

**SYDNEY NORTH PLANNING PANEL
COUNCIL ASSESSMENT REPORT**

Panel Reference	PPSSNH-43
DA Number	DA347/19
LGA	North Sydney
Proposed Development	Alterations and additions to North Sydney Pool including new 50m pool, new warm water pool, upgrade to existing 25m pool, incorporation of Hopkins Park, new water play area, replacement of sundeck, replacement of grandstand, expansion of gymnasium, upgrade of facilities, enclosed entry, retail space, replacement of western stairs, alterations and additions to food and drinks premises, bus/coach parking, and site landscaping.
Street Address	Lot 100 DP 875048, Lot 101 DP 880236, Lot 102 DP 854064 and Lot 103 DP 1007291, 4 Alfred Street South, and part Lot 6 DP 127637, Olympic Drive, Milsons Point
Applicant	North Sydney Council
Owner	North Sydney Council
Date of DA lodgement	30 October 2019
Number of submissions	Original plans: One hundred and fifteen (115) Amended plans: Seventy-four (74)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Development that has a Capital Investment Value over \$30 million. Council related development with Capital Investment Value over \$5 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • SEPP No. 55 – Remediation of Land and draft SEPP • SEPP (Infrastructure) 2007 • SEPP (State and Regional Development) 2011 • SEPP (Vegetation in Non-Rural Areas) 2017 • Draft SEPP (Environment) • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Sydney Harbour Foreshores and Waterways Area DCP 2005 • North Sydney Local Environmental Plan 2013 • North Sydney Development Control Plan 2013

List of all documents submitted with this report for the Panel's consideration	Attachment 1 – Conditions of Consent Attachment 2 – Architectural Plans Attachment 3 – GML Heritage advice (19/12/2019) Attachment 4 – GML Heritage advice (27/5/2020) Attachment 5 – GML Heritage advice (15/6/2020) Attachment 6 – Taylor Thomson Whitting advice (28/2/2020) Attachment 7 – Taylor Thomson Whitting advice (3/6/2020) Attachment 8 – Traffic and Transport Planning Associates advice (December 2019) Attachment 9 – Notification Maps
Report prepared by	Geoff Goodyer, planning consultant, Symons Goodyer Pty Ltd
Report date	17 June 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clause requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions Conditions (s94EF)? **Not Applicable**
Note: Certain Das in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

The proposal is for alterations and additions to the North Sydney Olympic Pool.

The existing 50 metre swimming pool was constructed in 1936 and is severely degraded and requires replacement. The existing grandstand was also constructed in 1936 and testing for deterioration indicates it is at the end of its useful life.

Concerns were raised regarding plans originally submitted with the development application, particularly with regards to heritage impacts. Amended plans were received which have resolved most of those issues. However, some concerns remain and these are proposed to be resolved by conditions of consent.

The proposed development has been assessed against the relevant matters for consideration pursuant to Section of the Environmental Planning and Assessment Act, 1979, including likely impacts, the suitability of the site for the development and the public interest, and the proposed development is considered appropriate.

The application was referred to external consultants with regards to heritage impacts. The external consultants raised concerns with the original design of the proposal. Amended plans were requested which resolved most of those issues, particularly with regards to the design of the sun shade structure and the treatment of the entrance to the complex. Some concerns remained and the applicant declined to address those concerns. These matters have been addressed by conditions of consent.

External consultants also provided independent advice regarding structural engineering issues and traffic and parking impacts.

Concerns have been raised with the applicant regarding the retention of trees on site and unimpeded vehicular access to Luna Park. The applicant sought to justify the proposal in regard to these issues. These justifications are not considered to satisfactorily address the issues and conditions of consent are recommended in this regard.

The development application has been publicly notified on two occasions, resulting in 115 submissions on the first occasion and 74 submissions on the second occasion. All submissions have been considered in the assessment of the proposal.

The proposal was notified to 10 government authorities, none of which raised objections to the proposal.

The proposal has been assessed as Integrated Development because it requires a licence under section 43(d) of the Protection of the Environment Operations Act 1997, although such a licence is managed under a self-regulatory scheme administered by the NSW Environment Protection Authority.

This report concludes that the development proposal is sound in terms of design, function, heritage impacts, amenity impacts and relationship to the existing streetscape and surrounding sites. This report recommends that consent be granted to this application in accordance with conditions provided in Attachment 1.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (ie: this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SITE DESCRIPTION

The subject site is located at 4 Alfred Street South, Milsons Point. It is legally identified as Lot 100 DP 875048, Lot 101 DP 880236, Lot 102 DP 854064 and lot 103 DP 1007291. The proposal includes works on part of Lot 6 DP 127637, being the replacement of a pedestrian access ramp (to bring it up to disabled access standards).

The site has a frontage of 109.84m to Alfred Street to the north-east, a corner boundary to Alfred Street / Olympic Drive of 25.92m, a frontage of 84.815m to Olympic Drive to the south-west and a frontage of 69.885m to Paul Street to the north-west. The site shares an irregular boundary of 45.7m with Luna Park to the west.

The total site area is 7,099m² (excluding the pedestrian ramp on Olympic Drive).

The site slopes steeply down from the corner of Paul Street and Alfred Street to Olympic Drive. The total fall is approximately 12.8m, representing an average grade of 1 in 7.0 (14.2% or 8.1°).



Figure 1 – Site Map (source: <https://maps.six.nsw.gov.au>)

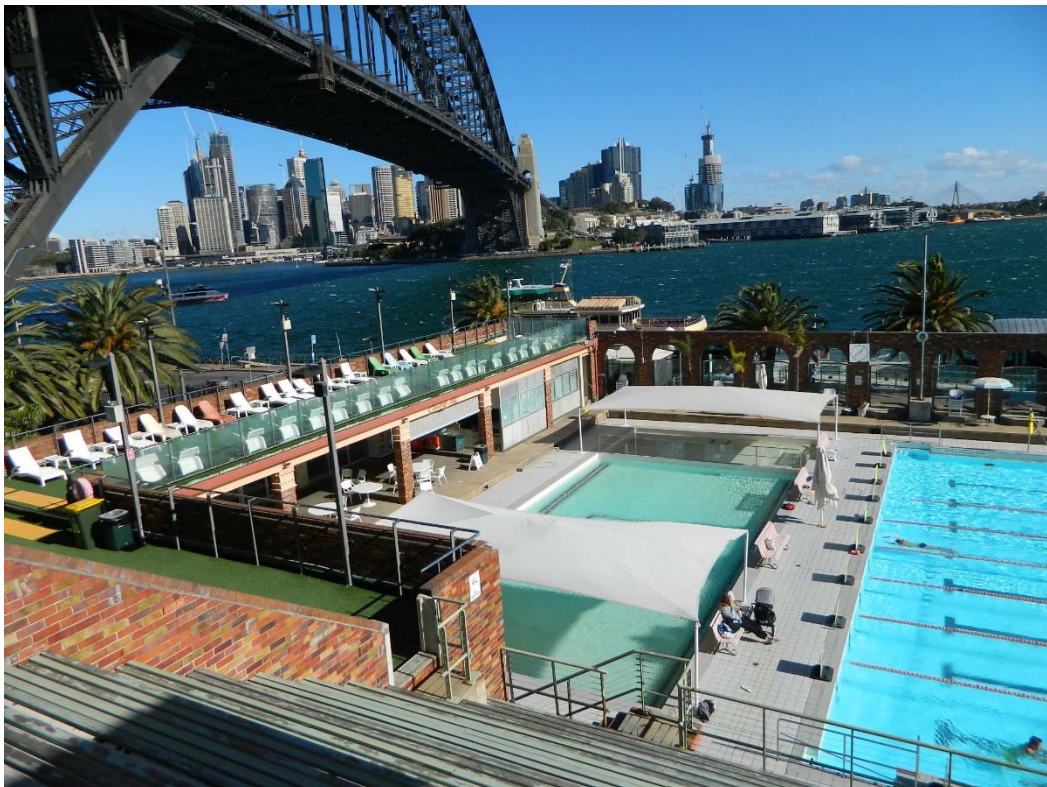
The site is occupied by the North Sydney Olympic Pool complex, comprising:

- Two outdoor pools (an Olympic size pool and a children's pool);
- Grandstand for 1,500 seats;
- An upper level enclosed aquatic facility that includes an indoor 25m pool including a toddler wading pool and a small spa;
- Gymnasium;

The site adjoins Luna Park to the west, Bradfield Park and the Sydney Harbour Bridge to the east, and Sydney Harbour to the south. To the north on the opposite side of Paul Street is mixed use development: No. 20 Alfred Street has retail space on the ground floor and 9 levels of residential development above, and No. 1 Northcliffe Street has 2-3 levels of commercial office space with 6-8 levels of residential development above.



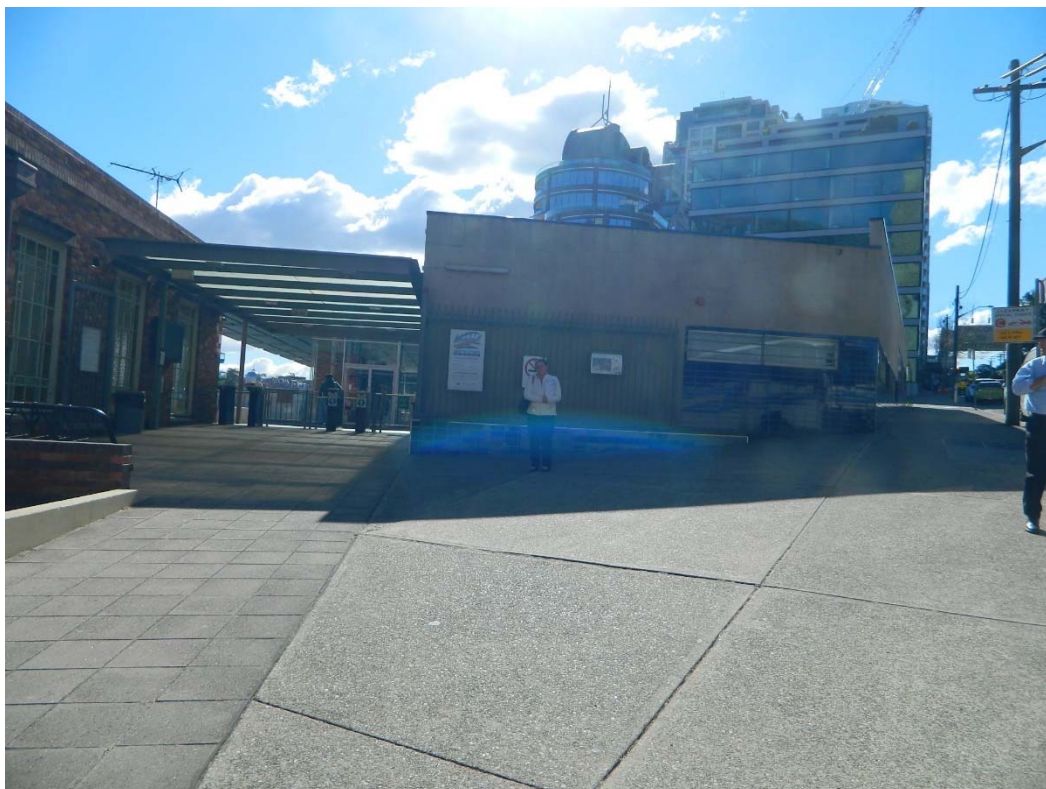
Photograph 1: View of 50m pool from grandstand, looking west, with Luna Park in the background.



Photograph 2: View of 50m pool, children's pool and sundeck from the grandstand, looking south, with Sydney Harbour, city and Sydney Harbour Bridge in the background.



Photograph 3: Original pool entrance, not currently in use.



Photograph 4: Entrance to swimming pool facility.



Photograph 5: Hopkins Park and view to the site from the corner of Alfred Street and Paul Street.



Photograph 6: Sundeck and lawn.



Photograph 7: Lawn and cabbage tree palms adjacent to sundeck.



Photograph 8: Existing Ripples Café on Olympic Drive.



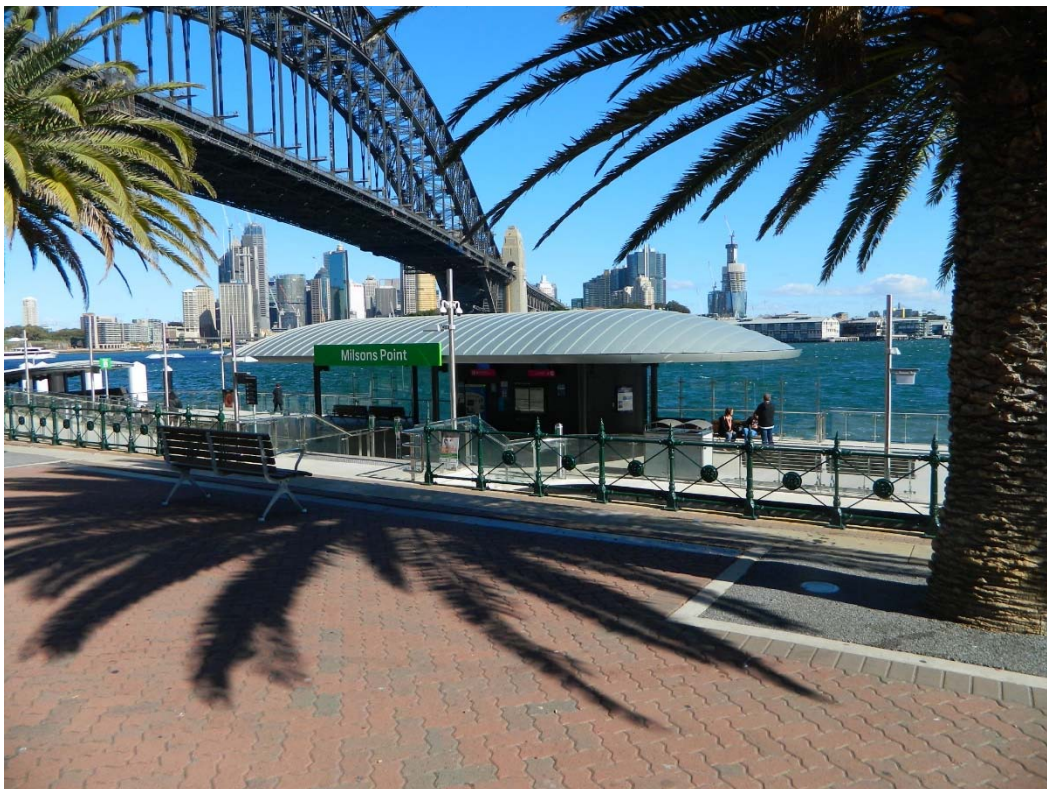
Photograph 9: Existing Ripples Café on Olympic Drive.



Photograph 10: Existing presentation to Olympic Drive.



Photograph 11: Existing stairs from Paul Street to Olympic Drive on the western portion of the site, looking south.



Photograph 12: Milsons Point ferry wharf, opposite the site in Olympic Drive.



Photograph 13: No. 1 Northcliffe Street, located on the opposite side of Paul Street to the north of the site.



Photograph 14: Bradfield Park, looking south towards the Harbour Bridge and subject site.

RELEVANT BACKGROUND

North Sydney Olympic Pool was opened on 4 April 1936 (one year after Luna Park).

In December 1998 approval was granted for upgrades and extensions to the development including a 25m pool and associated facilities, new restaurant, upgrade of existing gymnasium, provision of aerobic facilities and upgrading of creche and kiosk facilities.

The following is a list of more recent development approvals:

DA 73/13 (13/6/2013)	Internal alterations, new door and shutter to Ripples Café.
DA 126/12 (30/7/2012)	Construction of a new plant room for installation of a co-generation plant.
DA 256/07(14/2/2008)	New enclosure to Olympic Park, fencing and disabled toilet.
DA 165/04/3 (22/11/2006)	Modifications to approved louvres and sunshades.

A pre-lodgement meeting was held with applicants and their advisors and attended by Council officers, GML Heritage Consultants and the author of this report on 26 August 2019.

The development application was lodged on 30 October 2019 (*"the original proposal"*) and was publicly notified and referred to relevant authorities, consultants and Council technical officers for comment. Following preliminary assessment, Council wrote to the applicant on 20 March 2020 seeking additional information.

The applicant submitted amended plans and additional information on 7 April 2020 (*"the amended proposal"*). The following assessment report considers the amended proposal.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the following works:

Demolition

Level 1:

- Remove 50m pool.
- Remove children's pool and wading pool.
- Remove Ripples Café and kitchen.
- Remove fence and gates in south-eastern corner of site.
- Remove change rooms and ancillary facilities.
- Remove 7 x cabbage tree palms (to be transplanted elsewhere within the North Sydney Council area).

Level 2:

- Remove grandstand and structures to rear.

- Remove part of sun deck (retain northern portion).
- Remove plant rooms.
- Remove stairs connecting Paul Street and Olympic Drive.
- Remove 3 x crepe myrtle trees (two to be transplanted on site).

Level 3:

- Remove wading pool and spa.
- Remove pool hall.
- Remove administration building.
- Remove plant room.
- Remove landscape structures.

Construction

Level 1:

- Outdoor pool, 1.35m – 2.0m deep, measuring 50.0m x 20.0m (8 swimming lanes) with access ramp and stairs.
- Children's pool, including learn-to-swim pool, splash pad and beach entry.
- Ripples Café, dining area and kitchen (also providing kiosk to pool area).
- Entry/exit and bin store to Alfred Street.
- Creche under sundeck.
- Male, female and family change rooms under grandstand.
- Lifeguard room, first aid room, and staff rooms.
- Store rooms.
- Plant room and heat pump room.
- Gym program rooms, including area under Paul Street stairs.
- Function room foyer.
- Pedestrian ramp on Olympic Drive.
- Landscaping adjacent to children's pool area.

Level 2:

- Grandstand (capacity: 900 people).
- Main gymnasium and men's, women's and disabled facilities.
- Pool plant room.
- Sundeck and gelato bar.
- Reconstruct stairs connecting Paul Street and Olympic Drive.

Level 3:

- Pool hall.
- Solar / photovoltaic panels on roof of pool hall.
- Access ramp and stairs to existing 25m pool.
- Program pool with hydrotherapy/spa pool, access ramp and stairs, 0.9m – 1.1m deep, measuring 25.0m x 12.0m.
- Male, female and family change rooms.
- Administration facilities including first aid room, swim school office and store room.
- Pool entry and retail area.
- Café with indoor and outdoor seating.

- Excavation and provision of landscaped area adjacent to northern side of pool hall (incorporation of existing Hopkins Park area into pool area) including 2 x crepe myrtle trees transplanted on site.

All levels:

- Lift access and overbridge within original pool entry structure.
- Lift access at western end of site.
- Stairs connecting children's pool area to sundeck.
- Provision of bus/coach parking adjacent to front entrance on Alfred Street.
- Widening of footpath on Alfred Street outside pool entry.
- Ten bicycle racks (20 bicycle spaces).
- Restoration and conservation works on retained structures.

Land Use

- 50m swimming pool (outdoor)
- Children's pool and splash pad
- Grandstand (900-person capacity)
- 25m indoor pool
- 25m program pool
- Gymnasium and spin room
- Restaurant (Aqua Dining, existing)
- Cafes (Ripples Café on Level 1 and café on Level 3)
- Sundeck and gelato bar
- Changerooms and toilets
- Entry and ancillary retail
- Ancillary office, storage and plant rooms
- The existing and proposed hours of operation are summarised in the following table:

Weekdays Use	Open Existing	Proposed	Close Existing	Proposed
Aquatics general	5.30am	5.00am	9.00pm	11.00pm
Splash pad	N/A	9.00am	N/A	9.00pm
Aqua Dining	12.00pm	12.00pm	12.00am	12.00am
Ripples Café	8.00am	8.00am	11.30pm	12.00am
Upper level café internal	N/A	5.00am	N/A	12.00am
Upper level café external	N/A	7.00am	N/A	12.00am
Gym	5.30am	5.00am	12.00pm	11.00pm
Upper level courtyard	5.30am	7.00am	9.00pm	7.00pm
Weekends Use	Open Existing	Proposed	Close Existing	Proposed
Aquatics general	7.00am	5.30am	5.30pm	8.00pm
Splash pad	N/A	9.00am	N/A	8.00pm
Aqua Dining	12.00pm	12.00pm	12.00am	12.00am
Ripples Café	7.30am	7.30am	12.00am	12.00am
Upper level café internal	N/A	5.00am	N/A	12.00am
Upper level café external	N/A	7.00am	N/A	12.00am
Gym	5.30am	5.00am	10.00pm	11.00pm
Upper level courtyard	5.30am	8.00am	9.00pm	8.00pm

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the EPAA are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Planning Proposal 7/19 – North Sydney LEP Review 2019”, SEPP No. 55 – Remediation of Lan and draft SEPP” and “Draft SEPP – Environment” in this report.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	See discussion on “North Sydney Development Control Plan 2013” and “Foreshores and Waterways Development Control Plan” in this report.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent (refer to Condition F1, F2, F7 and F8).</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, enable Council to request additional information in relation to a development application. Additional information was requested on 20 March 2020 and provided on 7 April 2020. Further additional information was requested on 29 May 2020 and provided on 12 June 2020.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent (refer to Condition E35).</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent (refer to Condition F1).</p> <p><u>Clause 98(1)(b)</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98(1)(a)</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent (refer to Condition F1).</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the North Sydney Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will have a positive social impact in the locality through the provision of recreational and associated facilities available to the public.</p> <p>(iii) Economic Impact The proposed development will have a positive economic impact on the locality through the provision of employment during construction and in the ongoing operation of the swimming pool complex.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered to be suitable for the proposed development due to its accessibility, location adjacent to the harbour, historical land use, and relationship to adjacent land uses.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	The proposal is the redevelopment of a public facility that is necessitated by the age and poor condition of a number of existing buildings and structures. The proposal will enable the ongoing provision of recreational facilities to the community in a manner that retains the heritage significance of the site and is considered to be in the public interest.

CONSENT AUTHORITY

As North Sydney Council is the applicant and owner of the land and this proposal has a Capital Investment Value (CIV) of greater than \$5 million, the consent authority for the development application is Sydney North Planning Panel. The CIV is \$43,518,495.

EXTERNAL REFERRALS

Ausgrid

No objections raised, subject to conditions (***refer to Condition D4***).

Council of the City of Sydney (13/12/2019)

I write on behalf of the City of Sydney to object to the proposed redevelopment of the North Sydney Pools. Notably, the reasoning to demolish the existing 25m indoor pool building other than “displaying evidence of corrosion and dilapidation” and not meeting current regulatory and performance requirements, does not warrant complete demolition of the building.

A review of the DA documentation suggests that the existing indoor structures have not been “upgraded and adapted in the new facility”, but merely demolished to accommodate the increase in the indoor floor area to include a new second pool and additional indoor facilities.

No structural and technical evidence has been provided to support the conclusion of demolition, nor is there evidence of an analysis being undertaken to examine the condition or non-compliances of the existing structure.

The 1997 two-stage competition was considered exemplary at the time and forged the

way for local government to elevate quality design for public projects. The panel of assessors, being Robin Dyke, Peter Elliot (Melbourne), Richard Johnson, Peter Kingston, Sam Marshall and Genia McCaffrey, ensured that North Sydney obtained a design solution that was sensitive to the remarkable site given its highly visible setting on the harbour edge.

The current proposal disrespects the process and architectural integrity of the building. The modest design was aptly selected in its demonstration to simplistically maximise views of the Bridge, Harbour and outdoor pool below. The demolition of this building blatantly undermines the value and purpose of the design competition process that, overall, seeks to achieve high quality architectural, landscape and design. Acknowledgement should be given to HASSELL as the winning firm of the design competition. Under the moral rights legislation, North Sydney Council have an obligation to ensure that HASSELL are consulted with and any proposed works to the building be made in collaboration with this reputable firm.

In consideration of the above, there is significant merit in retaining the indoor pool building and redesigning the proposed development to incorporate any additional facilities in a meaningful and sympathetic extension to the existing indoor pool building.

As proposed, the development and specifically the demolition of this recent and exemplary building is unsustainable and would remove any possibility of the building's future contribution to North Sydney and additionally to Sydney's architectural heritage. Accordingly, the building should not be demolished. The development must maintain the respect that is rightfully owed to the building as a design competition winner.

[Assessing officer's comment: The design merit of the existing pool hall is recognised. It is, however, in poor condition currently. The Structural Engineering Review by Thomson Taylor Whitting (NSW) Pty Ltd ("TTW") made the following observations:

- *The steel framed roof canopy is in a deteriorated condition, with corroded structural steel and cladding sections noted, and significant paint peeling.*
- *Several steel connections to concrete hobs are in a severely corroded condition.*
- *Concrete vertical sections below ground, forming the pool structure show efflorescent staining but the concrete appears sound. There was no evidence of reinforcement corrosion observed.*

The TTW report identifies that "*undertaking a full program of repairs to the pool hall, to achieve a further 20 years of service, will be expensive*" and opines that "*retaining and repairing the existing pool hall will not give value to the community*".

It is considered that retention of the existing pool hall structure would place an excessive constraint on the site and its ability to provide for the variety of recreational facilities that are proposed. In particular, it is accepted that the provision of a program pool in addition to the existing 25m pool represents a significant benefit to the community and that to achieve this outcome would not be practical if the existing pool hall were to be retained, given its conditions as identified in the TTW report.

The design of the replacement hall has been a matter of debate, particularly in the comments of the North Sydney Design Excellence Panel and in the responses to the public notification of the proposal. The applicant has responded to the suggestions of the Design Excellence Panel.

The amended proposal includes the following changes, made after the comments from the City of Sydney Council quoted above:

- Addition of two rows of skylights with outrigger beams to the east and west of the pool hall similar to the current design.
- Articulation of the roof overhangs to provide a finer and more delicate edge and character to these elements.
- Addition of an awning roof to the northern pool hall facade to further articulate this facade and to manage overlooking into the pool hall.

With regards to consultation with HASSELL Architects, the architectural firm that designed of the existing pool hall, the Statement of Environmental Effects provides the following commentary:

Hassell Architects were the designers for the 1998 additions to the aquatic centre, including the upper level indoor aquatic facility and restaurant addition to the north of the site. BHA met with Hassell on the 24 September 2019 pursuant to the Copyright Amendment (Moral Rights) Act 2000.

BHA presented the proposed scheme, where discussions focussed on the proposed demolition of the indoor pool structure and the measures to be incorporated to respect the works designed by Hassell:

- *Retention of portions of the structure where possible.*
- *Retention of the restaurant addition.*
- *Respecting the material palette and general building forms of both the retained and demolished portions of the Hassell works.*

The response from Hassell is summarised below:

- *Hassell acknowledged that Council's decision to demolish the upper level indoor aquatic centre would have involved a considerable review of alternative options.*
- *Whilst Hassell acknowledged that the design overall was considered, they regret the loss of the original building fabric and may provide a submission to the DA during the public exhibition phase of the DA.*
- *Hassell requested a copy of the current designs. However, upon instruction from the applicant a copy was not provided as the DA will be made publicly available during the public exhibition phase.*
- *Further to the meeting with Hassell, roof overhangs to the south-western and north-eastern sides of the proposed upper level indoor aquatic facility has been incorporated to reflect the current roof overhang form in Hassell's current design.*

As foreshadowed, HASSELL Architects made a submission on 11/12/2019, stating that contact was limited to a briefing which was received from the project architects just prior to the submission of the development application. HASSELL Architects objected to the proposal.

The development approval process is not considered to be the appropriate mechanism for enforcement of rights under the *Copyright Amendment (Moral Rights) Act 2000* – this would be a matter between the relevant parties. The process involves a party who proposes alterations or demolition to notify the affected party of the proposed works and permit 3 weeks for a response. If a response is received a further 3 week period is provided for consultation in good faith.

The proposal, particularly the pool hall, is considered to be respectful of the design merit of the existing pool hall as evidenced by the design refinements made to the proposal in response to the comments from the North Sydney Design Excellence Panel.]

Foreshores and Waterways Planning and Development Advisory Committee

No objections raised and no conditions requested.

NSW Department of Primary Industries (9/12/2019)

No objections raised, subject to conditions (*refer to Conditions D5 and D6*).

NSW Heritage Council (20/5/2020)

North Sydney Olympic Pool is listed as a local heritage item I0537 (NSLEP 213) and is adjacent to Luna Park which is listed on the State Heritage Register (SHR No. 01811). The following further comments are provided regarding the updated proposal's impact to Luna Park:

1. *As outlined previously, a general policy of the Luna Park Conservation Management Plan, is that the visual and physical relationship between Luna Park, Sydney Harbour and other harbourside icons (such as the North Sydney Olympic Pool) must be maintained (GML 2019, p75).*

Whilst the updated proposal retains a greater area of the polychrome brickwork façade along the eastern façade, the 8.5 metre high contemporary glass and steel canopy to Ripples Café, set approximately one metre below the parapet, still dominates the visually prominent corner of the sundeck and covered colonnade, both identified as elements of outstanding significance within the NSOP CMP and high significance within the 2015 updated gradings.

To ensure the visibility of the significant southeast corner of the reconstructed polychrome brick parapet, the contemporary canopy should be lowered so that it is no higher than the base of the parapet to ensure views from the public domain to NSOP and Luna Park will be retained and conserved so as not to detract from the important visual curtilage and setting of the State significant Luna Park or have an adverse impact on the historical and aesthetic significance of the both items.

[Assessing town planner's comment: The concerns raised by the NSW Heritage Office reflect those raised in the comments from GML Heritage, detailed below. The applicant's response to these issues is also detailed below.]

NSW Natural Resources Access Regulator (30/4/2020)

No objections raised and no conditions requested.

Sydney Water (15/6/2020)

Sydney Water has reviewed the application based on the information supplied and provides the following comments to assist in planning the servicing needs of the proposed development.

Water and Wastewater Servicing

- *The proposed development presents potentially large water servicing demands and as such, further investigation will be required to determine the servicing requirements for this site including detailed water and wastewater demands and discharge volumes/flow rates, proposed connections and security of supply provisions.*
- *It is recommended that a Water Servicing Coordinator is engaged as soon as possible, and a feasibility application is lodged with Sydney Water prior to a Section 73 application being made.*
- *It is recommended that an inception meeting is held with Sydney Water after the proponent has prepared a detailed concept servicing proposal for potable water and wastewater services.*

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions, amplifications and adjustments, will be provided once the development is referred to Sydney Water for a feasibility application.

[Assessing town planner's comment: The future arrangements the operator of the facility makes with Sydney Water is not a matter relevant to the determination of this development application.]

Transport for NSW (11/12/2019 and 11/5/2020)

No objections raised, but it was noted that the property is within a broad area currently under investigation for the proposed Western Harbour Tunnel and Beaches Link motorway.

INTERNAL REFERRALS

Design Excellence Panel

The North Sydney Design Excellence Panel (NSDEP) met on 10 December 2019 and considered the original proposal. The NSDEP raised a number of concerns regarding the proposal and concluded *"the Panel does not support the proposal in its current form"*.

The NSDEP met again on 12 May 2020 to consider the amended proposal as well as the project architects' response to the Panel's comments. The NSDEP commented *"the Panel acknowledges the significant improvements made to the proposal and commends the architects for their response to the issues raised previously. The Panel still has some concerns that warrant further attention"* and concluded *"the Panel provides qualified support for the proposal, subject to the identified issues being satisfactorily addressed"*.

The issues identified by the NSDEP can be summarised as:

- *The composition of the roof over the grandstand and indoor swimming pools "results in a less fine grain outcome and is not of equal refinement and elegance to that of the existing" and "the proposal could also incorporate solid end panels where the building touches the boundaries to screen the awkward acute angles"*.
- *"Some area should be retained for public use on the Paul Street – Alfred Street corner, with new plantings and possible seating" and "there would be opportunity for two small indented planting/seating spaces on both footpaths"*. Details of a fence to protect

pedestrians on Paul Street / Alfred Street from falling into the landscaped area and to provide privacy was requested.

- Suggestions for further development of the forecourt configuration to provide a “welcoming gathering space” and treatments “amplifying the sense of arrival space leading into the site”.
- Further resolution and detailing of the colours, composition and sizing of the steelwork forming the glazed entrance.
- Provide a new pedestrian crossing at the entrance to the site on Alfred Street.
- Relocate the garbage storage area existing and proposed on Alfred Street.
- Redesign the roof over Ripples Café to reduce its apparent height and extent.
- Redesign the change rooms on Level 3 (indoor pool hall level) to “enable change room areas with increased ceiling height and access to natural light”.

Council wrote to the applicant on 29 May 2020 seeking a response to the comments from the NSDEP. The applicant responded on 12 June 2020. With regards to the issues listed above:

The Design of the roof over the grandstand and Indoor swimming Pool continue to be developed to address functional requirements and the suggestions of the design excellence panel.

The architect is developing concepts for the marking of the corner of Alfred and Paul Streets with a Civic Guesture with signage on an urban art piece that marks this as a public facility and the heritage values of the site.

The green "hedge" structure surrounding the open space has been graded in height to allow for views through the Pool Hall Glazing to the harbour and privacy to users of the Pool hall and Green space. [The architect is] developing details of the balustrading and framing as part of the Construction Certificate Package. The current developments with continuous integrated balustrading are shown in the 3-D indicative views.

All planting to street boundaries and all existing street planting will be retained to protect the exiting landscape character of the site and streetscape. Additional plantings of 3 canary Island palms within the site and at the streetscape at level 3 reinforce the formal landscape plantings characteristic of its locality and the style of the architecture.

A pedestrian crossing is supported, however it is outside of the scope of the current project.

The garbage room locations and functions have been addressed in the Development Application Report. The function of the small garbage room to Alfred street is to serve the Ripples café and Level 1 pool concourse. Most waste is diverted to the Paul Street frontage, minimising the size of waste storage to the Alfred street location. Unfortunately, the location selected is the only one available to a street frontage and serving Level 1. Its location keeps waste vehicles away from Olympic drive. The room itself is fully screened in a green wall and roof and the details of the screen and doors have been more fully developed to ensure the appearance is in keeping with its prominent location.

The Design Team consider the further refinements included as part of this response provide adequate detail for the development consent to be supported.

Development Engineering

No objections raised, subject to conditions (**refer to Conditions B1, C23, C26, C27, C28, C29, C30, C31, C32, D3, E16, E17, E18, E22, E27, E28, E29, E30, G8, G9 and G10**).

Environmental Health – Acoustic

No objections raised, subject to conditions (**refer to Conditions C11, C12, C13, C14, G5 and I6**).

Environmental Health – Contamination

No objections raised, subject to conditions (**refer to Conditions C10, E34 and G4**).

Heritage Assessment

Council commissioned an external Heritage Assessment of the application by GML Heritage.

The assessment of the original plans raised numerous concerns. The proposal was subsequently amended and further comments were provided on 29 May 2020:

The amended proposal and additional information have sought to address some of the heritage concerns raised in Council's letter of March 2020, as summarised below:

1. New enclosed entry:

The new glazed entry lobby in front of the original entrance building has been amended so that it is set back from the original entrance, which would remain unobscured and visually prominent when viewed from the public domain. This amendment has largely resolved the concerns in relation to the heritage impact of the new enclosed entry. However, it is recommended that the roof of the proposed structure be lowered such that it is no higher than the double string course on the parapet of the original entrance building, in order to ensure that the new glazed lobby structure is subservient in scale to the original entrance tower, and to allow more of the original entrance element to remain externally visible from the public domain.

In addition, further details of the proposed structure should be provided, including the size, colours and details of the steel support structure and details of the glazed component, and fixings to the existing brick walls. The details should be designed such that the impact on the original structure and fabric is minimised. The new structure is to be designed to be lighter and more transparent, in order that the brick walls are visible from the exterior.

2. Eastern sundeck and children's swimming pool:

The reconstruction of a greater portion of the original eastern wing of the pool complex, including the sundeck and colonnade, is a positive heritage outcome, allowing the complex to retain its original enclosed form. The historic sundeck and covered arcade/colonnade that form the original eastern wall of the complex are identified as elements of outstanding significance within the NSOP CMP and high significance within the 2015 updated gradings.

These structures enclose the pool complex along its eastern edge and form an important component of its original enclosed building form.

It is acknowledged that reconstruction of the eastern wing is required to construct the expanded children's pool and to allow for changes in level required for level access throughout the pool concourse. The detailed design of the reconstructed colonnade and sundeck should include the reuse of the polychrome brickwork and should include the use of similar render details to the colonnade. The details of the reconstruction and proposed water feature should be included in a Schedule of Conservation Works, which is recommended as a condition of consent, and the design and construction should be guided by a heritage architect to ensure an appropriate heritage outcome.

It is noted that the amended proposal does not allow for the complete retention of the eastern enclosing wing, as the new sundeck and colonnade terminate at the northern end of the new kiosk kitchen and its roof. It is recommended that the proposal be amended so that the sundeck extends across the roof of the kiosk kitchen and the brick parapets are retained on both the eastern and western side of the original corner building.

The walls to the part of the kiosk that extends into the pool concourse area should be of lightweight construction to clearly distinguish this addition from the original brick structure, and should be designed and constructed to allow this element to be reversed should circumstances change in the future. This can be addressed by condition of consent or through the provision of further amended plans.

The size and shape of the original children's pool is proposed to be interpreted in the new learn- to-swim pool, through the use of tiling that reflects the tiles of the existing children's pool. Supplementary interpretation would be needed to make this understandable. These elements should be detailed within the Schedule of Conservation works to ensure it is guided by heritage advice and tied to the consent.

The deletion of the proposed steel framed shade structure over the children's pool has removed an element of the original proposal that would have resulted in a serious detrimental impact on the character and setting of pool complex, including in the iconic views of it and Luna Park.

It is noted in the amended documentation that the applicant is pursuing the detailed design of the previously proposed shade structure to 75% completion, suggesting the possibility of its re-emergence in a future modification to the consent. As previously advised, the proposed steel framed shade structure over the children's pool has a scale and character that would dominate the original structures of the pool complex, in a highly visible location, resulting in an adverse impact on the heritage values of the pool complex and the setting of Luna Park. The scale and form of the previously proposed shade structure cannot be supported on heritage grounds. Any shade structure for the children's pool should have a much reduced scale and be designed to have minimal impact on views to the pool and Luna Park.

3. Additions to south-eastern corner of complex:

The amended proposal includes a reduction in the height and scale of the proposed roof over the café in the southeast corner so that it is lower than the historic corner element of the pool complex. The element is located at a highly visible location within the visual curtilage of Luna Park, and the impact at this critical remains excessive. A further reduction in height of the structure is required to reduce the impact of the structure. This is a critical part of the

complex when viewed from the public domain and harbour, and forms part of the setting of Luna Park.

To further reduce the impact of this structure, it is recommended that the roof of the proposed structure be lowered such that it extends no higher than the base of the parapet of the corner building and sundeck. This will ensure that the new glazed structure is subservient in scale to the original pool structure, and allow more of the original element to remain externally visible from the public domain.

4. Replacement of grandstand:

The height of the roof of the grandstand's upper level has been further lowered, which has assisted in reducing the impact on the original scale and form of the complex. In addition, Council has engaged an independent heritage engineer to peer review the structural report which has demonstrated that the grandstand structure is at the end of its usable life. The replacement of the grandstand and the new shade structure over are now considered acceptable on heritage grounds.

GML Heritage reached the following conclusions:

The development has been amended in response to concerns raised in relation to the unacceptable heritage impacts of earlier designs, by the removal or reduction in scale of new elements (including the enclosed entry and the structure over the children's pool) and the retention of additional original features and fabric. The amended proposal has addressed many of the previously raised issues. However, concerns remain about the height and structure of the proposed entry lobby and café at the south-east corner and the heritage impact of these elements. Similar concerns have been raised by Heritage NSW and Council's Design Excellence Panel.

Accordingly, further amendments are requested to further reduce the heritage impacts – including the reduction in the heights of the roofs over the proposed entry lobby and café at the south-east corner, and submission of additional details about the design of these elements.

Subject to these amendments being submitted and approved, and specific conditions of consent being imposed the Development Application (as amended) would generally comply with the provisions of Clause 5.10 (Heritage and Conservation) of the NLEP 2013 and the relevant heritage controls in the NSDCP 2013. Although the proposal includes non-compliances with some detailed heritage sections of the DCP, many of these are not relevant to this development. In addition, the proposal includes conservation works to, and revitalisation of, the heritage item with significant public benefit by providing enhanced public facilities.

GML Heritage recommended further amendments to the proposal:

Entrance Lobby/Retail Structure

- *The roof of the entrance lobby structure should be lowered such that no part of the structure extends higher than the double string course of the original entrance building, in order to ensure that the new structure is subservient in scale to the original entrance tower, and to allow more of the original entrance element to remain externally visible from the public domain. Revised plans showing this amendment and the relative RLs are to be submitted with the Construction Certificate documentation.*

- *Further details of the proposed structure should be provided, including the size, colours and details of the steel support structure and details of the glazed component, and fixings to the existing brick walls. The details should be designed such that the impact on the original structure and fabric is minimised. The new structure is to be designed to be lighter and more transparent, in order that the brick walls are visible from the exterior.*

Sundeck and Café Roof

- *The sundeck should extend across the roof of the kiosk kitchen to the southern wall of the pool complex. The brick parapets should be retained on both the eastern and western sides of the original corner building, in order to retain the masonry enclosure.*
- *The roof over the outdoor seating of the kiosk at the south-eastern corner of the complex is to be lowered such that it extends no higher than the bottom of the parapet of the original brick corner element, in order to ensure that the new glazed structure is subservient in scale to the original pool structure, and to allow more of the original element to remain externally visible from the public domain.*

Walls to Kiosk

- *The walls to the part of the kiosk that extends into the pool concourse area should be of lightweight construction and material to clearly distinguish this addition from the original brick structure. The structure should be designed and constructed to allow this element to be reversed should circumstances change in the future.*

The applicant was advised of these recommendations and responded on 12 June 2020. Amendments to the plans included:

- The lowering of the roof of the new entrance lobby/ retail structure and submission of further details of its design;
- The lowering of the roof over the outdoor seating area of the café at the south-eastern corner of the complex; and
- Further details of the café structure within the pool concourse.

GML Heritage undertook a review of the Applicant's response and provided the following comments:

Heritage Assessment of Amendments

The amendments have addressed the concerns raised in relation to the entrance lobby/retail structure and the roof over the outdoor seating at the south-eastern corner. The reduced size of these new structures helps to retain the visual prominence of the original polychromatic brickwork and decorative elements. They are now subservient in scale to the original elements of the pool complex and are considered to be acceptable from a heritage viewpoint. A condition is recommended that further details of the structures, and their connection with original fabric, be provided to Council for approval prior to the issue of the Construction Certificate.

The application has not been amended to include the extension of the sundeck across the roof of the kiosk kitchen to the southern wall of the pool complex, as recommended by GML,

the DEP and Heritage NSW. The applicant's arguments that the sundeck wing does not currently extend to the southern wall (due to the inclusion of a stair at its southern end), and their desire to provide mezzanine storage within the café, are not considered to justify removal of this part of the significant enclosed form of the complex. The sundeck wing should extend to the southern wall as a three-dimensional form in order to retain the connection between the southern and eastern parts of the historically significant enclosed form. A condition of consent requiring revised plans showing this amendment, to be submitted with the Construction Certificate documentation, is recommended to address this outstanding issue.

Shade Structure over Children's Pool

The project architects, in their submission, have incorrectly stated that GML recommended removal of the shade structure previously proposed over the children's pool. Following assessment of the original application, GML advised that the proposed design of the structure was inappropriate from a heritage viewpoint due to its excessive height and bulk which would have overwhelmed the eastern end of the complex including the historic eastern wall and other significant elements. GML advised that less dominant alternative design options, with reduced scale, should be considered. That advice was repeated in discussions with the applicant. Contrary to the project architects' statement, GML did not, and does not, recommend that there should be no shade structure over the children's pool. The design of any future shade structure should respect the scale and form of adjacent heritage elements.

Conclusion

The amendments to the entrance lobby and roof over the café seating have reduced the heritage impacts of the proposal at critical locations and addressed the issues raised in relation to the heritage impacts of these elements. An additional condition of consent is included for the submission of further details of the structures and their connection with original fabric for approval of Council prior to the issue of the Construction Certificate.

The applicant has not amended the proposal for alterations to, and removal of, the southern end of the historic sundeck. A further condition of consent, requiring revised plans showing this amendment to be submitted with the Construction Certificate documentation, is recommended to address this outstanding issue.

In conclusion, no further objections to the application, as amended, are raised on heritage grounds, subject to the imposition of the following conditions on the consent, should the application be approved.

GML Heritage also recommended conditions of consent relating to the following matters, which are considered appropriate:

- Sundeck (**Condition A2**)
- Details of entrance lobby and roof over café seating (**Condition A3**)
- Schedule of Conservation Works (**Condition C1**)
- Reuse of polychrome brickwork (**Condition E1**)
- Salvage report (**Condition C2**)
- Movable heritage (**Condition C3**)
- Interpretation plan (**Condition C4**)
- Archival recording (**Condition C5**)
- Heritage site induction (**Condition D1**)
- Heritage Architect to be commissioned (**Condition C6**)

- Interpretation of original leisure (children's) pool (**Condition C7**)

Structural Engineering Peer Review

Council commissioned a peer review, undertaken by Taylor Thomson Whitting (NSW) Pty Ltd, to consider whether existing fabric could be conserved, as opposed to demolished, given the heritage significance of the site.

The review considers each element of the existing complex that the Development Application proposes demolished and advises the current condition of that element and any options for its retention. Where relevant the impact the retention would have on the development proposal is also discussed.

The review provides advice on the following elements of the proposal:

1. 50 metre pool

In our opinion, options for conserving the existing concrete structure of the 50m pool are limited because of the reported poor condition of reinforced concrete and continuing water leaks. It is unlikely that the pool slab will be able to be kept as any moisture in the ground will continue to corrode reinforcement and the expansion of reinforcement and heave beneath the new works will disturb the new works. In addition, the architectural drawings indicate that it is proposed that the slab be demolished. It may be possible that a proportion of the former diving pool slab (already infilled) could be left in place, isolated from the new pool structure and infilled with mass concrete, as an archaeological reminder of the former pool.

2. Indoor 25 metre pool and hall structure

It is proposed to retain the existing 25m pool, extending it along the south-west side to provide improved access to the water, and to construct a second accessible pool to the north. Retaining the existing pool hall would prevent this. It is our opinion that maintenance and repair of the 25m pool hall is overdue and that to undertake a full repair programme that would extend the life of the pool hall for a further 20 years would be expensive. Scaffolding to access the south-west roof cantilever would need to be constructed from the open corridor behind the male changing rooms and this too would be expensive to construct. It would also complicate access to undertake works to the grandstand area of the site, for example.

In conclusion, retaining the existing pool hall would significantly change the development proposal for a fully accessible program pool and would therefore reduce the amenity of the future complex. In addition, undertaking a full program of repairs to the pool hall, to achieve a further 20 years of service, will be expensive. Therefore, the cost of retaining and repairing the pool hall against the benefit of significantly improved future facilities needs to be considered. It is our opinion that retaining and repairing the existing pool hall will not give value to the community.

3. Children's and wading pools, including shade structures

In our opinion, options for conserving the children's and wading pool structures as they stand are limited because of the age of the structure. The condition of reinforced concrete to these pools will be similar to that of the 50m pool, which concrete testing and investigations have shown to be poor. The modern, basic shade cloth structures above both these pools are also close to the end of their service life.

4. Grandstand

We concur with Mahaffey's testing assessment that the grandstand reinforced concrete is at the end of its serviceable life and that concrete and supporting elements would require significant repair to make the grandstand serviceable once more. The current load capacity of the grandstand is unknown and in addition it does not comply with present-day access and egress requirements. Although the grandstand has a historical significance it is difficult to know how it could be integrated into any redevelopment scheme for reuse as a grandstand. Even if it could be there would be considerable maintenance challenges to its ongoing upkeep.

5. Western staircase

The steelwork supporting the western staircase is corroded and the suspended concrete landings and flights have been extensively repaired previously. In our opinion, options for conserving and reusing the staircase are limited because of its poor condition. Also, it would not be effective and waterproof as a roof to enclose the proposed gym and plantroom extensions.

The development proposes to salvage and construct the polychrome brickwork of the north-west wall, so that the reconstructed appearance of the staircase is similar. When salvaging bricks, we would recommend that a dismantlement and cleaning trial be undertaken in advance of full removal, to work out the best methods of careful removal and cleaning the bricks. It is inevitable that some bricks will be lost. With polychrome brickwork that has a random pattern it will be necessary to have more bricks than are needed to reconstruct the wall in a similar way. This will mean that matching bricks from elsewhere across the site will also need to be carefully salvaged and cleaned.

6. Plantrooms

It is reasonable that redevelopment of the pool complex to the extent proposed will require new and extended plantrooms. The walls marked for demolition are back-of-house and in poor condition. The north-western wall is badly cracked around the door leading to the external area beneath the western staircase. This wall requires reconstruction, to support the reconstructed stair. In our opinion, there is limited scope to conserve these elements of the building.

7. Sun Deck

The sun deck is part of the original pool complex, dating from 1936. The Sun deck has been modified over the years, with the installation of aluminium-framed doors and louvres and fibre cement panels. The Heritage Impact Statement for the pool development assesses the sun deck as having moderate heritage significance.

Constructed in 1936, cracks exist to concrete edge beams which suggest the onset of reinforcement corrosion. Given the sun deck's age, exposure to rain and to the harbour environment, it is likely that the concrete elements (perimeter beam and columns) are in a similar condition to the grandstand concrete. Tests undertaken to the grandstand concrete in 2018 by Mahaffey Associates concluded that the reinforced concrete is at the end of its serviceable life and that the concrete would require significant repair to make it serviceable once more. We assess that this will apply equally to the sun deck concrete.

A reason given in the Development Application for requiring the central colonnade area of the sun deck to be demolished is that the proposed regrading of surfaces around the new leisure pool will undermine the columns. We observed that the bottoms of brick columns are

presently slightly elevated above ground level and therefore any reduction in the ground level would expose more of the footing. We agree that it would be difficult and impractical to support and underpin the columns, introducing more brick course at their foot. The only practical option would be to take down and reconstruct the columns, if they were to be kept.

The redevelopment proposals show the leisure pool (presently the children's pool) extended north-east, past the sun deck, to a 'beach entry' close to Alfred Street. If this proposal is to be realised, we would agree that it would be impractical to retain the sun deck in its present form.

When taking down the sun deck we would advise that every effort be made to salvage bricks and other materials for repair works elsewhere in the complex.

8. Hall of fame (Level 1)

In our opinion there is no structural reason to demolish the original eastern portion of the Hall of Fame, if it can be worked into the new layout of the facilities. Demolishing the grandstand and present changerooms will remove a great deal of the internal feel of the building and sense of history that it engenders. Keeping a small portion of this, the eastern portion of the Hall of Fame, leading to the new changerooms, may help users understand the past history of the place. The Heritage Impact Statement assesses the Hall and Fame (and grandstand) as having High heritage significance. We would recommend that consideration be given to its retention if possible.

9. Western building (presently used as a gym)

Before development works at this corner proceed, we would recommend that the cause(s) of the apparent movement or settlement of the harbour-facing wall be investigated. The cause of movement should be repaired, and the wall underpinned if necessary.

The key to successfully opening-up the space beneath the western staircase as gymnasium space will be successfully waterproofing between the staircase and north-western wall of the complex without changing the appearance of the polychrome brickwork wall. How this is done will require careful consideration and may require more height of brickwork than envisioned on the development drawings to be demolished and reconstructed above the level of the stair treads. Early consideration of this detail is important, to minimise that amount of demolition required.

The Applicant was requested to provide additional information with regards to the apparent movement of the western building noted above, and this additional information was provided to Taylor Thomson Whitting (NSW) Pty Ltd for further assessment.

Further advice was received on 3 June 2020 advising that the applicant had resolved the issues relating to the extent of demolition proposed of the sun deck structure and the structural condition of the western corner building. The consultant remained concerned that the proposed method of waterproofing the area under the reconstructed Paul Street stairs may not be adequate. In this regard it is considered that these details may be addressed at Construction Certificate stage so long as any change in details does not result in the loss of heritage fabric. A condition of consent in this regard is included in the recommendation of this report (**refer to Condition A8**).

Landscape officer

A grove of 7 x mature *Livistona australis* (6-8m high) T4-T10 located on the eastern corner of the subject site are shown for removal to accommodate the construction of the proposed Learn to swim/Leisure Pool/Splash Pool structure and surrounds. This proposal also requires the removal of the majority of the existing natural lawn area, with the replacement of a small section of artificial turf. The removal of these trees and this natural lawn area is not supported. The proposed design does not appear to consider the value of the retention of these mature, native trees that would provide shade to the children likely to be in this area, nor the value of retaining an area of natural lawn which may be used by the children and accompanying adults most likely to be in this area of the complex. Reducing the size and shape of this pool complex would allow for the retention of all 7 *Livistona australis*, and the retention of natural lawn area. The proposed works within this area may impact on the TPZ of T11 & T12 *Phoenix canariensis*. Given the presence of Fusarium wilt disease in this area, any disturbance to the root zones of these trees should be avoided.

[Assessing officer's comment: The proposal will reduce the landscaped area on site and it is considered important to retain landscaping where possible. The applicant was requested to amend the proposal to retain the 7 x cabbage tree palms.

The applicant declined to amend the plans to retain these trees. In doing so the project architects stated that the palms were proposed to be relocated within the North Sydney Council area, that the area occupied by the palms was required for the facilities to meet the client's brief, that the trees did not have heritage significance, and that other more suitable planting was proposed (ie: 3 x phoenix palms).

The 7 x cabbage tree palms were planted around 2000 and the independent heritage consultants, GML Heritage, have advised that they do not have heritage significance.

It is considered that, on balance, the landscape benefits provided by the 7 x cabbage tree palms, and their contribution to the amenity of the site and the setting of the buildings, outweighs the need to provide the facilities that are proposed on this part of the site. The facility that is affected by the retention of the 7 x cabbage tree palms is the beach entry to the children's' pool. A condition of consent is recommended requiring the retention of the 7 x cabbage tree palms (***refer to Condition A4***).

The construction of the proposed bin enclosure within the TPZ and SRZ of T12, even with sensitive construction methods and strict adherence to hygiene measures poses even greater risk to this tree, and the bin enclosure should be relocated outside the TPZ.

[Assessing Officer's comment: The size of the bin enclosure has been minimised. The majority of waste storage for the site occurs on Level 3 adjacent to Paul Street. However, there is a need for some waste storage to be provided on Level 1 for Ripples Café. The options for the siting of this bin storage area are limited due to the need to minimise the impact of the bin storage area on other uses of the site and on the streetscape and public domain. The proposal includes details Arboricultural advice to ensure that the bin enclosure does not impact the health of tree T12. In these circumstances it is considered that the size and siting of the bin enclosure is satisfactory.]

No other objections raised, subject to conditions (***refer to Conditions C15, C16, C17, C18, C19, C20, D7, D8, D9, D10, D11, E5, E9, E10, E11, E12, E13, E14, G6, G7 and I7***).

Traffic and Parking

Council commissioned Transport and Traffic Planning Associates to undertake a review of the traffic and parking assessment accompanying the development application. The review reached the following relevant conclusions:

Following consideration of the report, inspection of the site and its surrounds at representative peak times and other relevant factors, it is assessed that:

- *The available public parking in the vicinity will be adequate for the increased visitation resultant to the upgrading of the pool*
- *The potential additional traffic movements generated will not result in any adverse traffic implications*
- *The available public transport services will be adequate to cater for increased visitation*
- *The proposed loading dock will improve the existing reliance on on-street parking for delivery and service vehicles*
- *The proposed footway widening will improve the provisions for pedestrians at the pool entry*

Transport and Traffic Planning Associates also recommended a condition of consent relating to the following matter, which is considered appropriate:

- *Travel advice on website (**refer to Condition I5**).*

Waste officer

The proposed development must adhere to the NSC DCP 2013 Section 19 - Waste Minimisation and Management and Part B: Section 2 - Commercial and Mixed Use Development requirements. A temporary holding bay for collections must be provided of sufficient size to accommodate the required garbage and recycling bins and located within 2 metres from the street boundary. Bins are not permitted on the footpath. Key access should be used for the garbage storage area.

No objections raised, subject to conditions (**refer to Conditions B1, C21, C22 and I8**).

SUBMISSIONS

Original proposal

The application was notified to the precinct committees and surrounding owners in accordance with Council policy from 15/11/2019 to 13/12/2019. 115 submissions were received, comprising 113 objections/suggestions and 2 providing unqualified support. The key issues raised in the submissions are summarised below and addressed throughout in this assessment report.

Configuration of pools and ancillary facilities.

- *Only 4 x 25m swimming lanes, which is insufficient*
- *The 25m pool is too shallow for use as a training facility and for dives*
- *The proposed warm water pool is too shallow for aqua classes (should be a minimum 1.3m), learn-to-swim classes and for use as a babies and parents facility*
- *A single, multi-use pool would be better*

- *The proposed warm water pool is too hot for aqua classes*
- *The 50m pool should not be divided into 2 x 25m pools with a floating barrier*
- *The 50m pool divided into 2 x 25m pools with a floating barrier is a good idea*
- *The change rooms should be bigger*
- *Disabled hoists should be provided as well as the proposed ramps*
- *The access ramps should be relocated so as not to obstruct class instructors*
- *Facilities require double hand rails for disabled access*
- *Family change rooms should include toilets*
- *Toilets should be provided within the change rooms rather than separately*
- *There should be more toilets*
- *The lifts are too small*
- *The children's pool is too shallow*
- *There is no need for a hydrotherapy pool*
- *The steps are too steep*
- *There is a lack of seating around the children's play area and pool*
- *There should be sun shade sails around the children's pool*
- *There needs to be room for yoga in the development*
- *The spa should be separate to the program pool*
- *The area around the children's pool is soulless and has insufficient sun shade*
- *Inadequate provision has been made for sun shade around the outdoor pools*
- *The office should be incorporated into the gym*
- *Existing facilities and draughty*
- *Would like the pool to be suitable for water polo (ie: 2.0m depth for 33m)*
- *Would like a chilled water plunge pool*
- *Provide a perimeter in-pool ledge for seating*
- *Replace the clear roof with a dark blue roof to reduce glare*
- *Meeting rooms and equipment storage may not be secure*
- *Suggests an additional pool situated in the gym for aquatic exercises*
- *Requests advice regarding hours during which pool access will be available for seniors and disabled persons*
- *Requests a separate pool for people with disability*
- *Concerned about affordability of use of the gym*
- *Requests windbreaks to improve amenity and usability*
- *Objects to loss of shallow pool adjacent to 25m pool*

Views.

- *The proposed café will obscure views from the 25m pool to the harbour*
- *The development will obscure "views of the harbour from the outside"*

The 50m pool should remain as a saltwater pool.

- *The saltwater pool attracts swimmers*
- *The saltwater pool requires less chemical treatment*

Noise.

- *The noise from swimming carnivals is excessive*
- *Additional noisy children's equipment is unnecessary*

Operating hours.

- *The proposed operating hours to midnight are excessive*
- *Additional event space on the site is inappropriate*
- *Carnivals and group events should finish by 9pm*
- *All uses should cease at 11pm*
- *Outdoor uses should cease at 10pm*

Light spill.

- *The existing NSOP facility results in light spill and it is requested that all lighting have hoods or be positioned and directed towards the pool*

Proposed reduction in capacity of grandstand from 1500 to 900.

- *The reduction in grandstand capacity is warranted*
- *The grandstand capacity should not be reduced as it caters to public schools, etc for swimming carnivals*
- *The grandstand is more important than the restaurant*
- *The grandstand should have sufficient bench seating and not tiered seating*

Over-commercialization of site / no need for cafes or shop.

- *No need for additional restaurants*
- *Design of fascia on café is unattractive*
- *The proposal is an overcommercialisation of the site at the expense of its heritage significance*
- *The commercialisation of the facility overwhelms its use as a swimming centre*
- *The proposed café will compete with local small business*

Just repair the existing pools / excessive cost of development.

- *The existing facilities should be maintained – other facilities aren't required*
- *The proposal is too costly*
- *Trying to be all things to all people does not work*

A larger gym.

- *A larger gym is a good idea*
- *A larger gym is unnecessary*
- *Recreational facilities such as a spin room can be provided elsewhere in the area*

Keep pool water as saltwater from harbour.

- *Having a saltwater pool attracts swimmers due to the buoyancy*
- *The use of harbour water will be an advantage during periods of drought*

Impact on heritage significance.

- *The new entrance will obscure the original stairs and entrance and damage the heritage significance of the building*

- *The proposal will have a severe and detrimental impact on the heritage significance of the NSOP site itself and on adjoining state listed items including the Luna Park precinct, Sydney Harbour Bridge and Milsons Point Wharf and Seawall*
- *The demolition of the grandstand, eastern sundeck, children's pool and 25m pool hall fails to conserve the heritage significance of the NSOP site*
- *The proposal does not achieve a reasonable balance between contemporary expectations, environmental sustainability and protection of heritage significance*
- *The demolition of the children's pool and tartan brick tiles reduces the heritage significance of the NSOP*
- *The proposal fails to comply with clause 13.5.1 Protecting Heritage Significance of NSDCP 2013*
- *The heritage significance of the change rooms will be lost*
- *The chamber behind the existing grandstand should be utilised to provide facilities and thereby avoid demolition of existing structures*
- *The demolition of the eastern wall impacts on heritage significance*
- *The demolition of part of the southern wall for Ripples Café will impact on heritage significance*
- *Supports the creation of a Hall of Fame*
- *Requests that the promenade palms be retained*

Overdevelopment.

- *The proposal represents an overdevelopment of a constrained site*
- *The heritage listing of the site means that redevelopment may not be able to be achieved in the form proposed*
- *Passive open space is being reduced*

Environmentally sustainability.

- *The proposal should meet a 6 Green Star rating, rather than the 4 Green Star rating that is proposed*
- *The existing co-generation plant should be retained*
- *The use of treated water instead of harbour water is not environmentally sustainable*
- *Suggests the relocation of solar panels from the roof of the 25m pool hall to other roofs that receive more sunlight*
- *Demolition of the existing 25m pool hall is contrary to ESD principles*

Car parking and access.

- *The proposal provides insufficient car parking*
- *Access from the pool to the ferry stop for be improved for disabled and elderly persons*
- *The alteration to the access ramp on Olympic Drive will impeded access of larger vehicles into Luna Park*
- *Directional signage for pedestrians to Luna Park is required during construction*

Demolition of 25m pool hall.

- *The demolition of the 25m pool hall disregards its architectural value*
- *The possibility of the future contribution of the 25m pool hall to the area's heritage is lost*
- *The demolition of the 25m pool hall disrespects the design competition process that led to its construction*

- *The 25m pool hall is 20 years' old and does not need replacement*
- *The 25m pool hall won the 2001 Australian Institute of Architects (NSW) Award for Architecture – Public Buildings*
- *The proposal does not give adequate recognition to the architectural merit of the existing 25m pool hall*
- *There was no consultation and limited engagement with the design firm or project architect of the existing 25m pool hall*

Buildings are unattractive.

- *The architectural styling of the proposal is inappropriate for an art deco precinct*
- *The shade cover over the children's pool is out of character with the existing facility*
- *The bulk and scale of the buildings is excessive*
- *Suggests flat glass roofs are pitched to prevent staining*
- *The bland glass structures are unattractive*

Design excellence.

- *The proposal fails to provide design excellence*
- *There should have been a design competition*

Hopkins Park.

- *Supports inclusion of park within NSOP area but requests that any fence not obstruct views from 20 Alfred Street South*

Paul Street stairs.

- *A lift or escalator should be installed on the Paul Street stairs*

Fire egress.

- *Distances to exits do not satisfy the requirements of the BCA*

Construction impacts.

- *Temporary fencing should not adversely impact Luna Park*
- *Luna Park should be consulted during the preparation of the Construction Management Plan*

Consultation and Notification.

- *The notification period is too short, particularly considering the volume of material involved*
- *The timing of the notification during the holiday period is unfortunate*
- *There should be further consultation with the community prior to the lodgement of a development application*

Assessing town planner's comment

The matters raised in the submissions were taken into consideration as part of a preliminary assessment of the application. A number of the matters raised in the submissions summarised

above, together with issues raised by referral responses, resulted in further information and amended plans being requested in a letter to the applicant on 20 March 2020.

Amended proposal

The amended proposal was notified to the precinct committees, surrounding owners in accordance with Council policy from 22/4/2020 to 22/5/2020. In addition, notification letters were sent to people who responded to the notification of the original proposal (where their postal address was provided).

Following concerns raised by members of the community that the information available on Councils website was at times difficult to access, the period allowed for the receipt of submissions was extended to 25/5/2020 thus allowing an additional weekend in which to access the available information and to make submission.

74 submissions were received, comprising 73 objections/suggestions and 1 in support. The key issues raised in the submissions are summarised below and addressed throughout in this assessment report. It is noted that the issues raised as a result of the notification of the amended proposal in many ways reflect the issues raised in the response to the notification of the original proposal.

- *Cost of works is excessive. Works should be limited to repairs and maintenance.*
- *Hours of operation excessive and consequential amenity impacts.*
- *Additions (steel and glass) are out of character with existing structure.*
- *Cafes and shops are unnecessary and / or excessive in size.*
- *Demolition and reduction in size of grandstand.*
- *Loss of saltwater pool.*
- *Overdevelopment of the site.*
- *Objects to loss of shading structure over children's pool.*
- *Re-open the pool now and don't delay until the redevelopment occurs.*
- *Publish a summary of the 115 submissions received during the original notification of the proposal.*
- *Change rooms are too small and have too few showers.*
- *Change areas and family changing area on the ground floor do not provide privacy, are too small and are impractical.*
- *Concern regarding pool temperature and depth, particularly for aqua aerobics.*
- *Recommends a single larger upper pool rather than 2 upper pools.*
- *Start blocks are required at both ends of the pool.*
- *Request details of what the future sun shade structure may comprise.*
- *Request that the 115 submissions received from the original notification be taken into consideration.*
- *Request amended plans be exhibited for 6 weeks.*
- *Objects to original pool entrance being obscured, for heritage reasons.*
- *Original sundeck should be retained and not rebuilt, for heritage reasons.*
- *Polychrome brickwork on eastern façade should be retained and not replaced with contemporary steel and glass, for heritage reasons.*
- *General heritage concerns.*
- *Proposal should display greater environmental sustainability (loss of co-generation plant, etc.) and loss of saltwater pool.*
- *Loss of 7 heritage listed cabbage tree palms.*
- *Insufficient off-street parking.*

- *Traffic impacts and noise.*
- *Lack of cost/benefit analysis.*
- *Failure to display design excellence.*
- *Loss of open space.*
- *Demolition of existing 25m pool.*
- *Loss of existing children's pool.*
- *Disabled facilities: Access ramps to pools are in the wrong location or hoists are required and lifts need to be enlarged.*
- *Lifts are too small.*
- *Gym space is too large.*
- *Proposed children's pool is too shallow and too small.*
- *Concerns raised regarding fire egress.*
- *Would like an explanation of the changes made to the plans.*
- *Objects to a new wall on the harbourside destroying original façade and iconic figures.*
- *Obstruction of vehicle access to Luna Park.*
- *Requests wayfinding signage during construction.*
- *Requests consultation regarding construction fencing.*
- *Requests consultation regarding Construction Management Plan.*
- *Requests works result in a 25m lap pool, 25m indoor pool at ground level, and a restaurant in place of the current 25m pool.*
- *Expansion of Ripples Café is detrimental to heritage significance of original pool.*
- *Objects to demolition of 25m pool addition (AIA awarded).*
- *Proposed grandstand is visually dominant.*
- *Inadequate structural and geotechnical information.*
- *Impact on adjoining heritage items.*
- *Objects to shade structure being considered as a separate application.*
- *Accessibility to pools is unclear or impractical.*
- *More than one group exercise room is required.*
- *Further consultation prior to the preparation of the DA should have been undertaken.*
- *Loss of tourism revenue.*
- *Objects to divider in 50m pool.*
- *No consideration of COVID-19 and social distancing.*

Assessing town planner's comment

The matters raised in the submissions have taken into consideration as part of the assessment of the application and are discussed below.

Additional Information – 12 June 2020

Further information was received from the Applicant on 12 June 2020. The information clarified a number of matters, sought justification for not further amending the proposal in a number of ways, and made minor changes to the plans. In accordance with the provisions of the North Sydney Council Community Engagement Protocol this information did not result in the renotification of the proposal.

CONSIDERATION

Local Government Act 1993

The majority of the site is classified as “*operational land*” under the *Local Government Act 1993* (“LG Act”).

However, Hopkins Park (that part of the site on the corner of Paul Street and Alfred Street) is classified as “*community land*”.

Section 36 of the LG Act requires the preparation of a Plan of Management for all community land. The Neighbourhood Parks Plan of Management applies to the Hopkins Park.

Section 35 of the LG Act requires that the land be used and managed in accordance with the relevant Plan of Management.

The Neighbourhood Parks Plan of Management provides for works over the short term, medium term and long term. However, at the time the Plan of Management was prepared the “long term” covered the period July 2014 – June 2015. Consequently, the proposal is outside the scope of the Plan of Management in terms of the time period that it covers.

Notwithstanding this, the Neighbourhood Parks Plan of Management includes numerous strategies that are ongoing. These include strategies as follows:

- Access and Circulation: control vehicular access into and through neighbourhood parks, provide safe and convenient access to the neighbourhood parks, encourage residents and visitors to discover the parks by bicycle and by foot.
- Community Involvement: provide opportunities for local user groups and the general public to become involved in new developments in neighbourhood parks.
- Alienation of public open space: ensure that future development does not significantly restrict use of neighbourhood parks by the general public.
- Maintenance: maintain neighbourhood parks to an appropriate standard and ensure all playgrounds are functional, safe and attractive.
- Safety and risk management: manage potential hazards in a timely manner and minimise the incidence of vandalism.

The proposed incorporation of the Hopkins Park area as a landscaped garden for use in association with the level 3 indoor pool and program pool is considered to be consistent with these ongoing strategies in the Neighbourhood Parks Plan of Management and to satisfy the requirements of section 35 of the LG Act.

Environmental Planning and Assessment Act 1979

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

State Environmental Planning Policy No. 55 – Remediation of Land/Draft SEPP (Remediation of Land)

Clause 7 of the SEPP requires that Council consider the effect of existing site contamination on the future use of the land prior to the issue of any development consent.

Council's Team Leader (Environmental Health) has reviewed the Detailed Site Assessment by Senversa Pty Ltd which concluded:

"It is the opinion of Senversa that based on the results of the previously undertaken desktop assessment, field observations made during this investigation and analytical data from collected soil and groundwater samples, that the site is not precluded from its ongoing use as a recreational swimming pool facility.

Due to the limited site access resulting from ongoing site operations and the presence of site infrastructure and based on the results of this investigation Senversa recommends the following is undertaken:

- During site development works, additional sampling of soil material in inaccessible areas should be undertaken to refine the understanding of the vertical and lateral extent of fill material and further assess soil materials for waste classification purposes.*
- A Construction Environmental Management Plan (CEMP) should be prepared that details the required management processes / procedures to be adopted during site demolition/construction works to ensure soils are handled / disposed appropriately. Senversa notes that where groundwater is encountered during development works, the CEMP should include details on required treatment and disposal requirements."*

The Team Leader (Environmental Health) responded to state that subject to compliance with the Senversa Report recommendations, soil testing for contamination (with associated remediation to be carried out if required), and asbestos management (**refer to Conditions C10, E34 and G4**) the land can be made suitable for the proposed development and therefore satisfy Clause 7 of the SEPP.

State Environmental Planning Policy (Coastal Management) 2018

SEPP (Coastal Management) 2018 applies to all land within the "coastal zone". The subject site falls within the coastal zone for the purposes of this SEPP."

Clause 13 of this SEPP provides matters for consideration for land within the *coastal environment zone*, such as the subject site. However, clause 13(3) provides that these considerations do not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. Because the subject site is within the Foreshores and Waterways Area, these considerations are not relevant to the proposal.

Similarly, clause 14 of this SEPP provides matters for consideration for land within the *coastal use area* but, because the land is also within the Foreshores and Waterways Area, these considerations are not relevant to the proposal pursuant to clause 14(3) of this SEPP.

Relevant matters in this SEPP are:

- Clause 15 – Coastal hazards. The proposal is no likely to cause increased risk of coastal hazards on the site or other land.
- Clause 16 – Coastal management programs. There are no coastal management programs applying to the subject site.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The proposal includes a creche that provides child-minding services whilst parents undertake other recreational activities on site.

SEPP (Educational Establishments and Child Care Facilities) 2017 contains provisions with regards to the development of premises for child care facilities. However, such provisions do not relate to the proposed development because the definition of “centre-based child care facility” in clause 5(1) of the SEPP specifically excludes:

- “f) *a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children’s parents are using the facility*”

Consequently, there are no provisions within this SEPP that have application to the proposal.

State Environmental Planning Policy (Infrastructure) 2007

The application was referred to Ausgrid in accordance with Clause 45(2)(a) of the SEPP. Ausgrid raised no objections to the proposal, subject to a condition (***refer to Condition D4***).

The proposal does not fall within a category that requires referral to NSW Roads and Maritime Services pursuant to clause 104 and Schedule 3 of the SEPP.

SEPP (State and Regional Development) 2011

Clause 20 of SEPP (State and Regional Development) 2011 prescribes that certain development, listed in Schedule 7 of the SEPP, is declared to be regionally significant development. Schedule 7 of the SEPP includes development that has a capital investment value of more than \$30 million and Council related development that has a capital investment value of more than \$5 million and, consequently, the proposal is declared to be regionally significant development.

The consequence of this is that the Northern Sydney Regional Planning Panel is the consent authority for this development application pursuant to section 4.5(b) of the *Environmental Planning and Assessment Act 1979*.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The subject site is a non-rural area (zoned RE1 Public Recreation). There are a number of trees within and adjacent to the subject site.

The proposal has no impact on trees on land adjoining the site, in particularly the row of 7 x phoenix palms located on Olympic Drive.

The proposal seeks to remove 7 x cabbage tree palms located on site. For reasons discussed in this assessment report it is considered that these trees should be retained because of their contribution to the landscape amenity of the site (***refer to Condition A4***).

Two existing crepe myrtle trees are to be relocated on site in accordance with the arborist’s advice and one crepe myrtle removed.

Replacement tree planting includes 3 x phoenix date palms.

Subject to the implementation of the proposed landscaping and tree planting, and ongoing maintenance, there is no conflict with SEPP (Vegetation in Non-Rural Areas) 2017.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the Sydney Harbour Catchment Area and is identified as also being within the Foreshores and Waterways Area.

Part 2 – Planning Principles

Consideration must be given to the planning principles for the Sydney Harbour Catchment and Foreshores and Waterways Area as detailed in Clause 13, 14 and 15 of the SREP. As detailed below, the proposed development satisfies these planning principles. In particular, the proposal:

- 13(f) Maintains the unique visual qualities of Sydney Harbour.
- 13(h) Manage the water quality of urban run-off.
- 14(b) Improves public access to and along the foreshore.
- 15(b) Recognises and conserves the heritage significance of heritage items in and around Sydney Harbour.
- 15(e) Conserves significant fabric, settings and views associated with the heritage significance of heritage items.

Division 2 – Matters for consideration

The matters referred to in Clause 21 to 27 of the SREP must be taken into consideration before granting consent to development –

Clause 21 Biodiversity, ecology and environment protection – A number of standard conditions, including conditions for sediment control, temporary disposal of stormwater, and no use of the any adjacent open space, are recommended to ensure that the proposal does not adversely impact the environment and waterway (*refer to conditions C26, C30, E9, E20, E21, E22, E26, E30, F7 and I4*).

Clause 22 Public Access to, and use of, foreshores and waterways – The proposal improves public access to and along the foreshore by reducing the area of Ripples Café occupying Olympic Drive and by widening the footpath adjacent to the site entry on Alfred Street, both of which provide for greater pedestrian access in the area. The provision of bicycle racks will facilitate access to the foreshore by bicycle.

Clause 23 Maintenance of a working harbour – The proposal would have no impact upon the use of the Harbour given that the site has not been used for maritime-related commerce of industry since the pool was established in 1936.

Clause 24 Interrelationship of waterway and foreshore uses – The proposal does not cause any conflict between the proposed land use and the waterways.

Clause 25 Foreshore and waterways scenic quality – The proposed development will maintain, protect and enhance the visual qualities of Sydney Harbour. The scale and massing of the development has been significantly modified through the development application

process to reduce its bulk and scale, through the lowering of the height of the entry structure, the lowering of the Ripples Café structure, the lowering of the grandstand roof and the deletion of the sun shade over the sun deck.

Clause 26 Maintenance, protection and enhancement of views – The proposed development provides for satisfactory view sharing.

Division 3 - Foreshores and Waterways Planning and Development Advisory Committee

Clause 29 Referral to the Foreshores and Waterways Planning and Development Advisory Committee – The application was referred to the Foreshores and Waterways Planning and Development Advisory Committee pursuant to Schedule 2 of the SREP. The Committee raised no objections to the proposal.

Part 5 – Heritage provisions

The site is located within the Sydney Opera House Buffer zone. Clause 58B of the SREP identifies the matters to be taken into consideration in relation to development within the Sydney Opera House (SOH) buffer zone.

The proposal has been amended through the development application process to recognise views and vistas between the Sydney Opera House and other public places that contribute to its world heritage value (clause 53(2)(b)), through the reduction in bulk and scale of the buildings and the deletion of the roof over the sundeck and children's pool. In so doing, the proposal also satisfies the matters for consideration in clause 58B of the SREP and ensures the visual prominence of the Sydney Opera House.

In conclusion, the proposed development is considered to maintain, protect and enhance the scenic quality of foreshores and waterways, and will adequately protect and in some cases enhance views from surrounding properties to/from the Sydney Opera House, consistent with the objectives and matters for consideration set out within SREP 2005.

Sydney Harbour Foreshores and Waterways DCP

The site is identified on the maps accompanying this DCP as comprising “urban development with scattered trees” and “grassland”. These areas are identified in this DCP as having low ecological conservation status.

This DCP identifies the site as being within Landscape Character Type 8, being areas that have a high level of built form. The performance criteria for this Landscape Character Type are generally not relevant to the development that is proposed, given the unique nature of the site, and the proposal is not inconsistent with that performance criteria to the extent that it is relevant.

The proposal is considered to be consistent with the Design Guidelines for Land-Based Developments in Part 5 of this DCP. Foreshore access is maintained and improved. The improvements to the proposal through the development application process ensure that the development is sympathetic to its surroundings. The proposal incorporates landscaping as appropriate. This DCP contains no design guidelines that are specifically relevant to the proposed development, but the proposal is considered to be consistent with the general design guidelines to the extent that they are relevant.

Draft Environment SEPP

This draft SEPP proposes to integrate the provisions of seven (7) SEPPs/SREPs including SREP (Sydney Harbour Catchment) 2005. The majority of the current provisions of SREP (Sydney Harbour Catchment) 2005 would be transferred to the draft SEPP with necessary updates and some amendments. As discussed above the development is consistent with the objectives of the Sydney Harbour SREP. Overall the proposal would not offend the relevant provisions of the draft SEPP due to the nature of the proposed development being an apartment building which does not immediately adjoin the Harbour and whilst visible from the Harbour provides an appropriate scale, massing and design response for the site such that it will sit comfortably within its context with no more than a minor impact on the scenic quality and the ecology of Sydney Harbour and its foreshores.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

1. Aims of Plan

The proposal is considered to be consistent with the aims of the Plan as listed in clause 1.2 of NSLEP 2013. In particular, the development:

- 2(a) is considered to be appropriate in its context and will, on balance, enhance the amenity of the North Sydney community and environment;
- 2(b)(i) is considered to be compatible with the desired future character of the area in terms of bulk, scale and appearance;
- 2(b)(ii) will contribute to maintaining a diversity of activities whilst protecting residential accommodation and local amenity;
- 2(b)(iii) maintains the visual qualities of the site when viewed from Sydney Harbour;
- 2(d)(i) maintains a diversity of employment, services, cultural and recreational activities;
- 2(d)(ii) does not adversely affect the amenity of residential properties and public places, in terms of visual and acoustic privacy, solar access and view sharing;
- 2(d)(iii) maintains waterfront activities and ensure that those activities do not adversely affect local amenity and environmental quality;
- 2(e)(i) maintains and protects natural landscapes, topographic features and existing ground levels;
- 2(e)(ii) minimises stormwater run-off and its adverse effects and improves the quality of local waterways; and
- 2(f) protects the natural, archaeological and built heritage of North Sydney and does not adversely affect its significance.

2. Permissibility within the zone

The subject site is zoned RE1 Public Recreation under the provisions of the *North Sydney Local Environmental Plan 2013* (NSLEP 2013).

The proposal comprises development that falls within the following definitions:

- “*community facility*”, being one of the uses of the building at the western end of the site on Level 1;
- “*kiosk*”, being the food outlet at the rear of Ripples Café on Level 1;
- “*recreation facility (indoor)*”, being the indoor swimming pools and gymnasium;
- “*recreation facility (outdoor)*”, being the outdoor swimming pool and ancillary grandstand;
- “*restaurant or cafe*”, being the proposed Ripples Café and café on Level 3.

The RE1 Public Recreation zone permits, with development consent, development for the purposes of *community facilities*, *kiosks*, *recreation facilities (outdoor)* and *restaurants or cafes*.

Clause 2.5 of NSLEP 2013 permits additional uses for particular land listed in Schedule 1, including the following:

Use of certain land at 4 Alfred Street South, Milsons Point

- (1) *This clause applies to land at North Sydney Pool, 4 Alfred Street South, Milsons Point, being Lot 100, DP 875048, Lot 101, DP 880236, Lot 102, DP 854064, Lot 6, DP 127637 and Lot 103, DP 1007291.*
- (2) *Development for the following purposes is permitted with development consent—*
 - (a) *a recreation facility (indoor),*
 - (b) *a restaurant or cafe.*
- (3) *Development for the purpose of a function centre is permitted with development consent on the part of Lot 100, DP 875048 that is identified as “Area A” on the Additional Permitted Uses Map.*

The proposed uses that fall within the definition of a *recreation facility (indoor)* are permissible with consent because they are listed as being additional permitted uses on the land in Schedule 1 of NSLEP 2013.

The proposal does not include any *function rooms*.

3. Zone objectives

The proposal is considered to be consistent with the relevant objectives of the RE1 Public Recreation zone, as follows:

- It facilitates the use of the land for public open space and recreational purposes.
- It contributes to the range of recreational settings and activities and compatible land uses.
- It has no negative impacts on the natural environment.
- It maintains public recreation areas for the benefit and use of residents of, and visitors to, North Sydney.

4. Controls relating to miscellaneous permissible uses

Clause 5.4(6) limits development for the purposes of a kiosk to a maximum gross floor area of 40m². The Statement of Environmental Effects identifies that the Ripples Café will also provide a “pool deck kiosk use” to people within the Level 1 swimming pool and children’s pool area. In this regard the proposed area of the kiosk servery is 16.5m² and complies comfortably with the requirements of clause 5.4(6) of NSLEP 2013.

The proposal includes an area on Level 3 that is shown on the submitted drawings as a “kiosk” and “kiosk kitchen”. The Statement of Environmental Effects describes this area as a “kiosk/café” and that it “will be serviced by the new upper level café”. In terms of characterisation of this facility the following definitions in NSLEP 2013 are relevant:

kiosk means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

It is considered that this area falls within the definition of a *restaurant or café*, as the proposed kitchen will enable the provision of preparing and selling meals and drinks that are greater than that which is available in a kiosk.

Notwithstanding this, if the facility were to be assessed as being a *kiosk*, the gross floor area of the kiosk and kiosk/café on Level 3 is 33.9m² and complies with the requirements of clause 5.4(6) of NSLEP 2013.

5. Heritage

The site is listed as containing a heritage item, being the North Sydney Olympic Pool (Item I0537). It is in the vicinity of a number of heritage items listed in NSLEP 2013, including Luna Park (Item I0536), Bradfield Park (Item I0538), Milsons Point seawall and wharf site (Item I0540), and the Sydney Harbour Bridge north pylons (Item I0541). It is also in the vicinity of items listed on the State Heritage Register, being Luna Park (Item 01811), Sydney Harbour Bridge, approaches and viaducts (Item 00781) and the Sydney Opera House (buffer zone) (Item 01685). Sydney Opera House is also listed with UNESCO (Item 166rev) and as a World Heritage Site (Item I05738).

The development application was referred to GML Heritage Consultants to provide an independent assessment of heritage issues related to the proposal. Advice was received, dated 27 May 2020, and is attached to this report as Appendix 4.

Table 1 of the advice from GML Heritage Consultants specifically addresses the requirements of clause 5.10 of NSLEP 2013. The advice relevantly concludes:

Accordingly, further amendments are requested to the further reduce the heritage impacts – including the reduction in the heights of the roofs over the proposed entry lobby and café at the south-east corner, and submission of additional details about the design of these elements.

Subject to these amendments being submitted and approved, and specific conditions of consent being imposed the Development Application (as amended) would generally comply

with the provisions of Clause 5.10 (Heritage and Conservation) of the NLEP 2013 and the relevant heritage controls in the NSDCP 2013.

The applicant was requested to address the amendments recommended in the advice from GML Heritage Consultants. Amended plans were received on 12 June 2020 and GML Heritage Consultants provided the following further advice on 15 June 2020, quoted above.

Having reviewed the advice from GML Heritage Consultants it is considered that the satisfies the requirements of clause 5.10 of NSLEP 2013 subject to the imposition of appropriate conditions (***refer to Conditions A2, A3, C1, C2, C3, C4, C5, C6, C7, D1 and E1***).

6. Development in Zone RE1 of Zone RE2

The site is located within one RE1. Clause 6.7 of NSLEP 2013 requires the consent authority to consider the following matters:

Clause 6.7(2) of NSLEP 2013 provides that the consent authority cannot grant consent to development on land within Zone RE1 unless it has considered the following:

(a) the need for the proposed development on the land,

Comment: The North Sydney Olympic Pool and associated facilities provide a valuable recreational facility for the community but is in poor condition due to its age and environmental factors. The redevelopment of the facility is considered to be necessary to enable the facility to continue to provide services to the community.

(b) whether the proposed development is likely to have a detrimental impact on the existing or likely future use of the land,

Comment: The proposed development is considered to result in a positive impact on the existing and likely future use of the land as providing recreational and associated facilities on the land.

(c) whether the height and bulk of any proposed building or structure has regard to the existing vegetation and topography,

Comment: The proposal has been amended to address concerns regarding the height and bulk of the buildings and their relationship to existing structures and the context of the site in terms of existing vegetation and topography.

(d) whether the proposed development will adversely impact on bushland and remnant bushland,

Comment: The site does not contain bushland and is not adjacent to bushland. The proposal has no impact on bushland and remnant bushland.

(e) whether the proposed development will adversely impact on stormwater flow,

Comment: The proposal includes detailed plans and strategies for stormwater management prepared by Mott McDonald, consulting engineers. These have been reviewed by Council's development engineers and are considered to ensure that the proposal will not have an

adverse impact on stormwater flow, subject to conditions (**refer to Conditions C26, C30, E20, E21 and E22**).

- (f) *in the case of land in Zone RE1 Public Recreation, whether the proposed development will significantly diminish public access to, and use of, that public recreation area.*

Comment: The proposal will maintain access to land within the public recreation area. The inclusion of Hopkins Park within the development site will enable access to that area to be maintained with its use being associated with the swimming pool and recreational facility.

Clause 6.7(3) of NSLEP provides that consent must not be granted to the development unless the consent authority is satisfied that:

- (a) *the proposed development is consistent with the objectives of the zone of any adjacent land, and*

Comment: The site adjoins land zoned RE1 Public Recreation (Olympic Drive, Alfred Street), B4 Mixed Use (Paul Street), and SP1 Special Activities (Luna Park).

The proposal is considered to be consistent with the objectives of the RE1 zone for the reasons detailed above.

The proposal is considered to be consistent with the objectives of the B4 Mixed Use zone because it:

- Contributes to the mix of compatible land uses.
- Represents “other development” in an accessible location.
- Contributes to creating an interesting and vibrant mixed use centre and a safe, high quality urban environment whilst maintaining residential amenity.
- Has no impact on the maintenance of existing commercial space.

The proposal is considered to be consistent with the objectives of the SP1 Special Activities zone because it:

- Complements the continued use and heritage values of Luna Park.
- Maintains the special natural character of the Luna Park site.
- Is complementary to the special use of the Luna Park site.

- (b) *the proposed development is not likely to result in any adverse impacts on development that is permissible on any adjacent land, and*

Comment: The proposed development continues the historical use of the site for a swimming pool and public recreational purposes and, in this way, is unlikely to result on adverse impacts on the adjacent lands. Paul Street, Olympic Drive and Alfred Street will continue to be used for access purposes and Luna Park will continue to be used for public entertainment and recreation purposes.

- (c) *the proposed development is consistent with the most restrictive development standards applying to any adjacent land in the following zones in relation to the height of buildings, floor space ratios and setbacks—*

- (i) *Zone R2 Low Density Residential,*
- (ii) *Zone R3 Medium Density Residential,*

- (iii) Zone R4 High Density Residential,
- (iv) Zone B1 Neighbourhood Centre,
- (v) Zone B3 Commercial Core,
- (vi) Zone B4 Mixed Use,
- (vii) Zone IN2 Light Industrial,
- (viii) Zone IN4 Working Waterfront,
- (ix) Zone E4 Environmental Living.

Comment: The adjacent lands do not have controls applying with regards to building height and floor space ratio. Land on the opposite side of Paul Street is subject to a 26m building height control under clause 4.3 of NSLEP 2013. The proposed development has a maximum building height of approximately 15.0m (measured from the roof of the pool hall to the ground level of Level 1) and complies comfortably with the 26.0m building height control applying to land on the northern side of Paul Street.

7. Earthworks

Clause 6.10(3) of NSLEP 2013 requires the consent authority to consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on:*
 - (i) *drainage patterns and soil stability in the locality of the development, and*
 - (ii) *natural features of, and vegetation on, the site and adjoining land,*

Comment

The proposal is accompanied by reports relating to stormwater management (Mott McDonald), geotechnical investigations (Douglas Partners), sediment and erosion control (Mott McDonald), landscape (Urbis) and tree protection (Earthscape Horticultural Services).

These documents have been reviewed by the relevant technical officers within Council's assessment teams and found to satisfactorily address issues relating to drainage patterns and soil stability, natural features and vegetation.

With regards to impacts on vegetation, refer to the discussion regarding referral comments from Council's Landscape Officer above and the requirement to retain 7 x cabbage tree palms that are proposed to be removed (**refer to Condition A4**).

- (b) *the effect of the development on the likely future use or redevelopment of the land,*

Comment

The proposal will maintain the existing swimming pool and associated recreational facilities for the community into the future.

- (c) *the quality of the fill or the soil to be excavated, or both,*

Comment

A Preliminary Site (Contamination) Investigation has been submitted which concludes that "...based on the results of the previously undertaken desktop assessment, field observations made during this investigation and analytical data from collected soil and groundwater samples, that the site is not precluded from its ongoing use as a recreational swimming pool facility." The report makes a number of recommendations relating to additional soil sampling

during development works and the preparation of a Construction Environmental Management Plan.

Council's Environmental Health Officer has reviewed this documentation and responded to state that subject to compliance with these recommendations, soil testing for contamination (with associated remediation to be carried out if required), and asbestos management the development is acceptable (**refer to Conditions C10, E34 and G4**).

(d) the effect of the development on the existing and likely amenity of adjoining properties,

Comment

A number of conditions are recommended to ensure the development does not adversely affect the structural integrity of the immediate neighbours around the site and requiring appropriate dilapidation surveys and post completion certification (**refer to Conditions C23, C24 and C25**). The proposed development is also unlikely to have unreasonable impacts on the amenity of any of the neighbours around the site in terms of solar access, views, and privacy, as discussed throughout this report.

(e) the source of any fill material and the destination of any excavated material,

Comment

Conditions are recommended relating to a waste management plan and imported fill (**refer to Conditions B1 and C21**). Subject to these conditions there is no concern regarding the source of fill and destination of excavated material.

(f) the likelihood of disturbing Aboriginal objects or relics,

Comment

The site is not an archaeological site and is not an identified aboriginal place of heritage significance. Given the extensive historical use of the site as a recreation facility it is unlikely the proposal will disturb Aboriginal objects or relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

Comment

The site is located close to Sydney Harbour and Bradfield Park. A number of conditions are proposed including conditions relating to waste management and disposal, sediment control, dust emission and air quality are recommended to ensure risks to these areas are minimised (**refer to Conditions B1, C21, C26, C30, E9, E20, E21, E22, E26, E30, E31, F7 and I4**).

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

No further measures other than the conditions discussed above and earlier in this report are considered necessary to avoid, minimise or mitigate the impacts of the development.

PLANNING PROPOSAL 7/19 – NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN REVIEW 2019

This Planning Proposal has been placed on public exhibition from 25 May 2020 to 22 June 2020. Consequently, it is a matter for consideration under s. 4.15(1)(a)(ii) of the EPA Act 1979.

Relevantly to the subject site, the Planning Proposal proposes to make function rooms a permissible use across the entirety of North Sydney Olympic Pool site (they are currently only permissible on the eastern portion of the site known as Olympic Park).

The development application does not seek approval for the use of any of the site for function rooms.

The Planning Proposal is otherwise irrelevant to the development application.

NSDCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013		
	<i>complies</i>	<i>Comments</i>
PART B SECTION 7 – LATE NIGHT TRADING HOURS		
Trading hours	Yes	The proposed hours of operation are considered appropriate as the development provides recreational facilities for the community, subject to limiting the use of the splash pad and the landscaped area adjacent to Paul Street to a trial period in accordance with the recommendations of the submitted Acoustic Assessment and the comments from Council's Environmental Health Officer – Acoustic (<i>refer to Condition I1 and I2</i>).
Trial periods	Yes (via condition)	The submitted Acoustic Assessment identifies that the use of the proposed Splash Pad (located adjacent to the Children's Pool) and the landscaped area adjacent to Paul Street results in acoustic impacts that marginally exceed the relevant criteria after 6pm and the comments from Council's Environmental Health Officer – Acoustic recommend a trial period to these activities having considered other noise sources in the locality (<i>refer to Condition I1 and I2</i>).
Acoustic impacts	Yes (via condition)	As discussed above, a trial period is recommended for the use of the splash pad and the landscaped area adjacent

		to Paul Street to determine if the acoustic impacts from these uses create nuisance (<i>refer to Condition I1 and I2</i>).
PART B SECTION 8 – OUTDOOR DINING AND DISPLAY OF GOODS ON THE FOOTPATH		
Location	Yes	The proposal reduces the area of Olympic Drive and Alfred Street occupied by Ripples Café. This is considered appropriate so as to improve pedestrian circulation in the area.
Weather protection	Yes	The proposed Ripples Café provides appropriate weather protection for patrons.
Views	Yes	The structure containing Ripples Café has been reduced in size and scale in accordance with the recommendations of Council's heritage advisors, GML Heritage. It is considered that the proposal maintains reasonable access to views.
PART B SECTION 10 – CAR PARKING AND TRANSPORT		
Parking provisions - Quantity requirements	Yes	The existing swimming pool does not provide on-site car parking and the proposal does not change this situation. The application has been independently assessed by Transport and Traffic Planning Associates who consider that the parking provision is appropriate, considering the reduction in the capacity of the grandstand from 1500 persons to 900 persons and the availability of car parking in the adjacent Luna Park car park.
Loading and unloading facilities	Yes	The application has been independently assessed by Transport and Traffic Planning Associates who consider that the arrangements made for loading and unloading of goods are appropriate.
Bicycle parking and associated facilities	Yes	The proposal includes 10 bicycle racks (20 spaces), comprising 2 racks on the widened footpath on Alfred Street, 2 racks within the site, and 6 racks on Olympic Drive.
Green travel plans	Yes	The proposal includes a Green Travel Plan. It is recommended that the contents on the Green Travel Plan be implemented (<i>refer to Condition I3</i>). The independent assessment by Transport and Traffic Planning

		Associates recommends that travel advice be provided on the web site for the NSOP, similar to that which is provided for Luna Park (refer to Condition I5).
PART B SECTION 11 – TRAFFIC GUIDELINES FOR DEVELOPMENT		
Construction management plan	Yes	The proposal includes a draft Construction Traffic Management Plan (CTMP). It is recommended that this plan be implemented in its final form and submitted with the application for a Construction Certificate Park (refer to Condition B1 and E9).
PART B SECTION 12 – ACCESS		
Development assessment	Yes	The proposal is accompanied by an Accessibility Report that assesses the proposal against the relevant criteria in the Disability Discrimination Act 1992, Disability (Access to Premises) Standard 2010, Building Code of Australia and Australian Standards AS1428. The report concludes that the development is able to achieve a high level of accessibility in accordance with these criteria.
Design criteria	Yes	The proposal incorporates a high level of accessibility, including 2 lifts connecting all levels of the facility and ramps providing access to all pools.
PART B SECTION 13 – HERITAGE & CONSERVATION		
Development in the vicinity of heritage items	Yes	The proposal has been comprehensively and independently reviewed by GML Heritage and has undergone a series of changes in response to concerns raised and recommendations made by the independent heritage consultants. The conclusion of this process is that, in the opinion of GML Heritage, the proposal provides a satisfactory outcome with regards to heritage, subject to conditions (refer to Conditions A2, A3, C1, C2, C3, C4, C5, C6, C7, D1 and E1). These conclusions are concurred with.
Heritage items		
Demolition		
Community and public buildings		
Heritage in the public domain		
PART B SECTION 14 – CONTAMINATION AND HAZARDOUS BUILDING MATERIALS		
Contaminated land	Yes	The application includes a Detailed Site Investigation which has been reviewed by Council’s Environmental Health Officer – Contamination, which recommends that the proposal be

		approved subject to conditions (refer to Conditions C10, E34 and G4).
Hazardous building materials	Yes	Council's Enviromental Health Officer identifies that the structures to be demolished may contain asbestos and lead paint and recommends a condition in this regard (refer to Conditions E34 and G4). It is noted that the proposal includes a Hazardous Materials Survey.
PART B SECTION 16 – TREE & VEGETATION MANAGEMENT		
Controls for the management of trees and vegetation	Yes	The proposal includes an arborist's report that provides recommendations to ensure the continued health of trees on site and neighbouring the site that are proposed to be retained. Council's Landscape Officer has reviewed the proposal and the arborist's report. Concern was raised regarding the proposed removal of 7 x cabbage tree palms adjacent to the proposed beach entry to the children's pool, a concern reflected in a number of the submissions received during the public notification of the proposal. A condition is included in the recommendation of this report requiring the retention of these trees (refer to Condition A4). Response to the public notification displayed some confusion about whether proposal also sought to remove 7 x phoenix palms located on Olympic Drive, but these are proposed to be retained. Following a further review by Council's Landscape Officer, no other objections are raised to the proposal subject to conditions (refer to Conditions C15, C16, C17, C18, C19, C20, D7, D8, D9, D10, D11, E5, E9, E10, E11, E12, E13, E14, G6, G7 and I7).
Management of trees and vegetation on adjoining properties		
Protection of trees during construction		
New tree planting		
PART B SECTION 17 – EROSION AND SEDIMENT CONTROL		
Requirements	Yes	The proposal includes a sediment and erosion control plan prepared by Mott McDonald, consulting engineers. This has been reviewed by Council's Development Engineer who has raised no objections subject to conditions (refer to Conditions C26, C30, E9, E20, E21, E22, E26, E30, F7 and I4).
PART B SECTION 18 – STORMWATER MANAGEMENT		

Requirements	Yes	The proposal includes a stormwater management report and plans prepared by Mott McDonald, consulting engineers. These has been reviewed by Council's Development Engineer who has raised no objections subject to conditions (<i>refer to Conditions C26, C30, E9, E20, E21, E22, E26, E30, E31, F7 and I4</i>).
PART B SECTION 19 – WASTE MINIMISATION & MANAGEMENT		
Demolition waste	Yes	The proposal includes a Preliminary Construction Management Plan and an Operational Waste Management Plan. Waste management for general waste and recycling are proposed to be by designated bin storage managed by centre staff. Waste generated by the L3 aquatic facilities, shop and café as well as the Gym and plant areas on L1 and 2 will utilise the general waste room located adjacent to the new secure loading area accessed from Paul Street. Waste generated by the L1 aquatic facilities, kiosk, Creche and Ripples café will utilise a new secure waste enclosure facing onto Alfred Street, near to the egress gates to Alfred street. Waste collection services will be given access to these secure storage areas to avoid waste bins being parked on the street for collection. The proposal has been reviewed by Council's Waste Officer who has raised no objections subject to conditions (<i>refer to Conditions B1, C21, C22 and I8</i>).
Construction waste		
Waste facilities and management		
PART B SECTION 20 – PUBLIC INFRASTRUCTURE		
Roads	Yes	The proposal includes the widening of the footpath on Alfred Street adjacent to the entrance to the site, the reduction in the area of Olympic Drive occupied by Ripples Café, alterations to the access ramp on Olympic Drive adjacent to the south-western corner of the site, and installation of bicycle racks on Alfred Street and Olympic Drive. These elements of the proposal will improve the public domain by providing
Vehicular access		
Footpaths		

		improved pedestrian access and bicycle parking facilities. The proposal has been reviewed by the relevant technical officers of Council who have raised no objections to these works. It is also noted that the proponent of the works is the Council.
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DCP CHARACTER STATEMENTS - Section 9: Lavender Bay Planning Area

9.1 Milsons Point Town Centre

The proposal has been considered in accordance with the character statement for the Milsons Point Town Centre within the Lavender Bay Planning Area, where the desired future character relevantly provides that existing heritage items will be protected and retained where practical and to ensure an active environment throughout the day. North Sydney Pool is recognised as being an “identity / icon” in the Milsons Point Town Centre.

The proposal maintains landscaping on streets adjacent to the site and provides for landscaping within the site. The proposal does not result in overshadowing of Luna Park. The proposed development is considered to be generally consistent with this desired future character as discussed throughout this report.

SECTION 7.11 CONTRIBUTIONS

The proposal involves the redevelopment of a public recreational facility by a public authority. Any requirement for a contribution is offset by the value of the works-in-kind, being the swimming pool and other public facilities. Consequently, no contributions are payable for this development.

SITE SUITABILITY

The proposed development is considered to be suitable for the subject site for the reasons provided within this report.

PUBLIC INTEREST

The development is considered to be generally in the public interest for the reasons provided within this report.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | |
|--|-----|
| 1. Statutory Controls | Yes |
| 2. Policy Controls | Yes |
| 3. Design in relation to existing building and natural environment | Yes |

4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

Copies of all of the submissions have been provided to the Panel. Relevant submitter concerns have largely been addressed through the discussion and assessment in this report, particularly within the NSLEP 2013 and NSDCP 2013 sections and the referral comments. Additional comments are provided as follows:

- ***Configuration of pools and ancillary facilities.***

Comment:

Many submissions raised concerns regarding issues related to the configuration of the proposed pools and ancillary facilities, directed primarily at the usability of the facilities and their suitability for particular user groups.

These issues are obviously of concern to future users of the facilities. However, these issues are not determinative of the development application. They are, essentially, matters for the Council as the proponent of the development and not for the Council as the consent authority for the development.

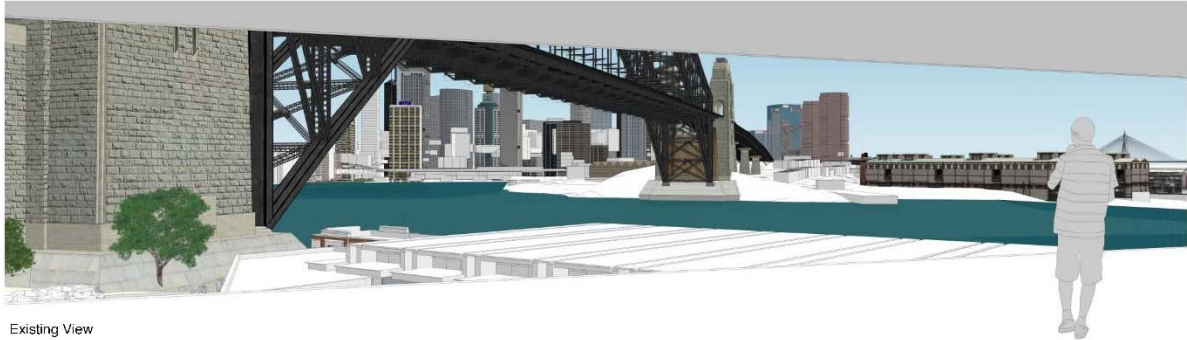
The Council as the proponent of the development has determined the facilities that are included in the redevelopment of the site and that forms the development application which is the subject of this assessment report. This assessment report analyses the proposal in terms of compliance with the relevant planning controls and the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979.

None of the issues raised regarding the configuration of the pools and ancillary facilities are considered to be determinative of the development application.

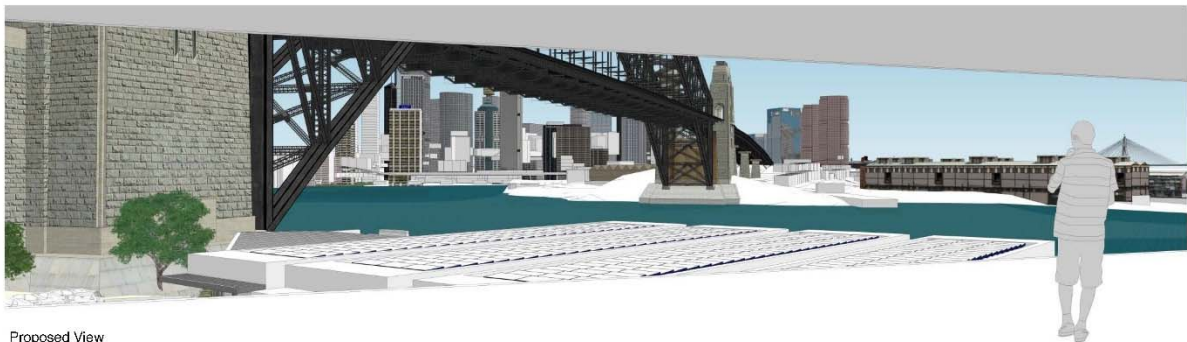
- ***Views to the harbour from properties on the opposite side of Paul Street.***

Views are currently available to Sydney Harbour, the Sydney Harbour Bridge and the city from residential properties on the northern side of Paul Street. Concern was raised that the proposal would unreasonably impact these views.

The following photomontages were prepared by the project architects demonstrating the impact on these views:

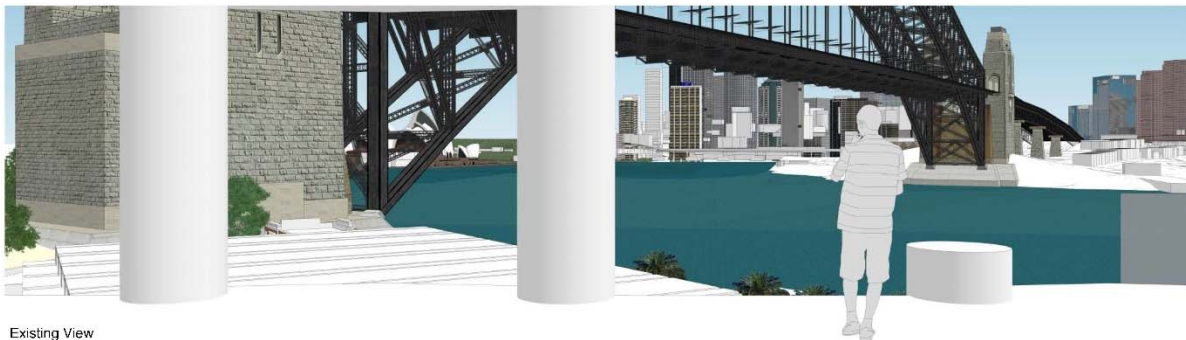


Existing View

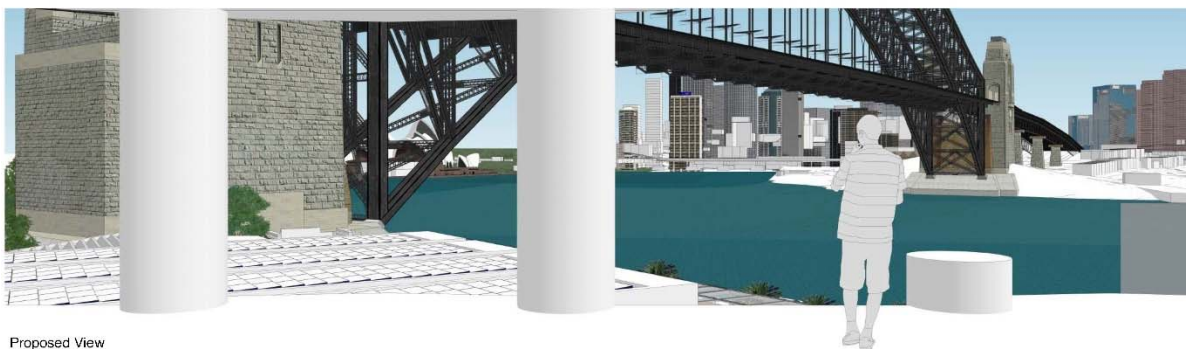


Proposed View

View 1b1 - 20 Alfred St. / First Floor Residential - Standing (Eye Level at 1.5m)



Existing View



Proposed View

View 2c1 - 1 Northcliff St. / Third Floor Residential - Standing (Eye Level at 1.5m)

The views are considered to be iconic views. Based on the above analysis, the impact on the views is negligible and all of the iconic elements of the views are retained. The proposal complies comfortably with the relevant development standards. In summary, it is considered that the proposal provides for reasonable view sharing in accordance with the principles established by the Land and Environment Court (*Tenacity Consulting v Warringah Council* [2004] NSWLEC 14) and that this objection should not be given determining weight.

- ***Views to the harbour from outside the site and from the 25m pool.***

Views are currently available from the corner of Paul street and Alfred Street through the 25m pool hall to the harbour and provide a sense of connectivity. The proposal will retain those views, as shown in the following photomontages which form part of the development application:



View 3 - Hopkins Park from Alfred St.

From within the 25m pool hall views will be retained through the proposed café seating to the harbour, although they will be obscured by seating and people using the seating. However, the people using the café seating will be within the facility in association with its recreational uses. The ability for users of the development to view the harbour from the area of the 25m pool hall will be retained. This matter is not considered to be determinative of the application.

- ***The 50m pool should remain as a saltwater pool.***

Comment:

There are a number of reasons that have been submitted to justify the retention of the pool as a completely saltwater pool.

- Firstly, the saltwater pool provides additional buoyancy and attracts swimmers.
- Secondly, the use of saltwater from the harbour reduces the use of potable water and is therefore environmentally sustainable.
- Thirdly, the use of saltwater will be an advantage in times of drought.

The proposal provides for saline pools but this will not provide the extent of buoyancy of the current pool as the salinity of the water will be reduced from the current amount. However, this

matter, like others related to the configuration of the pools and ancillary facilities is not considered to be determinative, for the reasons discussed above.

The proposal will result in an increase in the use of potable water. The proposal includes the use of ultra fine filters (UFF) rather than sand filters. These have a higher capital cost but will result in longer term operational cost savings that offset this cost. They reduce the use of potable water by 5,844,000 litres per year compared to sand filters.

The availability of water during time of drought is not determinative with regards to this development proposal.

- **Noise.**

Comment:

The proposal includes an acoustic assessment which has been reviewed by Council's Environmental Health Officer. The proposal satisfies the relevant acoustic criteria except for the following:

With reference to the EPA Noise Policy for Industry the predicted noise levels at 20 Alfred Street comply with the Daytime, Night-time and Early Morning noise criteria. However, the cumulative noise level at the receiver is predicted to exceed the Evening criteria by 4dB. The predicted noise levels at 6 Paul Street comply with the Daytime and Early Morning noise criteria. However, the cumulative noise levels at the receiver are predicted to marginally exceed the Evening and Night criteria by 1dB. The exceedance during the Evening period are related to use of the landscaped area on the corner of Paul and Alfred Street and the Splash Pad after 6pm. If these areas were not in use after 6pm compliance with the Evening criteria would be achieved.

Council's Environmental Health Officer has identified that *"given that the pool complex is located in the vicinity of the harbour bridge and freeway, on a busy harbour and next to Luna Park, it is recommended that the splash pad and landscaped area remain open as per the proposed operating hours in the application, on a trial basis. Should their use give rise to any community concern between 6pm and 9pm, such concerns can be assessed and the operating times reviewed as deemed necessary."* These comments are concurred with and suitable conditions are recommended (**refer to Conditions I1 and I2**).

Particular concern was raised with the applicant regarding potential changes to the acoustic environment arising from the proposal and to concerns raised during the notification regarding noise from swimming carnivals. The applicant responded that the proposal will not result in addition noise and pointed out that the reduction in the capacity of the grandstand will reduce the intensity of the use of the site for swimming carnivals and reduce the noise generated by such uses.

- **Operating hours.**

Comment:

The proposed hours of operation are unlikely to give rise to unreasonable amenity impacts. Such impacts would most likely occur as a result of noise. However, as discussed above, subject to a condition regarding a trial period for the use of the splash pad and landscaped area, the acoustic impacts are considered to be acceptable.

- ***Reduction in the size of the grandstand.***

Comment:

The proposal reduces the capacity of the grandstand from 1500 persons to 900 persons. The reduction in the size of the grandstand will reduce environmental impacts related to traffic generation, demand for car parking and noise. The concern that the reduction in the capacity of the grandstand to cater for swimming carnivals and events is a matter for Council as proponent of the development and is not a determinative issue for the consent authority.

- ***Environmentally sustainability.***

Comment:

The proposal incorporates a number of elements that contribute to its environmental sustainability.

Firstly, the use of sea water as the primary energy source for pool water heating through the use of energy efficient heat pumps which are being sized to accommodate up to 100% of heating needs. The current sea water pipework will be doubled in size and fully duplicated to provide complete redundancy in the event of pump failure. This enables energy efficient pool heating year-round.

Secondly, photovoltaic arrays to the roof of the Pool Hall will be augmented with thermal collection to provide pre-heating to water prior to the heat pump cycle. The photovoltaic array will provide electrical capacity for running the heat pump system. Both of these systems are above the standard of other comparable aquatic centres.

Thirdly, chlorine manufacture on site from the sea water flow will eliminate chlorine deliveries to site.

Fourthly, the use of sea water to top up the pool water in conjunction with potable water reduces the extent of potable water use on site compared to pools that use only potable water. The saline system employed to the outside pools allows the use of sea water as a component of pool top up.

Fifthly, the proposal achieves full compliance with NCC 2019. The proposal will target a general 30% reduction in energy demand from the minimum standards allowed under NCC 2019.

- ***Fire egress.***

Comment:

Concern is raised that distances to exits do not satisfy the requirements of the BCA. In this regard, the proposal is accompanied by a BCA Report which concludes:

Arising from our assessment we are satisfied that the project design will be able to satisfy the requirements of the BCA 2019 if the works are designed and constructed in accordance with the requirements of the BCA and associated Australian Standards and any subsequent required Fire Engineering Assessment to be undertaken for the building.

This matter may be addressed by conditions of consent (***refer to Condition F1***).

- ***Construction impacts and Luna Park.***

Comment:

Luna Park Pty Ltd has requested the following be considered as part of the construction process of the proposal:

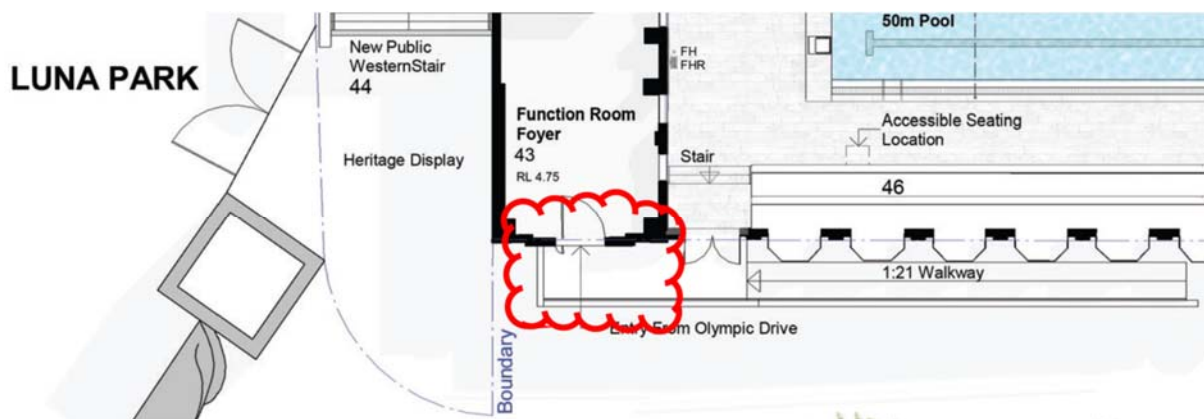
- *Temporary fencing should not adversely impact Luna Park*
- *Luna Park should be consulted during the preparation of the Construction Management Plan*

These matters can be addressed by appropriate conditions of consent (***refer to Conditions B1 and E2***).

- ***Loss of vehicular access to Luna Park.***

Comment:

Luna Park Pty Ltd requested that the proposal be amended to retain the existing degree of vehicular access on Olympic Drive to Luna Park for oversized vehicles. The proposal includes alterations to the pedestrian access ramp on Olympic Drive that would reduce the ability for oversized vehicles to access Luna Park, as shown in the following extract from the plans:



The clouded part of the proposed ramp is the structure that reduces vehicular access to Luna Park. It should be noted that the notation on the plan “Function Room Foyer” is incorrect as the proposal does not include the use of this area as a function room as it is currently a prohibited use on this part of the site (although there is a planning proposal that has been publicly exhibited that would, if implemented, make the use permissible).

The area in question is shown in the following photograph:



Photograph 15: Existing stairs from Paul Street to Olympic Drive on the western portion of the site, looking north.

The applicant was requested to amend the proposal to address this issue, but declined to do so and provided the following justification:

- *The ramp is required to meet the obligations of the Disability Discrimination Act and the Building Code of Australia.*
- *The ramp is provided in this location to enable access for disabled persons from Milsons Point Ferry Wharf.*
- *If the ramp is removed access for disabled persons would be circuitous.*
- *The land is owned and controlled by Council and there is no agreement for its use by Luna Park.*
- *It is not currently possible for a 300-tonne crane to access Luna Park via Olympic Drive.*
- *Heavy vehicles damage Olympic Drive.*

It is considered that these reasons do not provide sufficient justification for the design of the access ramp as proposed. In this regard, the access ramp could be redesigned to satisfy requirements for access for disabled persons by terminating the ramp at the access into the pool area rather than extending it to the proposed doors into the “Function Room Foyer”. Olympic Drive is a public road and its use by Luna Park for access to its site is appropriate. There is no alternative access for large vehicles into Luna Park and this access has been historically available for Luna Park.

The issue of damage to Olympic Drive by vehicles accessing Luna Park is a separate matter between the Council and Luna Park Pty Ltd.

Consequently, to enable the provision of ongoing access to Luna Park for oversized vehicles it is recommended that a condition of consent be imposed requiring the termination of the proposed pedestrian access ramp in its current location (*refer to Condition A5*).

- ***Insufficient shade provided***

Comment:

Concern has been raised that the deletion of the shade structure over the sundeck and children's pool will result in insufficient shade being provided for users of those facilities.

In this regard, the originally proposed shading structure was deleted due to the inappropriate impacts it had on the heritage significance of the site.

The existing sundeck does not have a shade structure and providing shading to this area is not considered to be determinative of the development application.

There are other areas within the facility where patrons may enjoy water-based recreation in a shaded environment, including within the 25m pool hall.

The future provision of sun shading around the children's pool is considered to be desirable but this will need to be designed in a way that does not detract from the heritage significance of the facility. Such a proposal would be the subject of a separate development application and to assessment under the relevant town planning controls.

CONCLUSION AND REASONS

The development application has been assessed against the relevant town planning controls, including North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013 and Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The site is zoned RE1 Public Recreation and the proposed development is permissible with consent within the zone.

Independent structural engineering advice was obtained from Taylor Thomson Whitting (NSW) Pty Ltd as a part of the assessment of this development application. The concrete structure of the existing 50m swimming pool is in poor condition. There is a history of reported significant leaks which have not been rectified despite numerous attempts. The children's and wading pool structures are in a similar condition. The condition of the existing grandstand is such that it should not be subjected to crowd loading, such as major events and swimming carnivals. The poor condition of these structures is such that redevelopment of the pool facility is required to enable it to continue to provide recreational facilities for the community.

The site contains a heritage item and is in the vicinity of a number of heritage items, including Luna Park and the Sydney Harbour Bridge which are listed on the State Heritage Register. It is within the buffer zone of the Sydney Opera House which is listed with UNESCO as being of World Heritage significance.

The proposal has been independently reviewed with regards to its heritage impacts by GML Heritage and has undergone a series of design modification in response to that advice,

including the deletion of the shade structure over the sundeck and children's pool, the opening up of the area in front of the original pool entrance stairs, and the reduction in height of the entry structure, grandstand and Ripples Café. GML Heritage are now satisfied that the proposal is acceptable with regards to its heritage impacts.

The proposal involves the demolition of the existing upper pool hall. This structure was completed construction in 2000 following a design competition and won the 2001 Australian Institute of Architects (NSW) Award for Architecture – Public Buildings. However, the building is unsuited for retention whilst accommodating two indoor pools as proposed. The condition of the pool hall was independently assessed by Taylor Thomson Whitting (NSW) Pty Ltd who consider that it is overdue for repairs and maintenance and that such works would be expensive and that *“the cost of retaining and repairing the pool hall against the benefit of significantly improved future facilities needs to be considered”*. It is considered that the benefits proposed by the redevelopment of the upper pool hall outweigh the costs of its retention and the constraints it would impose on the ability to provide community recreational facilities.

The proposal was referred to the North Sydney Design Excellence Panel twice. The Panel objected to the proposal when it first provided comments. The design was modified in response to those comments. In its subsequent comments, the Panel acknowledged the significant improvements made and offered qualified support for the proposal subject to identified issues being addressed. The proposal underwent further modifications in response to those comments.

The proposal has been designed and modified to retain existing vegetation and to provide additional landscaping in retained areas of open space, noting that the expansion of the children's pool and the addition of a program pool will occupy existing lawned areas. The incorporation of Hopkins Park into the site will provide further open space for use in association with the pool facilities, noting that there are large areas of public open space in the immediate vicinity of the site outside of the pool facility in Bradfield Park.

The proposal maintains reasonable levels of amenity for nearby residents and impacts relating to traffic, parking, noise and lightspill have been addressed. With regards to noise, conditions are recommended to provide for a trial period for the proposed splash pad and northern landscaped area as the acoustic assessment forecasts their use will exceed the relevant acoustic criteria.

Overall, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and is therefore recommended for **approval** subject to conditions.

How community views were taken into account in reaching this recommendation

The development application was notified on two occasions.

The first notification was of the plans and documentation lodged on 30 October 2019 and the notification period was for 4 weeks from 15/11/2019 to 13/12/2019. Council received 115 responses to this notification. These responses were considered, together with the responses to referral notices sent internally and externally and comments from independent advisors (heritage, traffic and structural engineering) and the applicant was requested to amend the proposal.

The second notification was of the amended plans and documentation lodged on 7 April 2020 and the notification period was for 4 weeks from 22/4/2020 to 20/5/2020. Council received 74 submissions in response to this notification.

Following concerns raised by members of the community that the information available on Councils website was at times difficult to access, the period allowed for the receipt of submissions was extended to 25/5/2020 thus allowing an additional weekend in which to access the available information and to make submission.

The key concerns raised in the responses are summarised above and relate to such matters as the configuration of the pools and associated facilities, impacts on the heritage significance of the site and surrounding area, and amenity impacts. The issues raised in the submissions have been fully considered in the assessment of the application, and appropriate conditions have been recommended where necessary to address the issues raised.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

A. THAT the Sydney Regional Planning Panel, as the consent authority, **grant consent** to Development Application No.347/19 for alterations and additions to North Sydney Pool including new 50m pool, new warm water pool, upgrade to existing 25m pool, incorporation of Hopkins Park, new water play area, replacement of sundeck, replacement of grandstand, expansion of gymnasium, upgrade of facilities, enclosed entry, retail space, replacement of western stairs, alterations and additions to food and drinks premises, bus/coach parking, and site landscaping at 4 Alfred Road South, Milsons Point, subject to the conditions attached at **Appendix 1:-**

Geoff Goodyer
SYMONS GOODYER PTY LTD

Note by Manager Development Services.

This report has been reviewed for content, quality and completeness and is considered to be of appropriate standard for the consideration of the Sydney North Planning Panel. No material alteration has been made to the original drafting of the report and it may be considered an independent assessment of this Development Application.

Stephen J Beattie
Manager Development Services
North Sydney Council.

