

## LIVERPOOL CITY COUNCIL

### SYDNEY WEST JOINT REGIONAL PLANNING PANEL

PAGE - 1 of 78

|                                    |  |
|------------------------------------|--|
| <b>JRPP Reference No.</b>          | 2012SYW104   |
| <b>Development Application No.</b> | DA-1709/2012   |
| <b>Proposed Development</b>        | Hotel Development  |
| <b>Property Description</b>        | LIVERPOOL CATHOLIC CLUB, 424-458 HOXTON PARK ROAD, PRESTONS NSW 2170<br>LOT 1 DP 1077341 |
| <b>Applicant</b>                   | WOOD AND DAY PARTNERSHIP P/L   |
| <b>Land Owner</b>                  | LIVERPOOL CATHOLIC CLUB LTD  |
| <b>Capital Investment Value</b>    | \$34.3 Million   |
| <b>Recommendation</b>              | Approval   |



## 1. EXECUTIVE SUMMARY

### 1.1 Reasons for the Report

The proposed development for the construction of a ten storey hotel and alterations to the existing hotel building has a capital investment value that exceeds \$20 million for the purposes of 'General Development.'

Consequently, the subject Development Application is referred to the Sydney West - Joint Regional Planning Panel for determination in accordance with State Environmental Planning Policy (State and Regional Development) 2011.

## **1.2. The proposal**

Construction of a ten storey hotel and alterations to the existing hotel building. The proposal is identified as Integrated Development pursuant to S.100B of the Rural Fires Act 1997 (Rural Fire Service) and Nominated Integrated Development pursuant to the Water Management Act 2000 (Department of Environment, Climate Change and Water).

## **1.3 The site**

The subject site is identified as Lot 1 DP 1077341 being Liverpool Catholic Club 424-458 Hoxton Park Road, Prestons.

## **1.4 The issues**

Key issues which emerged during the Development Assessment process included:

- Significant variation to Clause 4.3 *Height of Buildings* of the Liverpool Local Environmental Plan 2008 (LEP); and
- Visual amenity impacts.

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 two (2) separate occasions for a period of fourteen days (14) from 28 August 2013 to 12 September 2013 and for a period of thirty eight days (38) from 18 December 2013 to 24 January 2014, in accordance with the Environmental Planning and Assessment Regulation 2000 and the Liverpool Development Control Plan 2008.

No submissions were received.

## **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 subject development site comprises the Catholic Club community facility which has been a long standing landmark within the immediate and wider locality, and for the Liverpool Local Government Area.

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. The significant variation to the maximum building height requirements is considered acceptable in this instance, as the impacts of the proposed building height have been appropriately addressed during the assessment of the application.

The existing hotel located on the premises currently attracts a high number of patrons who are

predominately seeking accommodation within the Liverpool local government area to attend sporting events, business related functions and the like. Hotel patrons also frequently utilise the existing hotel facilities including function rooms, meeting rooms, sporting utilities and restaurants when residing at the hotel. The proposed development represents a significant opportunity to provide additional quality accommodation within the Liverpool Local Government Area.

The application was referred to a number of external authorities including the Roads and Maritime Services, NSW Office of Water and the NSW Rural Fire Service, 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 low, medium and maximum high flood risk. Council officers have considered flood impacts of the proposed development, and raise no objection to the proposed development subject to conditions.

Council previously granted development consent for the construction of a three storey car parking facility fronting Joadja Road. This development is currently under construction.

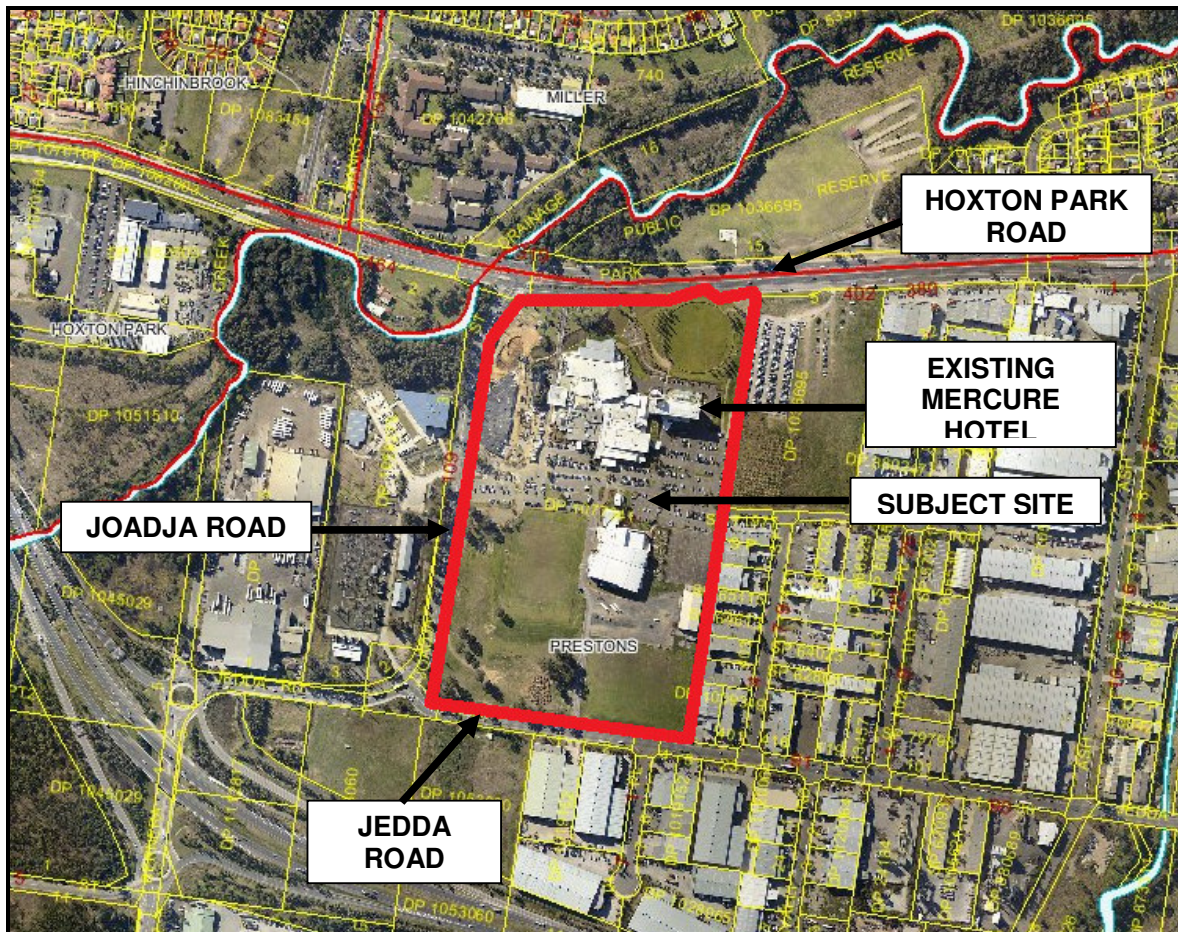
Council Officers have considered traffic impact and have concluded that vehicular access to the proposed development is satisfactory and onsite parking provisions are considered adequate. The proposed development would have an unlikely adverse traffic impact to the surrounding street network.

It is for these reasons that the proposed development is considered to be satisfactory, the subject application is recommended for approval.

## **2. SITE DESCRIPTION AND LOCALITY**

### **2.1 The Site**

The subject site is located on the southern side of Hoxton Park Road, Prestons and is irregularly shaped with a total site area of approximately 17.05 hectares.



**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 17 hectares. The current operations at the site include a fully licensed recreational facility including gaming, food and entertainment, a sports centre, gymnasium, ice rink, outdoor sporting facilities and an existing four star hotel containing 104 guest rooms and a function/conference centre able to accommodate up to 1400 patrons.

## 2.2 The Locality

The site is located within the Prestons Industrial Precinct and is surrounded by existing industrial development predominately comprising warehouse and distribution facilities.

The site immediately to the west of the subject development site contains an Endeavour Energy electrical substation.

The site immediately to the east of the site is currently vacant. However, it is noted that a rezoning application was gazetted on 28 June 2013 to B6 Enterprise Corridor zone *to permit the construction of an office building.*

Cabramatta creek is situated to the north-west of the subject site.

Existing vehicular access from the site is to Joadja Road.



### 2.3 Background

- Development application No. 1130/2007 was granted consent on 18 July 2007 for the construction of a six storey hotel. Significant flood mitigations works were required as part of this development consent. As part of the flood mitigation measures required, extensive earthworks and landscaping was undertaken. This included extending the establishment of the existing dam located within the north-western setback of the site.
- Development application No. 355/2012 was granted consent on 9 May 2012 for the construction of a three storey car park, which is currently under construction.

### 2.4 Site Photographs



Aerial photograph 1: Subject development site viewed from Hoxton Park Road.



Aerial Photograph 2: Hoxton Park Road facing east.



Aerial Photograph 3: Subject development site viewed from Jedda Road.





Aerial photograph 4: Front entrance to the existing Mercure Hotel



Aerial photograph 5: Approved three storey car park currently under construction (view from Jedda Road).





Aerial photograph 6: Endeavour Energy facility located west of the subject site.



Aerial photograph 7: Indoor sporting facility viewed from Joadja Road.





**Aerial photograph 8: Adjoining industrial development located south east of the subject development site.**



**Aerial photograph 9: Liverpool Catholic Club main entrance.**

### 3. DETAILS OF THE PROPOSAL

The proposed development involves the construction of a ten (10) storey hotel, alterations and additions to the existing hotel building and minor earthworks.

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

| Component  | Description  |
|--|--|
| <b>New Hotel Building</b>  | <ul style="list-style-type: none"> <li>▪ The construction of a ten storey hotel building using new reinforced concrete, with a total floor area of 8023sqm<sup>2</sup> and a maximum height of 42.6 metres.</li> <li>▪ The external colour of the building is predominantly cream with components of brown, to match the existing hotel building.</li> <li>▪ The provision of one hundred and twenty one new guest rooms including three levels of accommodation in a wider format building, below the taller upper portion of the building containing eight levels of accommodation on a smaller floor plate.</li> <li>▪ New function facilities on the first floor including eight small meeting rooms, pre-function lounge area, bar, snacks, preparation kitchen, food and beverage storage and chair and equipment storage.</li> <li>▪ A ground floor ancillary services area.</li> </ul> |
| <b>Alterations and additions to the existing hotel building</b>          | <ul style="list-style-type: none"> <li>▪ Demolition of the existing hotel atrium to enable the construction of minor extensions to the existing hotel lobby to provide two new lifts and stair access to the meeting rooms within the proposed hotel building.</li> <li>▪ A kiosk and café on the ground floor.</li> <li>▪ Relocation of the existing children's playground</li> <li>▪ Modifications to the balustrade of the existing bistro dining terrace.</li> </ul>   |
| <b>Minor modifications to the existing vehicular access arrangements</b> | <ul style="list-style-type: none"> <li>▪ Minor changes to the kerbs of the existing access driveway to the rear of the club auditorium.</li> </ul>   |
| <b>Landscaping and minor earthworks</b>                                  | Adaptation of the existing landscaping with equal volumes of cut and fill to minimise the impact of the new building during site events.   |
| <b>Acoustic Measures</b>   | The subject development site is adjacent to Hoxton Park Road being a classified road. A noise impact assessment prepared by Benbow Environmental has been submitted with the application and has been endorsed by Council's Environmental Health officer subject to conditions of consent.   |
| <b>Traffic and Car Parking</b>   | A Traffic and Parking assessment has been submitted with the development application and has been endorsed by Council's Traffic Engineer subject to conditions of consent.   |
| <b>Waste Management Plan</b>   | A condition of consent will be imposed to ensure that details of ongoing waste management are submitted with any application for a Construction Certificate application.   |

|                           |  |
|---------------------------|--|
| <b>Hours of Operation</b> | Hours of operation will be consistent with those approved under development consent no. 1130/2007, which granted approval for the existing hotel building. This includes all deliveries to the premises.   |
| <b>Staged Development</b> | The applicant is seeking approval to construct the proposed development over two stages (refer to staging plan within attachment 7.1). Specifically, the first stage will include the construction of the ground floor, first floor and guest room block (floors 3-10) and required the earthworks. The second stage will include the construction of the north wing extension (floors 1-5). |

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

- Traffic and Parking Assessment prepared by John Coady Consulting Pty Ltd, Reference No. 12035, dated 15 October 2012 (including further letter prepared by John Coady Consulting Pty Ltd reference no. 12035 dated 1 March 2013);
- Flood Impact Assessment (Revised) prepared by Bewsher Consulting Pty Ltd, Reference No. J1975L\_5, dated 18 October 2012;
- Noise Impact Assessment, prepared by Benbow Environmental, Report NO. 131061\_Rep\_Rev1, 19 July 2013.

#### 4. STATUTORY CONSIDERATIONS

##### 4.1 Nominated Integrated Development and Integrated Development

Pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979*, the application is 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); and*
- *NSW Rural Fire Service – NSW Rural Fire Act 1997 (Integrated Development)*

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 correspondence and advised that General Terms of Approval are not required for the proposed development.

The subject application is identified as '*Integrated Development*' and had been referred to the NSW Rural Fire Service pursuant to Section 100B of the *Rural Fires Act 1997* and had been referred to the NSW Rural Fire Service. The Department has issued their General Terms of Approval for the proposed development.

#### 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. 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 will not result in any adverse impacts upon 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. It is considered that the proposed development will improve the environmental quality of the site.  |
| (c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,                   | It is not considered that the proposed development will result in a cumulative adverse impact on the Georges River or its tributaries.   |
| (d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment | <p><b>Biodiversity of the Georges River Catchment</b><br/>The development would not result in an adverse impact upon the existing biodiversity of the Georges River Catchment.</p> <p><b>Georges River Catchment: Better Practice Guidelines for Foreshore Works</b></p> |



|  |  |
|--|--|
| and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning             | The proposed development would be consistent with the principles set out in these guidelines.                            |
| (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, |  |
| (g) whether there are any feasible alternatives to the development or other proposal concerned.  | The proposed development 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   | Not Applicable.  |
| (9) Urban/stormwater runoff  | Drainage details have been submitted and approved subject to condition of consent.                                       |
| (10) Urban development areas   | Flooding controls to be implemented.   |
| (11) Vegetated buffer areas  | Not applicable.  |
| (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  | Not applicable.  |

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. 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.

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The proposed development is not in conflict with the aims and objectives of the Policy. The site is therefore considered suitable for the proposed development which includes the alterations and additions to the existing building and the construction of a ten storey building for the purpose of continuing the existing use of the site as a hotel.

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

***101 Development with frontage to classified road***

Pursuant to Clause 101, consent must not be granted to development on land that has a frontage to a classified road unless it is satisfied that:

***(a) where practicable, vehicular access to the land is provided by a road other than the classified road,***

Vehicular access from the site is currently from Joadja Road. Existing vehicular access arrangements from the subject development site will remain unchanged as a result of the proposed development.

***(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:***

***(i) the design of the vehicular access to the land, or***

*Vehicular access from the subject development site will remain unchanged.*

***(ii) the emission of smoke or dust from the development, or***

Conditions of development consent are recommended to ensure that the emission of dust from the development is mitigated during construction.

It is not likely that the development will result in the emission of smoke.

***(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and***

It is not considered that the proposed development will result in any adverse traffic impacts on Hoxton Park Road with respect to the nature, volume or frequency of vehicles.

Council's Traffic engineer has reviewed the application and raises no objections to the proposed

development subject to conditions of consent.

The NSW Roads and Maritime Service has reviewed the application and raises no objections to the proposed development subject to conditions of consent.

On this basis, it is considered that the proposed development will not result in adverse impacts on the safety, efficiency and ongoing operation of Hoxton Park Road.

***(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.***

The proposed development includes measures, to ameliorate potential traffic noise generated from Hoxton Park Road. A noise impact assessment prepared by Benbow Environmental was submitted with the development application, and has been endorsed by Council's Environmental Health Officer subject to conditions of development consent.

It is not expected that the proposed development will be adversely impacted by vehicles emissions from Hoxton Park Road, as the hotel rooms will be mechanically ventilated.

#### ***102 Impact of road noise or vibration on non-road development***

Pursuant to Clause 102, a noise impact assessment was submitted with the development application which demonstrates that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Whilst the above requirements pertain to residential development with no specific reference to a hotel, it is considered that the use of a hotel is akin to that of a residential development in that the future occupants will be utilising hotel rooms for similar uses to that of a residential development.

#### ***Clause 104 Traffic generating development***

Pursuant to Clause 104, the application was referred to the Roads and Maritime Service (RMS) who have provided comments with respect to the development application subject to conditions of consent.

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.

It should be noted that the comments provided by the Roads and Maritime Service (RMS) includes the requirement for the construction of the approved three storey car park to be completed and ready for operation prior to the construction of the hotel.

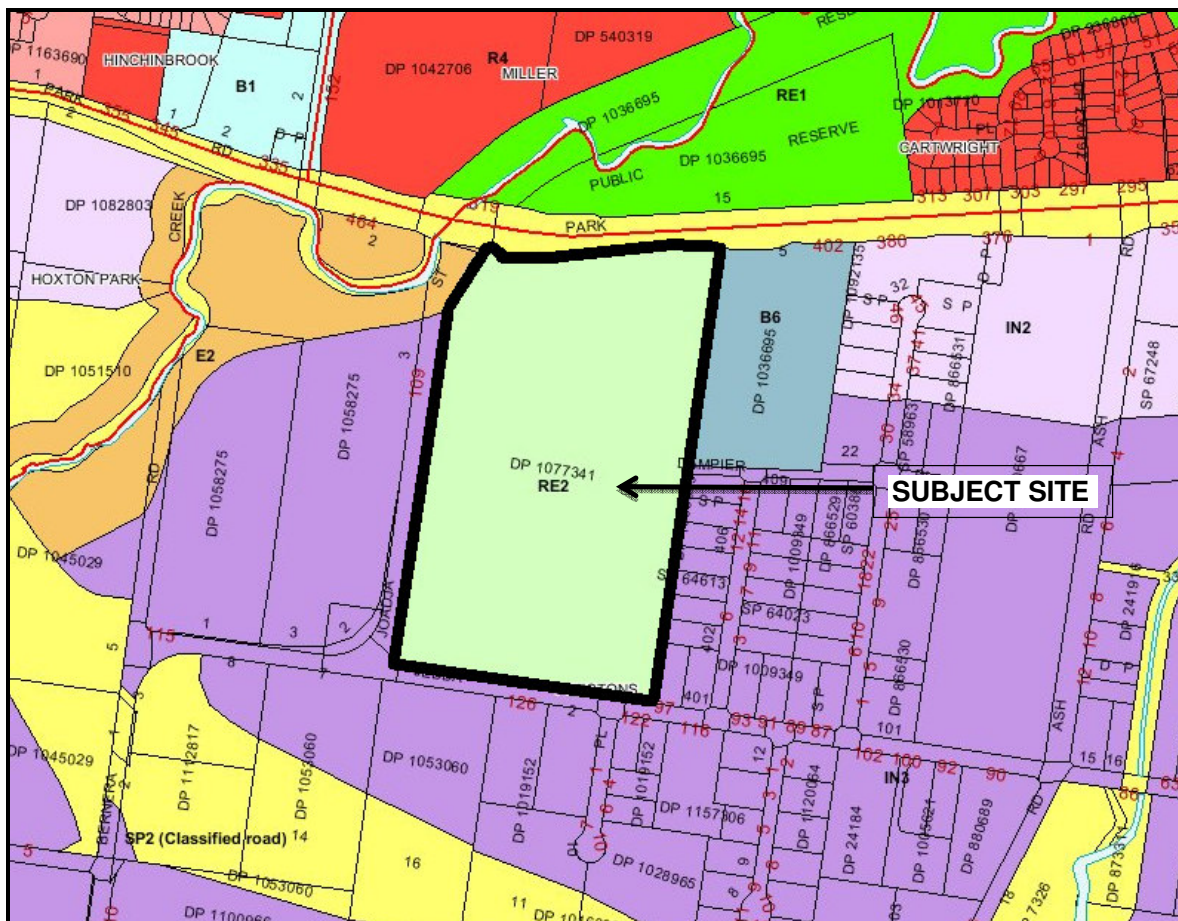
Conditions of consent are recommended to ensure that the proposed development complies with the requirements of the RMS.

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

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

**(i) Permissibility**

The subject site is zoned Private Recreation RE2 pursuant to the Liverpool Local Environmental Plan 2008 (LLEP 2008).



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

*"hotel means a building or place (whether or not licensed premises under the Liquor Act 1997) that provides temporary or short-term accommodation on a commercial basis and that:*

- (a) Comprises rooms or self-contained suites, and*
- (b) May provide meals to guests or the general public and facilities for the parking of guests' vehicles,*



*but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation."*

The proposal involves short-term accommodation on a commercial basis comprising self-contained suites, and is not backpackers' accommodation, a boarding house, bed and breakfast or farm stay accommodation. Accordingly, the proposal is permitted in the zones, only with Development Consent.

In addition, the proposed development includes a 'kiosk' which is defined as follows:

**"kiosk** means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like."

The proposed kiosk is consistent with the above definition.

**(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.*

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

- The current use of the land for recreational purpose will be maintained as a result of the proposed development;
- The proposed development will enhance the existing recreational settings and activities currently on the site. The proposed development is compatible with existing uses on the site;
- The proposed development will not have an adverse impact on the natural environment for recreational purposes;
- Currently, the site provides for sufficient and equitable distribution of public open space to meet the needs of residents. This will not be unduly impacted as a result of the proposed development; and
- The subject site is not affected by environmentally significant or environmental sensitive land. The proposed development will not have an impact on any nearby environmentally significant or environmentally sensitive 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 a maximum height requirement of 18 metres.

The proposed hotel has a maximum height of 42.6 metres. Specifically, the hotel provides for a maximum building height of 39 metres, with roof elements projecting a further 3.6 metres above.

The proposal would exceed the maximum building height by 24.6 metres.

The applicant has provided a written request for a variation in accordance with Clause 4.6 of Liverpool LEP 2008 with respect to the proposed variation to the maximum building height requirement.

In summary, the written request for a variation submitted by the applicant provides for the following reasons as to why this variation should be afforded for the proposed development:

- The subject development site is substantially separated from land zoned for residential purposes;
- No other variation to a development standard is sought;
- The proposed development will maintain and enhance the existing mix of uses on the subject development site;
- The proposed development has been designed to physically and visually integrate with the existing buildings on the site;
- The proposed development has been designed to provide a high quality urban form and strict compliance with the maximum building height control would diminish the design quality of the proposed development;
- Adjoining development is afforded a 30 metre maximum height limit;
- and
- As the subject development site is flood prone, the building footprint is minimised to ensure existing flood mitigation measures are maintained.

The objectives of Clause 4.3 *Height of Buildings* are as follows:

***(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,***

The proposed development provides for a building design which complies with the maximum floor space ratio permitted for the subject development site.

***(b) to permit building heights that encourage high quality urban form,***

The proposed development will result in a high quality design that will improve the urban form of the subject site. The design of the hotel will be well integrated with the existing hotel building and has considered other improvements existing on the site such as the sporting oval, which has encouraged the curved shape of the proposed building

***(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,***

The subject development site is bound by existing industrial development and vacant land

adjoining the site is zoned for industrial purposes. The closest public area located with respect to the subject site is a public reserve located on the opposite side of Hoxton Park Road.

Despite the significant variation to the maximum building height, the significant setbacks provided from each property boundary will ensure that adjoining buildings and public area will continue to receive satisfactory exposure to the sky and sunlight. The shortest setbacks to the proposed development will be provided from the side eastern boundary being, 119.2 metres and the front setback to Hoxton Park Road, being 63.4 metres.

***(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.***

The proposed height of the hotel will provide for an appropriate transition in built form given that the existing hotel building is 27 metres in height. It is considered that the proposed development will not result unreasonable intensification of the subject site, given that all other relevant development standards and planning controls will remain compliant with Liverpool Local Environmental Plan and Liverpool Development Control Plan 2008.

In this respect, in consideration of the variation provided by the applicant (refer to attachment 7.2); the comments provided by the Design Review Panel which are canvassed later in this report and the objectives of Clause 4.3 *Height of Buildings*, it is considered that the variation to the maximum building height is worthy of support in this circumstance.

**Clause 4.6 - *Exceptions to development standards***

As canvassed above, the subject site contains a maximum height requirement of 18 metres pursuant to Clause 4.3 *Height of Buildings*.

The proposed hotel provides for a maximum overall height of 42.6 metres resulting in a variation to the maximum building height requirement of 24.6 metres.

The applicant has provided a written request for a variation to Clause 4.3 *Height of Buildings* in accordance with Clause 4.6 of Liverpool LEP 2008 (see attachment 7.2) which addresses the following requirements:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) the consent authority is satisfied that:*
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,*

The written request for a variation is considered to have appropriately addressed the above requirements of Clause 4.6 of Liverpool Local Environmental Plan 2008. In summary, it provides the following reasons as to why the proposed variation to Clause 4.3 *Height of Buildings* is reasonable and appropriate in this particular circumstance:

- the subject site is relatively large and the proposed building is substantially separated from any land zoned or used for residential purposes;
  - the proposed development will not impose any adverse impacts on the amenity of surrounding land;
  - the proposed development will achieve a good level of internal amenity in terms of both the existing and new buildings on the site;
  - the proposed variation to the building height control is not accompanied by a variation to the FSR control;
  - the proposed development will maintain and enhance the existing mix of uses on the site in accordance with the objectives of the RE2 - Private Recreation zone;
  - the proposed development has been designed to physically and visually integrate with the existing buildings on the site;
  - the proposed development will enhance the capacity of the *Liverpool Catholic Club* to service the recreational and social needs of the local community, as well as catering for the needs of its financial members;
  - the proposed development will meet the burgeoning commercial demand identified since the existing hotel commenced operations;
  - the existing hotel building includes a variation to the building height control and has made a positive and appropriate contribution to the public domain;
  - the proposed building has been designed to provide a high quality urban form as an attractive backdrop element when viewed from the public domain;
  - strict compliance with the building height control would diminish the design quality of the building, and unnecessarily increase the building footprint and horizontal massing;
- 
- relatively large portions of the site are affected by potential flooding during a 1 in 100 year flood event, circumstances in which retaining a smaller building footprint reduces the potential impacts on active flows while maintaining the volume of flood storage;
  - the surrounding sites are generally subject to a 30 metre height control, circumstances in which the proposed development is generally consistent with the broader objective of maintaining a transition in built form;
  - the proposed development includes the use of smaller interconnected elements to assist in establishing a stronger building base to reflect the form of existing buildings, and reduce the footprint of the taller element;
  - the curved portion of the building has been designed to follow the alignment of the existing flood-water swale and the edge of the sports ground;
  - the proposed building is setback approximately 63.4 metres from Hoxton Park Road to the north, 170 metres from Jbadja Road to the west, 420 metres from Jadda Road to the south, and 119.2 metres from the eastern boundary; and
  - the proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation.



It is considered that the proposed variation to the building height is worthy of support as the development exhibits high quality urban design, will enhance the existing urban form on the subject development site, does not contravene another development standard and is consistent with the objectives of Clause 4.3 *Height of Buildings* of LLEP 2008.

On this basis, it is considered that compliance with this development standard is considered to be unreasonable and unnecessary in this circumstance as there are sufficient planning grounds to justify the proposed variation. Given this, the proposed variation will be in the public interest.

**Clause 5.4 – Controls relating to miscellaneous permissible uses**

Clause 5.4(6) *Kiosks stipulates that “if development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 30 square metres.”*

The proposed kiosk is permissible and is a maximum of 30 square metres.

**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 17 hectares. The proposal involves a development footprint of 8023m<sup>2</sup> and achieves a floor space ratio of 0.19:1 which would meet this requirement.

**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.”*

A flood impact assessment of the proposed development prepared by Bewsher Consulting Pty Ltd was submitted with the application and was endorsed by Council's Flooding Engineer subject to conditions of consent.

The developer has proposed to compensate the loss of flood storage through equal volumes of cut and fill to be carried out.

**LIVERPOOL CITY COUNCIL**  
**SYDNEY WEST JOINT REGIONAL PLANNING PANEL**

PAGE - 22 of 78

---

The proposal therefore has satisfied the provisions of Clause 7.8.

**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 proposed earthworks will be in the form of the adaptation of the existing landscaping by utilising equal volumes of cut and fill to address potential flooding impacts.

No foreign materials will be imported into the site.

**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; and
- Part 1.2 – Additional General Controls for Development;

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

| 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 adaptation of the existing landscaping incorporating minor earthworks (equal volumes of cut and fill) to address the impact of the development on flood events is proposed. | Yes      |
| 4. Bushland And Fauna Habitat Preservation             | This has been addressed in the Clause 5.9 of LLEP 2008.   | Yes      |

# LIVERPOOL CITY COUNCIL

## SYDNEY WEST JOINT REGIONAL PLANNING PANEL

PAGE - 24 of 78

|  |  |     |
|--|--|-----|
| 5. Bush Fire Risk                      | <p>The application was referred to the NSW Rural Fire Service who have issued General Terms of Approval with respect to the proposed development.</p> <p>Details regarding an emergency and evacuation management plan (in accordance with <i>Planning for Bushfire 2006</i>) will be addressed as part of the detailed design to be undertaken at Construction Certificate stage.</p> | Yes |
| 6. Water Cycle Management              | Stormwater run-off from the proposed development would be directed to the existing stormwater system. Council's Land Development Engineer has reviewed the application and raises no objection to the proposal subject to conditions of consent.   | Yes |
| 7. Development Near Creeks And Rivers  | 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.  | Yes |
| 8. Erosion And Sediment Control        | There would be no discharges to natural watercourses prior to the treatment of the stormwater by means of the existing Gross Pollutant Trap (GPT) prior to discharging into the into Cabramatta Creek being a natural watercourse.   | 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                      | A condition of consent is to be imposed requiring an assessment of salinity prior to the issue of a Construction Certificate.  | Yes |
| 12. Acid Sulfate Soils Risk            | Refer to Clause 7.7 of LLEP 2008   | Yes |
| 13. Weeds                              | Existing vegetation on the subject development site will be maintained as part of the proposed development.  | Yes |
| 14. Demolition Of Existing Development | No demolition of any existing buildings is proposed as part of this development application.   | Yes |
| 16. Aboriginal Archaeology             | There are no indigenous or non-indigenous heritage or archaeological sites located on the subject development site.  | Yes |
| 17. Heritage And Archaeological Sites  | There are no archaeological or heritage values in existence on the site.   | Yes |
| 18. Notification Of Applications       | The proposal was placed on public exhibition. This matter is canvassed later in this report.   | Yes |

| PART 1.2 – ADDITIONAL GENERAL CONTROLS FOR DEVELOPMENT |  |     |
|--|--|-----|
| 2. Car Parking and Access                              | <p>A total of 221 parking spaces are required (including 5 disabled spaces) to be provided and designated for the use of the hotel patrons. 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 and would raise no objection subject to conditions of consent.</p> <p>Note: The RMS has required that the approved three storey car park shall be constructed and ready for operation prior to the construction of the proposed development. This will ensure that ample parking is provided for both the hotel and remaining club facilities.</p> | Yes |
| 4 & 5. Water and Energy Conservation                   | The development proposal will promote an efficient use of water and energy, and a sensitive approach to passive Environmentally Sensitive Design principles.   |     |
| 6. Landfill  | Equal volumes of cut and fill through the use of adaptive landscaping is proposed to address the potential impact of the new building during flood events. A plan has been provided which details the extent of these works.   | Yes |
| 7. Waste Management                                    | Management of construction materials from the site. Waste management during construction has been discussed within the submitted Statement of Environmental Effects.   | Yes |
| 8. Outdoor Advertising and Signage                     | No advertising structures are proposed as part of the subject application.   | Nil |

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

### 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 subject development site is located within the Cabramatta Creek catchment and is affected by flooding from Cabramatta Creek. The existing development will maintain all existing landscaping and flood storage works that have been established on site to maintain the overland flow of water in a flood event.

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

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

**Traffic and Parking**

The proposed development was reviewed by Council's Traffic Engineering Department who raised no objection to the proposed development subject to conditions of consent.

In consideration of traffic impact, the proposed development is considered to be satisfactory.

With respect to car parking, a total of 221 parking spaces (including 5 disabled spaces) are required to be provided and designated for the sole use of the hotel patrons in accordance with the requirement of Liverpool Development Control Plan 2008.

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 and would therefore raise no objection subject to conditions of consent.

It is noted that the RMS has required that the approved three storey car park shall be constructed and ready for operation prior to the construction of the proposed development. This will ensure that ample parking is provided for both the hotel and remaining club facilities and is recommended to be imposed by way of a condition of consent.

**(c) Urban Design**

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

“



### Summary

The Panel noted that heights of the proposed tower and slab building exceed the 18m maximum which is permitted by *LLEP 2008*.

Panel members agreed, having regard for the context of such a large site which is separated from residential development, that proposed height of itself does not indicate an inferior urban design quality. In relation to the proposed development, the primary objective for urban design quality should be to achieve an architecturally-cohesive family of structures which provide an attractive backdrop to a heavily-trafficked road.

With regard to urban design quality, the Panel acknowledges objectives for maximum building height under the LEP which include 'high quality urban form' and a 'transition in built form...', and is aware that any proposal to vary the maximum building height must satisfy those objectives.

The Panel observed that proposed building forms and façade designs are significantly-different to the architectural character which is displayed by existing hotel and club buildings on this site. Visible differences in relation to existing architecture would conflict with the objective to achieve a 'family' of structures, and would accentuate height, scale and bulk of the proposed development. Such outcomes could not be considered consistent with the LEP's objectives for maximum building height.

Consequently, the Panel has concluded that the proposed development does not demonstrate satisfactory urban design quality, and has recommended comprehensive design amendments that would reduce proposed heights or substantially-modify the proposed building forms and exterior architecture. These recommendations are essential to achieve reasonable compatibility between the proposed development and existing hotel and club structures.

The amended design should be presented to the Panel for further consideration prior to completion of the Council officer's report. „

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

“

#### *iii Visual impact*

It is an Applicant's responsibility to present clear and cogent arguments in support of any proposal that involves non-compliant building height.

In relation to the current development proposal which includes non-compliant building heights and a complex composition of new and existing building forms, visual impact is a critical consideration. The current development application has not been assisted by the absence of three dimensional modelling and visual impact analysis. Diagrams that were tabled at the Panel meeting did not adequately depict forms and details of existing buildings, or include ground-level vantage points.

Amended plans which respond to the Panel's recommendations regarding built form and aesthetics should be accompanied by three dimensional illustrations which fully-describe proposed buildings and their relationship to existing hotel and club structures. Illustrations should describe significant elements of existing buildings which include building and roof forms, windows and balconies, and projecting blade walls.

Also, the amended plans should be supported by an analysis of visual impact. As the foundation for such analysis, the amended proposal should be described by three dimensional illustrations from significant public vantage points at ground level along the surrounding streets. The purpose of visual impact analysis is to provide a clear rationale for proposed building heights according to relevant aims and objectives of *LLEP 2008*. „

The above recommendations have been carried out by the applicant and provided for in amended plans which were reported to Council's Design Review Panel.

In response to the amended plans, the panel commented that *"further amendments are considered essential in order to achieve reasonable built-form compatibility between the existing building and the proposed development..."* The panel made specific recommendations with respect to amendments required with regard to the built form and façade as follows:

*"...this Panel agrees that the current development application does not justify variation of the LLEP's maximum building height by more than 200%. However, Panel members also agree that variation would be justified in terms of urban design quality if specific design amendments are made."*

Particular design amendments recommended by the panel relating to the built form and façade appearance are as follows:

**“iii Built form amendments**

*The Panel recommends the following amendments which are considered essential in order to achieve reasonable built-form compatibility between the existing building and the proposed development:*

*i For the proposed podium building:*

*Addition of a roof with overhanging eaves which appears similar to form and detailing of the roof upon the existing hotel building;*

*Either, addition of a roof directly above the proposed podium, and with the top-storey of that podium indented similar to the top storey of the existing hotel building;*

*Alternatively, addition of a roof-form above the proposed podium could cover an accessible roof terrace which contributes to amenity of the development (in other words, the roof form would be one storey taller than the existing hotel roof).*

*ii For the proposed tower:*

*Redesign of the horizontal roof parapet to provide an 'integrated roof feature' which would be compatible with the curvilinear form of proposed floorplates: for example, a 'sculpted' rising curve.*

**iv Façade amendments**

*The Panel also considers that the following amendments are essential in order to achieve reasonable built-form compatibility between the existing building and the proposed development, as well as to moderate the bulky character of broad curvilinear facades which would be prominent features of proposed podium and tower elements:*

*i For the proposed podium building:*

*The curved western wall that encloses access corridors should be replaced by a balanced composition of walls-and-windows in order to offset the bulky character of an otherwise sheer and planar façade which would be evident from Joadja Road;*

*Balanced composition of wall-and-windows should incorporate enlarged and additional windows, and also might include fixed sunshades.*

*ii For the proposed tower:*

*Scale of the tower should be moderated by amending the top-most storeys to break the sheer vertical alignment of enclosing walls, for example by incorporating or reflecting significant elements of the upper storey in the existing hotel;*

*In order to reflect or incorporate elements of the existing hotel building, top-most storeys in the proposed tower could be enclosed by a band of dark-tinted curtain walls of windows that are set*

*behind columns which appear to support the revised parapet form."*

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 the existing hotel development and its surrounds, while provide functionality.

**(d) Environment**

The subject application was accompanied with a traffic assessment, flood assessment and noise assessment report.

Requirements in the general terms of approval issued from external authorities would require the applicant to provide information in detailed design to address the surrounding environment.

The proposal contains measures to ensure that the environmental quality of the area is not diminished as a result of the proposed development. Operationally, the proposed development would provide for suitable measures and safeguards to mitigate any potential impacts on the environment.

**(e) Social and Economic Impact**

The proposed development is considered to provide for substantial social and economic benefit.

These benefits include:

- The proposal is considered to be a significant project for Liverpool and would exhibit a high quality design benchmark which will improve the urban form of an existing iconic landmark for the local area and the greater region.
- The proposed development is anticipated to increase economic activity by providing quality short stay accommodation within the LGA;
- The proposed development would generate local employment required to manage the day to day operations of the hotel, including maintenance of the hotel rooms, function areas and food and beverage facilities.
- The development would provide for a development that represents substantial economic and social benefits for the Liverpool LGA and the greater community.

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

The land is zoned for private recreation. The proposal is in keeping with existing development on the subject development site.

The proposed development has demonstrated that the potential impacts have been addressed and a number of measures are to be implemented to manage any potential adverse impacts.

The development has considered the existing built and environmental form on the development site and would seek to embellish the urban form of the site.

Particular consideration has been made with respect to the visual impact of the proposed development considering the site is easily distinguished from adjoining development by passing vehicles and pedestrians.

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. |
| Flooding and Drainage        | No objection raised, subject to conditions. |
| Design Review Panel          | No objection raised.                        |
| Strategic Planning           | No objection raised, subject to conditions. |

### (b) External Referrals

| External Authority  | Status and Comments   |
|---|---|
| Department of Primary Industries -Office of Water – <i>Water Management Act 2000 (Nominated Integrated Development)</i> ; | No objections raised. General Terms of Approval not required. |
| NSW Rural Fire Service – <i>Rural Fires Act 1997 (Integrated development)</i>   | General Terms of Approval issued                              |
| State Environmental Planning Policy (Infrastructure) 2007 – Roads and Maritime Services (RMS)                             | No objection raised subject to conditions.                    |
| Liverpool Local Area Command  | No objection raised subject to conditions.                    |

### (c) Community Consultation

The subject Development Application was placed on public exhibition on two (2) separate occasions from 28 August 2013 to 12 September 2013 and from 18 December 2013 to 24 January 2014.

No submissions were received.

**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 would embellish the existing improvements on the site. Moreover, the proposal involves works which would create attractive and high quality short stay accommodation for the benefit of the local and wider community. In addition, these works seek to enhance the urban form of the area.

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 proposed development represents a significant opportunity to enhance the existing development site which is identified as an iconic landmark both for the Liverpool LGA and wider community.
- The application was referred to a number of external authorities including the Roads and Maritime Services, NSW Office of Water and NSW Rural Fire Service 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 low, medium and high flood risk. The application has been accompanied with a flood assessment report which concludes that the proposed development would maintain the existing flood storage on the subject site subject to the proposed earthworks.
- Existing vehicular access from the subject development site is acceptable in accommodating for the proposed development. Ample parking will be provided on the subject development site prior to the construction of the proposal to accommodate for hotel staff and patrons.

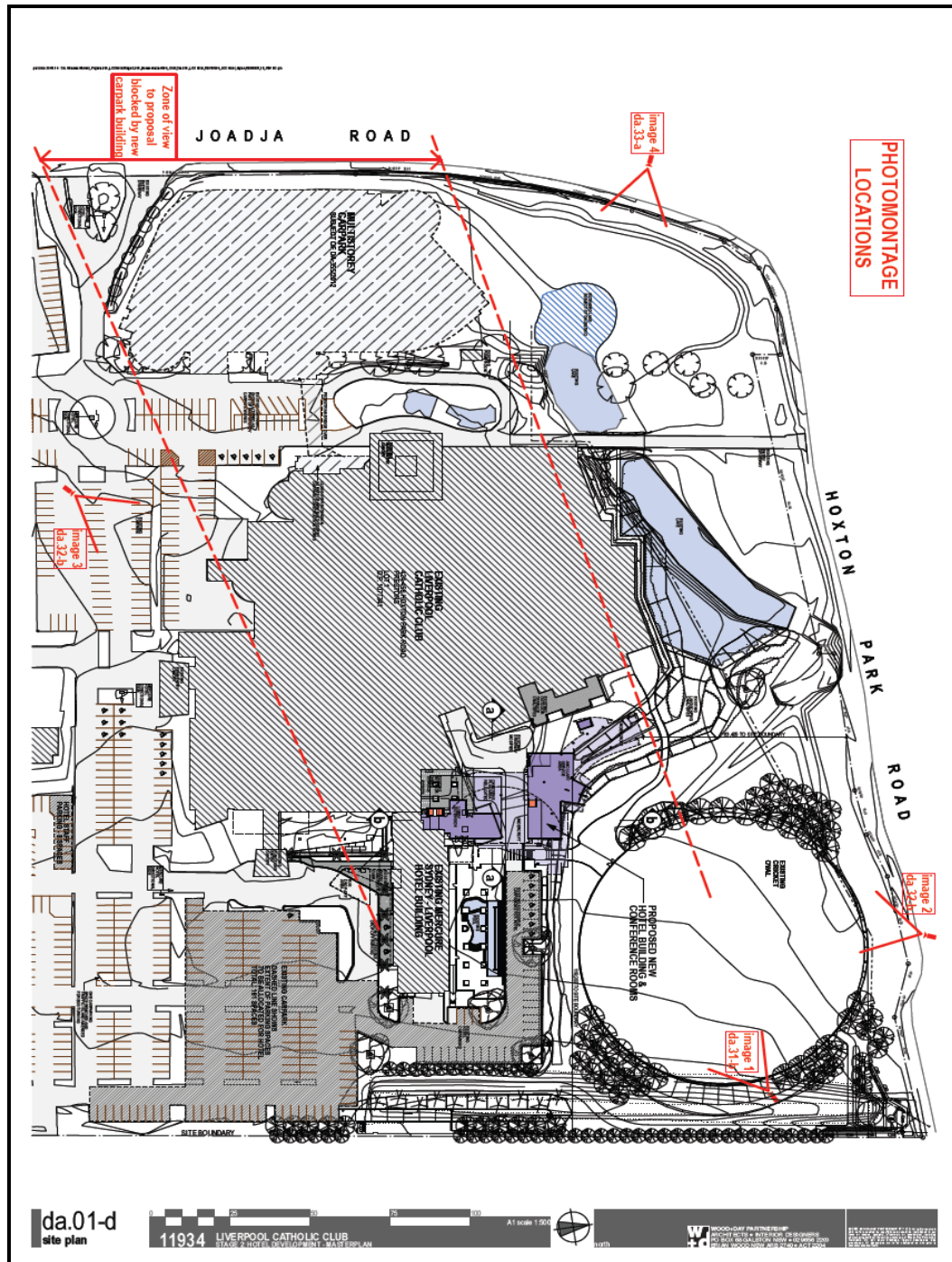
It is for these reasons that the proposed development is considered to be satisfactory, the subject application is recommended for approval, subject to conditions of consent.

**7. ATTACHMENTS**

- 7.1 Plans of the proposal**
- 7.2 Clause 4.6 written request for a variation to a development standard**
- 7.3 Recommended conditions of consent**



## 7.1 Plans of the proposal



## Site Plan

## PAGE - 34 of 78



## PAGE - 35 of 78







2 View from north-east over Horton Park Road

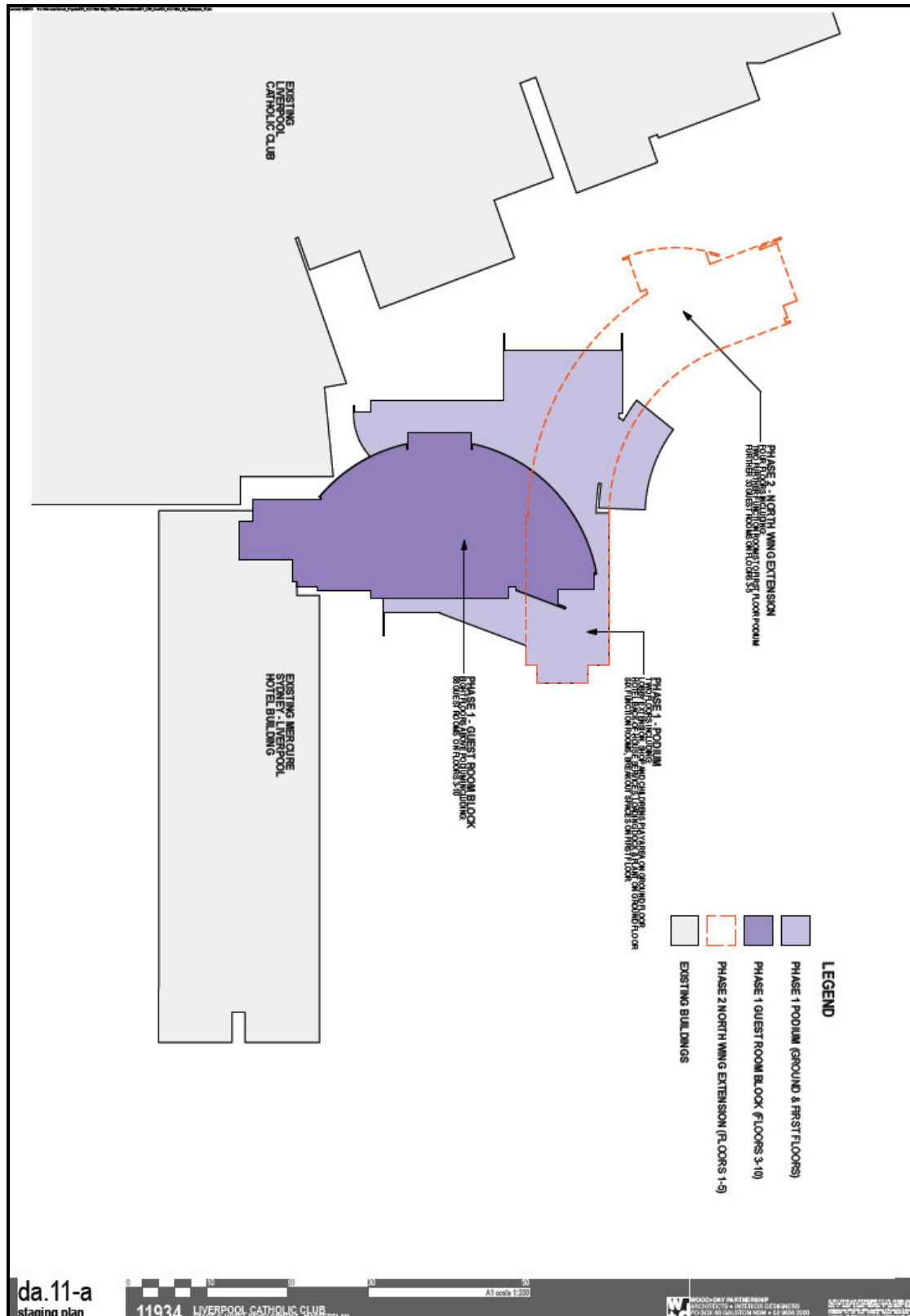


4 View from south-west - corner of Lisdella & Maddala Roads

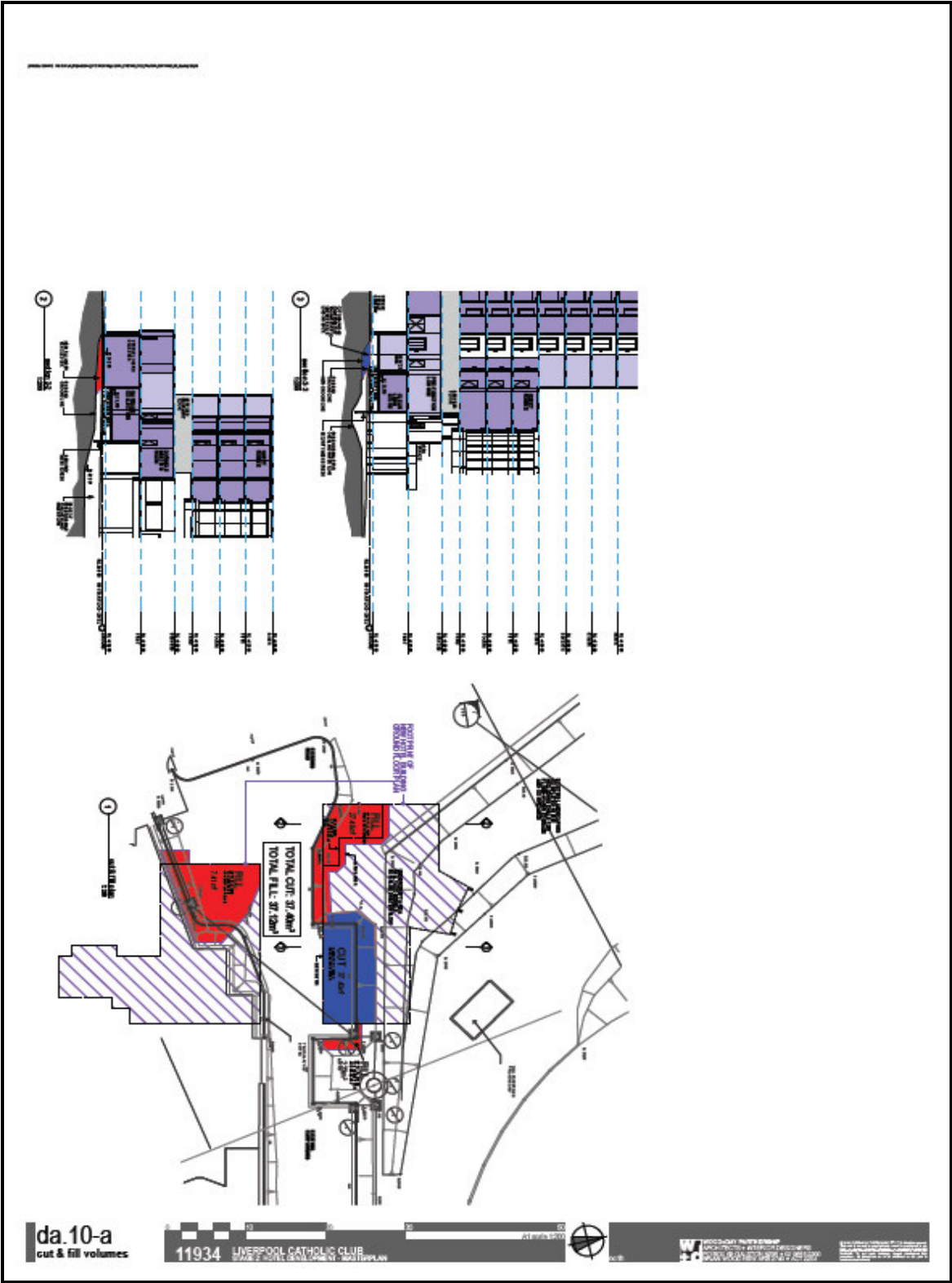


## Visual Perspectives



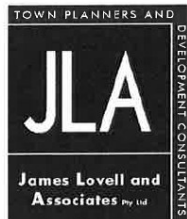


Staging Plan



Cut and fill Volumes

7.2 Clause 4.6 written request for a variation to a development standard



Ph: (02) 9986 3362 Fax: (02) 9986 3364

Suite 14, 16 Narabang Way, Belrose 2085

PO Box 716, Turramurra 2074

Email: james@jameslovell.com.au

Web: www.jameslovell.com.au

2 September 2013

The General Manager  
Liverpool City Council  
Locked Bag 7064  
LIVERPOOL BC NSW 1871  
Attention: Lina Kakish

Dear Madam,

**DEVELOPMENT APPLICATION NO. 1709/2012**  
**424 - 458 HOXTON PARK ROAD, PRESTONS**

**Introduction**

This submission has been prepared to accompany Development Application No. 1709/2012. The proposed development comprises expansion of the existing (*Mercure Sydney Liverpool*) hotel associated with the *Liverpool Catholic Club* located at No's 424 - 458 Hoxton Park Road, Prestons.

On 5 November 2012, Council wrote to the Applicant to advise that "*written justification*" was required in relation to the proposed variation to the building height control incorporated in Clause 4.3 of the Liverpool Local Environmental Plan (LEP) 2008.

The purpose of this submission is to formally request a variation to the building height control pursuant to Clause 4.6 of the Liverpool LEP 2008.

**Site Details**

The subject site formally comprises Lot 1 in Deposited Plan 1077341, and is commonly known as No's 424 - 458 Hoxton Park Road, Prestons. The site is located on the southern side of Hoxton Park Road, at the junction with Jodja Road.

The site encompasses a total area of approximately 17.88 hectares, with frontages of approximately 313 metres to Hoxton Park Road, 525 metres to Jodja Road, and 322 metres to Jodja Road. The site also has a frontage to the western end of Dampier Place.

James Lovell and Associates

James Lovell and Associates

The *Liverpool Catholic Club* was established on the site in 1979, and since then has been providing an important service in terms of the recreational and social needs of the local community, as well as catering for the needs of its financial members.

The existing facilities on the site generally include a sports centre, gymnasium, ice rink, outdoor sporting facilities, and a full range of Club related recreational, gaming, food and entertainment facilities.

On 18 July 2007, Council granted Development Consent (DA1130/2007) for the "*Erection of a Six - Storey Hotel (100 Rooms), Integrated with Existing Club Facilities*". On 28 July 2008, the approved development was amended pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 to provide an additional two (2) accommodation rooms. The hotel is now operating as the *Mercure Sydney Liverpool*.

The existing hotel comprises a 6-storey building, abutting the main Club building to the east. The hotel provides 102 accommodation rooms, with off-street car parking approved for 40 vehicles to service the hotel. The car parking spaces are generally located to the north and east of the hotel building.

#### **Proposed Development**

The proposed development generally comprises expansion of the existing hotel to provide an additional 121 accommodation rooms, 8 - 11 meeting rooms (3 divisible rooms) and associated services. An additional 100 off-street car parking spaces will be allocated to the expanded hotel from the Club's existing off-street car parking provision.

Further, a separate Development Application (DA 355/2012) has been submitted to Council for the construction of a multi-storey car park immediately to the west of the main Club building, and it is proposed to delay construction of the expanded hotel until construction of the multi-storey car park is complete.

The additional accommodation rooms and associated facilities are proposed within an interconnected extension to the north-west of the existing hotel, generally between the existing hotel and main Club building.

The base of the new building has been designed to straddle the existing service driveway, maintaining access to the rear of the auditorium in the main Club building. Further, the new ground floor level service areas will be suspended over the existing landscaped earth bank to avoid disturbance to the overland flow and catchment volumes.

The existing hotel atrium will be demolished to accommodate an expansion of the existing lobby to include two (2) new lifts, stair access to the first floor level meetings rooms, and a small kiosk and internet café at the ground floor level.

---

James Lovell and Associates

The existing children's playground will be relocated to the west, minor changes will be made to the existing bistro dining area, minor adjustments will be made to the kerbs of the existing access driveway to the rear of the auditorium, and the existing landscaping will be adapted with equal volumes of cut and fill.

The existing hotel extends to a maximum height of approximately 27.2 metres, and the expanded hotel extends to a maximum height of approximately 39 metres, with architectural roof features projecting 3.6 metres above.

The expanded hotel has been designed to provide additional accommodation rooms, and a series of meeting rooms, in order to meet burgeoning commercial demand identified since the existing hotel commenced operations.

#### Background

On 22 November 2012, the Applicant attended a meeting of the Design Review Panel (DRP). The Minutes of the meeting include a discussion of the proposed variation to the building height control, with the summary noting that *"Panel members agreed, having regard for the context of such a large site which is separated from residential development, the proposed height of itself does not indicate an inferior design quality"*.

The DRP further noted that *"the primary objective for urban design quality should be to achieve an architecturally-cohesive family of structures which provide an attractive backdrop to a heavily-trafficked road"*, and that amendments are required *"to achieve reasonable compatibility between the proposed development and the existing hotel and club structures"*. In particular, the *"new structures should reflect or respond to the most pronounced or positive elements of the existing buildings"*.

The Applicant met with Council staff on 9 May 2013 to discuss the proposed development with respect to the building height, and the potential to modify the external detailing of the building to further enhance the relationship between the existing and proposed structures.

On 13 May 2013, the Council advised the Applicant that *"Council would like to invite the submission of the amended proposal at its current proposed height"*. Further, *"please note that Council's assessment heavily relies upon maintaining the visual amenity of the locality and accordingly, the development must not have an adverse visual impact within the area. In this regard, it is essential that sufficient visual concepts accompany the application to ensure that the visual impact of the proposal is clearly demonstrated. This must be taken into particular consideration when viewed from Hoxton Park Road, Jada Road and the opposite public reserve"*.

The Projects Architects have subsequently refined the design of the proposed development, particularly with respect to the visual relationship between the existing and proposed structures.



James Lovell and Associates

Further, a series of photomontages have been prepared to demonstrate the visual impact of the proposed development when viewed from two (2) locations along the carriageway of Hoxton Park Road, from the playing field on the grounds of the *Liverpool Catholic Club*, and from the playing fields along Joadja Road.

#### **Legislative Context**

The site is zoned RE2 - Private Recreation pursuant to the Liverpool LEP 2008, and "*registered clubs*" and "*hotel or motel accommodation*" are permissible in the zone with the consent of Council.

Clause 2.3(2) of the LEP specifies that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the RE2 - Private Recreation zone are expressed as follows:

- 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.

Clause 4.3 of the LEP specifies a maximum building height of 18 metres. The existing hotel extends to a maximum height of approximately 27.2 metres, and the expanded hotel extends to a maximum height of approximately 39 metres, with feature elements projecting a further 3.6 metres above.

Clause 4.6(2) of the LEP specifies that "*development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument*".

Clause 4.6(3) specifies that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4) specifies that development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:

James Lovell and Associates

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Director-General has been obtained.

Finally, Clause 4.6(5) specifies that in deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

#### Assessment

##### Is the requirement a development standard?

The building height control is a development standard and is not excluded from the operation of Clause 4.6(2) of the LEP.

##### What is the underlying object or purpose of the standard?

The objectives of the building height control are expressed as follows:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

In terms of objective (a), Clause 4.4 of the Liverpool LEP specifies a maximum floor space ratio (FSR) of 0.25:1. The existing buildings on the site have an FSR of approximately 0.14:1. The proposed development provides an additional 8,023m<sup>2</sup> of gross floor area, generating a total FSR of 0.19:1. In the circumstances, the proposed variation to the building height control has not resulted in a non-compliance with the FSR control.

In terms of objective (b), the proposed building has been designed to provide a high quality urban form as an attractive backdrop element when viewed from the public domain. The building form has been broken into a series of interconnected elements to diminish the visual

James Lovell and Associates

mass, with the curved portion of the building designed to follow the alignment of the existing flood-water swale and the edge of the sports ground.

Similarly, the use of smaller interconnected elements assists in establishing a stronger building base to reflect the form of existing buildings, and reduce the footprint of the taller element.

In that regard, relatively large portions of the site are affected by potential flooding during a 1 in 100 year flood event, circumstances in which retaining a smaller building footprint reduces the potential impacts on active flows while maintaining the volume of flood storage.

Further, the Project Architects have modified the external detailing of the building to further enhance the relationship between the existing and proposed structures, with the taller element reflecting the architectural detailing of the base element.

In terms of objective (c), the proposed building is setback approximately 63.4 metres from Hoxton Park Road to the north, 170 metres from Joadja Road to the west, 420 metres from Jodda Road to the south, and 119.2 metres from the eastern boundary. Further, there is no land in the immediate vicinity of the site zoned or used for residential purposes. In the circumstances, all of the surrounding buildings and public areas will continue to receive satisfactory exposure to the sky and sunlight.

In terms of objective (d), the surrounding sites to the east, west and south are subject to a 30 metre height control (to the rear of the properties fronting Hoxton Park Road to the east). In the circumstances, the proposed variation to the height control is generally consistent with the broader objective of maintaining a transition in built form.

Again, the use of smaller interconnected elements assists in establishing a stronger building base to reflect the form of existing buildings, and reduce the footprint of the taller element.

Further, the proposed development comfortably complies with the applicable FSR control, circumstances in which the proposed variation to the height control maintains an appropriate relationship with surrounding land in terms of the general land use intensity.

In summary, the proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The Department of Planning published "*Varying development standards: A Guide*" (August 2011), to outline the matters that need to be considered in Development Applications involving a variation to a development standard. The Guide essentially adopts the views expressed by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827 to the extent that

James Lovell and Associates

there are five (5) different ways in which compliance with a development standard can be considered unreasonable or unnecessary.

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Again, the proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The objectives of the building height control remain relevant, and the proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation.

Irrespective, it remains relevant to appreciate that the subject site is relatively large, and the proposed building is substantially separated from any land zoned or used for residential purposes. In the circumstances, the physical context of the site provides an opportunity to design a building that is largely unconstrained in terms of potential impacts on the amenity of surrounding land.

Further, relatively large portions of the site are affected by potential flooding during a 1 in 100 year flood event, circumstances in which retaining a smaller building footprint reduces the potential impacts on active flows while maintaining the volume of flood storage

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation. In the circumstances, strict compliance with the building height control would be unreasonable and unnecessary to the extent that compliance with the control would diminish the design quality of the building, and unnecessarily increase the building footprint and horizontal massing.

4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The building height control has not specifically been abandoned or destroyed by the Council's actions. Irrespective, it remains relevant to appreciate that the existing hotel building includes a variation to the building height control, and the existing building makes a positive and appropriate contribution to the public domain.

James Lovell and Associates

5. *Compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

The existing hotel building includes a variation to the building height control. Further, the subject site is relatively large, and the proposed building is substantially separated from any land zoned or used for residential purposes.

In the circumstances, the physical context of the site provides an opportunity to design a building that is largely unconstrained in terms of potential impacts on the amenity of surrounding land.

Irrespective, the zoning of the land remains relevant and appropriate, and the proposed development maintains and enhances the mix of existing uses on the site in accordance with the objectives of the RE2 - Private Recreation zone.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The proposed variation to the building height control is reasonable and appropriate in the particular circumstances on the basis that:

- the subject site is relatively large and the proposed building is substantially separated from any land zoned or used for residential purposes;
- the proposed development will not impose any adverse impacts on the amenity of surrounding land;
- the proposed development will achieve a good level of internal amenity in terms of both the existing and new buildings on the site;
- the proposed variation to the building height control is not accompanied by a variation to the FSR control;
- the proposed development will maintain and enhance the existing mix of uses on the site in accordance with the objectives of the RE2 - Private Recreation zone;
- the proposed development has been designed to physically and visually integrate with the existing buildings on the site;
- the proposed development will enhance the capacity of the *Liverpool Catholic Club* to service the recreational and social needs of the local community, as well as catering for the needs of its financial members;
- the proposed development will meet the burgeoning commercial demand identified since the existing hotel commenced operations;
- the existing hotel building includes a variation to the building height control and has made a positive and appropriate contribution to the public domain;
- the proposed building has been designed to provide a high quality urban form as an attractive backdrop element when viewed from the public domain;
- strict compliance with the building height control would diminish the design quality of the building, and unnecessarily increase the building footprint and horizontal massing;



James Lovell and Associates

- relatively large portions of the site are affected by potential flooding during a 1 in 100 year flood event, circumstances in which retaining a smaller building footprint reduces the potential impacts on active flows while maintaining the volume of flood storage;
- the surrounding sites are generally subject to a 30 metre height control, circumstances in which the proposed development is generally consistent with the broader objective of maintaining a transition in built form;
- the proposed development includes the use of smaller interconnected elements to assist in establishing a stronger building base to reflect the form of existing buildings, and reduce the footprint of the taller element;
- the curved portion of the building has been designed to follow the alignment of the existing flood-water swale and the edge of the sports ground;
- the proposed building is setback approximately 63.4 metres from Hoxton Park Road to the north, 170 metres from Joadja Road to the west, 420 metres from Jedda Road to the south, and 119.2 metres from the eastern boundary; and
- the proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation.

Are there any matters of State or regional significance?

The proposed variation to the building height control does not raise any matters of State or regional significance.

What is the public benefit of maintaining the standard?

The proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation. In the circumstances, the proposed development does not affect the public benefit of maintaining the building height control in other instances.

Any other matters?

There are no further matters of relevance to the proposed variation to the building height control.

**Conclusion**

The purpose of this submission is to formally request a variation to the building height control pursuant to Clause 4.6 of the Liverpool LEP 2008.

In general terms, compliance with the building height control is unreasonable or unnecessary in the particular circumstances, and there are sufficient environmental planning grounds to justify the proposed variation to the building height control.

James Lovell and Associates

I trust this submission is satisfactory for your purposes, however should you require any further information or clarification please do not hesitate to contact the writer.

Yours Sincerely,



James Lovell  
Director  
James Lovell and Associates Pty Ltd

**7.3 Recommended conditions of consent****STAGED APPROVAL**

This approval is for a staged consent with the stages being identified as follows:

| • S<br>T<br>A<br>G<br>E | • DEVELOPMENT WORKS   | • CONDITI<br>ON<br>REFERE<br>NCE   |
|-------------------------|---|--|
| • 1                     | <ul style="list-style-type: none"> <li>• Construction of the ground floor, first floor and guest room block (floors 3-10) including required earthworks.</li> <li>• </li> </ul> | <ul style="list-style-type: none"> <li>• </li> <li>• Conditions relevant to all stages.</li> <li>• </li> <li>• </li> </ul> |
| • 2                     | <ul style="list-style-type: none"> <li>• Construction of the north wing extension (floors 1-5).</li> <li>• </li> <li>• </li> <li>• </li> </ul>                                  | <ul style="list-style-type: none"> <li>• Conditions relevant to all stages.</li> <li>• </li> </ul>                         |

**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         | da.01       | D     | Wood + Day Partnership | Undated. |
| Ground floor plan | da.02       | B     | Wood + Day Partnership | Undated. |
| First floor plan  | da.03       | B     | Wood + Day Partnership | Undated. |
| Floors 3-5        | da.04       | B     | Wood + Day Partnership | Undated. |

**LIVERPOOL CITY COUNCIL**

**SYDNEY WEST JOINT REGIONAL PLANNING PANEL**

PAGE - 52 of 78

|  |       |   |                                  |                         |
|--|-------|---|----------------------------------|-------------------------|
| floor plan   |       |   | Day<br>Partnershi<br>p           |                         |
| Floor 6-10<br>floor plan                               | da.05 | B | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Roof Plan  | da.06 | B | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Elevations<br>Plan 1                                   | da.07 | C | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Elevations<br>Plan 2                                   | da.08 | C | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Sections<br>Plan                                       | da.09 | B | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Cut and<br>Fill<br>Volumes                             | da.10 | A | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Staging<br>Plan  | da.11 | A | Wood +<br>Day<br>Partnershi<br>p | Undated.                |
| Stormwat<br>er<br>Services<br>Site Plan                | SW-01 | A | Sparks<br>and<br>Partners        | 6<br>Septemb<br>er 2012 |
| Stormwat<br>er<br>Services<br>Ground<br>Floor Plan     | SW-02 | A | Sparks<br>and<br>Partners        | 6<br>Septemb<br>er 2012 |
| Stormwat<br>er<br>Services<br>Frist Floor<br>Plan      | SW-03 | A | Sparks<br>and<br>Partners        | 6<br>Septemb<br>er 2012 |
| Stormwat<br>er<br>Services<br>Levels 2-4<br>Floor Plan | SW-04 | A | Sparks<br>and<br>Partners        | 6<br>Septemb<br>er 2012 |
| Stormwat<br>er   | SW-05 | A | Sparks<br>and                    | 6<br>Septemb            |

|   |       |   |                           |                         |
|---|-------|---|---------------------------|-------------------------|
| Services<br>Levels 5-9<br>Floor Plan                  |       |   | Partners                  | er 2012                 |
| Stormwater<br>Services<br>Roof Plan<br>and<br>Details | SW-06 | A | Sparks<br>and<br>Partners | 6<br>Septemb<br>er 2012 |

- (b) Traffic and Parking Assessment prepared by John Coady Consulting Pty Ltd, Reference No. 12035, dated 15 October 2012 (including further letter prepared by John Coady Consulting Pty Ltd Reference No. 12035 dated 1 March 2013);
- (c) Flood Impact Assessment (Revised) prepared by Bewsher Consulting Pty Ltd, Reference No. J1975L\_5, dated 18 October 2012;
- (d) Noise Impact Assessment, prepared by Benbow Environmental, Report NO. 131061\_Rep\_Rev1, 19 July 2013; and
- (e) NSW Police Green Valley Local Area Command CPTED comments, dated 4 February 2013.

except where modified by the undermentioned conditions.

#### 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 24 January 2014;
  - (b) Rural Fire Service – *Rural Fires Act 1997*, dated 7 December 2012; and
  - (c) State Environmental Planning Policy (Infrastructure) 2007 – Roads and Maritime Services (RMS), dated 20 March 2013.

Correspondence is attached to this decision notice.

#### RMS Concurrence

- 3. NSW Transport RMS comments issued, shall be complied with prior, during, and at the completion of construction as per the following:
  - (a) NSW Transport Roads and Maritime Services, dated 20 March 2013 (Reference No. SYD13/00168).

**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:**

**4. SECTION 94 PAYMENT (Liverpool Contributions Plan 2009)**

As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment is imposed in accordance with Liverpool Contributions Plan 2009 as amended.

The total contribution is **\$ 33,907**

**5. Waste Management Plan**

A waste management plan detailing the demolition phase, construction phase and ongoing use of the approved development, shall be submitted to the satisfaction of the PCA prior to the release of any Construction Certificate.

**Provision of Services**

6. 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.

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.

7. 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.
8. 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**

9. 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.
10. 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).*

11. 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.

**Notification**

12. 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 contact is entered into for the work to be done by a different licensee, Council must be immediately informed.

**Fee Payments**

13. 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.

14. 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 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.

**Crime Prevention through Environmental Design**

15. Crime Prevention through Environmental Design (CPTED) principles shall be incorporated into the development as per the recommendations outlined in correspondence from Liverpool Local Area Command dated 4 February 2013.
16. 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.

17. An Erosion and Sediment Control Plan (ESCP) is to be submitted with the CC. The ESCP is to be designed in accordance with the Managing Urban Stormwater Soils and Construction, also known as the Blue Book (current edition) produced by the NSW Department of Housing. Diversions structure or sediment basin should be provided to control runoff and sedimentation during the construction phase on site of the development

**Recommendations of Acoustic Report**

18. 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.

**Fire Safety Measures**

19. 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.
20. The schedule must distinguish between the measures that are currently implemented in the building premises; and
  - (a) The measures that are to be proposed to be implemented in the building premises; and
  - (b) The minimum standard of performance for each measure.

***Dilapidation Report***

21. A dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to Council.
22. Stormwater is to be collected within the site and conveyed in a pipeline to the appropriate point of discharge as directed by Council and as detailed on the approved plans.
23. 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

**Flooding**

24. All floor levels shall be no less than the 1% AEP flood plus half a metre freeboard (i.e.  $24.5\text{m} + 0.5\text{m} = 25.0\text{m}$  Australian Height Datum).
25. The approved development shall be constructed from flood compatible building components below the 1% AEP flood plus half a metre freeboard (i.e.  $24.5\text{m} + 0.5\text{m} = 25.0\text{m}$  Australian Height Datum).
24. An engineers report is required to be submitted to the satisfaction of the PCA prior to the issue of any Construction Certificate, 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.  $24.5\text{m} + 0.5\text{m} = 25.0\text{m}$  Australian Height Datum).
25. There shall be no net loss of floodplain storage volume below the 1% AEP flood. The flood storage compensatory works shall be carried out as indicated in the flood impact assessment by Bewsher Consulting Pty Ltd (Ref: J1975L\_5, dated 18 October 2012) and Drawing no. da.10-a, Cut & Fill Volumes by Wood-Day Partnership. The flood storage area shall be designed to provide effective drainage during and after a flood event.
26. Reliable access for pedestrians or vehicles shall be provided from the lowest habitable floor level to a location above the Probable Maximum Flood at all times.
27. The development shall be consistent with any relevant flood evacuation strategy or similar plan.
26. Devices are to be installed on all main stormwater discharge lines, for the emergency containment of pollutants that may discharge from and to the site. The design of such devices are to be carried out by suitably experienced persons with due regard to the likely/probable pollution for the usage specified in the application. The design of the works are to be certified to the satisfaction of the PCA. The construction of the designed devices are to be inspected and certified by a suitable experienced person referencing the approved design and development consent conditions to the satisfaction of the PCA prior to issue of the OC.

**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**

27. 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.
28. 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.
29. 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.

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

**Notification/Principal Certifying Authority**

31. 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.
32. 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.
33. 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.
34. 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.
35. 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.
36. 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.*
37. 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**

38. 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.

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**

39. Prior to any 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**

40. 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**

41. 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**

42. *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.*

43. 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.

#### **Waste Classification**

44. 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 essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non liquid waste advice should be sought from the DECCW (EPA).

#### **Hoarding**

45. A construction hoarding of class **A** must be erected to prevent any substance from, or in connection with the construction site, falling onto a public area:

This applies, as follows:

- (a) If the work is likely to cause pedestrian or vehicular traffic in a public area to be obstructed or rendered inconvenient; or
- (b) If craning of materials is to occur across a public area or road reserve area.

Such hoarding or barrier must be designed and erected in accordance with Council's guidelines on hoarding construction. Relevant application under the Roads Act approval must be completed and fees paid prior to the construction of a hoarding on Council road reserve area.

#### **Reports**

46. 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.

#### **Food Premises – Restaurant/Take-Away/Bakery**



47. 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).

**Environmental Management**

48. 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.
49. 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.

**D. DURING CONSTRUCTION**

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

50. 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.

51. In the case of a class 2, 3 or 4 building, critical stage inspections must be carried out by the appropriate person in accordance with the 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 of waterproofing in any wet areas for a minimum of 10% of rooms with wet areas within a building, and*
- (c) *prior to covering any stormwater drainage connections; and*
- (d) *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**

52. 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**

53. 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**

54. 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**

55. 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.

***Disabled Access***

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

**General Site Works**

57. 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.
58. All roofwater is to be connected to the existing stormwater system.
59. 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**

60. 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 maneuvering 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.

61. Directional signage indicating location of hotel parking is to be provided from each external club access in accordance with the approved plans.

**Traffic Management**

62. All works within the road reserve are to be at the applicants 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.
63. 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.
64. 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 prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.

**Waste Management Plan**

65. 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.

**Graffiti**

66. 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.

**Acid Sulfate Soils**

67. 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.
68. 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).

**Erosion Control**

69. 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.
70. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
71. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

**Water Quality**

72. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

**Air Quality**

73. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.

74. 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.
75. 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.
76. 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.

**Ventilation**

77. The premises shall be ventilated in accordance with the requirements of the BCA (if using deemed to satisfy provisions: AS 1668, Parts 1 & 2)
78. 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.

79. 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.*
80. 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.
81. 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.
82. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

**General Site Works**

83. 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.
84. Existing hydrological regimes shall be maintained so as not to negatively impact vegetation to be retained on site and downslope/downstream of the site.
85. Any runoff entering the areas of vegetation to be retained shall be of an equivalent or better quality, and of a similar rate of flow to present levels.
86. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
87. The site surface levels are to be designed so that site surface stormwater is deflected away from buildings and neighbours boundary fences and does not cause nuisance or flooding of those areas for storm events less than a 1% AEP.

**Pollution Control**

88. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.

**Food Premises – Restaurant/Take-Away/Bakery**

89. The construction, fitout and finishes of the premises shall comply with the AS 4674, Food Act 2003 and Regulations thereunder, and the requirements of **Attachment No. B**.

**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**

90. 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.
91. 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.
92. 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.
93. 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.



94. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.
95. 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 order that the alarms effectively protect the occupants of the building in accordance with the provisions of National Construction Code Part 3.7.2.

***Recommendations of Acoustic Report***

96. 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.
97. 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.

**98. Smoke Alarms**

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

**General Terms of Approval**

99. Any applicable requirements stipulated in the General Terms of Approval issued for the application are to be addressed and confirmed to the relevant authority.

**RMS**

100. Any applicable requirements stipulated in the correspondence (as per condition no. 3) issued for the application by the NSW Transport RMS are to be addressed and confirmed to the relevant authority.
101. Confirmation from an accredited bushfire consultant confirming the development is consistent with Planning for Bushfire Protection 2006.

**BASIX**

102. Supporting documentation issued by a suitable qualified person who has installed or carried out the works associated with the BASIX commitments shall be submitted to Council.

**Flooding**

103. There shall be no storage of materials below the 1% AEP flood plus half a metre (i.e. 24.5m + 0.5m = 25.0m Australian Height Datum) which may cause pollution or be potentially hazardous during any flood.
104. 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

105. 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.

#### **Traffic**

106. The Club is to provide a plan for approval by the Traffic and Transport Team showing the location and signage of all parking, including the location of directional signage to the hotel car park.

The plan is to also designate the access to, and location of, the tourist coach loading and unloading space.

#### **Showers**

107. To ensure adequate accessibility, no hobs are to be installed in the showers.

#### **Food Premises – Restaurant**

108. 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.
109. Trading shall not commence until an OC has been issued by the PCA.
110. 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.



## **G. CONDITIONS RELATING TO USE**

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

### **Car Parking/Loading**

111. A total of **221 designated hotel** off street car parking spaces must be provided in accordance with Council's relevant development control plan. **Five (5)** of the spaces must be designed and signposted/marked for the specific use of persons with a disability.
112. All parking areas shown on the approved plans must be used solely for this purpose.

### **Goods in Building**

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

### **Graffiti**

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

### **Waste**

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

### **Waste Storage Area**

118. 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.

### **Advertising**

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

### **Hours of Operation**

120. The approved development may operate 24 hours, 7 days a week.

The premise is permitted to operate on Public Holidays.

### **Noise**

121. Any alarm installed on the site is to be "silent back to base" type.
122. 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.

123. 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.

**124. Annual Fire Safety Statements**

Annual Fire Safety Statement - The owner of the building must issue an annual fire safety statement in respect of each essential fire safety measure in the building premises and cause a copy of that certificate to be given to Council within 14 days of its receipt by the owner.

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.

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 and as well cause a further copy of the statement (together with a copy of the current fire safety schedule) to be prominently displayed in the building,

125. Noise associated with the use of the premises, including mechanical plant and equipment, 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 7.00a.m to 10.00p.m daily and 0dB(A) above the L90 background between 10.00pm 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) 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) and (c) shall be carried out in accordance with AS 2973 for vibration measurements, AS1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

#### **Food Premises – Restaurant/Take-Away/Bakery**

126. The use of charcoal for the purposes of heating, cooking or smoking food on the premises is strictly prohibited.
127. 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.

#### **Swimming Pool Register**

128. Land owners are to be aware of their responsibility under the **Swimming Pools (Amendment) Act 2012** which requires swimming pools to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au)

The register will be available from 29 April 2013. There is no fee for the land owner to register their pool online.

From 29 October 2013, authorised officers *may* fine pool owners if their pool is not registered on the NSW Swimming Pool Register. The fine is \$220.00. In the event that an inspector refers the matter to court, a fine of up to a maximum of \$2,200 may be imposed.

#### **Reason for condition imposition:**

In 2012, a comprehensive review of the Swimming Pools Act 1992 was finalised. This review identified a number of amendments designed to enhance the safety of children under the age of five years around ('backyard') swimming pools in NSW. This condition is imposed to ensure that land owners are aware of their obligations under the Amendment



Act.

**ATTACHMENT (A)****CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL  
PLANNING & ASSESSMENT ACT, 1979****Liverpool Contribution Plan 2009**

**Note to the applicant:** When remitting payment as specified in the Conditions of Consent to the approval, this Form must be submitted with your payment.

These figures have been calculated to the December 2013 quarter and will be adjusted at the time of payment in accordance with the conditions of consent.

**APPLICATION NO:** DA-1709/2012

**APPLICANT:** WOOD AND DAY PARTNERSHIP P/L

**PROPERTY:** LIVERPOOL CATHOLIC CLUB, 424-458 HOXTON PARK ROAD PRESTONS, NSW 2170

**PROPOSAL:** CONSTRUCTION OF A TEN STOREY HOTEL AND ALTERATIONS TO THE EXISTING HOTEL BUILDING.

| <b><u>Facilities</u></b>     | <b><u>Amc</u></b> | <b><u>Job No.</u></b> |
|------------------------------|-------------------|-----------------------|
| Liverpool Contributions Plan |                   |                       |
| District Transport - Land    | \$1,7             | GL.10000001865.100    |
| District Transport - Works   | \$4,8             | GL.10000001865.100    |
| Local Transport              |                   |                       |
| East of M7 - Works           | \$1,4             | GL.10000001865.100    |
| East of M7 - Land            | \$0               | GL.10000001865.100    |
|                              |                   |                       |
| District Drainage - Land     | \$9,0             | GL.10000001866.100    |
| District Drainage - Works    | \$2,6             | GL.10000001866.100    |
| Local Drainage               |                   |                       |
| East of M7 - Land            | \$1,9             | GL.10000001866.100    |
| East of M7 - Works           | \$9,6             | GL.10000001866.100    |
|                              |                   |                       |
| Landscape Buffer - Land      | \$1,1             | GL.10000001869.100    |
| Landscape Buffer - Works     | \$121             | GL.10000001869.100    |
|                              |                   |                       |
| Administration               | \$409             | GL.10000001872.100    |
| Professional Fees            | \$849             | GL.10000001872.100    |

LIVERPOOL CITY COUNCIL

SYDNEY WEST JOINT REGIONAL PLANNING PANEL

PAGE - 74 of 78

|                     |                     |  |
|---------------------|---------------------|--|
|                     |                     |  |
| <b><u>TOTAL</u></b> | <b><u>\$33.</u></b> |  |

----- OFFICE USE ONLY -----

*RECORD OF PAYMENT*

6. TOTAL AMOUNT PAID: \_\_\_\_\_

7. DATE: \_\_\_\_\_

*Receipt No.:* \_\_\_\_\_ *Cashier:* \_\_\_\_\_



**ATTACHMENT (B)**

**Food Premises – Restaurant/Take-Away/Bakery**

1. All walls (including partition walls) within the kitchen, food preparation, storage and display areas shall be of solid construction (eg., bricks, cement or other approved material). These walls are to be finished with glazed tiles, stainless steel or other approved material adhered directly to the wall to a height of 2 metres above floor level.
2. Walls within the kitchen, food preparation, storage and display areas which are not of solid construction (eg., stud walls) shall be finished in tiles or other approved material from the floor level to the underside of the ceiling.
3. The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is non-slip, durable, resistant to corrosion, non-toxic, non-absorbent and impervious to moisture. The floor is to be graded and drain to an appropriate floor waste fitted with a basket arrestor.
4. If the floor in the food preparation and storage areas is constructed of tiles, the joints between the tiles shall be of a material that is non-absorbent and impervious to moisture.
5. The intersection of walls with floors and exposed plinths in the kitchen, food preparation, storage and display areas are to be coved to a minimum radius of 25mm.
6. All plinths are to be constructed of a material which is of solid construction and impervious to moisture. The plinths shall be:
  - (a) at least 75mm high;
  - (b) finished level to a smooth even surface;
  - (c) recessed under fittings to provide a toe space of not more than 50mm;
  - (d) rounded at exposed edges; and
  - (e) coved at the intersection of the floor and wall to a minimum radius of 25mm.
7. The ceiling is to be constructed of a material that is rigid, smooth faced and impervious to moisture. The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The surface finish is to be free of open joints, cracks, crevices or openings (drop ceiling panel is not permitted). The intersections of walls and the ceiling are to be tight jointed, sealed and dust-proof.
8. The drop-in panel ceiling in the food preparation and storage areas shall be replaced with an approved rigid, smooth faced and impervious material which is free of open joints, cracks, crevices or openings. The ceiling is to be painted with a light coloured washable paint.
9. All service pipes and electrical conduits shall be either:
  - (a) concealed in floors, walls, ceiling or concrete plinths, or

- (b) fixed with brackets so as to provide at least
    - i) 25mm clearance between the wall and the pipe/conduit; &
    - ii) 100mm between the floor and the pipe/conduit
  - (c) pipes so installed are not to run underneath fittings.
10. All architraves, skirting boards, picture rails and the like are not permitted within the kitchen, food preparation and storage areas.
  11. All openings in the walls, floors and ceilings through which service pipes and electrical conduits pass through are to be designed and constructed so as to prevent the access of vermin.
  12. The internal and external surfaces, including exposed edges to all benches, counters and shelving in the food preparation, storage, display and serving areas are to be finished with a rigid, smooth faced and non-absorbent material (eg laminate, stainless steel or other approved material) that is capable of being easily cleaned.
  13. All shelving shall be located at least 25mm off the wall or alternatively, the intersection of the shelf and the wall is to be completely sealed. NOTE: The lowest shelf shall be a minimum of at least 150mm above the floor level.
  14. The hot water service unit shall be positioned a minimum of 75mm clear of the adjacent wall surface and mounted a minimum of 150mm above the floor level on a stand of non-corrosive metal construction.
  15. A free standing, hands free hand wash basin shall be provided in a convenient position within the food preparation and serving areas. The hand wash basin shall be provided with hot and cold water supplied through a single outlet and fitted with an approved mixing device to enable hands to be washed under hot running water at a temperature of at least 40C.
  16. Cavities, false bottoms and similar hollow spaces capable of providing access and harbourage of vermin are not permitted to be formed in the construction of the premises or in the installation of fixtures, fittings and equipment.
  17. A double bowl sink or two-compartment tub shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least:
    - (a) 45C in one bowl for washing purposes; and
    - (b) 77C in the other bowl for rinsing purposes, together with a thermometer accurate to 10C.

