

Assessment against planning controls

1 Environmental Planning and Assessment Act 1979

The development satisfies the matters for consideration under section 4.15 of the Act as detailed below.

Heads of Consideration 79C	Comment	Complies
a. The provisions of : (i) Any environmental planning instrument (EPI) (iii) Any development control plan (DCP) (iv) The regulations	<p>The proposal is considered to be generally consistent with the relevant EPIs, including SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007, SEPP No. 55 – Remediation of Land, SEPP (Western Sydney Parklands) 2009, and SREP No. 20 – Hawkesbury-Nepean River.</p> <p>In accordance with SEPP (WSD) 2009, BLEP 2015 and BDCP 2015 do not apply to the subject land.</p> <p>However, given the site's proximity to residential properties, a general assessment has been carried out and detailed in the following compliance tables.</p> <p>The proposed development is considered acceptable and will complement the existing uses in the area.</p> <p>There are no applicable regulations.</p>	Yes – subject to conditions
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	<p>Any likely impact of the development, including traffic, access, parking, noise, siting, design, bulk and scale, overshadowing, visual and acoustic privacy, contamination, waste management and stormwater management will be satisfactorily addressed by conditions of development consent and amendments to the Plan of Management.</p> <p>In view of the above, it is believed that the proposed development will not result in unfavourable social, economic or environmental impacts.</p>	Yes – subject to conditions
c. The suitability of the site for the development	<p>The subject site is unzoned land and any development is permissible only with development consent.</p> <p>The proposal is compatible with the low scale of surrounding residential development.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	10 individual submissions were received as part of the public notification process. Refer to attachment 7 for further details.	Addressed with conditions
e. The public interest	<p>The Applicant has demonstrated that potential adverse matters arising from this proposal with regard to the public interest have been satisfactorily considered and mitigated (with appropriate conditions), including the level of activity which will occur on the site and associated acoustic impacts.</p> <p>The proposal provides the opportunity for a community use for children of homicide victims. The proposal is a much-needed community facility and is considered to be in the public interest.</p>	Yes

2 State Environmental Planning Policy (State and Regional Development) 2011

The Sydney Planning Panel (SPP) is the consent authority for a community facility development with a Capital Investment Value (CIV) of over \$5 million. The DA has a CIV of \$6,745,890. While Council officers are responsible for the assessment of the DA, determination of the application is to be made by the Sydney Central City Planning Panel.

3 State Environmental Planning Policy (Western Sydney Parklands) 2009

The site is owned by the Western Sydney Parklands Trust and the Parklands SEPP applies. Assessment against the SEPP's provisions is provided below.

	Comment	Complies
<p>Clause 2: Aims of Policy</p> <p>The aim of this Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Parklands into a multi-use urban parkland for the region of Western Sydney by:</p> <ul style="list-style-type: none"> (a) allowing for a diverse range of recreational, entertainment and tourist facilities in the Western Parklands (b) allowing for a range of commercial, retail, infrastructure and other uses consistent with the Metropolitan Strategy, which will deliver beneficial social and economic outcomes to Western Sydney (c) continuing to allow for and facilitate the location of government infrastructure and service facilities in the Western Parklands (d) protecting and enhancing the natural systems of the Western Parklands, including flora and fauna species and communities and riparian corridors (e) protecting and enhancing the cultural and historical heritage of the Western Parklands (f) maintaining the rural character of parts of the Western Parklands by allowing sustainable extensive agriculture, horticulture, forestry and the like (g) facilitating public access to, and use and enjoyment of, the Western Parklands 	<p>The proposal in particular addresses aims (h) and (b) by providing for a community facility and ancillary accommodation in encouraging the well-being of homicide victims. The proposal is consistent with the Metropolitan Strategy and will deliver beneficial social outcomes for those in special need.</p> <p>Consideration of the surrounding natural environment has been undertaken and is satisfactory. Relevant conditions will be imposed to ensure that the wider natural environment surrounding the site is not impacted.</p> <p>The proposed development is not inconsistent with the aims of the policy and is satisfactory.</p>	<p>Yes – subject to conditions</p>

	Comment	Complies
<p>(h) facilitating use of the Western Parklands to meet a range of community needs and interests, including those that promote health and well-being in the community</p> <p>(i) encouraging the use of the Western Parklands for education and research purposes, including accommodation and other facilities to support those purposes</p> <p>(j) allowing for interim uses on private land in the Western Parklands if such uses do not adversely affect the establishment of the Western Parklands or the ability of the Trust to carry out its functions as set out in section 12 of the <u>Western Sydney Parklands Act 2006</u></p> <p>(k) ensuring that development of the Western Parklands is undertaken in an ecologically sustainable way.</p>		
<p>Clause 12: Matters to be considered by the consent authority – generally</p> <p>In determining a Development Application for development on land in the Western Parklands, the consent authority must consider such of the following matters as are relevant to the development:</p> <p>(a) the aims of this Policy, as set out in Clause 2</p> <p>(b) the impact on drinking water catchments and associated infrastructure</p> <p>(c) the impact on utility services and easements</p> <p>(d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities</p> <p>(e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland</p>	<p>Any likely impacts of the development, including traffic, access, parking, noise, siting, design, bulk and scale, overshadowing, visual and acoustic privacy, contamination, waste management and stormwater management will be satisfactorily addressed with conditions.</p> <p>In view of the above, it is considered that the proposed development will not result in unfavourable social, economic or environmental impacts and will not detrimentally impact on surrounding residential amenity.</p>	<p>Yes – subject to conditions</p>

	Comment	Complies
<p>(f) the impact on the Western Parkland's linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use</p> <p>(g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of Western Sydney</p> <p>(h) the impact on public access to the Western Parklands</p> <p>(i) consistency with:</p> <p>(i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or</p> <p>(ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part</p> <p>(j) the impact on surrounding residential amenity</p> <p>(k) the impact on significant views</p> <p>(l) the effect on drainage patterns, ground water, flood patterns and wetland viability</p> <p>(m) the impact on heritage items</p> <p>(n) the impact on traffic and parking.</p>		
Clause 14: Development in areas near nature reserves or environmental conservation areas	The subject site is part of Kareela Reserve and the Western Sydney Parklands Trust has leased it to Council for a 50 year period, commencing in May 2018. The site is not an environment conservation area under the National Parks and Wildlife Act 1974.	Yes –
Clause 14A: Flood planning	<p>The proposed location of the development is not flood affected, but other parts of Kareela Reserve are partially flood prone. The specific site location is affected by overland flow.</p> <p>Council's drainage and development engineers have reviewed the proposal and provided stringent deferred commencement conditions in the consent to ensure any flood impact is properly addressed.</p>	Yes – subject to conditions

	Comment	Complies
Clause 15: Heritage conservation	Council's Heritage Officer has reviewed the application and the submitted Aboriginal due diligence assessment report. The report finds no identified Aboriginal archaeological sites or objects. The proposal is acceptable subject to a standard condition in the event that any object is found during works, with development to stop and the site to be assessed further.	Yes – subject to conditions
Clause 17A: Essential services	The Applicant will be required to liaise with the relevant authorities and service providers for the associated site works and facility provision.	Yes – subject to conditions
Clause 17B Earthworks	The proposed development includes earthworks for foundation footings and the relevant civil works. Conditions will be imposed to ensure that site disturbance does not impact on surrounding development and existing road networks.	Yes – subject to conditions
Clause 19A: Preservation of trees or vegetation	No significant vegetation or tree is found within the subject site to be developed. Nearby existing trees on neighbouring properties shall be retained and protected during works, as necessary.	Yes – subject to conditions
Clause 20: Bush fire hazard reduction	The land is not bushfire prone.	N/A
Clause 20A: Savings and transitional provisions – Part A transitional projects and State significant development	This clause states that this type of DA shall be determined by the Sydney Planning Panel.	Yes

4 Western Sydney Parklands – Plan of Management 2020

The Plan of Management provides a framework for the operation and development of the Western Sydney Parklands and applies to the site, which is under Precinct 2 – Eastern Road Sports. The desired future character for this precinct is to allow collaboration with Council to establish sports facilities and active recreation hubs. A community facility is listed as a land use opportunity for this precinct. The proposed homicide victims facility is a community facility.

The proposed community facility will take up a small part of Kareela Reserve and will ensure that flood mitigation measures are provided for the site and that the surrounding environment is not detrimentally affected and also capable of being used for other recreational uses.

It should be noted that a new Plan of Management 2030 is being prepared for the Parklands.

5 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 aims to 'provide a State wide planning approach to the remediation of contaminated land'. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent.

A Contamination Assessment prepared by GeoEnviro Consultancy Pty Ltd dated May 2017 was prepared in accordance with the National Environmental Protection Measure (NEPM) 2013 Guidelines.

This report confirms that, based on the contamination assessment, the site contains asbestos and options for dealing with this contamination include removal or capping by placement and compaction of clean and validated fill material. The relevant standard conditions on asbestos removal will be included in the consent. The site will be made satisfactory for this use and upon compliance with the report recommendation, a site validation report by an EPA accredited auditor shall be required prior to an Occupation Certificate being issued.

6 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

A consent authority must take into consideration the general planning considerations set out in Clause 5 of Sydney Regional Environmental Plan No. 20 and the specific planning policies and recommended strategies in Clause 6.

The planning policies and recommended strategies under this Plan are met. The proposed development will not be detrimental to the surrounding natural environment. Therefore, the proposal is considered to satisfy Clause 4 of SREP 20.

7 Blacktown Local Environmental Plan 2015

Under SEPP (Western Sydney Parklands) 2009, the LEP does not apply to the site. However, for assessment purposes and having regard to the proximity of residential properties, the otherwise relevant clauses are provided below.

Blacktown Local Environmental Plan 2015			
Development Standard	Requirement	Proposal	Compliance
Unzoned land and permissibility			
Clause 2.4 of BLEP 2015 - any development may be carried out only with development consent.	<p>The clause states the following assessment criteria to be considered by the authority:</p> <p>(a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and</p> <p>(b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.</p>	<p>In this regard, the development objectives of adjoining land zoned R2 Low Density Residential and SP2 Infrastructure (drainage and local road), are as follows:</p> <p>Objectives of R2 zone –</p> <ul style="list-style-type: none"> 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 enable certain activities to be carried out within the zone that do not adversely affect the amenity of the neighbourhood. 	Yes – subject to conditions

		<p><u>Comment:</u></p> <p>Whilst the proposal does not provide for housing needs nor provide for facilities and services to meet the day to day needs of the community, it will enable a counselling facility for homicide victims.</p> <p>The site and proposed building configuration are compatible with surrounding development. The proposed activities and operation of the facility, as well as the scale of the development, is not dissimilar to a child care centre, recreation area or a Council community facility.</p> <p>Appropriate conditions will be imposed to ensure that any outdoor recreation area does not occur within 10 m from the rear residential boundaries.</p> <p>Further, the submitted Plan of Management has included operational hours for outdoor areas adjacent to residents (until 10 pm). The Applicant in response to neighbour's objections has indicated that no visitor would be allowed past 10 pm into the site. A revised Plan of Management is required to be submitted, including a suitable operational protocol that mitigates any potential detrimental impact on the general amenity of the neighbouring properties, including more limited visitor and staff hours consistent with proposed conditions of consent.</p> <p>Objectives of SP2 zone –</p> <ul style="list-style-type: none"> • To provide for infrastructure and related uses. 	
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Blacktown Local Environmental Plan 2015

		<ul style="list-style-type: none"> To prevent development that is not compatible with or that may detract from the provision of infrastructure. To ensure that development does not have an adverse impact on the form and scale of the surrounding neighbourhood. <p><u>Comment:</u></p> <p>Council will ensure that the proposed facility will not hinder any infrastructure provision. It should be noted that Council will facilitate the construction of a drainage channel for the site, and conditions will be imposed for the appropriate stormwater construction and management of the site.</p>	
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8 Blacktown Development Control Plan 2015

Under the SEPP (Western Sydney Parklands) 2009, the DCP does not apply to the site. However, for information purposes and having regard to the proximity of residential properties, the development is assessed below against the DCP to demonstrate that it is in keeping with the established character of the area. The following table outlines the controls otherwise relevant for consideration of the proposal's suitability for the site and surrounding area.

Section	Comment	Complies
Part A Introduction and General Guidelines		
Car parking requirement		
Community facility 1 space per 4 seats or 1 space per 10 m ² of seating area, whichever is the greater.	<p>The minimum required space as derived from the DCP is not considered appropriate for the proposed facility. It is noted that the facility will cater for a maximum of 12 children at any one time, and will allow for a minimum 10 staff (5 administrative and 5 counselling staff). A caretaker will also be present on the site. By estimation, a minimum of 23 spaces would ordinarily be required to be provided on the site.</p> <p>The proposed development provides for: 35 staff parking spaces and 12 visitor parking spaces = 47 spaces (including garage)</p>	Yes

Section	Comment	Complies
	<p>There are 12 bedrooms in the ancillary accommodation wing, 16 office spaces, an administration area, 5 therapy rooms and 4 program rooms.</p> <p>The proposed number of car parking spaces is considered sufficient in this instance. However, it is recommended that a maximum number of staff be recommended in the consent condition to ensure that parking on the site remains sufficient for those in attendance at any one time.</p> <p>Nevertheless, the subject site within 450 m walking distance of Doonside Railway Station and bus stops. The site is considered to have very good accessibility for public transport.</p>	
<p>6.4 Design: access</p> <p>Car parking areas should be designed so that vehicles can enter and leave the site in a forward direction.</p> <p>Ingress and egress to or from the site should be located where they will cause the least interference with vehicular and pedestrian movement on public roads.</p>	<p>All vehicles can enter and exit in a forward direction.</p> <p>Suitable vehicular and pedestrian access and movement are provided.</p>	<p>Yes</p> <p>Yes</p>
<p>6.4.6 Pedestrians</p> <p>Parking areas should be designed to minimise the potential for vehicular / pedestrian conflict. Pedestrian pathway connections between car parking areas and buildings are desirable.</p>	<p>Suitable pathways are provided for pedestrians.</p>	<p>Yes</p>
<p>6.4.8 Parking for persons with a disability</p> <p>Council encourages the provision of parking spaces for the disabled, located to allow convenient and safe access within sites. Such spaces shall be clearly marked and signposted for this purpose.</p>	<p>4 parking spaces for the disabled are provided, being 8.5% of the total 47 spaces.</p>	<p>Yes</p>
<p>6.4.9 Landscaping</p> <p>Parking areas should be landscaped to provide shade, to improve the visual amenity of large, all-weather surfaces and to provide a buffer to neighbouring properties, and may incorporate integrated water cycle management measures.</p>	<p>Suitable landscaping is provided at the perimeter of the site and throughout the development and car parking areas.</p>	<p>Yes</p>

Where car parking areas utilised at night are located within or adjacent to residential areas, consideration should be given to the location of lighting and driveways, and noise prevention measures (such as fencing and/or mounding), to avoid the loss of amenity of these residential areas.	Restricted parking provision after normal operational hours will be enforced and required to be detailed in the Plan of Management. In this regard, the staff parking spaces on the northern side of the visitor spaces, which is adjacent to the rear boundaries of the neighbouring residential properties to the north, must not be used after 5.30 pm on weeknights and 4 pm on weekends.	Yes – Suitable conditions will be imposed
6.5 Materials All internal roads and car parking areas must be constructed of hard-standing, all-weather material which is maintained to the satisfaction of Council at all times. Wheel stops should be provided to protect areas from vehicle encroachment, particularly walls, landscaping and pedestrian areas.	These requirements will be met and will be enforced by conditions.	Yes – subject to conditions
6.6 Signs Parking areas should be well signposted, to indicate the availability of off-street parking, with entry and exit points clearly visible from both the street and the site. Pavement arrows should clearly indicate the direction of traffic circulation, and parking bays should be clearly delineated. Parking spaces for specific uses (e.g. disabled, employees or visitors) should be clearly signposted. Where car parking is subject to frequent night-time use by the public, signposting and line marking shall utilise reflective background materials or paint to the standards of the RMS.	Sign posting, pavement signage and movement arrows will be provided in accordance with the relevant standards. Pavement arrows and delineation of parking spaces is provided on the plans. The car parking area is unlikely to be highly utilised beyond the daytime operating hours of the facility. Partial car parking areas located further away from the immediate neighbouring properties will be used for overnight car accommodation, subject to conditions to be imposed to ensure adequate amenity between neighbours is maintained.	Yes – subject to conditions Yes Yes – subject to conditions
8.1 Solar access New development should retain reasonable levels of solar access to neighbouring properties and the public domain.	Given the site orientation and that the proposed building is located on the southern side of the adjoining residential dwellings, the development will not create overshadowing impacts to these properties.	Yes

<p>8.4 Crime prevention through environmental design</p> <p>CPTED is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It reduces opportunities for crime through the use of design and place management principles.</p>	<p>The proposal has been considered in light of these principles, and is considered satisfactory.</p> <p>The proposal was reviewed by the NSW Police, who provided comments and conditions. The conditions are incorporated into the consent.</p>	<p>Yes</p>
<p>8.5 Retaining walls and ground reshaping</p> <p>Maximum depth of any cut to be 900 mm.</p> <p>Maximum height of any fill to be 600 mm.</p> <p>Terracing (horizontal separation) between retaining walls is a minimum of 1.2 m</p>	<p>The proposed development requires appropriate civil works including provision of a drainage channel. Council's Drainage Engineer has assisted in nominating the appropriate finished floor levels of the buildings, which have not been incorporated in the latest architectural plans.</p> <p>It will be necessary for the site to be cut deeper than 900 mm from the natural ground level. The proposed fill as demonstrated on the latest architectural plans is excessive (up to 1.3 m above natural ground level) and is unnecessary. The proposed finished ground levels will have to be amended to be consistent with Council's Drainage Engineer's nominated levels, which do not exceed 500 mm above the natural ground level. The required amendment shall be submitted with the revised stormwater plans as a deferred commencement matter.</p> <p>Any site disturbance as the result of civil works will be mitigated by conditions.</p> <p>Terracing is not proposed in this application.</p>	<p>Yes – subject to conditions</p>

Part C Section 8 Non-residential development in the residential zones

Council will have particular regard to the effects of non-residential development in the residential zones. Council will consider whether:

<p>a. As a result of the height and/or scale of any proposed buildings, the development will be out of character with surrounding residential development</p>	<p>The proposed height and scale is considered to be an appropriate design outcome for this site, maintaining a single storey appearance in an adjacent low density residential area context. In this instance, the development is consistent with the character of surrounding residential development.</p>	<p>Satisfactory</p>
<p>b. An undesirable effect on the amenity of the surrounding area will be created</p>	<p>The proposed community facility will not create an undesirable effect on the amenity of the surrounding area. Restrictions to use the external facilities (ie. play area and parking) will be imposed to ensure that the neighbouring amenity is maintained.</p>	<p>Satisfactory</p>

c. The use will draw patronage from areas outside the surrounding neighbourhood	The proposed facility is not open to the general public, as it will cater for a maximum of 12 children recommended to be referred to the site, at any one time. The proposed use will draw patronage from outside the surrounding area but will be very limited. It is considered that the use is unlikely to detrimentally affect the surrounding area's general amenity.	Satisfactory
d. A noise nuisance will be created	The nature of the proposed development is unlikely to create detrimental noise nuisance to surrounding development. The application is accompanied by a Plan of Management and an acoustic report. Council's social planner and environmental health officer have reviewed these reports respectively and provide suitable conditions to control noise.	Satisfactory subject to conditions.
e. The development will generate traffic out of keeping with the locality	The provision of car parking on the site is sufficient based on the expected traffic generation of the community facility, which is not considered to create a significant traffic generating use. Further, Council's Traffic Engineer has reviewed the proposal and raises no concern in this regard.	Satisfactory
f. Adequate car parking and loading facilities are provided	Adequate car parking and loading facilities are provided.	Satisfactory
g. Adequate provision is made for access by persons with a disability.	Adequate provision is made to the buildings, car parking area and pathways for access by persons with a disability.	Satisfactory
8.1.4 Urban Design Council's general objective for non-residential development in residential zones is that such development should be similar in bulk, scale, form, height, siting and appearance to the surrounding built residential environment. To meet this objective, special attention to design, finishes, roof form, materials, paving and landscaping may be required. All applicants must submit with their DA accurate elevation plans of the proposal, which show existing and final ground levels on the site, with cut and fill details.	The proposal is a single storey development with a flat and skillion roof, in a low rise (one and two storey houses) residential area. The proposal is considered in keeping with the residential character and is acceptable in scale and finishes. As noted previously, the proposed finished floor levels of the development are capable of being provided within 500 mm above natural ground level with appropriate conditions.	Satisfactory
8.1.5 Setbacks of Buildings In general, non-residential buildings shall be setback in line with adjoining residential development or, where residential development is not yet built, at the same distance from boundaries as is required for medium density housing ie:		Yes

Front setback = 6 m from front boundary line, and 10 m from SP2 Infrastructure zoned land. Side and rear setbacks = 2.3 m.	Provision: Front setback to Doonside Road = 9 m Front setback to Eastern Road (zoned SP2 Infrastructure) = 17.5 m Side setback = 10.5 m (office arm building), or 3.3 m (covered bin area). Rear setback = 54 m (program arm building)	
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Part G		
Site Waste Management and Minimisation	Council's Waste Management Officer has reviewed the proposed waste storage and collection arrangements and no objection is raised subject to conditions of consent.	Yes
Part J		
Water Sensitive Urban Design and Integrated Water Cycle Management	Council's Engineers have undertaken an assessment of the proposal in accordance with the requirements of BDCP Part J, and no objection is raised subject to conditions of consent.	Yes