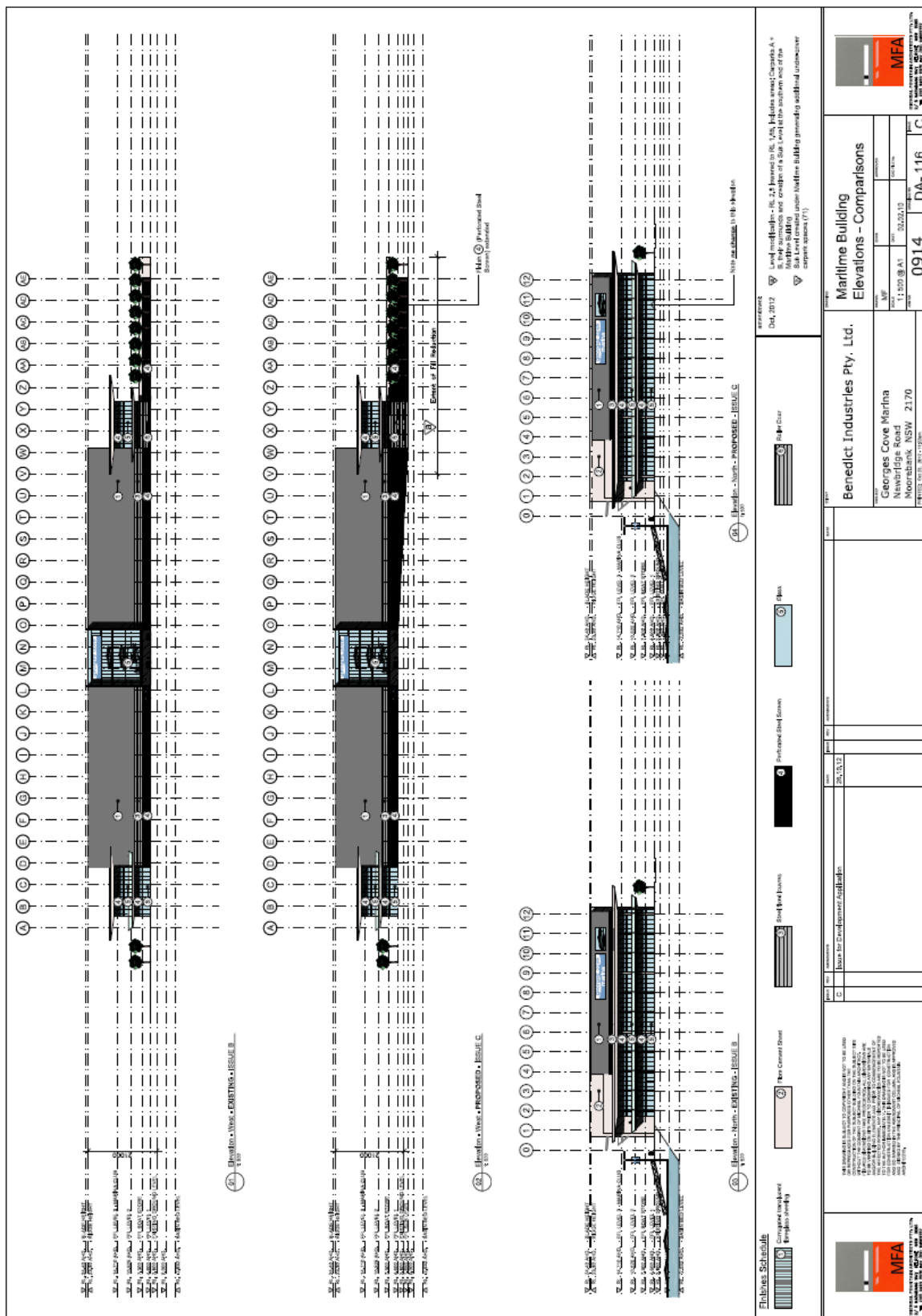
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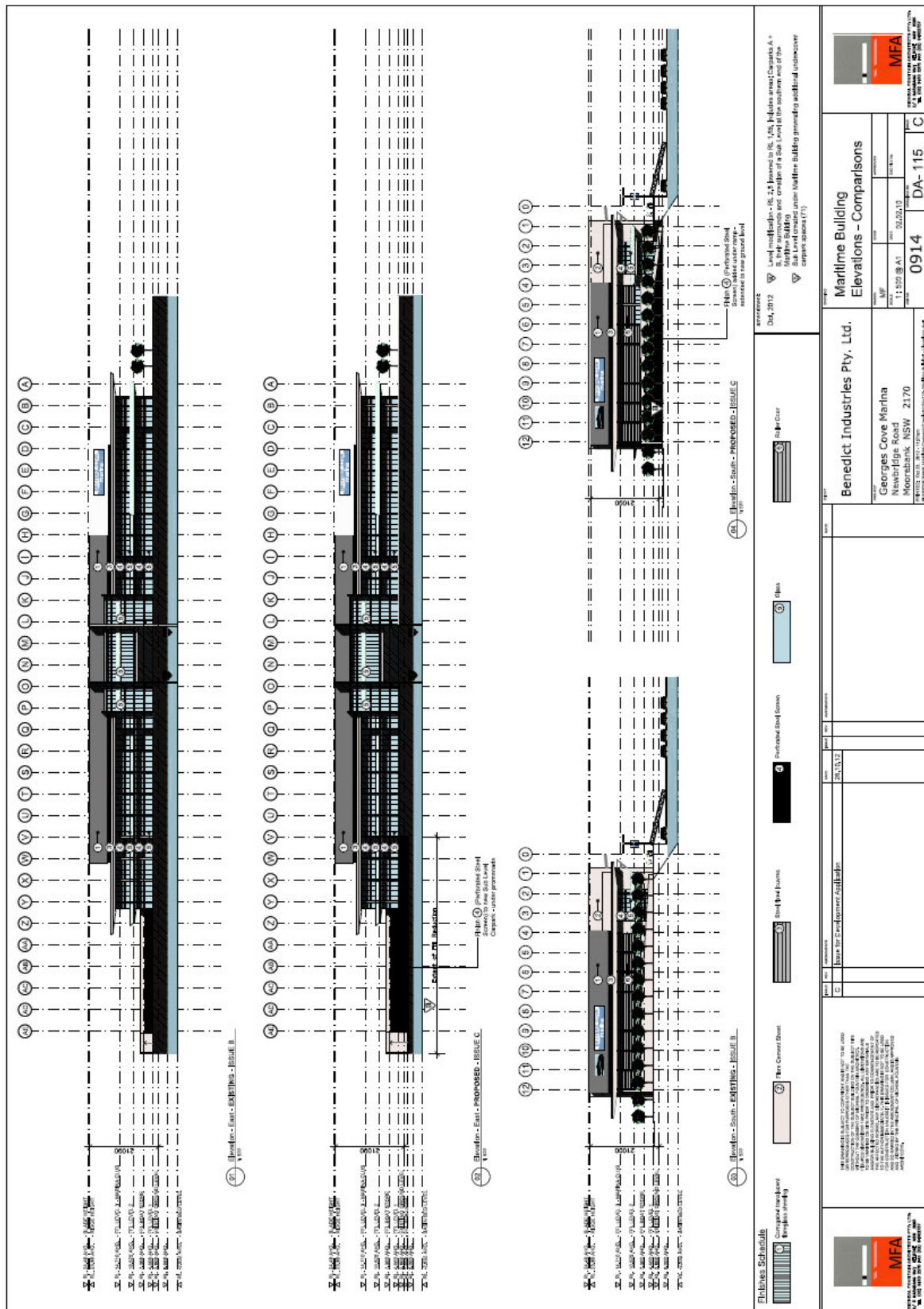


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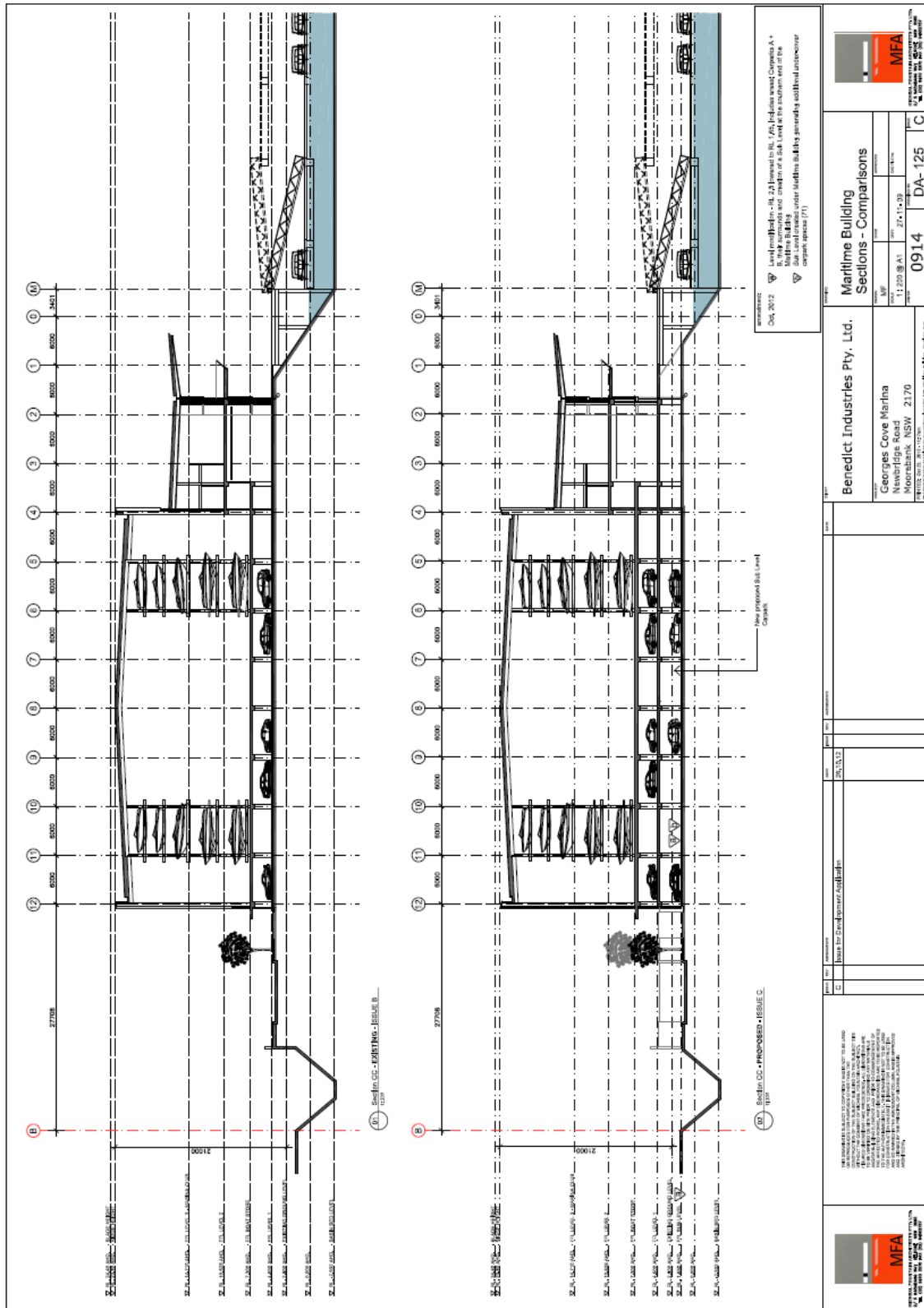


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**4. STATUTORY CONSIDERATIONS****4.1 Designated Development**

The proposed development has been identified as 'Designated Development' pursuant to Section 77A of the Environmental Planning and Assessment Act 1979 which is prescribed in part as follows: -

***"77A Designated development***

- (1) Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations."*

Pursuant to Clause 23 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000, 'Marinas' are outlined in part as follows:

***"23 Marinas or other related land and water shoreline facilities***

- (1) Marinas or other related land or water shoreline facilities that moor, park or store vessels (excluding rowing boats, dinghies or other small craft) at fixed or floating berths, at freestanding moorings, alongside jetties or pontoons, within dry storage stacks or on cradles on hardstand areas:*
- (a) that have an intended capacity of 15 or more vessels having a length of 20 metres or more, or*
  - (b) that have an intended capacity of 30 or more vessels of any length and:*
    - (i) are located in non-tidal waters, or within 100 metres of a wetland or aquatic reserve, or*
    - (ii) require the construction of a groyne or annual maintenance dredging, or*
    - (iii) the ratio of car park spaces to vessels is less than 0.5:1, or*
  - (c) that have an intended capacity of 80 or more vessels of any size.*
- (2) Facilities that repair or maintain vessels out of the water (including slipways, hoists or other facilities) that have an intended capacity of:*
- (a) one or more vessels having a length of 25 metres or more, or*
  - (b) 5 or more vessels of any length at any one time."*

The proposed marina involves a maritime building containing 250 dry storage berth racks and 186 wet floating berths at the site. The proposal has an intended capacity exceeding 80 vessels of any size and therefore, the application is considered to be Designated Development.

An Environmental Impact Statement has been prepared in accordance with the Director-General's Requirements issued by the Department of Planning and Infrastructure and forms part of the Development Application subject to this report.

**4.2 Nominated Integrated Development and Integrated Development**

Pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979*, the applications were defined as 'Integrated Development,' and 'Nominated Integrated Development.' Concurrence pursuant to the applicable legislation was sought from the following authorities:

- Department of Primary Industries - Office of Water - *Water Management Act 2000 (Nominated Integrated Development)*;
- NSW Office of Environment and Heritage – *Protection of the Environment Operations Act 1997 (Nominated Integrated Development)*; and
- Department of Primary Industries – *Fisheries Management Act 1994*.

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The subject application is identified as 'Nominated Integrated Development' as the proposal requires a 'controlled activity approval' pursuant to Section 91 of the Water Management Act 2000 and had been referred to NSW Office of Water. The Department has issued their General Terms of Approval for the proposed development.

The subject application is identified as 'Nominated Integrated Development' and had been referred to the NSW Environmental Protection Authority pursuant to Part 3.2 of the Protection of the Environment Operations Act 1997 where 'Marinas and boat repairs' are listed as a Scheduled Activity pursuant to Schedule 1 of the Protection of the Environment Operations Act 1997. The Department has issued their General Terms of Approval for the proposed development.

The proposal was referred to the Department of Primary Industries – Fisheries pursuant to Section 205 of the Fisheries Management Act 1994 to obtain a permit to cover harm of marine vegetation. The Department has issued their General Terms of Approval for the proposed development.

**4.3 Threatened Species**

The provisions of the Threatened Species Conservation Act are not applicable as there are no threatened animal or plant species located in the area of the development, nor does the development site constitute a significant part of the habitat of such species. It can therefore be concluded that there would be no significant effect on threatened species, populations or ecological communities or their habitats arising from the construction or use of the proposed development.

The Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) requires approval from the Commonwealth Minister for the Environment for actions that will have a significant effect on matters of national environmental significance, including identified threatened species. The proposal would not have an impact on matters of national environmental significance as listed in the EPBC Act and accordingly, a referral is not required to the Commonwealth Minister for the Environment.

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**5. PLANNING ASSESSMENT**

The proposal has been assessed with due regard to relevant legislation and planning instruments cited as follows:

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No.33 – Hazardous and Offensive Development;
- State Environmental Planning Policy No.55 - Remediation of Land;
- Liverpool Local Environmental Plan 2008; and
- Liverpool Development Control Plan 2008.

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*. A detailed assessment against relevant planning considerations is detailed as follows: -

**5.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument****(a) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP)**

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

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining Development Application (Clause 8 & Clause 9) and compliance with such is provided below:

<b>Clause 8 General Principles</b>	<b>Comment</b>
(a) the aims, objectives and planning principles of this plan,	The proposed development seeks to maintain and improve the water quality of the Georges River.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures, embellishment of river foreshore land and drainage facilities to assist in managing the site. It is considered that the proposed development improve the environmental quality of the site.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	A Vegetation Management Plan is to be prepared for the site which aims to embellish the river foreshore land along the Georges River. Conditions recommended from the NSW EPA, NSW Office of Water and NSW Fisheries contains requirements which would address acid sulfate soils, contamination, vegetation, aquatic impact, erosion and sediment control and existing basin water. These requirements need to be addressed prior to construction.
(d) any relevant plans of management including any River and	<b>Biodiversity of the Georges River Catchment</b> The development would assist biodiversity in the Georges River catchment by restoring the existing extractive industry site to provide



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Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning	<p>habitat in the RE1 foreshore zone. The foreshore area would be embellished and stabilised with a rockwall and be revegetated with native species in accordance with a Vegetation Management Plan as part of a Voluntary Planning Agreement to be submitted with Council.</p> <p><b>Georges River Catchment Built Environment and Foreshore Access Study</b></p> <p>In a specific local context it is noted that the Boat ramp on Davey Robinson Drive was identified as potential future development site. These sites are intended to illustrate the widest range of development and design opportunities for foreshore improvements, to consider access, recreation, built form, environment, cultural heritage and scenic quality. The proposed marina development also meets the main criteria for future development as reflected in the suggested demonstration sites for built environment, scenic quality, foreshore access, recreation and leisure.</p> <p><b>Georges River Catchment: Better Practice Guidelines for Foreshore Works</b></p> <p>The proposed development would be consistent with the principles set out in these guidelines.</p>
(e) the <i>Georges River Catchment Regional Planning Strategy</i>	The proposal would meet the initiatives of this strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	The proposed development has been issued with general terms of approval by the NSW Environmental Protection Authority, NSW Office of Water and NSW Fisheries.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	The site accommodates extractive industry. The locality has been rezoned to accommodate for residential, business and recreational uses which is in keeping with the surrounding residential area.
<b>Clause 9 Specific Principles</b>	<b>Comment</b>
(1) Acid sulfate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site contains flood prone land.
(4) Industrial discharges	Not applicable
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss
(7) River-related uses	River foreshore land to be embellished as per the VPA.
(9) Urban/stormwater runoff	Drainage details to be provided as a condition of consent.

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(10) Urban development areas	Flooding controls to be implemented.
(11) Vegetated buffer areas	River foreshore land to be embellished as per the VPA.
(12) Water quality and river flows	An assessment has been made which confirms that the proposed development would have an unlikely impact on water quality.
(13) Wetlands	River foreshore land to be embellished as per the VPA. Conditions imposed by NSW EPA, NSW Office of Water and NSW Fisheries contain conditions relating to vegetation management.

**Clause 11 Planning Control Table****15 Marinas And Slipways**

A Vegetation Management Plan is to be prepared for the site which aims to embellish the river foreshore land along the Georges River. Conditions recommended from the NSW EPA, NSW Office of Water and NSW Fisheries contains requirements which would address acid sulfate soils, contamination, vegetation, aquatic impact, erosion and sediment control and existing basin water. These requirements need to be addressed prior to construction.

It is considered that the proposal satisfies the provisions of the GMREP No.2 and would have minimal impact on the Georges River Catchment.

**(b) State Environmental Planning Policy No.19 – Bushland in Urban Areas**

State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) applies to the proposal. The general aims of the policy are to protect and preserve bushland within the urban areas and maintain its value to the community as part of the natural heritage and its aesthetic value and recreational, educational and scientific resource.

The SEPP No.19 includes the following relevant definition:

*“bushland means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation.”*

The site both adjoins and contains land zoned RE1 Public Recreation under LLEP 2008. Accordingly, Council is required to undertake a merit assessment of the proposed development against Clause 9 *Land adjoining land zoned or reserved for public open space*. Following is a table summarising the matters for consideration in determining development application and compliance:

<b>9 Land adjoining land zoned or reserved for public open space</b>	<b>Comment</b>
(1) This clause applies to land which adjoins bushland zoned or reserved for public open space purposes.	The site adjoins and contains RE1 Public Recreation land.

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<p>(2) Where a public authority:</p> <p>(a) proposes to carry out development on land to which this clause applies, or</p> <p>(b) proposes to grant approval or development consent in relation to development on land to which this clause applies, the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:</p>	<p>The application involves granting of development consent on land to which this clause applies.</p>
<p>(c) the need to retain any bushland on the land,</p>	<p>A Voluntary Planning Agreement has been executed with the property owner and Council and contains work which requires the property owner to re-vegetate the river foreshore in accordance with a Vegetation Management Plan (VMP) to be submitted in accordance with the agreement.</p> <p>The VMP needs to demonstrate how weeds will be removed and the remediated site managed into the future.</p>
<p>(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and</p>	<p>A VMP is to be prepared as mandated by the Voluntary Planning Agreement. In consideration with the general terms of approval issued from the NSW Office of Water; NSW Fisheries and NSW Environmental Protection Authority, the overarching VMP and other approval required to carry out work would sufficiently address these matters.</p>
<p>(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.</p>	<p>The VMP is considered to be sufficient in preserving and embellishing bushland areas with the intent to enhance these areas for public benefit.</p>

The provisions of SEPP 19 are considered to have been satisfactorily addressed.

**(c) State Environmental Planning Policy No. 55 – Remediation of Land**

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

Council must consider Clause 7 of SEPP 55 as follows: -

***“7 Contamination and remediation to be considered in determining development application***

- (1) *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*

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- (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*
- (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."*

The site is noted to have conducted extractive industry for a number of decades. An examination of Table 1 to the Planning Guidelines for Contaminated Land identifies 'extractive industries' as a potential contaminating activity.

Section 7(3) of the SEPP states the following: -

*"The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation."*

Extractive industries activities are ongoing at the site, however as noted, these activities will cease in the short term. The applicant has noted that since these activities are occurring and the extent of area of the site that such confirmation of contamination could be carried out on cessation of the use and required testing can be carried out.

The applicant has noted that during the Strategic Planning stage in rezoning the site and surrounds that a contamination investigation was made on the raised portion of the site which is above the 1:100 year flood level. It was noted that this area was considered suitable and consequently zoned to R3 Medium Density Residential.

Notwithstanding, the proposed development was referred to the NSW Environmental Protection Authority (EPA) for the purposes of the Protection of the Environment Operations Act 1997. The EPA have issued their General Terms of Approval of which it should be noted that prior to any earthworks or dredging, the applicant is required to carry out:

1. Acid Sulfate Soil Management Testing;
2. Sampling and Analysis of sediment in the existing dredging ponds; and
3. Sampling of the marina lake water prior to the break through to the Georges River.

With respect to the above requirements, it is considered that the provisions of SEPP 55 can be met having regard to the physical and spatial constraints of the site. A condition is to be imposed for further consideration of contamination is to be made.

***(d) State Environmental Planning Policy (Infrastructure) 2007***

The proposal amongst other things involves a club and recreational facilities and parking in excess of 200 vehicles which is identified in Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007.

Pursuant to Clause 104, the application was referred to the Sydney Regional Development Advisory Committee (SRDAC) at the Roads and Traffic Authority (RTA) at its meeting on 11 April 2012.



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Amongst other things, the SRDAC raised the key issue of vehicular access arrangements to the site and associated intersection treatment with Brickmakers Drive. It was noted that the vehicular access and intersection design to Brickmakers Drive did not form part of the subject application, however the applicant has submitted information with respect to road and intersection design and traffic modelling to allow an assessment of traffic impact as part of the subject application.

Council Officers have considered traffic impact and have concluded that vehicular access to the proposed development is satisfactory and would have an unlikely adverse traffic impact to the surrounding street network. In this respect, the consideration of the subject application is not impeded by these aspects, however it should be noted that these elements are to be formally addressed in a separate Development Application. It is recommended that a Deferred Commencement Condition be the appropriate pathway in ensuring that these matters are resolved.

In this respect, the proposed development has satisfied the requirements of State Environmental Planning Policy (Infrastructure) 2007.

**(e) State Environmental Planning Policy No.33 – Hazardous and Offensive Development**

State Environmental Planning Policy No.33 – Hazardous and Offensive Development (SEPP 33) aims to identify measures to be employed to reduce the impact of the development, to ensure sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.

The document entitled 'Applying SEPP 33 – Hazardous and Offensive Development' published by the Department of Planning is used to determine whether SEPP 33 applies to a proposed development. For the purposes of the proposed development, diesel fuel is classed as a Class C1 dangerous good.

The proposal involves the provision of a 60,000 litre underground diesel-fuel tank at the site. This tank raises the potential for that element of the development to be considered a potentially hazardous or offensive industry.

The installation of tanks would be required to meet the statutory requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 under the Protection of the Environment Operations Act 1997:

*"If Class C1 and/or Class C2 are present on site and are stored in a separate bund or within a storage area where they are the only flammable liquid present they are not considered to be potentially hazardous. If, however, they are stored with other flammable liquids, that is, class 3PGI, II or III, then they are to be treated as Class 3PGIII, because under these circumstances they may contribute fuel to a fire."*

The proposal does not indicate any other types of fuels or other such chemicals on the site at any one time. The development provides a standalone diesel fuel tank within an area that does not store any other flammable liquids. Therefore, the storage of diesel fuel itself is not considered to be not 'potentially hazardous' and therefore a Preliminary Hazard Analysis (PHA) would not be necessary as part of the assessment.

The proposed development was considered by the NSW EPA which has provided conditions for roofing and bunding be installed for the fuel loading and unloading facility at the site. This would ensure that any leaks and spills are contained as well as isolated from the stormwater system.

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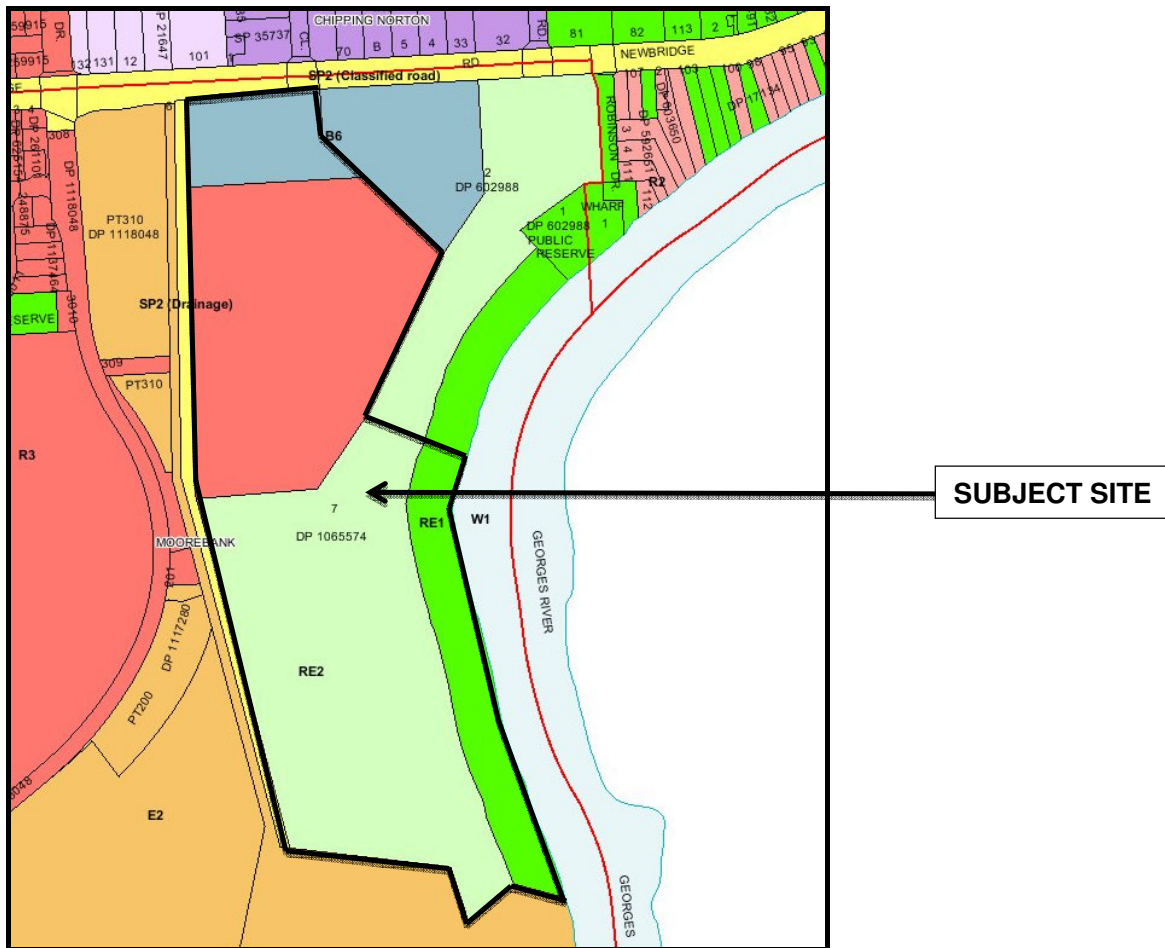
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A condition is recommended that should any chemicals or flammable liquids listed in the Australian Dangerous Goods Code or be stored at the site in excess of relevant requirements, then further approval would be required.

**(f) Liverpool Local Environmental Plan 2008**

**(i) Permissibility**

The subject site is part zoned B6 Enterprise Corridor, R3 Medium Density Residential, SP2 Infrastructure, Public Recreation RE1 and Private Recreation RE2 pursuant to the Liverpool Local Environmental Plan 2008 (LLEP 2008).



The relevant land on which the proposed development is to be located is part zoned Public Recreation RE1 and Private Recreation RE2.

The proposed development is suitably defined as a 'marina' which is defined as follows:

***"marina"** means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities:*

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,

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- (c) any facility for launching or landing boats, such as slipways or hoists,*
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,*
- (e) any berthing or mooring facilities.”*

The proposal involves the short and long term storage of vessels on land adjoining the Georges River. Functions carried out at the site are consistent with the facilities detailed in the land use definition. Accordingly, the proposal is permitted in the zones, only with Development Consent.

***(ii) Zone Objectives***

The objectives of the zones are outlined as follows:

***“Zone RE1 Public Recreation***

- To enable land to be used for public open space or recreational purposes.*
- To provide a range of recreational settings and activities and compatible land uses.*
- To protect and enhance the natural environment for recreational purposes.*
- To provide sufficient and equitable distribution of public open space to meet the needs of residents.*
- To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.*

***“Zone RE2 Private Recreation***

- To enable land to be used for private open space or recreational purposes.*
- To provide a range of recreational settings and activities and compatible land uses.*
- To protect and enhance the natural environment for recreational purposes.*
- To enable land uses that are compatible with, and complimentary to, recreational uses.”*

With respect to the objectives of the zone, the following comments are offered:

- The current activities being carried out at the site for the purposes of extractive industries and resource recovery are to cease operation and all existing infrastructure would be removed in preparation of the development.
- The rehabilitation of the site to its landform as approved in the Development Consent issued for extractive industries are to be realised in respect to achieving the final landform height as well as existing settlement basins would be used in the formation of the marina basins.
- The proposed marina is considered to be an appropriate form of development and efficient use of land which is in keeping with the recreational use of the area as reflected in the zoning of the land.
- The proposal is considered to be a significant project for Liverpool and would exhibit a high quality design benchmark and reflect an iconic development for the local area and the greater region.
- The proposed development is considered an appropriate form of development for the site with a number of measures which would mitigate the impacts identified during the assessment process.
- The proposed development represents a significant opportunity to reactivate an inaccessible and highly degraded stretch of the Georges River and would seek to return the natural landscape to the community through a development that enables active and passive forms of

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recreation.

- The proposal represents substantial economic and social benefits for the Liverpool and the greater community and maintains the environmental quality of the area and embellishment of the riverine character of the land

It is considered that the proposal is generally consistent with the relevant objectives for the zones.

**(iii) Principal Development Standards**

The following standards apply to the proposal development and are discussed in the following:

**Clause 4.3 - Height of buildings**

Clause 4.3(2) - Height of buildings states the following:

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The subject site contains partial maximum height requirement of 15 metres and 21 metres. The majority of the proposed buildings at the site are to be located on land identified with the maximum height requirement of 21 metres.

The proposed maritime building maintains the largest built form and has a maximum height of 24.4 metres. At basin level of 2.8m AHD, the maritime building achieves a maximum height of 23.8m AHD. With consideration of architectural blade walls, the maritime building maintains a height of 24.4m AHD which represents a maximum building height at finished floor level of 21.6 metres.

The proposal would exceed the maximum building height of 0.6 metres. Notwithstanding, consideration of architectural roof features are outlined LLEP 2008 and enables such roof features to exceed building height.

Clause 5.6 Architectural roof features are prescribed in part as follows:

**“5.6 Architectural roof features**

.....

- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:*
  - (a) the architectural roof feature:*
    - (i) comprises a decorative element on the uppermost portion of a building, and*
    - (ii) is not an advertising structure, and*
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*
    - (iv) will cause minimal overshadowing, and*
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature”*

The blade wall bisect is a prominent architectural feature of the maritime building which seeks to create significant visual articulation of the building elevation when viewed from the public



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domain. The blade walls traverse from ground level with protrusion past ridge height to create visual interest with the combination of substantial surface area for glazing to create a modern appearance.

It is considered that the increase in building height is relatively minor and seeks to create visual distinction having regard to the bulk and scale of the proposed development. Accordingly, the use of the architectural roof feature is supported in this instance.

**Clause 4.4 - Floor space ratio**

Clause 4.4(2) - Floor space ratio states the following:

- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The minimum floor space ratio applicable to the site is 0.25:1.

The subject site has a total area of 22.3 hectares. The proposal involves a development footprint of 13,147m<sup>2</sup> and achieves a floor space ratio of 0.13:1 which would meet this requirement.

**Clause 5.1 - Relevant acquisition authority**

Portions of the subject property are zoned SP2 Drainage and RE1 Public Recreation under the Liverpool Local Environmental Plan 2008. Council is required to acquire these portions of land once a subdivision is registered creating separate Lots in a DP. The acquisition of these Lots would be financed through the Section 94 Contribution fund within that area.

These type of acquisitions fall under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991.

The issue of acquisition is properly dealt with at a later stage as a part of the redevelopment of the site as per the Voluntary Planning Agreement which is in place between the land owner and Council.

**Clause 5.1A - Development on land intended to be acquired for a public purpose**

Land zoned RE1 Public Recreation is identified as per Clause 5.1 of the LLEP to be acquired by Council. The acquisition process would commence once the subdivision of those portions of land is granted consent. Until such time that this process commences, earthworks and recreation areas are permitted only on that portion of RE1 land.

The proposal involves earthworks to enable the rehabilitation of the site and establishment of a seawall which is consistent with Clause 5.1A. Moreover, recreation areas are proposed along this portion of land comprising of grassed open space, footpaths and a pedestrian bridge for connectivity. It is considered that that the proposal has met these requirements.

**Clause 5.7 - Development below mean high water mark**

Clause 5.7 prescribes the following:

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.*  
*(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).*

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The river foreshore is to be embellished for the purposes of public land and would provide for a basin entry of approximately 50 metres in width leading into the marina.

An assessment of tidal movements in the form of tidal hydrodynamics had been assessed through hydraulic modelling where the model was created from the Georges River from downstream of the subject site extending upstream to the Chipping Norton lakes system. The upstream site of Lansvale was adopted as it lies at the upstream boundary of the Chipping Norton lakes system. For the downstream boundary, the next suitable location was at Picnic Point.

An environmental assessment carried out by Worley Parsons had noted that:

*"The model results indicated that a high degree of exchange would occur between the river and the marina, due to the relatively wide marina entrance. The river is approximately 80 m wide in this location, while the entrance is at least 40 m wide. The water levels in the marina mimic those in the river, indicating that the entrance does not control flows entering and leaving the marina basin.*

*The model indicated that flow velocities due to tidal flows were low. Velocities in the marina basin were below 0.05 m/s and velocities in the river adjacent to the proposed marina were generally less than 0.3 m/s.*

*Although the tidal flow velocities are low, other factors also affect bank stability. The 1.5 year ARI flow is considered to be the "bank forming" flow, during which velocities would likely be higher than those during tidal flow conditions. Waves generated by boats on the river also affect bank stability. The bank protection would be designed to withstand these forces."*

It is considered that the proposed development has made an environmental assessment of development below the mean high water mark and tidal flows.

**Clause 5.9 - Preservation of trees or vegetation**

A fauna and flora assessment was carried out as part of the rezoning of the site. The assessment carried out by Total Earth Care noted that the site is highly disturbed having regard to extractive industries involving filling as well as sand extraction. As such, the site contains limited vegetation and habitats. The report however recommends that vegetation along the east of the site should be protected.

A vegetation management plan that is to be implemented in accordance with the Voluntary Planning Agreement.

**Clause 7.6 - Environmentally Significant Land**

Clause 7.6(2) prescribes the following:

- "(2) Before determining an application to carry out development on environmentally significant land, the consent authority must consider such of the following as are relevant:*
- (a) the condition and significance of the vegetation on the land and whether it should be substantially retained in that location,*
  - (b) the importance of the vegetation in that particular location to native fauna,*
  - (c) the sensitivity of the land and the effect of clearing vegetation,*

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- (d) the relative stability of the bed and banks of any waterbody that may be affected by the development, whether on the site, upstream or downstream,*
- (e) the effect of the development on water quality, stream flow and the functions of aquatic ecosystems (such as habitat and connectivity),*
- (f) the effect of the development on public access to, and use of, any waterbody and its foreshores."*

The subject site has been identified as having environmentally significant land being the RE1 – Public Recreation land. The proposed development associated with this land is mandated by the Voluntary Planning Agreement, which requires amongst other things to revegetate the land with endemic species.

**Clause 7.7 - Acid Sulfate Soils**

Clause 7.7(3) states the following:

- "(3) Development consent must not be granted under this clause for the carrying out of works unless:*
- (a) an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority, and*
  - (b) a copy of the plan and a copy of the development application have been provided to the Director-General of the Department of Environment and Climate Change and the consent authority has considered any comments of the Director-General made within 21 days after those copies were provided to the Director-General."*

The subject site is identified on the LEP Acid Sulfate Soils map. An Acid Sulfate Soil Management Plan had been submitted in support of the subject application. It is noted that the site is currently licenced by the EPA for the disposal of acid sulfate soils as well as virgin excavated natural materials (VENM). Moreover, such information has been prescribed in conditions recommended from the NSW EPA.

The provisions of Clause 7.7 have therefore been met.

**Clause 7.8 - Flood Planning**

Clause 7.8(3) prescribes the following:

- "(3) Development consent must not be granted to development on flood prone land (other than development for the purposes of residential accommodation) unless the consent authority is satisfied that the development:*
- (a) will not adversely affect flood behaviour and increase the potential for flooding to detrimentally affect other development or properties, and*
  - (b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment, and*
  - (c) will enable the safe occupation and evacuation of the land, and*
  - (d) will not have a significant detrimental affect on the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of any riverbank or watercourse, 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*
  - (f) if located in the floodway, will be compatible with the flow of flood waters and with any flood hazard on that floodway."*

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An extensive flood assessment as well as detailed hydraulic modelling has been undertaken in relation to the proposed development. These issues had been addressed in the Worley Parsons Report and a subsequent Flood Modelling Report prepared by Cardno.

During the assessment of the proposal, minor amendments were made to the development to permit the passage for flood flows onto Council reserve to ensure flood storage areas are fully utilised during flood events. The Flood Modelling Report has confirmed that the proposed development would have a negligible impact on the behaviour of flooding in the flood storage area located southwest of the proposed marina and nil or negligible impacts on any other adjacent properties.

The proposal therefore has satisfied the provisions of Clause 7.8.

**Clause 7.9 - Foreshore building line**

Clause 7.9 is prescribed in part:

- “ (2) Subject to the other provisions of this Plan, development may be carried out, with development consent, for the purposes of a building on land in the foreshore area only if:*
- (a) the levels, depth or other exceptional features of the site make it appropriate to do so, or*
  - (b) the development involves the extension, alteration or rebuilding of an existing building that is erected wholly or partly in the foreshore area and the consent authority is satisfied that the building as extended, altered or rebuilt will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, or*
  - (c) the development is for the purposes of any of the following:*
    - (i) boat sheds,*
    - (ii) sea walls,*
    - (iii) wharves, slipways, jetties,*
    - (iv) waterway access stairs,*
    - (v) swimming pools at or below ground level (existing),*
    - (vi) fences,*
    - (vii) picnic facilities, cycleways, walking trails or other outdoor recreation facilities.*
- (3) Development consent must not be granted to development referred to in subclause (2) unless the consent authority is satisfied that the development:*
- (a) will contribute to achieving the objectives for development in the zone in which it is to be carried out, and*
  - (b) will be compatible in its appearance with the surrounding area, as viewed from both the waterway concerned and the adjacent foreshore areas, and*
  - (c) will not cause environmental harm, such as:*
    - (i) pollution or siltation of the waterway, or*
    - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats, or*
    - (iii) an adverse effect on drainage patterns, and*
  - (d) will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and*
  - (e) will not compromise opportunities for the provision of continuous public access along the foreshore and to the waterway, and*
  - (f) will maintain any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land.”*

The site is identified with a foreshore building line as set out in the LEP and specifically applies to the land that is zoned RE1 Public Recreation. It is noted that the only works commenced



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within the RE1 Public Recreation zone are those associated with the restoration of the river foreshore and recreational facilities such as paths, picnic shelters, bike paths, etc as prescribed in the Voluntary Planning Agreement executed between the land owner and Liverpool City Council.

**Clause 7.31 - Earthworks**

Clause 7.31(3) prescribes the following:

- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
  - (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
  - (c) *the quality of the fill or the soil to be excavated, or both,*
  - (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
  - (e) *the source of any fill material and the destination of any excavated material,*
  - (f) *the likelihood of disturbing relics,*
  - (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

The site has been subject to extractive industry for a number of years and in its current state is highly degraded. As part of the original Development Consent granted for extractive industry activities at the site, the rehabilitation of the land was also approved in ensuring that the site be returned to a final landform. The proposed development utilises part of the existing landform to create the marina basins as well as some works to accommodate the proposed development of both the natural and built environment.

Concurrence approvals issued from the NSW Office of Water, EPA and NSW Fisheries contain numerous requirements in addressing vegetation, earthworks and water quality, which are considered sufficient in addressing the above matters. Moreover, matter relating to relics of both aboriginal and European can be conditioned given the current operations of the site and the need to allow for the cessation of all works prior to further investigation. Such matters can be conditioned to ensure that should any relics be discovered, that these be left in-situ while further investigation is made.

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

No draft planning instruments apply to the site.

**5.3 Section 79C(1)(a)(iii) - Any Development Control Plan*****Liverpool Development Control Plan 2008***

The following parts of DCP 2008 are applicable to the proposed development:

- Part 1.1 – General Controls for all Development;
- Part 1.2 – Additional General Controls for Development; and
- Part 2.10 – Moorebank East (Benedict Sands).

Compliance with the above components of DCP 2008 are addressed in the table below:

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CONTROLS	COMMENT	COMPLIES
<b>PART 1.1 – GENERAL CONTROLS FOR ALL DEVELOPMENT</b>		
2. Tree Preservation	This has been addressed in the Clause 5.9 of LLEP 2008.	Yes
3. Landscaping	The revegetation of the river foreshore is to be carried out in accordance with the vegetation management plan which council is required to approve pursuant to the Voluntary Planning Agreement.	Yes
4. Bushland And Fauna Habitat Preservation	This has been addressed in the Clause 5.9 of LLEP 2008.	Yes
5. Bush Fire Risk	<p>A bushfire assessment report was prepared as part of the original rezoning proposal.</p> <p>The report concludes that development can be undertaken on the site subject to:</p> <ul style="list-style-type: none"> <li>• all buildings constructed with adoption of appropriate construction standards,</li> <li>• provision of Asset Protection Zones where appropriate,</li> <li>• construction of a perimeter road for access for fire fighting vehicles,</li> <li>• provision of services; and</li> <li>• landscaping.</li> </ul> <p>These issues will be addressed as part of the detailed design to be undertaken at Construction Certificate stage.</p>	Yes
6. Water Cycle Management	<p>The proposed Maritime Building and the Private Marina Clubhouse would harvest roof water for storage and utilisation from large storage tanks on site. Additionally, the design of the marina basin has incorporated the construction of large wetlands for treatment of storm water run-off from the development.</p> <p>Stormwater run-off from the site would be directed to the large stormwater channel running along the eastern boundary of the subject site.</p>	Yes
7. Development Near Creeks And Rivers	<p>The proposed development had been identified as Nominated Integrated Development for the purposes of the Water Management Act 2000 required under Section 91 of the Environmental Planning and Assessment Act 1979.</p> <p>The application was referred to the NSW Office of Water of which general terms of approval were issued for the purposes of a Controlled Activity Approval. As part of the general terms of approval, matters relating to:</p> <ul style="list-style-type: none"> <li>• Vegetation Management Plan;</li> <li>• Works Schedule;</li> <li>• Erosion and Sediment Control Plan;</li> <li>• Soil and Water Management Plan</li> </ul>	Yes

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	<p>In addition, conditions recommended from the NSW EPA and NSW Fisheries include requirements which deal with vegetation, water quality and erosion and sediment control.</p> <p>Moreover, as part of the Vegetation Management Plan, the embellishment of foreshore land is to be carried out. It is anticipated that the VMP would be prepared in accordance with the general terms of approval and the applicable controls in this clause.</p>	
8. Erosion And Sediment Control	There would be no discharges to natural watercourses prior to the testing of water quality of the existing basin water prior to the opening of the basin entry to the Georges River. Conditions recommended from the NSW EPA and NSW Fisheries address erosion and sediment controls during construction and operation.	Yes
9. Flooding Risk	Refer to Clause 7.8 of LLEP 2008.	Yes
10. Contamination Land Risk	Refer to comments made in SEPP 55.	Yes
11. Salinity Risk	<p>The applicant has undertaken an investigation in accordance with the NSW Department of Natural Resources Guidelines (Western Sydney Salinity Code of Practice, 2003) and advised that:</p> <p><i>"The site is not within high salinity potential area as evidenced by the DIPNR Western Sydney Salinity Hazard Map. The site is in an area as identified on this plan only as a moderate salinity potential area. However, given the location of the site on a flood plain it is inappropriate to undertake any investigation; as such an investigation would serve no purpose. This is because salinity is a function of rising water tables. This site is clearly in the flood plain and the water table is naturally high in this environment. More importantly, the water table will remain high for as long as the site remains in the flood plain."</i></p> <p>In light of the above, a detailed salinity assessment had not been carried out as the ground water conditions are noted to be dictated by the site being in a flood plain and directly adjacent to the Georges River. Notwithstanding, condition is to be imposed requiring further assessment of salinity prior to the issue of a Construction Certificate.</p>	Yes
12. Acid Sulfate Soils Risk	Refer to Clause 7.7 of LLEP 2008	Yes
13. Weeds	As part of the Voluntary Planning Agreement, the applicant is required to embellish the river foreshore including the removal of noxious weeds. These works are to be detailed in a Vegetation Management Plan which is to form part of a condition of consent.	Yes

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14. Demolition Of Existing Development	No demolition of any existing buildings is proposed as part of this development application.	Yes
16. Aboriginal Archaeology	Studies have been carried out which confirm that there are no indigenous or non-indigenous heritage or archaeological sites on site.	Yes
17. Heritage And Archaeological Sites	The application was accompanied with studies undertaken by Mary Dallas Consulting Archaeologists and Heritech Pty Ltd for aboriginal archaeology and non-indigenous relics respectively.  Both reports indicated that there was no archaeological or heritage values in existence on the site.	Yes
18. Notification Of Applications	The proposal was placed on public exhibition. This is discussed later in this report.	Yes
<b>PART 1.2 – ADDITIONAL GENERAL CONTROLS FOR DEVELOPMENT</b>		
2. Car Parking	A total of 560 parking spaces are provided. Council's Traffic Engineering Department has reviewed the proposal and notes that sufficient demonstration has been made that the total contingent of parking is sufficient for the needs of the proposed development would raise no objection	Yes
4 & 5. Water and Energy Conservation	The development proposal includes the use of the roofs of the proposed Maritime Building and the Private Marina Clubhouse to harvest water for reuse on site. In addition, the maritime building in particular will incorporate significant use of translucent/clear panels to provide the maximum amount of natural light to use inside the structure. Additional energy saving features will be detailed in the construction certificate and detailed design stage.	
6. Landfill	The site re-grading cut and fill conditions were imposed as part of the Bulk Earthworks approval.	Yes
7. Waste Management	Management of construction materials from the site, a construction material waste management plan	Yes
8. Outdoor Advertising	No advertising structures are proposed as part of the subject application.	Nil
<b>Part 2.10 – Development in Moorebank East</b>		
2.1 Street Network	Information has been submitted which demonstrates that vehicular access from Brickmakers Drive to the proposed marina can be made. Moreover, the information submitted indicates that roads to be constructed as part of this application would be consistent with the DCP.  The construction of the road has been approved however the final connection to Brickmakers Drive and intersection design would be subject to a separate Development Application. It is recommended that this matter be made a Deferred Commencement Condition prior to the operation of the Marina.	Yes

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2.2 Pedestrian and Cyclist Amenity	As part of the Voluntary Planning Agreement, pedestrian/cycleway access is to be provided throughout the site including provision on the future road bridge from Brickmakers Drive, to the rear of the proposed marina to the south, along the river foreshore area along public and with connection to Newbridge Road to the north.	Yes
2.4 Open Space	Access to public open space areas with frontage to the Georges River will be made with the embellishment of the river foreshore and construction of a pedestrian/cycleway and dedicated for public use as required by the Voluntary Planning Agreement.	Yes
2.6 Foreshore Access	Access to public open space areas with frontage to the Georges River will be made with the embellishment of the river foreshore and construction of a pedestrian/cycleway and dedicated for public use as required by the Voluntary Planning Agreement.	Yes
2.7 Drainage	Drainage channel to service the development is to be provided as part of the Voluntary Planning Agreement.	Yes

The proposed development is considered satisfactory in respect to the Liverpool Development Control Plan 2008.

**5.2 Section 79C(1)(a) (iia) 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, and**

A Voluntary Planning Agreement (VPA) pursuant to Section 93F of the Environmental Planning and Assessment Act 1979 had been executed between Liverpool City Council and Tanlane Pty Ltd dated 11 June 2008. The VPA applies to the subject site and contains a series of contributions/works which are summarised as follows:

1. *Embellishment of river foreshore land;*
2. *Dedication of river foreshore land to Council subject to a 50 metre wide easement for maritime vessel access as well as two easements for the drainage of water;*
3. *Development of a Vegetation Management Plan;*
4. *Completion of works described in the Vegetation Management Plan;*
5. *Conduct of maintenance works described in the Vegetation Management Plan;*
6. *Construction of a Bike/Pedestrian Oath through the river foreshore land*
7. *Construction of passive recreation facilities on the river foreshore land*
8. *Dedication of a drainage channel;*
9. *Construction and dedication of a road bridge over drainage channel, embankment and road to Brickmakers Drive;*
10. *Construction and dedication of Pedestrian Access to Newbridge Road and a pedestrian path within the public verge along the entire length of the land frontage to Newbridge Road;*
11. *Dedication of an easement over land for access for the purpose of allowing Council to undertake maintenance to the river foreshore land.*

The above works involve a number of items including:

- Removal of waste and fill, visible surface waste on foreshore, contamination;
- Stabilisation of the river bank/wall;



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- Removal of noxious weeds;
- Restoration and enhancement of vegetation in keeping with indigenous species;
- Construction of the pathway along the entire length of the river foreshore area;
- Street furniture comprising of benches and covered areas;
- Flood free vehicular access

The VPA contains the timeframes for completion of the various items and are noted to be activated either by the registration of subdivision of residential land or on completion of embellishment of river foreshore land.

It is likely that the items outlined in the VPA would be carried out in conjunction with the construction of the proposed development. A Deferred Commencement Condition is to be imposed requiring confirmation of the applicable items to be carried out as part of the VPA. Specifically, the construction and connection of the road bridge to Brickmakers Drive and preparation and approval of a Vegetation Management Plan of the river foreshore land.

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

Relevant provisions with the Environmental Planning and Assessment Regulation 2000 have been considered and carried out where applicable.

**5.4 Section 79C(1)(b) – The Likely Impacts of the Development*****(a) Flooding***

The site for the proposed Marina Development is located within the Georges River floodplain, downstream of the Moorebank Voluntary Acquisition Scheme boundary. In a 100 year ARI flood, the maximum depth of flooding of the site is estimated to be in excess of 3.0m and under probable maximum flood (PMF) depth of inundation is approximately 8.0m. The original development proposal involves substantial filling for the proposed Marina building, preventing flood flows entering an existing natural flood storage area within Council reserve, which would result in substantial loss of flood storage volume and potentially impact on flood behaviour of the area.

The Marina Development has gone through substantial modifications to the original development proposal to address Council's concerns of adverse impact of flooding resulting from the development. The consultant was required to undertake comprehensive and detailed flood modelling to assess impact of proposed development and identify mitigation works needed to mitigate adverse impact of flooding.

To address adverse impact of flooding, the developer was required to modify the original development proposal allowing passage for flood flows on to Council reserve to ensure flood storage area is fully utilised during flood events. The modelling results using 2-D TUFLOW have indicated that the proposed Marina would not cause adverse flooding impact in the vicinity. The flood impact assessment report has confirmed that the proposed development will have negligible impact on the behaviour of flooding in the flood storage area located southwest of the proposed marina and nil or negligible impacts on any other adjacent properties.

Accordingly, the flood impact assessment report and is supported subject to flood related development consent conditions being imposed.

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**(b) Traffic, Parking and Vehicular Access****Traffic and Parking**

The proposed development was reviewed by Council's Traffic Engineering Department which concluded the following:

*"The traffic report accompanying the development application has identified that on weekdays, peak traffic movements would be between 20 and 30 vehicles per hour during peak hours rising to around 60 trips per hour on special event days.*

*On Friday and Saturday evenings after the main road peak traffic, movements could be as high as 220 vehicles per hour,*

*The development traffic will access the public road network through a new intersection, (understood to be a roundabout). This intersection is expected to operate with good level of service."*

In consideration of traffic impact, the proposed development is considered to be satisfactory. Further commentary in respect to traffic generation in conjunction with the future road bridge is canvassed later in this report.

With respect to car parking, it is noted that an initial contingent of 490 parking spaces were to be provided at both at-grade and sub-grade level. At the time, Council's Traffic Engineering Department made comment that the provision of parking would need to be reviewed as a total of 530 spaces would need to be provided in accordance with the Liverpool Development Control Plan 2008. It had been noted however that the proposal sought to provide parking based on demand generated by similar developments.

Minor amendments were made subsequent to these comments and as part of these changes, a total of 560 parking spaces have been proposed. Notably, the additional parking spaces have been accommodated in the sub-floor level of the maritime building. Council's Traffic Engineering Department have reviewed car parking and concluded that the provision of car parking is considered to be sufficient in serving the needs of the proposed development as highlighted in the previous assessment. With respect to all car parking areas, a condition shall be imposed to ensure that it is designed and constructed in accordance with AS2890.

**Vehicular Access**

The construction of a road bridge connecting from the subject site to Brickmakers Drive was approved by Council on 24 April 2007 in DA-1552/2006. The road bridge required an easement to enable a right of carriageway over an existing access handle adjacent to the site owned by Moorebank Recyclers on their land known as Lot 6 DP 1065574.

Subsequent legal proceedings which sought to grant an easement over the adjoining property owner's land pursuant to Section 88K of the Conveyancing Act 1919 was contested in the NSW Land and Environment Court. Consequently, a judgment has been made by the Court that the easement be granted and that the property owner be required to provide compensation.

Of significance in the consideration of the proposed development, the subject application does not seek consent for the use of the bridge and this aspect would be subject to a separate Development Application. In advocating this matter, the applicant requested that this aspect be considered by virtue of a Deferred Commencement Consent to secure vehicular access to Brickmakers Drive under a separate Development Application. Council Officers had sought a legal opinion on this approach and it was discussed with the applicant that appropriate details

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be submitted to allow a satisfactory assessment pursuant to Section 79C of the Environmental Planning and Assessment Act 1979.

As such, information relating to traffic impact and intersection treatment and connection point to Brickmakers Drive had been submitted.

A summary in the supplementary Traffic Assessment Report concludes:

*“13. The analysis found that an un-signalised intersection of Brickmakers Drive with the road bridge would operate with average delays of less than 20 seconds per vehicle during morning, afternoon and evening peak periods. This represents LOS B, a reasonable level of service.*

*14. Therefore, an un-signalised t-intersection of Brickmakers Drive with the road bridge will cater for the traffic from the proposed marina development.”*

Council's Traffic Engineer has reviewed the proposed intersection treatment and makes the following comment:

*“As previously discussed this development site has an existing vehicular access off Newbridge Road and a planned access road off Brickmakers Drive (as indicated in Council's DCP for the local area). Newbridge Road is a State classified road and any access arrangement requires RMS approval.*

*The RMS has previously advised that if the applicant wishes to pursue vehicular access from Newbridge Road adequate justification needs to be provided to the RMS for further consideration. To date Council is not aware that such an application has been made to the RMS.*

*The additional information provided by the applicant indicates that the applicant is pursuing an access road from Brickmakers Drive. This arrangement is considered acceptable provided an appropriate intersection treatment and access road, including the proposed bridge, is constructed to Council's satisfaction.*

*The planned access road off Brickmakers Drive would provide access to three potential development sites at the southeastern corner of Newbridge Road and Brickmakers Drive. With the expected additional traffic from these development sites, an appropriate intersection treatment involving either a roundabout or traffic signals would be required (at the proposed intersection off Brickmakers Drive).*

*The RMS has advised that a set of traffic control signals at the proposed intersection is not supported, at the moment, because it would not meet the warrant for the installation of traffic signals.*

*The addendum to the EIS along with a letter from the applicant's traffic consultant has suggested that to accommodate traffic from only the proposed marina, an un-signalised intersection treatment would operate with an acceptable level of service. The additional intersection performance analysis submitted with the application is considered acceptable. However the assessment does not take into consideration the cumulative traffic impact of the above mentioned three development sites.*

*An interim Urban CHR(S) (urban channelised right turn lane) intersection treatment, in accordance with the RMS Guide Design Guide would be acceptable. Should the*

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*development be considered any further, a consent condition is to be imposed for the applicant to submit a design plan showing the recommended intersection treatment, prior to the issue of Construction Certificate. The intersection treatment is to be implemented prior to the occupation of the proposed development.*

*The applicant is to be advised that Council will monitor performance of the interim intersection treatment, and any other additional development may require the intersection to be upgraded. In particular other of the other two development sites requiring assess through the proposed intersection would require reassessment and the construction of a roundabout or traffic signals."*

Having regard to the above, the following comments are offered in respect to vehicular access and traffic impact:

- In *Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd* [2012] NSWCA 445, the matter was appealed in the NSW Court of Appeal of which the judgment was made that the easement for the purposes of construction, maintenance, repair and use which traverses over the access handle associated with Lot 6 DP 1065574 be granted on terms with an additional order in relation to compensation to the owner of Lot 6 for the imposition of that easement.
- Council's Traffic Engineer has reviewed the proposed development and raised no objection in respect to traffic and parking generation.
- The application was referred to the Sydney Regional Development Advisory Committee at the Roads and Maritime Service and was considered satisfactory. Amongst other things, advice required that alternative vehicular access be obtained from Brickmakers Drive with appropriate intersection treatment.
- It is noted that permanent means of vehicular access does not form part of the subject application. Notwithstanding, the applicant has submitted information which has sought to demonstrate traffic impact and intersection design for the purposes of certainty and ensure that a thorough assessment of the proposal by virtue of traffic impact can be made pursuant to Section 79C of the Environmental Planning and Assessment Act 1979. It is considered that sufficient information in the form of a supplementary report to the Environmental Impact Statement and Traffic Assessment report has been submitted to ensure that the proposed development is considered satisfactory from the vehicular access and traffic perspective and have been clearly described.
- Access roads have been demonstrated consistency with the Liverpool Development Control Plan 2008 in respect to the Moorebank East precinct. The construction of these roads would be dedicated to Council and be provided as a public road. An assessment of traffic and parking has been provided as part of the subject application.
- The application has identified:
  - The road works of which the proposed marina would rely upon to obtain permanent vehicular access;
  - The proposed access arrangements and the relationship to current traffic generation and the surrounding street network;
  - Assessment of the potential impact on the external road network;
  - Location of the proposed access road;

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- Engineering detail consistent with the Australian Standards and the Liverpool Development Control Plan 2008;
- Assessment of impact of traffic generation from the proposed development; and
- Conclusions of access, parking, design standard and future road works;

It is considered that the application contains sufficient information in the assessment traffic and vehicular access.

- It is noted that extractive industry is still being carried out on the site but will cease operation in the near future. As such, existing vehicular access would continue to be obtained from Newbridge Road until the cessation of extractive industry. Permanent vehicular access is pertinent on the completion of road and bridge construction.

The absence of the permanent means of vehicular access is not an impediment in determining the subject application. Notwithstanding, the construction of roads and the bridge would require Development Consent. The construction of the bridge is noted to have already secured Development Consent. The interrelationship of this infrastructure in association with the proposed development would be appropriately linked through a Deferred Commencement Condition.

Having regard to the above, the proposed development is considered satisfactory in respect to traffic, vehicular access and parking.

**(c) Urban Design**

The proposed development was reported to Council Design Review Panel which provided the following commentary:

*"With regard to urban design quality of the proposed development, the Panel's key considerations related to the following:*

- *site planning, primarily in relation to public domain activity which is influenced by the nature and location of open spaces and 'activity zones', pedestrian links between those zones, the scale of buildings which surround those zones, and the orientation of public 'gathering' places within those buildings;*
- *form and scale of the two buildings, together with details of exterior architectural presentation, which will contribute to visual impacts as well as supporting or hindering the level of public domain activity;*
- *configuration and design of landscaped areas, primarily the village green and outdoor carparking, in relation to visual impacts and public domain activity."*

With respect to visual impact of the proposed development, the following comments are made:

- The proposed maritime building has a large bulk and scale due to the nature of its use and the number of functions it would accommodate.
- To the north and the west, the proposed development would be sufficient screen by virtue of natural vegetation. It is noted that some vistas would exist of the proposal, however the built form and scale has been articulated to ensure that its visual impact is maintained with interest and distinction in its context.



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- To the east, the proposed development would be adequately screened and complemented by the western river bank and vegetation that are to be provided along the river foreshore.

The panel provided recommendation in respect to detailing of facades in minimizing the bulk and scale of the proposed maritime building. This included translucent cladding to boat storage areas, balconies and blade walls, projecting roof forms on corners and visible activity on the eastern balcony. Moreover, the panel recommended some minor modifications to enhance articulation and shadow modeling of significant facades:

- *“for the western elevation: glazed walls of stair and lift elements at the north-western and south-western corners, together with blades flanking the central display window, should project forward of the boat storage façade (rather than following the same alignment);*
- *for the northern elevation: glazed walls of stair and lift elements at the north-western corner should project forward of the alignment of windows to cafés and function rooms;*
- *for the eastern elevation: width of the balconies at levels one and two should vary along their length, for example with wider areas located at north-eastern and south eastern and overlooking the central loading dock.*

The above recommendations have been carried out by the applicant and provided for in amended plans.

The proposed development is considered to be satisfactory in respect to urban design and would exhibit a modern and contemporary design that responds to its surrounds while provide functionality. In addition to the passive recreation offered by the proposal, positive public benefits would be achieved by intended landscaping of the riverbank which is the subject of a VPA, and which provides for pedestrian and cycle paths as well as construction of linear wetlands to control the quality of stormwater runoff from this site.

**(d) Environment**

The subject application was accompanied with a number of reports which addressed water quality, erosion and sediment, aquatic ecology, air quality, noise generation, aquatic flora and fauna and heritage and are considered to be satisfactory. Requirement in the general terms of approval issued from external authorities would require the applicant to provide information in detailed design.

The proposal contains measure that would seek to improve the environmental quality of the area and embellishment of the riverine character of the land. Operationally, the proposed development would provide for suitable measures and safeguards to mitigate any impacts.

**(e) River Navigation**

The subject application was referred to the Maritime Division of the Roads and Maritime Service for the purposes of navigable waters.

The Maritime Division raised concern that boats entering/exiting the proposed marina could have potential impact in respect to the operation and efficiency of users of along the Georges River from a vessel navigation safety point of view.

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While the proposed marina and such operations would be on the side of the Georges River, the entry and exit channel to the river is of concern. It is noted that this stretch of the river is not speed restricted and historically, is popular for towing activities such as water-skiing, wakeboarding and aquaplaning. Moreover, the entrance could have issues relating to lack of vision due to the riverbank and seawalls and the advent of upgraded pontoon facilities downstream, the area would experience an increase in vessel use.

It was noted that the existing speed limit along the stretch of the river is unlikely to change in the near future and therefore, the operation of the proposed marina would need to be managed so as to not cause an adverse impact to all boat users.

In order to address the RMS' concerns on this matter, it is considered appropriate that a 'Boating Management Plan' be conditioned as part of any consent which would address, but not be limited to:

- Internal speed limits within the marina basin;
- Identification of laneways for navigation throughout marina basin with respect to type of size of watercraft;
- Identify appropriate means of access/egress from the marina basin to the Georges River as well as speed and the like.

The above list is not exhaustive and it was agreed with the RMS, that the condition would need to direct the applicant to directly consult with the RMS on the appropriate matters to be addressed.

The applicant notes the potential traffic generated by vessels:

*Peak expected usage has been predicted by calculating a weighted average of about 16.8% usage in peak summer periods contrasting with 0.16% during winter periods. This is based on survey data from other marinas in Sydney in publically available studies. Hence, on the busiest days, Xmas, New Year and Easter, October Long Weekend and Australia Day a worst case maximum of only 73 boats are expected to leave the marina. As at least half of these small craft movements will occur on a pre- booked departure time (and pre-booked retrieval times upon return) for the dry berth facility, small craft traffic flows into the river can be easily managed.*

*This will be assisted by the overall marina design, as generous width is provided for general small craft movement including manoeuvring at the fuel and pumpout facilities. No mooring or anchoring will be permitted in the marina and a no wash zone (4 knots) would be implemented within the marina. This will be policed with the marina facility tender/retrieval vessel which will be responsible for implementing no wash rules and retrieving small craft owned by marina members that have experienced engine or other mechanical failure.*

It is considered that the proposed marina would operate satisfactorily with appropriate measures in place which address river navigation as well as management practices within the basin for safety of all users.

**(f) Social and Economic Impact**

The proposed development is considered to provide for substantial social benefit. These benefits include:

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- The proposal would see the cessation of extractive industries on the subject site which has degraded the land and rendered it inaccessible to the public for a number of years. The current use is incompatible with the surrounding context of the area which is predominantly characterised with residential development and natural vegetation. The current impact of traffic generation from heavy vehicles and noise, dust and air emanation would cease on conclusion of extractive industry activities at the site.
- The approval granted for the site enables the rehabilitation of the land with waste material to facilitate the formation and return of the land to its natural landform. Waste management uses would not be carried out as a result of the proposed development and would therefore remove the continued environmental impact of what is essentially an industrial use.
- The proposal is considered to be a significant project for Liverpool and would exhibit a high quality design benchmark and reflect an iconic development for the local area and the greater region.
- The proposed development represents a significant opportunity to reactivate an inaccessible and highly degraded stretch of the Georges River and would seek to return the natural landscape to the community through a development.
- The development would provide for numerous active and passive forms of recreation that represents substantial economic and social benefits for the Liverpool and the greater community.
- The development represents encourages a new culture to the area of embracing the natural waterways of the area with casual public berths for small craft and water taxis to pick-up and drop-off passengers and access provisions from the marina facilities. Public access to fuel and sewage pumpout facilities would be made available to boat users and thereby encourage patronage to the area.
- The development would be made accessible for all people and those with a disability.
- The development would increase the environment quality of the area through managed revegetation with species endemic to the area. The ongoing management of these areas along the river foreshore coupled with the provision of embellished public open space in the form of pedestrian and cycleway, bridge and street furniture would provide a sense of place for the area and create ownership of residents and users of the development.
- The proposed development is anticipated to increase economic activity of retail sales of marine equipment, leisure activities and recreational uses by way of function/receptions spaces, food and beverage option both casual and high-end and storage of vessels.
- The number of construction employees would vary over the duration of the project dependant on the particular activities taking place at any one time. It is expected that between and 35 equivalent full time construction jobs would be created over the construction period of 22 weeks.
- The proposed would represent an increase in local employment opportunities in respect to management, brokerage and chandlery sales, marine staff, workshop, function centre and food and beverage operators.

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

The land is zoned for open space both in public and private recreation. The proposed development is in keeping with the vision of the site as anticipated in the zoning of the land and support and complements the surrounding uses identified for the Moorebank East precinct.

The proposed development has demonstrated that the potential impacts have been addressed and a number of measures and safeguard are to be implemented to manage any impacts. The development would seek to embellish the area both in terms of the natural and built environment through the agreement of Council and the property owner with works that would see the land return to the community with a high quality outcome.

The proposed development represents an opportunity to rehabilitate the highly degraded site which is currently used for extractive industry. The cessation of this industrial use and expedition of the rehabilitation of the site is a significant benefit for the land and would fast track the use of the land for the benefit of the community.

Accordingly, it is considered that the proposed development is suitable for the site.

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

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

Internal Department	Status and Comments
Building Surveying	No objection raised, subject to conditions.
Land Development Engineering	No objection raised, subject to conditions.
Traffic Engineering	No objection raised, subject to conditions.
Environmental Health	No objection raised, subject to conditions.
Sustainable Environment	Further information to be confirmed. However, it is considered that the general terms of approval issued by the NSW EPA, NSW Office of Water and NSW Fisheries provide sufficient opportunity to address matters relating to aquatic ecology and vegetation.
Property Services	No objection raised.
Flooding and Drainage	No objection raised, subject to conditions.
Design Review Panel	No objection raised.
Strategic Planning	No objection raised, subject to conditions.

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**(b) External Referrals**

External Authority	Status and Comments
Department of Primary Industries -Office of Water – <i>Water Management Act 2000 (Nominated Integrated Development)</i> ;	General Terms of Approval issued
Environmental Protection Authority – <i>Protection of the Environment Operations Act 1997 (Nominated Integrated Development)</i> ; and	General Terms of Approval issued
Department of Primary Industries – NSW Fisheries -	General Terms of Approval issued
State Environmental Planning Policy (Infrastructure) 2007 – Roads and Maritime Services (RMS)	No objection raised subject to vehicular access arrangement being confirmed.
Maritime Services	No objection subject to condition relating to a Boating Management Plan.
Liverpool Local Area Command	No objection raised subject to conditions.

**(c) Community Consultation**

The subject Development Application was placed on public exhibition on three (3) separate occasions from 28 March 2012 to 3 May 2012, 9 May 2012 to 8 June 2012 and from 3 July 2013 to 2 August 2013. Each exhibition period observed a minimum 30 day public exhibition period in accordance with the Environmental Planning and Assessment Regulation 2000 and the Liverpool Development Control Plan 2008. It is also noted that the application was exhibited at the office of the Department of Planning and Infrastructure and a copy of submissions were forwarded to relevant authorities.

A total of six (6) separate submissions were received, of which four (4) expressed support for the proposal and the remaining submissions from the same author raising specific objection to vehicular access arrangements. The specific issues raised included:

- *Permanent access proposed for the marina development does not form part of the application.*
- *The permanent access contemplated in the application cannot be provided.*
- *The application should not be approved until permanent access to the marina development can be demonstrated.*
- *Consent has not been given to dedicate part of the road bridge over the adjoining property and therefore:*
  - *the road bridge cannot be dedicated as required by the VPA,*
  - *residential development on Tanlane Land cannot occur;*
  - *the permanent access to the marina development as contemplated in the application cannot be provided.*

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A subsequent was made during the latest exhibition period where the same author raised the following matters:

- *the permanent access proposed for the marina development does not form part of the application.*
- *The amended proposal does not provide sufficient detail of the permanent or interim access contemplated to enable an assessment of the application.*
- *The application should not be approved until interim and permanent access to the marina development can be demonstrated.*
- *The EIS for the marina development claims that until such time as the road bridge is built, an interim access would be used, that access being the existing access to Newbridge Road however we note in the EIS that:*
  - *There is no information regarding the proposed access arrangement;*
  - *No location of the propose access road is provided.*
  - *No engineering detail is provide with regard to the works for which approval is sought.*
  - *There is no assessment of the impact of traffic generation from the proposed marina development on the existing access to the site.*

These matters have been satisfactorily addressed in Section 5.4(b) of this report.

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

The proposed development is consistent with the zoning of the land and would represent a high quality development that accommodates active and passive recreational uses. Moreover, the proposal involves works which would embellish the site and surrounds to create attractive public places for the benefit of the community. In additional, these works seek to enhance the environmental quality of the area. The operation of the proposed marina would contain a number of safeguards and measures which would manage the impacts identified in the assessment.

In addition to the social and economic benefit of the proposed development, it is considered to be in the public interest.

**6. CONCLUSION**

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposal would see the cessation of extractive industries on the subject site which has degraded the land and rendered it inaccessible to the public.
- The proposed development represents a significant opportunity to reactivate an inaccessible and highly degraded stretch of the Georges River and would seek to return the natural landscape to the community though a development that enables active and passive forms of recreation that represents substantial economic and social benefits for the Liverpool and the greater community and maintains the environmental quality of the area and embellishment of the riverine character of the land.



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- The application was referred to a number of external authorities including the Roads and Maritime Services, NSW Office of Water, NSW Fisheries and the Office of Environment and Heritage, of which no objection was raised, subject to conditions. The application was placed on public exhibition, of which no submissions were received in response to the proposed development.
- The subject site is identified with a maximum high flood risk. The application has been accompanied with a flood modelling report which concludes that the proposed development would have a negligible impact on the behaviour of flooding in the flood storage area located to the southwest of the proposed marina and nil or negligible impact on any other adjoining property.
- The subject site has experienced a long history of legal proceedings in addressing vehicular access to the surrounding street network. It is confirmed that this matter has been resolved in the NSW Land and Environment Court and the NSW Court of Appeal. The final vehicular access arrangement do not form part of the subject application however, the subject application has been accompanied with detailed information in respect road and intersection design and traffic modelling to allow an assessment of traffic impact as part of the subject application.
- Council Officers have considered traffic impact and have concluded that vehicular access to the proposed development is satisfactory and would have an unlikely adverse traffic impact to the surrounding street network. In this respect, the consideration of the subject application is not impeded by these aspects, however it should be noted that these elements are to be formally addressed in a separate Development Application. It is recommended that a Deferred Commencement Condition be the appropriate pathway in ensuring that these matters are resolved.

It is for these reasons that the proposed development is considered to be satisfactory and notwithstanding the submissions received, the subject application is recommended for approval, subject to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979.

**7. ATTACHMENTS****7.1 Plans of the proposal****7.2 Recommended conditions of consent**

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**PART 1****DEFERRED COMMENCEMENT**

Development Consent shall be deferred pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, until the submission to Council of:

1. Obtain a registered easement for the construction, maintenance, repair and use for a road and bridge over Lot 6 DP 1065574.
2. Development Consent being obtained with the following components:
  - (a) In accordance with Part 2.10 of the Liverpool Development Control Plan 2008, construction and use of an access road with connection from the proposed development directly to Brickmakers Drive.
  - (b) Intersection treatment for the access road with Brickmakers Drive in consultation with the Roads and Maritime Services and Liverpool City Council.
  - (c) Use of the proposed access road and bridge including over land identified as Lot 6 DP 1065574.
3. Submission of a Vegetation Management Plan with regard to the general terms of approval issued from the NSW Environment Protection Authority, NSW Office of Water, NSW Fisheries and the Liverpool Development Control Plan 2008.

**Note: The matters raised within Part 1, above, are to be addressed within five (5) years of the date shown on Council's determination notice. The consent shall become operative once Council has notified the applicant in writing that the information submitted in response to the deferred commencement conditions is acceptable.**

**PART 2****A. THE DEVELOPMENT****Approved Plans**

1. Development the subject of this determination notice must be carried out strictly in accordance with the following plans/reports marked as follows:

- (a) Architectural plans:

Drawing Title	Drawing No.	Issue	Prepared by	Date
Site Plan – General Layout	DA-001	C	MFA	26/10/12
Site Plan – Diagram – Levels & Contours	DA-002	A	MFA	16/11/10
Site Plan – Numbers	DA-003	C	MFA	26/10/12
Site – Sections	DA-020	A	MFA	23/07/10
Maritime Building Plans – Levels 1 & 2	DA-100	C	MFA	26/10/12

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Maritime Building Plans – Level 3 & Roof	DA-101	A	MFA	16/11/10
Maritime Building Plans – Sub Level Car Park	DA-102	C	MFA	26/10/12
Maritime Building Elevations – Comparisons	DA-115	C	MFA	26/10/12
Maritime Building Elevations – Comparisons	DA-116	C	MFA	26/10/12
Maritime Building Sections	DA-120	A	MFA	16/11/10
Maritime Building Sections – Comparisons	DA-125	C	MFA	26/10/12
Private Marina Clubhouse Floor Plan	DA-200	A	MFA	16/11/10
Private Marina Clubhouse Elevations	DA-210	A	MFA	16/11/10
Private Marina Clubhouse Sections	DA-220	A	MFA	16/11/10

- (b) Georges Cove Marina, Moorebank, Preliminary Marina Concept Design and Environmental Assessment – Worley Parsons October 2010;
- (c) Georges River Marina, Moorebank Aquatic Ecology Aspects and Environmental Assessment of Marina Concept Design – Marine Pollution Research Pty Ltd March 2010;
- (d) Traffic Assessment for Proposed Georges Cove Marina, Moorebank NSW – Colston Budd Hunt and Kafes Pty Ltd July 2010, June 2012 and April 2013;
- (e) Noise Impact Assessment Georges Cove Marina – Parsons Brinckerhoff November 2010 and Review of Noise Impact Assessment prepared by Todoroski Air Science dated 8 March 2013;
- (f) Georges Cove Marina, 146 Newbridge Road, Moorebank Visual Impact assessment - Richard Lamb and Associates September 2010;
- (g) Projection Estimates of Plant Heights of Potential Native Vegetation Reconstruction Plantings at Benedict Industries George Cove Marina Site – Ecohort Pty Ltd;
- (h) Indigenous and Non Indigenous Heritage Aboriginal Archaeological Assessment – Mary Dallas Consulting Archaeologists and Non Indigenous Heritage Assessment – Heritech Consulting May 2003
- (i) Flood Impact Assessment Report prepared by Cardno dated 29 January 2013;
- (j) Bushfire Hazard Assessment – Total Earth Care January 2006;
- (k) Acid Sulfate Soil Management Plan for Georges Cove Marina;
- (l) Waste Management Plan for Georges Cove Marina;

except where modified by the undermentioned conditions.

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**General Terms of Approval**

2. All General Terms of Approval/comments issued, shall be complied with prior, during, and at the completion of construction as per the following:
  - (a) Department of Primary Industries – NSW Office of Water – *Water Management Act 2000* dated 2 September 2013;
  - (b) Environmental Protection Authority – *Protection of the Environment Operations Act 1997*, dated 21 August 2013;
  - (c) Department of Primary Industries – NSW Fisheries dated 16 April 2012
  - (d) State Environmental Planning Policy (Infrastructure) 2007 – Roads and Maritime Services (RMS), dated 23 April 2012 Condition Nos.7 to 16

Correspondence is attached to this decision notice.

**Voluntary Planning Agreement**

3. The Voluntary Planning Agreement (VPA) executed between Liverpool City Council and Tanlane Pty Ltd dated 11 June 2008 shall be implemented with regard to the subject development.

**B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of a Construction Certificate by the Principal Certifying Authority:**

**Provision of Services**

4. An application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, must be lodged with Sydney Water. To facilitate this, an application must be made through an authorised Water Servicing Coordinator. Please refer to the “building and developing” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

The Water Servicing Coordinator will need to ensure that submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

Following receipt of the application, a ‘Notice of Requirements’ will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of the ‘Notice of Requirements’ must be submitted to the PCA.

5. Written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.

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

**Site Development Work**

7. Site development work in the form of excavation, underpinning or shoring works must not take place, until such time as a CC has been issued.
8. All aspects of construction shall comply with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:
- (a) Complying with the Deemed to Satisfy Provisions; or
  - (b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

**Notification**

9. The certifying authority must advise Council, in writing of:
- (a) The name and contractor licence number of the licensee who has contracted to do or intends to do the work, or
  - (b) The name and permit of the owner-builder who intends to do the work.

If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.

**Fee Payments**

10. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

- (a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery.
- (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
- (c) Long Service Levy – based on 0.35% of the cost of building work where the costing of the CC is \$25,000 or more.

These fees are reviewed annually and will be calculated accordingly.

11. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with

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payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

**Security for Cost of Damage and Completion of Public Work**

12. Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:
- (a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
  - (b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
  - (c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- (a) cash deposit with the Council, or
- (b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within 6 years of the date of issue of the subdivision certificate for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

**Crime Prevention through Environmental Design**

13. It is recommended that the following Crime Prevention through Environmental Design (CPTED) principles be incorporated into the development as per the recommended conditions outlined in correspondence from Liverpool Local Area Command dated 26 April 2012.
14. Erosion and sediment control measures shall be designed in accordance with the requirements of Liverpool DCP and Council specifications, and to the satisfaction of the PCA. Approved measures shall be implemented prior to commencement and maintained during construction and until all disturbed areas have been revegetated and established to the satisfaction of the PCA.
15. The applicant is to provide a road lighting design plan for the development with due consideration given to all areas operating characteristics, proposed traffic management devices and intersections including all works within the road reserve and adjoining public spaces. The applicant shall request from Council's Transport Planning Section, the appropriate lighting subcategories required for the development. The lighting subcategory provided to the applicant from Council will be consistent with the requirements of Australian Standard AS/NZS 1158 – Road Lighting.

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



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

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

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

**Site Contamination**

16. The report by the contaminated land consultant must be reviewed by a contaminated land auditor accredited under the DECC (EPA) Contaminated Land Management Act 1997. The accredited auditor must provide Council with a copy of the Site Audit Statement.

**Fire Safety Measures**

17. A schedule specifying all of the essential fire safety services, both existing and proposed, which are required for the building, shall be attached to the CC and submitted to Council, in compliance with the provisions of the EP&A Regulation.
18. A BCA Compliance report (Fire Safety) is to be prepared by a Building Professionals Board Category A1 - Accredited certifier - building surveying grade 1 with a copy submitted to Council.
19. A car park plan is to be prepared for review by the Traffic and Transport Section showing the undercroft and surface car parks complying with AS 2890.1; and the surface car park complying with the landscaping requirements of the DCP.
20. The applicant provides an intersection design plan showing urban channelised right turn lane CHR(S) at the proposed new road-bridge access road and Brickmakers Drive intersection.
21. A revised flora and fauna assessment is submitted which details the specific impacts of the development.

**Flooding**

22. DA documentation shall include "Flood Impact Assessment for the proposed Georges Cove Marina, Moorebank" by Cardno (NSW/ACT) Pty Ltd, Ref: NA49913037-L02:BCP/bcp, dated: 29 January 2013.
23. The marina site shall be developed as per drawings prepared by Michael Fountain Architects Pty Ltd, Job No. 0914, Issue C, dated: 26.10.12.
24. The eastern and western walls of the buildings shall remain open below the 1% AEP flood plus half a metre freeboard (i.e. 5.6m + 0.5m = 6.1m Australian Height Datum) to provide free and unobstructed flow of flood waters at all times.

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25. Any types of screen or façade or fencing shall not be allowed to be erected below the 1% AEP flood plus half a metre freeboard (i.e.  $5.6\text{m} + 0.5\text{m} = 6.1\text{m}$  Australian Height Datum) on the eastern and western boundaries.
26. All floor levels shall be no less than the 1% AEP flood plus half a metre freeboard (i.e.  $5.6\text{m} + 0.5\text{m} = 6.1\text{m}$  Australian Height Datum).
27. The structure shall be constructed from flood compatible building components below the 1% AEP flood plus half a metre freeboard (i.e.  $5.6\text{m} + 0.5\text{m} = 6.1\text{m}$  Australian Height Datum).
28. An engineers report shall be required to certify that the structure can withstand the forces of floodwater including debris and buoyancy up to and including a 1% AEP flood plus half a metre freeboard (i.e.  $5.6\text{m} + 0.5\text{m} = 6.1\text{m}$  Australian Height Datum).
29. There shall be no net loss of floodplain storage volume below the 1% AEP flood. This includes but is not limited to a balanced cut and fill below the 1% Annual Exceedance Probability flood.
30. The car parks shall have suitable warning system, signage and exits to ensure safe evacuation during flooding.
31. Barriers shall be provided to the car parking site to prevent floating vehicles from leaving the site during a flood event. The barriers shall be designed with large openings only to hold the cars from floating without providing obstruction to flood waters.
32. Reliable access for pedestrians or vehicles shall be provided from the lowest floor level to a location above the Probable Maximum Flood.
33. The development shall be consistent with any relevant flood evacuation strategy or similar plan.

**Stormwater**

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

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

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

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**Recommendations of Acoustic Report**

35. The recommendations provided in the approved acoustic report shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the CC application.
36. Assessment of contamination of the site shall have regard to Section 105 of the Contaminated Land Management Act 1997, Guidelines for Consultants Reporting on Contaminated Sites (EPA, 2000), Guidelines for the NSW Site Auditor Scheme - 2nd edition (EPA, 2006), Sampling Design Guidelines (EPA, 1995), National Environment Protection (Assessment of Site Contamination) Measure 1999 (or update). The following matters are to be carried out by a suitably qualified consultant:
  - (a) An assessment should provide the details on how the site contamination will be remediated and/or managed so that the site is, or can be, made suitable for the proposed use.
  - (b) All reports should be prepared in accordance with the Guidelines for Consultants Reporting on Contaminated Sites (EPA, 2000).
  - (c) The report should specify whether or not a site auditor, accredited under the Contaminated Land Management Act 1997, has been or will be engaged to issue a site audit statement to certify on the suitability of the current or proposed uses.
  - (d) The contamination assessment shall include an assessment of potential contamination in the sediments to be disturbed during the proposed development works and operation of the facility. The assessment is to consider potential impacts on water quality associated with the disturbance of sediments. The contamination assessment will also outline measures to mitigate any such impacts that are identified through the assessment.

**C. PRIOR TO WORKS COMMENCING**

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

**Construction Certificates**

37. Detailed Civil engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the Act, and a copy registered with Council.
38. Detailed engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
39. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

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40. Where this consent requires both engineering and building works to be undertaken, a separate construction certificate shall be issued for each category of works ie., a separate Civil Engineering CC and a separate Building CC.

**Notification/Principal Certifying Authority**

41. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
42. The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days notice must be given.
43. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.
44. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer. Retaining walls on any boundary are to be of masonry construction.
45. Structural supporting elements or bracing of the building must be designed and certified by a qualified chartered structural engineer having regards to supporting ground conditions.
46. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
- (a) Any excavation, below the base of the footings of a building on an adjoining allotment of land.
  - (b) The notice shall be given seven (7) days prior to the commencement of work.
47. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.

**Facilities**

48. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

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Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

**Demolition**

49. Prior to demolition the existing building(s) on the land must be investigated for the presence of asbestos. All asbestos must be removed and disposed of in accordance with all regulatory requirements, including those of WorkCover NSW and the Environment Protection Authority.

**Site Facilities**

50. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

**Site Notice Board**

51. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
- (a) The name, address and telephone number of the principal certifying authority for the work; and
  - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - (c) Unauthorised entry to the premises is prohibited.

**Notification of Service Providers**

52. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- *Quick check agents details – see Building and Developing then Quick Check and*
- *Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Developing then Building and Renovating*

*or telephone 13 20 92.*

**Reports**

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53. No work or craning shall be undertaken within the adjoining public lands without the prior written consent of Council. In this regard Council may require a Traffic Management Plan to be submitted before giving its approval.

**Environmental Management**

54. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:
- (a) Measures to control noise emissions from the site;
  - (b) Measures to suppress odours and dust emissions;
  - (c) Selection of traffic routes to minimise residential noise intrusions;
  - (d) Soil and sediment control measures;
  - (e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
  - (f) Community consultation.
55. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. Measures must include, as a minimum:
- (a) Siltation fencing;
  - (b) Protection of the public stormwater system; and
  - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

**Food Premises – Restaurant**

56. Plans and specifications demonstrating compliance with the nominated standards and requirements for the following aspects of the development shall be submitted and approved by the PCA:
- (a) all proposed, altered and required mechanical ventilation systems (Building Code of Australia & Australian Standard 1668 Part 1 & 2)
  - (b) the commercial garbage and recycling storage room (Liverpool DCP 2008)
  - (c) the layout, disposition and method of installation of fixtures and fittings, together with wall, floor, and ceiling finishes to all preparation, storage areas and cool rooms (AS4674, the Food Act 2003 and Regulations thereunder).

**Waste Classification**

57. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act and NSW DECCW, (EPA) 'Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes'. The classification of the material is



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**Food Premises – Restaurant**

58. Council's Health & Building section shall be notified in writing that the premises will be used for the preparation, manufacture or storage of food for sale. The premises will be registered on Council's database.
59. Trading shall not commence until an OC has been issued by the PCA.
60. A Trade Waste application shall be submitted and approved by the Sydney Water Corporation regarding the installation of proposed pre treatment equipment, eg basket and grease arrestors. A copy of the plumber's certificate of compliance for the installation of pre-treatment equipment, and of the Trade Waste Agreement, shall be furnished to the PCA.
61. Certificates of design compliance and system performance for the proposed mechanical ventilation system shall be provided to the PCA, certifying the design, and upon commissioning of the mechanical ventilation system(s), certifying performance. The certificate of performance shall be issued to the certifying authority and be accompanied by details of the test carried out in respect of: -
- (a) Ventilation
  - (b) Acoustics
62. Prior to the commencement of food handling operations, the food business proprietor shall notify the NSW Food Authority of the following information including:
- (a) Contact details for the food business including the name of the food business and the name and address of the proprietor of the business;
  - (b) The nature of the food business; and
  - (c) The location of all food premises of the food business within the jurisdiction of NSW Food Authority.

You may notify the NSW Food Authority via the Internet on [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or mail the required notification form.

Failure to notify the NSW Food Authority may result in the issuing of a penalty infringement notice of up to \$880.00.

**Panel Beating/Smash Repairs/Automotive Service**

63. Details of the exact name, quantity, location, method of storage and packaging of any material covered by relevant Acts, shall be submitted to the NSW WorkCover Authority, and approval of those details obtained.
64. All waste water, chemicals, solvents, oils, fluids or the like shall not be discharged into Council's stormwater drain or creeks. A trade waste contract shall be obtained by Sydney Water. All liquid waste shall be discharged into the sewer in accordance with Sydney Water requirements.

**D. DURING CONSTRUCTION**

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

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65. In the case of a class 5, 6, 7, 8 or 9 building, critical stage inspections must be carried out by the appropriate person in accordance with EP&A Regulation, with Compliance Certificates issued for each inspection. The last critical stage inspection must be carried out by the PCA. The following components of construction are relevant:
- (a) after excavation for, and before the placement of, any footings, and
  - (b) prior to covering any stormwater drainage connections; and
  - (c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Note: These certificates or documentary evidence must be submitted to Council with any OC issued for the development

**Identification Survey Report**

66. The building and external walls are not to proceed past ground floor/reinforcing steel level until such time as the PCA has been supplied with an identification survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels and setbacks to boundary/boundaries. The slab shall not be poured, nor works continue, until the PCA has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

In the event that Council is not the PCA, a copy of the survey shall be provided to Council within three (3) working days.

On placement of the concrete, works again shall not continue until the PCA has issued a certificate stating that the condition of the approval has been complied with and that the slab has been poured at the approved levels.

**Hours of Construction Work and Deliveries**

67. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 5:00pm Monday to Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

**Security Fence**

68. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction.

Note. Fencing is not to be located on Council's reserve area.

**Demolition Work**

69. All demolition work is to be carried out in accordance with the requirements of AS 2601. Demolition is to be carried out strictly in accordance with the approved procedures and work plan.

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**Disabled Access**

70. Access, parking and facilities for persons with disabilities to be provided in accordance with the provisions of the National Construction Code.

**General Site Works**

71. Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.
72. All dangerous and/or hazardous material shall be removed by a suitably qualified and experienced contractor, licensed by WorkCover NSW. The removal of such material shall be carried out in accordance with the requirements of WorkCover NSW. The material shall be transported and disposed of in accordance with DECCW (EPA) requirements.

**Car Parking Areas**

73. Car parking spaces and driveways must be constructed of a minimum of two coat finish seal or better. The spaces must be clear of obstructions and columns, permanently line marked and provided with adequate manoeuvring facilities. The design of these spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.

All car parking areas to be appropriately line marked and sign posted in accordance with the approved plans. All customer/visitor/staff parking areas are to be clearly signposted limiting car parking for customers/visitors/staff only. The applicant is to cover the costs of installation and maintenance of the signage.

The on-site parking spaces shown in the approved plans must be identified in accordance with A.S.2890.1 Parking Facilities – Off-Street Car Parking.

74. Directional signage indicating the location of customer parking, "in" and "out" crossings and directional arrows are to be provided in accordance with the approved plans.

**Traffic Management**

75. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA's Traffic Control at Worksites Manual and the RTA's Interim Guide to Signs and Markings.
76. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
77. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours to prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.

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**Waste Management Plan**

78. The Waste Management Plan submitted to and approved by Council must be adhered to at all times throughout all stages of the development. Supporting documentation (receipts/dockets) of waste/recycling/disposal methods carried out, is to be kept and must be produced upon the request of Council or any other authorised officer.

Note: Any non-compliance with this requirement will result in penalties being issued.

79. A monitoring report on the progress of the Vegetation Management Plan's implementation shall be prepared and submitted to Council upon completion of the primary planting and then at six monthly intervals until the end of the two year maintenance period. A final report shall also be submitted upon completion of the maintenance period.

**Graffiti**

80. A graffiti resistant coating shall be applied to any fences or structures that have frontage to a public area, for example a roadway, public reserve etc.
81. Any works or activities shall adhere to the recommendations outlined in the approved Salinity Management Plan prepared for the site.

**Acid Sulfate Soils**

82. The excavation and treatment of all potential and actual acid sulfate soils shall be carried out in strict accordance with the provisions of the approved Acid Sulfate Soils Management Plan prepared for the site.
83. The development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998).

**Air Quality**

84. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
85. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
86. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
87. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.

**Panel Beating/Smash Repairs/Automotive Service Centres**

88. All work and storage areas where spillage may reasonably occur shall be bunded. The capacity of the bunded area shall be calculated as being equal to 110% of the largest

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storage or process vessel/container in the area or 10% of the total volume of vessels/containers accommodated in the area, whichever is the greater.

All bunded areas shall be graded to a blind sump to facilitate testing of collected waste water and provide a low point for pump out. All bunded areas shall be suitably treated to prevent the ingress of stormwater.

89. All spray painting activities shall be undertaken within the confines of an accredited NSW WorkCover spray booth. The booth shall be constructed and operated in accordance with AS 4114 Parts 1 & 2. All emissions from the spray booth must be filtered or treated in a manner to achieve an exhaust air quality in accordance to the provisions of the POEO Act Clean Air Regulations.

**Ventilation**

90. The premises shall be ventilated in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 & 2)
91. The design, construction, installation and commissioning of the mechanical ventilation systems(s) serving the premises shall be carried out in accordance with Australian Standard 1668 Parts 1 & 2.

The mechanical exhaust discharge point shall be designed and installed by an appropriately qualified person, and shall be positioned to comply with Section 3.7 of Australian Standard 1668 Part 2 – 1991.

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

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94. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
95. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.
96. Gaseous emissions from the development shall comply with the requirements of the POEO Act and Regulations there under. Processes producing airborne particulate matter shall incorporate a suitable dust collection system.
97. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

**Food Premises – Restaurant**

98. The construction, fitout and finishes of the premises shall comply with the AS 4674, Food Act 2003 and Regulations thereunder, and the requirements of

**E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifying Authority:**

**Certificates**

99. The premises must not be utilised until an Occupation Certificate is issued by the PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered with Council.
100. The Principal Certifying Authority (Building) and/or the Accredited Certifier (Subdivision) shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that the works as constructed comply fully with the required condition of consent being acted on by the certifier.
101. All required Compliances Certificates for the critical stage inspections carried out prior, during and at the completion of construction, must be submitted to Council together with the required registration fee payment.
102. A final fire or interim safety certificate is to be attached to any OC, except in the case of a Class 1a or Class 10 building(s). This must include all the "essential fire services" installed in the building.
103. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.
104. Should the construction of the development (bulkheads etc) reveal that the smoke alarms cannot operate effectively, additional smoke alarms may be required to be installed in



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order that the alarms effectively protect the occupants of the building in accordance with the provisions of National Construction Code Part 3.7.2.

105. The access comprising a new road, bridge and CHR(S) intersection treatment at Brickmakers Drive are to be completed to Council's satisfaction prior to the issue of an Occupancy Certificate.

**Landscaping**

106. Upon completion of the approved landscape works associated with the development and prior to the issue of any OC, an Implementation Report is to be submitted to the PCA attesting to the satisfactory completion of the landscape works in accordance with the approved landscape plan. The report is to be prepared by a suitably qualified person.

**Recommendations of Acoustic Report**

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

**Site Contamination Validation Report**

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

**Food Premises – Restaurant**

109. Council's Health & Building section shall be notified in writing that the premises will be used for the preparation, manufacture or storage of food for sale. The premises will be registered on Council's database.
110. Trading shall not commence until an OC has been issued by the PCA.
111. A Trade Waste application shall be submitted and approved by the Sydney Water Corporation regarding the installation of proposed pre-treatment equipment, eg basket and grease arrestors. A copy of the plumber's certificate of compliance for the installation of pre-treatment equipment, and of the Trade Waste Agreement, shall be furnished to the PCA.
112. Certificates of design compliance and system performance for the proposed mechanical ventilation system shall be provided to the PCA, certifying the design, and upon

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commissioning of the mechanical ventilation system(s), certifying performance. The certificate of performance shall be issued to the certifying authority and be accompanied by details of the test carried out in respect of: -

- (a) Ventilation
- (b) Acoustics

113. Prior to the commencement of food handling operations, the food business proprietor shall notify the NSW Food Authority of the following information including:

- (a) Contact details for the food business including the name of the food business and the name and address of the proprietor of the business;
- (b) The nature of the food business; and
- (c) The location of all food premises of the food business within the jurisdiction of NSW Food Authority.

You may notify the NSW Food Authority via the Internet on [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or mail the required notification form.

Failure to notify the NSW Food Authority may result in the issuing of a penalty infringement notice of up to \$880.00.

114. A Hygiene Management Plan prepared by the proprietor shall be submitted to Council for assessment prior to the commencement of any trading activities. Once approved, the standards of this Hygiene Management Plan must be followed at all times.

**Flooding**

115. A flood emergency response plan shall be developed and maintained for the entire Georges Cove Marina site. The flood emergency response plan shall include suitable flood warning system, signage and exits to ensure the safe evacuation of people during floods up to and including the Probable Maximum Flood. The flood warning system shall include the following:
116. Water level monitoring system at Georges River to monitor overtopping of river banks near the Marina site.
117. Suitable arrangements to alert all occupants of the entire Marina site.
118. Necessary arrangement for site evacuation before the Marina site becomes fully isolated by floodwaters.
119. The flood warning system shall be put in operation prior to, during and after a flood to manage activities at Georges Cove Marina, including evacuation arrangements for all occupants of Georges Cove Marina.

**Boating Management Plan**

120. A Boating Management Plan shall be submitted to, and approved by NSW Maritime and shall address, but not be limited to:
- (a) Internal speed limits within the marina basin;

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- (b) Identification of laneways for navigation throughout marina basin with respect to type of size of watercraft; and
- (c) Identify appropriate means of access/egress from the marina basin to the Georges River as well as speed and the like.

**General Terms of Approval**

- 121. Any applicable requirements stipulates in the General Terms of Approval issued for the application are to be addressed and confirmed to the relevant authority.
- 122. The Voluntary Planning Agreement (VPA) executed between Liverpool City Council and Tanlane Pty Ltd dated 11 June 2008 shall be implemented with regard to the development.
- 123. The Security and Safety Management Plan shall be prepared in consultation with the Local Area Command and Liverpool City Council.
- 124. Confirmation from an accredited bushfire consultant confirming the development is consistent with Planning for Bushfire Protection 2006.

**G. CONDITIONS RELATING TO USE**

**The following conditions relate to the ongoing use of the premises:**

**Goods in Building**

- 125. All materials and goods associated with the use shall be contained within the building at all times.

**Graffiti**

- 126. Any graffiti carried out on the property shall be removed, within 48 hours, at full cost to the owner/occupier of the site.

**Waste**

- 127. All solid and liquid waste is to be removed from the site by a registered waste contractor.
- 128. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.
- 129. All solid waste stored on site is to be covered at all times.

**Waste Storage Area**

- 130. Waste bins must be stored in designated garbage/ trade refuse areas, which must be kept tidy at all times. Bins must not be stored or allowed to overflow in parking or landscaping areas, must not obstruct the exit of the building, and must not leave the site onto neighbouring public or private properties.

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**Car Parking/Loading**

131. A total of **560** off street car parking spaces in those spaces designed and signposted/marked for the specific use of persons with a disability must be provided in accordance with Council's relevant development control plan
132. All parking areas shown on the approved plans must be used solely for this purpose.
133. All loading and unloading must take place from the designated loading dock. This area is to be clearly marked/signposted for use by delivery vehicles only.
134. The car park and associated signage and line marking are to be maintained to Council's satisfaction.

**Advertising**

135. A separate Development Application shall be lodged for any signage in association with the development.

**Hours of Operation**

136. The hours of operation of the premises are limited to:

*Seven (7) days a week, 7.00 am to 10.00 pm.*

*The function centre may operate up to 12.00am.*

**Noise**

137. Any alarm installed on the site is to be "silent back to base" type.
138. The use of the premises including music and other activities shall not give rise to any one or more of the following:
  - (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
  - (b) An indoor sound pressure level in any place of different occupancy (and/ or public place) greater than 3dB(A) above the L90 background level or greater than 5db(A) at the boundary of any affected property in any octave band from 31.5Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00am to midnight daily and 0dB(A) above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
  - (c) During the period of 12 midnight to 7.00a.m. The use shall be inaudible in any habitable room of any residential premises.
  - (d) The emission of an "offensive noise" as defined under the POEO Act.

The method of measurement of vibration in (a) and sound levels in (b), (c) and (d) shall be carried out in accordance with AS 2973 for vibration measurements, AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

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139. Noise levels emitted from the mechanical exhaust system or any outdoor air conditioning unit must not exceed 5dB(A) above the background noise level when measured at any point of the site.

**Environment**

140. The use of the premises shall not give rise to the emission into the surrounding environment of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.

**Annual Fire Safety Statements**

141. Subsequent annual fire safety statements are to be submitted to Council within (12) months after the last such certificate was given in accordance with clause 177, part 9, division 5 of the Environmental Planning and Assessment Regulation 2000. The annual fire safety statement shall be prominently displayed in the building in the location adjacent to the main entry/exit point to the building.
142. The annual fire safety statement must be to the effect that:
- (a) in respect of each essential fire safety measure, such measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing:
    - (i) in the case of an essential fire safety measure applicable by virtue of a fire safety schedule, to a standard no less than that specified in the schedule, or
    - (ii) in the case of an essential fire safety measure applicable otherwise than by virtue of a fire safety schedule, to a standard no less than that to which the measure was originally designed and implemented, and
  - (b) the building has been inspected by a properly qualified person and was found when it was inspected to be in a condition that did not disclose any grounds for a prosecution under Part2, Division 7 of the Environmental Planning and Assessment Regulation, 2000.
143. The owner of the building must also cause a copy of the statement (together with a copy of the current fire safety schedule) to be given to the Fire Commissioner located at "Amarina Avenue Private Locked Bag 12, Greenacre 2190".

**Flooding**

144. There shall be no storage of materials below the 1% AEP flood plus half a metre freeboard (i.e. 5.6m + 0.5m = 6.1m Australian Height Datum) which may cause pollution or be potentially hazardous during any flood.
145. All solid and liquid waste is to be removed from the site by a registered waste contractor.
146. All waste materials generated as a result of the development are to be disposed at a facility licensed to receive such waste.

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**Landscaping**

147. Landscaping shall be maintained in accordance with the approved plan, in a healthy state and in perpetuity by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

An annual report shall be submitted to Council, for the 3 years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

**Panel Beating/Smash Repairs/Automotive Service Centres/Auto Wreckers**

148. The storage of empty drums, old engines, gearboxes and other mechanical parts and the like shall be covered or bunded so as to prevent residual grease, oils, chemicals or fluids discharging into the stormwater system.
149. All waste materials shall be contained within a waste container. No liquid wastes are permitted to be placed within the waste container. The waste container shall be stored wholly within the confines of the premises at all times, other than for collection or service.
150. All works shall be conducted wholly within the confines of the building at all times. No spray painting, mechanical repairs or works are permitted to be carried out doors, in the carpark, common areas and the like.
151. The proprietor shall not release any refrigerant type gases (including but not limited to CFC type gases, R12, HCFC) into the atmosphere. All refrigerant type gases must be recovered in a designated recovery unit and shall be serviced by an accredited contractor.
152. No sanding, particle blasting, high pressure abrasive treatment or similar type of activity shall be carried outside of the building or outside the confines of a purpose built structure confined structure.
153. No burning of any materials shall be carried out on site.
154. All welding, oxy-acetylene cutting activities and the like shall be carried out within the confines of the building at all times, in a position where no nuisance is created.

**Bushfire**

155. Unrestricted access for fire-fighting personnel shall be provided around the property.

**Entertainment Premises**

156. The Security and Safety Management Plan approved by Council in conjunction with this development consent must be adhered to at times.
157. Motion detectors must be installed and activated during hours of operation of the premises and after close of business.
158. Warning signs shall be installed near the entrance and exit of the premises to clearly inform patrons and the public that the premises is under 24 hour video surveillance.

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159. High quality vandal resistant security lighting must be installed inside and outside the entry/exit area of the premises to provide an even distribution of lighting in accordance with Australian Standard 1158. Details of any external lighting must be submitted and approved by Council, prior to installation.
160. Areas restricted to 'staff only' must be clearly signposted.
161. Windows and glazing fronting public areas and streets shall be reinforced by application of shatter resistant film and/or replaced with laminated glass.
162. A quality back to base alarm system must be installed at the premises.
163. The applicant must notify Council in writing at least seven (7) days prior to the commencement of usage. This notification must be accompanied by written confirmation or a copy of the Liquor License issued by the Licensing Court (NSW) to confirm approval is granted by the Licensing Court (NSW) for the usage and hours of operation approved by this Development Consent.
164. Management is to retain within the office a register of complaints. Management is to respond to any complaints within 24 hours. This register is to be available to Council staff or other authorities on request.
165. A sign must be displayed in a prominent position in the part of the existing building to be used as an entertainment premises that specifies:
  - (a) the maximum number of persons as specified in the development consent, that are permitted in any part of the building used as an entertainment premises,
  - (b) approved hours of operation,
  - (c) the name, address and telephone number of the council of the area in which the building is located,
  - (d) the name and business telephone number of an owner or manager of the part of the building used as an entertainment premises.

**Emergency Evacuation Plans**

166. An emergency evacuation plan must be prepared, maintained and implemented for any building (other than a temporary structure) used as an entertainment venue.
167. An *emergency evacuation plan* is a plan that specifies the following:
  - (a) the location of all exits, and fire protection and safety equipment, for any part of the building used as a place of public entertainment,
  - (b) the number of any fire safety officers that are to be present during performances,
  - (c) how the audience are to be evacuated from the building in the event of a fire or other emergency.
168. Any fire safety officers appointed to be present during performances must have appropriate training in evacuating persons from the building in the event of a fire or other emergency.