

20<sup>th</sup> November 2019

General Manger  
Liverpool Council

**Att: City Planning**

**RE: 12 – 14 Zouch Road Denham Court  
Response to Permissibility**

### **Introduction**

This response has been prepared by Andrew Martin Planning Pty Ltd on behalf of the International Bible Students Association – IBSA and relates to the subject development application and the recent neighbour notification that raised a number of issues with the proposal.

The intent of this advice is to respond to the issue of permissibility given that the issue was raised in the neighbour's submissions.

A response to the remaining issues raised (where the applicant considers it appropriate to do so) will be addressed in a comprehensive table based response to the submissions as well as an addendum to the original SEE. The SEE addendum will rely on this written response in relation to permissibility. The SEE addendum sets out the operational characteristics of the filming activities and provides greater clarity. The applicant sets out conciliatory measures it is willing to adopt to lessen the perceived impact of the proposal on its neighbours. For example the applicant now mandates access to the site for the purpose of filming operations via Zouch Road before business hours as opposed to Church Road to minimize potential impacts. The SEE addendum refers to an updated traffic report to again clarify the nature of the activities based on specific hours and days of use and vehicular access arrangements.

The following deals with the permissibility issue and the following documents have been considered as part of this response:

- Liverpool Local Environmental Plan 2012
- Neighbour's objections, including the planning report prepared by Boston Planning
- Development Consent No. 461/2019 for additional accommodation issued by Liverpool City Council
- Land and Environment Court of NSW decision in IBSA v Liverpool City Council, Appeal No 30014 of 1990



## Purpose

This advice primary purpose is to provide a response to the following:

- What is the proper characterisation of the existing use on the site;
- Whether the proposed filming activities are permissible with consent and if so by what means i.e. permissible with consent or existing use rights (EURs);
- What is the nature of the filming activities and are those activities ancillary to this particular *place of public worship* use.

## Permissibility

The subject application is made on the basis that the religiously based filming activities are permissible with consent.

The current use of the site is a *place of public worship* as defined by the Liverpool Local Environmental Plan 2012 (LLEP 2012).

A *place of public worship* is defined as:

***‘place of public worship*** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.’

The original consent in DA 382/79 issued by Liverpool City Council on 11 April 1979 was granted for the “erection of an ecclesiastical centre comprising a services building, swimming pool complex and meter/switch building with associated sewerage treatment plant” which is properly characterised under the LLEP 2012 as a *place of public worship*.

As reported in the recent internal delegated authority report under DA 461/2019 the site is confirmed as being “*utilised as the headquarters of the Jehovah’s Witnesses in Australasia since 1980 and the buildings and uses, including a printery, workshop, storage buildings and Kingdom Hall, are all associated with the approved use on the site as a place of public worship*” emphasis added (*Delegated Assessment Report – Page 4 DA-461/2019 12-14 Zouch Road, Denham Court*).

Having regard to the above and the fact that a place of public worship is permissible in the RU2 Rural Landscape Zone, Council can be duly satisfied that the current use is permissible with consent. It follows that any ancillary use is also permissible with consent.

In dealing with ancillary uses we now turn to the proposed filming activities. The areas designated for filming comprise indoor areas (printer building) and an outdoor area of some 2000sqm comprising a biblical set. Both indoor and outdoor filming areas are located on the same allotment as referenced in the original consent being Lot 2 DP 1111318 12 – 14 Zouch Road Denham Court.

Notwithstanding the primary use as a *place of public worship* there are existing ancillary activities to the primary use such as residential accommodation, maintenance activities and printing of Bible based educational literature. Filming also falls within one of the ancillary uses.

The making of religiously based films is ancillary to the primary use of the subject site as a *place of public worship*. The evolution of technology and people's willingness to accept information evolves over time and therefore IBSA must embrace that change and enter the digital space. There is a recognised trend from print to digital media with advancements in technology. Essentially the filming activities replace the printing activities as the medium to teach and spread the good news of the bible. This training and educational role is central to IBSA.

In order to determine whether the proposed ancillary filming activities are permissible with consent, it is relevant to review in the first instance, the categorisation of the printed educational material. Historically, printed literature such as The Watchtower magazine was used to disseminate the good news of the Bible to the world. In the same manner, the digital medium will now be the primary means used to spread that same message as an educational and training tool.

The issue of whether the printing of Bible-based educational material (such as The Watchtower) was part of the place of public worship has been considered by the Land and Environment Court in the case of *International Bible Society v Liverpool Council*. The Court ruled that the whole of the site was "*involved in inculcating the message of the Bible*" and that IBSA revolved around religious teaching and training. Specifically in relation to printing, the Court noted that "[T]he publication of instructive booklets in 20 languages for distribution in Australia and Pacific Island Groups, in the opinion of the court, must be seen as part of the teaching mission of the Association." The Court ruled that the printed examples of "instructive booklets" were "*clearly on the evidence designed to disseminate the Christian message*".

Based on the above it follows that if the filming is for ecclesiastical (religious) pursuit and designed to *disseminate the Christian message* then it is ancillary to a place of public worship and permissible with consent because it is involved in *inculcating the message of the Bible*. Specifically in relation to the content of digital short films we revert to the addendum SEE dated November 19 2019. Broadly, the filming falls within one of two categories as detailed below:

Category 1 – Internal filming in former printery – create short digital films designed to air on the groups website (jw.org) dealing with life issues and how the Bible relates to life issues. For instance, short films demonstrate how the Bible can offer assistance in certain life issues or general day to day living. All films produced on site will cite quotes from the Bible and draw parallels with day to day life.

An example of a scene is the interpretation of Christ's death ([https://www.jw.org/en/library/videos/#en/mediaitems/VODMinistryTools/docid-502016800\\_1\\_VIDEO](https://www.jw.org/en/library/videos/#en/mediaitems/VODMinistryTools/docid-502016800_1_VIDEO)). As instructed at Luke 22:19 each year Jehovah's Witnesses around the world commemorate Christ Death following the outline set in the scriptures. This year 20,919,041 attended worldwide. This video was used as part of a 3 week campaign to invite the general public to commemorate this special event.

Category 2 – Filming at the outdoor biblical set – create digital films featuring re-enactments of accounts based on scriptures to disseminate the message of the Bible and highlight its practical value.

The discussion above supports the position that the filming activities are permissible with consent because the filming activity is part of the educational role that underpins the very nature of the activities undertaken as part of the place of public worship. The films will be used in training adherents of the faith and delivering the good news of the Bible to the general public. The use of on and off site individuals to produce the films is training in itself since an in-depth understanding is gained about Bible accounts and their practical value whilst producing the films.

IBSA is providing facilities that are involved in ecclesiastical pursuits and the task of spreading the good news of the Bible. Like print medium digital medium is used to achieve that goal and is now a more effective educational and training tool. Due to technological change and evolution of social media platforms it is necessary to convey a digital message of the Bible. The film set is only to be used for religious purposes and only by adherents of the faith. The digital films are used for training and completing the mission task of spreading the good news of the Bible.

As mentioned above it is important to understand the use of the site was clearly recognised by the Land and Environment Court in its judgment, namely to *inculcate “the message of the Bible”*, the global mission of adherents of the faith (Jehovah’s Witnesses). This is achieved by members firstly understanding the Bible itself and its meaning and then distributing educational and training information via print and now digital media. The biblical messages throughout the digital films ensure that all filming is directly linked to a message from the Bible. The films contain no advertising or secondary messages and purely relate to Bible accounts or the practical value of the Bible’s message.

## Summary

We trust that the above satisfies the issues raised by the neighbours submission in relation to permissibility. Our review finds that the primary use as a *place of public worship* is permissible with consent and that the filming activities are ancillary to that primary permissible use and therefore also permissible with consent.

Regards,

A handwritten signature in black ink, appearing to read 'A Martin'.

**Andrew Martin MPiA**  
**Principal**  
**Andrew Martin Planning Pty Ltd**