

Assessment Report and Recommendation

SUMMARY

Applicant	Catholic Metropolitan Cemeteries Trust.
Owner	Crown Lands on behalf of the New South Wales Government.
Application No.	DA-66/2018.
Description of Land	Part Lot 500 in DP 1015565 and Lot 7053 in DP 1029128 being 2 East Street Rookwood.
Proposed Development	Construction of 652 above ground garden crypts and a car park for five (5) vehicles.
Site Area	286 Hectares or 2.86 Square kilometres.
Zoning	Zone SP1 - Special Activities.
Disclosure of political donations and gifts	Nil disclosure.
Issues	Crown Application.

Recommendation

The Development Application Number 66/2018 for the construction of 652 above ground crypts on land within Rookwood Cemetery being 2 East Street Rookwood be approved subject to conditions as shown in the attachment provided.

History

- Development application Number 66/2018 is seeking approval for the construction of a building structure containing 652 above ground crypts which continues the development of crypts along Sheehy Avenue. The development application was lodged with Council for determination on 8 March 2018.
- The development application was notified between Tuesday 27 March and Tuesday 10 April 2018. There were no submissions to the development works sought.
- An assessment of the development application shows no significant issues arising and the works may be supported.
- This is a Crown application and as such consent has been sought to impose the conditions as per Section 4.33 of the Environmental Planning and Assessment Act 1979 (as amended). Council officers have received such consent from the Crown and dated Friday 13 July 2018.

Site and Locality Description

The Rookwood Cemetery is bounded by Railway Street to the north, Weeroona Road to the south, Centenary Drive to the east and East Street to the west. The cemetery has an area of 286 hectares and was established in 1867 for burials.

Burial at Rookwood began in 1867 and continues today. It is one of the largest burial grounds in the world and the largest in the southern hemisphere. It houses 1,000,000 epitaphs recorded on 600,000 graves and 200,000 crematoria niches. Rookwood Necropolis documents the cultural and religious diversity of the Australian community in the late 19th century and society's attitudes towards death.

The Cemetery is managed according to religious requirements by individual Cemetery Trusts including the Catholic and Rookwood General Cemeteries Reserve Trust.

The Trusts have responsibility for development and maintenance of major infrastructure such as roads, fencing, paths and drains.

The Cemetery contains a significant number of grave sites but also contains heritage items and flora and fauna habitats.

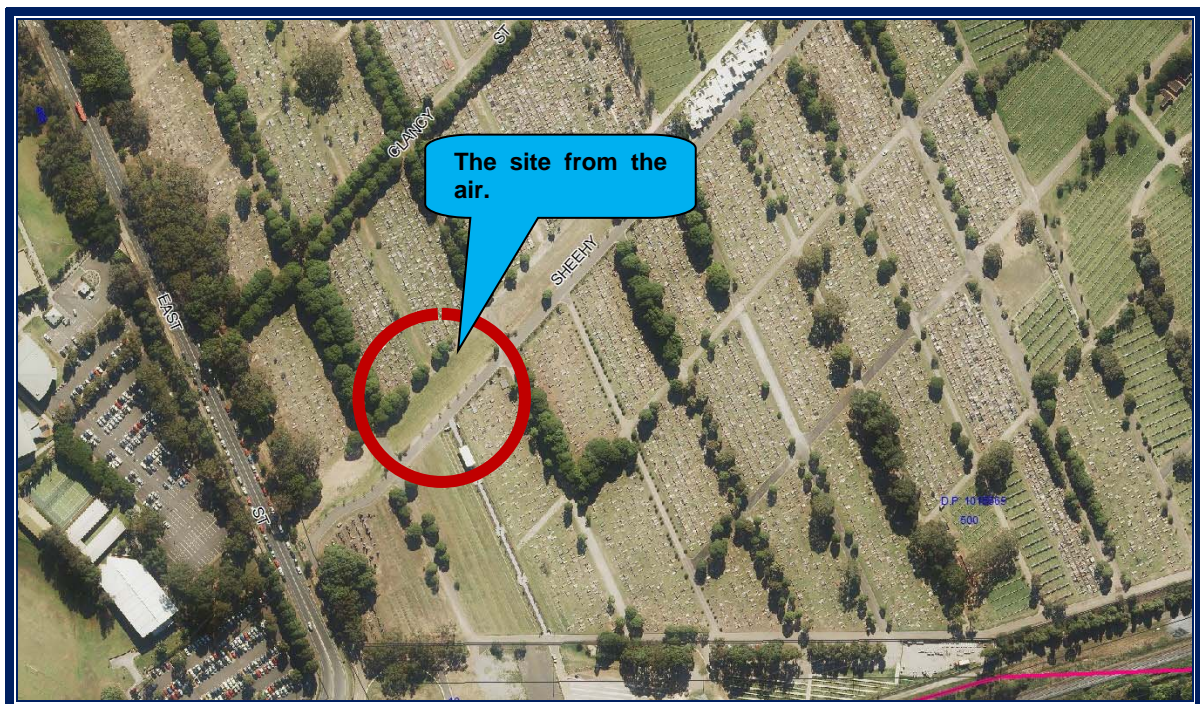
The land the subject of this application is situated within the Catholic Cemetery Trust which is located towards the southern part of the Necropolis.

The site for the new crypts is located on Sheehy Avenue close to the existing crypts and the Catholic Cemetery offices. The site is situated a minimum of 78 metres from East Street and there are no residents within 350 metres of the site. The site has a steady slope towards the south.

The new Crypts will form part of a series of crypts that have been constructed along the northern side of Sheehy Avenue. The development continues the work being undertaken by the Catholic Cemetery Trust along Sheehy Avenue.

There are no gravesites or significant trees affected by the proposed works and as such the site is considered as being ideal for the crypts.

The site is shown below.



Photos of the site are provided below.



The new crypts are similar to existing crypts existing along Sheehy Avenue and car parking spaces are being created as development occurs.

Description of Proposed Development

Development application Number 66/2018 seeks approval for the San Antonio Garden Crypts within Rookwood Cemetery.

Even though references are being made to staging the construction of the crypts with Stage 5 being built first then stage 6, it is identified that the applicant does not wish to treat the development application as a formal staged development.

The development application proposes the construction of two structures to house 652 crypts within two buildings similar to the adjoining building or crypts situated close by. The two buildings will be linked by a roof canopy.

A new car park for 5 vehicles is proposed along the eastern elevation of the building in a manner similar to what has occurred in previous developments. Access to the car park will be from Sheehy Avenue or an unnamed service road to the immediate north.

The crypts will be constructed of sand blasted pre cast concrete panels, some of which will be polished. Polished Kashmir White and black granite finishes will be used as cladding. Some walls will feature stacked stone finishes.

Referrals

Internal Referrals

Development Engineer

As per the memorandum dated Tuesday 26 June 2018, the stormwater drainage system is compliant with the relevant development control provisions and satisfactory stormwater drainage is achieved from the new works. The development application may be supported subject to conditions.

Health and Building Surveyor

As per a memorandum dated 4 April 2018, there are no Building Code of Australia issues associated with the development. A condition is suggested requiring all building work to comply with the Building Code of Australia.

Heritage Advisor

The Heritage Advisor in a memorandum dated 5 April 2018 has stated that the location of the crypts is satisfactory due to location away from crucial heritage listed features. There is no

objection to the development that is proposed. The heritage advisor has not sought any conditions for any consent that may be issued.

External Referrals

The development application was referred to the Heritage Office for assessment and advice. As per the correspondence dated 19 April 2018:-

The heritage impact report and statement of effects addresses the relevant heritage matters and demonstrates that the proposed development would not have an adverse impact on the heritage significance of the cemetery.

- The crypts are designed in a consistent style and continue an existing use within this part of the cemetery.
- The crypts are located on land that is not developed.
- The development would not affect any existing tree avenues or the existing circulation patterns in the cemetery and the crypts are compatible with the form, scale and materials used in nearby areas. The crypts would allow the ongoing use of the area for burial services which is in accordance with the Rookwood Plan of Management.

There is no objection on heritage grounds to the development subject to conditions.

The provisions of any Environmental Planning Instruments (EP& A Act S4.15(1)(a)(i))

Section 4.33 - Determination of Crown development applications:

The applicant has informed Council that the Catholic Metropolitan Cemeteries Trust is a Crown for the purpose of this application. Prior to determination of the development application, the provisions of Clause 4.33 are required to be complied with specific to conditions.

This has now been complied with. In correspondence dated Friday 13 July, the applicant has agreed to the conditions for approval by the Sydney Central Planning Panel as shown in the attachment containing the conditions.

State Environmental Planning Policies

The development is affected by the following State Environmental Planning Policies.

State Environmental Planning Policy 55 "Remediation of Land"

The cemetery has an area of 286 hectares and was established in 1867 for burials. The area proposed for the development is mainly grassed although some disturbed areas exist nearby due to building works associated with new crypts.

The applicant has not undertaken any testing but considers the site to be free from contaminants on the basis that there is no history of industrial development. Some excavation is proposed for the building works but works are limited to the development site.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the Sydney Harbour Catchment area and SREP (Sydney Harbour Catchment) 2005 is applicable to the development application. The development application raises no issues as to the consistency with the requirements and objectives of the planning instrument and associated development control plan.

Local Environmental Plans

Auburn Local Environmental Plan 2010

The provisions of the Auburn Local Environmental Plan 2010 are applicable to the development application.

The site is within Zone SP1 - Special Activities "Cemetery". A cemetery is permitted with consent within the zone.

A new building containing two crypts is proposed. The crypts are related to Rookwood Cemetery and will house 652 burial sites. The buildings will provide seating, landscaping and covered walkways.

A crypt could be considered as a cemetery in itself given that grave sites are to be established inside the structures. This establishes permissibility under the term "Cemetery".

A small car park is included as part of the works proposed to service the new crypts.

The car park is associated with the crypts and considered as being ancillary to the works proposed. The car park for five vehicles is considered as being permissible with consent.

The development application raises no issues in relation to height or floor space ratio as provided below.

- **Clause 4.3** - Height of buildings

A maximum building height is not specified within the SP1 Special Activities zone. The crypts have a maximum height of 6.4 metres above the natural ground level which is consistent with the height of other crypts that have been constructed along Sheehy Avenue. The height of the structures to be constructed is determined as being satisfactory.

- **Clause 4.4** - Floor space ratio

A maximum floor space ratio is not specified for the site. As such, there are no floor space ratio issues to address.

- **Clause 5.10** - Heritage Conservation

The site is listed as a heritage site in the Auburn Local Environmental Plan 2010 as Heritage Item A00718 (Archaeological Item). The listing covers the entire cemetery including the critical northern area as delineated in green on Attachment Number 1 which is State Heritage Listed.

The archaeological items of interest are:-

- Monumental masonry.
- Former railway siding and site of Mortuary Station including sites of three other stations.
- Cast iron section markers on Necropolis Circuit.
- Drainage channels, roads, bridges, paths.
- Some buildings and works.
- An underground water supply pipeline that was discovered in 2015 during the processing of Development Application 289/2015 that is located along the East Street frontage dating from the mid 1880s.

Rookwood Necropolis is one of the largest burial grounds in the world and contains the largest 19th century cemetery in Australia. The scale of design, gardenesque layout, high quality and diversity of structures, monuments and details of the oldest sections of Rookwood Necropolis represents a rare surviving example of mid to late 19th century ideals for a major public cemetery (National Trust 1988).

Prominent individuals and families are recorded in memorials containing significant biographical information. The progressive layering, development, and diversity of styles of memorialisation document the conceptual move away from the 19th century perception of death and dying to the more rationalist view prevailing at the present time (National Trust 1988).

The site for the crypts is not situated within the critical area identified by the NSW Heritage Council as having State Heritage Significance. As such, the most important area of the cemetery is not affected by the proposed building works.

A detailed assessment of the development application using the Auburn Local Environmental Plan 2010 is available on Council's file.

The proposed development is satisfactory when considered under Clause 5.10 of the Auburn Local Environmental Plan 2010.

The provisions of any Draft Environmental Planning Instruments (EP& A Act S4.15(1)(a)(ii))

There are no draft planning instruments that apply to the site.

The provisions of any Development Control Plans (EP& A Act S4.15(1)(a)(iii))

Rookwood Necropolis Plan of Management

A new plan of management has been signed off by the New South Wales State Government in 2014. The plan of management is geared towards the management of various sections of the cemetery specific to:-

- Management priorities.
- Sustainable management practises.
- Protection of critical infrastructure, heritage features.

The site is within Area 18A for the purpose of the management plan.

The management plan has no direct bearing on the assessment of the development application. The Cemetery Trusts are responsible for the operation of the management plan.

8 Part Test - Section 94A(3) Threatened Species Conservation Act 1995

For clarity, it is concluded that an 8 Part Test is not required for the application however a general assessment is provided demonstrating that the proposal will be satisfactory under the Threatened Species Conservation Act 1995.

- (a) *In the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction.*

Fauna:

Only one threatened fauna species being the Common Bentwing Bat or (Miniopterus Schreibersii) is identified on the Rookwood Necropolis site in the P & J Smith Flora and Fauna Survey of Rookwood Necropolis (December 1999). The bat is not identified on or near the subject site. There will be no impact on threatened species from the proposal.

For further clarity, the Bentwing Bat habitat is situated in Area 20 (located in the far northern part of the cemetery) and an area situated close to the western entrance of the cemetery is being prepared for a colony of bats (Area 18). The site is not located close to the two Areas.

The areas are shown on the plan "Attachment One" marked in Blue attached to the report.

Flora

The Cooks River Clay Plain Scrub Forest is an endangered ecological community protected under the TSC Act and *Acacia Pubescens*, a vulnerable species protected under the Commonwealth Environment Protection and Biodiversity Conservation Act 1997. The *Acacia Pubescens* must remain protected in Area 20.

Area 20 incorporates woodland of *Corymbia Citriodora* which has high conservation value for the bat habitat. The trees were introduced into the site sometime between 1930 and 1955. The trees should be retained in the short term but gradually removed over a 20 to 30 year period to ensure the bat colony is not harmed.

The 2008 PMP states that a Green and Golden Bell Frog which persists at the nearby Chullora National Rail site may use Area 25 and 26 but there is no proof to substantiate the statement. Area 26 has since been released for new grave sites and now occupied with new graves.

Area 6 and 25 are now important and will be subject to weed control and long term stabilization works. The *Pomaderris Prunifolia* from Area 5 has been re - established in Area 25. Hence Area 25 is now important.

The site is not located near the critical conservation areas.

The areas are marked out on Attachment Number one in blue attached to the report.

It would be appropriate to have conditions addressing sediment control and the Erosion and Sediment Control Details Drawing No TX-10496.12-C2.0 Rev A will need to be included in the bundle of plans to be approved should the application be supported.

It is prudent to ensure soil erosion does not occur during site works.

- (b) *In the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction.*

The site is not located in a conservation area or an area containing threatened species identified in the PMP prepared by Hassall & Associates dated August 2002.

- (a) *In the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:*
- *Is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or*

No adverse effect on any endangered ecological community is expected to occur.

The 2008 PMP states that a Green and Golden Bell Frog which persists at the nearby Chullora National Rail site may use Area 25 and 26 but there is no proof to substantiate the statement. Area 26 has now been released for new grave sites and has been developed for burials. New graves are now appearing within that release area.

Area 26 is marked in orange colour on Attachment Number one which is attached to the report.

The site is not located close to Area 25.

It would be appropriate to have conditions addressing sediment control and the Erosion and Sediment Control Details TX-10496.12-C2.0 Rev A will need to be included in the bundle of plans to be approved should the application be supported.

- *Is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.*

The site is not located in a conservation area or an area containing threatened species identified in the PMP prepared by Hassall & Associates dated August 2002. The updated 2008 PMP does not recognise the area as containing threatened species.

(d) *In relation to the habitat of a threatened species, population or ecological community:*

- *The extent to which habitat is likely to be removed or modified as a result of the action proposed, and*
- *Whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and*
- *The importance of the habitat to be removed, modified, fragmented or isolated to the long term survival of the species, population or ecological community in the locality.*

The Cooks River Clay Plain Scrub Forest is identified as being potential habitat for the common Bentwing Bat. However, only remnants of this species exist within Rookwood Cemetery. The site the subject of the works is not identified as being located near the conservation sites. The proposed works are unlikely to affect any habitat used by the bat which may re-establish itself in the conserved area.

The colony is found in Area 20 and likely to be found in Area 18.

The site the subject of the works is marked in red and Area 18 and 20 are marked in blue on Attachment Number one which is attached to the report.

(e) *Whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly).*

No critical habitat as defined in Schedule 1A of the Threatened Species Conservation Act is located on or in the vicinity of the subject site. The Critical habitats for Rookwood Cemetery are:-

- Area 4 (Previously important but attempts at regeneration has failed). Now to be opened up.
- Area 6 and 25 (Important areas for protection). Area 25 has high priority.
- Area 7, 8, 27 and 28 (Protection of Acacia Pubescens). Management area.
- Area 9, 10, 11, 12 and 21 (Management Area).
- Area 18 (Conservation Area and management of Eucalyptus Saligna).
- Area 19 and 20 (Far north and critical for the Bentwing Bat).

By plotting the conservation sites on the map (Attachment Number one), it is clear that the subject site is not close to the conservation areas that are marked in blue on attachment number one (Attached to the report).

(f) *Whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.*

No recovery plan or threat abatement plan (as defined under Part 4 and 5 respectively of the Threatened Species Conservation Act) affects the site.

- (g) *Whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of a key threatening process.*

Clearing of native vegetation is identified as a key threatening process in Schedule 3 of the Threatened Species Conservation Act. The site the subject of the works is not located in a conservation area and the site is clear of any significant vegetation.

Auburn Development Control Plan 2010 - Parking and Loading

The relevant objectives and requirements of the Auburn Development Control Plan 2010 - Parking and Loading have been considered in the assessment of the development application. The proposal is for two buildings to be used for the Catholic Cemetery Trust as crypts. There will be 652 grave sites within the crypt.

A crypt does not generate a car parking demand and the development control plan does not provide any indication as to how crypts should be treated. Generally visitation to the crypt will be low.

The plans show the construction of a small car park to support visitation to the crypts. The car park shown is provided with five spaces with access from Sheehy Avenue and the adjoining unnamed road carriageway to the north.

This will assist in providing suitable car parking to support the development.

Auburn Development Control Plan 2010 - Access and Mobility

The provisions of the Auburn Development Control Plan 2010 - Access and Mobility have been considered in the assessment of the development application.

The crypt building is at grade or provided with ramp access which will allow appropriate access.

The crypts do not include a toilet. The crypts are effectively a site for grave yards. Additional provisions other than access would not be required.

Auburn Development Control Plan 2010 - Waste

A waste management plan submitted with the development application is satisfactory for approval.

Auburn Development Control Plan 2010 - Stormwater Drainage

The relevant requirements and objectives of the Auburn Development Control Plan 2010 - Stormwater Drainage have been considered in the assessment of the development application. Suitable stormwater plans and specifications have been submitted to accompany the development application. Council's Engineers have raised no objection to the proposed stormwater design and appropriate conditions have been provided to be imposed on any development consent issued.

Section 7.11 Contributions Plan

This is a Crown application and as such, it is appropriate that a contribution levy not be sought. The applicant has requested an exemption which has been assessed as being satisfactory.

Council's Section 7.11 Contributions Plan (Page 114 and 115) specifies certain exemptions being:-

- Where Council is the applicant.

- Development which provide a distinct community benefit on a not for profit basis including but not limited to fire stations, police stations, or police shop fronts, ambulance stations, public hospitals and the like.
- Development by or for non profit organisations which provide a distinct community benefit including but not limited to the provision of child care services, libraries, **community or educational facilities**, places of worship services, outreach services or the like on a cooperative or not for profit basis.
- Works undertaken for charitable purposes or by a registered charity.

The emphasis here entails a development for the community on behalf of a Trust or Crown.

Council's Section 7.11 Planner has advised that as the application is a Crown matter, a contribution should not be levied for the development application.

Disclosure of Political Donations and Gifts

The NSW Government introduced The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 (NSW). This disclosure requirement is for all members of the public relating to political donations and gifts. The law introduces disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of various types of development proposals and requests to initiate environmental planning instruments or development control plans.

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

The provisions of the Regulations (EP& A Act S4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the EP& A Regulations 2000.

The Likely Environmental, Social or Economic Impacts (EP& A Act S4.15(1)(b))

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development (EP&A Act s79C(1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, the site can be said to be suitable to accommodate the proposal. The proposed development has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s79C(1)(d))

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification of Development Proposals Development Control Plan, the proposal was publicly exhibited for a period of fourteen (14) days between Tuesday 27 March and Tuesday 10 April 2018. There were no submissions to the works that are sought.

The public interest (EP& A Act S4.15(1)(e))

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users. In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

Operational Plan / Delivery Program

This assessment and report relates to the Cumberland Council Operational Plan and Delivery Program, Our Places - Attractive and Liveable theme, action "2a.1.1.3 Assess development applications, complying development and construction certificates".

Conclusion

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979.

The proposed development is appropriately located within the SP1 (Special Activities) zone under the relevant provisions of Auburn Local Environmental Plan 2010. The proposal is consistent with all statutory and non-statutory controls applying to the development. Minor non-compliances with Council's controls have been discussed in the body of this report. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, and the development may be approved subject to conditions.

