

JRPP REFERENCE:	2013SYW016
FILE REFERENCE:	DA-1786/2012
PROPERTY:	LOT 20 DP 1139408, 251 COWPASTURE ROAD CARNES HILL
APPLICANT:	LIVERPOOL CITY COUNCIL
LAND OWNER:	LIVERPOOL CITY COUNCIL
PROPOSAL:	CONSTRUCTION OF A COMMUNITY FACILITY
REPORT BY:	DEEPA RANDHAWA – CONSULTANT PLANNER
PURPOSE OF REPORT:	PEER REVIEW OF DEVELOPMENT ASSESSMENT REPORT PREPARED BY LIVERPOOL CITY COUNCIL

EXECUTIVE SUMMARY

This report is a peer review of the development assessment report prepared by Liverpool Council as Council is the owner of the land and also the applicant in this case. The report provides an independent peer review and is intended to be read in conjunction with the assessment report prepared by Liverpool City Council.

The peer review of the assessment report prepared by Council has concluded that the proposed development has satisfactorily addressed a number of likely impacts via supporting reports submitted with the application, amended plans and conditions of consent and is considered to be worthy of support.

In this regard the conclusions, recommendation and conditions of the report prepared by Liverpool Council are generally concurred with and supported.

DETAILS OF THE DEVELOPMENT

Liverpool Council seeks approval for a community facility consisting of the following:

- Construction of a combined Library and Community Centre with a total area of approximately 2,950m² and a height of approximately 9.5 metres;
- Construction of an Indoor Recreation Centre with a gross floor area of 3,575m² and a height of approximately 10.5 metres;
- Construction of a Skate Park of approximately 7000m² consisting of a number of concrete ramps and half pipes that can be used by skate boards, roller blades and scooters;
- Park and sporting facilities including two half basketball courts, multipurpose courts wetland detention basins, central plaza, picnic area and amenities, children's bicycle park and playground and associated landscaping and park furniture; and

- Construction of 168 parking spaces including 4 accessible spaces, 8 Motorcycle parking spaces and 20 bicycle parking to be provided throughout the site at various locations.

STATUTORY REQUIREMENTS

1. *Threatened Species Conservation Act 1995*

A Flora and Fauna Assessment Report was submitted with the Development Application. The Flora & Fauna Assessment Report notes that the site contains an endangered ecological community known as the River-Flat Eucalypt Forest as listed on the TSC Act and a Seven Part Test was prepared which determined that the development will disturb approximately 0.76 ha of River-Flat Eucalypt Forest.

The report considers that is not likely to have a significant environmental effect as the vegetation loss equates to a loss of 0.186% of the community estimated in the locality and is not considered to adversely affect the extent or composition of River-Flat Eucalypt Forest on Coastal Floodplains for it to become locally extinct.

The flora and fauna assessment provides an Assessment of Significance under the requirements of this legislation which reveals that the proposal is unlikely to have a significant effect on threatened species, populations, ecological communities or their habitats. A Species Impact Statement is therefore not required.

Cumberland Plain Recovery Plan (CPRP)

This recovery plan prepared under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the NSW *Threatened Species Conservation Act 1995* (TSC Act) promotes the recovery of threatened species, populations and ecological communities on the Cumberland Plain. The plan has been prepared with reference and due consideration of the objects of the EPBC Act and the TSC Act and constitutes the NSW recovery plan for the threatened species, populations and ecological communities that are listed in Table 1 of the Plan which includes River-Flat Eucalypt Forest.

The CPRP has the following objectives:

1. *To build a protected area network, comprising public and private lands, focused on the priority conservation lands.*
2. *To deliver best practice management for threatened species, populations and ecological communities across the Cumberland Plain, with a specific focus on the priority conservation lands and public lands where the primary management objectives are compatible with conservation.*
3. *To develop an understanding and enhanced awareness in the community of the Cumberland Plain's threatened biodiversity, the best practice standards for its management, and the recovery program*
4. *To increase knowledge of the threats to the survival of the Cumberland Plain's threatened species, populations and ecological communities, and thereby improve capacity to manage these in a strategic and effective manner.*

The CPRP identifies priority conservation lands which represent the best remaining opportunities in the region to maximise long-term biodiversity benefits for the lowest possible cost, including the least likelihood of restricting land supply. The CPRP also focuses on threatened species, populations and ecological communities that are endemic to the Cumberland Plain or are primarily distributed on the Cumberland Plain and not necessarily located within the priority conservation lands.

Even though the land subject to Development Application 1786/2012 is not designated as priority conservation land under the CPRP, the recovery plan nevertheless identifies as a responsibility of, in this case, the Council, for the promotion and adoption of best practice standards for bushland management on private land.

Pursuant to Section 5A of the Environmental Planning & Assessment Act (1979), the consent authority (Council) must take into account whether the proposed development is consistent with the objectives or actions of a Recovery Plan in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

The flora and fauna submitted with the application has taken into account Cumberland Plain Recovery Plan (CPRP) and has made a number of recommendations to reduce the impacts upon the EEC and general environmental impacts and recommends that the vegetation community and potential habitat immediately adjacent to the site be protected both during and following construction.

Council's Natural Resource Officer has considered the proposed development with regard to flora and fauna impacts and is satisfied with the recommendations of the Flora and Fauna Impact Assessment.

The recommendations of the Flora and Fauna Report and the conditions provided by Council's Natural Resource Officer form part of the consent therefore it is considered that Council has fulfilled its obligations and responsibility pursuant to *Threatened Species Conservation Act 1995 and Cumberland Plain Recovery Plan (CPRP)*.

2. *National Parks and Wildlife Act 1974.*

An Aboriginal Cultural Heritage Assessment Report has been submitted with the application. The report advises that no Aboriginal sites, places or relics were located on the site; however the report makes a number of recommendations including a requirement for Council to apply for an Aboriginal Heritage Impact Permit for the proposed works to proceed.

It is recommended that Liverpool City Council apply for an AHIP for the project area prior to the issue of a construction certificate.

3. *Rural Fires Act 1997*

The subject land is mapped '*Bushfire Prone Land*' and accordingly the Development Application was referred to the NSW Rural Fire Service for comment.

Council has received correspondence from NSW RFS providing conditions which have been included as a condition of consent.

Council has fulfilled the obligations and the requirements of the Rural Fires Act 1997.

4. *Water Management Act 2000 (NSW)*

A controlled activity approval under the *Water Management Act 2000* (WM Act) is required for certain types of developments and activities that are carried out in or near a river, lake or estuary (inclusive of first and second order streams). Guidelines on general riparian setbacks are given based on the stream order of the waterway in discussion.

Under the WM Act, a controlled activity is described below:

- *The erection of a building or the carrying out of a work (within the meaning of the Environmental Planning and Assessment Act 1979); or*
- *The removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise; or*
- *The deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise; or*
- *The carrying out of any other activity that affects the quantity or flow of water in a water source.*

Defences and exemptions relevant to the proposal are listed below:

- *Public authorities or local councils, or*
- *An activity which only involves the removal of native vegetation that would otherwise be lawful.*

The proposed facilities to be constructed are considered a controlled activity; however as Liverpool City Council being a public authority is exempt from section 91E (1) of the Act in relation to all controlled activities that it carries out in, on or under waterfront land.

Council has received correspondence from the NSW Office of Water to confirm that the proposed activity is exempt from consideration under the Water Management Act.

5. State Environmental Planning Policy (Infrastructure) 2007

Pursuant to Clause 101- Development with Frontage to Classified Road and 104 - Traffic-Generating Development of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Maritime Services for consideration of the development including the proposed access arrangements from Kurrajong Road to the development.

Council is in receipt of conditions to be imposed as part of the consent including road safety audit and additional details to be submitted by the applicant prior to issue of a Construction Certificate.

Conditions from the RMS have been imposed as conditions of consent.

6. State Environmental Planning Policy (State and Regional Development) 2011

Under the provisions of Part 4 Regional Development that the part applies to development of a class or description of development included in Schedule 4A of the Environmental Planning and Assessment Act 1979.

Schedule 4A of the Act provides:

4 Council related development over \$5 million

Development that has a capital investment value of more than \$5 million if:

- (a) *a council for the area in which the development is to be carried out is the applicant for development consent, or*

- (b) *the council is the owner of any land on which the development is to be carried out, or*
- (c) *the development is to be carried out by the council, or*
- (d) *the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).*

The capital investment value of the development exceeds \$5 million. As Council is the owner and the applicant and therefore the matter is to be determined by the Joint Regional Planning Panel.

7. State Environmental Planning Policy No. 55 (SEPP No. 55)

According to clause 7 of SEPP No. 55 Council may not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

Council has considered an Environmental Site Assessment and Geotechnical Investigation prepared by Consulting Earth Scientists which has assessed the contamination issues that have arisen from past and or present activities undertaken on or adjacent to the site. The report findings and site investigations have concluded that the site in its present condition is suitable for the proposed land uses.

Council's Environmental Health Officer has reviewed the Contamination Report and advised that the development is suitable subject to conditions of consent, which forms part of the consent.

It is considered that the relevant heads of consideration required by SEPP 55 have been considered and that with appropriate conditions the site is suitable for the proposed development.

8. Disability Access to Premises – Buildings) Standards 2010

An assessment against the Access to Premises Standard (2010) has not been undertaken in the report prepared by Council to demonstrate if the development complies with the Disability (Access to Premises-Buildings) Standards 2010 to ensure that public buildings do not provide unreasonable barriers to the participation of people with disabilities.

However, the application was referred to Council's Access Committee, the Committee raised no objections to the development subject to the following recommendations:-

1. Ensure accessible parking spaces are the correct width as per standards. It would be beneficial to have an additional space in front of both the library and community centre.
2. Community centre /Library
 - Ensure Accessible toilet has adequate circulation space;
 - A sliding door is required on the Accessible toilet;
 - Main entry door – an automatic sliding door is preferred as wide glass doors are hard to open for people with a disability;
 - Ensure lift size is suitable for adequate circulation;
 - Positioning of lift controls (so that access from both sides should the circulation not allow for 'turn around' of person in a wheelchair); and
 - Where possible, all doors should be sliding for ease of access.

3. Library lower level
 - Hallway to Accessible Toilet on lower level needs to be correct width;
 - Entry door to this area needs to be wider;
 - Sliding door required to accessible toilet; and
 - Lower level exit from lift – is this wall or partition in front? will this allow for exit and turning circle for lift.
4. Recreation Centre
 - Doorways into change rooms need to be wider;
 - Accessible shower in change room to allow for athletes with a disability;
 - Ensure doorways into all rooms are wide enough;
 - Ensure lift size is suitable for adequate circulation; and
 - Positioning of lift controls (so that access from both sides should the circulation not allow for 'turn around' of person in a wheelchair)

The application was accompanied by an Accessibility Report that addresses the performance of the development against the relevant legislative requirements. It is advised that design recommendations of the report along with the recommendations of Access Committee are applied to the proposed development as conditions of consent to ensure the application and resultant built form reflects these intentions.

9. *Liverpool Local Environmental Plan 2008*

Under the provisions of the plan, the site is zoned part SP 2 Infrastructure (Community Facilities), SP 2 Infrastructure (Drainage) and RE 1 (Private Recreation).

Under the provisions of the plan, the development is defined as a *community facility, recreation facility (indoor) and recreation area* and is permissible in the zones.

A review of the Liverpool LEP maps has revealed that the site is not affected by a height limitation or floor space ratio controls.

Council's report has assessed the proposed development against the relevant development standards contained in the LEP relating to the use and concludes that the development is consistent with these controls as well as satisfies each of the relevant objectives of the zones.

The noteworthy control relevant to the development from the plan is:

Clause 7.8- Flood Planning

The proposed development site is located within Cabramatta Creek catchment. The development proposal includes construction and operation of a community facility consisting of an outdoor leisure centre, public library, community centre and public open space.

The application was referred to Council's FloodPlain Engineer to assess any likely flooding impacts of the proposal.

Council Engineer has advised that the proposed building sites are located outside the flood extent of dam break event, however, the proposed Road No. 2 and northern car parking sites are affected by 1% Annual Exceedance Probability (AEP) flood event.

Council Engineer has further advised that the development application has addressed the flooding issues and it is supported subject to fulfilling flood related development controls and appropriate conditions are recommended and imposed in the consent.

10. *Liverpool Development Control Plan 2008*

Part 1.1- General Controls and Part 1.2 - Additional General Controls for Development are relevant to the proposed development.

The report by Council has assessed the development against relevant controls of DCP 2008 and demonstrates that the proposal complies with the numerical controls of the DCP with the exception the car parking requirement, which is discussed below:-

Car Parking Requirement

Based on an assessment of the various components of the development, a total of 228 car parking spaces are required. A total of 168 spaces are provided, including 4 disabled spaces. A variation of 60 car parking spaces is applied.

The applicant's traffic report identifies that for the overall components of the development, the total parking requirement is 228 parking spaces. This includes 13 parking spaces for a future office development that is not part of the current application.

The applicant has submitted justification for the variation to the on-site car parking demonstrating that there will be cross utilisation of car parking by various uses on site at peak times and that a variation to the required car parking provision required under the DCP is reasonable. The justification has been supported by Council's Traffic Section.

Council's Traffic Section has advised that the rates and parking assessment are satisfactory, and is a fair estimation of the total parking provision for the development

Council's Traffic Section has advised that the development comprises a range of indoor and outdoor activities that will experience peak parking demand at different times of the day and week. The conclusion in the report is that parking demand for the components will peak at different times and that peak parking demand will be less than 228 spaces. Parking demand was considered to be a maximum on weekday evenings when parking demand will be a maximum of 162 spaces.

On this basis the variation is supported.

LIKELY IMPACTS OF THE DEVELOPMENT

The report prepared by Council has undertaken a comprehensive assessment of following matters:-

- Safer-By-Design
- Natural and Built Environment
- Scale, Bulk, Design, Height and Landscaping
- Traffic Impacts, Access arrangements & Car Parking
- Vegetation Removal
- Noise
- Privacy
- Riparian Corridor Impacts
- Flooding and Drainage

- Social Impacts and Economic Impacts

Council's assessment is satisfactory with respect to requirements and considerations for the above listed matters and it is considered that the development is not likely to have any unreasonable adverse impacts upon the surrounding natural (Beard Creek Riparian corridor) and existing and future built form of the area.

CONSULTATION

The application was advertised in accordance with the Environmental Planning and Assessment Regulation 2000 and Liverpool Development Control Plan 2008 (LDCP 2008) from 23 November 2012 to 28 January 2013.

No formal submissions were received in relation to the Development Application.

As a consequence of amendments to access arrangements to Kurrajong Road and Margaret Dawson Drive, the application was re-advertised for a period of 14 days from 17 April 2013 to 3 May 2013.

No submissions were received during this second exhibition period.

Internal referrals

Engineer	No objection subject to conditions.
Building	No objection subject to conditions.
Flooding	No objection subject to conditions.
Environment & Health	No objection subject to conditions.
Traffic	No objection subject to conditions.
Natural Resources Planner	No objection subject to conditions.
Landscape Officer	No objection.
Heritage Officer	No objection subject to conditions
Access Committee	No objection subject to conditions

External referrals

NSW Police (Green Valley Local Area Command)	Comments/ issues raised addressed by Council
NSW Roads and Maritime Services (RMS)	Conditions of the RMS have been imposed as conditions of consent
NSW Office of Water (Primary Industries)	The NSW Office of Water advised that Council being a public authority is exempt from section 91E (1) of the Act in relation to all controlled activities that it carries out in, on or under waterfront land.

Conditions have been imposed requiring the development to comply with the conditions/recommendations provided by the above authorities.

It is considered that the development is capable to achieve the recommended solutions/conditions/requirements required by both internal and external stake holders.

CONCLUSION

Council report has assess the development against the relevant considerations within Section 79C of the Environmental Planning and Assessment Act as outlined in the above report. The application is considered to have substantial merit and is unlikely to result in any significant adverse impact upon adjoining lands.

The subject site generates a consistent level of traffic generation. The amended plans/design has given due consideration to accommodate efficient traffic movements in and out of the development. .

The shortfall in the provision of parking is addressed and is not likely to result in any significant adverse impact upon the development.

It is advised that design recommendations of the Accessibility and DDA Report along with the recommendations of Access Committee are applied to the proposed development as conditions of consent.

RECOMMENDATIONS

1. The information contained in the report on Development Application 1786/2012 for proposed Community Centre on Lot 20 DP 1139408, 251 Cowpasture Road be forwarded to the Joint Regional Planning Panel for determination with the following additional conditions/considerations:-
 - 1.1 The development shall fully comply with the recommendations of the Accessibility and DDA Report prepared One Group ID, dated 25 October 2012 and recommendations of the Access Committee to ensure the application and resultant built form reflects these intentions prior to the issue of a Construction Certificate and an Occupation Certificate.
 - 1.2 The Principal Certifying Authority is to ensure that the applicable recommendations of the reports referred to under Condition No's 2-16 are fully complied with prior of the issue of a Construction Certificate.
 - 1.3 The Principal Certifying Authority is to ensure that the applicable recommendations of the reports referred to under Condition No's 2-16 are fully complied with prior of the issue of an Occupation Certificate.