

Assessment against planning controls: section 4.15, summary assessment and variations to standards

1 Environmental Planning and Assessment Act 1979

1.1 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of: (i) Any environmental planning instrument (EPI)	<p>The proposal is considered to be consistent with the relevant EPIs, including SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007, SEPP No. 55 – Remediation of Land, SEPP (Vegetation in Non-Rural Areas) 2017 and Blacktown LEP 2015, SEPP (Sydney Drinking water Catchment) 2011.</p> <p>The site is zoned SP1 – Cemetery under Blacktown LEP 2015. The proposed cemetery expansion is therefore permissible with consent.</p>	Yes
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	Planning Proposal PP_2018_BLACK_009_00 is currently under assessment with the Department of Planning and Environment for the expansion of the cemetery by way of rezoning the RE1 zoned land to the east of the subject site. This planning proposal is not relevant to this application.	N/A
(iii) Any development control plan (DCP)	The Blacktown DCP 2015 applies to the site. The proposed development is consistent with the objectives and controls of the DCP.	Yes
(iii a) Any Planning Agreement	There are no Planning Agreements associated with this proposal.	N/A
(iv) The regulations	The proposal is consistent with applicable regulations.	Yes
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>Environmental impacts of the development, including impacts of imported fill, contamination, stormwater and ecology have been have been assessed and are considered to be acceptable subject to appropriate conditions of consent.</p> <p>The works proposed will have minimal visual impact on the built environment and are of a nature that is to be expected of a cemetery. The site is bounded by the Great Western Highway (and RE1 'island' between roads) to the north, the Great Western Motorway to the South, Prospect Highway to the west and RE1 zoned land to the east. The nearest residential properties are some 300m to the northwest, across a large intersection with the Great Western Highway and Prospect Road, which the dwellings are orientated away from. As such, there will be no adverse impacts on amenity as a result of the cemetery expansion.</p> <p>Traffic considerations have been assessed and it is</p>	Yes

Heads of Consideration	Comment	Complies
	<p>considered that the site is well connected and the existing road network will be capable of handling the modest increase in projected visitors. Parking is to be provided on site and is adequate.</p> <p>Construction traffic is capable of being managed such that it has minimal impact on the local road network and will use designated routes.</p>	
c. The suitability of the site for the development	<p>The site is zoned SP1 – Cemetery, therefore the proposed expansion of the cemetery to the vacant area at the north-east of the site is permissible with consent.</p> <p>The site is well connected to the road network and is in a location which is not considered suitable for the majority of other forms of development given its constraints.</p> <p>There is both a local and regional shortage of land availability for cemeteries (as identified in the 'Cemeteries and Crematoria NSW Strategic Plan 2015-2020'), as such the expansion of the existing cemetery is considered suitable given its location and lack of amenity and environmental impacts.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	<p>3 submissions submission was received as a result of the notification of this DA. A response has been provided to the issues raised, which is assessed in Attachment 7.</p> <p>These issues are considered to be suitably addressed and do not warrant refusal of this application.</p>	Yes
e. The public interest	<p>It is considered that no adverse matters relating to public interest arise from the proposal.</p> <p>The proposal will deliver much needed cemetery space in a location which is in use, and zoned, as such.</p> <p>The Cemeteries and Crematoria NSW Strategic Plan (2015-2020) identifies land availability as a key priority to meet future demand for interment services.</p> <p>The proposal delivers additional cemetery capacity within no adverse impacts and is therefore considered to be in the public interest.</p>	Yes

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

Summary comment	Complies
<p>The Sydney Central City Planning Panel (SCCPP) is the consent authority for Council related development with a capital investment value (CIV) of over \$5 million.</p> <p>Council is responsible for the assessment of the DA and the Panel has the function of determining the application for the following reasons:</p> <ul style="list-style-type: none"> This DA has a CIV of \$6,208,00 Council is the Applicant 	Yes

Summary comment	Complies
<ul style="list-style-type: none"> Council is the owner of the land on which the development is to be carried out The development is to be carried out by Council's Property Section. 	

3 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
<p>The SEPP ensures that Roads and Maritime Services (RMS) is given the opportunity to comment on development nominated as 'traffic generating development' under Schedule 3 of the SEPP.</p> <p>The development is not nominated as 'traffic generating development' under Schedule 3, however it is located adjacent to the Great Western Highway and M4 motorway, as such, the RMS was consulted.</p>	No comment, as advised by RMS

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

Summary comment	Complies
<p>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.</p> <p>The application is accompanied by a Preliminary Site Investigation (PSI) report (Prepared by Prensa, dated November 2008), a Detailed Site Investigation (DSI) report (Prepared by Prensa, dated December 2018) and a Soil Management Plan (Prepared by Prensa, dated November 2018).</p> <p>The PSI concluded that there is a low-moderate potential for contamination to exist as a result of current and historical activities. The DSI identified concentrations of zinc and nickel in some samples which were greater than the Adopted Site Criteria, all other results were below the Adopted Site Criteria. However, it was considered that the risk of these concentrations posing a threat to surrounding ecological receptors was low.</p> <p>Deposits of asbestos were also identified. However, it was considered that identified contamination does not preclude the proposed site use or the proposed development application, subject to an Asbestos Management Plan with unexpected finds protocol (which will be subject to condition of consent).</p> <p>A Geotechnical Investigation (Geotechnique Pty Ltd, December 2018) has also been carried out. Results of this investigation indicate that the geotechnical conditions across the site for Stage 1A cemetery expansion do not impose any geotechnical constraints, and the report includes geotechnical recommendations for the proposed fill/ earthworks and design and construction of roads and other structures.</p> <p>A Hydrology Report has been prepared (ARUP, 4 April 2019) which concludes that the proposed works are not anticipated to impact on the underlying hydrogeological regime beneath the project site or on surrounding assets. The groundwater related risks to the project can be categorised as low.</p> <p>The development site is sufficiently far enough north of the Prospect Reservoir that it is not within its catchment area. Similarly, the site is outside of any of the recognised catchment areas within NSW which are identified under the Sydney Drink Water</p>	Yes

Summary comment	Complies
Catchment (2011) SEPP.	

5 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

Summary comment	Complies
<p>The SEPP (Sydney Drinking Water Catchment) 2011 commenced on March 2011 and aims to:</p> <ul style="list-style-type: none"> - To provide for healthy water catchments that will deliver high quality water and permit development that is compatible with that goal; - To ensure that consent authorities only allow proposed developments that have a neutral or beneficial effect on water quality; and, - To support water quality objectives in the Sydney drinking water catchment. <p>The site is not within the Sydney water drinking catchment and the cemetery site drains away from the Prospect Reservoir.</p>	Yes

6 Central City District Plan 2018

Summary comment	Complies
<p>While the Act does not require consideration of District Plans in the assessment of Development Applications, the DA is consistent with the following overarching planning priorities of the Central City District Plan:</p> <p>Liveability</p> <ul style="list-style-type: none"> • Creating great places • Contributing to the provision of services to meet communities' changing needs. 	Yes

7 Blacktown Local Environmental Plan 2015

Summary comment	Complies
BDCP 2015 applies to the site with regard to the proposed cemetery expansion. The following table outlines the proposal's compliance with BDCP.	Yes

7.1 Objectives of the zone and permissibility

Zoning	Complies
SP1 Special Activities	
<ul style="list-style-type: none"> - To provide for special land uses that are not provided for in other zones. - To provide for sites with special natural characteristics that are not provided for in other zones. - To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land. 	The proposal is consistent with these objectives.

Zoning	Complies
<p>Permissible land uses: Aquaculture; Recreation areas; Roads; Signage; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.</p>	<p>The proposed land use is permissible.</p>

Clause 5.10 Heritage

<p>Pursuant to Clause 5.10 development is required to conserve the environmental heritage, the heritage significance of heritage items (including associated fabric, settings and views) and archaeological sites.</p> <p>St. Bartholomew's Anglican Church (former) & Cemetery is listed under the NSW Heritage Act 1977 and under Blacktown LEP 2015 as a heritage item of State significance. As such, a Heritage Impact Statement (HIS) prepared by Navin Officer Heritage Consultants Pty Ltd (dated December 2018) has been submitted with the application.</p> <p>A Conservation Management Plan (Prepared by Graham Edds & Associates, dated May 2010) is also submitted with the application. Although 9 years old it is not considered necessary to provide an updated CMP for this stage of development. The CMP was not produced with particular intent in mind and the values of the place, reasons for its listing and what degree of change might be acceptable have not changed. The HIS addresses the impact of the development against the criteria established within the CMP and against current legislative requirements.</p> <p>The HIS considers that the reactivation of the cemetery land respects and enhances the heritage significance of the church and cemetery by revitalising and continuing the use of the place. This will also serve to reconnect the local community to the place and enhance the community's appreciation of the heritage item which will help to protect it into the future.</p> <p>The works will also enable the cemetery to generate income which can provide funding to conservation works and maintenance of buildings, memorials, graves and landscape of the site.</p> <p>Given that the cemetery extension is substantially different in layout and form to the original cemetery there will be a clear and distinct delineation between the old and new cemetery areas. Which is considered important to preserve the heritage significance of the old part of the cemetery.</p> <p>Whilst some views into the site from north and north east will be impacted, other views which are not currently possible will be created. Overall the HIS considers that the moderate loss of views into the site will not have a detrimental impact on the significance of the place and will not impact detrimentally on the vistas out from the church which are of a higher significance. In any case, the most significant view losses will be to vehicle occupants travelling along Ponds Road, glimpses from fast moving vehicles should not be given considerable weight.</p> <p>In addition, any moderate view loss arising from the works is well offset by the benefits to the management and enhancement to the cultural significance of the place through the extensions to the cemetery.</p> <p>A number of unmarked/clandestine burials or 'anomalies' have been identified on the vacant land following a ground penetrating radar investigation. It is not intended to fill over the anomalies if they are found to be graves, nor is it intended to use their locations for further burials. The anomalies are to be interpreted with sandstone border outlines and brass plaques. A number of recommendations are included within the HIS which will be incorporated as conditions of consent.</p>	<p>Yes</p>
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Zoning	Complies
<p>The HIS concludes that the proposed works will not detrimentally impact the heritage significance of St Bartholomew's Church and Cemetery and that they will enhance the significance of the place.</p> <p>The NSW Office of Environment and Heritage (OEH), The National Trust, Prospect Heritage Trust, Blacktown Historical Society, Mount Druitt Historical Society, Riverstone and District Historical Society and Friends of St Barts have all be sent referrals. Any concerns raised are addressed in Attachment 7.</p>	

8 Blacktown Development Control Plan 2015

Summary comment		Complies
We have assessed the DA against the relevant provisions and the table below provides an assessment of the proposal against the objectives and permissible uses of the zoning of the site. It is compliant with all other matters under the <i>Blacktown Development Control Plan 2015</i> .		Yes
Control	Comment	Complies

Part A – Introduction and General Guidelines

4.2 Areas requiring fill	<p>The development will require the use of approximately 26,400m³ of imported fill to create level grave sites.</p> <p>A Soil Management Plan (prepared by Prensa, dated November 2018) accompanies the application and includes a detailed Management Framework for the importation of fill to the site.</p> <p>The proposed fill and management plan is considered acceptable and does not introduce any adverse impacts to the site or surrounds.</p>	Yes
4.3 Tree preservation	<p>The development does not requires the removal of substantial trees and is primarily confined to a cleared area within the subject site.</p> <p>However, given that there are large trees within the immediate vicinity an Arborist Report (prepared by Eco Logical, dated 3 December 2018) has been submitted with the application.</p> <p>The report identifies that adjacent to the eastern boundary of the site (and partially encroaching onto the site) is an area identified as Cumberland Plain Woodland (CPW). Two native trees are also just outside the western-most corner of the site.</p> <p>The report identifies that the development may potentially impact on 2 x <i>Eucalyptus moluccana</i> trees of high retention value. These trees are not listed on</p>	Yes

Summary comment		Complies
	<p>Blacktown Council's Significant Tree Register, nonetheless, the development proposes to retain these trees.</p> <p>The report identifies that the proposed works do not trigger the threshold for the CPW Biodiversity Offset Scheme or the Biodiversity Assessment Methodology.</p> <p>Overall, the report considers that the proposed works are unlikely to have a significant impact on any threatened tree species or on the biodiversity values present within the study area.</p>	
4.4 Heritage	<p>As noted above in relation to LEP Clause 5.10, the site is a heritage listed item.</p> <p>As such a Heritage Impact Statement has been submitted with the application which concludes that the proposed works will not detrimentally impact the heritage significance of St Bartholomew's Church and Cemetery and that they will enhance the significance of the place. Additional details are provided in response to LEP Clause 5.10 above.</p>	Yes
5. Roads	<p>The development proposes the construction of an internal road to link the existing access point to the cemetery off Ponds Road (being the driveway adjacent to the church) and St Bartholomew's Road. As part of the development upgrade work to St Bartholomew's Road will also take place creating a cul-de-sac.</p> <p>A Transport Impact Assessment (prepared by GTA Consultants, dated 3 December 2018) is submitted with the application.</p> <p>The Roads and Maritime <i>Guide to Traffic Generating Development (2002)</i> does not include traffic generation rates for cemeteries. Therefore, the assessment makes use of traffic generation based on surveys of a similar cemetery in Liverpool used for the Planning Proposal at the adjoining site. Based on this, the development is expected to generate between three to eight vehicle trips per hour in any morning or afternoon peak period.</p> <p>However, peak activity specifically associated with the cemetery is likely to be outside of the standard morning and afternoon peak periods. It is therefore expected that a maximum of 13 vehicle trips per hour can be expected during any peak cemetery period.</p> <p>The assessment identifies that the expansion of the cemetery is not expected to adversely affect the surrounding transport network, parking demands are expected to be fully accommodated on-site and traffic generation from the development will be low.</p> <p>Council's development engineers and transport team have reviewed the development in relation to the</p>	Yes

Summary comment		Complies
	creation of internal roads and have not raised concerns subject to conditions of consent.	
6. Car Parking	<p>The Roads and Maritime Guide and the DCP do not provide specific parking rates for cemeteries.</p> <p>However, as noted above surveys of a similar cemetery in Liverpool have guided the proposed rates for this cemetery.</p> <p>Formalised parallel parking will be utilised on the internal service road (42 spaces) with overflow parking available on St Bartholomew's Road (26 spaces). Capacity for a hearse (and other vehicles) plus a drop-off/ pick up space also forms part of the proposal.</p> <p>The Transport Impact Assessment submitted with the application indicates that the proposed parking provision will be able to accommodate the anticipated parking demand associated with the application.</p> <p>Council's Transport Team have reviewed the application and have not raised concerns subject to the submission of a car park access design to Council (which will be developed as part of the Construction Certificate).</p>	Yes

Part G – Site Waste Management and Minimisation

<p>1.3 Objectives:</p> <p>(a) Provide advice to applicants as to how to minimise waste generation and disposal, and reduce the handling of waste during demolition and construction</p> <p>(b) Encourage building design and construction techniques which minimise waste</p> <p>(c) Provide advice to applicants as to how to prepare a waste management plan</p> <p>(d) Require source separation of materials and use of other design features which complement waste collection management services offered by Council, private providers and other bodies.</p>	Council's Waste team have reviewed the plan and have raised no concerns.	Yes
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Summary comment		Complies
Part I – Contaminated Land Guidelines		
2.1 Stages of Investigation	<p>As outlined above in relation to SEPP 55 (Remediation of land), a Preliminary Site Investigation and a Detailed Site Investigation have been carried out.</p> <p>The preliminary site investigation concluded that there is a low-moderate potential for contamination to exist as a result of current and historical activities. The DSI concluded that contamination identified on site does not preclude the proposed site use or the proposed development application, subject to an Asbestos Management Plan with unexpected finds protocol (which will be subject to condition of consent).</p>	Yes
Part J – Water Sensitive Urban Design & Integrated Water Cycle Management		
4.4 On-site stormwater detention and waterway stability 4.5 Erosion, sediment and pollution control 4.6 Groundwater	<p>This part of the DCP does not expressly include the proposed development type, nonetheless given the works proposed a Civil/Stormwater Management report and associated plans (prepared by ARUP, dated December 2018) has been prepared.</p> <p>Stormwater runoff from the site currently discharges into a piece of land between Ponds Road and the Great Western Highway before discharging into Council owned in-ground stormwater network.</p> <p>It is proposed to construct an OSD basin on the adjoining land to contain increased flows from the site caused by reduced flood storage space on the cemetery land resulting from the development.</p> <p>Water quality targets will be met through the use of raingardens (bio retention basin/swales) adjacent to the access roadway, prior to water discharging into the site wide drainage swales.</p> <p>An erosion and sediment control plan has been submitted with the application which appropriately manages erosion and sediment from the site.</p> <p>A Geotechnical Investigation (Geotechnique Pty Ltd, December 2018) has also been carried out. Results of this investigation indicate that the geotechnical conditions across the site for Stage 1A cemetery expansion do not impose any geotechnical constraints, and the report includes geotechnical recommendations for the proposed fill/ earthworks and design and construction of roads and other structures. It also finds that future excavations for graves will be up to about 2.1m deep and excavations will occur predominantly in filled materials. Therefore, groundwater is unlikely to adversely impact on the proposed cemetery expansion works.</p> <p>A hydrology report (ARUP, 4 April 2019) is submitted with the application. It identifies the risks associated with</p>	Yes

Summary comment	Complies
<p>aquifer interference due to a new aquifer developing, potential contamination from imported fill material and identifies potentially affected stakeholders.</p> <p>The report concludes that proposed works are not anticipated to impact on the underlying hydrogeological regime beneath the project site or on surrounding assets. The groundwater related risks to the project can be categorised as low.</p> <p>The site is not within the Sydney Water Drinking Catchment AREA as identified under the SEPP.</p> <p>Council's Drainage and Development Engineers have reviewed the plans and have raised no concerns subject to conditions.</p>	