ITEM	**30 Webster Street, MILPERRA NSW 2214, 31 Webster Street, MILPERRA NSW 2214, 2 Maxwell Avenue, MILPERRA NSW 2214, Lot A in Deposited Plan (DP) 405225, Lot D in DP 391154, Lots B and C in DP 405225, Lots 1, 2, 25 and 26 in DP 361310 and Lots 57-65 in DP 9892** **A staged development under section 83B of the Environmental Planning and Assessment Act 1979 with Stage 1 comprising alterations and additions to the existing Deepwater Motor Boat Club building accommodating a first floor function centre, new restaurant, landscaping, carparking, emergency flood evacuation route through Webster Street and infrastructure services with Stage 2 comprising the construction of a new boatshed** **The staged development is 'Integrated Development' as defined in Section 91 of the Environmental Planning and Assessment Act 1979 requiring concurrence from the NSW Rural Fire Service and the NSW Office of Water under the Rural Fires Act 1997 and the Water Management Act 2000 respectively**
FILE	**DA-224/2014, JRPP Reference: 2014SYW050**
ZONING	**6(b) - Private Recreation** **5 - Special Uses: RTA Road Widening** **6(a) - Open Space**
DATE OF LODGEMENT	**19 March 2014**
APPLICANT	**Doltone House Deepwater Estate Pty Limited**
OWNERS	**Doltone House Deepwater Estate Pty Limited**
SITE AREA	**4.08 Hectares**
ESTIMATED VALUE	**$9,126,428**
AUTHOR	**City Planning and Environment (Jai Shankar)**

SUMMARY REPORT

This matter is reported to the Sydney West Joint Regional Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The proposed development has an estimated value of $9,126,428 and it involves works on Council owned land. This exceeds the capital investment threshold (over $5 million) for '*Council related development'* under Schedule 4A of the Environmental Planning and Assessment Act, 1979.

Development Application No. DA-224/2014 proposes a staged development under section 83B of the Environmental Planning and Assessment Act, 1979 with Stage 1 comprising alterations and additions to the existing Deepwater Motor Boat Club building accommodating a first floor function centre, new restaurant, landscaping, carparking, emergency flood evacuation route through Webster Street and infrastructure services with Stage 2 comprising the construction of a new boatshed. The applicant has provided the requisite details for Stage 1 to proceed without the need for separate consent. A separate DA will be required for Stage 2 works.

DA-224/2014 has been assessed against the following:

- Environmental Planning & Assessment Act 1979 (The Act),
- Environmental Protection and Biodiversity Conservation Act 1999,
- Threatened Species Conservation Act 1995,
- Roads Act 1993,
- Rural Fires Act 1997,
- Water Management Act 2000,
- Environmental Planning and Assessment Regulation 2000,
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment,
- State Environmental Planning Policy (SEPP) 55 – Remediation of Land,
- SEPP Infrastructure 2007,
- SEPP 64 – Advertising and Signage,
- NSW Floodplain Management Manual,
- Bankstown Local Environmental Plan 2001,
- Draft Bankstown Local Environmental Plan 2014,
- Bankstown Development Control Plan 2005.

The key issues that were raised during the assessment of the DA were flooding, flood evacuation and biodiversity. The issues have been addressed to Council's satisfaction and the DA satisfies the requirements under the above planning controls and is recommended for approval.

The application was advertised on two separate occasions as per the provisions under The Act and the Bankstown Development Control Plan 2005 and no objections were received.

POLICY IMPACT

The application proposes to use the provisions under Clause 12 of the BLEP 2001. Clause 12 allows for prohibited uses to be considered provided certain tests are satisfied. Council has assessed the development under Clause 12 and the proposal is satisfactory. Therefore, the use of Clause 12 in this instance does not set an undue precedence as it is site specific and the uses proposed respond positively to the site context and setting. Therefore, there is no policy impact in approving the subject DA.

FINANCIAL IMPACT

Other than the Section 94A contribution of 1% ($91,264.28) of the total value of works ($9,126,428), there are no other financial implications associated with the subject DA.

RECOMMENDATION

It is recommended that the application be approved as a deferred commencement Staged development consent in the following manner:

- Stage 1 comprising alterations and additions to the existing Deepwater Motor Boat Club building accommodating a first floor function centre, new restaurant, landscaping, carparking, emergency flood evacuation route through Webster Street and infrastructure services be approved under a Deferred Commencement basis subject to the following matters to be satisfied:

  - A suitably qualified Civil Engineer shall be engaged to prepare a detailed road and car parking design for the function centre carpark and Council Carpark/s, based on a topographic survey of Webster Street, prepared by a Registered Surveyor. The surveyor shall indicate the location of all existing trees and protected plants, within the vicinity of the proposed raised portion of Webster Street and the function centre carpark. The Engineer shall design the proposed levels and necessary batters required to raise Webster Street and the function centre carpark to a minimum level of RL2.7mAHD. The design plan shall be submitted to Council for an assessment of the impact on existing trees and proposed measures to protect them. The plans are to reduce any impact on existing trees and protected plants. Any necessary retaining structures are to be designed, sited and located to avoid impacting on protected trees and plants. Council shall nominate the retaining wall construction material prior to the issue of any Final Work Permit / Construction Certificate for the civil works associated with the development. The plans shall show the provision of an amount of Council carparking spaces equivalent to that lost by the raising of Webster Street.

  - A detailed plan of the Council carpark/s shall be prepared according to the following requirements:

    - Minimise impacts on native flora,
    - Road and carpark batters on the southern side of Webster Street turfed with Kikuyu sp,

- Grades area to be 1:5 in open parkland reducing to 1:3 around tree bases and root zone areas,
- Arborist advice must be sought to ensure grades are suitable to guarantee no damage to long term tree health, and
- The design shall comply with the relevant requirements of the Disability Discrimination Act, 1992 and Aus-Spec.

The location of the Council carpark/s shall be in the location shown on the concept carparking plan stamped by Council numbered DA-01.

- A revised Flood Impact Assessment and Flood Emergency Response Plan shall be submitted to Council having regard to a minimum function centre carpark being at a Level of 2.7mAHD.

- Stage 2 comprising the construction of a new boatshed shall require the submission of a separate Development Application.

DA-224/2014 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The Site is known as 30 and 31 Webster Street, Milperra and is located within the Bankstown Local Government Area (LGA). The legal description of the site comprises Lot A in Deposited Plan (DP) 405225 and Lot D in DP 391154 and it has an area of approximately 4.08 ha. The site is an irregular shaped allotment which is located west to the Georges River and east to Henry Lawson Drive. The site is accessible from Webster Street.

The site is affected by high risk riverine flooding as it is located adjacent to the Georges River. The site is identified as bushfire prone land as it is surrounded by Deepwater Bushland Reserve. The site is also identified as being affected by vegetated buffer area and Acid Sulfate Soils due to its close proximity to the Georges River.

The current improvements onsite comprises the Deepwater Motor Boat Club (an existing two storey club building), an outdoor swimming pool with associated outbuilding, a car parking area, internal access road, two boat ramps and associated hardstand and parking areas and a pedestrian footpath along the foreshore of the Georges River.

The works proposed under the DA also includes the following additional land:

- The Webster Street road reserve and intersection of Webster Street and Henry Lawson Drive; and
- 2 Maxwell Avenue, Milperra also known as Deepwater Reserve (Lots B and C in DP 405225, Lots 1, 2, 25 and 26 in DP 361310 and Lots 57-65 in DP 9892).

Webster Street and Deepwater Reserve are owned and controlled by Bankstown City Council. Henry Lawson Drive is a classified road controlled by Roads and Maritime Services.

Pursuant to the *Bankstown Local Environmental Plan 2001* (BLEP 2001), the Site is zoned 6(b) Private Recreation. Webster Street and the intersection of Henry Lawson Drive is unzoned land as it is a road reserve and Deepwater Reserve (2 Maxwell Avenue, Milperra) is zoned 6(a) Open Space.

Aerial Photo of the Site (Source: SEE)

Existing Deepwater Motor Boat Club Building (Source: SEE)

View toward the Georges River from Deepwater Motor Boat Club Building (Source: SEE)

View looking east along Webster Street from the site entrance toward Henry Lawson Drive (Source: SEE)

View looking west along Webster Street toward the site (Source: SEE)

SURROUNDING DEVELOPMENT

The Site is surrounded by bushland and wetlands (Deepwater Lagoon) to the north and east in Deepwater Reserve (*also known as Deepwater Park*) and the Georges River to the west and south.

Public recreation facilities including play equipment, barbeques, picnic tables, amenities and car parking facilities are located in Deepwater Park, accessed from Webster Street.

The nearest residential properties and approximate distances from the site are:

- Milperra – 650m to the north on the opposite side of the M5 motorway,
- Hammondville – 1km to the west,
- Voyager Point – 1km to the south,
- East Hills – 1km to the east.

The Site is not clearly visible from any public space and can only be viewed from Deepwater Reserve and the existing Lieutenant Cantello Reserve, an environmental conservation area, on the opposite side of the Georges River. The site is therefore isolated in relation to other urban uses. A temporary works compound for the M5 widening project is accessed off the end of Maxwell Avenue which is located north of the site. A Paintball facility is also located on the northern side of Maxwell Avenue some 500 metres from the site.

Deepwater Park recreation facilities and car parking (Source: SEE)

HISTORY OF EXISTING IMPROVEMENTS AND USES

The Deepwater Motor Boat Club has operated from the site from as early as 1929. The existing two storey club building has been used for a variety of uses ranging from race meetings, formal functions, boat storage, administrative purposes and weddings with hours of operation ranging till 10:30pm on weekdays and 12am on weekends. The existing auditorium is capable of accommodating a maximum of 400 people. The existing two storey club building has not been used for sometime and is in a neglected condition.

Even though the club building has not been used for sometime, motor boat races still occur on the Georges River adjacent to the site. There are 6 to 8 race days a year which attract anywhere between 250 to 300 people onto the site per race. The existing informal carparking area located east of the club building is used to cater for race goers.

There are two existing boat ramps which are located west and south of the club building. Only the boatramp located to the west of the club building is currently used. An outdoor swimming pool and outbuilding are located to the north of the club building. These are in dilapidated condition and have not been used for sometime. The existing vegetation and hardstand areas around the site with the exception of large trees are also degraded and require repair.

PROPOSED DEVELOPMENT

The proposed development is a Staged Development Application made under Section 83B of the Environmental Planning and Assessment Act, 1979 (The Act) which comprises of two stages that sets out a concept proposal for development of the whole of the site. The requisite details have been submitted for Stage 1 to enable development to proceed without the need for further consent. A further Development Application will be required for proposed Stage 2.

Proposed Stage 1 Works:

- Alterations and additions to the existing Deepwater Motor Boat Club facility including continued and expanded use of part of the ground floor for administration and boat storage purposes by the Deepwater Motor Boat Club as well as pre-function, back of house areas and water storage tanks associated with the new first floor 900 seat function centre capable of operating as four separate function rooms.
- Conversion of the existing pool and associated outbuilding into a new 112 seat restaurant and organic garden.
- Site-wide landscaping, formal car parking and spill over car parking, business identification signage and infrastructure services.
- Associated demolition and tree removal involved with the above works proposed.

The following works on Council owned Deepwater Reserve and Webster Street will be required as a result of the proposed works:

- The construction of a flood evacuation route through Webster Street. This will involve Webster Street being raised to provide an upwardly grading egress from the site, beginning at an elevation of 2.7AHD at the eastern end of function centre carpark near the site entry to a high crest elevation of 3.0AHD at Henry Lawson Drive. This will involve the following:
  - Relocation of the centreline of the road formation to the south of Webster Street by up to 3 metres so as to minimise the impact on vegetation located along the northern edge of the existing roadway.
  - Construction of an earth roadway formation involving filling up to 1.5 metres with batters at 1(Vertical) in 3(Horizontal) with the raised section of the road

built over the southern part of the Webster Street road reserve and providing a combination of batters and retaining walls (300mm high) to contain the fill such that the flora on areas to the north of Webster Street is not impacted.

- Construction of repositioned 90 degree public car parking across two sections along the southern side of Webster Street with the southern edge battered down into the adjoining parkland at 1(Vertical) in 3(Horizontal).
- Use of the existing table drain located along the northern edge of Webster Street to capture road runoff and direct it toward the repositioned box culvert that crosses Webster Street and which connects Deepwater Lagoon to the Georges River.
- Provision of drainage infrastructure along the southern side of the upgraded Webster Street to direct road surface runoff to the low point at the box culvert that crosses Webster Street.
- Removal of trees at Deepwater Reserve.
- Relocation of infrastructure services along Webster Street.

- Upgrade infrastructure services (*such as water, sewer and gas*) within the Deepwater Reserve and Webster Street road reserve.
- Upgrade of the intersection of Webster Street and Henry Lawson Drive including provision of a right turn bay on Henry Lawson Drive for right turn movement into Webster Street and provision of a 3 metre wide shoulder on Henry Lawson Drive for vehicles turning left into Webster Street.

Proposed Stage 2 Works:

- Construction of a new Boatshed.

The specific detail for Stage 2 will be subject to the provisions of a separate Development Application.

The development falls within the definition of *'integrated development'* under the provisions of Section 91 of the EP&A Act, 1979. This is because the proposed development involves earthworks within 40 metres of a watercourse, namely the Georges River (Section 91 of the *Water Management Act 2000*) and involves works within a bushfire prone area for a special fire protection purpose (Section 100B of the *Rural Fires Act 1997*).

HISTORY OF THE DEVELOPMENT APPLICATION

At the time of lodgement, the works originally proposed under the DA comprised the following land:

- Lot A DP 405225, Lot D DP 391154, No. 30 & 31 Webster Street and Lot B DP 405225, No. 2 Maxwell Avenue, Milperra.

The DA proposed a flood emergency evacuation route through Maxwell Avenue known as Lot B DP 405225 - 2 Maxwell Avenue Milperra. Council assessed the proposal and raised concerns in relation to the impact of the proposed raised Maxwell Avenue road on the vegetation adjoining Maxwell Avenue. Therefore, the applicant

amended the DA and proposed the flood emergency evacuation route through Webster Street. The works proposed under the amended application, and which form the basis of this report, comprises the following land:

- Lot A in Deposited Plan (DP) 405225 and Lot D in DP 391154 known as 30 and 31 Webster Street Milperra, and
- Lots B and C in DP 405225, Lots 1, 2, 25 and 26 in DP 361310 and Lots 57-65 in DP 9892 known as 2 Maxwell Avenue, Milperra.

As mentioned before, Council has assessed the amended DA and the issues of biodiversity, flood management and flood evacuation have been satisfied.

MATTERS RAISED DURING JRPP BRIEFING

- The condition of the site at present.

  The existing site conditions have been mentioned previously in this report under the section – History of existing improvements and uses.

- Whether the Development Application (DA) provide a concept plan for all the works and requisite details for Stage 1

  The development has been proposed as a Staged DA under Section 83B of The Act comprising of two stages. A concept plan has been submitted for the two stages. The requisite details have been provided for Stage 1 to proceed without the need for a further DA. A separate DA will be required for proposed Stage 2 works which is for the construction of a boatshed.

- Issues related to Clause 12 of the Bankstown Local Environmental Plan (BLEP) 2001.

  An assessment of the proposal under Clause 12 of the BLEP 2001 is detailed later in the report. Generally, the uses, (some of which not listed under Clause 11, Land Use Table of the LEP) are considered appropriate given the site context and setting and Clause 12 can be applied in this instance as the DA satisfies the requirements under Clause 12.

- The implications of a raised road on the biodiversity of the existing parkland.

  The original proposal proposed a flood emergency evacuation route through Maxwell Avenue known as Lot B DP 405225 - 2 Maxwell Avenue Milperra. Council assessed the proposal and raised concerns in relation to the impact the raising of Maxwell Avenue would have on the vegetation adjoining Maxwell Avenue. Therefore, the applicant amended the DA and proposed the flood emergency evacuation route through Webster Street.

  An assessment of the implications of the raised Webster Street road including the batter on the adjoining biodiversity has been made by Council's Environmental Planner. The implications assessed are whether the raised road will cause the removal of significant trees, whether it will have a negative impact

upon the existing vegetation located to the north of Webster Street which is classified as an Endangered Ecological Community (EEC), and whether the raised road will impact upon the existing hydrology of flood waters required by the existing vegetation to thrive.

The development proposes the removal of eleven (11) trees to accommodate the raised road, batter and repositioned carparks. The development proposes to relocate the centreline of Webster Street to the south by three (3) metres to minimise the impact on the EEC located to the north of the street. Conditions have been imposed to ensure that the existing hydrology is not altered in such a manner as to cause any unacceptable impact upon the vegetation in Deepwater Reserve.

Based on the above, Council's Environmental Planner has concluded that the raised road and batter will not have an unacceptable impact on the biodiversity of the existing parkland. The removal of 11 trees is also acceptable. These trees are being replaced in the Reserve which is an acceptable planning outcome for the Reserve.

- As per Clause 13(11) – Council Land, whether Council's Plan of Management allows the development to proceed.

  The original proposal which proposed a flood emergency evacuation route through Maxwell Avenue known as Lot B DP 405225 - 2 Maxwell Avenue Milperra required a change to Council's Plan of Management for Deepwater Reserve for the development to proceed.

  However, the amended proposal which proposes the flood emergency evacuation route through Webster Street does not require a change to Council's Plan of Management for Deepwater Reserve. The raised road and batter will impact upon the existing informal public carparking areas alongside the southern side of Webster Street. The proposal includes reinstating the carparking area in two separate areas also on the southern side of Webster Street in areas where there is minimal impact on existing flora. Also, public carparking is not going to be reduced by the new carparking arrangement. These new carparking areas proposed are in Deepwater Reserve which is zoned 6(a) Open Space. Public carparking is allowed on land zoned 6(a) – Open Space within the Deepwater Reserve Plan of Management. The raised road and retaining walls are within Council's road reserve and works to the road are permitted within the road reserve.

- Whether the flood impact acceptable on the proposed development and other adjoining lands.

  As detailed later in this report, the flood impacts are considered to be acceptable on the proposed development and the adjoining Council land. Currently, the site does not benefit from a proper flood management plan. The development proposes a flood management plan and flood emergency evacuation plan which has been reviewed by Council's Development Engineers and independent Flood Expert – Floodmit P/L and considered to be satisfactory.

- Whether the integrity of the structure be sufficient to accommodate flood events and falling trees.

  Council's Development Engineer has assessed the integrity of the proposed buildings to accommodate flood events and falling trees and has advised that they can withstand such events. Furthermore, a condition has been imposed on the development consent to obtain Structural Engineer's certification of the buildings to accommodate floods and debris prior to the issue of the Construction Certificate.

- Whether the time period for floods reaching critical level allows all the cars be evacuated before then and can the evacuation be effectively managed with the function centre proposed at 900 person capacity and only 700mm above the 1 in 100 year flood level.

  The Georges River flood study states that from the time from commencement of the storm event to inundation of the development site, it would take approximately 21 hours in a 1 in 5 year flood event for waters to reach 2.7mAHD which is the minimum level of the building, carparking area and the flood evacuation route. The critical level is 1.5mAHD which is when floodwaters start overtopping the banks of the Georges River. It takes approximately 4 hours for flood waters to rise from 1.5mAHD to 2.7mAHD.

  The Bureau of Meteorology (BOM) usually provides up to 12 hours warning for flooding on the Georges River. The submitted flood emergency response plan states that if flood predictions indicate that a peak level of 1.5mAHD or greater will be reached, the planned event will need to be cancelled. The function centre management will be required to monitor the BOM website daily to determine any flood warnings or expectations of heavy rainfall. This is the fundamental operational requirement for the mitigation of flooding at the site.

  However, this approach is not fail safe as there may be inadvertent breaches given that human interaction is required. Any failure to mitigate flooding can inadvertently put human life and property at risk. The applicant has amended their proposal such that the minimum carpark level and evacuation route is 2.7mAHD with a mechanical trigger mechanism set at 2.0mAHD. The raising of the road and the carpark area to a minimum level of 2.7mAHD reduces this risk. Therefore, the deferred commencement condition which states for the minimum level of the carpark and raised road to be 2.7mAHD allows 2.5 hours for all the cars and persons to evacuate the site when the flood evacuation is triggered at 2.0mAHD as per the Flood Emergency Response Plan at the onset of a flood. The flood evacuation investigations undertaken by the State Emergency Services (SES) are based on the assumption that a single lane of road (two lane proposed) can be used to evacuate 600 vehicles per hour under flood onset conditions. A maximum of 340 cars and 1012 people can be accommodated on site as per the submitted documentation and shall have to be evacuated in a flood event. Taking into account human factors and the potential for unknown factors that can slow down evacuation, it has been

concluded by Council's Flood Expert that 2.5 hours evacuation time is more than sufficient time to evacuate 340 cars and 1012 people from the site.

The function centre level of 5.8mAHD is 700mm above the 1 in 100 year flood level of 5.1mAHD. This is 200mm above what is generally required for planning for the 1 in 100 year flood. The raised level of the function centre is to accommodate changes to sea levels due to climate change and changes to king tides as a result of climate change. The level of the function centre is assessed as being satisfactory by Council's Development Engineer.

- Whether the proposed development "orderly development" of land in accordance with The Act.

  An assessment of the proposed development against the objects of The Act is detailed below under Section 5 – Objects. However, in summary, the proposed development is considered to represent the orderly and economic use of the land and maintains existing biodiversity. Therefore, the proposed DA is considered to be orderly development in accordance with The Act.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 ASSESSMENT

The following Sections of the Environmental Planning and Assessment (EP&A) Act, 1979 were taken into consideration during the assessment of the Development Application (DA):

Part 1 – Preliminary

The proposed development has been assessed pursuant to Part 1 – Preliminary of the *Environmental Planning and Assessment Act, 1979*.

Section 5 – Objects

The objects of the Act are:

(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,'
(ii) the promotion and co-ordination of the orderly and economic use and development of land,
(iii) the protection, provision and co-ordination of communication and utility services,
(iv) the provision of land for public purposes,
(v) the provision and co-ordination of community services and facilities, and
(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
(vii) ecologically sustainable development, and

(viii) the provision and maintenance of affordable housing, and

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Comment: The existing site, carparking and building are in derelict condition. The vegetation is overgrown and has not been managed for sometime. The site does not benefit from a suitable flood or stormwater management system. The site can operate as a function centre as it has been historically used for such purpose for the Deepwater Motor Boat Club subject to internal refurbishments. As mentioned earlier in the report, the existing auditorium can accommodate up to 400 people at a maximum and this represents a significant risk should a flood eventuate during trading.

The development proposes an expansion of the existing use and introduces measures to deal with evacuation during riverine flooding. It also refurbishes the site, the building and puts in place proper vegetation and formalised carparking with properly designed stormwater management measures. The proposed development improves the aesthetics of the existing site by proposing these refurbishments. It is noted that the proposed development introduces additional people into the site in a high risk flood area. The proposal also involves some additional risk to property given the upgrades. However, the proposed measures put in place to manage flood impacts and risk to human life are acceptable. Also, the annual damage to property is minor given the annual operating budget mentioned later in this report. Hence, the proposed development does not sterilise flood affected land.

The site is surrounded by Deepwater Reserve which is known to have flora and fauna of significance. The proposed development has minimal impact on the naturally occurring flora and fauna species found at Deepwater Reserve. The development proposes the removal of 34 trees most of which are in poor condition. To offset this impact, a condition has been imposed on the development consent stating that 120 native trees be planted in Deepwater Reserve. This will improve the vegetation of the park and uphold the values of ecologically sustainable development.

The objects of The Act in part are to promote the orderly and economic use and development of the land. The existing waterfront site is sterilised and its economic value to the community at present is minimal. The revitalisation of the existing site, building and existing uses will promote increased economic benefit to the community and it will introduce proper management of the site in terms of flooding and stormwater as per the requirements of the NSW Floodplain Development Manual. This is in the public interest rather than a site which is not being properly managed relative to the constraints it is bound by. As stated before, the proposed development also does not significantly impact upon the surrounding fauna and flora found at Deepwater Reserve. The values of ecologically sustainable development are maintained and the objects of The Act are met by the proposed development.

Section 5A – Significant Effect on Threatened Species, populations or ecological communities, or their habitats

(2) The following factors must be taken into account in making a determination under this section:

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction,

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

Comment: Deepwater Reserve has two known species of flora and fauna which are listed as either endangered or vulnerable under the Environmental Protection and Biodiversity Conservation Act 1999 and the Threatened Species Conservation Act 1995. Some vegetation found at Deepwater Reserve is listed as an Endangered Ecological Community under these Acts. These species need to be properly managed as the works proposed to Webster Street and the proposed development at the site is adjacent to Deepwater Reserve.

The Swift Parrot – *Lathamus Discolor* is listed as Endangered under the Environmental Protection and Biodiversity Conservation Act 1999 and the Threatened Species Conservation Act 1995. The Swift Parrot has been found to be feeding at Deepwater Reserve in recent months. The applicant has submitted a fauna report with regard to the swift parrot. The assessment of significance undertaken as per the requirements of the Threatened Species Conservation Act 1995 concludes that the impact of the proposed development on the swift parrot is minimal and a Species Impact Statement is not required. The fauna report on the swift parrot has been reviewed by Council's Environmental Planner who agrees with the applicant's conclusion subject to conditions.

The Acacia Pubescens is listed as a vulnerable flora species under the Environmental Protection and Biodiversity Conservation Act 1999 and the Threatened Species Conservation Act 1995. Acacia Pubescens are found within Deepwater Reserve. The applicant has submitted a flora report with regard to the Acacia Pubescens. The assessment of significance undertaken as per the requirements of the Threatened Species Conservation Act 1995 concludes that the impact of the proposed development on the Acacia Pubescens is minimal and a Species Impact Statement is not required. It is worthy to note that none are being proposed to be removed. The flora report on the Acacia Pubescens has been reviewed by Council's Environmental Planner who agrees with the applicant's conclusion subject to conditions.

The Cooks River Castlereagh Ironbark and the Swamp Oak Floodplain Forest found in Deepwater Reserve are part of an Endangered Ecological Community (EEC) listed under the Threatened Species Conservation Act 1995. The applicant has submitted a flora report with regard to the EEC. The assessment of significance undertaken as per the requirements of the Threatened Species Conservation Act 1995 concludes that the impact of the proposed development on the EEC is minimal and a Species Impact Statement is not required. It is worthy to note that no protected forest under the EEC is being proposed to be removed. The flora report on the EEC has been reviewed by Council's Environmental Planner who agrees with the applicant's conclusion subject to conditions.

The applicant has also submitted a general flora and fauna report detailing the other species of flora and fauna present at Deepwater Reserve. These reports conclude that the proposed development will have minimal impact upon the species found at Deepwater Reserve. Council's Environmental Planner has reviewed these reports and agrees with the recommendations and conclusions subject to conditions.

Therefore, the proposed development will not have an adverse impact upon the habitat of the flora and fauna found at Deepwater Reserve nor at the site. The development hence, complies with Section 5A of The Act.

Part 4 – Development Assessment

The proposed development has been assessed under Part 4 – Development Assessment of the *Environmental Planning and Assessment Act, 1979* and generally complies with the provisions.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 79C(1)(a)(i)]

State Environmental Planning Policy (State and Regional Development) 2011

Part 3 (Regional Development) of this SEPP applies to this development as the capital investment value of $9,126,428 exceeds the $5 million threshold specified in Schedule 4A of the EP&A Act 1979 for Council related development. The development proposes to replace public carparking, remove trees and upgrade infrastructure services on land zoned 6(a) – Open Space which is owned by Council. The development application is therefore to be determined by the Joint Regional Planning Panel.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

Part 5 – Aims and objectives

The general aim and objective of the Georges River deemed SEPP is *"to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment"*

Comment: The proposed development will maintain water quality and river flows of the Georges River. The raising of Webster Street will be offset with the existing culvert being repositioned which will allow floodwaters to pass through unimpeded to the northern side of Webster Street to the wetlands, thus maintaining the natural flow of flood waters as per the existing situation. The proposed bioretention basin will retain the stormwater runoff from the site and it will remove the contaminants and sedimentation of that run off before the stormwater runoff is directed back to the River. The proposed development does not compromise the significance of the Catchment in a manner which is of unacceptable impact and the proposal is in keeping with the broad aims and objectives of the deemed SEPP.

Part 9 – Specific Planning Principles

(1) Acid sulfate soils – Council's Acid Sulfate Soils Planning Map identifies Webster Street mainly as Class 2 Acid Sulfate Soils and the adjoining Deepwater Reserve as Class 3. The site is affected mainly by Class 3 Acid Sulfate Soils. The applicant has submitted an Acid Sulfate Soils Management Plan which has been reviewed by Council's Contaminated Lands Officer who accepts its conclusion that the development will not have a significant impact upon Acid Sulfate Soils subject to conditions.

(2) Bank disturbance – The development proposal will not involve disturbance to the banks or foreshore of the Georges River. Disturbance to Deepwater Reserve has been

minimised through the selection of appropriate areas for the relocated car parking areas which has been endorsed by Council's Urban Policy team.

(3) Flooding – The development proposal requires raising the Webster Street road formation by up to 1.5 metres to allow it to function as a flood evacuation route for the site. It will also involve filling across the existing car parking area to allow it to be linked to the evacuation route and to facilitate drainage of the paved surface. Notwithstanding, the proposed filling will only result in a small reduction in the flood storage afforded by the Site and Deepwater Reserve in floods up to the 1% AEP event. The loss of flood storage has been assessed as being minor by Council's Development Engineer and shall have no appreciable impact upon the flood characteristics of Georges River.

In addition, the culvert crossing of Webster Street that forms the tidal connection between Deepwater Lagoon and the Georges River will be retained and repositioned. Hence, the benefits of periodic flooding of the wetland areas within Deepwater Reserve will be retained. This has been reviewed by Council's Urban Policy Team who agree with the applicant's conclusions.

(4) Industrial – There will no discharging of industrial waste into the Georges River from the proposed development.

(5) Land degradation – Erosion and sediment controls measures have been proposed to ensure there is no adverse impact on water quality of the Georges River and its tributaries during construction. The removal of significant vegetation has been avoided. There will be no adverse effects on habitats and sensitive natural environments.

(6) On-site sewage management – The sewage will be maintained on site by septic tanks. The ongoing operation and maintenance of the proposed pump station and storage tank will be the responsibility of the property owner and is to be conducted in a manner as to have no impact upon the water quality of Georges River. Appropriate conditions have been imposed to such effect.

(7) River-related uses – The development does not propose non-river related uses within 20m from the top of bank of the Georges River. The new boatshed is classified as a river related use. Public access to the foreshore will be maintained.

(8) Sewer overflows – The sewage overflow is proposed to connect to an existing sewer main within Deepwater Reserve. The applicant is to liaise with Sydney Water to establish the connection through a Notice of Requirements. A condition of consent has been imposed to such effect.

(9) Urban/stormwater runoff – The concept design for the proposed upgrade to Webster Street includes provision for the capture of runoff from the road surface and the direction of that runoff to the existing cross-drainage structure that drains to the Georges River. This is achieved via the existing table drain located along the northern edge of the existing roadway formation, which will be upgraded to incorporate the bioretention basin and thereby facilitate improved runoff water quality. This has been reviewed by Council's Development Engineer and found to be satisfactory.

(10) Urban development areas – This clause is not applicable to the proposed works.

(11) Vegetated buffer areas – Appropriate vegetated buffer widths have been retained to allow the quality of run off to the Georges River to be maintained.

(12) Water quality and river flows – As discussed above under (9), the development proposal will maintain water quality and river flows.

(13) Wetlands – It is proposed to relocate the centreline of the Webster Street road formation to the south by up to 3 metres so as to avoid any impact on vegetation located along the northern edge of the existing roadway and the nearby wetlands. Further, the relocated culvert will maintain normal inundation of the wetlands and the vegetation so as to retain the quality of the wetlands. This has been assessed by Council's Urban Policy and Planning team and found to be satisfactory.

Part 11 – Planning Control Table

Comment: The proposed development involves flood control works, stormwater management systems or works and development in vegetated buffer areas. The development was advertised as per the requirements of the planning control table and no objections were received. The proposed development satisfies the specific matters for consideration under each definition.

State Environmental Planning Policy 55 – Remediation of Land

Under the provisions of clause 7 of SEPP 55, a consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

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

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Comment: Historically, the site has been the subject of unauthorised land filling and is also affected by Acid Sulfate Soils. As a result, the applicant has submitted a Preliminary Site Investigation and Acid Sulfate Soils Management Plan detailing these issues. The Preliminary Site Investigation and the Acid Sulfate Soils Management Plan has been reviewed by Council's Contaminated Lands Officer who raised no objection to the proposed development subject to conditions.

State Environmental Planning Policy 19 – Bushland in Urban Areas

The proposed development involves works to land zoned open space and the site is located adjacent to land zoned open space – known as Deepwater Reserve. As mentioned before in this report, Deepwater Reserve has species of flora and fauna which have been listed as endangered under the EPBC Act, 1999 and the Threatened Species Conservation Act, 1995. The applicant has submitted flora and fauna reports which conclude that the development will not have a significant impact upon the flora and fauna species residing in Deepwater Reserve. Council's Environmental Planner has reviewed these reports and has raised no objection subject to conditions. Therefore, the proposed development complies with the aims and objectives of this SEPP in maintaining the value of the bushland without compromising the habitats of flora and fauna which reside in it.

State Environmental Planning Policy Infrastructure 2007

The proposal development is a traffic generating development, as specified under Schedule 3 of this SEPP. In accordance with the provisions of the SEPP, the application was referred to the Roads and Maritime Services (RMS) for consideration and comment. RMS has raised no objection to the proposal and has provided that the following matters are considered by Council:

- Car parking to Council's satisfaction.
- The access and parking being provided in accordance with AS 2890.1 -2004 and 2890.2-2002 for heavy vehicles.
- Submission of a Construction Traffic Management prior to the issue of a Construction Certificate.

These matters have been assessed by Council's Traffic and Transport Team and no objections were raised and, where appropriate, conditions have been incorporated.

State Environmental Planning Policy 64 – Advertising and Signage

The proposed signage (2 business identification signs) has been assessed under Schedule 1 Assessment Criteria of SEPP 64 and found to be compliant. The proposed signs form part of the building and will not have a significant impact upon the site or the surrounding locality.

Bankstown Local Environmental Plan 2001

Clause 2 – Objectives of this Plan

The objectives of this plan are:
(a) to regulate development in accordance with the following principles:
(i) new buildings should be designed to achieve:
(A) good urban design, and
(B) public and private safety, and

(C) energy and resource efficiency, and

(ii) remnant bushland, natural watercourses and threatened species should be protected, and

(iii) intensive trip generating activities should be concentrated in locations most accessible to rail transport, and

(iv) new development should not diminish the role of the Bankstown central business district (CBD) as a sub-regional centre, and

(v) new development in or affecting residential areas should be compatible with the prevailing suburban character and amenity of the locality of the development site, and

(b) to provide a framework within which the Council may prepare development control plans to make more detailed provisions.

Comment: The proposed development refurbishes an existing derelict building and site. The alterations and additions proposed to the existing building promote good urban design. The development also proposes a proper flood and stormwater management system. It is worthy to note that no such systems currently exist on site. In this regard, the development promotes public and private safety. The development does not have a significant impact upon the flora and fauna species that currently exist within Deepwater Reserve and does not have a significant impact upon the existing water quality of the Georges River. Therefore, the impacts of the development on the adjoining land uses are minimal and the proposed development meets the broad objectives of the BLEP 2001.

Clause 8 – Zones in this plan

Comment: The Site is zoned 6(b) Private Recreation. The intersection of Henry Lawson Drive and Webster Street is zoned 5 – Species Uses for the purposes of RMS road widening and Deepwater Reserve is zoned 6(a) Open Space.

Clause 11 – Development which is allowed or prohibited within a zone

Comment: A function centre is not listed in the land use table under Clause 11 of the BLEP 2001. A restaurant is prohibited in the 6(b) zone. Carparking is permissible in the 6(a) and 6(b) zone under the BLEP 2001. Boat storage and the boatshed are classified as recreational facilities which are permissible within the 6(b) zone.

The proposed development can be defined as a “function centre” with ancillary administrative facilities, “restaurant” and “recreational facility” within the definitions provided in the BLEP 2001.

Clause 12 – Additional discretion to grant consent

(1) Despite clause 11, but otherwise subject to this plan, the consent authority may grant consent to development that:

(a) is not included in the Table to clause 11, or

(b) would be prohibited by the Table to clause 11 in the absence of this clause.

(2) The consent authority may grant consent pursuant to this clause only where it is satisfied that the proposed development:

(a) is of a nature (whether by reason of its design, scale, manner of operation or otherwise) that would, in the absence of this clause, justify an amendment to this plan in order to permit the particular development, and
(b) is not inconsistent with the objectives of the zone in which the development site is situated, and
(c) is not inconsistent with the provisions of any other environmental planning instrument, and
(d) will not have an adverse effect on other land in the vicinity.
(3) Development under this clause is advertised development within the meaning of the Act.

Comment: Despite Clause 11, Clause 12 of the BLEP 2001 allows the consent authority to grant consent to development which is not included in the table to Clause 11 or is prohibited in the table to Clause 11. In determining whether it may utilise its additional discretion to grant consent under the provisions of Clause 12, the consent authority must consider the proposal with regard to each sub clause. An assessment is provided below:

(1) Despite clause 11, but otherwise subject to this plan, the consent authority may grant consent to development that:

(a) is not included in the Table to clause 11, or

Comment: The table to clause 11 makes no provision for a function centre although a function centre is defined is defined in Schedule 1 "Dictionary" of the BLEP 2001. A function centre is defined as "*a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility*". The proposal fits this description.

(b) would be prohibited by the Table to clause 11 in the absence of this clause.

Comment: The proposed restaurant is prohibited in the 6(b) Private Recreation zone under Clause 11 of the BLEP 2001.

(2) The consent authority may grant consent pursuant to this clause only where it is satisfied that the proposed development:

(a) is of a nature (whether by reason of its design, scale, manner of operation or otherwise) that would, in the absence of this clause, justify an amendment to this plan in order to permit the particular development, and

Comment: The site has historically operated as a club house and function centre for the Deepwater Motor Boat Club. The site is isolated from other land uses and not clearly visible from a public road or place with the exception of Deepwater Reserve and the existing Lieutenant Cantello Reserve and environmental conservation area on the opposite side of the Georges River. The design of the proposed function centre will not have an adverse impact upon adjoining land uses. The bulk and scale of the building is acceptable and its footprint is not overly larger than the existing building. The design and scale of the building will not block views of the Georges River. The proposed restaurant is a single storey building which continues as an extension to the existing outbuilding on the site. The restaurant is also not of a bulk and scale which is unreasonable when compared to the site context.

The development proposes to operate as a function centre and a restaurant. Both uses, in the absence of Clause 12, would not be permitted on the site. The manner of operation of the uses is such that they will not create any appreciable impacts upon the adjoining land uses or the wider locality. The hours of operation is proposed from 7am to 12am for both uses. The hours of operation are acceptable for the location in which the site is situated in as it is not adjacent to any sensitive land uses. The adjoining land uses are open space (Deepwater Reserve) and the Georges River. The manner of operation of the function centre and restaurant will not have an appreciable impact upon the water quality of Georges River or on the flora and fauna species that currently exist at Deepwater Reserve. It is noted that the site is affected by high risk flooding from the Georges River. The flood management systems proposed are acceptable within the site context and will not have an appreciable impact upon the operation of the uses proposed, the adjoining land uses or on the buildings themselves as also discussed later in this report.

The applicant has submitted the below justification to justify an amendment to the BLEP 2001 in order to permit the function centre and restaurant:

- *The proposed function centre and restaurant is consistent with the achievement of the zone objectives of the 6(b) Private Recreation zone,*
- *There are significant separation distances to sensitive receivers to assist mitigation of any construction and operational noise,*
- *Existing vegetation on the site and surrounding land provides visual screening of the proposed development,*
- *Open space zoning of the surrounding land uses ensures privacy impacts are negligible,*
- *The ability for vehicular traffic to access Henry Lawson Drive (a classified road) directly from Webster Street avoids traffic and parking issues for local roads.*

Based on the above assessment, it is considered that the site can adequately accommodate the proposed uses, and would not adversely impact the amenity of the surrounding locality by reason of its design, scale, manner of operation or otherwise. The development is therefore considered to be of a nature that would justify an amendment to BLEP 2001 in order to permit the development in the absence of Clause 12.

> *(b) is not inconsistent with the objectives of the zone in which the development site is situated, and*

Clause 57 of Bankstown Local Environmental Plan 2001 – Objectives of the Open Space Zones, outlines the objectives for the 6(b) Private Recreation zone and 6(a) Open Space Zones. An assessment of the application against these objectives is presented below:

The objectives of Zone 6 (b) are:
(a) to identify major parcels of land where private recreation is provided, and

Comment: Private recreation is being provided by the continued use of the motorboat club by the construction of the boatshed in Stage 2 of the development proposal and the storage of boats on the ground floor of the building.

(b) to permit a range of related facilities.

Comment: Council has assessed the function centre and restaurant uses on merit. As mentioned before, the impacts of these uses on the adjoining land and immediate locality are minimal and the site can accommodate these uses and their related facilities. The uses proposed are not inconsistent with the objects of The Act and they promote the economic use of the land.

The objectives of the 6(a) zone are:
(a) to ensure that there is a sufficient and equitable distribution of open space to meet the recreational needs of residents and to enhance the environment of Bankstown City, and

Comment: The proposed development maintains the existing open space area within Deepwater Reserve. The carparking area is being repositioned to accommodate the raised evacuation route. This will not appreciably impact upon the area of open space needed to meet the recreational needs of the residents nor does it appreciably impact upon the natural environment of Bankstown City.

(b) to ensure preservation of significant landscape elements.

Comment: The development does not impact upon significant landscape elements found at Deepwater Reserve. The proposed development does not have an impact on the endangered ecological community north of Webster Street and the threatened species of flora and fauna within Deepwater Reserve.

Therefore, the proposed development is not inconsistent with the objectives of the zones in which the development site is situated.

(c) is not inconsistent with the provisions of any other environmental planning instrument, and

Comment: As discussed elsewhere in this report, the proposed development is consistent with the requirements of The Act and the environmental planning instruments applying to it.

(d) will not have an adverse effect on other land in the vicinity.

Comment: The development is not expected to result in any adverse impacts on other land in the vicinity of the site by way of noise, traffic, odour, parking or flooding.

(3) Development under this clause is advertised development within the meaning of the Act.

Comment: The development has been advertised on two separate occasions in accordance with The Act and no submissions have been received.

Clause 13 – Other Development which requires consent

(2) Flood liable land
Development may be carried out on flood liable land only with consent.

Comment: Consent is sought.

(11) Council land
Despite any other provision of this plan, the consent authority may grant consent to development on land within Zone 5 or 6 (a) that is owned by the Council if the development is nominated for that land in a plan of management prepared by the Council.

Comment: The proposed works include the relocation of the carpark on Council owned land within Deepwater Reserve which is zoned 6(a) Open Space. The Deepwater Reserve Plan of Management allows carparking on land zoned 6(a) and it is a nominated use.

Clause 16 – General Objectives of these special provisions

The general objectives of this Part are:
(a) to minimise the impact of development on the environment, and
(b) to preserve trees and remnant bushland and to protect ecosystems, and
(c) to ensure that development is carried out in a manner that reflects constraints associated with flooding, acid sulfate soils, aircraft noise and the like, and
(d) to provide for the acquisition and use of land reserved for a public purpose, and
(e) to improve water quality in the Georges River Catchment area by better managing the quality and quantity of stormwater run-off, and
(f) to regulate specific types of development.

Comment: The site is affected by high risk riverine flooding by the Georges River, it is affected by Acid Sulfate Soils, by a vegetated buffer area and is adjacent to remnant vegetation which is part of an endangered ecological community. The development proposed satisfactorily addresses these site constraints and does not appreciably impact upon the natural features that it is surrounded by. As previously mentioned, the development maintains the quality of the remnant vegetation and the flora and fauna occurring within it. The water quality of the Georges River is also maintained by proposing an acceptable stormwater retention system. Hence, the development complies with the requirements of Clause 16.

Clauses 17-20 – General Environmental Considerations, Biodiversity Protection, Ecologically Sustainable Development, Trees

Comment: The broad objectives of these clauses are to maintain remnant vegetation and protect threatened species of flora and fauna and promote ecologically sustainable development.

The site is bound by Deepwater Reserve and the Georges River. There are numerous species of flora and fauna found at Deepwater Reserve. The applicant has submitted fauna and flora reports which indicate that the proposed development will not adversely impact upon the species found at Deepwater Reserve. Council's Environmental Planner has reviewed these reports and agrees with the applicant's conclusions. It is noted that the 34 trees being removed by the proposal are being replaced by 120 trees.

The applicant has submitted a stormwater management plan and flood evacuation response plan which has been reviewed by Council's Development Engineer and Flood Expert and found to be acceptable. The water quality of Georges River is being maintained. Therefore, the proposed development upholds the values of ecologically sustainable development and complies with the general environmental considerations.

Clause 21 – Development adjacent to water bodies

Comment: Council has not determined a foreshore building line. Therefore, a merit assessment has been undertaken. Consent is being sought for works within 40 metres of the Georges River. The proposed development as mentioned previously will not have an adverse impact upon the water quality of Georges River nor the vegetation occurring adjacent to it.

Clause 22 – Acid Sulfate Soils

Comment: Council's Acid Sulfate Soils Planning Map identifies Webster Street mainly as Class 2 Acid Sulfate Soils and the adjoining Deepwater Reserve as Class 3. The site is affected mainly by Class 3 Acid Sulfate Soils. The applicant has submitted an Acid Sulfate Soils Management Plan which has been reviewed by Council's Contaminated Lands Officer who accepts its conclusion that the development will not have an appreciable impact upon Acid Sulfate Soils subject to conditions.

Clause 24 – Airports

Comment: The proposed development is not within the vicinity of Bankstown Airport. However, the site is affected by a maximum building height imposed by the Airport of 15.24 metres. The proposed structures are well within the prescribed height limit.

Clause 25 – Outdoor advertising

Comment: As mentioned previously in this report, the proposed signage complies with the provisions of SEPP 64 – Advertising and Signage and is consistent with the site and surrounds.

Clause 26 – Flood Liable Land

Comment: The site is classified as a flood liable land due to its close proximity to the Georges River. An assessment under the DCP and the NSW Floodplain Development Manual has been made later in this report which states that the proposed development satisfies the objectives for planning in flood liable areas.

Clause 27 – Landfill

Comment: The filling of Webster Street will not have an adverse impact upon flood storage, flooding or the water quality of the Georges River. The total amount of fill will reduce the flood storage of Deepwater Reserve by a maximum of 2.5% in a 1 in 100 year flood event. This is considered to be acceptable. The impacts of fill on flood storage has been assessed by Council's Development Engineers and found to be satisfactory.

Clause 30 – Floor Space Ratios

Comment: No Floor Space Ratio applies to the site. Given the large area of the site – 4.08 hectares, the proposed floor area of approximately 3000sqm represents a floor space ratio of less than 0.1:1. This is considered to be acceptable for the site and its surrounds.

Clause 32 – Access to people with disabilities

Comment: The proposed development has been assessed by Council's Building Surveyor and no objections have been raised. The development proposes suitable lift access to the function centre from the ground floor for people with disabilities.

Clause 57 – Objectives of the Open Space Zones

Comment: The objectives of the open space zones are mentioned earlier in this report under Clause 12 assessment.

Clause 58 - Floodway

Comment: No buildings are being erected in the 6(a) zone.

Draft environmental planning instruments [section 79C(1)(a)(ii)]

The site is zoned RE 2 – Private Recreation under the provisions of the Draft Bankstown Local Environmental Plan 2014. Function centres and restaurants are prohibited in the RE 2 zone. Carparks are permissible with consent in the RE 2 zone. Webster Street is zoned RE 1 – Public Recreation under the draft instrument. Development for the purposes of a road is permissible with consent in the RE 1 zone.

There are no development standards relating to floor space ratio, height of buildings and lot size for the site. The site is not reserved for acquisition nor is it listed as being of heritage significance. The site is not subject to the foreshore building line nor is it subject to biodiversity protection. The site is affected by Acid Sulfate Soils (ASS) and the classification of ASS is the same as classified under the BLEP 2001.

Council's Strategic Planning team has confirmed that the gazettal of the Standard BLEP is not imminent. While it is noted that draft environmental planning instruments are a matter for consideration under Section 79C(1) of The Act, giving determinative weight to the specific provisions contained within the draft instrument would be premature given the stage at which the draft instrument is at, as it is neither certain nor imminent.

Development control plans [section 79C(1)(a)(iii)]

Part D8 - Parking

The development proposes a total of 340 car parking spaces with 272 formal spaces and 68 informal spill over spaces. The BDCP 2005 does not have a carparking rate for a function centre. The DCP has a carparking rate of 0.15 car spaces per square metre of dining and bar area for the restaurant which generates the requirement of 43 spaces based on 285sqm of total dining and bar area proposed. The DCP states that when there is no parking rate for a specific use (function centre), a parking and traffic study must be submitted. The applicant has submitted a Traffic and parking study for both the function centre and restaurant which proposes a total of 340 car parking spaces. The submitted traffic and parking study has been reviewed by Council's Traffic Engineer and no objections have been raised subject to conditions.

Part D9 – Advertising Signs

The objectives of Part D9 of this DCP are:

(a) to regulate advertising signs to ensure that they enable promotion of commercial and industrial activity without detracting from the amenity of the area.

Comment: The proposed two (2) business identification signs enable the promotion of the commercial activities to be conducted at the site without detracting from the amenity of the area. The proposed signs are acceptable and satisfy the objectives of the DCP.

Part E1 – Demolition and Construction

Comment: Conditions have been imposed on the development consent to ensure that demolition and construction works occur to the relevant Australian Standards. The applicant has submitted a Waste Management Plan for the demolition and construction stages and it has been assessed as being satisfactory. A condition has been imposed on the development consent to submit a soil and erosion control plan. The soil and erosion control plan shall ensure the water quality of Georges River is maintained.

Part E2 – Tree Preservation Order

Comment: The proposed development proposes the removal of 34 trees most of which are in poor condition. The tree removal has been assessed by Council's Tree Management Officer who raises no objection to the removal subject to a condition that a total of 120 trees are conditioned to be planted at Deepwater Reserve.

Part E3 – Flood Risk Management

The objectives of Part E3 of this DCP are:

(a) *The proposed development should not result in any significant increase in risk to human life, or in a significant increase in economic or social costs as a result of flooding.*
(b) *The proposal should only be permitted where effective warning time and reliable access is available to an area free of risk from flooding, consistent with any relevant Flood Plan or flood evacuation strategy.*
(c) *Development should not significantly increase the potential for damage or risk other properties either individually or in combination with the cumulative impact of development that is likely to occur in the same floodplain.*
(d) *Motor vehicles are able to be relocated, undamaged, to an area with substantially less risk from flooding, within effective warning time.*
(e) *Procedures would be in place, if necessary, (such as warning systems, signage or evacuation drills) so that people are aware of the need to evacuate and relocate motor vehicles during a flood and are capable of identifying the appropriate evacuation route.*
(f) *To minimise the damage to property, including motor vehicles arising from flooding.*
(g) *Development should not result in significant impacts upon the amenity of an area by way of unacceptable overshadowing of adjoining properties, privacy impacts (eg. by unsympathetic house-raising) or by being incompatible with the streetscape or character of the locality.*

Comment: The site is affected by high risk riverine flooding from the Georges River and high risk stormwater flooding. The table below sets out the design flood levels in the vicinity of the Deepwater Motor Boat Club site:

DESIGN EVENT (AEP)	**PEAK FLOOD LEVEL (mAHD)**
Highest Annual Tide	1.1
20%	2.4
5%	4.2 (PWD*, 1991)
2%	4.7 (PWD, 1991)
1%	5.1 (PWD, 1991)
PMF	10.3 (PWD, 1991)

Source: Floodmit Report dated March 2012
*Public Works Department

The design levels of the proposed development are as follows:

- The ground floor of the building (boat storage/offices/back of room areas) is designed at 2.7mAHD which is 300mm above the 1 in 5 year flood level. This is designed as an open undercroft area which can let floodwaters pass through in a flood event,
- The first floor of the building (main function centre) is designed at 5.8mAHD which is 700mm above the 1 in 100 year flood level,
- The restaurant is designed at 3.5mAHD which is 700mm below the 1 in 20 year flood level,
- The carpark and the evacuation route will be designed (through a condition) at 2.7mAHD which is 300mm above the 1 in 5 year flood level which is the same as the ground floor of the building.

The main objective of Part E3 of the DCP is to minimise risk to human life and damage to property caused by flooding through controlling development on land affected by potential floods.

The existing site and building as mentioned before, does not benefit from a proper stormwater/flood management system. It is capable of operating as a 400 person function centre. The development proposes to bring in additional people (1012 people maximum) and upgrade the existing building in a high risk flood area. It also introduces a proper flood and stormwater management system to the site including a flood emergency evacuation route which is 300mm above the 1 in 5 year flood level. To some degree, assessment of the site pre and post development must be taken into consideration. At present, there is risk to human life from an unmanaged site in terms of flooding. The proposed development, introduces additional people into a high risk flood area, it also proposes a proper means of evacuation and flood management. The proposed means of evacuation and the flood emergency response plan has been assessed by Council's Development Engineer and Flood Expert. They both conclude that the risk to human life post development can be effectively managed through the flood systems proposed.

The applicant has submitted an analysis of the flood damages annualised compared to the operating costs of the Doltone House function centre. The flood damages are expected to be about $35,000 (*in 2014 dollars*) in a 1% AEP flood and the average annual damage for the development would be between $23,000 and $30,000.

The applicant has submitted the following statements in regard to the potential flood damages to the property:

An analysis of the operating cost of the four Doltone House function centre shows that operating costs (excluding employee related costs) range from about $400,000 pa to over $900,000 pa. Of these costs, the repairs and maintenance costs proportion ranges from 53% to 69%. The function centre that is proposed for the Deepwater Site is expected to operate at the top end of these ranges given its substantial site size and the landscape maintenance that will be required. Based on the annualised notional long term imputed flood damage costs of $23,000 to $30,000 per annum, the flood cost would represent less than 5% of the annual repairs and maintenance budget and only about 3% of the operating budget excluding labour costs. Given that labour costs at function centres exceed other operating costs, the notional annualised flood cost is likely to represent less than 1.5% of annual costs.

It should also be noted that functions centres require constant refurbishment and modernisation. For example, carpet and furniture are replaced at least every 5 years, and bathrooms and kitchens at least every 10 years. Major refurbishments occur every 5 to 7 years. Hence a major flood event, if it causes property damage, would do no more than accelerate the normal refurbishment and replacement cycle. It follows from an analysis of the operation of function centres that flood risk to this property does not pose an unmanageable potential financial burden beyond the normal operating costs of the centre.

Therefore, the flood damages annualised does not represent a substantial value to the proponent when compared to normal upkeep costs of the function centre.

Under the provisions of Schedule 2 of Part E3 of the BDCP 2005, Council has categorised the proposed function centre as "commercial" even though a function centre is not listed under the commercial land uses under the DCP. A restaurant is however listed as a commercial use. A merit based approach has been undertaken in dealing with the development and the site's high risk flood affectation based on the available flood information on the Georges River.

Schedule 3 – Georges River Floodplain of Part E3 of the BDCP 2005 classifies commercial land uses within the high risk flood precinct as "potentially unsuitable land use". However, Schedule 3 states that "Council can consider a DA for a "potentially unsuitable use" that clearly complies with the objectives of this DCP and with the performance criteria. In this case, prescriptive controls will be applied on a DA specific basis".

The DA has been assessed under the following controls from Schedule 3 of Part E3 of the DCP which deals with the Georges River Floodplain:

<u>Floor Level</u>

- *All floor levels to be no lower than the 20-year flood unless justified by site-specific assessment.*
  Comment: The 20 year flood level is 4.2mAHD. The ground floor of the function centre is at 2.7mAHD and the restaurant is at 3.5mAHD which are below this design level. The ground floor of the function centre accommodates back of house uses, the foyer, amenities, store rooms, boat storage and ancillary office areas. The highest elevation around the site is Henry Lawson Drive which is at 3.6mAHD. Therefore, it is impractical to design the floor levels higher than the highest point surrounding the site. Site specific assessment and the proposed levels have been assessed by Council's Flood Expert and found to be satisfactory. It is worthy to note that the actual function centre is above the 1 in 100 year flood level.

- *Habitable floor levels to be no lower than the 100-year flood level plus freeboard.*
  Comment: The habitable floor levels are as low as 2.7mAHD. The buildings have been designed from flood compatible materials capable of withstanding flood events. This has been assessed as being satisfactory by Council's Flood Expert.

- *The level of habitable floor areas to be equal to or greater than the 100-year flood level plus freeboard. If this level is impractical for a development in a Business zone, the floor level should be as high as possible.*
  Comment: The first floor function centre (majority of the habitable floor layout) is designed at 5.8mAHD which is 700mm above the 1 in 100 year flood level plus freeboard, and also takes into account sea level rise due to climate change. This is assessed as being satisfactory by Council's Flood Expert.

- *Non-habitable floor levels to be no lower than the 20-year flood unless justified by site-specific assessment.*
  Comment: The ground floor of the function centre building accommodates storage and boat storage areas which can be categorised as non-habitable areas. The ground floor of the function centre is at 2.7mAHD which is below the 20 year flood level of 4.2mAHD. As mentioned before, it is impractical to design the floor levels higher than the highest point surrounding the site which is 3.6mAHD at Henry Lawson Drive which is also below the 20 year flood level. Site specific assessment and the proposed levels have been assessed by Council's Flood Expert and found to be satisfactory.

- *A restriction is to be placed on the title of the land, pursuant to S.88B of the Conveyancing Act, where the lowest habitable floor area is elevated more than 1.5m above finished ground level, confirming that the undercroft area is not to be enclosed. The use of roller shutters or similar measures (such as hit and miss brickwork) to enclose this area is however permissible.*
  Comment: The majority of the ground floor of the main building and restaurant are proposed as open areas to allow floodwaters to pass through. This is an acceptable design solution and complies with this requirement.

<u>Building Components & Method</u>

- *All structures to have flood compatible building components below the 100-year flood level plus freeboard.*

- *All structures to have flood compatible building components below the PMF level.*

- *Engineer's report to certify that the structure can withstand the forces of floodwater, debris and buoyancy up to and including a 100-year flood plus freeboard.*

- *Applicant to demonstrate that the structure can withstand the forces of floodwater, debris and buoyancy up to and including a 100-year flood plus freeboard. An engineer's report may be required.*

- *Applicant to demonstrate that any structure can withstand the forces of floodwater, debris and buoyancy up to and including a PMF. An engineer's report may be required.*
  Comment: The main building and the restaurant will be designed and certified by a qualified structural engineer to cater for both hydrostatic loads associated with floodwater inundation and impact loading associated with debris carried by floodwaters. As shown on the attached elevations, the extension to the main

building will be supported on columns which will be designed to cater for live and dead loads associated with the proposed usage of the first floor.

The restaurant building will be designed to cater for impact loading associated with floating debris carried by floodwaters using 1% AEP overbank flow velocities extracted from the flood modelling that was undertaken for the Georges River Floodplain Management Study and Plan (*2004*).

Council's Development Engineer has imposed a condition on the development consent to obtain Structural Engineer's certification of the buildings' capacity and potential to withstand flood events and debris, prior to the issue of the Construction Certificate.

All structures below the 1 in 100 year flood level (ground floor of the building and the restaurant) have been designed from flood compatible building components.

Flood Effects

- *Engineer's report required to certify that the development will not increase flood effects elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels and velocities caused by alterations to the flood conveyance; and (iii) the cumulative impacts of multiple developments in the floodplain.*

- *The flood impact of the development to be considered to ensure that the development will not increase flood effects elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels and velocities caused by alterations to the flood conveyance and (iii) the cumulative impacts of multiple potential developments in the floodplain. An engineer's report may be required.*

- *Flood impacts to be considered in the case of major development if Council advise that the development may generate flood impact, such as significant loss of storage or conveyance. Any assessment may also be asked to demonstrate that the proposed development is structurally sound.*
  Comment: The loss of flood storage caused as the result of the fill is in the order of 2.5% in a 1 in 100 year flood event for the whole of Deepwater Reserve. This has been reviewed by Council's Flood Expert and Development Engineer and found to be satisfactory. The loss of flood storage will not have significant impacts elsewhere in the floodplain.

Car Parking and Driveway Access

- *The minimum surface level of open car parking spaces or carports shall be as high as practical, but no lower than the 20-year flood or the level of the crest of the road at the location where the site has access. In the case of garages, the minimum surface level shall be as high as practical, but no lower than the 20-year flood.*
  Comment: The level of the car park and the access road are set at a minimum level of 2.7mAHD, which is below both the 20 year and the 100 year flood levels.

  However, these levels match the floor level of the lowest floor of the function centre building meaning that, in the event of any flood where persons are on site, patrons

will be able to travel in either a flat or continually rising path of egress up to Henry Lawson Drive, which has a level of 3.6mAHD at the intersection of Henry Lawson Drive and Webster Street. A higher car park level then 3.6mAHD would prove problematic, given that the Henry Lawson Drive/ Webster Street intersection would then be at a lower level, encouraging people to (a) remain on the site for longer and (b) evacuate down into flood water. Whilst the flood evacuation plan anticipates that there will be no patrons on site, because events would be cancelled at the flood warning stage, should there be any inadvertent breaches of this protocol, the proposed car park level and road level sharing the same level as the function centre foyer is considered appropriate level as it avoids a situation where patrons would wade from the foyer level into unknown depths of water.

- *The minimum surface level of open car parking spaces, carports or garages, shall be as high as practical.*
  Comment: 2.7mAHD is considered to be acceptable for the reasons stated above.

- *The driveway providing access between the road and parking space shall be as high as practical and generally rising in the egress direction.*
  Comment: The development achieves this requirement as the roadway upwardly grades toward Henry Lawson Drive from a minimum practical level of 2.7mAHD from the function centre carpark.

- *Restraints or vehicle barriers to be provided to prevent floating vehicles leaving a site during a 100-year flood.*
  Comment: Bollards have been incorporated into the function centre carparking area to prevent floating vehicles causing damage. However, no vehicles should be at the carpark in a flood event as there is sufficient evacuation time for all vehicles to exit the site.

- *Driveway and parking space levels to be no lower than the design ground/floor levels. Where this is not practical, a lower level may be considered. In these circumstances, the level is to be as high as practical, and, when undertaking alterations or additions no lower than the existing level.*
  Comment: The driveway and parking space levels are designed to be as per the ground floor function centre level of 2.7mAHD which is 300mm above the 1 in 5 year flood level of 2.4mAHD. The existing ground floor level of the building is also at 2.7mAHD.

<u>Evacuation</u>

- *Reliable access for pedestrians or vehicles required during a 100-year flood.*
  Comment: The evacuation route has been assessed by Council's Flood Expert and Development Engineer who conclude that reliable access has been provided for pedestrians and vehicles.

- *Adequate flood warning is available to allow safe and orderly evacuation without increased reliance upon the SES or other authorised emergency services personnel.*
  Comment: The Georges River Flood Study states that from the time from commencement of the design storm to inundation of the development site, it would

take approximately 21 hours in a 1 in 5 year flood event for waters to reach 2.7mAHD which is the minimum level of the building, carparking area and the flood evacuation route. The critical level is 1.5mAHD which is when floodwaters start overtopping the banks of the Georges River. It takes approximately 4 hours for flood waters to rise from 1.5mAHD to 2.7AHD.

The Bureau of Meteorology (BOM) usually provides up to 12 hours warning for flooding on the Georges River. The submitted flood emergency response plan states that if flood predictions indicate that a peak level of 1.5mAHD or greater will be reached, the planned event will need to be cancelled. The function centre management will be required to monitor the BOM website daily to determine any flood warnings or expectations of heavy rainfall. This is the fundamental operational requirement for the mitigation of flooding at the site. However, this approach is not fail safe as there may be inadvertent breaches given that human interaction is required. To further reduce the risk, a mechanical evacuation trigger will be set at 2.0mAHD which allows 2.5 hours for evacuation till floodwaters reach the minimum carpark and building level of 2.7mAHD. This as mentioned before, has been supported by Council's Flood Expert and Development Engineer. This approach is not reliant on the SES to evacuate people and cars from the site.

- *The development is to be consistent with any relevant flood evacuation strategy, Flood Plan adopted by Council or similar plan.*
  Comment: The submitted flood emergency response plan has been prepared in accordance with the Georges River Flood Management study and has been reviewed by Council's Flood Expert who has concluded that it is satisfactory subject to conditions.

- *The evacuation requirements of the development are to be considered.*
  Comment: If for any reason (human error), the floodwatch is missed, during the onset of a flood during an event, the minimum level of the carpark and raised road of 2.7mAHD allows 2.5 hours for all the cars and persons to evacuate the site when the flood evacuation is triggered at 2.0mAHD as per the Flood Emergency Response Plan in the event of a flood. The flood evacuation investigations undertaken by the State Emergency Services (SES) are based on the assumption that a single lane of road (two lane proposed) can be used to evacuate 600 vehicles per hour under flood onset conditions. A maximum of 340 cars can be accommodated on site and shall have to be evacuated in a flood event. Taking into account human factors and the potential for unknown factors that can slow down evacuation, it has been concluded by Council's Flood Expert that 2.5 hours evacuation time is more than sufficient time to evacuate 340 cars.

  The applicant has submitted that in the event that flooding occurs during a function at the site, the following protocols will apply as per the submitted flood emergency evacuation plan:

  - *Nominated staff monitor flood levels once a flood warning notification has been received from the SES, or alternatively once the flood warning system has been activated by the Georges River reaching a level of 1.5 AHD.*

- *Once the river level exceeds the evacuation trigger level of 2.0AHD, an evacuation announcement would be made over PA system as follows:*
- *"Attention patrons, the SES has issued a flood evacuation notice. Stay calm and slowly make your way to your vehicles following all instructions from flood wardens and emergency services personnel. Please have your radios tuned to the local station 89.9FM for updates".*

- *The announcement is to be repeated twice immediately and at regular (e.g., five to ten minute) intervals until all patrons have been evacuated.*

- *Security staff shall be informed and ready to act under wardens' instructions.*

- *Flood wardens are to coordinate on-ground evacuation of premises using two-way radios to communicate.*

- *Staff and patrons shall remain at designated areas until instructed by wardens to leave.*

- *Patrons with vehicles in the car park would be directed by wardens to exit along the Webster Street evacuation route.*

- *Patrons who walked or were dropped at the function centre would be transported from the site using bus services owned and operated by the function centre. A staging area for bus loading is proposed in the car park. The destination would be Bankstown City Sports Complex in Bankstown, as the designated SES flood refuge.*

- *As part of the site response plan, once all patrons have departed the function centre and there has been a thorough check by wardens, then staff would be required to evacuate. Wardens are to undertake a final inspection of all areas to ensure no patrons and staff are remaining on the premises and to relocate any valuable materials from the ground floor to storage areas on the first floor.*

- *Once all staff and patrons have exited the premises then security is instructed to lock the centre to prevent unauthorised access.*

The evacuation procedure has been assessed by Council's Flood Expert who has concluded that it is satisfactory.

- *Reliable access for pedestrians or vehicles required to a publicly accessible location above the PMF.*
  Comment: Access away from the site is from Webster Street through to Henry Lawson Drive and through to the Bankstown City Sports Complex in Condell Park which is above the PMF level and is the SES meeting point in a flood emergency.

<u>Management and Design</u>

- *Site Emergency Response Flood Plan* required where floor levels are below the *design floor level*

Comment: The site emergency response flood plan has been provided and has been reviewed and supported by Council's Flood Expert and Development Engineer.

- *Applicant to demonstrate that area is available to store goods above the 100-year flood level plus freeboard.*
  Comment: The first floor which is above the 1 in 100 year flood level can store goods especially in the back of house and kitchen holding areas.

- *No storage of materials below the design floor level which may cause pollution or be potentially hazardous during any flood.*
  Comment: There are no hazardous or polluting materials proposed to be stored below the design floor level.

In summary, as per the assessment provided above, the development satisfies the broad objectives of Part E3 – Flood Risk Management of the BDCP 2005. The proposed development does not pose a significant risk to human life and the property damages are minimal and can be accommodated by the proponent. The proposed evacuation system is sound and provides sufficient time for people and cars to evacuate the site. The emergency protocols accommodated in the submitted flood emergency response plan are assessed to be satisfactory. Hence, the development satisfies the high risk flood precinct guidelines stipulated in the DCP and meets the objectives of the DCP.

Planning agreements [section 79C(1)(a)(iiia)]

No planning agreements have been entered into.

The regulations [section 79C(1)(a)(iv)]

The development is consistent with the requirements of the EP&A Regulation 2000.

The likely impacts of the development [section 79C(1)(b)]

The likely impacts of the proposed development can be categorised into these areas:

- Flooding – The impacts of flood and risk to human life and property damages have been discussed earlier in the report. The submitted documentation with regard to flooding and emergency evacuation has been thoroughly assessed by Council. The impacts of flooding on the site and adjoining Deepwater Reserve are minimal as a result of the proposed development.

- Biodiversity – Council has assessed the impacts upon the existing flora and fauna found at Deepwater Reserve and the impacts of the development on the broader vegetation found at Deepwater Park. Council has concluded that the impacts on biodiversity from the proposed development are minimal.

- General Amenity – The site is secluded from other sensitive land uses. The proposed uses will not have a significant amenity impact by way of noise, bulk and scale, traffic generation or operation.

Therefore, the likely impacts of the development are minimal on the site, the adjoining sites, the adjoining vegetation, Georges River and the immediate locality.

Suitability of the site [section 79C(1)(c)]

The development would normally be considered prohibited under the land use table contained within LEP 2001. However, Clause 12 allows some additional uses to be considered provided certain tests are met, with one of the tests being whether Council would, in the absence of the Clause, have considered an amendment to the LEP to permit the proposed use. The site is a sensitive site in so far as it is affected by flooding, bushfire, acid sulfate soils, and significant vegetation in the vicinity. The development has been designed to manage potential impacts. The proposal provides for a reasonable redevelopment of an underutilised foreshore asset in a way that avoids significant impacts on the surrounding area and addresses the personal and property impacts associated with potential flooding. A range of land uses are permitted within the 6(b) zone that applies to the part of the site where the Motor Boat Club currently exists, and any redevelopment of this area would carry some potential risks due to the sensitive nature of the site. This report has analysed the issues associated with the site and the particular form of development proposed, and at each test, the proposal has been found to be acceptable. Accordingly, it is considered that (a) in the absence of Clause 12, Council would have grounds to support an amendment to the LEP to permit the use and that accordingly (b) the site is suitable for the proposed development.

Submissions [section 79C(1)(d)]

The application was advertised on two separate occasions and no objections were received.

The public interest [section 79C(1)(e)]

In considering whether the development is in the interests of the general public, the consent authority must weigh the positive and negative aspects of the proposal. The provision of entertainment/ function centre facilities are considered to fulfil an important community need and, provided the impacts of such facilities can be appropriately managed, can be considered to be in the interests of the wider community.

All development, regardless of its scale or the nature of the use, will have some level of impact on the local area. Earlier sections of this report have identified the potential impacts associated with the proposal and the general conclusion reached at each stage of the report is that, whilst there will be some level of impact on the surrounding area resulting from the proposed development, the level of impact will be acceptable.

Accordingly, it is considered that the approval of the proposed development on this site is in the public interest.

SECTION 83B – STAGED DEVELOPMENT APPLICATIONS

(1) For the purposes of this Act, a ***staged development application*** *is a development application that sets out concept proposals for the development of a site, and for which*

detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The application may set out detailed proposals for the first stage of development.
(2) A development application is not to be treated as a staged development application unless the applicant requests it to be treated as a staged development application.
(3) If consent is granted on the determination of a staged development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:
(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or
(b) the staged development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.
(4) The terms of a consent granted on the determination of a staged development application are to reflect the operation of subsection (3).

Comment: The proposed development sets out a concept approval for two stages. Stage 1 comprises alterations and additions to the existing Deepwater Motor Boat Club building accommodating a first floor function centre, new restaurant, landscaping, carparking, emergency flood evacuation route through Webster Street and infrastructure services with Stage 2 comprising the construction of a new boatshed. The applicant has requested Council to treat the DA as a Staged DA.

The application however, provides details for Stage 1 to proceed without the need for further consent. A separate Development Application with the required details will be needed for Stage 2 works and a suitable condition has been included in the staged development consent.

SECTION 91A – DEVELOPMENT THAT IS INTEGRATED DEVELOPMENT

The development falls within the definition of *'integrated development'* under the provisions of Section 91 of the EP&A Act, 1979. This is because the proposed development involves earthworks within 40 metres of a watercourse, namely the Georges River (Section 91 of the *Water Management Act 2000*) and involves works within a bushfire prone area for a special fire protection purpose (Section 100B of the *Rural Fires Act 1997*). The DA was referred to the NSW Rural Fire Service and the NSW Department of Primary Industries for concurrence. Both state agencies granted concurrence subject to conditions to the proposed development.

A condition has been imposed on the development consent to consult with the NSW Department of Primary Industries and obtain any licenses required with regard to works to the existing culvert which will be required to be repositioned, as Webster Street is proposed to be repositioned 3m to the south. The licenses required to be obtained from the NSW Department of Primary Industries for the repositioning of the culvert is not "nominated" integrated development under the EP&A Regulation 2000 and Council is not required to refer the application to the NSW Department of Primary Industries for concurrence. A suitable condition has been imposed on the development consent to obtain the relevant licenses from the NSW Department of Primary Industries for the repositioning of the culvert.

PART 6 – IMPLEMENTATION AND ENFORCEMENT

NSW Floodplain Development Manual

Comment: The NSW Floodplain Development Manual (FDM) applies to the development site as it is affected by high risk riverine flooding from the Georges River. Council has developed the Georges River Floodplain Management Study that deals with flooding within the Georges River as per the requirements of the NSW FDM. The requirements from the Study have been incorporated into Part E3 – Flood Risk Management within the DCP. An assessment under the DCP has been made previously in this report.

In summary, the NSW FDM is a strategic framework that sets out the role of Councils in the management of flood liable land. Council in assessing this Development Application has taken into consideration the requirements that have been set out in the NSW FDM. This includes the risk to human life and property damages due to flooding, the viability of the proposed flood emergency evacuation plan, the viability of the subject site to accommodate the proposed uses in a high risk floodplain, the impacts of the proposed development on the floodplain, the minimum flood planning levels for buildings in a floodplain and effective flood risk minimisation systems.

Council's assessment as set out earlier in this report is that the proposed development satisfactorily addresses the flood requirements in accordance with the LEP, DCP and the NSW FDM. Council's Development Engineer and Flood Expert are satisfied by the proposal. Therefore, the proposal complies with Section 117 of The Act with respect to flood planning.

CONCLUSION

The Development Application has been assessed in accordance with the relevant legislation and planning controls.

The report has provided detailed analysis of all potential issues associated with the proposal. The impacts of the development have been appropriately managed in terms of impacts on flora and fauna, acid sulphate soils, and the considerations contained within the specific planning controls that apply to the site.

One of the key issues associated with this proposal is the potential impacts of flooding to life and property. The LEP, DCP, and NSW Floodplain Management Manual all provide a mechanism to consider the development on its merits, whether it be under the provisions of Clause 12 of the LEP, or the objectives contained within the Manual and under the Part E3 of DCP 2005.

None of these documents require potential impacts to be eliminated. Rather, the documents seek to manage the level of impact based on the scale and nature of the development proposed. This report has found that the proposal meets the objectives of the LEP, DCP, and Manual and that mechanisms have been put in place through a combination of management/ evacuation plans and a suitably located car park and access road, to act as an appropriate secondary system, should any inadvertent

breaches of the management plan occur. On balance, it is considered that the potential impacts of the development are acceptable and within the limits envisaged by the applicable controls.

All issues, with the exception of a final plan for the reconstructed car park and access road, have been satisfactorily resolved although, in relation to this outstanding item, the impacts have been fully assessed and found to be capable of being adequately managed. Accordingly, the final resolution of this issue is a technical matter, as opposed to issues of policy or issues which significantly change the impacts or design of the development. As such, it is recommended that consent be granted to the application on a “deferred commencement” basis so that this issue can be appropriately resolved prior to the issue of the operational consent.