

MATTERS FOR LIVERPOOL LOCAL PLANNING PANEL DETERMINATION

Monday 27th of March 2023

To be held at the
MS Teams
Commencing at 2:00pm

Microsoft Teams meeting

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Note: Submissions by the applicant and concerned parties will be considered at the hearing. A concerned party is deemed to be a person who has made a written submission in respect to the application. The Panel shall, upon request, hear submissions from persons who identify prior to a hearing that they wish to make a submission to be considered by the Panel. Presentations to the Panel by the applicant and concerned parties shall be restricted to **3 minutes each**. The Panel Chairperson has the discretion to extend the period if considered appropriate.

Should you wish to address the Panel, please advise Amanda Merchant, Panel Support Officer on 8711 7712 or 1300 36 2170, by 4pm, Friday, 24th March 2023.

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The following development applications are referred to the Liverpool Local Planning Panel for its determination.

ITEM No.	SUBJECT	PAGE No.
1	DEVELOPMENT APPLICATION DA-698/2019/A MODIFICATION TO DEVELOPMENT CONSENT DA-698/2019 UNDER SECTION 4.55(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979, TO INTRODUCE STAGING AND AMEND BUILDING LAYOUT AND DESIGN, STORMWATER DRAINAGE AND ROAD WORKS LOTS 97 AND 100, DP 1217431, LOT 3 DP 225521 LOT 97 CAMDEN VALLEY WAY, EDMONDSON PARK AND LOT 100 CROATIA AVENUE, EDMONDSON PARK NSW 2174 2000 CAMDEN VALLEY WAY, EDMONDSON PARK NSW 2174	3 - 31

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Item Number:	1
Application Number:	DA-698/2019/A
Proposed Development:	Modification to Development Consent DA-698/2019 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to introduce staging and amend building layout and design, stormwater drainage and road works
Property Address	2000 Camden Valley Way, Edmondson Park NSW 2174 Lot 97 Camden Valley Way, Edmondson Park NSW 2174 Lot 100 Croatia Avenue, Edmondson Park NSW 2174
Legal Description:	Lot 3 DP 225521 Lot 97 DP 1217431 Lot 100 DP 1217431
Applicant:	Nettcorp Pty Ltd
Land Owner:	Blue Fountain Pty Ltd
Cost of Works:	No change from original development application
Recommendation:	Approved subject to conditions of consent
Assessing Officer:	Nabil Alaeddine

1. EXECUTIVE SUMMARY

Council has received a Development Application to modify consent DA-698/2019 which was approved as a deferred commencement by the Liverpool Local Planning Panel (LLPP) for construction of serviced apartments and a Pub (licensed food and drinks premises) with 2 levels of basement parking, at grade car parking and associated road works, drainage and landscaping, at Lot 97 Camden Valley Way and Lot 100 Croatia Avenue, Edmondson Park (Lot 97 and Lot 100 DP1217431). The developable area is zoned B6 - Enterprise Corridor pursuant to Liverpool Local Environmental Plan (LLEP) 2008.

The purpose of this modification application is to amend the approved development to undertake it over 2 stages, with design changes to the tavern and the serviced apartments, amendments to the traffic arrangement and changes conditions imposed under DA-698/2019.

The modification application was advertised and notified for a period of **21** days from **14 September 2022 to 5 October 2022** in accordance with Community Participation Plan 2019. **13** submissions were received during the public consultation period objecting the proposal. The issues of concern raised in the submissions can be summarised as follows:

- The staging shows disregard to the effect on the neighbourhood.
- The developer not building the required service roads.

- Traffic concerns in existing local roads.

The application is referred to the LLPP in accordance with its referral criteria and procedural requirements, in that the development falls into the category of contentious development and has received 10 or more unique submissions.

In addition to this, the LLPP had previously raised concerns in relation to the increased movement of traffic through the neighbouring residential streets as part of the determination of DA-698/2019 and resultantly imposed conditions requiring the construction of Solenso Lane (formerly Birdwood Lane), the extension of Mons Lane and a roundabout at the corner of Peronne Road on the neighbouring site to the west Lot 266 DP 1200043, to be completed prior to the issue of the Occupation Certificate.

While the other modifications are generally supported, the proposal to change conditions previously imposed by the LLPP, requiring roads to be constructed on the neighbouring site, are not considered acceptable. The justification provided by the applicant to amend these conditions is founded on a lack of sufficient agreement being reached with the neighbouring landowner. The proposed modification of these conditions appears contrary to original approval provided by the LLPP and the reasons for its decision, which sought to address and reduce unacceptable traffic impacts in the surrounding area. The applicant's justification is not considered adequate in light of these reasons.

This report summarises the key issues which should be considered in the determination of the modification in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and Liverpool Local Environmental Plan 2008.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979. Based on the assessment of the application, it is recommended that the modification application be **approved**, excluding the proposed changes to the traffic conditions and arrangement previous imposed by the LLPP.

2. SITE DESCRIPTION AND LOCALITY

2.1. The locality

The area is characterised by a mixture of low density, medium density and some high-density residential development, primarily consisting of single and double storey detached dwellings of brick veneer, and brick and weatherboard clad constructions. Pockets of multi-storey high density residential flat buildings have been constructed within the new Edmondson Park Town Centre and along Camden Valley Way.

Although the locality is presently characterised by low density single and double storey dwellings, the immediate locality is zoned B6 Enterprise Corridor, and the subject site is in a portion of land along Camden Valley Way zoned for commercial and retail uses and is within the Edmondson Park urban release area which is regulated by the Liverpool Local Environment Plan 2008 and Part 2.11 of the Liverpool Development Control Plan 2008.

The adjoining properties to the development site are detailed in the following table and Figure 1.

East (front)	Croatia Avenue and Bernera Road.
West (rear)	2000 Camden Valley Way, Edmondson Park is a vacant land. Development approved (DA-625/2019) for <i>Torrens Title subdivision to create 2 x new lots with ancillary civil and road works and construction of 2 storey commercial premises, medical centres, recreation facilities and basement car parking over two (2) stages.</i>
South (side)	Zeppelin Road and R1 General Residential zoned land.
North (side)	Camden Valley Way

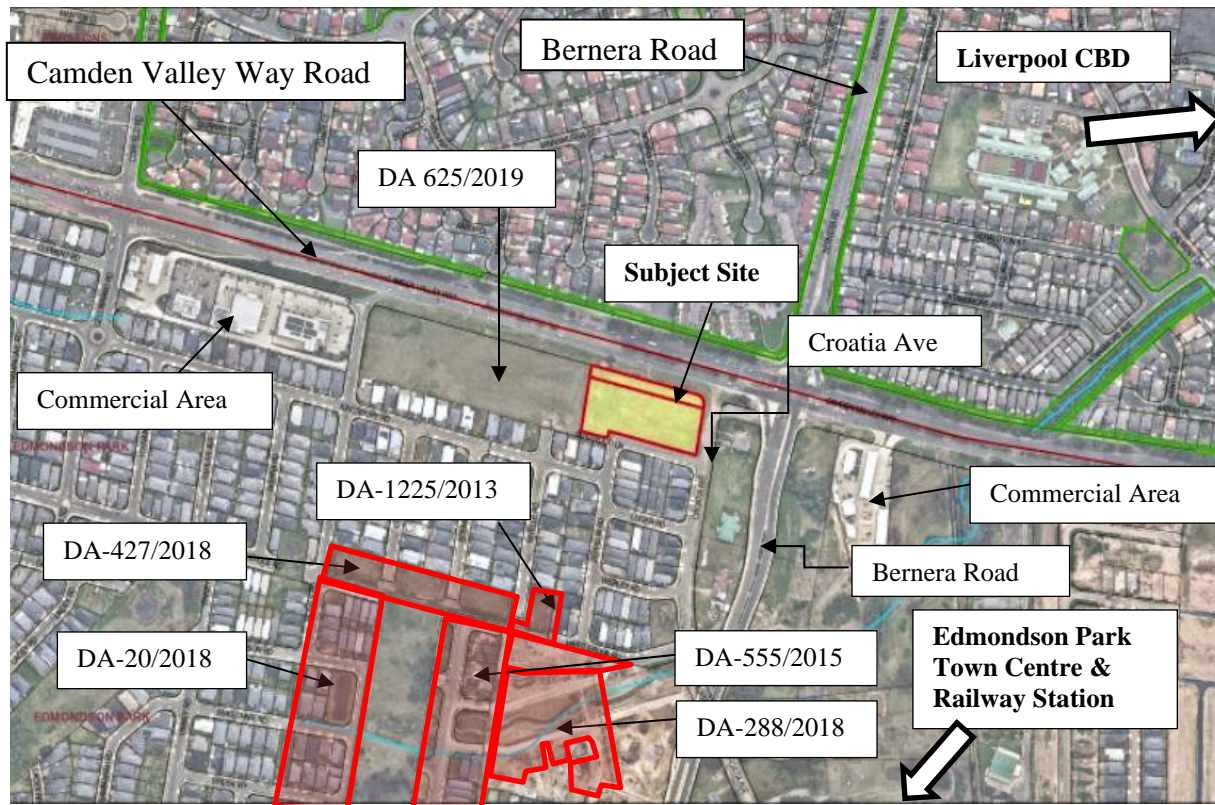


Figure 1: Site Location and Recent Surrounding Developments (**Source:** Geocortex Data, Liverpool City Council).

2.2 The site

The subject site is located at Lot 97 Camden Valley Way and Lot 100 Croatia Avenue, Edmondson Park. Legally, the lots are identified as Lots 97 & 100 in DP 1217431. The combined lots are an irregular shaped allotment with the following area and dimensions:

Area – Lot 97 = 1,715m² and Lot 100 = 7,168m² (combined 8,883m²).

Frontage to Camden Valley Way (North Boundary) – 124.37 metres, Corner Splay Arc to Croatia Avenue – 4.905 metres, 4.905 metres, 4.905 metres & 3.92 metres.

Rear – Zeppelin Road (South Boundary) – 102.16 metres, 28.32 metres & Corner Splay Arc to Zeppelin Road - 4.025 metres.

Frontage to Birdwood Lane (Solenso Lane) (South Boundary) - 5.24 metres.

East Boundary (Frontage to Croatia Avenue) – 52.065 metres.

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West Boundary – 60.31 metres & 13.065 metres.

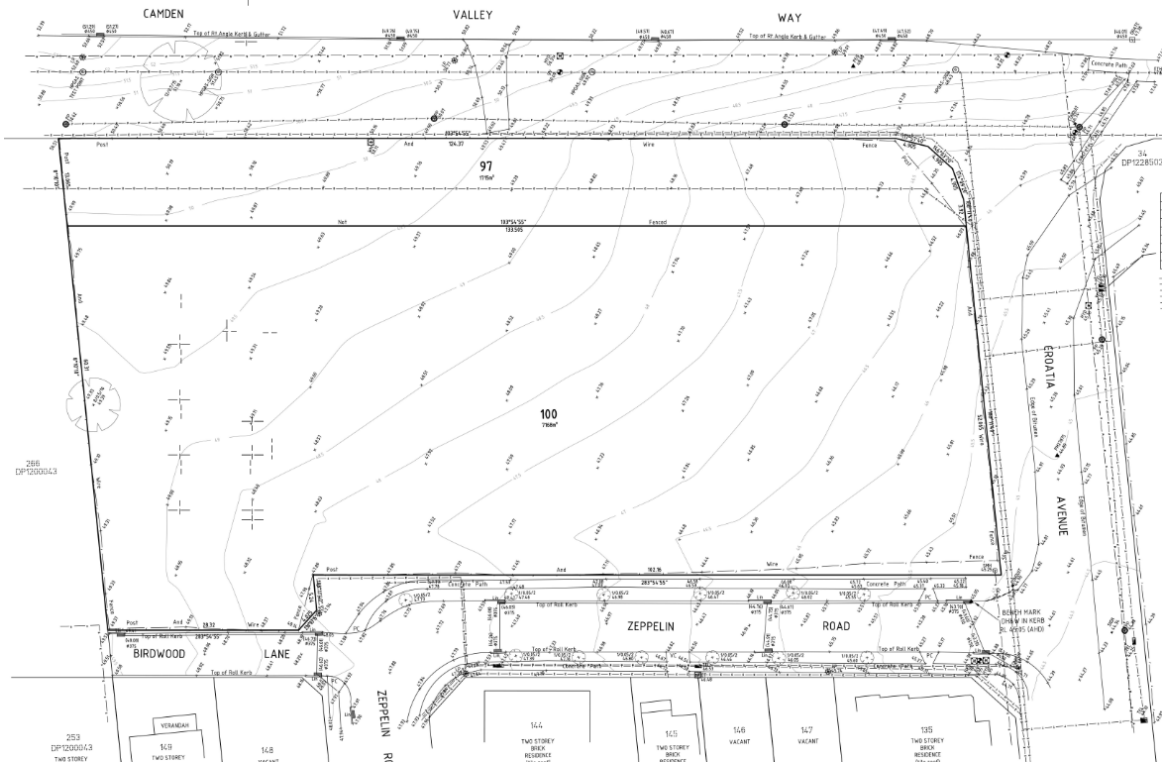


Figure 2: Survey Plan (Source: Burton & Field Surveying, Ref. DA1.03, Issue M, date 07/03/2022).

Currently, the subject site is a vacant lot.



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Figure 3: Aerial view of the subject site – Vacant allotment (**Source:** Geocortex Data, Liverpool City Council, March 2023).

3. BACKGROUND/HISTORY

- The site is a vacant allotment.
- A pre-lodgement meeting held with Council on 15 May 2019 for the construction of a four-storey serviced apartment building with basement parking and the construction of a single storey food and drink premises.
- DA-698/2019 was approved by the Local Planning Panel (LPP) as a ‘deferred commencement’ at its meeting dated 7 December 2020. The deferred commencement was activated 30 April 2022.

4. DETAILS OF THE PROPOSAL

The initial development (DA-698/2019) was granted as a deferred commencement approval by the Local Planning Panel on 7 December 2020 for *Construction of Serviced Apartments and a Registered Club (Tavern) with 2 Level Basement Parking, at grade car parking and associated road works, drainage and landscaping.*

The proposed modification application (DA-698/2019/A) proposes the following amendments to stage the development:

Stage 1

- Construction of the Tavern and associated basement car parking;
- Construction of the internal circulation area and associated at grade car parking;
- Construction of Mons Lane that covers the property frontage; and
- Provision of associated landscaping.

Stage 2

- Construction of the approved service apartments and associated at grade and basement carparking; and
- Completion of landscaping.

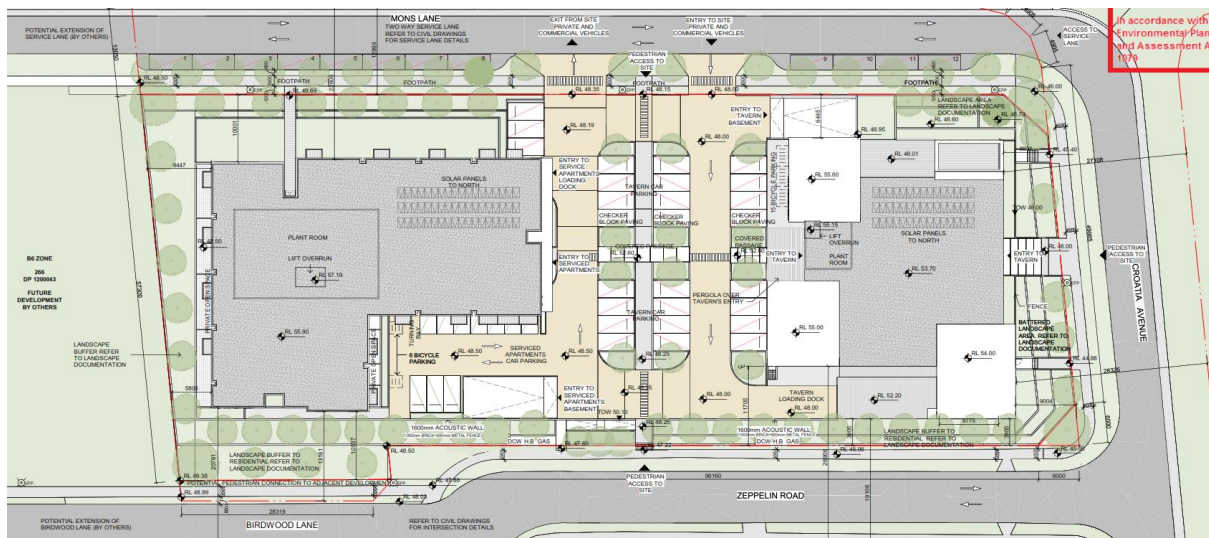
The proposed modification application (DA-698/2019/A) proposes the following design amendments to the approved Tavern portion of the development:

- Basement 2 Level (Figure 6 & 7 below) –
 - Relocation of the lifts.
 - Removal of rainwater tanks and alterations to the stairs to the basement 1.
- Basement 1 Level (Figure 8 & 9 below) –
 - Relocation of lifts.
 - Relocation of the OSD tank and rainwater tank.

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- Alterations to service rooms and stairs.
- Removal of 1 car parking spaces a result of the alterations.
- Ground Floor (Figure 10 & 11 below) –
 - Relocation of lifts.
 - Relocation of main kitchen and cool room to the eastern end of the building.
 - TAB is removed.
 - Provision of opening over the approved gaming terrace to permit smoking in accordance with relevant Australian Standards.
 - The restaurant and public bar component are combined.
- Roof
 - Provision of a glass awning over tavern entry.
 - Alterations to the location of solar panels.
 - Alterations to the pergola over external dining.
 - Alterations to roof form.
- Exterior (Figure 12 & 13)
 - Alterations to the façade of the of the tavern.
 - Alterations to approved materials.
 - Relocation to of bicycle parking.
 - Addition of a substation kiosk to the southern boundary
- Minor amendments design of the approved serviced apartments. The following amendments are proposed (Figure 16, 17, 18 & 19):
 - Minor alterations to material of façade.
 - Inclusion of temporary turning head on mons lane.



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Figure 4: Approved Site Plan DA-698/2019

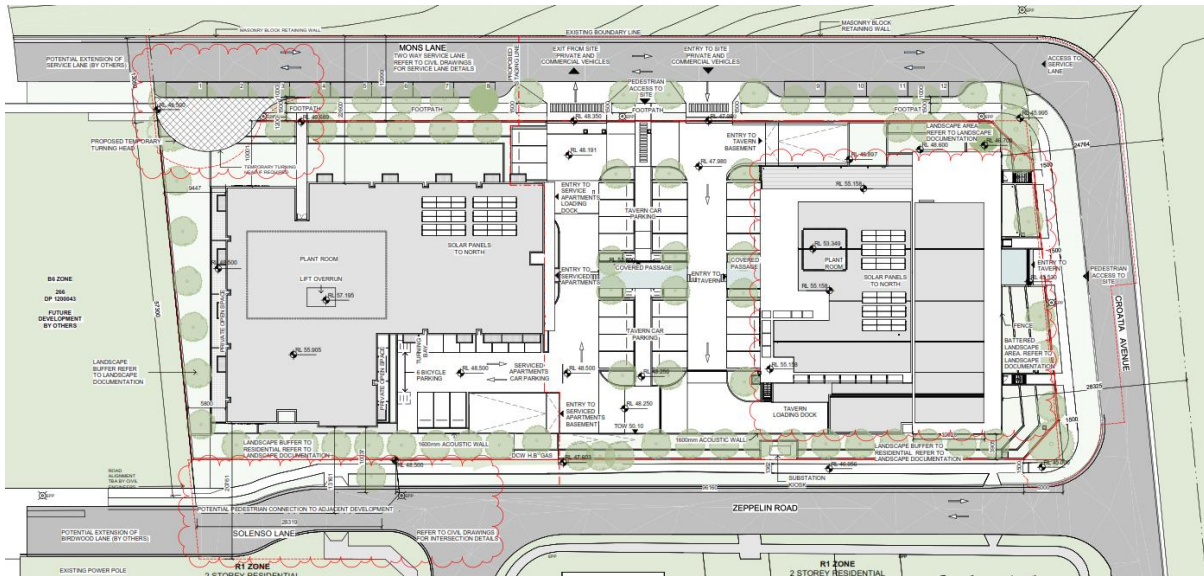


Figure 5: Proposed Modified Site Plan - DA-698/2019/A

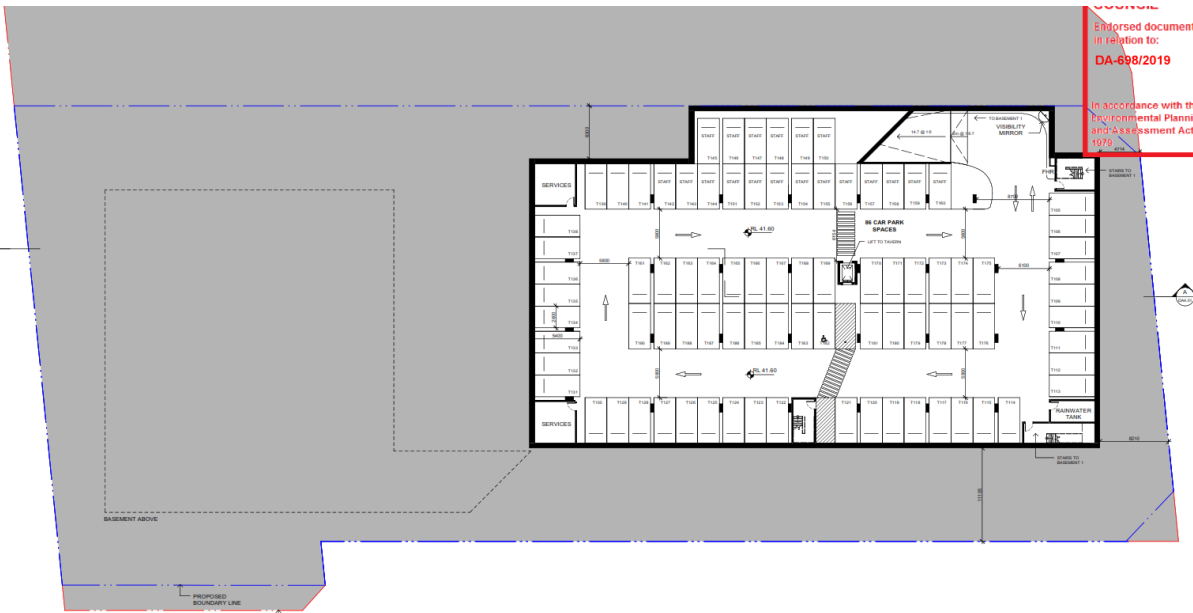


Figure 6: Approved Basement 2 Plan – DA-698/2019

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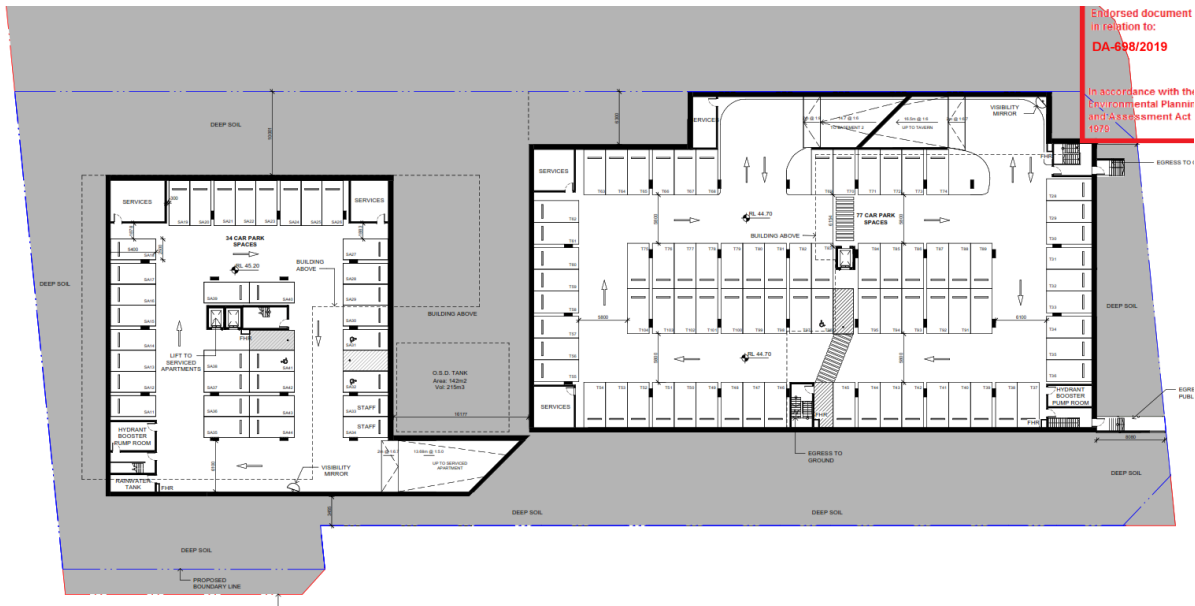


Figure 7: Approved Basement 1 Plan – DA-698/2019

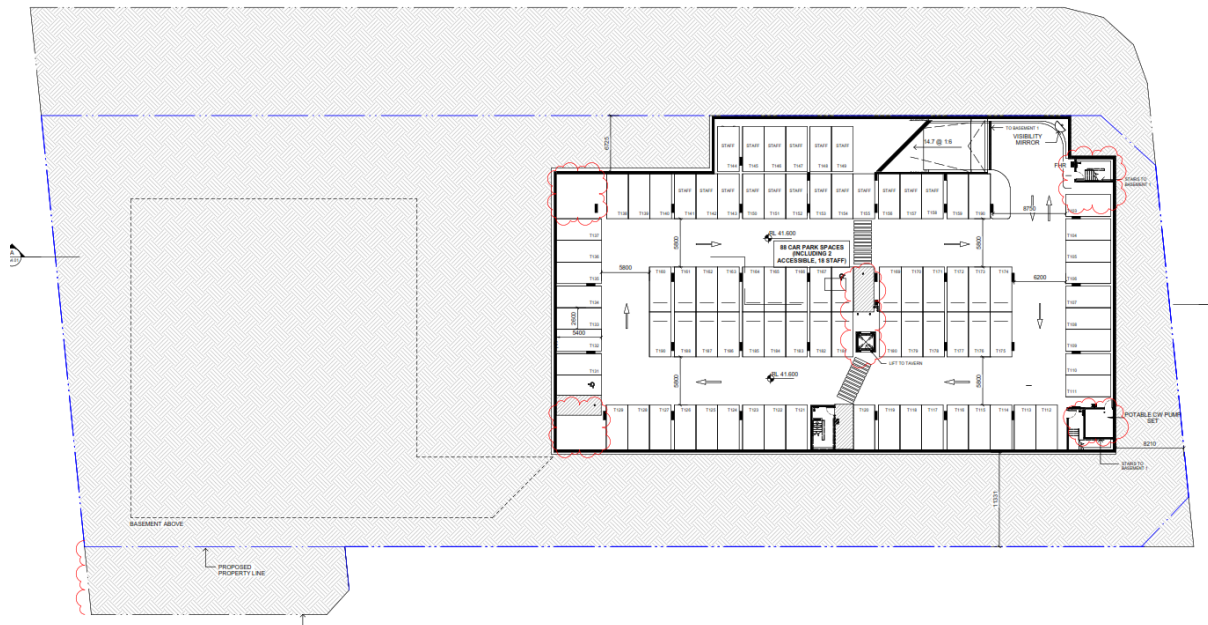


Figure 8: Proposed Modified Basement 2 Plan – DA-698/2019/A

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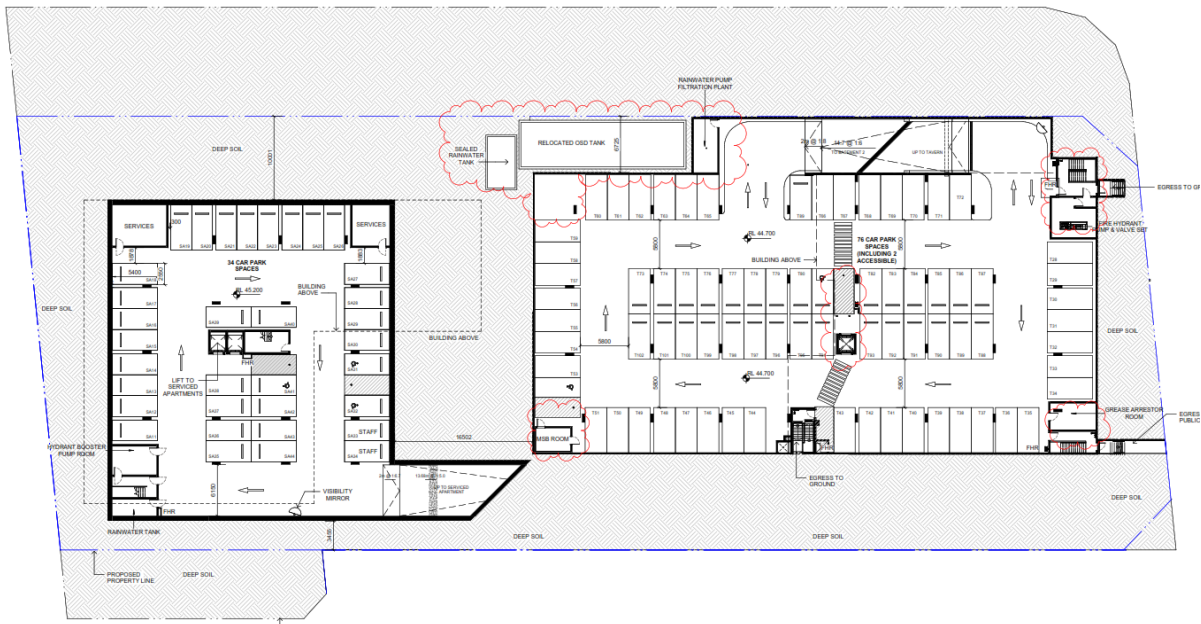


Figure 9: Proposed Modified Basement 1 Plan – DA-698/2019/A

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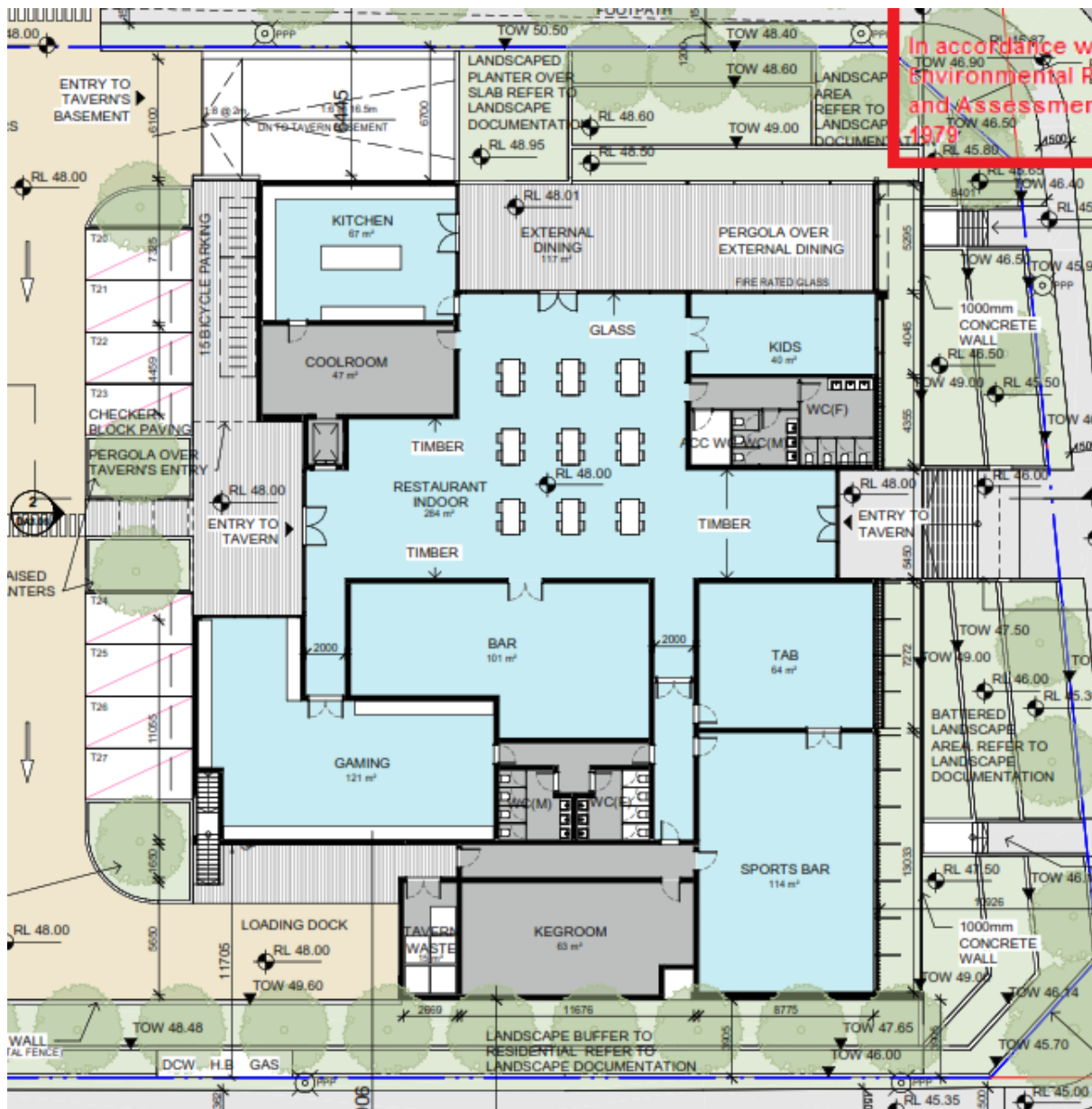


Figure 10: Approved Tavern Floor Plan -DA-698/2019

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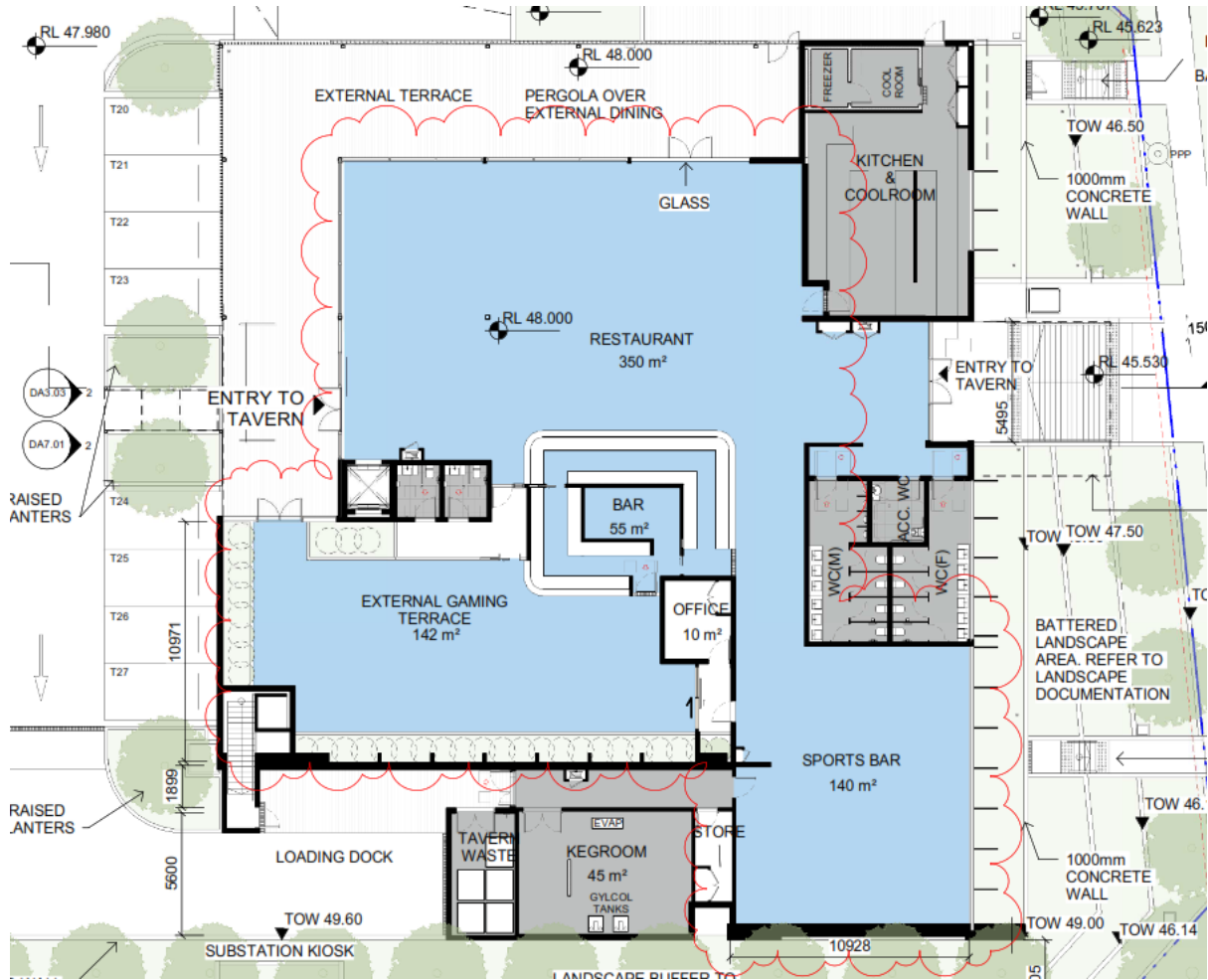


Figure 11: Proposed Modified Tavern Floor Plan– DA-698/2019/A



Figure 12: Approved East Elevation – DA-698/2019

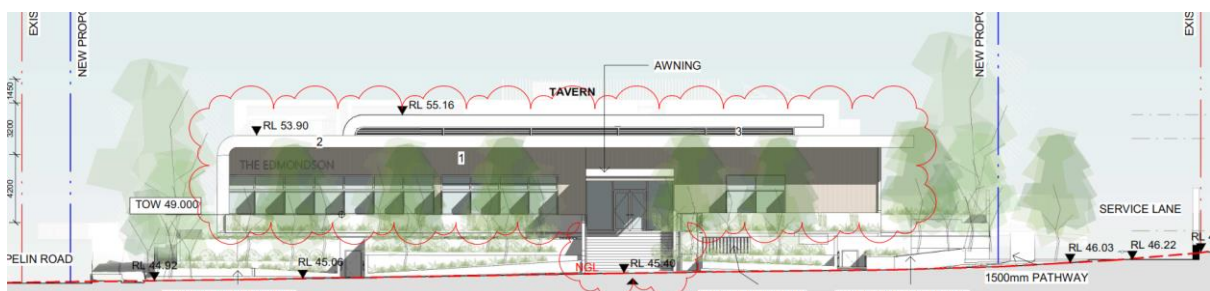


Figure 13: Proposed East Modified Elevation – DA-698/2019/A

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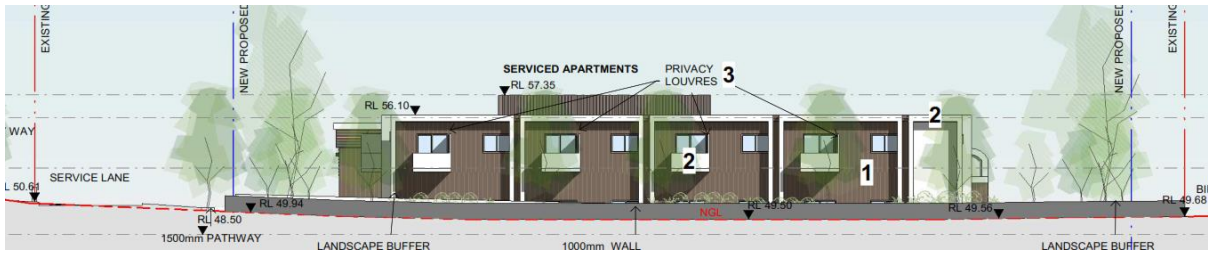


Figure 14: Approved West Elevation – DA-698/2019

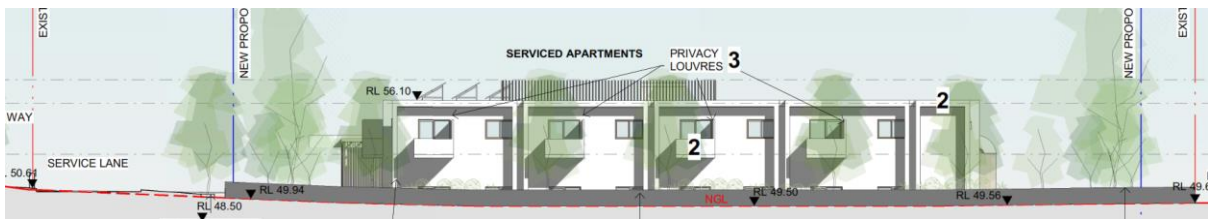


Figure 15: Proposed West Modified Elevation – DA-698/2019/A

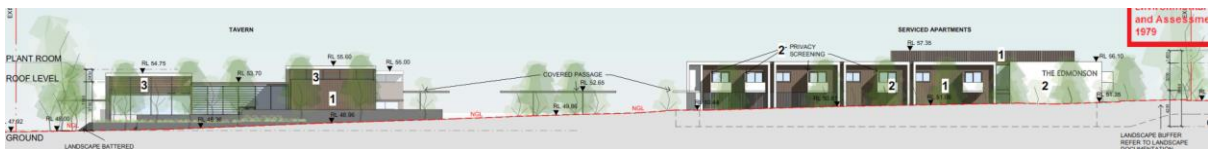


Figure 16: Approved North Elevation – DA-698/2019

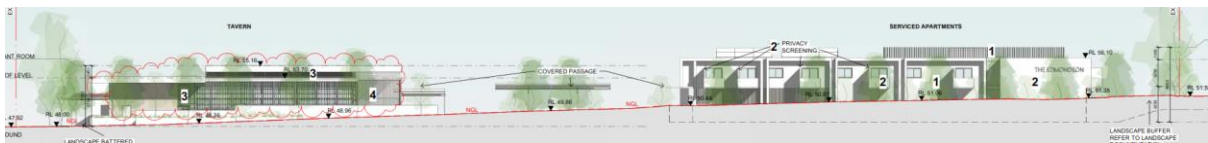


Figure 17: Proposed North Modified Elevation – DA-698/2019/A



Figure 18: Approved South Elevation – DA-698/2019



Figure 19: Proposed South Modified Elevation – DA-698/2019/A

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Proposed Amendments to Conditions of Consent

The modifications listed above require the following amendments to previously imposed conditions of consent (amendments proposed by applicant indicated in red):

- **Condition 2 – Approved Plans**

- Amendments to the design of the and layout of the tavern as follows:

(a) **Architectural Plans**

Plan Name	Plan Number	Date	Revision	Prepared by
Cover Sheet	Drawing No. DA01:01	14/10/2020 7/03/2022	R T	Marchese Partners Pty Ltd.
Site Plan	Drawing No. DA1.07	14/10/2020 7/03/2022	E G	Marchese Partners Pty Ltd.
Staging Plan	Drawing No. DA1.08	7/03/2022	A	Marchese Partners Pty Ltd.
Basement 2	Drawing No. DA2.01	28/08/2020 7/03/2022	N Q	Marchese Partners Pty Ltd.
Basement 1	Drawing No. DA2.02	28/08/2020 7/03/2022	P R	Marchese Partners Pty Ltd.
Ground Floor Plans	Drawing No. DA2.03	14/10/2020 7/03/2022	R U	Marchese Partners Pty Ltd.
First Floor Plan	Drawing No. DA2.04	14/10/2020 7/03/2022	R T	Marchese Partners Pty Ltd.
Roof Plan	Drawing No. DA2.05	14/10/2020 7/03/2022	R T	Marchese Partners Pty Ltd.
East & West Elevations	Drawing No. DA3.01	28/08/2020 7/03/2022	N Q	Marchese Partners Pty Ltd.
North (Camden Valley Way) & South (Zeppelin Road) Elevations	Drawing No. DA3.02	28/08/2020 7/03/2022	N Q	Marchese Partners Pty Ltd.
Tavern South & East Elevations	Drawing No. DA3.07	28/08/2020 7/03/2022	B D	Marchese Partners Pty Ltd.
Tavern Internal East & West Elevations	Drawing No. DA3.03	28/08/2020 7/03/2022	F H	Marchese Partners Pty Ltd.

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Tavern East & West Elevations	Drawing No. DA3.06	28/08/2020 7/03/2022	B D	Marchese Partners Pty Ltd.
Serviced Apartments East & West Elevations	Drawing No. DA3.04	28/08/2020 7/03/2022	B C	Marchese Partners Pty Ltd.
Serviced Apartments North & South Elevations	Drawing No. DA3.05	28/08/2020 7/03/2022	B C	Marchese Partners Pty Ltd.
Sections A-A	Drawing No. DA4.01	28/08/2020 7/03/2022	N Q	Marchese Partners Pty Ltd.
Ramp Sections	Drawing No. DA4.02	28/08/2020 7/03/2022	G H	Marchese Partners Pty Ltd.
Typical Service Apartment Floor Plan	Drawing No. DA6.01	28/08/2020	C	Marchese Partners Pty Ltd.
Materials Schedule Board	Drawing No. DA7.01	28/08/2020 7/03/2022	N Q	Marchese Partners Pty Ltd.
Perspective View	Drawing No. DA7.02	28/08/2020 7/03/2022	F G	Marchese Partners Pty Ltd.

(b) Stormwater Plans

Plan Name	Plan Number	Date	Revision	Prepared by
Specifications & Details	19-265/D1	10/08/2020 02/03/2023	C 2	PORTES Civil & Structural Engineers
Site Layout Plan	19-265/D2	10/08/2020 02/03/2023	C 2	PORTES Civil & Structural Engineers
Proposed Stormwater Management Plan	19-265/D3	10/08/2020 02/03/2023	C 2	PORTES Civil & Structural Engineers
Proposed Stormwater Management Plan	19-265/D4	10/08/2020 02/03/2023	C 2	PORTES Civil & Structural Engineers
Proposed Stormwater Management Plan	19-265/D5	10/08/2020 02/03/2023	C 2	PORTES Civil & Structural Engineers

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Proposed Stormwater Management Plan	19-265/D6	10/08/2020 02/03/2023	€ 2	PORTES Civil & Structural Engineers
Stormwater Management Details	19-265/D7	10/08/2020 02/03/2023	€ 2	PORTES Civil & Structural Engineers
Stormwater Management Details	19-265/D8	10/08/2020 02/03/2023	€ 2	PORTES Civil & Structural Engineers

(c) Civil Engineering Plans

Plan Name	Plan Number	Date	Revision	Prepared by
Locality Plan and Drawing Index	S19413 / DA-0000	18/08/2020	B	BG&E
General Arrangement Plan	S19413 / DA-0010	18/08/2020	B	BG&E
Signage & Linemarking Plan	S19413 / DA-0011	21/08/2020	A	BG&E
Roadworks Longitudinal Section MC01	S19413 / DA-0200	18/08/2020	B	BG&E
Roadworks Typical Sections	S19413 / DA-0220	18/08/2020	B	BG&E

(d) Documents

Report Name	Date	Reference	Prepared by
Acoustic Report	8/09/2020 22/02/2023	190353R1, Rev. 2 1903523CC1, Rev. 2	Rodney Stevens Acoustics
Arborist Report	06/08/2019	4879	Redgum Horticultural
BCA Assessment Report	30/08/2019	2019/1545	Steve Watson & Partners
Phase 1 Preliminary Site Investigation - Contamination Report	6/11/2020	ES7686/3, Rev. 1	Aargus Pty Ltd
Phase 2 Detailed Site Investigation	6/11/2020	ES7686/3, Rev. 1	Aargus Pty Ltd
Geotechnical Report	13/08/2019	GS7686-1A	Chameleon Geosciences Pty. Ltd.
Traffic Impacts Assessment Report	4/09/2019	0883r01v1, Rev.2	Ason Group

Addendum to Traffic Impact Assessment	28/08/2020	P0883r02v2_Addendum_TIA	Ason Group
Social Impact Assessment	28/08/2020 24/02/2023	P19095, V3 & Addendum Letter	Hill PDA Consulting
Plan of Management	November 2020 February 2023	-----	----
Operational Waste Management Plan	28/08/2019 & 24/02/2023	SO255, Rev D	Elephants Foot Recycling Solutions
Construction Waste Management Plan	---	18150	Marchese Partners

Assessment Comments:

The proposed changes to condition 2 - Approved Plans relate to the staging and revised design and layout and **are supported**.

Condition 4 – Works at cost to Council

A roundabout is to be constructed on the corner of Peronne Road and private access road to the adjoining development to the west **prior to the issue of a Construction Certificate for Stage 2 works**. The roundabout is to facilitate and minimise traffic conflicts at the intersection, due to the expected additional traffic movements through the intersection.

Assessment Comments:

The proposed changes to **condition 4 are not supported**. The LLPP in its initial determination implemented the condition with support from Council's traffic unit to enable nearby road connections to be in place and operating prior to the tavern and service apartments operating to improve access around the site and reduce traffic moving through residential streets nearby. **Therefore, it is recommended the condition be retained and the wording to be amended to refer to Stage 1 (Construction of the Tavern).**

Condition 133 - Occupation Certificate

The premises must not be utilised until an Occupation Certificate (OC) **relevant to the specific stage is issued** by the principal certifier.

Assessment Comments:

The proposed changes to **condition 133 are acceptable** to facilitate the staging of the development.

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Condition 134 – Road Construction

Prior to issue of an Occupation Certificate, the construction of *the following roads* Mons Lane is to be completed on the subject site *that covers the property frontage* through to the neighbouring site (Lot 266 DP 1200043) *to facilitate the development:*

- a) **The construction and opening of Birdwood Lane between Zeppelin Road and Peronne Road; and**
- b) **The extension of Nivelles Road and Mons Lane.**

The roads are to be completed in full and operating prior to the issue of the Occupation Certificate.

Assessment Comments:

The proposed changes to **condition 134 are not supported** as it removes the need for the developer to construct the required roads to facilities the development. Furthermore, the LPP issued the approval on the basis that the recommended road and road connections are completed and in place at the time the Tavern is operational. The proposed changes were referred to Council's traffic unit whom are not supportive.

Condition 176 - Car Parking

A total of **193 231** off street car parking spaces and 4 disabled spaces must be provided in accordance with the approved plans. The disabled spaces must be designed and signposted/marked for the specific use of persons with a disability.

Assessment Comments:

The proposed changes to **condition 176 are acceptable** as they provide additional parking.

The following conditions from DA-698/2019 are required to be amended to refer to the updated Acoustic Assessment by Rodney Stevens Acoustics, 1903523CC1, Rev. 2, dated 22nd February 2023.

- **Condition 9 - Amended Site Plan**
- **Condition 11 – Recommendations of the Acoustic Report**
- **Condition 44 – Mechanical Plan and Equipment**
- **Condition 141 - Recommendations of Acoustic Report**
- **Condition 199 - Acoustic Report**

The following conditions are required to be inserted as follows:

- **Staging of the consent**

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STAGED APPROVAL

The conditions referenced in the below table apply to each stage of the development as identified.

Stage	Development Works	Part Reference	Condition Reference
1	The Tavern and associated works	All Parts	All conditions as relevant to the stage
2	The Service Apartments and associated works	All Parts	All conditions as relevant to the stage

- **Special Traffic Condition** to ensure that the construction of new intersection between Solenso Lane and Zeppelin Road is constructed adequately and allow safe traffic movement.

133A Road Design

Prior to issues of an Occupation Certificate, revised plans are required to the satisfaction of Council's Traffic Unit that the extension of Solenso Lane (formerly Birdwood Lane) to the existing east-west section of Zeppelin Road, is to have the same carriageway width and kerb alignments as the existing road.

Hours of Operation

The hours of operation of the Registered Club (Tavern) remain unchanged and are limited to:

Monday to Saturday: 10.00am – 12.00 midnight
Sunday: 10.00am – 10.00pm

Operational Matters

Patron numbers are reduced from approved 250 to 200 based on the revised layout and is noted in the Plan of Management. As a result, the following conditions are proposed to be amended as follows:

Patron Numbers

204. There shall be no more than ~~250~~ 200 patrons at the premises at any one time. A maximum number of 20 people shall be permitted within the outdoor dining area at any one time. The number of patrons in the outdoor terrace area is limited to no more than 10 people at any one time.

Assessment Comments:

The proposed amended to **condition 204 is supported.**

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7.11 Contributions

The 7.11 contributions conditions to be amended with reference to each stage.

5. STATUTORY CONSIDERATIONS

5.1. Relevant matters for consideration

The relevant planning instruments/policies applicable to the proposed development are as follows:

- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Liverpool Local Environmental Plan (LLEP) 2008
- Liverpool Development Control Plan (LDCP) 2008

Contributions Plans

- Liverpool Contributions Plan 2008 (Edmondson Park) applies to the development pursuant to Section 7.11 of the EPA & Act.

6. ASSESSMENT

The application has been lodged pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, which provides:

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: Consent was originally granted under DA-698/2019 for construction of Serviced Apartments and a Registered Club (Tavern) with 2 Level Basement Parking and Pub (licensed food and drink premises), at grade car parking and associated road works, drainage and landscaping.

The proposed modifications to the approved road works would result in a development that is not substantially the same, as changes to the provision of the roundabout and the extension of Solenso Lane (formerly Birdwood Lane) that is needed to be operational to service the subject site and neighbouring site, substantively changes how the

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development will be appropriately serviced. Therefore, to ensure that the development remains substantially the same, it is recommended that the conditions for road works imposed under the original approval DA-698/2019 remain and are adjusted only to suit the staging of the development.

The changes to the design, layout materials, basement parking and stormwater arrangement are considered satisfactory and are considered substantially the same development to which consent was originally granted.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment: The proposal did not require consultation with any external government agencies.

(c) it has notified the application in accordance with:

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

- **Comment:** The proposed modification application was notified for 21 days from September 2022 to 5 October 2022. During the notification periods, 13 submissions was received. The key issues of concern raised in the submission relate to the staging showing disregard to the effect on the neighbourhood, the developer not building the required service roads and traffic concerns in existing local roads.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: As the application was notified, 13 submissions were received during notification period and the concerns raised were in relation to staging of the development, not constructing the road and traffic impacts of the development on the local road. The proposed amendment to the Traffic conditions are not supported due to the impact on the local road network should the tavern be operational without the construction of Solenso Lane, Mons Lane and the roundabout at Peronne Road be constructed prior to the operational certificate being issues for the Tavern.

Notwithstanding, to ensure reduced impacts on the built environment, social impacts and economic impacts, the required road works should be constructed to facilitate the development.

6.1. Section 4.15(1)(a)(i) – Any Environmental Planning Instrument

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 Evaluation of the EP&A 1979 and the Environmental Planning and Assessment Regulation 2000, as follows:

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

Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	<p>The Detailed Site Investigation was conducted by Aargus Pty Ltd under DA-698/2019 as follows:</p> <ul style="list-style-type: none"> • Preliminary Site Investigation Lots 97 & 100 Camden Valley Way, Edmondson Park NSW (Ref: ES7686/2, Revision 1) prepared by Aargus Pty Ltd dated 6th November 2020; and • Detailed Site Investigation Lots 97 & 100 Camden Valley Way, Edmondson Park NSW (Document No. ES7686/3, Revision No. 1) prepared by Aargus Pty Ltd dated 6th November 2020 <p>The proposed development as modified does not require further contamination assessment as the development is substantially the same as initially approved and was deemed suitable.</p>

<p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p>	<p>The detailed contamination assessment undertaken under DA-698/2019 indicates that the land is suitable for the proposed works and as it is unlikely that the land is contaminated. Furthermore, no complaints or evidence in Council records indicate the presence of any contaminates or dumping of potential contaminates.</p> <p>Based upon the consultants' findings, Council's Environmental Health Section is satisfied that the land is suitable in its current condition for the proposed use without the need for remediation.</p>
<p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>	<p>The land does not require remediation.</p>

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55, therefore, it is considered that the subject site is suitable for the proposed development.

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

The subject land is located within the Georges River Catchments and as such the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* - Chapter 6 Water catchments, applies to the application.

With regard to the proposed modifications to the development, the development remains consistent with the aims and objectives, as well as the general principles.

It is considered that the proposal satisfies the provisions of the GMREP No. 2 subject to appropriate sedimentation and erosion controls being implemented during construction.

(c) Liverpool Local Environmental Plan 2008

(i) Zoning

The subject site is zoned B6– Business Enterprise and a sliver of R1 General Residential pursuant to the Liverpool Local Environment Plan 2008 (LLEP 2008). No works are within R1 zoned part of the land. An extract of the zoning map is provided in Figure 20 below.

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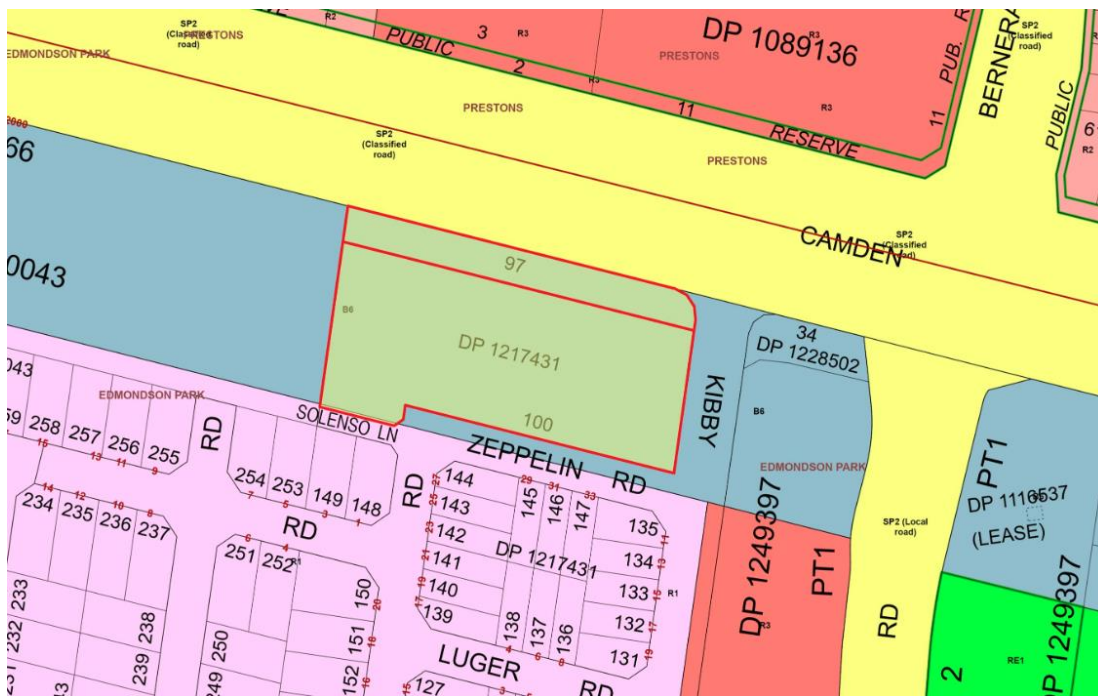


Figure 20: Zoning Map Extract (Source: Geocortex)

(ii) Permissibility

The proposed development is appropriately defined as a 'Registered Club' and 'Food and Drink Premises' for the Tavern, and 'Serviced Apartments' which are both identified as permitted land uses with consent within the B6 Enterprise Corridor zone under Liverpool Local Environment Plan 2008 (LLEP 2008). The LLEP 2008 defines these land uses as follows:

- *registered club means a club that holds a club licence under the [Liquor Act 2007](#).*
- *food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—*
 - (a) *a restaurant or cafe,*
 - (b) *take away food and drink premises,*
 - (c) *a pub,*
 - (d) *a small bar.*
- *serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.*

(iii) Objectives of the zone

The objectives of the B6 Enterprise Corridor zone are as follows:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*

- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting the retailing activity.
- To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.
- To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.
- To provide for residential uses, but only as part of a mixed use development.

The proposed modifications retain the medium to large scale vegetation initially proposed on the southern boundary of the site to provide reduced visual intrusion of the buildings. The proposal overall is substantially the same as initially proposed in that the tavern and serviced apartment is retained and only propose to stage the development with design changes to the tavern. The proposal still provides for a high level of internal occupant amenity and encourage job creation in the area. The proposal will continue to promote businesses along the main road and encourage a mix of compatible uses, without the changes to the roadworks conditions proposed by the applicant, as discussed previously in this report.

(iv) Principal Development Standards

LLEP 2008 contains a number of principal development standards which are relevant to the proposal, as detailed below.

Development Provision	Requirement	Proposed	Comment
4.1 Minimum subdivision lot size	Minimum 2000m ²	Subdivision not proposed	Complies
4.3 Height of Buildings	Maximum 8.5m	No changes are proposed to the height of the buildings. Tavern = 8.35m (max.) Serviced Apartments = 8.45m (max.)	Complies
4.4 Floor Space Ratio (FSR)	Maximum 0.65:1 or 5,773.95sqm	Overall site Area – 8,883sqm The gross floor area has been reduced from a total of 3,344.622sqm to 3,280sqm. Therefore, the total Floor Space Ratio has been reduced from 0.38:1 to 0.37:1.	Complies
6.5 Public Utility Infrastructure	Public utility infrastructure must be available	Required as per conditions of consent	Complies by Condition
7.8 Flood Planning	Proposal is to comply the flood planning	The site is not mapped as flood prone land.	N/A

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	controls		
7.15 Minimum building street frontage in Zone B6	Development consent must not be granted to the erection of a new building or to an addition to an existing building on land in Zone B6 Enterprise Corridor unless any frontage of the site to a classified road is at least—	No changes proposed in modification application	Complies
7.19 Services apartments	Development consent must not be granted for the subdivision under a strata scheme of a building or part of a building that is being, or has been, used for serviced apartments unless the consent authority is satisfied that the following are achieved for the development as if it were development to which clause 4 of <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> applies— (a) the design quality principles set out in Schedule 1 to that Policy, (b) the design principles of the Apartment Design Guide (within the meaning of that Policy).	Strata subdivision is not proposed in the modification application.	Complies
7.23 Specialised retail premises and retail premises in Zone B6	Development consent must not be granted to development for the purposes of specialised retail premises on land in Zone B6 Enterprise	No retail premises proposed.	Complies

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	Corridor if the gross floor area of the specialised retail premises is more than 2,500 square metres.		
7.31 Earthworks	Council to consider matters listed (a)-(g)	The proposed modifications have been reviewed by Council's Development Engineer. The proposal is supported subject to amended conditions of consent.	Complies

As demonstrated in the above compliance table, the proposed modified development is consistent with the provisions of LLEP 2008.

6.2. Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments which apply to the development.

6.3. Section 4.15(1)(a)(iii) - Any Development Control Plan

(a) Liverpool Development Control Plan (LDCP) 2008

The application has also been assessed against the relevant controls of the LDCP 2008, particularly *Part 1 General Controls for all Development* and *Part 2.11 Land Subdivision and Development in Edmondson Park*.

The development is found to generally comply with the provisions of the LDCP 2008, minus the proposed traffic and road condition modifications which are not supported.

Notwithstanding the traffic and road design conditions proposed, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008.

6.4. Section 4.15(1)(a)(iiia) - Planning Agreements

There are no Planning Agreements which apply to the development.

6.5. Section 4.15(1)(a)(iv) - The Regulations

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the BCA and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

6.6. Section 4.15(1)(b) - The Likely Impacts of the Development

Natural and Built Environment

The proposed modification to the tavern and serviced apartments is unlikely to create a detrimental impact on the natural and built environment surrounding the subject site, subject to the imposed conditions of consent. The proposed modifications reduce the size of the tavern building and provided for additional parking.

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The proposed amendments to the conditions relating to road construction are not supported and concerns are raised in relation to the movement of traffic and the potential impacts on the neighbouring residential dwellings should the proposed road and roundabout not be operational at the time the Tavern is operational. Therefore, to ensure that acceptable built environment impact is maintained, the proposed amendments to the road construction conditions 4 and 134 are not supported and the roads should be constructed and be operational at the time the Tavern is operational under stage 1.

Social Impacts and Economic Impacts

The modified proposal would result in a positive economic impact in the locality through the capital investment value of the development and is unlikely to generate any identifiable detrimental social impacts, where the road works approved under the original DA are provided for in proposed stage 1.

6.7. Section 4.15(1)(c) - The Suitability of the Site for the Development

The proposed modifications generally comply with the relevant planning controls and the site is considered to be suitable for the proposed development.

6.8. Section 4.15(1)(d) - Any submissions made in accordance with the Act or the Regulations

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Building Officer and Fire Safety	Approval subject to modified conditions of consent.
Urban Design	Approval subject to modified conditions of consent.
Development Engineer	Approval subject to modified conditions of consent.
Landscape Officer	Approval subject to conditions of consent / objection to the proposal
Traffic Engineer	Objection to the changes to the road work conditions.

(b) External Referrals

The following comments have been received from external Agencies:

DEPARTMENT	COMMENTS
Endeavour Energy	No objections to the proposal with conditions provided.

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(c) Community Consultation

The proposal was advertised/notified for a period of **21** days from **September 2022 to 5 October 2022** in accordance with Community Participation Plan 2022. **13** submissions were received in response to the public consultation process.

The following comments are provided in respect to the concerns raised by surrounding residents:

ISSUE 1: The staging shows disregard to the effect on the neighbourhood.

Comment: The staging is only to allow for the tavern to be constructed and issued with a occupation certificate separated from the service apartments. The concerns raised are relevant in that the roads that are required to facilitate the development are now being proposed to be constructed under stage 2 (Serviced Apartments) by the applicant. This is not consistent with the approval granted by the panel in their determination of the initial DA and is not supported by Council's traffic engineers. As a result, the concerns are warranted and while the development staging is supported, the roads works required are to be constructed and operational prior to the issue of an occupation certificate for Stage 1.

ISSUE 2: The developer not building the required service roads.

Comment: The service roads are required to be built and are currently condition as per the existing consent for DA-698/2019. Council officers recommend that this remains in place subject minor rewording to accommodate the staging of the development.

ISSUE 3: Traffic concerns in existing local roads.

Comment: The traffic concerns have been assessed and the conditions imposed under the original content remain current. The conditions are imposed to ensure that the road network is constructed to allow for movement around the site and reduce the reliance on residential street nearby.

6.9. Section 4.15(1)(e) - The Public Interest

The retention of conditions of consent relating to the construction of roads, road connections and a roundabout on the subject site and neighbouring site to the west are considered necessary to ensure the development remains in the public interest. The other modifications proposed are considered to be in the public interest, as per the assessment of the application.

7. DEVELOPMENT CONTRIBUTIONS

A Section 7.11 Development Contributions is applicable to the proposed development in accordance with Liverpool Contributions Plan 2008 (Edmondson Park) and will be imposed as a condition of consent of any approval for the proposed development. The development attracts a total contribution of **\$ 120,356.00** for the Tavern and **\$ 144,737.00** for the service apartments. Both contributions are subject to CPI increases.

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8. CONCLUSION

The application has been assessed having regard to the provisions of Section 4.15 and 4.55(2) of the EP&A Act 1979, and the Environmental Planning Instruments, including the applicable State Environmental Planning Policies, Liverpool LEP 2008, LDCP 2008, and the relevant codes and policies of Council.

Based on the assessment of the modification application, it is recommended that the application be approved subject to the imposition of conditions and retention of conditions relating to the delivery of road infrastructure. The proposed modified development is considered satisfactory with the following matters noted:

- The proposal is permissible with consent within the B6 Enterprise Corridor zone under the LLEP 2008, for which the site is zoned, and is consistent with the objectives of the B6 zone.
- No variations to the LLEP 2008 or LDCP 2008 are sought which does not raise any additional negative impacts on the amenity of residents in this instance.
- That the matters raised during the community consultation period have been assessed against the proposal and Council is satisfied that measures proposed in the amended acoustic report and imposed conditions of consent can mitigate the planning matters raised in the submissions.

9. RECOMMENDATION

That Modification Application DA-968/2019/A be approved subject to modified conditions of consent.