

COUNCIL ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-294 – DA-1080/2022
PROPOSAL	The DA seeks consent for the construction of a ten (10) storey hotel development comprising 83 hotel suites, basement car park, commercial administrative office spaces, and an outdoor terrace bar.
ADDRESS	Lot 1 DP 1172051 and Lot 2 DP 249818 RIVERSIDE STABLES, 155 GOVERNOR MACQUARIE DRIVE, WARWICK FARM NSW 2170, LOT 2 GOVERNOR MACQUARIE DRIVE, CHIPPING NORTON NSW 2170
APPLICANT	WILLIAM INGLIS & SON LIMITED
OWNER	WILLIAM INGLIS & SON LIMITED and LIVERPOOL CITY COUNCIL
DA LODGEMENT DATE	03/11/2022
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021: Development that has a capital investment value of more than \$30 million.</i>
CIV	\$54,533,729 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 4.3 Height of Buildings under LLEP 2008
KEY SEPP/LEP	<i>State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021 and Liverpool Local Environmental Plan 2008.</i>
TOTAL & UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS	1 Submission Received
DOCUMENTS SUBMITTED FOR CONSIDERATION	- Architectural plans - 4.6 variation to the Height - Landscape plans

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Approval/Deferred Commencement
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	4 December 2023
PLAN VERSION	23 August 2023 Version No. - various revisions noted on plans
PREPARED BY	
DATE OF REPORT	7 July 2023

1. EXECUTIVE SUMMARY

The development application (DA-872/2022) seeks consent for the construction of a ten (10) storey hotel development comprising 83 hotel suites, basement car park, commercial area consisting of administrative office spaces, and an outdoor terrace bar.

It is noted that application was lodged seeking consent for the construction of a ten (10) storey hotel development located at 155 Governor Macquarie Drive, Warwick Farm ('The Site'), comprising 73 hotel suites, basement car park, a centre-based childcare facility, conference centre, administrative office spaces, and an outdoor terrace bar.

The childcare facility and conference centre were removed from the development following a request for information request made by Council. The development has therefore been amended to include 83 hotel suites up from 73 rooms and the removal of the conference centre on ground floor and replace with commercial office spaces for the use by the Inglis Stables.

The development as amended compromises of the following;

Site A

Hotel

- The hotel is proposed to operate 24 hours a day and will share the back of house facilities provided within the existing hotel (i.e. room service, housekeeping, laundry services, in-house security etc.).
- Basement parking for 54 car spaces, 10 Motorbike parking space, and bicycle parking room.

Administrative Office Space

The proposed administrative office space is for use by William Inglis & Son Ltd in the operation of the Inglis Riverside Stables and is ancillary to the approved stock and sale yard uses at the site. The administrative space is proposed to operate from 7am to 6pm will accommodate staff.

Site B

Bar

The outdoor terrace bar is proposed as alterations to the existing bar and include a kitchen, new bar area, and seating area. It is proposed to accommodate 200 patrons. The proposed operating hours for the bar are 8am to 12 midnight for 7 days a week.

The subject site is known as the Inglis Riverside Stables at 155 Governor Macquarie Drive, Warwick Farm ('the site') and is an irregularly shaped allotment with an approximately 490-meter frontage to Governor Macquarie Drive. The site has an area of 10.64 hectares (106,400sqm) inclusive of the riverside portion and 10.19 hectares (101,900sqm) excluding the riverside land portion. It is legally described as Lot 1 DP 1172051 and Lot 2 DP 249818.

The site is located adjacent to the Warwick Farm Racecourse and is well serviced by public transport services. The location of the site in this context is shown in Figure 6 below. The site is zoned RE1 Public Recreation and RE2 Private Recreation zone under Liverpool Local Environmental Plan 2008 ('LLEP'), with the majority of the site being zoned RE2 Private Recreation. The development proposed in this application is entirely within the RE zoned portion.

The development complies with the maximum floor space ratio (FSR) of 0.25:1 which is applicable to the site under LLEP. The proposed development has a maximum building height of 34.5m which exceeds the building height control of 30m applying to the site under Clause 4.3 of LLEP. A Clause 4.6 Variation Statement is included with this DA to justify this contravention. The variation request demonstrates that this non-compliance does not give rise to any adverse impacts and is reasonable and acceptable in the circumstances.

The application was initially placed on public exhibition from 13 December 2022 to 18 January 2023 and one unique submission was received objecting to the development. After receiving amended plans in response to Council's request for additional information the primary concern was the site having a negative impact on the Liverpool Wastewater Treatment Plan (LWTP). The amended application was not required to be noticed as the child car centre as being removed along with the conference centre, therefore the impacts in terms of land use have reduced.

The application is referred to the Sydney Western City Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposed development has a CIV over \$30 million.

The principal planning controls relevant to the proposal include *State Environmental Planning Policy (Industry and Employment) 2021*, the *Liverpool Local Environmental Plan 2008* and the *Liverpool Development Control Plan 2008* ('DCP').

A briefing was held with the Panel on 6 March 2023 where key issues were discussed, including tree planting shortfall, traffic impacts and parking shortfall, the need to address environmentally sustainable design principles and flood management of stormwater passing through the site.

The key issues associated with the proposal include:

1. *Flooding and Engineering Matters*

- a) *Provide Music modelling and revised stormwater plans to ensure stormwater runoff is treated before leaving the site.*
- b) *Council's Flood engineer has provided and verbal approval for the works and the conditions will follow to be included in the conditions of consent.*

2. Environmental Health Matters

a) Food Premises Construction Details (bars and clubs)

- (i) *Not addressed in additional information but will be conditioned to be addressed prior to construction certificate.*

b) Onsite Sewage Management System – Alt's and Add's/Commercial

- (i) *Not addressed in additional information but is recommended to be conditioned to be addressed prior to construction certificate and to the satisfaction of Council's community standards Manager.*
- (ii) *To ensure that the onsite sewage manger system can take the additional load. As report and plans maybe required for Council review. The applicant consultant must advise accordingly.*

c) Odour

The odour impacts were not raised in the initial referral by the Environmental health Offices; however, it was raised in the assessment of the additional information. To that end, the application has been advised to seek a suitably qualified expert and provide letter that can assist with a addressing the odour issues.

Should that not be provided in time of the SWCPP meeting, advise is sort from the panel.

3. Design Excellence Panel (DEP) and Urban Design

- a) *Balconies to comply with ADG which require 2m balcony depth. Currently at 1.5m for a portion before increasing to 2m depth. –*
Comments - Not amended in RFI, but considered satisfactory.
- b) *Change building facade material to be more sympathetic to the existing hotel and solar access requirements.*
Comments – Has been amended in RFI and considered satisfactory.
- c) *Issues were raised with the design and arrangement of the childcare facility including the proximity to the loading area and lack of large vegetation surrounding the centre.*
Comments – Has been amended in RFI by removal of childcare centre, and considered satisfactory.
- d) *Additional information requested includes a pedestrian and access movement strategy, and a wayfinding strategy, and*
Comments – Hasn't been addressed adequately in RFI but will be conditioned to be provided to the satisfaction of Council.
- e) *Additional landscaping along the Governor Macquarie Drive.*
Comments – Has been amended in RFI and considered satisfactory by Council's Landscape Officer.

Due to timing and availability of DOPE meetings, the application has not been re-referred back to the DEP as indicated in their previous minutes. IN this regard, the application has been referred to an extraordinary meeting on 12 December 2023, should the SWCPP deem it necessary.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA-872/2022 is recommended for approval as 'deferred commencement' subject to the reasons contained at **Attachment A** and the Odour and DEP matters being addressed as noted in this report.

2. THE SITE AND LOCALITY

2.1. The Site

The subject site is known as Lot 1 in DP 1172051 and Lot 2 in DP 581034, 155 Governor Macquarie Drive, Warwick Farm. An aerial photograph of the subject site is provided below in Figure 1.



Figure 1: Aerial Image of Site

The site is an irregular shaped allotment with a total site area of approximately 10.64 hectares. The subject allotment is located south-east of the existing Warwick Farm racecourse and originally formed part of the racecourse site. Excluding the RE1 Public Recreation area the survey plans indicated an area of 10.19 hectares.

The site has a 490m frontage to Governor Macquarie Drive and falls gently towards the Georges River to the east which steepness as you approach the river. Overall, the site slopes

10m across the site, the majority of the slope is concentrated within the foreshore area along the riverbank.

The majority of the site is zoned RE2 Private Recreation which equates to a total site area of 10.19 hectares. There is also a portion of the site that is zoned RE1 Public Recreation. The area zoned RE1 Public Recreation is isolated to the eastern boundary of the site as shown in figure 2 below. All development associated with the DA is to be undertaken on the portions of the site zoned RE2 Private Recreation.

The site contains the Riverside Stables development, including an existing hotel, stable yards, parking, and landscaping. The site also supports the racetrack to the north and was established in conjunction with the industrial lands to the south under the previously undertaken rezoning.

The site fronts Governor Macquarie Drive and has two access points to the road. The site was also established with internal access roads and associated shared parking.

The southern boundary of the site has environmental significance associated with the Georges River. The site is also heritage listed in association with the horse racing track.

The following photos are taken during the site inspection.



Figure 2: Site as seen from car parking area – South-West end



Figure 3: Site as seen from front car parking area - Western end



Figure 4: Site as seen from Governor Macquarie Drive – Southern end



Figure 5: Adjoining racetrack development – Looking North

2.2. The Locality

The site is located within an industrial and residential locality comprising a variety of land uses. To the north of the site is an industrial area, while land to the east beyond the Georges River is characterised by residential development.

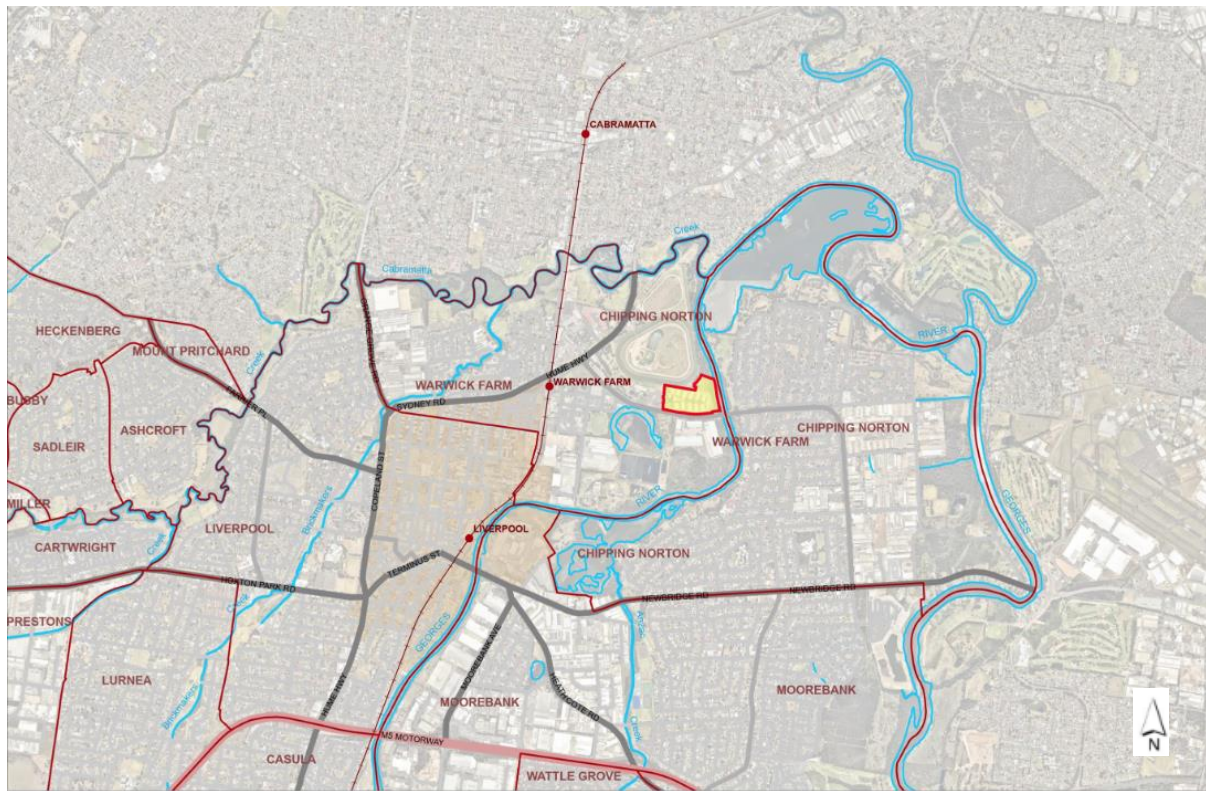


Figure 6: Location Map

The site is located adjacent to the Warwick Farm Racecourse. Existing development at the site includes the hotel accommodation and commercial uses which support the racecourse.

The existing hotel at the site comprises a nine (9) storey hotel building of 32.5m in height which is similar in scale to the proposed development.

The character and built form of nearby development is varied, with buildings of diverse architectural styles and scale.

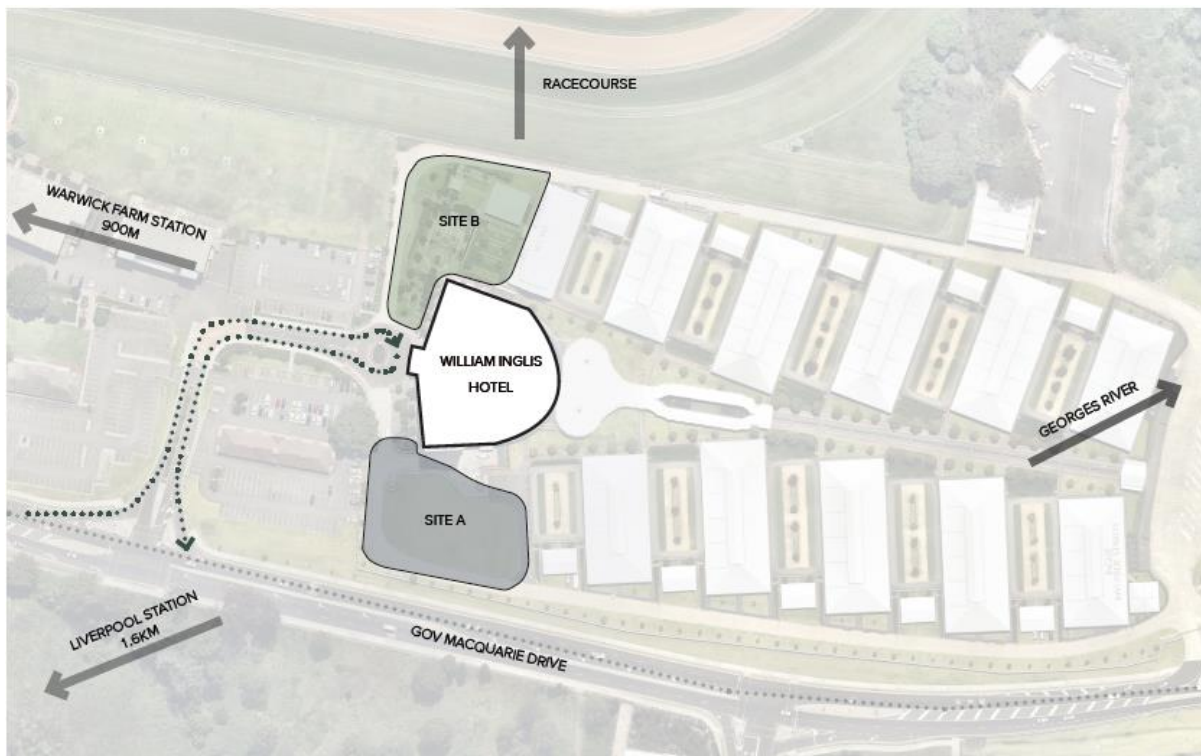


Figure 7 - Local Context – Landscape Plan (May 2022)

2.3. Site Affections

Flooding

The proposed Warwick Farm Selling Centre is located on the Georges River floodplain. Most of the site is not affected by flooding under the 1% Annual Exceedance Probability (AEP) event and only small sections on the eastern boundary are affected by 1% AEP flood. Council's flood engineer has revised the development as amended and has advise that the development is satisfactory and will provide conditions of consent.

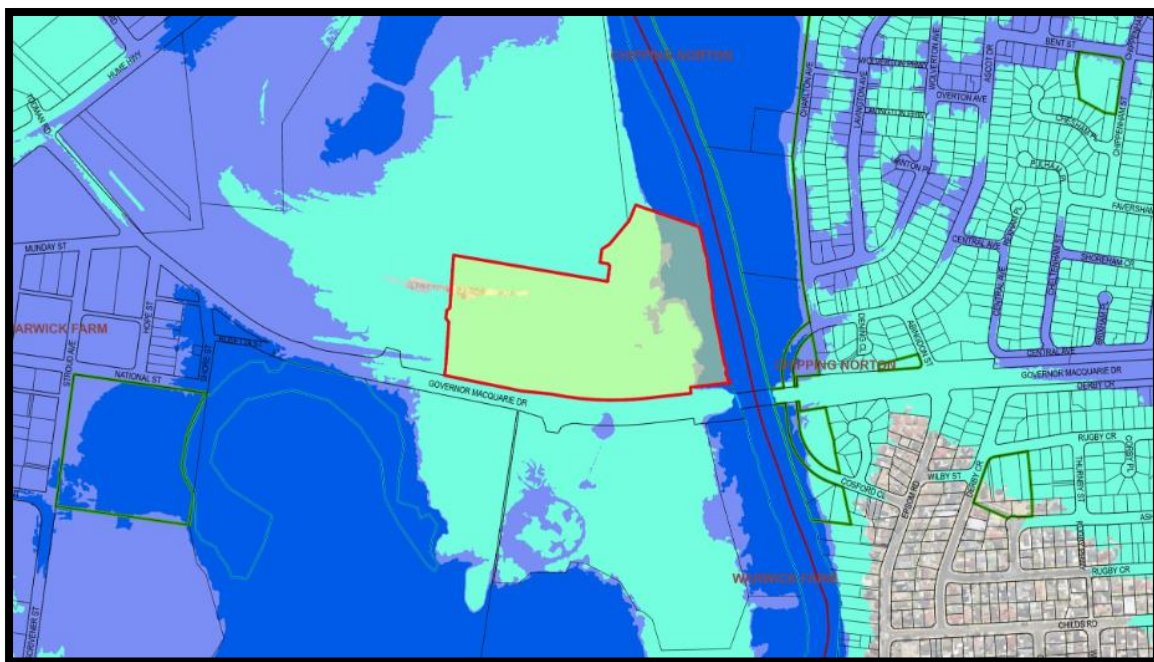


Figure 8: Flood Map Extract - (Source: Geocortex Data, November 2023)

Environmentally Significant Land

The site is identified as being partly containing environmentally significant land, specifically being the south-eastern portion of the site classified as the riparian buffer adjoining the Georges River.

The impacts on the threatened ecological community were considered as part of a previous Development Application lodged and approved by Council on the subject site (DA-979/2015). That Development Application was approved under delegated authority on 12 April 2016. As part of the Development Application a Flora & Fauna Impact Assessment Report prepared by UBM Ecological Consultants Pty Ltd dated 27 January 2011 was submitted, which assessed the need to protect and preserve the environmentally significant land.

It is noted that the above-mentioned report was lodged and considered as part of the previous approved Development Application lodged on the development site (DA-1089/2011) for a stock and sales yard. The report was reviewed by Council's Natural Resource Planner at the time and also considered worthy of support. As part of DA-979/2015, a supplementary letter was provided with the Development Application prepared by UBM Ecological Consultants dated 22 September 2015. The letter prepared by UBM concluded that the vegetation on site has not changed perceptibly and the recommendations of the Flora and Fauna Impact Assessment are relevant and can be applied to the site in its current state.

The assessment includes a number of recommendations as follows:

- *The retention of ~2 ha of River Flat Eucalypt Forest within the Study Area and any additional areas of vegetation as is practical within the context of the development.*
- *The retention of habitat trees as is practical, especially those with hollows.*
- *Where habitat trees cannot be retained, existing hollows are to be excised and relocated within the Riparian Zone and/or adjoining woodland. These should be placed high next to and on forks in existing trees. Where this is impractical nest boxes should be erected.*
- *Further investigation into the minimum area of riparian vegetation required to ensure river bank stability will be needed.*
- *Further investigation into the requirement for an asset protection zone and potential impact on environmental constraints on site.*
- *The implementation of a vegetation management plan to guide rehabilitation efforts within those areas proposed for retention.*

The subject development is proposed a significant distance away from impacted land and does not propose to disturb or impact the environmental land in any regard. Under DA-979/2015 a Flora and Fauna impact assessment was condition to be implemented as that development for the stables was in close proximity to the environmentally significant land. Taking that into consideration that the stables are being retained and not impacted by the development, and that the proposal is a significant distance away from the environmentally significant land, the application did not require any further assessment and there will be no impact on the environmentally significant land.

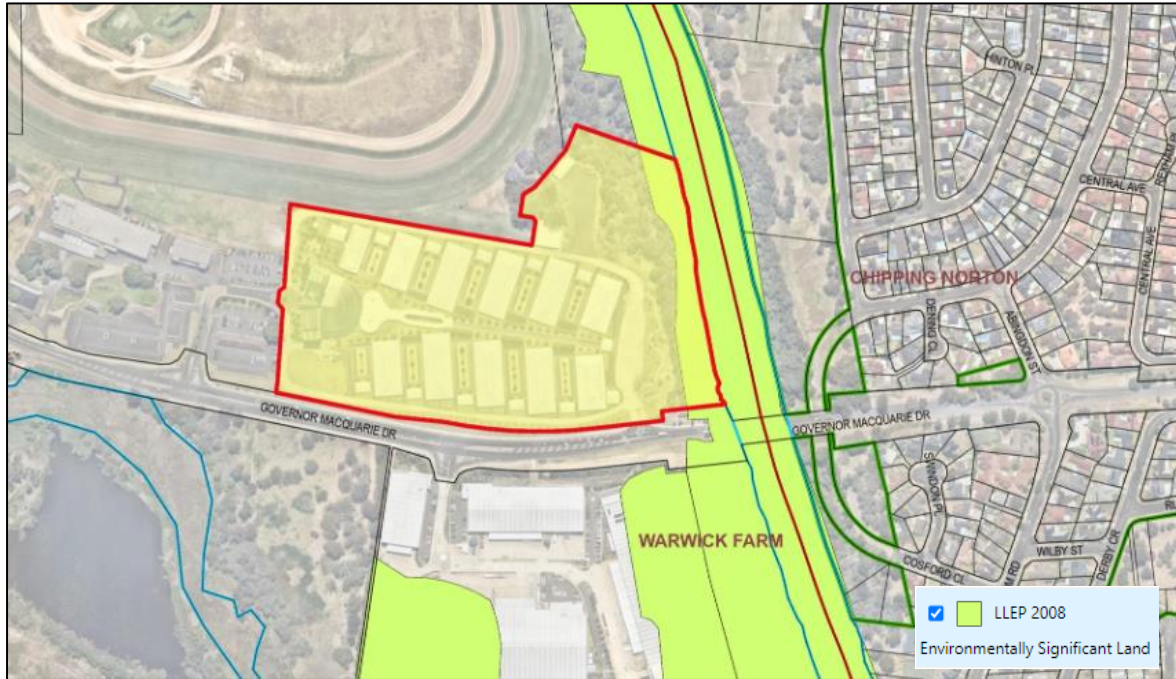


Figure 9: Environmentally Significant Land Map Extract - (Source: Geocortex Data, November 2023)



Figure 10: Tree Removal Approved under DA-979/2015

Bushfire

A portion of the site is located within a Bushfire prone area. However, the affectation is primary Vegetation buffer Category 3 with Vegetation Category 1, which is the higher risk area located within the Georges River foreshore. The proposed new development is located a considerable distance, approximately 267 meters from the Category 3 vegetation buffer zone and 398

meters from the Vegetation Category 1 zone. In this regard, a bushfire report was not required as not structures are proposed to be constructed in proximity to the bushfire risk area.

As part of DA-1211/2015 for the stables the, a Bushfire Protection Assessment was lodged, prepared by Travers Bushfire & Ecology, dated November 2015, reference A15176. The assessment report was referred to the NSW RFS for comment and they provided their General Terms of Approval to Council dated 24 May 2016. The General Terms of Approval will be included in the final conditions of consent.

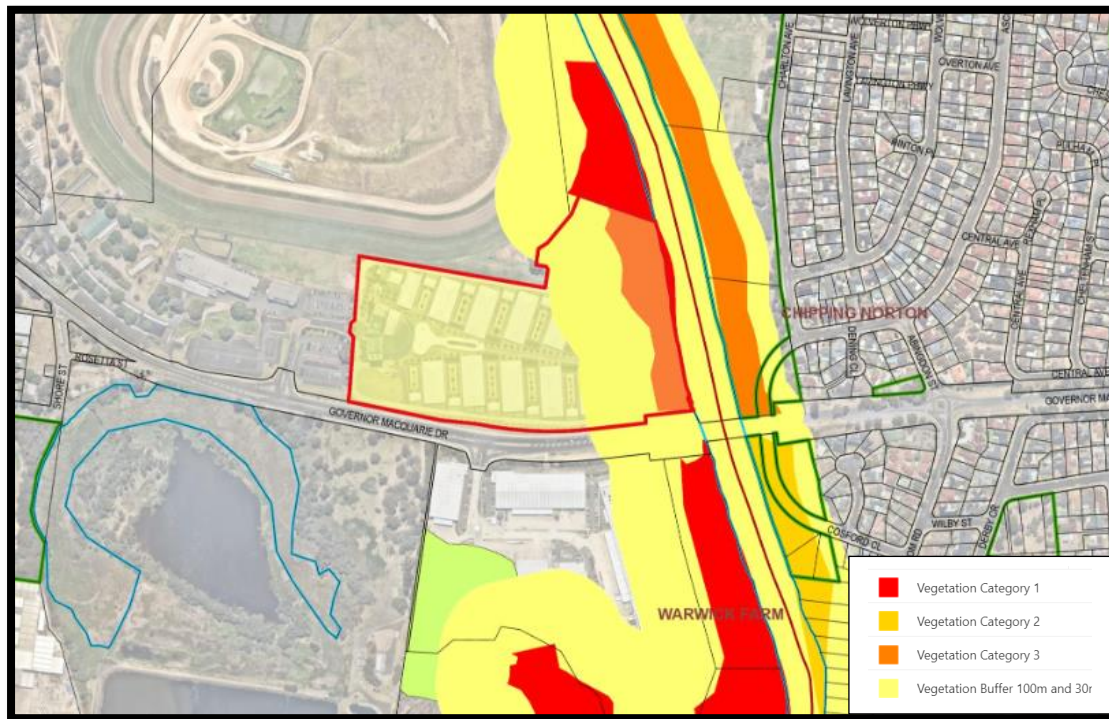


Figure 11: Bushfire Map Extract - (Source: Geocortex Data, November 2023)

Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose, or drain acid sulfate soils and cause environmental damage. The land is identified as being affected by Class 4 and Class 5 Acid Sulfate Soils.

Under development application DA-1211/2015, a Geotechnical Assessment was prepared for the site by SMEC Testing Services Pty LTD, dated April 2011 which include and Acid Sulfate Soils Assessment.

The findings of the geotechnical assessment were based on field observations whereby six (6) soil samples were selected for laboratory analysis. In order to assess the significance of the acid sulfate soil potential, the laboratory results were compared to action criteria contained in the Acid Sulfate Soils Manual (1998). The action criteria triggered the need to prepare an acid sulfate soil management plan and are based on the percentage of oxidisable sulphur for broad categories of soil types. Based on the testing undertaken, an action criteria value has not been exceeded for any of the soil samples tested. The acid sulfate soil assessment relevantly concludes that an acid sulfate soil management plan is not required for the proposed development.

Furthermore, the proposed development is located a significant distance (greater than 400 meters) away from the higher risk area impacted which is located on the eastern side of the Georges River and is classified as Class 1. In the development is not required to assess the acid sulfate acids and further.

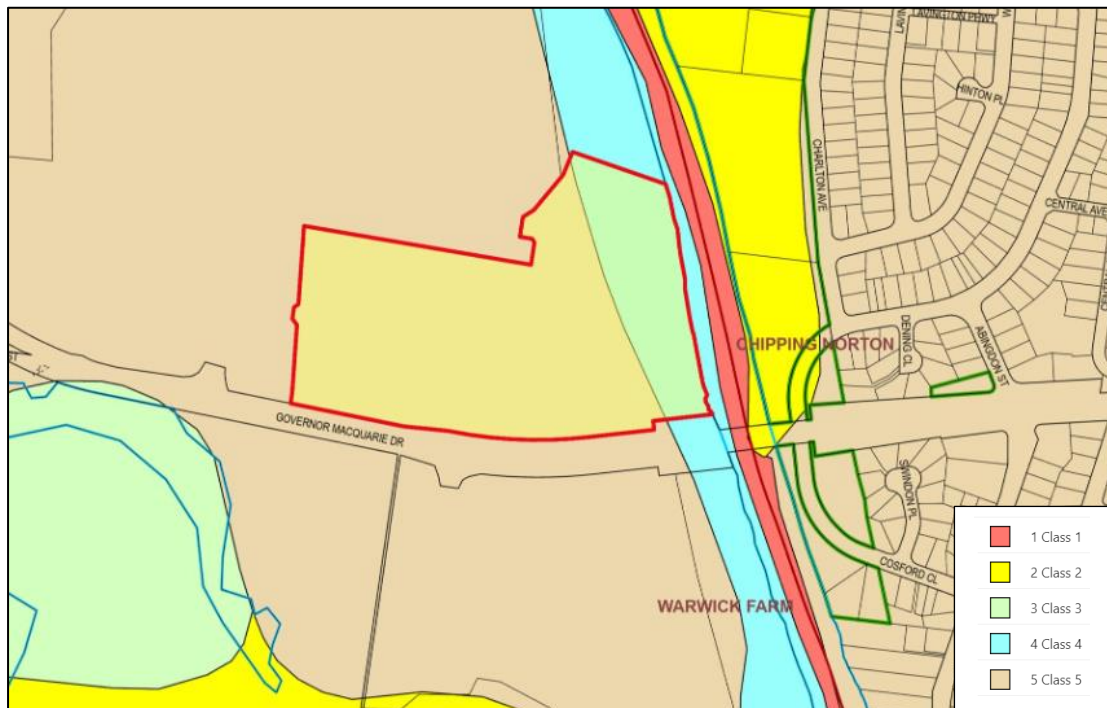


Figure 12: Acid Sulfate Soils Map Extract - (Source: Geocortex Data, November 2023)

Heritage

The subject site is listed as an item of local heritage significance in Schedule 5 of the Liverpool LEP 2008 known as Warwick Farm Racecourse Group, item No.66. The primary heritage significance of Warwick Farm Racecourse is its active use as an equine related cultural landscape. The dominant feature of the listed heritage item is the racetrack.

The construction of the proposed Inglis Sales Centre and the hotel required demolition of all existing built structures on site. As such a Development Application was submitted and approved for the demolition of existing structures and the removal of vegetation on 12 April 2016 (DA-979/2015). As part of DA-979/2015 the structures that were demolished on site included;

- General Controls for all Development Residence
- Garage and carport
- Shed
- Former turnstile & ticket sales booth
- Metal sheds x 2
- Former Ledger Totaliser
- Leger Stand
- Remnant railway platforms (north-western portion of the site)
- Avenue Plantings (behind Macquarie and Leger Stands)

As part of DA-979/2015 a Heritage Impact Statement was submitted and reviewed by Council's Heritage Officer. It was concluded that the balance of the loss of significant fabric with the invigoration and ongoing conservation of the racecourse as a whole is considered acceptable.

Furthermore, as per to the additional information request, an updated Heritage Impact Assessment (HIA) report prepared by GBA Heritage, dated August 2023 was provided and the HIA concluded that the proposal will not be visually intrusive or negatively impact the listed item and noted that the proposal will comply with Liverpool Council's LEP and DCP heritage provisions. Furthermore, the development as amended was referred to Council's heritage officer who did not object to the development on heritage grounds.

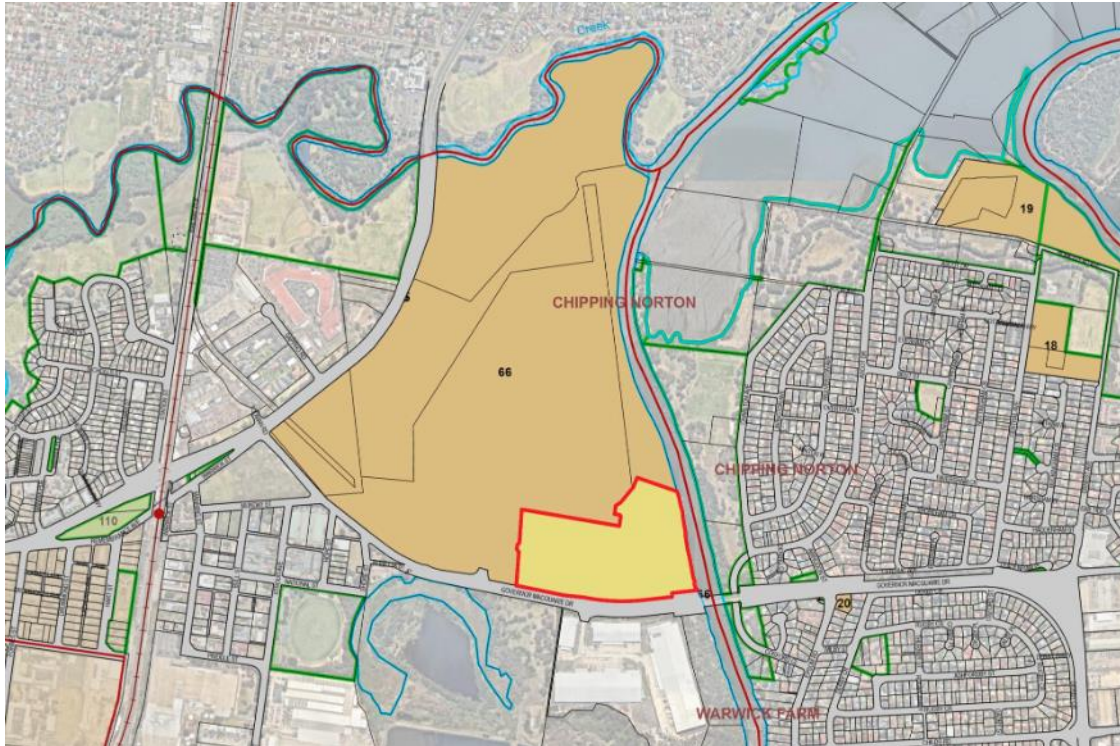


Figure 13: Heritage Map Extract - (Source: Geocortex Data, November 2023)

3. THE PROPOSAL AND BACKGROUND

3.1. The Proposal

The DA as amended seeks consent for the construction of a ten (10) storey hotel development, comprising 83 hotel suites, basement car park, commercial area consisting of administrative office spaces, and a licensed premises (outdoor terrace bar).

The proposed hotel development is an extension of the existing hotel at the site and will share the back of house facilities provided within the existing hotel.

The outdoor terrace bar is a small food and beverage offering associated with the existing hotel. The core purpose of the licenced premises is to service the patrons of the hotel.

A detailed description of the works proposed is provided below.

Site A –Hotel building

- **Demolition** of existing loading ramp, wall, and section of kerb at south-west corner of site;
- **Basement level:** 54 Car parking spaces, 10 Motorcycle parking spaces, loading area services, generator, storage, lifts, and fire stair.
- **Ground floor level:** Hotel lobby and commercial space to be utilised as administrative space for William Inglis Officers ancillary to the approved stock yard.
 - The childcare centre and conference room that was initially proposed was removed in amended plans following a request for information from council.
- **Level 1:** Hotel suites which will be consist with the above levels 2 to 8.
 - The Inglis administrative office, conference room, pre-function room, and deck has been removed in amended plans.
- **Levels 2-8:** one (1) studio suite (with connecting door), five (5) x 1 bed suites and four (4) x 2 bed suites;
- **Level 9:** three (3) x 2 bed suites, landscaped terraces, and plant; and
- **Roof level:** plant, lift overrun and photovoltaic panels.

Site B – Outdoor terrace bar

- Demolition of existing pavement, posts, planter, and garden;
- Alterations to existing terrace to accommodate a kitchen, bar, seating area, and amenities as part of the existing hotel;
- Landscaping works, including green roof over terrace (with photovoltaic panels); and
- New tree plantings, relocation of 4 x existing trees, and removal of 9 x existing *Lagerstroemis indica Natchez* (White Crepe Myrtle) trees.

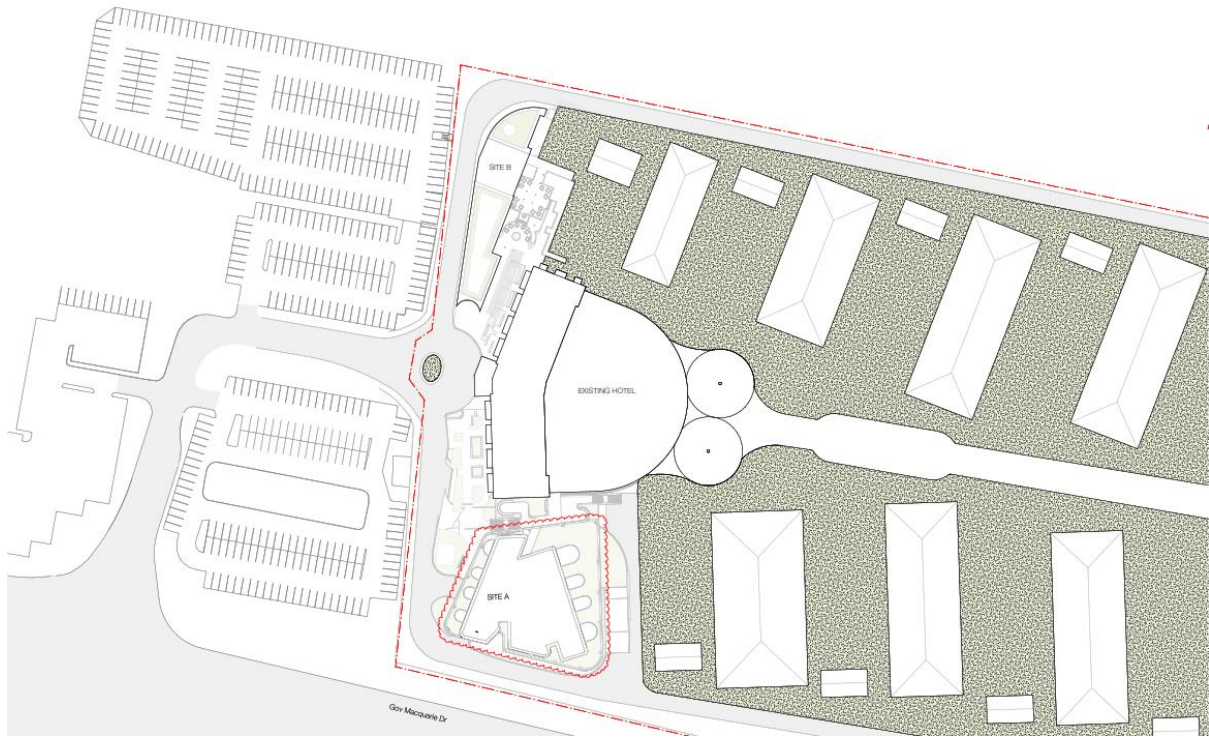


Figure 14: Proposed Site Plan – (Source: SJB, dated 08/11/2023)

Site A – Hotel and Administrative Offices

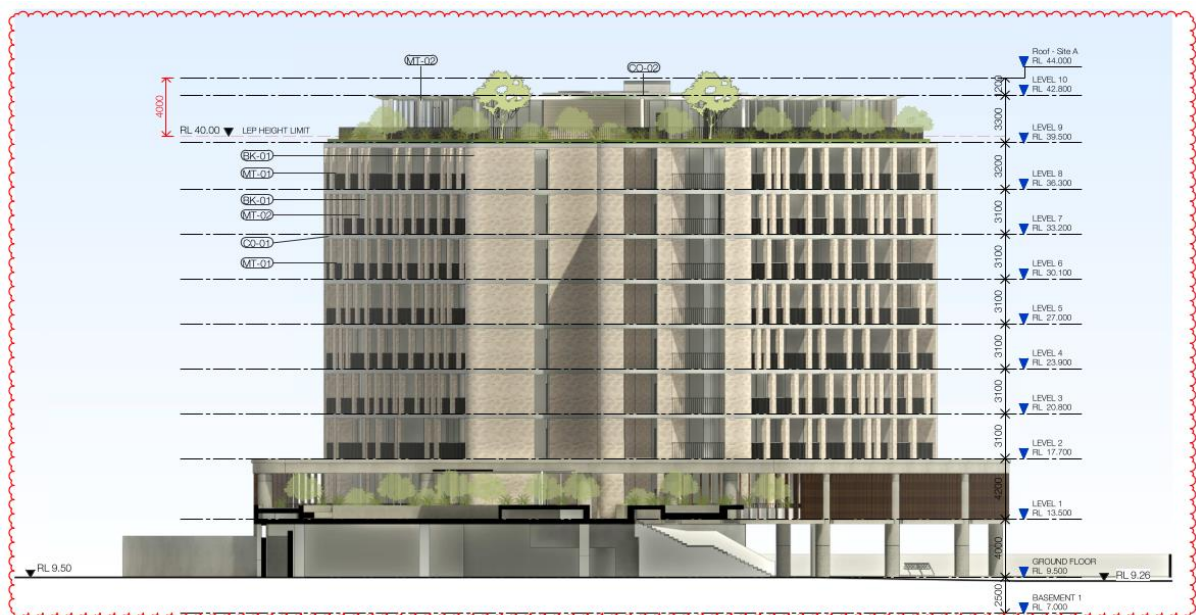


Figure 15: North Elevation – Site A

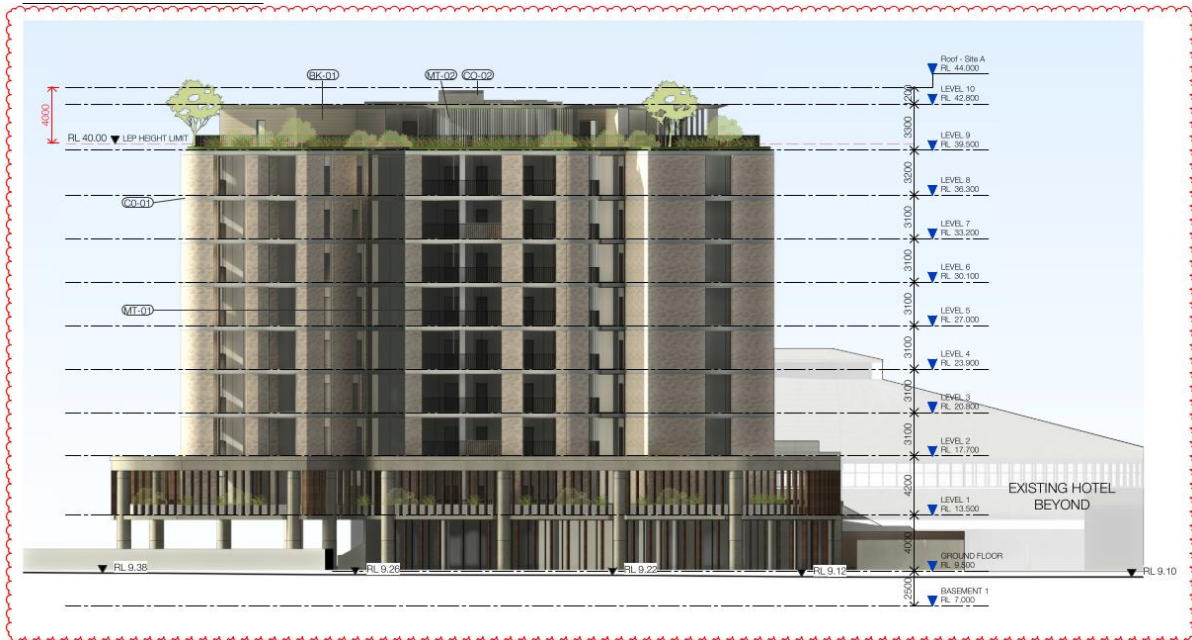


Figure 16: South Elevation – Site A

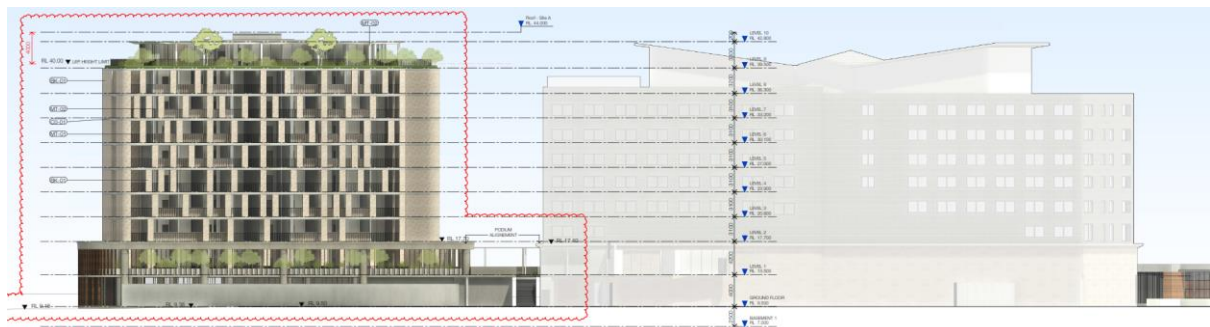


Figure 17: Proposed East Elevation – Site A

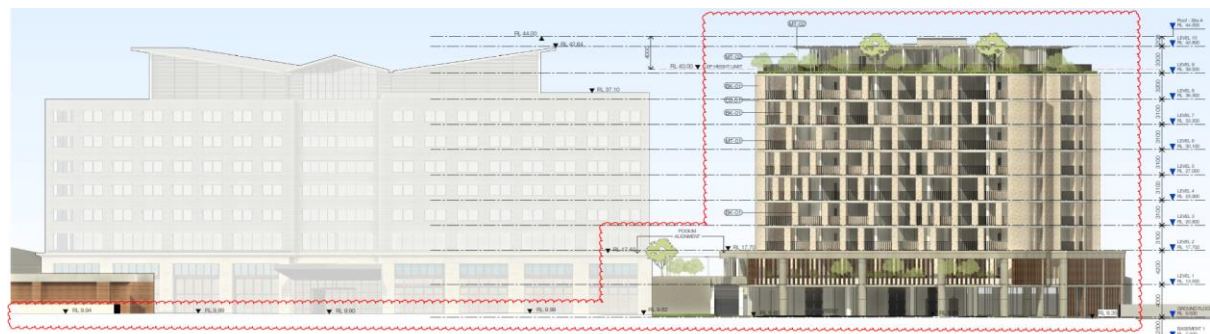


Figure 18: West Elevation - Site A

Site B – Outdoor Terrace Bar

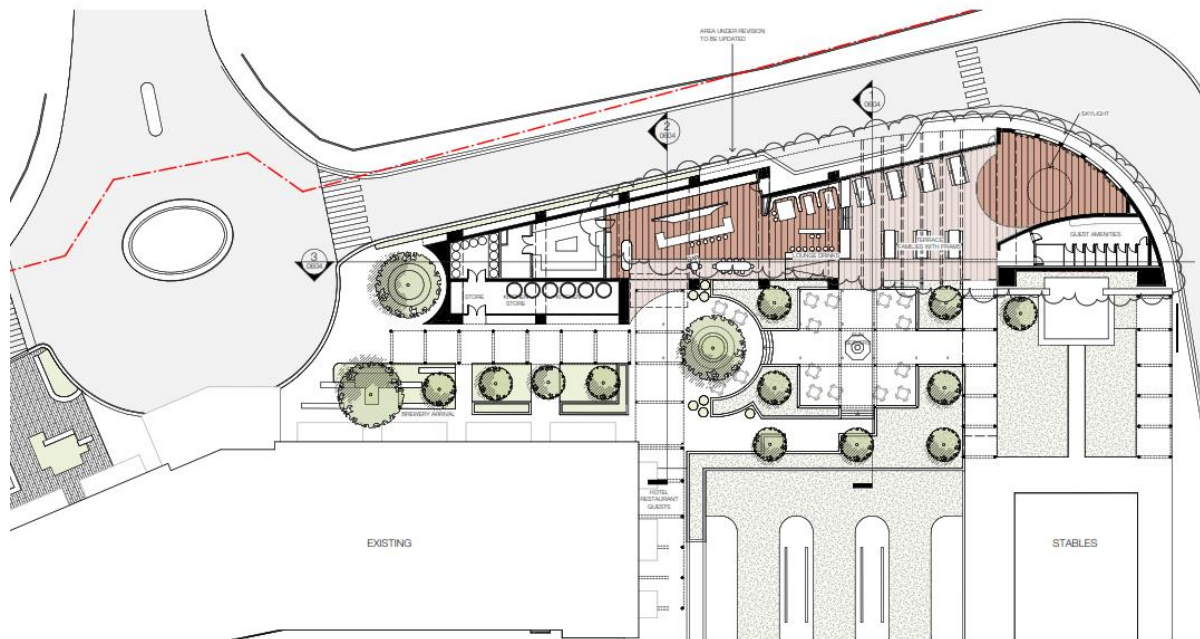


Figure 19: Site Plan and Floor Plan – Site B



Figure 20: East & West Elevations – Site B

Table 1: Development Data

Control	Proposal
Site area	10.64ha or 10.19ha (as per survey plan)
Site Area (for purpose of calculating FSR)	96,603sqm (Excluding the area zoned RE1) 101,900sqm as per survey plan.
GFA	24,152sqm (addition of 8,794m ²) As amended in revised plans.
FSR	0.25:1
Clause 4.6 Requests	Yes – a Clause 4.6 Variation Statement has been prepared by SJB Planning to vary clause 4.3 Height of Buildings.
No of apartments	228 suites (addition of 83 suites)

Max Height	34.5m (i.e. RL 44.00) – 10 storeys
Car Parking spaces	76 spaces (addition of 54 spaces) – plus ongoing use of shared ATC car park

3.2. Background

A pre-lodgement meeting (PL-117/2021) was held on 24 November 2021 for *the proposed development consists of two (2) sites on the property which book end the current hotel development. Site A located on the south-west end of the site (southern side of the hotel) is proposed to be a ten (10) level development consisting of hotel / residential accommodation, commercial/conference space, and childcare. Site B located on the north-west end of the site (northern side of the hotel) is proposed to be a food and beverage precinct.*

The development application was lodged on **3 December 2022**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
3 November 2022	DA lodged
9 December 2022 - 18 January 2023	Exhibition of the application
20 February 2023	Panel Kick Off Briefing
13 April 2023	Design Excellence Panel Meeting
11 June 2023	Request for Information from Council to applicant
23 June 2023	DA referred to external agencies.
4 December 2023	Panel Final Briefing Meeting
7 November 2023	Amended plans lodged with the following changes made: - Changes to the façade colour - Removal of Childcare centre - Removal of Conference Centre - Increase of rooms from 73 to 83. - Commercial office spaces moved to ground level.

3.3. Site History and Related Applications

(a) Planning Proposal

An amendment to *Liverpool Local Environment Plan 2008* was gazetted on 17 August 2012. The amendment (Planning Proposal) sought to rezone land north of Governor Macquarie Drive from RE2 Private Recreation to RE1 Public Recreation, E2 Environmental Conservation, and IN1 General Industrial, as well as to permit 'stock and sale yards' as a permissible use in the RE2 Private Recreation zone.

(b) Voluntary Planning Agreement

As part of the Planning Proposal, a Voluntary Planning Agreement (VPA) was entered into between the Australian Turf Club (ATC) and Council. The VPA, which encompasses the subject site, outlines a schedule of works including traffic improvements, land dedication, remediation of foreshore land, and the construction of a shared bicycle and pedestrian path. These works are currently being undertaken.

Clause 3.1.(4) of the VPA provides that Council must transfer residual land adjoining Governor Macquarie Drive (i.e. Lots 1-3 in DP 249818 currently in ownership of the Crown) to the ATC upon realignment of Governor Macquarie Drive. By way of a letter dated 2 May 2016 (provided within the DA), ATC has consented to transfer this land to Inglis.

It is noted that the subject application encompasses part of this land (i.e. Lot 2 in DP 249818), however no works are proposed in the portion under this application, therefore the transfer of land is not anticipated to be impacted or altered in this development application or during the construction of the proposal.

(c) Development Applications

- **DA-1089/2011** was approved by the Sydney West Joint Regional Planning Panel (JRPP) on 06 November 2012 for the demolition of structures on the site and erection of a stock and sales yard. The approved works were not undertaken, and the consent has since lapsed.
- DA-979/2015 was approved on 12 April 2016 for the demolition of existing structures and vegetation at the site. The approval authorised the removal of the following structures on site;
 - Residence
 - Garage and carport
 - Shed
 - Former turnstile & ticket sales booth
 - Metal sheds x 2
 - Former Ledger Totaliser
 - Leger Stand
 - Remnant railway platforms (north-western portion of the site)
 - Avenue Plantings (behind Macquarie and Leger Stands)

- **DA-1077/2015** was approved on 06 May 2016 for bulk earthworks at the site.

Note: The intent of DA-979/2015 and DA-1077/2015 were to prepare the subject site for the proposed development.

- **DA-1211-2015** was approved by the JRPP on 15 June 2016 for the following development:

“Construction of a Warwick Farm selling centre, comprising of a multi-purpose selling arena, parade ring and hotel/office building with 145 hotel rooms, dining area and associated basement parking. Construction of a stabling precinct comprising of 12 open sided horse stabling buildings to accommodate 888 horse stalls. Construction of a truck parking area, storage and maintenance precinct and managers residence”

This consent has been subsequently modified by way of four (4) modification applications.

- **Shared ATC Car Park**

DA-1309/2011, relating to Lot 2 DP 1172051 (i.e. the ATC car park site), was approved on 9 October 2012 for the demolition of existing structures and the construction of a new car park accommodating 832 vehicles.

Condition 58 of this consent required an easement on Lot 2 DP 1172051 to facilitate the shared use of the car park between ATC and Inglis. The easement facilitates use for the purpose of car parking associated with Inglis Riverside Stables and its activities, including the existing hotel.

A Section 88B Instrument was agreed in previous approval and no changes to this are proposed in this application. These arrangements are in place and are operating in perpetuity.

- **DA-27/2012** was granted on 9 October 2012 for the relocation and construction of a portion of Governor Macquarie Drive. As a consequence of the approval, the front boundary of the subject site had to be re-designed to accommodate the new road alignment as well as the introduction of signalised intersection treatments at the intersection of the subject site and Governor Macquarie Drive.

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*

- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) *any development control plan, and*
- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
that apply to the land to which the development application relates,
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal **is** considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Requiring concurrence/referral (s4.13)

4.1. Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

4.2. Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development;*
- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021; and*
- *Liverpool Local Environmental Plan 2008;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
<i>State Environmental Planning Policy (Biodiversity & Conservation) 2021</i>	Chapter 2: Vegetation in non-rural areas • Clause 2.8 - a Development Control Plan may make a declaration in any manner relating to species, size, location, and presence of vegetation. Accordingly, LDCP 2008 prescribes works that can be undertaken with or without consent to trees and objectives for tree management. Chapter 11: Georges River Catchment • Clause 11.6 - requires Council, in determining an application for development within the Catchment, to broadly consider the relevant aims, objectives, and planning principles of Chapter 11.	Yes
<i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i>	• Clause 30(2) - Design Quality Principles - The planning panel is not advised that the proposal is contrary to the design quality principles and the proposal is consistent to the ADG requirements for solar amenity and ventilation however the applicant to demonstrate other compliances with requirements as per SEPP65 Apartment Design Guide.	No
<i>State Environmental Planning Policy (Planning Systems) 2021</i>	Chapter 2: State and Regional Development • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises development that has a capital investment value of more than \$30 million.	N/A
<i>SEPP (Resilience & Hazards)</i>	Chapter 4: Remediation of Land • Section 4.6 - Contamination and remediation have been considered on site in a previous application for the DA-1077/2015 where the site was assessed and at that time the site remediated and validated. Further details on the Contamination matters are addressed below.	Yes
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	Chapter 2: Infrastructure • Section 2.118(2) - Development with frontage to classified road - • Section 2.119(2) - Impact of road noise or vibration on non-road development • Section 2.122(4) - Traffic-generating development	Yes
Proposed Instruments	Liverpool LEP 2008 review.	Yes
Liverpool LEP 2008	The site is located within the RE1 Public Recreation and RE2 Private Recreation zones. It is noted that the proposed works are limited to the part of the site zoned RE2. The proposal seeks to maintain the existing approved land uses at the site which include hotel accommodation, a	No. A Clause 4.6 Variation Statement has been prepared

	stock and sale yard, and a function centre. These land uses are permissible with consent in the RE2 zone. The original proposal included a centre-based childcare facility, which is permissible with consent in the RE2 zone. However, the amended plans were received in response to a request for information and the childcare centre was removed from the proposal. The proposed development as amended is consistent with the objectives of the RE2 Private Recreation zones. Clause 4.3 - establishes a 30m maximum building height for the site.	by SJB Planning
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Consideration of the relevant SEPPs is outlined below:

(a) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Councils landscape referral supported the DA subject to standards conditions being imposed.

(b) State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

A Design Statement has been provided with response to the request for information. The amended proposal was referred back to the Design Excellence Panel (DEP) and to Council's City Design and Public Domain (CDPD). However, the application will not make the DEP intimate prior to the final briefing.

In its initial DEP comments, the Panel commends the applicant for designing the proposed apartment suites (i.e., Site A) to comply with ADG standards regarding façade changes with the aim of improving solar amenity / ventilation, balcony width, and additional vegetation. The DEP recommends the applicant to demonstrate other compliances with requirements as per SEPP65 Apartment Design Guide.

City Design and Public Domain (CDPD) unit. CDPD requested the application be referred back to the DEP. A review has been undertaken in the key issues section of this report and the application is scheduled an extraordinary meeting on 12 December 2023 as this was the only available date for the DEP.

In this regard, it is Council's view that the matters raised by the DEP has been addressed satisfactory.

(c) State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development for that has a capital investment value of more than \$30 million. Accordingly, the Sydney Western City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

(d) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and 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.

Remediation works were undertaken at the site under DA-1077/2015 for bulk earthworks, which was approved on 06 May 2016. This DA was supported by a Remediation and Validation Program prepared by SMEC Testing Services dated April 2013.

The site was found to be suitable for hotel accommodation, stock and sale yard, and function centre uses in the approval of DA-1211/2015. Council's assessment report stated:

The documentation prepared by SMEC as part of DA-1077/2015 concludes that the site is suitable for the proposed use.

The proposal seeks to maintain existing approved land uses at the site.

On this basis, the subject site is considered suitable for the proposed development with regard to land contamination. Accordingly, the proposal is consistent with the Resilience and Hazards SEPP.

(e) State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2: Infrastructure

Chapter 2 of the Transport and Infrastructure SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process.

The site of the proposed development has frontage to Governor Macquarie Drive, which is a classified road. Accordingly, clause 2.118(2) of the SEPP applies.

Pursuant to clause 2.119(2) of the Transport and Infrastructure SEPP, the proposed development includes appropriate acoustic attenuation measures so as to not be affected by noise or vibration. The Environmental Health Officers do not accept the Vibration Impact Assessment initially provided primarily due to the proposed childcare centre being proposed. The amended scheme has removed the childcare centre along with the function centre, which changes the acoustic requirements, and they are now supported.

Pursuant to clause 2.122(4) of the SEPP, the proposal is deemed to be traffic-generating development given it is a commercial premises of more than 2,500sqm with access to a classified road. Written notice to TfNSW has been undertaken and TfNSW have assessed the additional information and have not raised any further concerns with the development.

Chapter 3: Educational Establishments

The development is amended removed the proposed childcare centre from the application. Therefore, an assessment under chapter 3 is not required.

(f) Liverpool Local Environmental Plan 2008

The relevant local environmental plan applying to the site is the *Liverpool Local Environmental Plan 2008* ('the LEP').

(i) Zoning and Permissibility (Part 2)

The site is located within the RE1 Public Recreation and RE2 Private Recreation zones pursuant to Clause 2.2 of the LEP.

It is noted that the proposed works are limited to the part of the site zoned RE2.

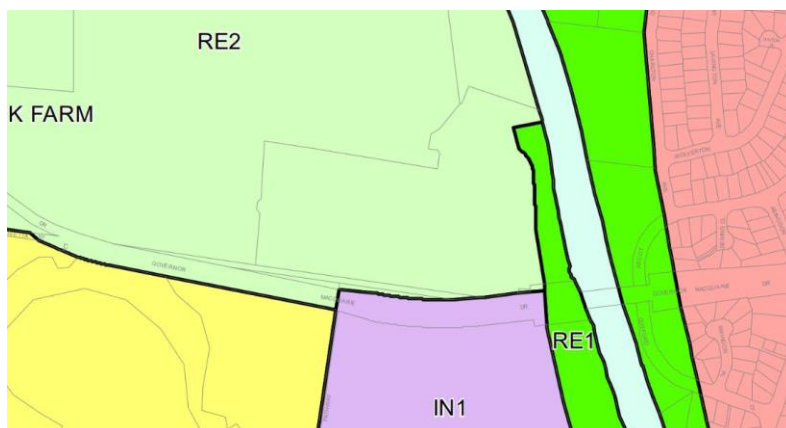


Figure 21: Zoning Map Extract

The proposal satisfies the definition of hotel or motel accommodation which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

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

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposed hotel and outdoor dining area are considered recreational purposes;

- The proposal provided a recreation use in an appropriate area which is compatible with the surrounding land uses;
- The proposal does not significantly impact on the natural environment around the Georges River at the east of the site and Horseshoe Pond; and
- The proposal compliments the uses of the existing Warrick Farm Stables and Warrick farm Racecourse.

(ii) General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions, and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

The proposal does not comply with the development standards in Part 4 of the LEP/ and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum height of building control.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	30m	34.5m	No – Clause 4.6 Variation Request submitted.
FSR (CI 4.4(2))	0.25:1 (24,150sqm)	0.25:1(24,152sqm) Given the RE1 zone is excluded from the calculation.	Yes
Heritage (CI 5.10)	The site is identified under Schedule 5 of LLEP 2008 as a Heritage Item, 'Warwick Farm Racecourse Group, including grandstand, race track, stables, interiors and landscape' (Item No. 66).	A Heritage Impacts assessment as provide with additional information. Council's City Design Heritage officer has reviewed the report and proposal as amended and has not raised any further concerns in relation to negative impacts to the heritage listed item.	Yes
Flood Planning (CI 5.21)	The site is identified as flood prone land.	Councils Flooding referral has supported the proposal.	Yes
Acid sulphate soils (CI 6.1)	N/A		
Environmentally Significant Land (CI 7.6)	A small portion of the site towards the eastern boundary is identified as environmentally significant land.	The proposed works are limited to the western-most portion of the site and are not located on or near the part of the site identified as	Yes

		environmentally significant land. In this regard, the proposed development will not result in any adverse impact to the condition or significance of any vegetation or waterbody.	
Foreshore Building Line (CI 7.9)	A small portion of the site towards the eastern boundary is identified as land below the foreshore building line.	The proposed works are limited to the western-most portion of the site and are not located on or near the foreshore building line. In this regard, the proposed development will not result in any adverse impact to the significance or amenity the foreshore.	Yes
Earthworks (CI 7.31)	Clause 7.31 requires consent for earthworks and identifies matters for consideration to ensure development involving earthworks will not have a detrimental impact on environmental functions and processes, neighbouring development, heritage, or features of surrounding land.	Minor earthworks are proposed to facilitate the proposed new basement car park. The proposed development and earthworks can be undertaken in a manner that will not adversely impact environmental functions and processes. In addition, Council's engineering referral is in support of the proposal subject to standard conditions.	Yes

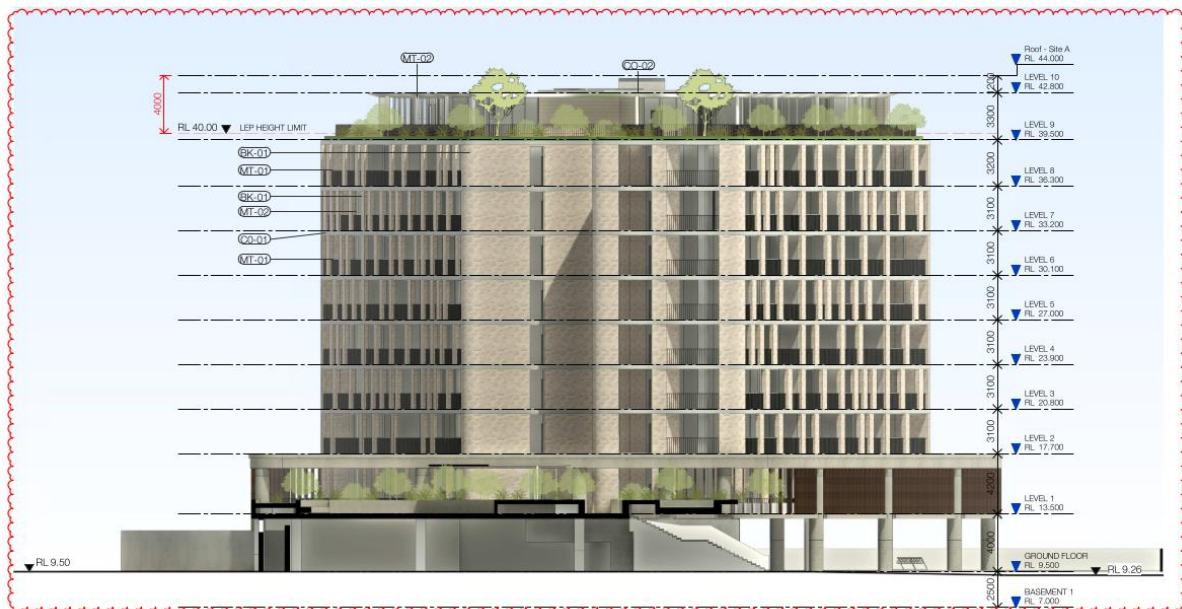
The proposal is considered to be generally inconsistent with the LEP.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation

The development standard for which a variation is sought is Clause 4.3 – Height of Buildings under LLEP 2008.

The proposal exceeds the maximum building height development standard of 30m by 4.5m, equating to a variation of approximately 15%.



North Elevation - Site A

Preconditions to be satisfied.

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides the power to grant development consent for a development that contravenes the development standard subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

Applicant justification in relation to whether the proposal is unreasonable and unnecessary

The proposal:

- Satisfies the objectives of the zone and the development standards;
- Achieves the density envisaged under the relevant planning controls. The proposed FSR of 0.25:1 complies with the maximum allowable FSR of 0.25:1.
- Maintains the heritage significance of the Heritage Item (A detailed heritage report has been requested from the applicant);

- The proposed development is compatible with the scale, design, and character of the approved nine (9) storey hotel building which exists on the site and has a height of 32.5m (representing a 2.5m exceedance of the height of buildings development standard);
- The part of the building that exceeds the development standard is limited to one (1) storey only, which is setback from the primary tower form so as to minimise the perceived bulk and scale of the proposed development. This part of the building does not contribute to significant adverse impact to adjoining properties in terms of overshadowing, visual privacy, or view impacts; and
- The proposed development is generally compliant with the controls, or the intent of the controls, contained in LDCP 2008.

Applicant justification whether there are sufficient environmental planning grounds to justify contravening the development standard

- The environmental planning grounds provided by the applicant are the same as those provided above.

Applicant justification whether the proposal is in the public interest

The proposal remains consistent with the objectives of the Height of Buildings standard.

The Panel can assume the Secretary's concurrence under Planning Circular PS 18-003 issued on 21 February 2018.

Planning Circular PS 18-003 states the following in terms of assuming concurrence from the Secretary for applications determined by a Planning Panel:

The restriction on delegates determining applications involving numerical or non-numerical standards does not apply to all regionally significant development. This is because all regionally significant development is determined by a panel and is not delegated to council staff.

4.3. Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- Liverpool Local Environmental Plan 2008 Review.

These proposed instruments are considered below:

Liverpool Local Environmental Plan 2008 Review

Feedback received from the review will be reported to Council, informing them of the progression of the Liverpool LEP Review. A Planning Proposal will be prepared in 2023, and this will be subject to further community consultation, anticipated at the end of 2023. This review has no impact on the Development Application.

4.4. Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- Liverpool Development Control Plan 2008 ('the DCP')
 - Part 1 - General Controls for all Development

The proposal is considered to be consistent with the key controls outlined in the Liverpool Development Control Plan 2008 and all relevant compliance tables for the LDGP 2008 can be found in Report Attachment B.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- **Liverpool Contributions Plan 2018 - Established Areas**

In accordance with Liverpool Contributions Plan 2018 – Established Areas, a Section 7.12 contribution of **\$552,610** has been applied and included the recommended draft consent conditions.

4.5. Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

As part of the previously gazetted Planning Proposal, a Voluntary Planning Agreement (VPA) was entered into between the Australian Turf Club (ATC) and Council. The VPA, which encompasses the subject site, outlines a schedule of works including traffic improvements, land dedication, remediation of foreshore land, and the construction of a shared bicycle and pedestrian path.

These works are currently under construction.

Clause 3.1.(4) of the VPA provides that Council must transfer residual land adjoining Governor Macquarie Drive (i.e. Lots 1-3 in DP 249818 currently in ownership of the Crown) to the ATC upon realignment of Governor Macquarie Drive. By way of a letter dated 2 May 2016 (provided within the DA), ATC has consented to transfer this land to Inglis.

It is noted that the subject application will not impact on the delivery of this agreement at any stage of its development.

4.6. Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- No requirements under section 61 apply to this proposal.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

4.7. Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

Natural Environment

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause any adverse impact to the natural environment. The temporary removal of vegetation will be replaced by trees and shrubs in new landscaping for the site. Council's natural environment landscape officer concurs with the submitted landscape plans and scheme and raised no objections subject to conditions of consent.

The development proposes environmental protection measures that address any potential impacts that are likely to arise from the development. These measures are outlined in submitted documentation for the application such as a site/waste management plan, sediment and erosion control plan, and drainage plans. A condition will be imposed on any consent that requires the development to be carried out in accordance with the submitted documents.

The proposed development has given consideration to the issues that need to be addressed to ensure that facility operates in a way to minimise any impact to the natural environment.

Built Environment

The impacts of the development on the built environment have been assessed and the development is considered to be acceptable and unlikely to cause any adverse impact to the built environment.

The proposed bulk and scale of the development is consistent with the bulk and scale of established nearby racecourse, the existing hotel and the desired future character espoused by the DCP. The minor non-compliances to the balconies, which are measured at 1.5 meters in width are moderate and only impact a portion for the balconies before the balconies increase to 2 meters in width.

The impacts of the development on the built environment have been assessed and are considered to be satisfactory for development located within an RE2 Public Recreation zone. The proposed development has given consideration to the issues that need to be addressed to ensure that facilities operate in a way to minimise any impact to the built environment.

Social Impact

The proposed development will not have a detrimental social impact in the locality considering the location within a precinct that has been established for recreational uses. Standard conditions have been imposed to ensure appropriate noise suppression measures and traffic management are in place to minimise any detrimental social impact on the surrounding development.

Economic Impact

The proposal will provide a positive economic impact arising from the construction of the new facilities for future operations. The proposal will improve the employment opportunities within the Liverpool area, which will encourage economic growth in the area. It is unlikely to devalue any of the surrounding development as a direct result of this proposal.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

4.8. Section 4.15(1)(c) - Suitability of the site

The proposal is considered suitable for the site for the following reasons:

- The proposal is consistent with the locality, given the design integrates with the larger Riverside Stables development;
- There are adequate services available for the site, in terms of adequate electricity infrastructure a substation is proposed for the development. (Consultation with Endeavor Energy is required in relation to the fire safety of the substation).
- The site is affected by flooding and this has been adequately addressed by the proposal; and
- The site is conducive to development, as demonstrated by the existing development already present at the site.

4.9. Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

4.10. Section 4.15(1)(e) - Public interest

The proposal is in the public interest for the following reasons:

- Potential impacts are mitigated at the site, as demonstrated in the Part 5 assessment below.
- The proposal is generally consistent with the applicable EPIs which relate to the development as demonstrated in Part 3 above; and
- The proposal provides economic benefit at the site through the creation of jobs during construction, creation of jobs during operation, generation of commercial spending in the area through the residence of the hotel and provides investment opportunities for the Liverpool locality.

On balance the proposal is consistent to the public interest.

5. REFERRALS AND SUBMISSIONS

5.1. Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

The outstanding issues raised by Agencies are considered in the Key Issues section of this report.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	N/A		
Rail authority for the rail corridor	N/A		
Referral/Consultation Agencies			
Aeria (Bankstown Airport) 23 June 2023	The proposal is identified within the approach slopes / OLS to Bankstown Airport, or the building exceeds the height control contained in the Liverpool Local Environment Plan. The proposed new hotel is higher than the existing hotel at RL 44.00. That is a building of approximately 35 meters. The OLS is approximately 51 to AHD. Whilst the building does not exceed the obstacle height limit. It is situated in close to the flight path therefore the application is referred to Bankstown Airport for comment and advice.	No concerns were raised.	Yes
RFS	N/A		
Electricity supply authority	N/A		
Rail authority	N/A		
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	Two referrals to TfNSW were required. The first referral to TfNSW dated 17 October 2023 requested correct data on bicycle cycle time to be modelled for Governor Macquarie	Yes

		Drive. The information was provided and referred back to TfNSW. The second referral was completed on 21 November 2023 and was satisfied with additional information.	
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed in the SEPP 65 assessment and the Key Issues section of this report. Further meeting was requested by the DEP however, the matters raised by the panel have been largely addressed. These matters have been addressed in the key issues section.	No.
Liquor and Gaming NSW	--	No response was received from Liquor and Gaming NSW. Accordingly, the premises will be required to update their licence with the officer and it will be assessed by the regulator at that time.	N/A
Integrated Development (S 4.46 of the EP&A Act)			
RFS	<i>S100B - Rural Fires Act 1997</i> The development of bush fire prone land for a special fire protection purpose (including tourist accommodation) requires approval from the NSW Rural Fire Service under section 100B of the <i>Rural Fires Act 1997</i>.	The proposed works are not located on the part of the site identified as bushfire prone land and, as such, the proposed development is not integrated development pursuant to section 4.46 of the EP&A Act 1979.	Yes
Natural Resources Access Regulator	<i>S89-91 – Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	The proposed works are not located within 40m of the Georges River and, as such, the proposed development is not integrated development pursuant to section 91 of the Water Management Act 2000.	Yes
Water NSW	<i>S89-91 – Water Management Act 2000</i>	The proposed works were referred to Water NSW and a response was on 27 November 2023. It included General terms of Approval and conditions required to be addressed by the applicant.	Yes

5.2. Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Building	Supported subject to conditions. Include standard class 2-9 building conditions if approved.	Yes
Heritage Officer (Strategic Planning)	A detailed heritage impact assessment was provided in response to an additional information request. The HIA was assessed by Council's heritage Officer and the matters were considered satisfactory and conditions have been provided.	Yes
Community Services	In the initial assessment, Community planning does not find adequate justification for the inclusion of the childcare component in the proposed development which was noted in the request for additional information to the applicant. The additional information received removed the childcare centre and conference centre from the development. No further concerns were raised by Community Planning.	Yes
Engineering	No engineering concerns were raised, and conditions provided.	Yes
Environmental Health	Based on the submitted information the Environmental Health section is unable to support DA-1080/2022 as further information is required, including but not limited to the following: <u>Food Premises Construction Details – Childcare centre kitchen and bottle preparation room</u> - Detailed floor and section plans for the food premises are to be submitted; <u>Suitably Qualified and experienced consultant</u> - The applicant is to confirm that the acoustic report has been prepared or reviewed and certified by a suitably qualified and experience consultant. In then second referral to review additional information, EHOs raised additional further matter not raised in the initial referral. The following matters were raised: Odour Assessment for the proximity of the development to the Liverpool Sewage Treatment Plant. Considering that the matter was not initially raised, it is recommended that this be imposed as a condition of consent or as a deferred Commencement condition.	To be addressed by Conditions of consent.

Fire Safety	Following the additional information, the application was referred to fire safety and no further concerns were raised.	Yes
Flooding	Flooding referral was sent to Council's Engineer for the amended scheme. Council's engineering did not finalise the written referral sheet prior to the SWCPP briefing meeting but has by email indicated that the amended stormwater plans and MUSCI modelling requested in the RFI is sufficient. Conditions of consent will follow the final briefing meeting to be added to the draft conditions.	Yes
Landscaping	Supported subject to conditions.	Yes
Traffic and Transport	The development as amended has been supported and conditions have been imposed accordingly.	Yes
City Design and Public Domain	The development as amended has addressed many of the matters raised in the initial request for information. Furthermore, a number of the matter raised by the design excellence panel have been addressed and are discussed in the key issues section of the report. However, CDPD deferred support for the proposal and requested the application to be re-referred to the DEP. The Application has been re-referred to the DEP, however the only available date is an extraordinary meeting scheduled for the 12 December 2023.	No
Waste Management	The advice provided is for <u>guidance only</u>, and it is up to the assessing town planner as to whether the proposed waste arrangements and facilities meet the planning objectives in respect to waste. In this regard, the waste management will be consistent with the existing collections on site and standard conditions have been imposed accordingly. Therefore, it is deemed satisfactory.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.3. Community Consultation

The proposal was notified in accordance with the Council's Notification and Advertising Policy from 9 December 2022 until 18 January 2023. The notification included the following:

- Details of the application and supporting documentation have been sent to the owners/occupiers of any properties considered to be potentially affected by the proposal.
- A sign placed on the site.
- Notification on a website.

The Council received a total of 1 unique submission, comprising 1 objection. The issues raised in these submissions are considered in **Table 7**.

Table 7: Community Submissions

Issue	No of submissions	Council Comments
Sewerage and wastewater Submission raised concern the development will adversely impact on Liverpool wastewater treatment plant (LWTP).	1	The LWTP has been recently upgraded and capacity increased. In this regard, the proposal is considered to meet its statutory obligations in relation to wastewater.

6. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

6.1. Flooding and Engineering Matters

Under the initial referral additional music modelling as requested in the request for information letter as follows:

1. *Provide a stormwater report describing stormwater quality & quantity management for the development with necessary plans & drawings.*

On-site water quality treatment facilities shall be incorporated in the proposal and details shall be provided in the report. The treatment facilities shall ensure that stormwater runoff of the development is treated before leaving both sites and comply with the Council's water quality standards. The treatment facilities shall capture all gross pollutants and contaminants from stormwater on sites before discharging into the waterway or Council's stormwater system. The treatment measures shall be designed using MUSIC modelling software and the performance of the treatment system shall be verified using the Council's MUSIC link.

2. *Submit the stormwater report with MUSIC modelling analysis, plans & drawing of proposed stormwater drainage system and water quality treatment facilities for the development with details. A copy of MUSIC model with result files shall be provided for the assessment.*

The applicant submitted and amended scheme with the addition of an amended stormwater plan and MUSIC Modelling. Council's Flooding Engineer and Development Engineering revised the amended data and were satisfied with the additional information submitted. In this

regard conditions for consent have been imposed accordingly to manage the stormwater within the development.

6.2. Environmental Health Matters

(a) Odour Assessment

In a re-referral to Council's Environmental Health Officers (EHO) it was noted that the site is in proximity to the Liverpool Wastewater Treatment Plant (LWTP) and the Riverside Stables which services a large number of horses on site. In the case of 'proximity' the site of the new hotel is approximately 495 meters from the treatment plant and in close proximity to the stables. Generally, potential odour sources within a 500-meter radius are to be addressed in an odour assessment report.

In the context of the development application, the EHOs were initially referred the application in February 2023 prior to the amended scheme being provided in October 2023 and did not raise odour as a concern or request an odour assessment report, therefore it was not included in the initial request for information letter dated 11 June 2023 and as a result not addressed by the applicant at that time.

In the previous development for the stables DA-1211/2015, an Odour Impact Assessment and Review of an Odour Management Plan was prepared assessing the potential odour impact of the stables on the hotel operation. The assessment by 'The Odour Unit Pty Ltd', dated 2 May 2016 concluded that the stables will be a clear low risk operation in terms of odour on nearby uses considering its location.

In this regard, it was subsequently requested of the applicant to seek, and updated review of the analysis undertaken by the Odour Unit and advise if the findings remain consistent with that odour assessment at that time. However, this is pending from the applicant. Furthermore, a condition of consent as imposed under DA-1211/2015 which requested a field survey to be undertaken 6 months after operation. This has yet to be provided to Council. It is therefore, recommended the same condition be imposed under this application with aim of capturing the updated field data.

(b) Food Premises Construction Details (bars and clubs)

The request for additional information requested detailed floor and section plans for all bars and the childcare centre. Having regard to the removal for the childcare centre in the amended scheme, plans for the childcare centre are no longer required. However, in their response to the additional information the applicant failed to provide detailed plans of the bar area, in particular the food serving area or provide detail on how the food will be handled on site taking into consideration that the new hotel will be located a distance away on the other side of the site. In this regard, conditions of consent have been imposed that require plans to be submitted to Council prior to issue of any construction certificate for council review.

The plans are to demonstrate compliance with the following:

- AS4674-2004 – Design, construction and fit-out of food premises
- Food Standards Code (Australia)
- Building Code of Australia
- Sydney Water Corporation Trade Waste section

Therefore, this matter will be addressed by conditions of consent.

(c) Onsite Sewage Management System – Alt's and Add's/Commercial

The matters relating to onsite sewage management were not indicated in the initial referral by Environmental Health, however after review of the amended scheme, it is noted as a matter to be addressed.

A review of Council records indicate that the proposed development is within an area that is currently serviced by an on-site sewage management system. The applicant is required to demonstrate the viability of connecting the proposed development to a reticulated sewerage service where available or alternatively, submit a wastewater report which considers all potential wastewater flows on each lot including all proposed and existing flows. Considering this was advised at a late stage, it is recommended this addressed as condition of consent.

To address this a report is to be prepared by a suitably qualified person or organisation and is to include the following as a minimum:

Plan

A plan, to scale, showing the location of:

- a) The sewage management facility proposed to be installed or constructed on the premises;*
- b) Any related effluent application areas;*
- c) Any buildings or facilities existing on, and any environmentally sensitive areas of, any land located within 100 metres of the sewage management facility or related effluent application areas; and*
- d) Any related drainage lines or pipework (whether natural or constructed).*

Specifications

Full specifications of the sewage management facility proposed to be installed or constructed on the premises concerned.

Site assessment

Details of the climate, geology, hydrogeology, topography, soil composition and vegetation of any related effluent disposal areas together with an assessment of the site in the light of those details.

Statement

The report shall include a statement of:

- a) *the number of persons residing, or probable number of persons to reside, on the premises; and*
- b) *such other factors as are relevant to the capacity of the proposed sewage management facility.*

Operation and maintenance

The report shall include details of:

- a) *The operation and maintenance requirements for the proposed sewage management facility;*
- b) *The proposed operation, maintenance and servicing arrangements intended to meet those requirements; and*
- c) *The action to be taken in the event of a breakdown in, or other interference with, its operation.*

Standards and guidelines

The report shall demonstrate that a system can be installed in accordance with the requirements of the following documents:

- a) *Liverpool City Council's On-site Sewage Management Standard 2021;*
- b) *Local Government (General) Regulation 2021;*
- c) *Australian/New Zealand Standard 1547:2012, On-site Domestic Wastewater Management, or any updated standard which supersedes AS1547:2012;*
- d) *Sydney Catchment Authority 2012, Designing and Installing On-site Wastewater Systems;*
- e) *NSW Health 2001, Septic Tank and Collection Well Accreditation Guideline; and*
- f) *Department of Local Government 1998, On-site Sewage Management for Single Households.*

6.3. Design Excellence Panel (DEP) and Urban Design

It is noted that the DEP deferred the application in their initial meeting pending the application address the matters raised. The application is scheduled for an extraordinary DEP meeting on 12 December 2023. This is a result of no available timeslots for the DEP prior. To that end, the following table reviews the comments provided from the DEP at its first meeting on 13 April 2023 and provides a response from the applicant and indicating whether the matter is addressed adequately in Council's view.

The application is assessed the to nine design principles pursuant to the State Environmental Planning Policy 65 (Design Quality for Residential Apartment Development) (SEPP 65).

<i>DEP Comments</i>	<i>Applicants Response</i>	<i>Council Response</i>
<u>Context</u>		
<i>The panel appreciates the design of the garden pavilion (i.e., Site B) and notes that the space provided</i>	<i>Further detail has been provided to 1400 series drawings including internal dimensions</i>	The submission includes pedestrian and vehicular movement diagrams on

ample opportunity for outdoor dining and passive recreation for the hotel guests. The Panel commends the applicant for designing the proposed apartment suites (i.e., Site A) to comply with ADG standards regarding solar amenity / ventilation. The Panel recommends the applicant to demonstrate other compliances with requirements as per SEPP65 Apartment Design Guide.	and area calculations for all room types. Cross ventilation analysis across all apartment levels has been added to DA drawing set on DA-3060.	drawing DA-3070. However, the proposal lacks a broader active transport network and embellishment on the relevant plans. Additionally, the amended plans do not feature a comprehensive wayfinding strategy for each individual function as required by the DEP panel.
The Panel queries the applicant regarding the requirement, feasibility, and nature of the proposed childcare facility. The Panel requires the applicant to establish the current market demand for childcare at this location and demonstrate the level of amenity proposed as part of the facility.	Childcare centre has been removed and replaced with commercial on Ground Floor with additional hotel rooms on Level 1.	Addressed by removal of Childcare centre
The Panel raises concern regarding the proximity of the hotel suites to Governor Macquarie Drive and its presentation to the street (particularly for the ground floor and podium levels).	Photomontages have been provided to demonstrate that the surrounding buildings other than the existing Inglis Hotel are not in close proximity. The podium level has been lowered to relate to the existing Inglis Hotel podium. The terrace level has been lowered to Level 1 to provide better amenity to the street.	Additional articulation has been undertaken; however, it is noted that the hotel is a significant distance from Governor Macquarie Drive. In terms of scale when compared to nearby structures, the building is part of the braider racecourse which represents a large grandstand and open parking area with supportive horse stables fronting Governor Macquarie Drive.
The Panel notes that the proposed built form for Site A (i.e., hotel suites) can be supported, however, the new building should integrate with the existing built form of the hotel. Consider appropriate architectural techniques / materiality to better integrate the two buildings together	The brick selection has been revised for Site A to be lighter in colour to relate to the existing built form and appearance of the Inglis Hotel.	The building no appears consistent in colour scheme with the existing hotel.
The Panel notes that the access to hotel suites / childcare might be impacted by traffic volumes during events. The Panel requires the applicant to develop a traffic study during events and race days.	Childcare removed from proposal - input from Traffic Consultant required for events.	No longer contentious.
The Panel requires the applicant to address the previous recommendations made by the DEP, and prepare a pedestrian & vehicular access and movement strategy, and a wayfinding strategy for each individual function proposed as part of the development.	Pedestrian and vehicular movement diagrams have been added to the DA drawings on DA-3070.	The submission includes pedestrian and vehicular movement diagrams on drawing DA-3070. However, the proposal lacks a broader active transport network and embellishment on the relevant plans. Additionally, the amended plans do not feature a comprehensive wayfinding strategy for each individual function

		as required by the DEP panel. In this regard the application was recommended to be reviewed by the DEP. • In addition, it is noted that the Council's Traffic and Transport Units reviewed the amended plans and are satisfied with the transport, parking, and vehicle movement on site. • Furthermore, a condition of consent has been imposed for the applicant to prepare a wayfinding strategy for the site and submit it to Council. This can be satisfactorily addressed under the conditions of consent.
Built Form and Scale		
• The Panel notes that the proposed childcare facility forms a major component of the ground floor for the hotel. The Panel recommends the applicant revisit the design of the childcare facility and re-organise the play spaces to be more open to the sky and to achieve better solar amenity.	• Childcare removed from proposal.	No longer contentious
• The Panel notes that the access to loading dock is quite constrained and likely to be busy. The Panel recommends the applicant to ensure that adequate space for vehicle manoeuvre is provided as part of the detailed design. The childcare centre should be more adequately separated from the loading dock access.	• Childcare removed from proposal. Swept paths to be shown to the loading dock provided by Traffic Engineer	No longer contentious. Loading dock are located in the basement.
• The Panel recommends the applicant to develop the elevations further to better integrate the existing context including the alignment of the podium level	• Further detail added to elevations include: - Notation on podium alignment - RLs of existing massing	Elevations further articulate with the changes to colour and reduction of the podium level. This matter has been addressed.
• The Panel requires the applicant to explore the re-work of the childcare internal layout. The aim is to achieve a better indoor-outdoor relationship, more north facing winter sunlit, summer shaded internal and external spaces, with a garden and or adventure play character.	• Childcare removed from proposal.	No longer contentious.
• The applicant is to review whether the loading dock ramp can be narrowed to help achieve this.	• Childcare removed from proposal.	No longer contentious.
• Other childcare issues relate to the drop off which is shared with the hotel and conference facilities. The safety of the children in the drop off is questioned.	• Childcare removed from proposal.	No longer contentious.

The Panel requires the applicant to review the east-west façades to better respond to summer solar load. Consider shade solutions to improve the overall performance of the building during summer	View from sun diagrams added to DA drawing set to demonstrate adequate, passive self-shading from balconies during summer solstice.	Resolved adequately in amended plans.
Density		
The panel supports the overall density proposed on site, however, recommends the applicant review the footprint of the hotel, to reduce bulk and to potentially provide more landscaped open space at Governor Macquarie Drive, Porte cochere access road and loading dock ramp precincts.	The terrace planting has been lowered to Level 1 providing more visual amenity to Governor Macquarie Drive. The ground floor landscape design maximises soft landscaping with garden beds to both Site A entry façade and forecourt.	Resolved adequately in amended plans.
Sustainability		
The Panel requires the applicant to consider adequate sustainability measures for the development. Provide a summary of all initiatives being considered as part of the proposal (i.e., water, energy and materiality)	The proposed development meets all the required sustainability requirements.	Resolved adequately in amended plans.
- The Panel requires the applicant to address the previous recommendations made by the DEP. - An appropriate photovoltaic system should be considered for power/lighting the common areas.	Photovoltaic systems have been integrated on roof of both Site A and B.	Resolved adequately in amended plans.
Provision of rainwater storage should be considered to allow reuse within the subject site.	Rainwater storage tanks will be provided where possible in the DD process.	Resolved adequately in amended plans.
Analysis of the solar gain to the east and west facing rooms should be undertaken. If this analysis shows that the apartments will experience high levels of sun exposure in the summer months, appropriate external sun shading will be required as an integrated part of the façade design.	View from sun diagrams added to DA drawing set to demonstrate passive self-shading from balconies during summer solstice	Resolved adequately in amended plans.
Amenity		
The Panel notes that the amenity proposed for the childcare facility is inadequate as its external spaces faces south and east. The Panel recommends the applicant improve the solar amenity for the play spaces within the childcare facility and provide more external environment for these play spaces.	Childcare removed from proposal.	No longer contentious.
The pedestrian connection between the existing hotel and new hotel needs further refinement / detailing to improve the overall quality of the connection being proposed along the drop-off / public areas.	Garden beds have been provided to the Site A entry and along the entrance forecourt to improve the pedestrian experience between the existing hotel and new site.	Resolved adequately in amended plans and supported by Council landscape officer.
The Applicant is to demonstrate that the traffic noise and fumes	Childcare removed from proposal.	No longer contentious.

<i>generated along Governor Macquarie Drive will not impact on the children at the Childcare Centre.</i>		
Aesthetics		
<i>The Panel acknowledges the aesthetics proposed for the building on Site A (i.e., earthy agricultural tones), however, recommends that the applicant consider the materiality / features of the existing hotel building to better integrate the two. The Panel reiterates that there is an obligation to look at the context and achieve a more cohesive design outcome for the site. The Panel recommends that the applicant develop an adequate contextual dialogue between the existing and proposed developments on site.</i>	<i>The brick selection has been revised for Site A to be lighter in colour to relate to the existing built form and appearance of the Inglis Hotel.</i>	Resolved adequately in amended plans.
<i>Following the Applicant's comments regarding the colour accuracy of the brick in the existing renders, the applicant is to prepare a revised 3D model / render that depicts the true colours of the bricks proposed. Consider a softer tone of the brick to achieve a better integration.</i>	<i>CGI and precedents updated to more accurately reflect proposed materiality and colour of brickwork. A lighter brick has been chosen to better respond to the existing site.</i>	Resolved adequately in amended plans.
<i>Prepare façade details to demonstrate the detailing of the bricks and other architectural elements for all building façades. The present façade system looks unconvincing.</i>	<i>Typical façade details have been developed and added to the DA Set (DA-0611) to demonstrate the buildability and material intent of the proposed façade.</i>	Resolved adequately in amended plans.

6.4. Noise and vibration Assessment

The acoustic assessment titled "Inglis Riverside Stable, Warwick Farm Noise and Vibration Impact Assessment" (Ref: p00181 Rev:003) prepared by Karen Mungkarndee and reviewed by Brandan Notaras for E-Lab Consulting dated 20th May 2022. The report is prepared by a suitably qualified consultant and has assessed against the following acoustic considerations:

- Noise emissions from the child care facility to surrounding noise-sensitive receivers;
- Noise emissions from the outdoor terrace bar area to surrounding noise-sensitive receivers;
- Noise emissions from mechanical plant associated with the development to surrounding noise-sensitive receivers; and
- Noise emissions from carpark, loading dock and waste collection to surrounding noise-sensitive receivers;
- Noise and vibration during construction.

Given the amendments to the application and the removal of the child care centre, noise impacts upon the child care centre will no longer be required to be considered. The report concludes "having given regard to the analysis conducted within this report, it is the finding of this noise and vibration impact assessment that the proposed development is compliant with the relevant noise and vibration criteria controls for this type of development, and it is expected to comply with the applicable regulations with regard to cumulative noise and vibration,

particularly those listed above.” The acoustic assessment shall be amended to reflect the current application and plans for conditions to be provided referencing the report.

7. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

Key Issues

Suitability of Site

The proposal is considered suitable for the site for the following reasons:

- The proposal is consistent with the locality, given the design integrates with the larger Riverside Stables development;
- There are adequate services available for the site, in terms of adequate electricity infrastructure a substation is proposed for the development. (Consultation with Endeavor Energy is required in relation to the fire safety of the substation).
- The site is affected by flooding, and this has been adequately addressed by the proposal; and
- The site is conducive to development, as demonstrated by the existing development already present at the site.

Compatibility of locality

Given the proposal is designed to integrated with the existing development and be used in conjunction with the larger Riverside Stables and racecourse, the proposal is considered to be compatible with the locality.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal. Accordingly, the outstanding matters of Odour and Dep are suggested being address by conditions of consent considering the large ground plain and unlikely negative impacts of the development. Therefore, these matters are recommended in draft conditions at **Attachment A**.

8. RECOMMENDATION

That the Development Application DA-1080/2022 for the construction of a ten (10) storey hotel development comprising 83 hotel suites, basement car park, administrative office spaces, and an outdoor terrace bar at Riverside Stables, 155 Governor Macquarie Drive, Warwick Farm NSW 2170 be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent - TRIM No.
- Attachment B: Tables of Compliance – TRIM No. 411949.2023
- Attachment C: Architectural Plans – TRIM No. 411954.2023
- Attachment D: Landscape Plans – TRIM No. 321530.2023
- Attachment E: Clause 4.6 Request – TRIM No. 367435.2022
- Attachment F: Landscape Design Statement – TRIM No. 321549.2023
- Attachment G: Request for Information Response – TRIM No. 321554.2023
- Attachment H: DEP Minutes – TRIM No. 146969.2023