

JOINT REGIONAL PLANNING PANEL (Sydney East)

JRPP No	2015SYE079
DA Number	DA-2014/255/A
Local Government Area	ROCKDALE
Proposed Development	Modification of consent for demolition and construction of Rockdale City Aquatic Centre
Street Address	98C Preddy's Road and 10 Rye Avenue, Bexley
Applicant/Owner	Rockdale City Council / Rockdale City Council
Number of Submissions	One – no objections
Regional Development Criteria (Schedule 4A of the Act)	S96(2) Application - Council development with a CIV > 5 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> List all of the relevant environmental planning instruments: s79C(1)(a)(i) SEPP 19 – Bushland in Urban Areas SEPP 55 – Contaminated Land SEPP 64 – Advertising and Signage SEPP (Infrastructure) 2007 SEPP Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment Rockdale Local Environmental Plan 2011 List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) Nil List any relevant development control plan: s79C(1)(a)(iii) Rockdale DCP 2011 List any relevant 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: s79C(1)(a)(iv) Nil List any coastal zone management plan: s79C(1)(a)(v) Nil

	<ul style="list-style-type: none"> List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 EP&A Regulation 2000
List all documents submitted with this report for the panel's consideration	Planning Report and Draft consent
Recommendation	Approval
Report by	Kerry Gordon – Consultant Town Planner
Report date	12 October 2015

Precis

The JRPP granted consent to development application DA-2014/255 for demolition of existing pools and associated facilities, construction of a new outdoor 50 metre pool and an indoor aquatic and leisure centre including parking for 150 vehicles, site works, landscaping and signage on 28 May 2014.

The site is zoned part RE1 Public Recreation and part SP2 Infrastructure under Rockdale Local Environmental Plan 2011 (RLEP 2011). Preddys Lane is zoned R2 Low Density Residential. The use is defined as recreation facility (indoor) and recreation facility (outdoor) and is permissible with consent in the RE1 zone but prohibited in the SP2 zone. No works are proposed within the SP2 zone and as such the proposal is permissible with consent. Further, works within Preddys Lane include construction of a road and landscaping, with roads being a permitted use without consent and the landscaping works being ancillary to the road works.

The modified proposal reduces the scale of the facility and the number of parking spaces.

The proposal complies with requirements in Rockdale Local Environmental Plan 2011 (RLEP 2011) and generally complies with the requirements of Rockdale Development Control Plan 2011 (DCP 2011) and is consistent with all relevant state instruments.

The original development application was approved by the Joint Regional Planning Panel (JRPP) and as such the modification application is referred for determination. It is recommended that the development application be modified.

Officer Recommendation

That development application DA-2014/255 for demolition of the existing pools and associated facilities, construction of a new outdoor 50 metre pool and an indoor aquatic and leisure centre including parking for 150 vehicles, site works, landscaping and signage be MODIFIED as follows.

1. The description of the proposal be amended to the following:

Rockdale City Aquatic Centre – Demolition of the existing pools and associated facilities and construction of a new outdoor 50m pool and an indoor aquatic centre including parking for 109 vehicles, site works, landscaping and signage.

2. Conditions 13, 35, 42 and 89 be deleted.
3. Conditions 2, 10, 17, 18, 52, 57, 73, 74, 87 and 94 be deleted and replaced with the following:
 2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as identified in a. and b. following and by the following conditions.
 - a. Drawings No. DA03-DA06 and the landscape plans shall be amended to reflect the parking layout and tree planting shown on approved plan Drawing No. AR-DA14, Revision A, dated 15.09.2015, prepared by Brewster Hjorth Architects; and
 - b. The only sign approved is the pole sign and the sign shown on the building in Signage 1 Plan and Signage 2 Plan, prepared by Brewster Hjorth Architects is not granted consent.

Title	Drawing number	Revision	Date	Received
<i>Plans and documents by Brewster Hjorth Architects</i>				
Demolition Plan	DA02	D	05.06.2015	15.06.2015
Site Plan/Roof Plan	DA03	D	05.06.2015	15.06.2015
Basement Floor Plan	DA04	D	05.06.2015	15.06.2015
Level 1 Floor Plan	DA05	D	05.06.2015	15.06.2015
Level 2 Floor Plan	DA06	D	05.06.2015	15.06.2015
Elevations	DA07	D	05.06.2015	15.06.2015
Sections 1-3	DA08	D	05.06.2015	15.06.2015
Sections 4+5	DA09	D	05.06.2015	15.06.2015
Perspective 1	DA11	D	05.06.2015	15.06.2015
Perspective 2	DA12	D	05.06.2015	15.06.2015
Materials palette	DA13	D	05.06.2015	15.06.2015
S96 Carpark Details	DA14	A	15.09.2015	17.09.2015
Signage 1 Plan				15.06.2015
Signage 2 Plan				15.06.2015
<i>Landscape Plans by Taylor Brammar</i>				
Landscape Concept Plan	LC01	H	05.06.2015	15.06.2015
Landscape Cross Section and Themes	LC02	H	05.06.2015	15.06.2015
<i>Plans and documentation by AECOM</i>				
General Arrangement Plan	60429445-SHT-CI-0010	B	11/6/2015	15.06.2015
Soil and Water	60429445-SHT -	B	11/6/2015	15.06.2015

Management Plan	CI-0020			
Soil and Water Management Details	60429445-SHT - CI-0021	B	11/6/2015	15.06.2015
Drainage Plan	60429445-SHT - CI-0100	B	11/6/2015	15.06.2015
Drainage Details	60429445-SHT - CI-0105	B	11/6/2015	15.06.2015
Finished Surface Plan Sheet 1	60429445-SHT - CI-0030	B	11/6/2015	15.06.2015
Finished Surface Plan Sheet 2	60429445-SHT - CI-0111	B	11/6/2015	15.06.2015
Control String Plan Sheet 1	60429445-SHT - CI-0112	B	11/6/2015	15.06.2015
Control String Plan Sheet 2	60429445-SHT - CI-0200	B	11/6/2015	15.06.2015
Typical Sections Sheet 1	60429445-SHT - CI-0201	B	11/6/2015	15.06.2015
Typical Sections Sheet 2	60429445-SHT - CI-0202	B	11/6/2015	15.06.2015
Typical Sections Sheet 3	60429445-SHT - CI-0301	B	11/6/2015	15.06.2015
Longitudinal Sections Sheet 1	60429445-SHT - CI-0301	B	11/6/2015	15.06.2015
Longitudinal Sections Sheet 2	60429445-SHT - CI-0400	B	11/6/2015	15.06.2015
Longitudinal Sections Sheet 3	60429445-SHT - CI-0500	B	11/6/2015	15.06.2015

10. Ground water shall only be pumped or drained to Council's or Sydney Water's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

In addition to requiring development consent, parts of the development that intercept or extract groundwater are also required to be authorised under the Water Management Act 2000. The information requirements for such an authorisation are explicitly detailed in the NSW Aquifer Interference Policy—including the need for the applicant to provide calculations of the volumes likely to be extracted. As defined in that policy, such requirements apply to activities interfering with all aquifers, including low yielding and saline groundwater systems.

17. The following conditions apply to the design and provision of off street parking and drop off zones.

1. All passenger drop offs associated with the use of the development shall take place from designated drop off zones. The drop off zones shall not be used for storage, parking or any other purpose that would restrict their use for the purposes of passenger drop off.
2. A traffic management plan (TMP) shall be in place for the on site traffic management during carnival events. The plan shall be prepared by a suitably qualified person and be submitted and approved by Council prior to the issue of the Final Occupation Certificate.

The Plan shall address, but not be limited to, the following matters:

- a) ingress and egress of vehicles to the site;
 - b) drop off and pick up off passengers by bus, including measures proposed to manage the buses such that no more than 2 buses are onsite at any one time and buses leave the site after drop off;
 - c) carpark management, including prevention of cars making right hand turns from the car park onto Preddys Road when traffic around the site is congested and preventing access to the car park when it is fully occupied;
 - d) predicted traffic volumes, types and routes;
 - e) any activity that affects traffic or pedestrian movements on public roads or the private internal road network. The plans shall be prepared in accordance with NSW RMS guidelines and include details of traffic diversions, timings and the methodology for achieving the activities during the various on-site activities; and
 - f) pedestrian and traffic management methods.
3. Off street parking associated with the proposed development should be designed and constructed in accordance with AS 2890.1 – 2004, AS 2890.2 – 2002 and AS 2890.6 – 2009.

18. Parking spaces shall be allocated in the following manner:

- a) 109 standard parking spaces (including 4 accessible and 4 pram parking spaces).
- b) The accessible car spaces shall be identified and reserved at all times. The car spaces shall be in accordance with AS 2890.6
- c) 5 motorcycle spaces.
- d) 20 bicycle spaces.

Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

52. Prior to the commencement of works (other than demolition or remediation works) a detailed Geotechnical assessment of the site shall be conducted by a suitably qualified and experienced geotechnical consultant as recommended in the email from JK Geotechnics, Ref No: 23776Z email, dated 4 April 2014.

The report must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include:

- All recommendations contained in the reports prepared by Jeffery and Katauskas Pty Ltd, dated 18 July 2011, Ref: 23776Zrpt2 and subsequent geotechnical investigation report Dated 17 February 2015, Ref: 23776ZH2rpt including the cover letter dated 5 June 2015, Ref: 23776ZH3 Let3 shall be implemented.
- Location & level of nearby foundations/footings and driveways (site and neighbouring)
- Proposed method of excavation
- Permanent and temporary support measures for excavation
- Method of protecting the amenity of adjoining properties. NB: The proposed construction of the basement carpark may be within the influence line of the boundary / neighboring building / foundation / utility services.
- Ground-water levels (if any)
- Batter slopes
- Potential vibration caused by method of excavation
- De-watering including seepage and off site disposal rate (if any)

If a Construction Certificate has been issued prior to this investigation work being carried out and if the work results in the need to amend the construction plans, a new Construction Certificate shall be obtained incorporating the identified design criteria prior to commencement of works (other than for the demolition or remediation).

Note:

- (i). Basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in Rockdale DCP 2011.
- (ii). The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking and waterproofing construction).
- (iii). A Permit under the Water Management Act 2000 may be required.

- 57. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with tree protection measures, including protective fences at least 1.8 metres high erected as detailed in the Arboricultural Development Assessment Report by Moore Trees Arboricultural Services dated 21 February 2014 as amended in the Addendum dated 13.7.15. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place **prior to the commencement of any work on site** and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are **not** permitted within the Tree Protection Zones at any time.
- 73. The trees numbered 8-18, 30-60, 62-63, 81, 85, 86, 88-92, 94, 100-109 as detailed in Section 5.8 of the Arboricultural Development Assessment Report by Moore Trees Arboricultural Services dated 21 February 2014, as amended in the Addendum dated 13.7.15, may be removed.
- 74. All recommendations contain the Arboricultural Development Assessment Report by Moore Trees Arboricultural Services dated 21 February 2014 as

amended in the Addendum dated 13.7.15 shall be implemented and complied with.

87. 109 off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Austroads Pavement Design – A Guide to the Structural Design of Road Pavements 2004.
94. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority certifying that the parking level is either constructed at or above 1% A.E.P Annual Exceedance Probability (AEP) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.

4. Insertion of the following conditions:

- 51A. Prior to commencement of works, including remediation or demolition, a Construction Traffic Management Plan (CTMP) prepared by a suitably qualified person shall be submitted to and approved by the Principal Certifying Authority. The CTMP shall address, but not be limited to, the following matters:

- a) ingress and egress of vehicles to the site;
- b) loading and unloading, including construction zones;
- c) predicted traffic volumes, types and routes;
- d) pedestrian and traffic management methods; and
- e) maintenance of access to the garages accessed off Preddy's Lane

Access to the rear garages of the properties fronting Preddys Road from Preddys Lane shall be maintained at all times during construction, other than when the final surfacing of the lane is occurring. The adjoining residents are to be informed a minimum of 48 hours prior to Preddys Lane being closed for the resurfacing of the timeframe where access will not be possible.

Copies of the CTMP shall be submitted to Council.

REPORT BACKGROUND

HISTORY

The JRPP granted consent to development application DA-2014/255 for the demolition of existing pools and associated facilities, construction of a new outdoor 50 metre pool and an indoor aquatic and leisure centre including parking for 150 vehicles, site works, landscaping and signage on 28 May 2014.

PROPOSAL

The modified proposal seeks to modify Development Consent 2014/255 in the following manner.

Indoor aquatic and leisure centre

- Reduce length of aquatic and leisure centre from 104m to 71m and area from 5,611m² to 3,882m², increasing the setback from Preddys Road.
- Delete leisure pool and learn to swim pool.
- Change in depth of 25m indoor pool.
- Change in design of aquatic and leisure centre building to a steel portal internal to the building with resultant reduction in height from 16.8m to 14.2m at the frontage
- Reconfiguration of aquatic and leisure centre floor plan, combining children's club with community room, converting administration staff room to meeting room, consolidating amenities facilities, deleting sauna and steam rooms, consolidating gym rooms, deletion of spin room and amendment to the café.
- Basement carpark and lift deleted and plant reconfigured.
- Changes to materials.

Car Parking

- Expansion of lower level, at grade parking due to reduced length of aquatic and leisure centre.
- Upper level car park area reduced to parking adjoining Preddys Road only.
- Total parking provision reduced from 149 spaces to 110 spaces.

Landscaping

- Deletion of upper car park to the rear of dwellings in Preddys Road allows for the retention of the remnant Sandstone Heath and Sandstone Open Forest.

Signage

- Deletion of the approved signage on the façade of the building, but retention of the pole sign.

Conditions:

As a consequence of the proposed changes the applicant also seeks to amend/delete the following conditions:

Condition 2	amend to reference the amended plans
Condition 10	delete as the condition prevents dewatering and is inconsistent with Conditions 52 and 70 which require further approval for dewatering
Condition 13	delete as it sets requirements for clearance heights in the basement car park, which is no longer proposed
Condition 17(3)(a)	delete as it relates to access to the basement which is no longer proposed
Condition 18	change to reflect the modified number of parking spaces
Condition 34	delete part (f) as the Rockdale Traffic Committee has approved a sheltered right turn bay treatment in Preddys Road
Condition 35	relocate the condition requiring a Construction Traffic Management Plan to be prior to works commencing section of consent
Condition 42	delete the condition that addresses the flow of water into the basement car park as no basement is now proposed
Condition 87	modify the condition which sets a required number of parking spaces to correspond with the reduced number of spaces
Condition 89	delete the condition which requires certification of the grade of the driveway to the basement as the basement is no longer proposed

Condition 94 delete the condition as it requires certification that the basement is above the floor level and the basement is no longer proposed.

EXISTING AND SURROUNDING DEVELOPMENT

The site is described as Lot 100, DP 1042328, Lot 7, DP 21406, Lot E, DP 328325, Lot 14, DP 14208 and Lot 7008, DP 1031070, No 98C Preddys Road, Bexley and currently contains the Bexley Pool and Leisure Centre. The site is an irregular shape, having frontage to Preddys Road and a site area of 35,625.6m². The site also includes the reservation of part of Preddys Lane.

The site is an old quarry and the existing pool and associated buildings are located in the low part of the site that was previously quarried for materials to construct roads within the municipality. The low part of the site is relatively flat, having been previously filled and has a fall of approximately 1.1m from the toddlers pool in the south to the northern edge of the 50m pool, and is surrounded to the east, west and south by higher land, creating an amphitheatre effect, with Bardwell Creek, which runs roughly north/south, located to the north at a much lower level (over 6m lower).

The pool currently has a car park between it and Preddys Road which slopes up from Preddys Road to the pool and also down from the south to the north. Adjoining the car park to the south is a rock face created by the previous quarrying, having a height of approximately 4m-6m. To the south of this rock face is Preddys Lane which is a rough bitumen road without kerb and gutter which is entered from Preddys Road and has a right-angle right hand turn along the back of the residential allotments to the south of the subject site.

The bitumen surface of Preddys Lane is contained within the road reserve up to the right hand turn and then does not follow the road reserve, but rather encroaches into the subject site. Preddys Lane provides vehicular access to the rear of a number of residential properties fronting Preddys Road and also to the Council depot which is located to the south of the subject site. The land immediately surrounding Preddys Lane is informally used for car parking, largely by the residents of the properties fronting Preddys Road. The remainder of the land between Preddys Lane and the escarpment is heavily vegetated with heath and a clump of native trees.

Buildings currently used to house pool equipment are located to the north-east of the 50m pool. Further to the east are residential properties on Allan Street and Highgate Street. A public pathway from Bardwell Valley Parklands exists on the northern portion of the site, connecting with Preddys Road.

Residential properties adjoining to the south-west (fronting and on the opposite side of Preddys Road) and to the north of the Bardwell Valley Parklands, which is located to the northern portion of the site, fronting Canonbury Grove.

A public bus stop is located at the frontage of the subject site, with another bus stop located on the opposite side of Preddys Road.

PLANNING CONSIDERATION

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979. The matters below are those requiring the consideration of the Joint Regional Planning Panel.

Section 79C (1) Matters for Consideration – General

Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))

State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19)

Clause 6 requires consent for the disturbance of bushland zoned or reserved for public open space. The subject site is zoned for public open space and it is considered that the vegetation on the higher portion of the site, above the escarpment is bushland for the purposes of SEPP 19. Clause 6 requires that a consent authority not grant consent to the disturbance of such bushland unless:

- (a) *it has made an assessment of the need to protect and preserve the bushland having regard to the aims of this Policy,*

On the site there are 3 communities, being Sandstone Heath, Sandstone Open Forest and disturbed, none of which are EECs. The Sandstone Heath is located near the edge of the escarpment and the Sandstone Open Forest is located between Preddys Lane and the Sandstone Heath.

The Sandstone Heath comprises a 3m high dense native shrub layer with sparse canopy cover. The Sandstone Open Forest intergrades with the heath and is on top of the escarpment and east of Preddys Lane and contains a Turpentine dominant overstorey with isolated occurrences of Smooth-barked Apple and Red Bloodwood, The midstorey includes isolated stands of Rough-barked Apple, Ball Honeymyrtle and Allocasuarina distyla. The edge of the bushland is impacted by weeds, but away from the edge there are groundcovers of native herbs, forbs and grasses.

The site provides limited habitat for fauna, especially ground-dwelling species and mobile species such as bats and birds. The site is not considered suitable for nesting of endangered or vulnerable species, though some may fly over the site. The site provides part of a linear corridor for flora and fauna links east to west.

The approval involved the loss of parts of the communities on the escarpment and east of Preddys Lane in order to provide car parking for the pool. The modified proposal removes the parking to the east of Preddys Lane and the ramp structures connecting the parking to the pool complex. The removal of this element eliminates the loss of this vegetation and as such can be supported.

- (b) *it is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland, and*

See comments in relation to (a) above.

- (c) *it is satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.*

See comments in relation to (a) above.

State Environmental Planning Policy No.55 - Contaminated Land (SEPP 55)

The subject site (eastern portion) has been identified as a potential stockpile area for incinerated waste from the former garbage incinerator for the municipality which used to

adjoin the site. Further, the site was used as a quarry in the early 1900s and the site was filled in the late 1950s from waste collected in the quarterly clean-ups and road based from Stoney Creek Road when it was constructed in the 1960s. Council records indicated that when the Bexley Swim Centre was constructed on the site in the 1970s a significant amount of consolidated garbage from the former incinerator was removed.

Based on the history of the site there is a high probability of onsite contamination and as such a soil/groundwater sampling programme was undertaken which included sampling from 13 borehole and the installation of 2 groundwater monitoring wells. The sampling programme identified elevated concentrations of lead and benzo(a)pyrene TEQ in fill soil from the north-eastern section of the site, elevated concentrations of benzo(a)pyrene, copper, lead, nickel and zinc in some fill samples and an elevated concentration of copper in the groundwater sample of one well.

The assessment found the soil contamination associated with the fill and the groundwater contamination to pose a moderate to low risk to human receptors. The Environmental Site Assessment found that the site could be made suitable for the proposed use provided a Remediation Action Plan was prepared and implemented during the construction works. It is recommended that a 'cap and contain' approach be taken to the contamination and that a site validation assessment and report should be prepared at the completion of the remediation. It is further recommended that an Environmental Management Plan be prepared for ongoing management of contamination remaining onsite. It is further recommended that a hazardous building materials survey be undertaken prior to any demolition work.

Council's Environmental Health Supervisor raised no objection to the proposal having regard to the above report and conditions of consent were included addressing this issue. The modification does not alter the above assessment.

State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64)

SEPP 64 applies to applications including advertising structures/signage that will be visible from any public place and the approved development includes two signs and/or advertising structures that will be visible from public places as are detailed following:

- 3 sided pylon sign located adjacent to the south-western corner of the lower level car park side - each side 3m wide x 6.5m high (wording – Rockdale City Aquatic Centre) – constructed of steel on a concrete plinth with 3D aluminium, painted letters on an aluminium meshed panel – back spot lighting
- Building signage on façade over main entry – 3.8m x 2.0m – individual 3D aluminium, painted letters – back spot lighting

The proposal seeks to delete the building signage on the façade, but retain the approved pylon sign. As such the proposal remains consistent with SEPP 64.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Clause 104 requires traffic generating development (identified in Schedule 3) to be referred to the RMS for comment. As Preddys Road is not a classified road and the site is not within 90m of a classified road, the proposal is not considered to be traffic generating development as the modified car park does not provide for 200 or more vehicles.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The Greater Metropolitan Regional Environmental Plan No. 2 applies to all land within Rockdale City local government area and requires consideration of the impact of development upon water quality in the catchment.

There is no change to the approved water quality treatment of the development and as such the original assessment remains valid. As such, it is considered that the modified proposal will be consistent with the requirements of the Greater Metropolitan Regional Environmental Plan No.2.

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The site is zoned part RE1 Public Recreation and part SP2 Infrastructure under Rockdale Local Environmental Plan 2011 (RLEP 2011). Preddys Lane is zoned R2 Low Density Residential. The use is defined as recreation facility (indoor) and recreation facility (outdoor) and is permissible with consent in the RE1 zone but prohibited in the SP2 zone. No works are proposed within the SP2 zone and as such the proposal is permissible with consent. Further, works within Preddys Lane include construction of a road and landscaping, with roads being a permitted use without consent and the landscaping works being ancillary to the road works.

The modified proposal reduces the scale of the facility and the number of parking spaces. The reduction in the size of the facility does not alter its compliance with the objectives of the RE1 zone, which are satisfied.

The relevant clauses of RLEP 2011 that apply to the proposal are below.

Clause 4.3 - Height of buildings

Clause 4.3 sets maximum permitted heights for buildings however does not set a height for the subject site.

Clause 4.4 – Floor Space Ratio (FSR)

Clause 4.4 sets maximum FSR for buildings however does not set a FSR for the subject site.

Clause 5.9 – Preservation of Trees or Vegetation

Clause 5.9 requires that consent be sought for the removal of trees or vegetation and the modified proposal significantly reduces the extent of vegetation removal from the site compared to the approved development and as such is acceptable.

Clause 5.10 – Heritage Conservation

Clause 5.10 indicates that development impacting items of heritage require consent and that the consent authority must consider the impact of the proposal upon the heritage item prior to granting consent. Part of the subject site, the northern portion which is to contain the indoor pool complex and part of the lower car park, is identified as an item of heritage. The item of heritage is the Bardwell Creek Flora Reserve and extends further to the north and north-east of the subject site and is an item of local significance.

The impact of the modified proposal upon the item of heritage is the same as the approved development and as such is acceptable.

Clause 6.1 – Acid Sulfate Soils

The site is within an area classified as Class 5 in the acid sulfate soils map. The modifications proposed do not alter the original assessment of the application in relation to acid sulphate soils.

Clause 6.2 – Earthworks

The approval involves excavation for the pools within the indoor centre and the outdoor pool and for the basement. The extent of excavation is reduced by the modification given the deletion of the basement and the reduction in number of pools proposed within the indoor centre. As the extent of excavation was assessed as satisfactory for the approved development, it is also acceptable for the modified proposal.

Clause 6.6 – Flood Planning

The Rockdale City Aquatic Centre at Preddys Road Bexley is adjacent to Bardwell Creek and also is located in a depression such that local catchment overland flows (principally from the directions of Stoney Creek Road, Rye Avenue and Highgate Street) enter and pass through the site as they are conveyed to the creek. While the Centre's buildings and swimming pools are located on land which is somewhat elevated relative to the Bardwell Creek channel, they are also located within the base of the depression.

The site is affected by flooding in 1% AEP flooding event from Bardwell Creek and also by overland flow flooding from upslope. Assessment of the approved development included consideration of the flood hazard, particularly to the basement level. As the modified proposal deletes the basement, the flood hazard of the modified development is reduced.

Clause 6.8 – Biodiversity Protection

The site is partially mapped as environmentally sensitive land - biodiversity pursuant to clause 6.8, with the area corresponding to the health and open forest on the upper level of the site being mapped. Clause 6.8 requires the consent authority to consider the impact of a development on the environmentally sensitive land. As the modified proposal impacts this land to a lesser extent than the approved development, it is considered to be acceptable when assessed under this clause.

Clause 6.12 – Essential Services

Services are generally available on the site. The modifications proposed do not increase the need for services and as such are acceptable.

Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (S.79C(1)(a)(ii))

There are no Draft Environmental Planning Instruments that affect the assessment of this proposal.

Provisions of Development Control Plans (S.79C(1)(a)(iii))

Development Control Plan 2011(DCP 2011)

The proposal has been assessed against the objectives and controls under DCP 2011. The relevant parts of DCP 2011 are Part 4 General Principles for Development and Part 6.4 Advertising and Signage and are addressed following.

Part 4.1 – Site Planning

Part 4.1.1 addresses Views and Vistas and the modifications proposed will not reduce the views from surrounding properties compared to the approved development.

Part 4.1.2 addresses Heritage Conservation and the proposal satisfies the provisions of DCP 2011 as it does not have a detrimental impact upon the heritage significance of the Bardwell Valley Parklands as has been addressed previously in this report.

Part 4.1.3 addresses Water Management, including water sensitive urban design and the modifications do not alter the proposal in relation to water management.

Part 4.1.4 addresses Soil Management and the modifications do not alter the proposal in relation to soil management.

Part 4.1.5 addresses Contaminated Land and the modifications do not alter the proposal in relation to management of the onsite contaminants.

Part 4.1.6 addresses Development on Sloping Sites and requires the building footprint to be designed to minimise cut and fill. The modifications reduce the extent of cut on the site compared with the approved development and as such are acceptable.

Part 4.1.7 addresses Tree Preservation and this issue has been addressed previously as being satisfactory.

Part 4.1.8 addresses Biodiversity this issue has been addressed previously as being satisfactory.

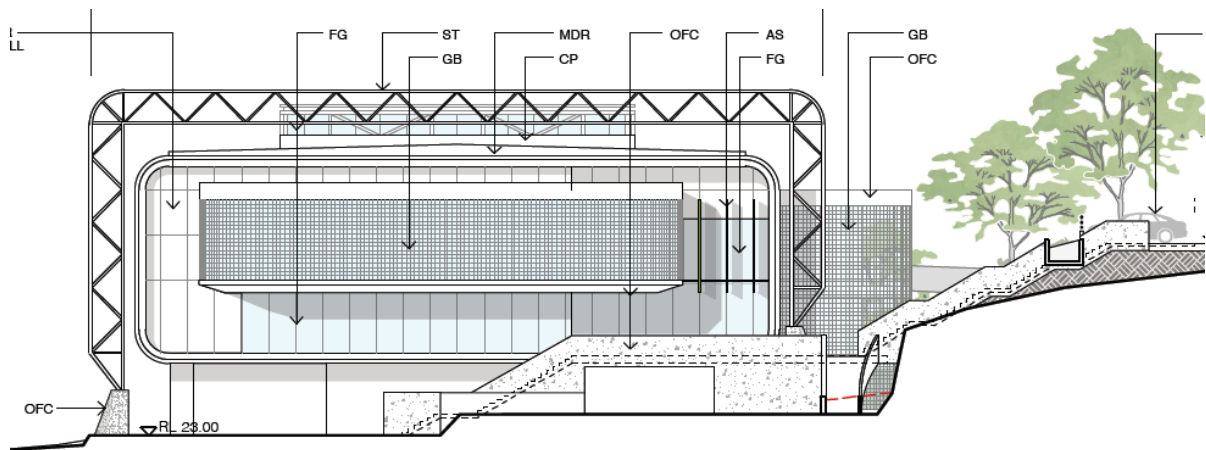
Part 4.2 – Streetscape and Site Context

Part 4.2 addresses Streetscape and Site Context and requires development to respond and relate to the broader urban context, with a transition in form of development being provided at zone boundaries and with buildings bordering public open space to relate to it positively.

Building design is to relate to the streetscape through appropriate setbacks, design and roof design. Buildings are to be designed to overlook streets and other public areas to provide casual surveillance and pedestrian and cycle thoroughfares are to be reinforced as safe routes through appropriate lighting, casual surveillance and minimising opportunities for concealment.

The site is surrounded by residentially zoned properties and the Council depot and by the nature of the use of the proposed building it would be inappropriate to attempt to provide a building that transitions to those zones or contains design elements or setbacks that correspond to those uses. Rather, the design of the proposed building should be suitable for the function of the use and be appropriate to its special setting adjoining Bardwell Valley Parklands.

The modified design simplifies the façade treatment of the development by internalising the supporting structure. The amended design presents a simple curved shape as viewed from Preddys Road, with the building being lower and set further back from the street frontage (see following elevations). The amended design is considered to be an appropriate design for a swimming pool centre.



Front elevation – fronting Preddys Road (approved)



Perspective of front elevation – fronting Preddys Road (as modified)

Part 4.3 – Landscape Planning and Design

Part 4.3 addresses Landscape Planning and Design and contains general requirements for landscape plans, seeking development to retain natural features and vegetation on the site where possible. The amended design is supported as it reduces the impact upon the remnant vegetation on the site whilst retaining the features of the approved landscape plan.

Part 4.4 – Sustainable Building Design

Part 4.4 addressed Sustainable Building Design and requires consideration of issues of natural lighting and ventilation, solar access, visual and acoustic privacy, noise impact and wind impact.

The proposal will not result in any shadow impact upon adjoining residential properties and will not cause any visual privacy impacts. The modified proposal will have a similar level of natural lighting and ventilation to that of the approved development, which was assessed as being satisfactory. Similarly, the modified development will result in similar noise impact to the approved development, which was assessed as being satisfactory.

Part 4.5 – Social Equity

Part 4.5 addresses Social Equity and in particular details requirements in relation to equitable access. The modified proposal provides for 4 accessible parking spaces and an accessible path of travel to the centre. Within the centre, accessible paths of travel are provided to all facilities and accessible WC and showers are provided,

Part 4.6 – Car Parking, Access and Movement

Part 4.6 addresses Car Parking, Access and Movement and sets broad controls for parking rates, designs and locations as well as criteria for loading facilities. The approved development provided an outdoor pool (50m), an indoor 25m pool, learn to swim pool and leisure pool, along with a café, children's club room, community room and fitness centre, with a total of 150 parking spaces. The modified development deletes the learn to swim pool, leisure pool, steam room and sauna, combines the children's club room and community room and alters the fitness centre to a single consolidated room and reduces the parking provision to 110 spaces.

In response to the amendments Council's Traffic Engineer raised concern with the number of parking spaces proposed and the extent of reduction in the number. In this regard additional information was sought from the applicant which was considered by the traffic engineer. The applicant supported the reduced number of parking spaces with additional information and indicated that as to the approved development, the parking provision for the modified development was to cater to the majority of events but would not cater for the absolute maximum usage, such as in the case of a major swimming carnival. Such an approach is supported as short term, infrequent overspill of parking onto the street network for occasional events is preferable to excessive onsite parking provision that would seldom be used and would be provided at the expense of native bushland. Accordingly, the applicant's traffic engineer's supporting statement is concurred with.

It is noted that Council's traffic engineer supported this subject to a recommended condition requiring surveys of the completed facility to be carried out to determine whether parking provision was adequate and requiring the provision of more parking if it was found not to be adequate.

The condition is considered to be uncertain and also could not be included as any additional parking would require development consent (as the modification deletes the other approved spaces at the upper portion of the site) and as such the condition would not be valid as it requires works that may not be granted consent.

It is noted that concerns raised with the applicant as to the loss of trees within the car park compared to the approved development have appropriately been addressed by the provision of planting between groups of car bays, which has resulted in a loss of 1 parking space, reducing the proposed number to 109 spaces. The loss of 1 space is not considered to be significant and will not impact the validity of the traffic engineer's assessment of parking provision suitability.

Part 6.4 – Advertising and Signage

Part 6.4 addresses Advertising and Signage and seeks to prevent signage that is flashing, moving or video signage, signage above the parapet of a building other than building identification signage, signage capable of movement that is located on a building and projecting wall signs greater than 300mm deep. The approved signage does not contain any of these features. The modified proposal seeks to delete the façade sign and retain the pole sign and as such is acceptable.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iia))

The proposal is not subject to a Voluntary Planning Agreement (VPA).

Provisions of Regulations (S.79C(1)(a)(iv))

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

The Regulations requires notification to relevant authorities that may have an interest in the application. The original proposal was notified to Sydney Water as the site has a significant Sydney Water pipe traversing the site. The modifications do not alter the effect on the pipe and as such the modification was not referred to Sydney Water.

Further, the original application was notified to the State Transit Authority due to the location of a bus stop in Preddys Road near the entrance of the site. The modified proposal does not alter the impact upon the bus stop and as such the modification was not referred to State Transit Authority.

All relevant provisions of the Regulations have been considered in the assessment of this proposal.

Impact of the Development (S.79C(1)(b))

Character / Streetscape / Density / Bulk / Scale

The impact of the development upon the streetscape and the suitability of the development has been addressed previously in this report and found to be acceptable.

Visual Privacy

The proposed building and external facilities are of sufficient distance from surrounding dwellings such that visual privacy will not be detrimentally impacted.

Overshadowing

The proposed building is located at a lower level than all surrounding residential properties and at a significant distance from them. Accordingly, the proposed building will not result in any shadow impacts upon surrounding residential properties.

Safety and Security

The proposal has been designed to allow casual surveillance of the lower car park, Preddys Road and the Bardwell Valley Parklands, improving the safety of the area.

Traffic/Parking

The impact of the proposal upon the traffic in the area has been assessed by Council's Development Engineer as being acceptable subject to the previously discussed conditions of consent.

Accessibility

The development is provided with an appropriate level of accessibility for all as has been addressed previously in this report.

Noise

The potential acoustic impact of the proposal has been addressed previously within the assessment for the development application and the impact is not altered by the modification application.

Views and Vistas

The impact of the proposal upon views and vistas has been assessed previously within this report as acceptable.

Management of Waste

No changes are proposed to waste management of the development.

Geotechnical Stability

Given the site is known to contain fill carried out previously and as the existing 50m pool is subject to ongoing leaking, a geotechnical report was prepared by Jeffery and Katauskas Pty Ltd for the development application to consider the need for specific construction techniques to ensure the stability of the proposed works. The modifications proposed do not alter the original assessment in relation to geotechnical stability.

Suitability of the Site (S.79C(1)(c))

The relevant matters pertaining to the suitability of the site for the modified development have been considered in the assessment of the proposal and the site is considered to be suitable for the modified development.

Public Submissions (S.79C(1)(d))

The development application has been notified in accordance with Council's Development Control Plan 2011 and one (1) submission was been received. The submission raised concern that the site contained a "Sunshine Wattle" on the escarpment and that the subspecies was a threatened species that may be affected by the proposal.

I am advised that Council inspected the property and advised that the species was incorrectly identified by the person making the submission. This information was provided to the submitter, who provided written confirmation that he no longer had any concerns with the proposal.

Public Interest (S.79C(1)(e))

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity and provide a valuable community asset. Furthermore, the

proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

S.96(2) Assessment

The provisions of section 96(2) are as follows:

(2) Other modifications

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

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

Section 96(2), as above, permits development consents to be modified subject to the modified development being substantially the same as the approved development, relevant consultations being carried out and notification being carried out in accordance with the DCP and submissions received being considered. Section 96(3) also requires modifications to be assessed having regard to the requirements of section 79C(1).

The modified application remains substantially the same as the approved development, still being for demolition of the existing structures and construction of an outdoor pool and aquatic centre with parking and landscaping. Only the size of the development has changed, with the extent of facilities and parking spaces reduced. The essence of the application remains, with the outdoor pool retained as originally proposed, with the lower level parking retained, albeit in a modified form and with the aquatic centre retained in a modified form.

Appropriate consultation and notification has occurred and has been addressed elsewhere in this report.

An assessment against section 79C(1) has been provided previously within this report.

Modification of Conditions

The following conditions are sought to be modified/deleted.

Condition 2

The requested amendment to reference the amended plans is supported.

Condition 10

Application is made to delete Condition 10 as the condition prevents dewatering and is inconsistent with Conditions 52 and 70 which require further approval for dewatering. Council's development engineer has not agreed to the deletion of the condition, but rather its replacement with a condition detailing how ground water shall be drained from the site.

Condition 13

The request to delete Condition 13 is supported as it sets requirements for clearance heights in the basement car park, which is no longer proposed.

Condition 17(3)(a)

The request to delete Condition 17(3)(a) is supported as it relates to access to the basement which is no longer proposed. As such Condition 17 is recommended to be modified.

Condition 18

The request to modify Condition 18 is supported to reflect the reduced number of parking spaces proposed.

Condition 34

It is requested to delete part (f) as the Rockdale Traffic Committee has approved a sheltered right turn bay treatment in Preddys Road. There is no need to delete the condition notwithstanding part (f) has been satisfied.

Condition 35

It is requested to relocate the condition requiring a Construction Traffic Management Plan to be prior to works commencing section of consent. This request is supported.

Condition 42

The deletion of Condition 42 is supported as the condition addresses the flow of water into the basement car park and no basement is now proposed.

Condition 87

The modification of Condition 87 to reflect the reduced number of parking spaces is supported.

Condition 89

The deletion of Condition 89 is supported as the condition requires certification of the grade of the driveway to the basement and the basement is no longer proposed.

Condition 94

It is requested to delete Condition 94 as it sets levels for the basement parking in relation to flooding. It is recommended that the condition be modified to apply to the parking level, rather than the basement parking level.

Further conditions requiring amendment/New conditions required

Council's Development Engineer also requests the provision of a new condition in relation to tanked structures, overland flow path, positive covenants and the flood advice letter. As none of these conditions arise from the proposed modifications, there is no power to include the requested conditions.

Further, the amended plans show a loading area adjoining waste storage area, with an appropriate truck turning template shown for a vehicle 8.8m long. The original approval showed a loading bay capable of being used by a vehicle 6.4m long. The larger template was provided to show that garbage collection could occur on site and is supported.

Finally, Council's Traffic Engineer seeks to modify Condition 52 to include reference to the new geotechnical investigation information submitted with the modified proposal.

Council's Tree Management Officer seeks to alter the following conditions due to the modifications proposed seeking to reduce the footprint of the development and hence the trees impacted.

Condition 57 requires the erection of tree protection measures and is to be amended to reflect the protection of the area now no longer included within the proposed car parking area.

Condition 73 identifies the trees to be removed and has been modified to reduce the number of trees to be removed consistent with the reduced footprint area.

Condition 74 requires the recommendations of the Arboricultural Assessment Report to be complied with and it is recommended that the condition be modified to include reference to the Addendum which addresses the modified footprint of the development.

CONCLUSION

The proposed development has been considered under S79C(1) and 96(2) of the Environmental Planning and Assessment Act, 1979. The application reduces the scale of the approved development. The proposal is consistent with the objectives of the controls under RLEP 2000, DCP 2011 and relevant state policies. As such, the application to modify DA-2014/255 is recommended for approval.