

DEVELOPMENT ASSESSMENT REPORT - DA153/13

PROPOSED DEMOLITION OF THE EXISTING HOUSE AND THE CONSTRUCTION OF A 56 ROOM MOTEL WITH 30 SEAT RESTAURANT & SIGNAGE, 5 KIRKLEY STREET SOUTH BOWENFELS NSW 2790

1. PROPOSAL

Council is in receipt of Development Application DA153/13 for the demolition of the existing house and the construction of a 56 room motel with 30 a seat restaurant & signage on Lot 220 DP 865101, 5 Kirkley Street, South Bowenfels.

The proposal involves:

- The demolition of an existing brick cottage and two metal garages,
- Construction of a new 56 room motel (north block and south block, both two storeys and would be self contained). The ground and first floor each consists of 14 rooms on each level with balconies on the first floor and verandahs at ground level. Internal staircases are proposed in the common passage to access the first floor in each block.
- A 30 seat restaurant with ancillary areas e.g. bar, dining area, kitchen, storage, loading and unloading area, separate and accessible toilets for customers. Deliveries are proposed every two days by a small delivery vehicle which would be either for the restaurant or for housekeeping.
- An administration building that has a reception and waiting area, caretaker's room (small laundry and linen facility) and back office. A small kiosk area is also proposed to be located in this building to contain internet/computer access facilities for customers.
- Car parking for 66 cars inclusive of six accessible spaces.

A separate driveway entry and exit would be provided from Kirkley Street.

The proposed motel would have one full time manager/caretaker in which a flat would be provided on the eastern side of the administration block, adjoining the reception area. The manager would therefore be available for 24 hour per day service to the motel residents. There would be additional staff throughout the day as required.

The restaurant would be predominantly for the motel patrons for breakfast and lunch while at dinner times it is proposed to be open to the general public.

The hours of operation for the restaurant include:

- Breakfast for motel patrons only between: 7.30am to 10.30am 7 days a week;
- Dinner to motel patrons and the public between 6.00pm to 9.00pm Monday to Thursdays and 6.00pm to 10.30pm Friday and Saturdays.

The site has a gradual fall to the north towards the street. All existing trees and vegetation would be removed for the new development.

Previous Applications

DA 104/12 Subdivision into 2 Lots was approved however has not proceeded.

2. SUMMARY

To assess and recommend determination of DA153/13. The recommendation will be for approval subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 220 DP 865101
Property Address : 5 KIRKLEY STREET SOUTH BOWENFELS NSW 2790

4. ZONING: The land is zoned 2(a) Residential in accordance with Lithgow City Local Environmental Plan 1994.

5. PERMISSIBILITY: The development being a motel and restaurant is permissible under Lithgow City Council's Local Environmental Plan 1994 (LEP), subject to development consent.

Council's LEP defines the development as:

"Hotel or motel accommodation means tourist and visitor accommodation (whether or not licensed premises under the Liquor Act 1982):

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

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

Approval is sought for a motel and restaurant. Both uses are permissible within the 2(a) Residential zone, the land uses being defined as 'hotel or motel accommodation' as defined within the LEP stated above, and 'refreshment room' as defined within the Environmental Planning and Assessment Model Provisions 1980 as adopted by Clause 5 of the LEP.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Council's *Policy 7.7 – Calling in of Development Applications by Councillors* states that Development Applications that are called in by a Councillor must be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority. As reported to the Council on 19 August 2013, the application was called in. **13-293 RESOLVED THAT** Council:

1. Note the calling in of development application No 153/13.
2. Note that a date for an on-site inspection will be set for Councillors to view the site.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Under the Water Management Act 2000-Section 305, an Application for certificate of compliance must be submitted to Council. This Act states:

- (1) A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area.
- (2) An application must be accompanied by such information as the regulations may prescribe.

Therefore Council's Section 64 contributions for water and sewer connections will be required to be paid prior to the release of the Final Occupation Certificate.

The following condition should be included in any consent:

An application shall be submitted to Council for a Certificate of Compliance under Section 305 of the Water Management Act for connection to Council's water and sewerage supply. Headworks charges will also be required to be payable prior to the release of this certificate. A Final Occupation Certificate shall not be issued until such time as a Certificate of Compliance has been issued under Section 307 of that Act. This shall further be at full cost to the applicant.

Lithgow Section 94A Development Contribution Plan 2012

Council's S94A Contributions Plan states:

"C14 Are there alternatives to the payment of the levy?"

For circumstances in which a Section 94A levy is payable under this Plan, Council will consider varying this requirement in the following circumstances:

- *Where Council agrees to negotiate a Planning Agreement (VPA) with the applicant and where that agreement is successfully completed;*
- *...(not reproduced).....*

Council will seek to negotiate a planning agreement for major development, including but not limited to, development as outlined below in accordance with Council's Planning Agreement Policy:

- *Having a development in excess of \$1,000,000; or*
- *...(not reproduced).....*
- *...(not reproduced).....*

Comment:

Planning Agreement

Given the nature of the development, Council has requested the applicant to enter into a Voluntary Planning Agreement (VPA). The developers have been overseas and it has not been possible to hold discussions on a VPA. The applicant has indicated that they would be willing to enter into a Planning Agreement for this development, and is their preference, however have requested that the standard 1% levy be applied. This is in order to allow the Council to consider the DA in the short term rather than negotiate and finalise a VPA in the first instance. This is supported and accordingly it is considered appropriate that if the application is approved, a condition be applied requiring a 1% levy be imposed and in lieu of that, particulars of a Planning Agreement be finalised.

Estimated Cost of Development	Percentage (%) Contribution/Levy
All development types valued at \$100,000 or less	Nil
All development types valued at \$100,001 and up to \$200,000	0.5%
All development types valued in excess of \$200,000	1%

Comment: The development is expected to cost \$4,450,488.00 therefore Council's Section 94A Contributions apply to this development. As such 1% of \$4,450,488.00 = \$44,504.88.

If the development is approved the following condition should be placed on the consent:

Prior to release of a Construction Certificate the applicant shall pay to Council a Section 94 contribution of \$44,504.88, in accordance with the Lithgow City Council Section 94A Development Contribution Plan 2012. It is advised that the level of contribution in this plan may be adjusted at the time of actual payment, in accordance with the provisions of the Lithgow City Council Section 94A Development Contribution Plan 2012.

5.3 LEGAL IMPLICATIONS

Local Government Act 1993

If this application is approved, the applicant must obtain a written Section 68 approval for connection to Council's water and sewerage supply. This must be lodged and approved prior to commencement of any work on site and shall be at full cost to the applicant.

The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicably supporting information for the proposed works. All conditions of the Section 68 Approval must be complied with prior to the release of the Construction Certificate.

Water Management Act 2000

A Certificate of Compliance is required under this act prior to the release of the Final Occupation Certificate. See previous comments under "Financial Implications".

Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.1 Any Environmental Planning Instruments

Lithgow City Local Environmental Plan 1994

LEP 1994 – Compliance Check		
	Clause	Compliance
9	2(a) zoning table	Yes
21	Notification of certain development and development in Residential and Village Zones	Yes

Comment:

Clause 9 of the LEP being 'Zone objectives and development control' has been addressed previously under **5. Permissibility**.

The objectives of the zone are:

- (a) *To provide for housing and associated development, where such development is feasible,*
- (b) *To allow a variety of housing types,*
- (c) *To ensure that development does not create unreasonable demands for the provision or extension of public amenities or services, and*
- (d) *To allow other uses in the zone which are compatible with housing.*

The Council must be of the opinion that the development will be consistent with the objectives for the zone. (a) and (b) are considered to be not relevant. (c) is satisfactorily met as detailed elsewhere in this Report. (d) is the most relevant and it is considered that the proposed motel use is not incompatible with housing. The impacts of the development in relation to noise, traffic, amenity and character of the area are assessed later in this Report however, these impacts are considered to be reasonable ones within a residential area and therefore considered compatible.

The land uses that are prohibited within the zone tend to be of an industrial type and it is those types of uses that normally cause a nuisance to residential uses. It is not uncommon however for motels to be situated outside commercial zones and amongst housing areas.

The development is considered to comply with the requirements of the LEP.

Clause 21

The development was notified to adjoining neighbours (owners and occupiers), notified in the local paper, and placed on public display at Council's Administration Building for a period of 21 days.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

SEPP(Sydney Drinking Water Catchment) 2011 – Compliance Check		
Clause		Compliance
10	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes
11	Development that needs concurrence of the Chief Executive	Yes

Comment: The application requires the concurrence of the Sydney Catchment Authority (SCA), being outside the limitations of the online NorBE tool. The SCA provided the following comments:

“Based on the SCA's site inspection and the information provided, the proposed development has been assessed by the SCA as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. The Chief Executive would therefore concur with Council granting consent to the application subject to conditions being imposed”

The SCA has provided a number of conditions for the development if approved. These can be found under '**Submissions**' which are located later in this assessment Report.

State Environmental Planning Policy 64 – Advertising and Signage

SEPP 64-Advertising and Signage – Compliance Check		
Clause		Compliance
8	Granting of consent to signage	Yes
Sh1	Schedule 1 Assessment Criteria	No

Comment:

Two remote advertising signs were proposed to be located on the Great Western Highway. This triggered a referral to Roads and Maritime Services (RMS) for concurrence. These signs have been removed from the current proposal. The RMS comments are reproduced later in this Report.

Two acrylic pylon signs of up to 4.5m in height are proposed. One pylon sign would be located near the entrance in the north east corner and the other would be located in the north west corner of the property along Kirkley Street. These are assessed under Council's Outdoor Advertising Development Control Plan (DCP) later in this Report.

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Council's draft Lithgow City Local Environmental Plan 2013 (dLEP) was placed on exhibition in 2013.

Council's Draft LEP 2013 – Compliance Check		
Clause		Compliance
R2 Low Residential zoning table		No
1.8A	Savings provision relating to development applications (local)	Is relevant

Comment: 'Hotel or motel accommodation' is prohibited within the R2 Low Residential Zone. Clause 1.8A **Savings provision relating to development applications** states: *If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.* Regardless of this the Environmental Planning and Assessment Act requires a consent authority to take into consideration the provisions of any proposed instrument that is or has been the subject of public consultation under the Act.

The applicant was requested to address the dLEP. The applicant did not address the dLEP in any specific detail but rather quoted Clause 1.8A and its correct application. Therefore Council's assessment of the proposal against the dLEP follows. The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain or improve the water quality of receiving water catchments in accordance with the NSW water quality objectives.*

It is worth noting that the objectives of the R1 zone, that does allow motels, are not dissimilar apart mainly from the desired densities. For reference the R1 General Residential zone objectives are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain or improve the water quality of receiving water catchments in accordance with the NSW water quality objectives.*

It is considered that the proposal does not align with the objectives of the R2 zone and that the primary intention for land use within that zone is low density housing. Other ancillary type uses are however permitted such as 'multi dwelling housing', 'caravan parks', 'child care centres' and 'community facilities'. Some of these uses are considered to be of a similar scale and nature as a motel.

5.3.3 Any Development Control Plan

South Bowenfels Development Control Plan (DCP)

South Bowenfels DCP – Compliance Check		
Clause		Compliance
1.4	Aims & Objectives of the Plan	Yes
Part Six – Residential Development		
6.1	Site Area and Dimensions	Yes
6.2	Hazards/ Environmental Constraints	Yes

6.3	Benching/ Cut and Fill	Yes
6.4	Density	Yes
6.5	Setbacks	No
6.6	Building Height	Yes
6.7	Open Space & landscaping	Yes
6.8	Parking & access	Yes
6.9	Streetscape & Building Design	Yes
6.10	Privacy	Yes
6.12	Crime Prevention	Yes
6.13	Fencing	Yes
6.14	Services and Site Facilities	Yes

Comment: There are no controls or guidelines for ‘motels’ within the South Bowenfels DCP. Regardless, an assessment against the residential controls within the South Bowenfels DCP is considered appropriate to use as a guide.

Again, the applicant was requested to address the provisions of the South Bowenfels DCP. Council’s planner’s believed there was merit in making comparisons with the controls set out for ‘medium density development’. The applicant’s town planner makes two initial points being that the proposal is not for medium density development and it is not reasonable to apply those controls, and that DCPs should be considered as a guide only in accordance with the recently amended Act – Section 79C(3A). It is agreed that a merits based assessment must be considered having regard to considerations including visual impact, neighbourhood character and amenity (privacy and overshadowing), rather than arbitrary numeric compliance with the DCP. The applicant’s town planner states:

- *The proposed development provides three distinct and well separated building modules each of which having a modest scale (single and two storey height and limited wall length) when viewed from the side boundary. The buildings are not visually obtrusive and do not have a significant scale and mass. The development provides a limited building site coverage and a reasonable landscape component. The scale and massing of the building elements is not visually dominant and could not be considered ‘unacceptable’ in the context of the current planning controls or the potential future lower density zoning.*
- *The design solution provides deep soil planting and dense landscaping to all side and rear property boundaries. This provides a landscaped setting for the development and a predominantly ‘green’ visual impact when viewed from neighbouring properties. To ensure effective landscaping it is recommended that a condition of consent be included that requires the landscape screen planting to all side and rear boundaries with a mature height of three to 4 metres interspersed with canopy tree planting (between the building elements) with a mature height of 6-8m. The proposed landscaping will be the prominent visual element rather than the proposed buildings when viewed from neighbouring properties.*
- *The proposed building elements do not result in significant adverse shadowing of any neighbouring property. A good level of solar access and amenity is maintained.*
- *The motel units are oriented to the south and north rather than towards neighbouring residential properties. Sight lines are therefore internal of the development rather than towards neighbouring properties. The size and number of windows orientated to the side boundaries is limited and landscaping will provide screening. The design solution performs well in terms of maintaining privacy between the development and its neighbours.*

- *The acoustic report considers noise from the motel use (that is noise from entertainment equipment and systems, guest rooms and any construction & renovation); restaurant noise from background music and patron noise; and car park and traffic noise generated from the site. The report concludes that subject to the implementation of recommended design treatments (including construction materials and fencing) then the proposed development will not have a significant adverse impact on the amenity of neighbours.*

This assessment is agreed with.

6.4 Density (Medium density developments)

All development shall not exceed a floor space ratio (fsr) greater than 0.5:1.

The property contains a site area of 5815m² with the proposed floor area to be 2585.10m². This is an fsr of 0.44:1. This therefore complies with the above DCP.

There is to be extensive shrub and some mature tree planting proposed along Kirkley Street and side boundaries to improve the streetscape and separate the private and public space areas. In order to comply with the applicant's planner's report and acoustic report the landscape plan will need to be supplemented with additional mature tree plantings than what is currently proposed.

The development proposes to utilise colours and materials that are subtle in nature and fit within the residential character of the street. The front façade of the administration block would be rendered brick with paint finish. The proposed residential part of the motel would be brick at the ground level with light weight cladding on the upper floor with a paint finish.

As such the proposed colours and materials are intended to not dominate the streetscape.

The proposed motel height is a single and two storey development designed to be low sitting to compliment the surrounding neighbourhood character. The facade of the administrative block is designed to have a high awning roof over the entry porch and is to be single storey. The proposal is designed to be compatible with the height of the surrounding developments. The height of the administrative block and restaurant is single storey and below 7.5m. The 2 storey motel room buildings at the rear of the property have up to 6.5m ceiling height and overall height of less than 9m to the top of the roof ridge.

The proposed front setback is 15m and follows the prevailing setback of the neighbouring No.7 Kirkley Street property. The side setback of all of the buildings on the western side is in excess of 10m and 3m on the eastern side. The development would have a rear setback of 14.3m.

In regard to private open space, the proposed motel rooms would have north south oriented balconies. These balconies would look into the site and would not directly overlook the neighbouring properties thus minimising the loss of privacy and acoustic impacts to the neighbours. The development would not contain any communal open space areas. The distance between the north and south block buildings would be 17m, which provides privacy for motel patrons.

The main vehicle entry is on the north eastern corner along Kirkley Street, while the exit is on the north-western corner on Kirkley Street. As such the entry and exit of the vehicles will be in a forward direction. There would be an internal driveway located within the site which would be two-way with a width of 6.5m.

An area would be located near the boundary and storage area for the loading and unloading of goods so that it is easier for the trucks to move in and out of the property. It is expected that a small rigid truck would be utilised for these services.

Carparking is assessed under Council's off Street Carparking DCP (located in the next heading of this Report), which states that the development complies with the DCP.

The proposal includes a 1.8m high fence on all side boundaries. The front boundary along Kirkley Street would be a 0.6m high fence with landscaping. There would be some retaining walls up to 1m high required to facilitate the cut and fill.

The proposed motel provides active surveillance to Kirkley Street with the residential part of the motel being located behind the Administration block.

All the internal pedestrian access routes would be under 24 hour surveillance via security cameras. The motel patrons would be issued with security swipe cards which would provide them with access to their motel rooms.

The proposal would contain underground detention water tanks in the northwest corner of the site. Adequate pits and pollutant traps are proposed in the parking area to drain water from the premises.

Council's Off Street Carparking DCP

Requirement	Proposal	Compliance
Motels 1 Space for each motel unit plus 1 space for manager plus 1 space per 2 employees on site at any one time before 9.00am; plus other uses (restaurant and conference rooms) at their respective rates	56 spaces for the motel rooms 1 space for the manager 1 space for 2 staff	Yes, 58 spaces
Refreshment Rooms (including Restaurant and Cafes) 1 Space per 6.5m ² of GFA or 1 space per 3 seats (whichever is greater)	10 carspaces per seating, 12 spaces for GFA	No, 8 spaces being deficient by 4.

Comment: The development is proposed to provide 66 carspaces which includes 6 accessible spaces. The accessible parking spaces allocated are large enough to accommodate 1.5 standard vehicle spaces and could accommodate 3 additional vehicles if necessary.

The architectural plans were amended to reduce the number of motel rooms in response to various issues raised by Council's planners. The applicant has created a shared entrance or lobby to 12 of the rooms. Whilst this layout could be useful for the use by families, it doesn't preclude their use as individual rooms. The amended plans (being Revision B dated 2/12/13) include a title block stating 52 rooms and 70 carspaces. The correct description is 56 rooms and 66 carspaces. Four carparking spaces were deleted because the architect believed he was deleting 4 units. Landscaped areas were increased in size by a corresponding amount of area. This has resulted in a deficiency of 4 carparking spaces in accordance with Council's DCP. It is considered that this shortfall will not be problematic as the restaurant is not a stand-alone use and it is likely that the restaurant will be used by patrons of the motel and not exclusively by other visitors to the site. On very rare occasions 4 cars may overflow on to the street. This is considered preferable to reinstating the 4 deleted spaces and reducing the landscaped area.

As such the development complies with Council's Off Street Carparking DCP.

Council's Outdoor Advertising DCP

Council's Outdoor Advertising DCP		
	Design Controls - Commercial	Compliance
Size of Signs	No specific size limit will be applied. However, Signage shall have due regard to the performance criteria within the DCP	Yes
Number of Signs	One as of right sign will be permitted per premises providing it complies with the requirements of this plan. Generally no more than 2 signs shall be erected above an awning of a premises. This includes 1 as of right sign. Signs shall not be erected directly on top of an awning.	Yes
General	Signs that detract from the architectural appearance of a building will not be permitted. Signs above roof lines or directly on top of awnings will not be permitted. Pole or pylon signs shall be no higher than 6 metres.	Yes

Comment: Although the development is located within the residential zone, the development is considered as a commercial development for the purposes of Council's Outdoor Advertising DCP. Two pylon signs of not more than 4.5m in height are proposed. One pylon sign would be located near the entrance in the north east corner and the other would be located in the north west corner of Kirkley Street.

Two signs of this size in a residential area is considered excessive. It is considered that a maximum of one sign be approved. With such amendment, the proposed signage would comply with Council's Outdoor Advertising DCP.

5.3.4 Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

No.

5.3.5 Any matters prescribed by the regulations that apply to the land

A brick dwelling and two garages are proposed to be demolished as part of the development. Demolition controls and fire safety requirements of the new development would need to comply with the Building Code of Australia and are discussed by Council's building surveyor whose comments are located later in this report.

5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Carparking: the development proposes to provide 66 carspaces on site which includes 6 accessible parking spaces. The dimensions of the proposed parking spaces are 2.5m wide and 5.5m deep, which meets the Australian Standard for car parking dimensions.

It is considered that the proposal would not create cars parking in the street. Larger vehicles such as patrons arriving in work trucks and buses have not been accommodated for and it is assumed these will need to park on the street.

Access: The main vehicle entry is on the north eastern corner along Kirkley Street, while the exit is on the north-western corner on Kirkley Street. As such the entry and exit of the vehicles will be in a forward direction. There would be an internal driveway located within the site which would be two-way with a width of 6.5m.

An area would be located near the restaurant's storage areas for the loading and unloading of goods so that it is easier for the trucks to move in and out of the property. It is expected that a small rigid truck would be utilised for these services.

It is considered that the development can provide adequate access without impacting negatively on the surrounding neighbourhood. Noise impacts are discussed later.

Traffic: A Traffic Impact Assessment was submitted with the application which identifies the potential traffic impacts along Kirkley Street.

"Kirkley Street is a two-lane road which functions as a collector road within the 'Bowen Vista' Subdivision and adjoins the Great Western Highway. Currently the major traffic generating development within the locality is the 30 unit 'Kirkley Gardens Retirement Village' and the Brethren Church."

The applicant was requested to also address all current and future land uses within the area and also to assess the impact upon the intersection of Kirkley Street with the Great Western Highway. This has occurred as an addendum to the traffic Impact Assessment Report. In summary, the study has estimated that the existing developments generate approximately 790 vehicles that travel along Kirkley Street each day. It is expected that the proposed future traffic generated from the development, further land release and the church that the total vehicle trips travelling along Kirkley Street would be increased to 1903 a day. The motel development is expected to generate 204 of those trips per day (both directions) and 26 trips in the evening peak hour.

The level of service (LoS) for the intersection of Kirkley Street with the Great Western Highway is said to be maintained at LoS – B being an average delay of 15 to 28 seconds and being rated 'acceptable delays and spare capacity'. Council's engineers concur with these conclusions.

The development was referred to the Roads and Maritime Services whose comments are found later in this report. They raise no concern in relation to traffic impact.

The Traffic Advisory Local Committee has no objection to the proposed development.

Visual Impacts: The applicant states: "The administration block, restaurant and reception area of the development would be a single storey building which has a frontage to Kirkley Street. The development has a blend of architectural elements and materials which are sympathetic with the character of the street. The façade is a combination of face brick, render and paint with some feature cladding. There is a front canopy for the motel entrance which identifies the development as a motel. The motel would be brick at the ground level with light weight cladding on the upper floor with a light paint finish".

As such the development proposes to utilise colours and materials that are subtle in nature and fit within the residential character and would not dominate the streetscape. The

development would not impact on surrounding views as it is proposed to be low sitting and not block the surrounding mountain backdrops.

The proposal has been designed to minimise its impact within the streetscape. Whilst the double storey components of the proposal are at odds with the low density and predominantly single storey character of existing development that surrounds the subject site, it is not of a scale to warrant refusal of the application. Efforts have successfully been made by the architect to minimise the impacts of the second storey sections in relation to overlooking and overshadowing and these impacts are considered to be average in scale and reasonable. For these reasons it is considered that the proposal is worthy of support.

Overshadowing: Shadow diagrams have been provided that confirm the development will not overshadow adjoining properties to a great extent as the proposed development is well setback from the side and rear boundaries. Therefore the direct sunlight access to any adjoining properties would not be significantly affected.

The proposed front setback of the development would be 15m and follows the prevailing setback of the neighbouring No.7 Kirkley Street property. The side setback of all of the buildings within the development on the western side is in excess of 10m and 3m on the eastern side. The development would have a rear setback of 14.3m. These setbacks assist to minimise the impacts of overlooking also.

Social and Economic Impact: The development would create accommodation for visitors to the Lithgow area which could have positive economic impacts.

The staffing levels would involve a live-in manager and an additional employment of 2 staff for the motel services. The restaurant would also involve additional employment.

During construction, the development would provide a positive short term economic impact, as local contractors and businesses may be utilised for materials, equipment and employment.

The development may encourage visitors to use local businesses within the vicinity due to its location within proximity to Lithgow's town centre.

Negative impacts to immediate neighbours is considered to be minor and acceptable.

Landscaping: Landscaping is proposed to be located around the boundaries of the development; which would help to screen the development. The landscaping would also screen the proposed boundary fences that are located around the site.

Adjoining Land use: The surrounding land uses include single storey residential dwellings located to the east and west and undeveloped blocks to the north and south of the property which could be potentially occupied by future residential uses.

The motel development would cause minor overlooking and overshadowing to the adjoining land uses due to large setbacks and fencing and landscaping around the boundary.

Residential dwellings surround the proposed development in which a conflict could potentially arise due to traffic noise or vehicle headlights. However the applicant has proposed a 1.8m high fence on all side boundaries. The front boundary along Kirkley Street would also contain a 0.6m high fence with landscaping surrounding the boundaries. A hedge is also proposed to be located at the front between the road and the development. The fencing and landscaping would adequately limit any visual impacts to adjoining neighbours.

With the proposed mitigation measures mentioned above the development is expected to create minor and acceptable impacts on existing residents in the locality.

Privacy, Safety and Security: The proposed motel provides active surveillance to Kirkley Street with the residential part of the motel being located behind the Administration block. The internal access routes would be under 24 hour surveillance via security cameras.

The key functional areas on the ground floor would be accessible and visible from the reception area to facilitate surveillance and security at all times as there is a direct visual link from the reception to the restaurant dining area.

There would be an internal staircase in the common passage to access the first floor in each block. These staircases would have controlled security access via swipe cards issued to the motel patrons.

It is considered that the measures suggested above will adequately address any potential safety impacts from the proposed motel.

Council's Community Development Officer's comments are found later in this Report.

Noise and Vibration: A noise assessment was submitted with the application that indicates that subject to a number of recommendations, noise from the motel can be limited to acceptable levels.

The proposal is unlikely to cause any noise impacts except potentially during construction. If approved, hours of construction will be limited through conditions of consent.

Services: Electricity, water and sewerage services are currently available. As such the development would not impact on services in the area. A stormwater MUSIC Model was submitted with the application which indicates that stormwater pits and drains would be located within the new allotment. The MUSIC Model was referred to the Sydney Catchment Authority which has recommended that conditions be placed on the consent if the development was approved. The Sydney Catchment Authority comments and conditions are found later in this Report.

Soils: The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by acid sulphate soil or contamination problems.

Dust: It is expected that dust impacts would occur during the demolition and construction of the development. Dust issues would need to be minimised through mitigation measures such as the use of water, tarps etc. A condition would be placed on the consent if the development was approved stating the following:

'The applicant shall ensure that during the construction works all measures are taken to eliminate/suppress any dust nuisance emanating from the site.'

Air and Microclimate: There will be no significant impact on air or microclimate except during construction of the development.

Waste: Garbage would be collected from the development and transferred to bins located within a separate garbage room on the property. This room would have direct access to Kirkley Street for convenient and easy operations during collection days. The garbage room would contain 9 general waste bins and 3 recycling bins.

All building and demolition waste would be disposed of appropriately in accordance with Council's requirements.

A Waste Management Plan was submitted with the application which provides a more detailed assessment of the waste management generated from the development.

Site and Context Suitability: The site is rectangular in shape and contains an area of 5,815m². The property has a 40.85m frontage to Kirkley Street and has a north-south orientation with a slope of 5%.

5.3.7 The Suitability of the site for the development

This has been assessed previously within this Report.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposal was sent to the Roads and Maritime Services (RMS), The Sydney Catchment Authority (SCA), the Traffic Advisory Local Committee (TALC), Council's Engineers Building Surveyors, Community Development Officer and Environmental Officer for commenting. The proposal was sent to adjoining neighbours and placed on public display in Council's Administration Building for a period of 21 days.

COMMUNITY CONSULTATION

Advertised in the Mercury for a period of 21 days, 9 August to the 5 September 2013

Neighbour Notification to all property owners and occupiers in Kirkley Street, Tom Lesslie Place, Surveyors Way, Stockade Close and adjoining properties in Magpie Hollow Road in order to comply with the South Bowenfels DCP as best as practicable : 29 July to 5 September 2013 (31 days)

Twenty Six submissions have been received from local residents within the vicinity and from other motel operators in Lithgow who object to the proposal with the following concerns:

- 1) Traffic impacts would be increased along with dangers to pedestrians as there are no footpaths in the locality;
- 2) Kirkley Street is not designed for a high level of traffic as the street is not wide enough to ensure free and unobstructed flow of traffic with existing traffic having difficulty negotiating parked cars;
- 3) Impacts to the neighbourhood in regard to lighting at all times of the day and night; this would create privacy impacts;
- 4) The definition of the development as a commercial usage is not suitable within the residential zone; therefore there is no compatibility between the development and the surrounding uses;
- 5) Interference with peace and quiet with resultant noise impacts such as from functions, cars, buses etc; and
- 6) The intersection of the Great Western Highway, Kirkley Street and the entrance into Strathlone Estate is already extremely dangerous;
- 7) The control and regulation of stormwater run-off as the current facilities do not cope with the amount of rainfall received and there would be no natural absorption;
- 8) The current sewerage pumping system is not large enough to cope with extra developments in the area.
- 9) The visual aspect of a two storey motel would be out of place and unappealing;

- 10) The draft Local Environmental Plan prohibits the development in the draft zone which is proposed to be low density residential.
- 11) The extent of the hard surfaces proposed would have a large impact on the local drainage system and result in excessive runoff into the culverts which drain into the adjoining property.
- 12) The height of the 2 storey building and signage would overlook neighbouring properties which would create an impact on privacy and change the light and shade conditions.
- 13) Will the restaurant be licensed?
- 14) Unreasonable motel competition.

Council Comment:

All these issues have been addressed previously within the various assessment sections of this Report with the exception of the matters below.

Lighting: It is not clear from the application what lighting is proposed apart from low lux garden lighting. In this regard a condition of consent is suggested to ensure no nuisance occurs to neighbours.

Licensed premises: The restaurant is not proposed to be licensed. A separate liquor license approval would be required in this regard if this was to ever change.

Competition: Competition with existing Lithgow motels has been questioned. This is not a relevant head of consideration under the EP&A Act.

The draft **State Environmental Planning Policy (Competition) SEPP** was exhibited in 2010. The preamble is: Following a review undertaken last year [2009] by the NSW Department of Planning and the Better Regulation Office into how economic growth and competition were impacted by the planning system, a new draft State Environmental Planning Policy (SEPP) has been prepared and has now been placed on public exhibition.

The draft SEPP proposes that:

- the commercial viability of a proposed development may not be taken into consideration by a consent authority, usually the local council, when determining development applications;
- the likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered; except
- if the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and
- any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect.

Whilst still a draft SEPP the intent of the legislation to clarify the EP&A Act is clear. Council should not be concerned with commercial viability.

Buses and truck parking: This has not been accommodated for on site. It is proposed that any buses drop off only.

ROADS AND MARITIME SERVICES (RMS)

It is noted that the proposed motel and restaurant does not require direct access to the classified road network and is not required to be referred to RMS under State Environmental Planning Policy (Infrastructure) 2007.

The proposed development includes two (2) illuminated outdoor advertising signs in the Great Western Highway road reserve which requires the concurrence of RMS under Section 138(2) of the Roads Act 1993.

RMS objects to the installation of outdoor advertising signs in the Great Western Highway road reserve and refuses concurrence pursuant to Section 138 of the Roads Act 1993. So that RMS may withdraw its objection to the development application, the outdoor advertising structure needs to be deleted from the development proposal.

THE SYDNEY CATCHMENT AUTHORITY

Reference is made to Council's letter requesting the concurrence of the Chief Executive under Clause 11 of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* (the SEPP) with a proposal for a 56 room motel with a restaurant at 5 Kirkley Street, South Bowenfels.

The subject property, which has been inspected by the Sydney Catchment Authority (SCA), is located within the Warragamba catchment, which forms part of Sydney's water supply.

The following documents have been considered in the assessment of this proposal:

- State of Environmental Effects prepared by Shobha Designs (dated 12 July 2013)
- Site Plans prepared by Shobha Designs (dated 15 July 2013)
- Detail Survey prepared by MXM Survey Pty Ltd (dated 26 November 2012)
- Stormwater Concept Plans and MUSIC Stormwater Quality Model prepared by NiTmA Civil and Structural Consulting Engineers (dated 9 April 2014).
- Stormwater Quality Report prepared by NiTmA Civil and Structural Consulting Engineers (dated 9 April 2014).
- Landscape Plans prepared by Charli Huang (dated 10 December 2013)

Based on the SCA's site inspection and the information provided, the proposed development has been assessed by the SCA as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

The Chief Executive would therefore concur with Council granting consent to the application subject to the following conditions being imposed:

General

1. The site layout and works shall be as shown on the Site Plans prepared by Shobha Designs (Dwg. Nos. DA01 to DA06 inclusive, dated 12 July 2013). No revised site layout or external works that will impact on water quality shall be permitted without the prior agreement of the SCA

Reason for Condition 1- The Sydney Catchment Authority has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.

Stormwater Management

2. All stormwater treatment and management measures shall be implemented as specified and shown in the Stormwater Concept Plans (Project N: 1286H, Sheets 1 to 7, dated 9 April 2014) prepared by NiTmA Civil and Structural Consulting Engineers.

3. No variation to stormwater treatment or management shall be permitted without the prior agreement of the Sydney Catchment Authority.
4. All stormwater quality management measures shall be inspected and certified by a consultant approved by the Sydney Catchment Authority, as having been constructed or undertaken as specified in Conditions 2 and 3.

Operational Environmental Management Plan

5. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with the Sydney Catchment Authority by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate. The OEMP shall include but not be limited to:
 - details on the location and nature of stormwater management structures such as pits, pipes, inlet filters, gross pollutant trap, bioretention basin, and rainwater collection system
 - an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and procedures for managing and notification of water quality emergencies, and
 - checklists for recording inspections and maintenance activities.

Reason for Conditions 2 to 5 – To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained so as to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.

Other

6. Conditions 2 to 5 shall be carried out prior to the issuance of an Occupation Certificate.

Construction Activities

7. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction: Managing Urban Stormwater* (2004) manual - the "Blue Book" and shall be to the satisfaction of Council.
8. Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

Reason for Conditions 7 and 8 - To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.

COUNCIL'S ENGINEER'S

The proposal has been reviewed with regard to traffic, stormwater and connection to sewer and water. No concerns are raised.

TRAFFIC ADVISORY LOCAL COMMITTEE (TALC)

The Traffic Advisory Local Committee has no objection to the proposed development.

COUNCIL'S BUILDING SURVEYOR

Reference is made to the abovementioned Development Application, site inspection undertaken, site assessment and examination of submitted documentation.

In regard to the proposed levels and extent of cut and fill, these are considered to be in accordance with the provisions of the South Bowenfels Development Control Plan.

The applicant has indicated that the CC will be issued by a private certifier; therefore a detailed BCA assessment has not been carried out at DA stage. However; the plans appear to generally comply with the BCA apart from the distances of the first floor units from an exit, however this may be dealt with as an alternative solution at CC stage.

Accordingly, no objections are raised to the DA from a building viewpoint, subject to the following conditions being included in the consent:

General Requirements

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.
2. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
3. Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

Water and Sewer

4. The sanitary drainage shall be connected to Council's sewer junction/riser to Council's satisfaction.
5. Prior to issuing the Certificate of Compliance for all sanitary plumbing and drainage, the plumbing and drainage works are to be inspected and approved by Council as the delegated regulatory authority for plumbing and drainage work within the Lithgow City Council area.
6. All plumbing and drainage works shall be carried out by a licensed plumber and drainer.

Requirements Prior to Commencement of Work

7. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.
8. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 are to be complied with:
 - a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and

- b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and
- c) Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.

Sedimentation controls

9. To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include:

- a) The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
- b) To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.

Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

Dust minimisation measures

10. Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – “Soils and Construction” (2004) (Bluebook).

Fill requirements

11. Fill material used must be virgin excavated natural material within the meaning of the Protection of Environmental Operations Act 1997 (PEEO) or any other waste- derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Note: Any waste-derived material the subject of resource recovery exemption received at the development site must be accompanied by documentation as to the material’s compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

Signage

12. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
- b. Stating that unauthorised entry to the work site is prohibited and
- c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

13. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.

Requirements during construction

Workers toilet facilities

14. Before work starts, toilet facilities must be provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Waste disposal

15. Prior to any building works commencing a suitable Waste Container for the deposit of all building rubbish and litter must be provided and emptied as soon as full at a waste management facility. Building rubbish and litter must be contained on the building site and the work site left clear of waste and debris at the completion of the works.

Construction hours

16. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

Excavations

17. All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.

18. If an excavation associated with the approved works extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- Must preserve and protect the building from damage; and
- If necessary, must underpin and support the building in an approved manner, and footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

19. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Maintenance of building site

20. Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

21. A temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- a. Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- b. Could cause damage to adjoining lands by falling objects.

Demolition of the dwelling and shed

General conditions

22. Demolition works are to be carried out in accordance with Australian Standard 2601-“Demolition of structures”. **Note: Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carried on a business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001.**

23. The works shall be executed, by competent persons with due regard at all times for safe working practices and in accordance with the approved work plan, a copy of which shall be kept on site. Any modifications to the work plan, which may be necessary as the work progresses, shall be made by a competent person in accordance with Clause 2.1 AS2601. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.

24. Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation Worksafe Australia and WorkCover.

25. That minimal disturbance is caused to the site during construction works.

Site safety

26. Security fencing shall be provided around the perimeter of the demolition site to prevent unauthorised entry into the demolition area and protect public and employees from injury. Warning notices displaying the words "WARNING DEMOLITION IN PROGRESS" shall be fixed to fencing to warn the public.

27. The demolition area is to be illuminated and clearly visible at all times.

28. No demolition activity shall cause damage to or adversely affect the structural integrity of adjoining buildings.

29. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.

30. Precautions shall be taken to ensure that the stability of all parts of the structure, and the safety of persons on and outside the site will be maintained in the event of sudden and severe weather changes.

Disconnection of services

31. Water is to be available on site during demolition and for dust suppression. When demolition is completed:

- a. Disused sewer drains shall be disconnected and sealed in accordance with Section 4.25.1 & 4.25.2 Australian Standard 3500.
- b. Disused water pipes are to be manually disconnected from the water meter (water meter should be turned off) and removed from meter set to Council's satisfaction.

Waste Disposal

32. All demolished material and excess spoil from the site shall be disposed of at the Lithgow Waste Management facility in a location and in a manner approved of by Council. No material is to be burnt on site.

33. Approval must be obtained from Council's Regional Services Division prior to the disposal of any waste (including VENM) at any Council owned facility. Certification of the classification of the waste in accordance with the Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes and quantities will be required to be submitted. Also, waste receipts will need to be obtained and provided to Council prior to issue of an Occupation Certificate.

Prior to the issue of an Occupation Certificate

Occupation Certificate

34. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.

35. Prior to the issue of an Occupation Certificate the applicant shall furnish Council with a Certificate of Compliance and approved drainage diagram for all sanitary plumbing and drainage.

Retaining walls and completed site works

36. Cut and fill areas are to be retained by retaining walls prior to the issue of the Occupation Certificate.

37. That and any disturbed areas are to be generally made good prior to the issue of the Occupation Certificate.

38. There is to be no landscaping, features or gardens past the front property boundary.

Advisory Notes

Inspection schedule - Sewered Area

1. As the Certifying Authority, for water and sewer inspections Council must be contacted to undertake inspections of the various stages of construction as follows:

- a. Internal and sanitary external drainage prior to covering.
- b. Hot and cold water plumbing prior to covering
- c. Final inspection of sewer connection prior to occupation of the building.

Note: forty-eight (48) hours notice shall be given to Council prior to inspections and inspection fees must be paid.

Snow and wind load

2. The property is located in an area (elevation 920m, ground snow load 1.444kPa) subject to snow falls. The building is to be designed and certified for the relevant ground snow and wind loading for the area and details are to be submitted to the Certifying Authority.

3. That, owing to the area being subject to high wind velocities from time to time, every precaution is to be taken to ensure the building and the roof cladding are effectively secured. Manufacturer's details and directions for anchorage and fixing are to be adhered to.

Disabled access and facilities

4. Your attention is drawn to the existence of the Disability Discrimination Act. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the Building Code of Australia, however, the development may not comply with the requirements of the Disability Discrimination Act. This is the sole responsibility of the owner, builder and applicant.

COUNCIL'S ENVIRONMENTAL OFFICER

Council's Environment Department has assessed DA153/13 and associated Acoustic Report Ref: 2013-503, dated 22 December 2013 prepared by Acoustic Solutions.

Environment have no objections providing the noise mitigation/ control measures as recommended in the plans and specifications are adhered to (section 9) and implemented as recommended.

Conditions required include:

1. Plans and specifications demonstrating compliance with (AS4674) the nominated standards and requirements for the following aspects of the development shall be submitted and approved by the PCA:

- Details of all proposed, altered and required mechanical ventilation systems (BCA and AS 1668 Part 1 & 2).
- The layout, disposition and method of installation of fixtures and fittings, together with wall, floor, and ceiling finishes to all preparation, storage areas and cool rooms (AS 4674).
- Trade waste application to be submitted to Council.

COUNCIL'S COMMUNITY DEVELOPMENT OFFICER

Issues to be considered with regard to the development application to enhance safety and security are adequate lighting allowing for clear lines of sight. Lighting should be sufficient to support any cameras or surveillance located on the site. Surveillance is an important factor, as the attractiveness of crime targets can be reduced by providing adequate surveillance both natural and with lighting and cameras.

Building and access control including fencing, entrance gates and alarm systems. Building identification (signage and entrances), clear signage should be installed at the entrance and exit points of the premises specifying boundaries.

Planning Response: These issues have been assessed previously in this report. It is noted in the Statement of Environmental Effects that was submitted with the application that lighting and surveillance cameras would be located throughout the property. Fencing and entrance gates are also proposed with the application.

COUNCIL'S WATER AND SEWER OFFICER

Reference is made to the development application and provide the following comments.

Please be advised of the following:

Section 68 approval is required from Council; this will be required prior to any construction works. The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicably supporting information for the proposed works.

Water Services

An existing main is provided at the front of the property and shall be connected to for the purpose of potable water supply. (Water supply above 25mm shall be designed by a hydraulic engineer)

Sewerage Service

1. An existing main is provided at the front of the lot and shall be connected to for the purpose of sewerage services. There is also a spur main connecting to the existing dwelling on the Eastern boundary.
2. Further assessment would be required for proposed capacity of Council's Sewerage Pump Station located in Tom Leslie Drive.
3. The proposed restaurant would require a Trade Waste Application.

5.3.9 The public interest

Public interest has been addressed previously under the heading NEIGHBOUR NOTIFICATION.

6. DISCUSSION AND CONCLUSIONS

The proposal is considered to comply with the relevant provisions of the applicable Environmental Planning Instrument. The proposal is considered likely to not have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT development application DA 153/13 is approved subject to conditions set out in Schedule A.

Report prepared by:.....Supervisor:.....

Dated:.....Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure that satisfactory arrangements are made to satisfy the increased demand for public recreation facilities
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure lots are adequately serviced.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.
2. The hours of operation for the restaurant is restricted to the following hours:
 - Breakfast for motel patrons only between: 7.30am to 10.30am 7 days a week;
 - Dinner to motel patrons and the public between 6.00pm to 9.00pm Sunday to Thursdays and 6.00pm to 10.30pm Friday and Saturdays.
3. Only one advertising sign is approved.
4. Details of external lighting and floodlighting are to be provided to Council for endorsement prior to installation.
5. Plans and specifications demonstrating compliance with (AS4674) the nominated standards and requirements for the following aspects of the development shall be submitted and approved by the PCA:
 - Details of all proposed, altered and required mechanical ventilation systems (BCA and AS 1668 Part 1 & 2).
 - The layout, disposition and method of installation of fixtures and fittings, together with wall, floor, and ceiling finishes to all preparation, storage areas and cool rooms (AS 4674).
 - Trade waste application to be submitted to Council.

Financial Conditions

6. An application shall be submitted to Council for a Certificate of Compliance under Section 305 of the Water Management Act for connection to Council's water and sewerage supply. Headworks charges will also be required to be payable prior to the release of this certificate. A Final Occupation Certificate shall not be issued until such time as a Certificate of Compliance has been issued under Section 307 of that Act. This shall further be at full cost to the applicant.
7. Prior to release of a Construction Certificate the applicant shall pay to Council a Section 94 contribution of \$44,504.88, in accordance with the Lithgow City Council Section 94A Development Contribution Plan 2012. It is advised that the level of contribution in this plan may be adjusted at the time of actual payment, in accordance with the provisions of the Lithgow City Council Section 94A Development Contribution Plan 2012.

PRIOR TO COMMENCEMENT OF WORK

8. A copy of the stamped and approved plans, development consent and the construction certificate are to be on the site at all times.
9. Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

10. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 are to be complied with:
 - a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and
 - b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and
 - c) Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.

Sedimentation controls

11. To contain soil and sediment on the property, controls are to be implemented prior to clearing of the site vegetation and the commencement of site works. This will include:
 - a) The installation of a sediment fence with returned ends across the low side of the site so that all water flows through. These shall be maintained at no less than 70% capacity at all times. Drains, gutters, roadways etc., shall be kept clean and free of sediment.
 - b) To prevent the movement of soil off site, a single entry/exit point to the property shall be constructed of 40mm blue metal aggregate or recycled concrete to a depth of 150mm. The length must be at least 5 metres with the width at least 3 metres.Soil erosion fences shall remain and must be maintained until all disturbed areas are restored by turfing, paving, revegetation.

Dust minimisation measures

12. Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – “Soils and Construction” (2004) (Bluebook).

Fill requirements

13. Fill material used must be virgin excavated natural material within the meaning of the Protection of Environmental Operations Act 1997 (POEO) or any other waste- derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Note: Any waste-derived material the subject of resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

Signage

14. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:
 - a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
 - b. Stating that unauthorised entry to the work site is prohibited and
 - c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Waste disposal

15. Prior to any building works commencing a suitable Waste Container for the deposit of all building rubbish and litter must be provided and emptied as soon as full at a waste management facility. Building rubbish and litter must be contained on the building site and the work site left clear of waste and debris at the completion of the works.

SYDNEY CATCHMENT AUTHORITY CONDITIONS

General

16. The site layout and works shall be as shown on the Site Plans prepared by Shobha Designs (Dwg. Nos. DA01 to DA06 inclusive, dated 2 December 2013). No revised site layout or external works that will impact on water quality shall be permitted without the prior agreement of the SCA

Stormwater Management

17. All stormwater treatment and management measures shall be implemented as specified and shown in the Stormwater Concept Plans (Project N: 1286H, Sheets 1 to 7, dated 9 April 2014) prepared by NiTmA Civil and Structural Consulting Engineers.
18. No variation to stormwater treatment or management shall be permitted without the prior agreement of the Sydney Catchment Authority.
19. All stormwater quality management measures shall be inspected and certified by a consultant approved by the Sydney Catchment Authority, as having been constructed or undertaken as specified in Conditions 17 and 18.

Operational Environmental Management Plan

20. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with the Sydney Catchment Authority by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate. The OEMP shall include but not be limited to:
- details on the location and nature of stormwater management structures such as pits, pipes, inlet filters, gross pollutant trap, bioretention basin, and rainwater collection system
 - an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and procedures for managing and notification of water quality emergencies, and
 - checklists for recording inspections and maintenance activities.

Other

21. Conditions 17 to 20 shall be carried out prior to the issuance of an Occupation Certificate.

Construction Activities

22. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction: Managing Urban Stormwater* (2004) manual - the "Blue Book" and shall be to the satisfaction of Council.
23. Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

DURING CONSTRUCTION

Workers toilet facilities

24. Before work starts, toilet facilities must be provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Construction hours

25. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

Excavations

26. All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
27. If an excavation associated with the approved works extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- Must preserve and protect the building from damage; and
 - If necessary, must underpin and support the building in an approved manner, and footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
28. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Maintenance of building site

29. Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
30. A temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
- Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - Could cause damage to adjoining lands by falling objects.

Demolition of the dwelling and shed

31. Demolition works are to be carried out in accordance with Australian Standard 2601- "Demolition of structures". **Note: Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carried on a business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001.**
32. The works shall be executed, by competent persons with due regard at all times for safe working practices and in accordance with the approved work plan, a copy of which shall be kept on site. Any modifications to the work plan, which may be necessary as the work progresses, shall be made by a competent person in accordance with Clause 2.1 AS2601. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
33. Removal of dangerous or hazardous materials shall be carried out in accordance with the

provisions of all applicable State legislation Worksafe Australia and WorkCover.

34. That minimal disturbance is caused to the site during construction works.

Site safety

35. Security fencing shall be provided around the perimeter of the demolition site to prevent unauthorised entry into the demolition area and protect public and employees from injury. Warning notices displaying the words "WARNING DEMOLITION IN PROGRESS" shall be fixed to fencing to warn the public.
36. The demolition area is to be illuminated and clearly visible at all times.
37. No demolition activity shall cause damage to or adversely affect the structural integrity of adjoining buildings.
38. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
39. Precautions shall be taken to ensure that the stability of all parts of the structure, and the safety of persons on and outside the site will be maintained in the event of sudden and severe weather changes.

Disconnection of services

40. Water is to be available on site during demolition and for dust suppression. When demolition is completed:
 - a. Disused sewer drains shall be disconnected and sealed in accordance with Section 4.25.1 & 4.25.2 Australian Standard 3500.
 - b. Disused water pipes are to be manually disconnected from the water meter (water meter should be turned off) and removed from meter set to Council's satisfaction.

Waste Disposal

41. All demolished material and excess spoil from the site shall be disposed of at the Lithgow Waste Management facility in a location and in a manner approved of by Council. No material is to be burnt on site.
42. Approval must be obtained from Council's Environmental and Planning Services Division prior to the disposal of any waste (including VENM) at any Council owned facility. Certification of the classification of the waste in accordance with the Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes and quantities will be required to be submitted. Also, waste receipts will need to be obtained and provided to Council prior to issue of an Occupation Certificate.

Noise

43. The noise mitigation/ control measures recommended in the plans and specifications are to be adhered to and implemented as recommended in Section 9 of the acoustic report Ref: 2013-503, dated 22 December 2013 prepared by Acoustic Solutions.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

Occupation Certificate

44. Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.
45. Prior to the issue of an Occupation Certificate the applicant shall furnish Council with a Certificate of Compliance and approved drainage diagram for all sanitary plumbing and

drainage.

Retaining walls and completed site works

46. Cut and fill areas are to be retained by retaining walls prior to the issue of the Occupation Certification.
47. That any disturbed areas are to be generally made good prior to the issue of the Occupation Certificate.

Water and Sewer

48. The sanitary drainage shall be connected to Council's sewer junction/riser to Council's satisfaction.
49. Prior to issuing the Certificate of Compliance for all sanitary plumbing and drainage, the plumbing and drainage works are to be inspected and approved by Council as the delegated regulatory authority for plumbing and drainage work within the Lithgow City Council area.
50. All plumbing and drainage works shall be carried out by a licensed plumber and drainer.

Landscaping

51. The approved landscape plan is to include 3 additional trees of 6-8m mature height evenly spaced along the western boundary.
52. All new boundary fencing (which is also to comply with the acoustic requirements of Condition Number 43 of this consent) is to be installed at the full cost of the developer.
53. Prior to Council or an accredited certifier issuing a construction certificate, a bond or a bank guarantee for the sum of \$10,000 is to be lodged with Council to ensure the effective establishment and maintenance of landscaping on site.
54. Twelve months after the issue of the occupation certificate, and the satisfactory completion and maintenance of landscaping, the applicant is responsible for applying to Council for the return of the bond or guarantee.

Engineering Requirements

55. The development is to comply with Council's Guidelines for Civil Engineering Design and Construction for Developments
56. Driveway layback provision is to be in accordance with Lithgow City Council's standards for constructing special footpath crossing specifications.

Civil Construction

57. Only those areas involved in the construction of the civil works shall be disturbed, with all other areas of the site to be maintained with existing vegetation cover.

ADVISORY NOTES

Building Code of Australia Compliance

- AN1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Construction Certificate

- AN2. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.

Inspection schedule - Sewered Area

- AN3. As the Certifying Authority, for water and sewer inspections Council must be contacted to undertake inspections of the various stages of construction as follows:
- a. Internal and sanitary external drainage prior to covering.
 - b. Hot and cold water plumbing prior to covering
 - c. Final inspection of sewer connection prior to occupation of the building.

Note: forty-eight (48) hours notice shall be given to Council prior to inspections and inspection fees must be paid.

Snow and wind load

- AN4. The property is located in an area (elevation 920m, ground snow load 1.444kPa) subject to snow falls. The building is to be designed and certified for the relevant ground snow and wind loading for the area and details are to be submitted to the Certifying Authority.

- AN5. That, owing to the area being subject to high wind velocities from time to time, every precaution is to be taken to ensure the building and the roof cladding are effectively secured. Manufacturer's details and directions for anchorage and fixing are to be adhered to.

Disabled access and facilities

- AN6. Your attention is drawn to the existence of the Disability Discrimination Act. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the Building Code of Australia, however, the development may not comply with the requirements of the Disability Discrimination Act. This is the sole responsibility of the owner, builder and applicant.

Section 68 Approvals

- AN7. The applicant must obtain written Section 68 approval from Council for the connection to Council's water and sewerage services; this will be required prior to any construction works. The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicably supporting information for the proposed works.

Council makes the following notes for your consideration:

- a) An existing water main is provided at the front of the property and shall be connected to for the purpose of potable water supply. (Water supply above 25mm shall be designed by a hydraulic engineer);
 - b) An existing sewer main is provided at the front of the lot and shall be connected to for the purpose of sewerage services. There is also a spur main connecting to existing dwelling on the Eastern boundary.
 - c) Further assessment would be required for proposed capacity of Council Sewerage Pump Station located in Tom Leslie Drive.
- AN8. The applicant must obtain a Trade Waste Application approval from Council for the proposed restaurant.