

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-430 - DA/975/2023
PROPOSAL	Redevelopment of Westleigh Park for a recreational facility
ADDRESS	62 Quarter Sessions Road Westleigh 42 Quarter Sessions Road Westleigh Dog Pound Creek Bushland 8-10 Warrigal Drive Westleigh Dog Pound Creek Bushland 91x Wareemba Avenue Thornleigh Dog Pound Creek Bushland 115x Norman Avenue Thornleigh
APPLICANT	Hornsby Shire Council
OWNER	Hornsby Shire Council Sydney Water Corporation (42 Quarter Sessions Road)
DA LODGEMENT DATE	25 September 2023
APPLICATION TYPE	Integrated DA
REGIONALLY SIGNIFICANT CRITERIA	Clause 3, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 recreational facility over \$5 million and Council interest.
EDC	\$72,585,000 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 4.3 Height of Building
KEY EPIs	State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 Hornsby Local Environmental Plan 2013
TOTAL UNIQUE SUBMISSIONS	Unique Public Submissions 2023 - 123 Unique Public Submissions 2024 - 110

DOCUMENTS SUBMITTED FOR CONSIDERATION	Environmental Impact Statement Architectural Plans Arboricultural Impact Assessment Aboriginal Cultural Heritage Assessment Access Report Acoustic Report Air Quality Impact Assessment BCA Assessment Report Biodiversity Development Assessment Report Clause 4.6 Request Construction Environmental Management Plan Detailed Site Investigation / Remedial Action Plan Obtrusive Lighting Assessment Operational Plan of Management Traffic and Transport Impact Assessment Vegetation Management Plan Waste Management Plan Water Management Strategy
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not applicable.
RECOMMENDATION	Approval subject to conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	4 December 2024
PLAN VERSION	Civil drawings - Revision P6 Amenities buildings - Revision D
PREPARED BY	Richard Kinninmont, Gyde Consulting Pty Ltd (Independent Assessor)
COI DECLARATION	No conflict of interest declared
DATE OF REPORT	13 November 2024

EXECUTIVE SUMMARY

- DA/975/2023 is for the redevelopment of Westleigh Park for a recreational facility, including the demolition of the former Rural Fire Service training facility, remediation and rehabilitation of contaminated land, construction of three sports fields and associated amenities buildings, fencing, lighting, internal roads, carparking, vegetation removal, playground areas, picnic facilities, redesign of mountain bike trails, walking tracks and stormwater and water management infrastructure. The development is proposed to be constructed in 3 stages over a period of 8 years.
- The proposed works are characterised as ‘recreation facilities (outdoor)’ under the Hornsby Local Environmental Plan 2013 (HLEP) and are permissible with consent in the RE1 Public Recreation, C3 Environmental Management and R2 Low Density Residential zones.
- Parts of the site are classified as Community Land and development within these areas are subject to the relevant Plans of Management (POM).
- The application is referred to the Sydney North Planning Panel for determination as ‘regionally significant development’ pursuant to Schedule 6, Clause 3 and 5 of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is development for a recreational facility with a CIV over \$5 million and is a Council interest project.
- The proposal is “Designated development” as it includes contaminated soil treatment works.
- The proposal is “Integrated development” as it requires authorisation under National Parks and Wildlife Act 1974 (NPW Act) and the grant of an Aboriginal Heritage Impact Permit (AHIP) by Heritage NSW and authorisation under the Protection of the Environment Operations Act 1979 (PoEO Act) - (Clause 15, Schedule 1) and the grant of an Environmental Protection License from the Environmental Protection Authority (EPA) for “contaminated soil treatment”.
- Secretary’s Environmental Assessment Requirements (SEARS) were issued on 31 July 2020 and a subsequent extension of time was granted until 30 September 2023.
- The proposed development has been assessed against the relevant statutory provisions. Jurisdictional prerequisites to the grant of consent have been satisfied including:
 - Section 4.6, Transport and Infrastructure SEPP in relation to contamination
 - Section 2.48(2) Transport and Infrastructure SEPP in relation to electricity distribution infrastructure
 - Clause 4.6 HLEP to vary the height of building development standard
 - Clause 5.21 - Flood Planning
 - Clause 5.23 - Public bushland
 - Clause 6.1 - Acid Sulphate Soils
 - Clause 6.2 - Earthworks
 - Clause 6.4 - Terrestrial biodiversity
- The development application has been referred to the following agencies:
 - Rural Fire Service

- Ausgrid
- Transport for NSW
- Heritage NSW
- Environment Protection Authority

All matters raised have been resolved or suitable conditions proposed.

- The application was publicly exhibited from 9 October 2023 until 20 November 2023 and following receipt of additional information, again from 9 August 2024 to 6 September 2024. A total of 223 unique submissions were received, relating to overdevelopment of the site, the use of synthetic turf, biodiversity, aboriginal heritage, contamination and remediation, amenity impacts, traffic congestion and access, loss of vegetation and landscaping, noise, bushfire, legislative consultation requirements and the funding of the project. These issues are considered further in Section 4.3 of this report.
- A preliminary briefing was held with the Sydney North Planning Panel on 10 November 2023.
- The key issues identified during assessment include:
 1. Biodiversity (Flora and Fauna) including clearing of native vegetation for new sports fields and mountain bike trails.
 2. Aboriginal Heritage including relocation of the Scarred Tree
 3. Contamination and remediation including the proposed nature and timing of works required under the Remediation Action Plan.
 4. Traffic and access both during construction and operation and capacity of the surrounding road network.

Following a detailed assessment of the proposal pursuant to Section 4.16(1)(a) of the EP&A Act, the application is recommended for approval subject to conditions of consent contained at Attachment A of this report. The conditions have been structured to reflect anticipated staging of development given the likely extended construction period.

1 THE SITE AND LOCALITY

1.1 The Site

The site is situated in the southern portion of Hornsby Shire LGA and adjoins Berowra Valley Regional Park to the east and south. The site is located on the eastern side of Quarter Sessions Road at the suburb boundaries of Westleigh and Thornleigh. The site area is approximately 79 Hectares.

The site comprises 4 lots, as shown in Figure 1, including:

- Lot 101 in DP1217395
- Lot 100 in DP1217395
- Lot 68 in DP752053
- Lot 40 in DP576173



Figure 1: Aerial View of the Site, outlined in red (Source: Nearmap)

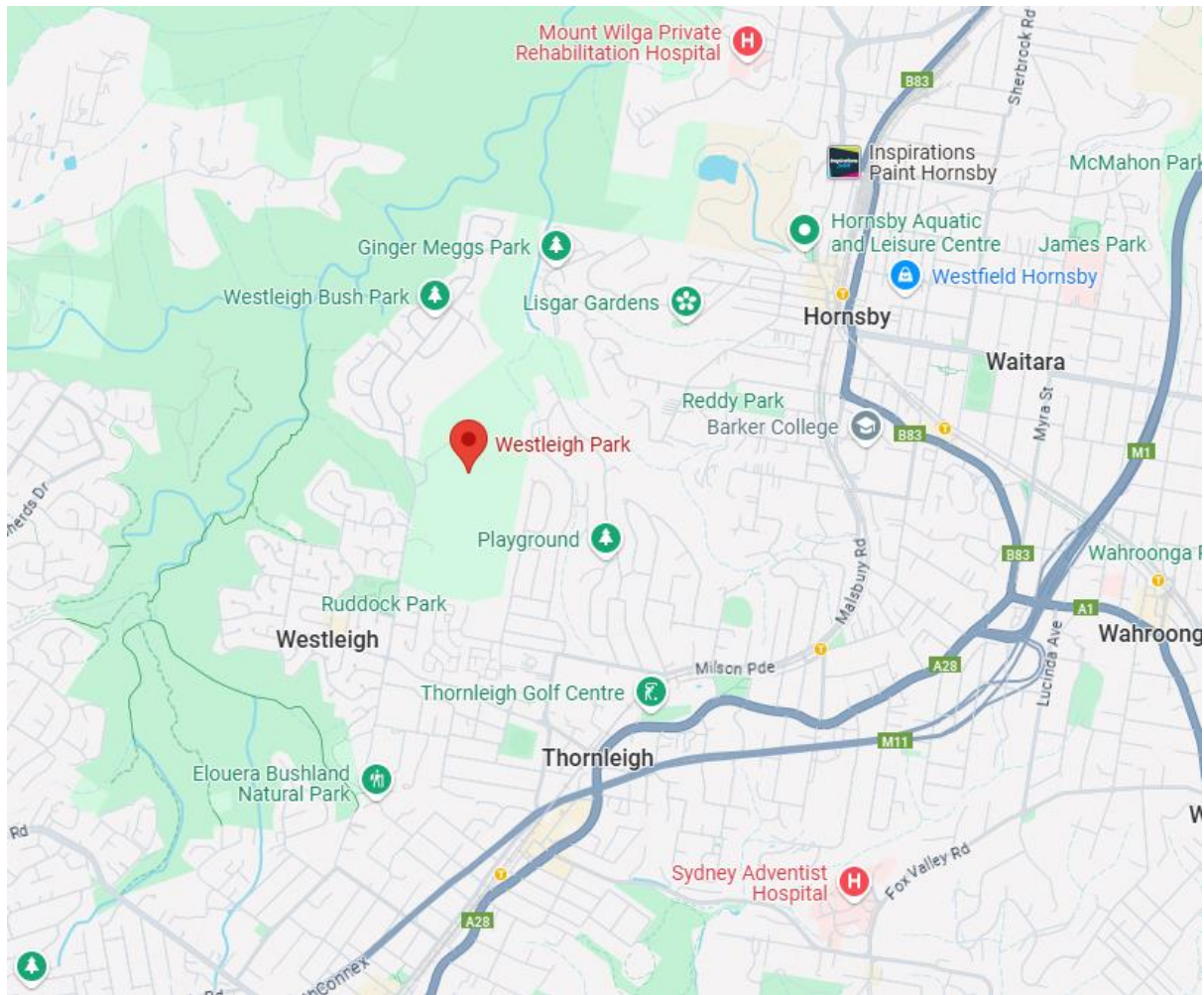


Figure 2: Locality Map (Source: Google Maps)

1.2 The Locality

To the north of the site comprises dense vegetation forming part of Dog Pound Creek Reserve. To the east of the site is low density residential development located within Thornleigh. To the south of the site also comprises low density residential development located within Westleigh. The west of the site is bound by Quarter Sessions Road and Warrigal Drive, which are surrounded to the west by low density residential development and Berowra Valley Regional Park.

The closest train station is Normanhurst Station located approximately 1km to the east of the site. There are a number of bus stops in proximity to the site, namely on Quarter Sessions Road (Stop ID 2120130).

There are several parks within the surrounding area, including Ruddock Park, Headon Park, Westleigh Bush Park and the Berowra Valley Regional Park. There are also recreational uses within the locality including Normanhurst Oval, Hornsby Aquatic and Leisure Centre and Thornleigh Golf Centre.

2 THE PROPOSAL AND BACKGROUND

2.1 The Original Proposal

The DA as originally submitted proposes the redevelopment of the site (Figure 3) including:

- demolition and vegetation removal
- remediation of contaminated land
- bushland protection and regeneration works
- relocation of an Aboriginal Scarred Tree
- bulk earthworks, including constructing retaining walls
- construction of three sports field platforms (including two natural turf and one synthetic turf field) within associated viewing areas and lighting
- construction of three amenities buildings:
 - Building 1 (Figure 4).
 - Building 2 (Figure 5).
 - Building 3 (Figure 6).
- provision of a bicycle pump track, children's playground, and picnic facilities including seating, barbeque facilities and shelters
- construction of internal road system and four car parking areas (with 386 spaces) including associated retaining walls, footpaths, fencing, landscaping, tree planting and street lighting
- re-configuration of mountain bike trails
- construction of stormwater infrastructure including rainwater harvesting, bioretention basins and bioswales
- three new vehicular entries to the site at Warrigal Drive, Quarter Sessions Road and Sefton Road; and
- provision of associated services and utilities.

The following off-site works are also proposed to support the proposed development:

- Duffy Avenue/Chilvers Road/The Esplanade upgrade; and
- signalisation of Chilvers Road/Sefton Road.

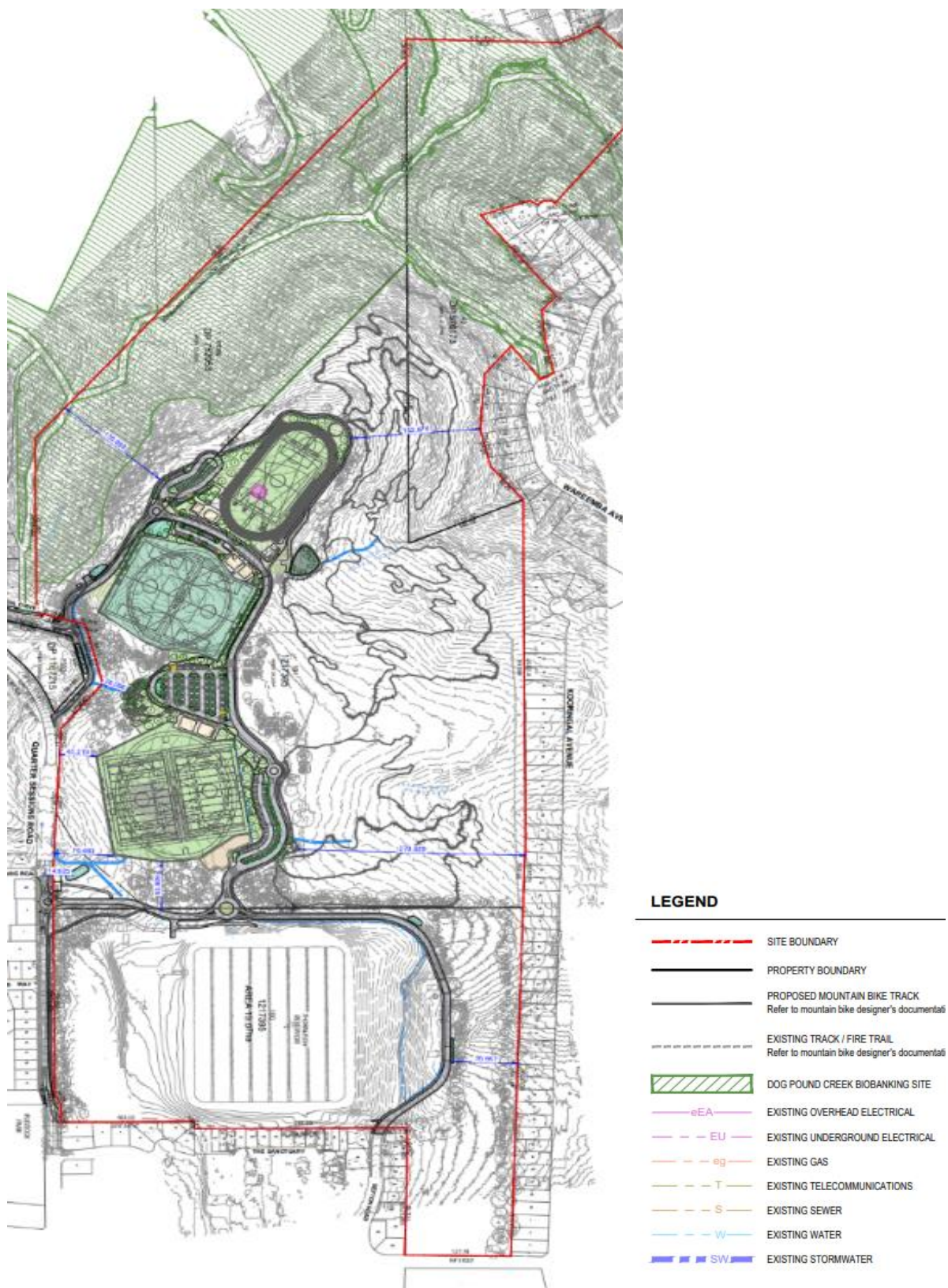


Figure 3: Proposed Site Plan (Source: TTW)

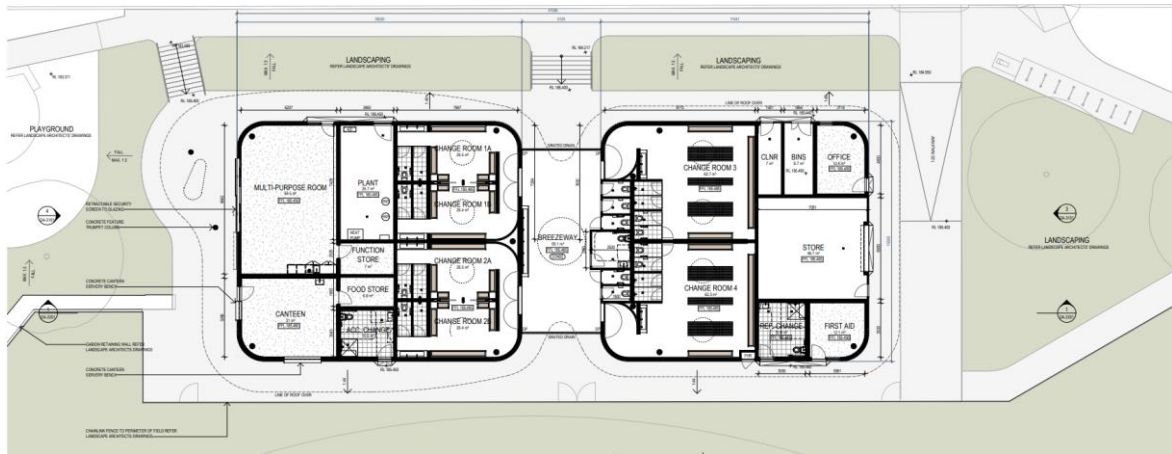


Figure 4: Building 1 (Source: AJC Architects)

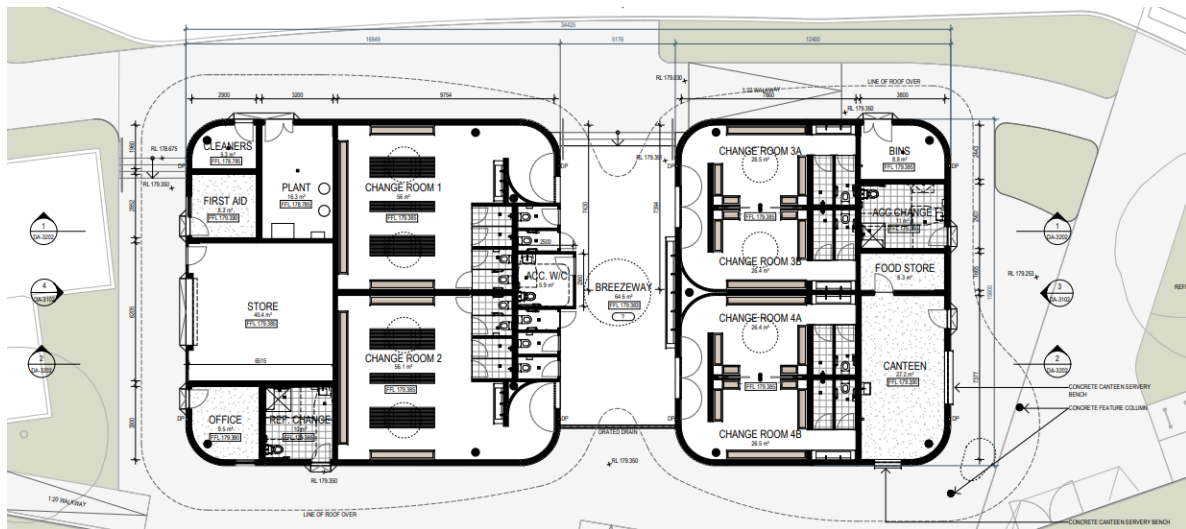


Figure 5: Building 2 (Source: AJC Architects)

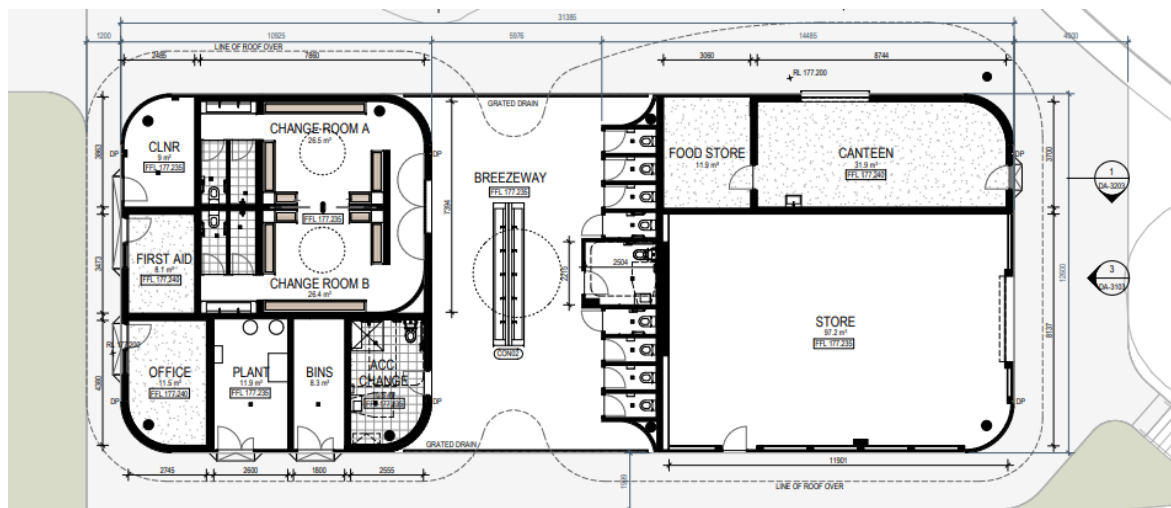


Figure 6: Building 3 (Source: AJC Architects)

Staging

Construction is anticipated to take eight (8) years and be carried out in 3 stages:

- **Stage 1A:** remediation, earthworks, vegetation removal, stormwater management, construction of MTB trails, walking tracks, southern sports field platform including associated amenities building, bicycle pump track, sections of the internal roads and car parking areas and provision of emergency access, construction of the new vehicular and pedestrian entries on Quarter Sessions Road including associated roundabout and shared path link to Ruddock Park, bushland restoration and provision of associated services and utilities:
- **Stage 1B:** earthworks and construction of Sefton Road extension including associated retaining walls, drainage, and fencing; and
- **Stage 2:** remediation, earthworks, vegetation removal, stormwater management, construction of the middle and northern sports field platforms including associated amenities buildings, children's play equipment and other facilities, remainder of the internal roads and car parking areas, Scarred Tree relocation, construction of the new Warrigal Drive vehicular and pedestrian entry including road surface upgrade works and new roundabout at its intersection with Quarter Sessions Road, bushland restoration, and provision of associated services and utilities.

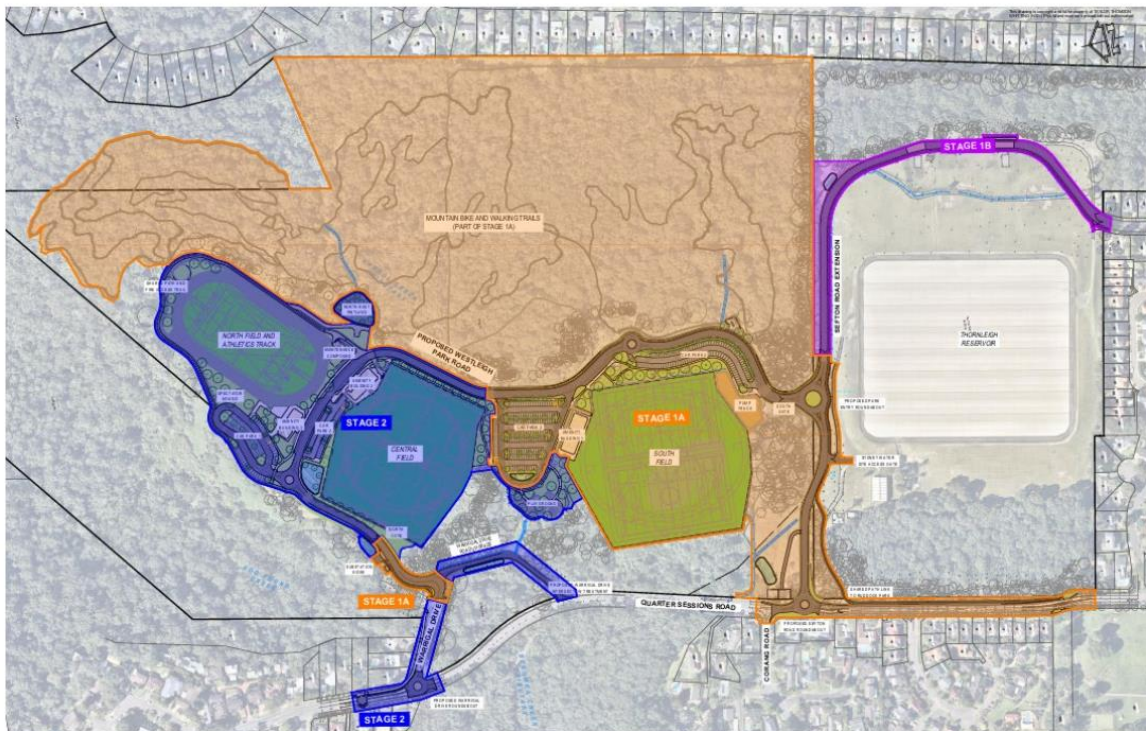


Figure 7: Westleigh Park Construction Stages

Hours of operation

The proposed hours of operation are:

Park	6:30am to 10:30pm, 7 days a week.
Sports fields	7am to 10pm, 7 days a week.

2.2 Amended Proposal

In response to the matters raised in public submissions and a request for information (22 January 2024) the following amendments were made to the proposal:

Earthworks Scheme

- Internal Development Footprint - Revised bulk earthworks volumes to seek to achieve more balanced and compatible cut and fill across the site. The bulk fill is not proposed to be removed from the site and stockpiling during staged construction would no longer be required.
- Northern sports field platform - lowered by approximately 400mm.
- Southern sports field platform - elevated by 350mm and realignment of the northern and southern perimeter retaining wall structures to further minimise impacts to Sydney Turpentine Ironbark Forest (STIF).
- North-south internal road & Central Carpark - Revised levels for north-south internal road (raised between 200mm to 1400mm) adjacent central sports field platform and central car park (Car Park 3) to reduce level difference between the road and existing ground, thereby requiring reduced transition embankment along the outer edge of the road to further minimise impacts to adjoining STIF.
- Southern car park - Revised levels for the southern car park (Car Park 4) to reduce construction footprint to the east and provide an elevated car park and viewing platform over the southern field.
- Embankment - The embankment adjacent to the northern car park along the eastern edge of the northern sports field platform has been replaced with a block retaining wall.
- Retaining wall - Reduction of retaining wall height along the northern perimeter of the northern sports field platform.
- New Rip Rap - Construction of a new rip rap wall along the northern perimeter of northern sports platform to retain Tree 1627, originally proposed to be removed.
- Revised levels - Revised surface levels surrounding amenities building and adjacent ramps and stair access.
- New retaining wall - Construction of a new low height sandstone retaining wall along the western edge of the north-south internal road (at its southern end) to retain Tree 260 (*Angophora costata*).
- Construction Traffic Management Plan (CTMP) - More detailed construction traffic volumes and associated updates.
- Waste Management Plan - Updates to reflect revised cut and fill.

Warrigal Drive upgrade works

- Retaining walls - Construction of low height retaining walls adjacent to Warrigal Drive upgrade works to seek to minimise impacts to adjoining trees (STIF).
- Pedestrian Path - Removal of the section of pedestrian path located between the northern internal roundabout and the southern end of Warrigal Drive.

Quarter Sessions Road

- Retaining walls - Construction of a new low height sandstone retaining wall adjacent to some sections of the proposed shared path between the site and Ruddock Park to further reduce impacts to STIF.

Stormwater Drainage Design

- Revised stormwater drainage - design including catchment areas associated with the modified surface levels and development footprint.
- Ground level works - Deletion of southeast wetland, replacement with a buried water tank and rock armoured swale for overflow, and relocation to the southwest corner of the site adjacent to Quarter Sessions Road, including associated additional rock armoured swales to allow overflow/discharge to Quarter Sessions Road.
- Revised detention capacities - Revised stormwater drainage design to seek to maintain pre-development outflows.

Site access

- Surrounding road network - Revised northern roundabout design at intersection of Quarter Sessions Road and Warrigal Drive including the installation of traffic calming devices.
- Construction of a new shared path - on the northern side of Warrigal Drive between 10 Warrigal Drive and the new northern roundabout on Quarter Sessions Road.
- New footpath and crossing - Installation of a new pedestrian footpath on the eastern side of Quarter Sessions Road and new pedestrian crossing to the north of the proposed new northern roundabout.
- Revised southern roundabout - design on Quarter Sessions Road, near Corang Road, including installation of traffic calming devices.

Internal road system

- Realignment of the northern internal road - to the north of Warrigal Drive (i.e., the extension of Warrigal Drive within the site) to further minimise impact to Sydney Turpentine Ironbark Forest (STIF) community on the eastern side of the road reserve (i.e., shift further west outside tree canopy area).
- Realignment of north-south internal road - adjacent to southernmost car park (Car Park 4) to improve manoeuvrability and allow two-way bus access.
- Realignment of Sefton Road extension - adjacent to the southern boundary of the Thornleigh Reservoir site (Lot 100 DP 1217395) to reduce excavation.
- Realignment of the Sefton Road extension - within Lot 100 DP 1217395 for improved manoeuvrability.
- Construction of a new single width access track - to service the Sydney Water easement (Easement A and B) in the southwest corner of the site.

Amenities Buildings

- Revised building footprint and roof design - of Amenities Building 1, 2 and 3, including updated internal layout to improve functionality.

- Modified finished floor levels (FFL) and external surface levels - to correspond with revised earthworks scheme as follows:
 - **Building 1 FFL (southern platform):** increased by approximately 690mm (from RL 184.8 to RL 185.49)
 - **Building 2 FFL (middle platform):** increased by approximately 284mm (from RL 179.1 to RL 179.384)
 - **Building 3 FFL (northern platform):** lowered by 315mm (from RL 177.55 to RL 177.235)

Modified building heights as follows:

- **Building 1:** reduced building height to flat roof from RL 188.88 to RL 188.665 due to modified (reduced) flat roof design. Maximum height associated with skylight feature increased to RL 190.375.
- **Building 2:** reduced building height to flat roof from RL 183.1 to RL 182.565 due to modified (reduced) flat roof design. Maximum height associated with skylight feature increased to RL 184.270.
- **Building 3:** reduced building height to flat roof from RL 181.55 to RL 180.415 due to modified (reduced) flat roof design. Maximum height associated with skylight feature increased to RL 182.128.
- Modified facade materiality and finishes - including updated brick face colour to respond to feedback received from Registered Aboriginal Parties, as detailed in the Connecting with Country Framework reporting.
- Solar Panels-Installation of additional PV solar panels.

Central playground

- Childrens Playground - Reduction of children's playground footprint and removal of elevated boardwalk structure and replacement with a footpath within the proposed footprint to further minimise impacts to adjoining STIF.

Mountain Bike Trails

- Minor revisions to the alignments of the mountain bike trail and design - to eliminate the need for tree removal, maximise use of existing trails, remove small sections of trails within STIF and includes the detailed design of a trail head at the southeast corner of the site.

Scarred Tree

- Additional detail regarding potential Scarred Tree relocation - area including landscape treatment, tree retention, opportunities for interpretative design features and seating/gathering area in northwest corner of the site between to the edge of the northern sports platform and the perimeter shared path.

Field lighting

- Light poles - Installation of 6x 25m high poles on the northern platform and 6 x 30m high poles on the central and southern sporting platforms.
- Light poles to pump track - Installation of 2x 15m high light poles in the pump track.
- Minor increase to maximum light pole heights - relative to revised earthworks scheme.

Services

- Relocation of electrical substation - from eastern side to western side of Warrigal Drive extension to remove substation from bushfire prone land and improve access for installation and maintenance.
- Underground services (ASP3) trench - to be constructed underneath the new shared path along Warrigal Drive.

2.3 Site History

A summary outlining the site's history is provided in Table 1 below.

Table 1: Site History

Date	Event
Early 2000's	Council recognised the need for additional sports fields and began the process of identifying potential sites which included the 'surplus to needs' Sydney Water owned land at Westleigh.
2014 - 2015	Council adopted a Section 94 Developer Contributions Plan, which included \$20M for the purchase of the Westleigh Park site from Sydney Water to address active recreation needs for the Shire.
Jun 2016	Acquisition of Sydney Water land completed
Oct 2018	Council adopted Hornsby Sportsground Strategy, supporting the need to develop sportsgrounds at Westleigh Park
2019	NSW Government announces \$40M funding for Westleigh Park Development including funding for mountain bike trails
Apr - Jun 2021	Public exhibition of draft Westleigh Park Concept Master Plan.
July 2021	Council considered a report outlining the results of the public exhibition of the draft Westleigh Park Concept Master Plan and deferred their decision to enable further community consultation.
2022	Community engagement activity was undertaken including: <ul style="list-style-type: none">- a series of co-design workshops with stakeholders from the mountain biking and environmental communities- stakeholder workshops with the local community regarding Sefton Road traffic concerns.
14 June 2023	The Westleigh Park Masterplan 2023 and Westleigh Park Plan of Management 2023 were adopted by Council.

Source: Council Business paper - General Meeting 14 June 2023

2.4 Development Application History

Table 2: Chronology

Date	Event
31/07/2023	SEARs (No. 1473) issued by DPHI
24/08/2023	Pre-lodgement meeting
25/09/2023	DA lodged
09/10/2023	Exhibition of the application
26/09/2023	DA referred to external agencies
18/10/2023	TfNSW response received with recommended conditions.
01/11/2023	RFS response received with recommended conditions.
02/11/2023	Ausgrid response received. No objection.
22/11/2023	Panel briefing
28/11/2023	DA referred to internal agencies and independent assessors (heritage, environment agency, building surveyor, traffic, landscaping, contamination, arboricultural and acoustic)
15/12/2023	Heritage NSW response received requesting additional information.
18/12/2023	EPA NSW response received with GTA.
22/12/2024	Received comments from independent subconsultants (traffic, landscaping, contamination and acoustic).
22/01/2024	Request for Additional Information from Council to Applicant
13/03/2024	Received comments from independent subconsultant (Arboriculture)
15/03/2024	Request for Additional Information from Council to Applicant
17/04/2024	Meeting with Applicant to discuss Arborist comments.
15/03/2024	RFI Response letter and additional information lodged.
22/04/2024	RFI Response letter and additional information lodged.
02/05/2024	RFI Response letter and additional information lodged.
05/07/2024	Amended plans and documentation formally lodged and accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i>
12/07/2024	Additional amended plans and documentation formally lodged and accepted by Council under CI 38(1) of the 2021 EP&A Regulation 2021

Date	Event
06/08/2024	Second exhibition of the application
06/08/2024	Response received from Environmental Protection. No objection.
07/08/2024	Heritage (internal referral) response received with recommended conditions.
12/08/2024	Response received from Building Surveyor (internal referral). No objection.
13/08/2024	Further RFS response received with recommended conditions.
22/08/2024	Further TfNSW response received with recommended conditions.
23/08/2024	Further Heritage NSW GTA received.
06/09/2024	Received comments from independent subconsultants (traffic, landscaping, contamination, arboricultural and acoustic).
24/09/2024	Further EPA NSW response received with GTA.
17/09/2024	Meeting with Applicant and Council to discuss the staging of required off-site transport works.
19/09/2024	RFI Response letter and additional information lodged responding to Traffic comments and Acoustic comments.
20/09/2024	RFI Response letter and additional information lodged responding to Arborist comments.
03/10/2024	RFI Response letter and additional information lodged responding to Geotech/Contamination comments.
11/10/2024	Further RFS response with recommended conditions.
17/10/2024	DA referred to DPHI in accordance with Section 60 of the Environmental Planning and Assessment Regulation 2021.

2.5 Relevant Development Applications

Subdivision and construction of 190 dwellings at 72-78 Duffy Avenue, Westleigh was approved 1999 (DA/1439/99).

The application was assessed in accordance with the Westleigh DCP which was in force at the time.

The subdivision approval included provision for construction of an extension to Sefton Road to the boundary with the Sydney Water land. The DCP envisaged a future extension of Sefton Road to connect to Quarter Sessions Road to provide a second access to Westleigh as an alternative to Duffy Avenue.

3 STATUTORY CONSIDERATIONS

3.1 STRATEGIC CONTEXT

3.1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The *Greater Sydney Region Plan - A Metropolis of Three Cities* has been prepared by the NSW State Government to guide land use planning decisions over the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for the Northern District over the next 20 years.

The proposed development is consistent with the *Greater Sydney Region Plan - A Metropolis of Three Cities* and the *North District Plan*, by providing a high-quality sporting and community facility to assist address the demands and expectations of the community and encourage social connection, health and togetherness. In particular, the proposed development will:

- (a) encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games
- (b) ensure that such activities are managed having regard to any adverse impact on nearby residences
- (c) remediate land
- (d) ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna of the land and other ecological values of the land
- (e) protect the aesthetic, heritage, recreational, educational and scientific values of the land, and
- (f) promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land.

3.1.2 Active Living Hornsby Strategy (2016)

The *Active Living Hornsby Strategy* provides a strategic framework and identifies a suite of action and critical plans to be developed that would be key to delivering the Active Living Hornsby Strategy. These include a Sports Plan, Play Plan and Walking and Cycling Plan.

The Strategy notes that outdoor sports facilities receive greater demand than available resources can support and that:

- unstructured recreation across the Shire matches the diversity of landscape types and the available facilities, with cycling (road, MTB and BMX), fishing, boating and bushwalking all being popular.
- opportunities to increase the quantum of outdoor settings in the Shire to meet growing demand is limited by geography.

- there is a need to address improved facilities and opportunities for walking (especially local walks connecting urban areas and bushland) and cycling as well as local open space upgrades and more adaptable sports facilities to address a growing demand.

3.1.3 Sportsground Strategy (2018)

The *Sportsground Strategy* found that:

- Council provides around 43 sportsgrounds with a total playing surface area of 59ha. There was a shortfall of playing surface area is 12.6Ha (as at 2018). Furthermore, in the winter season, 76% of Council's fields are allocated close to, or over, their combined capacity.
- with no change to the current supply, by 2026 there would be a shortfall of sportsground playing surface within the Hornsby LGA of approximately 19.9ha. In addition to the actual playing area, an allowance for ancillary space needs to be made (estimated at 70%) which results in a total area required of approximately 33.8ha.

A range of approaches to addressing the identified shortfall was identified including relevantly, progressing with the development of Westleigh Park for sports fields and supporting infrastructure, and the use of synthetic surfaces to boost capacity.

3.1.4 Hornsby Community Strategic Plan, 2022

The Hornsby Community Strategic Plan has been prepared in partnership with local residents, other levels of government that deliver educational, health and parks services, Council committees, non-government organisations, community and sporting organisations and businesses to deliver a shared vision for the LGA up to 2032.

Parks, open space, recreation and sports were identified by the community as 1 of the 10 key issues, with the community expressing a strong desire for improved access to community facilities. In addition, providing diverse recreation and sporting opportunities was identified as an action to encourage an active and health community.

3.1.5 Hornsby Local Strategic Planning Statement, 2020)

The Hornsby Local Strategic Planning Statement (LSPS) 2020 sets out the 20-year vision for the future of the Hornsby LGA specifically relating to land use, special character and values of the area to be preserved and how growth within the LGA will be managed.

The LSPS identifies key priorities and actions to ensure future growth is adequately and appropriately managed into the future including enhancement of existing and provision of increased recreation and play spaces throughout the LGA.

Westleigh Park is identified within in the LSPS as a 'Major Urban Parkland' that has been prioritised as local infrastructure in the current development contrition's plans to deliver additional open space and recreational area. It is also identified as a 'major open space project' intended to assist addressing the undersupply of land for recreational facilities.

The application is consistent with the key priorities outlined in the Hornsby LSPS 2020.

3.2 STATUTORY CONTROLS

The relevant legislation is as follows:

- *Environmental Planning and Assessment Act 1979 (EPA Act)*
- *Biodiversity Conservation Act 2016 (BC Act)*

- *Protection of the Environment Operations Act 1997 (PoEO Act)*
- *National Parks and Wildlife Act 1974 (NPW Act)*
- *Water Management Act 2000 (WM Act)*
- *Contaminated Land Management Act 1997 (CLM Act)*
- *Commonwealth Environment Protection Biodiversity Conservation Act 1999 (EPBC Act)*

3.2.1 Environmental Planning and Assessment Act 1979

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iv) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (v) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are considered in Section 3.3.

3.2.2 Biodiversity Conservation Act 2016

The BC Act lists and protects threatened species, populations and ecological communities that are under threat of extinction in NSW. Applicants must consider whether their proposal will exceed the following Biodiversity Offset Scheme Development Thresholds:

- Exceeding the clearing thresholds of an area of Native vegetation
- Carrying out development on land included in the Biodiversity Values Land Map
- Having a significant effect on threatened species or ecological communities.

The Biodiversity Development Assessment Report (BDAR) submitted with the application follows the Biodiversity Assessment Method 2020 (BAM) established under the NSW BC Act. The BDAR was prepared as the proposal triggers the Biodiversity Offsets Scheme (BOS), being works to native vegetation mapped on the Biodiversity Values Map.

The BDAR identifies direct and indirect impacts to the biodiversity values within the development footprint and calculates a total of 64 ecosystem credits and 34 species credits are required to offset the residual impacts across the subject land.

The biodiversity impacts of the proposed development are considered in Section 3.9 **Error! Reference source not found..**

3.2.3 Protection of the Environment Operations Act 1997

The PoEO Act sets out environmental standards and licensing requirements to regulate certain activities for the purpose of protecting the environment. The PoEO Act sets out requirements applying to a range of works and activities which are categorized as either scheduled or non-scheduled activities. Licenses are required for the carrying out of scheduled activities and are issued by the NSW Environment Protection Authority (EPA).

In accordance with Clause 15, Schedule 1 of the PoEO Act identifies any activity that involves the treatment and storage of more than 30, 000 cubic metres of contaminated soil or disturbs more than an aggregate area of 3 hectares of contaminated soil is considered a scheduled activity.

The proposed development is integrated development and approval under Section 48 of the PoEO Act for contaminated soil treatment is necessary and the proposed remediation works require an Environment Protection License issued by the EPA.

3.2.4 National Parks and Wildlife Act 1974

The NPW Act is the statutory framework which governs historic sites, the protection of Aboriginal objects and the establishment, preservation, and management of national parks.

Section 90 of the NPW Act also sets out the provisions for obtaining an Aboriginal Heritage Impact Permit (AHIP), which identifies that an AHIP application will be required if it is likely that Aboriginal objects are present and likely to be harmed by the proposed activity.

Based on the Aboriginal Cultural Heritage assessments which have been prepared in relation to the proposed development, it has been determined that an AHIP, issued by Heritage NSW under Section 90 of the NPW Act, is required. The AHIP specifically relates to the proposed relocation of an existing Scarred Tree located at the northern end of the site.

3.2.5 Water Management Act 2000

The WM Act is intended to ensure that water resources are conserved and suitably managed for sustainable use. Part 3 of WM Act identifies approval requirements for water use, water management works approvals and activity approvals. The proposal involves earthworks and construction works, specifically those relating to the MTB trails, within 40 metres of an existing watercourse (Larool Tributary North).

Whilst the carrying out of development within 40 metres of a watercourse requires a “*controlled activity approval*” under Section 91 of the WM Act, Section 41 of the Water Management (General) Regulation 2018 provides that a public authority (Council) is exempt from the requirements of the WM Act in relation to controlled activities.

As such, the proposed development is not integrated development and approval under Section 91 of the WM Act is not required.

3.2.6 Contaminated Land Management Act 1997

The CLM Act is the legal framework for the regulation and management of contaminated land in NSW. The general object of this is to determine the relevant process for investigating and remediating contaminated land.

A Remediation Action Plan has been prepared and referred to EPA.

3.2.7 Environment Protection Biodiversity Conservation Act 1999 (Commonwealth)

The EPBC Act establishes a process for assessing the environmental impact of activities and developments where Matters of National Environmental Significance (MNES) may be affected. Under the Act, any action which “has, will have, or is likely to have a significant impact on MNES” is defined as a “controlled action”, and requires approval from the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW).

A habitat assessment and Likelihood of Occurrence was completed for listed threatened species that represent MNES (Appendix J of BDAR).

A referral was made to DCCEEW who confirmed on 6 May 2024 that the proposed action was not a controlled action and does not require approval under the EPBC Act.

3.3 Environmental Planning Instruments, proposed instruments, development control plan, planning agreement and the regulations

3.3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The relevant Environmental Planning Instruments are identified in Table 3.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and regional Development	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Chapter 4: Koala Habitat Protection 2021 Chapter 6: Water catchments	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Chapter 4: Remediation of Land	Yes
State Environmental Planning Policy (Transport and Infrastructure)	Chapter 3: Infrastructure	Yes
Hornsby Local Environmental Plan 2013	Clause 4.3 - Height of buildings Clause 4.4 - Floor Space Ratio Clause 4.6 - Vary development standard Clause 5.10 - Heritage Clause 5.21 - Flood Planning Clause 5.23 - Public bushland Clause 6.1 - Acid Sulphate Soils	Yes

EPI	Matters for Consideration	Comply
	Clause 6.2 - Earthworks Clause 6.4 - Terrestrial biodiversity	
Hornsby Development Control Plan 2024	Refer to Attachment C.	Yes

3.3.2 State Environmental Planning Policy (Planning Systems) 2021

The proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria in Clauses 3 and 5 of Schedule 6 as a Council related development for a recreational facility with a capital investment value (CIV) of more than \$5 million. Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

3.3.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4: Koala Habitat Protection

Hornsby Shire does not have an approved Koala Plan of Management and therefore an assessment of impacts to Koalas and Koala habitat must be completed. The BDAR determined the subject land did not meet the definition of core Koala habitat because:

- No koalas were recorded during targeted field survey
- There are no historical records for the koala within the subject land.

Chapter 6: Water catchments

The site is located within the Hawkesbury Nepean Catchment and therefore, the proposal is subject to assessment against the provisions set out in Chapter 6.

Assessment of the Civil Stormwater Report and Water Management Report concludes that potential stormwater runoff and water quality impacts to the natural water bodies within and surrounding the site have been adequately addressed noting the proposed stormwater design incorporates a hybrid of stormwater harvesting, on site detention, retention, and reuse systems along with water quality treatment and other sediment and control measures to.

Additionally, there will be no impacts to any identified aquatic reserve as the site is located outside these areas (and not along the NSW coastline). The proposal is consistent with the relevant matters outlined in Division 2.

When determining an application relating to development located within 100 metres of a natural water body in a regulated catchment, Division 3, Section 6.11 also requires the consent authority to consider whether the uses proposed for land abutting the natural waterbody are water dependent uses and to minimise conflicts between land uses. It is considered that development consent may be granted under this section for the following reasons:

- The site is not located in a Riverine Scenic Area as demonstrated on the Hawkesbury Nepean Riverine Scenic Area Map (referred to in Schedule 6) and therefore Section 6.12 of the policy does not apply.
- The site is located in the Berowra Creek sub catchment as identified on the Hawkesbury Nepean Catchment Map (referred to in Schedule 6) which is not identified as a Hawkesbury Nepean

conservation area sub catchment (as defined in Schedule 6). As such Section 6.13 of the policy does not apply.

- The environmental impacts to the natural water bodies of the Hawkesbury Nepean catchment will be appropriately minimised, and mitigated where relevant, as detailed in the above-mentioned supporting technical reports.

Accordingly, the proposal satisfies the relevant provisions of the Biodiversity and Conservation SEPP. Recommended conditions of consent would address mitigation measures necessary to ensure the relevant requirements and objectives under this SEPP are met.

3.3.4 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

Section 4.6 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. A Preliminary Site Investigation ('PSI') and Detailed Site Investigation (DSI) has been prepared for the site and identifies various remediation strategies throughout the construction and operational stages which will appropriately respond to the legislative requirements and will allow for adequate treatment and management of the contaminated material (largely within a cap and contain method) to render the site is suitable to accommodate the proposed development. An independent site auditor has audited the site and supports the proposed methodology.

The DSI report concludes that the site can be made suitable for the proposed use and therefore the proposal is consistent with SEPP (Resilience and Hazards) 2021, subject to imposition of relevant conditions of consent in relation to remediation works during each stage of construction and operation on any consent granted [Conditions Nos. 92, 93, 95, 96 and 97].

3.3.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

Schedule 3: Traffic-generating development to be referred to TfNSW

Development for the purposes of 'car parks (whether or not ancillary to other development)' of 200 or more car parking spaces on site with access to a road (generally) must be referred to Transport for NSW (TfNSW).

Accordingly, the application was referred to TfNSW on 26 September 2023. TfNSW has no objection to the proposal subject to the imposition of recommended conditions [Conditions Nos. 4, 19 and 121].

3.3.6 Hornsby Local Environmental Plan 2013

Hornsby Local Environmental Plan 2013 (HLEP) applies to the site. The proposed development is consistent with relevant aims of the Plan. In particular, the proposal will facilitate development that will:

- Provide a high-quality sporting and recreational facility to meet the needs of the local and regional community.*
- Facilitate orderly and economic and sustainable development of Hornsby, balancing, environmental and social needs.*
- Protect and enhance the heritage of Hornsby, specifically cultural and Aboriginal significance.*
- Remediate contaminated land and minimise risk to the community in areas subject to environmental hazards, including flooding and bush fires.*

3.3.6.1 Zoning and Permissibility

The site is zoned part R2 Low Density Residential, part C3 Environmental Management and part RE1 Public Recreation.

The application is for use of the land for a recreation facility (outdoor) defined as:

“a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major)”.

‘Recreational facilities (outdoor)’ are permitted with consent in the RE1 Public Recreation, C3 Environmental Management and R2 Low Density Residential zones.

In accordance with clause 2.7 of the HLEP 2013, development consent is also required for demolition works. The application is for the demolition of several buildings and structures located on site.

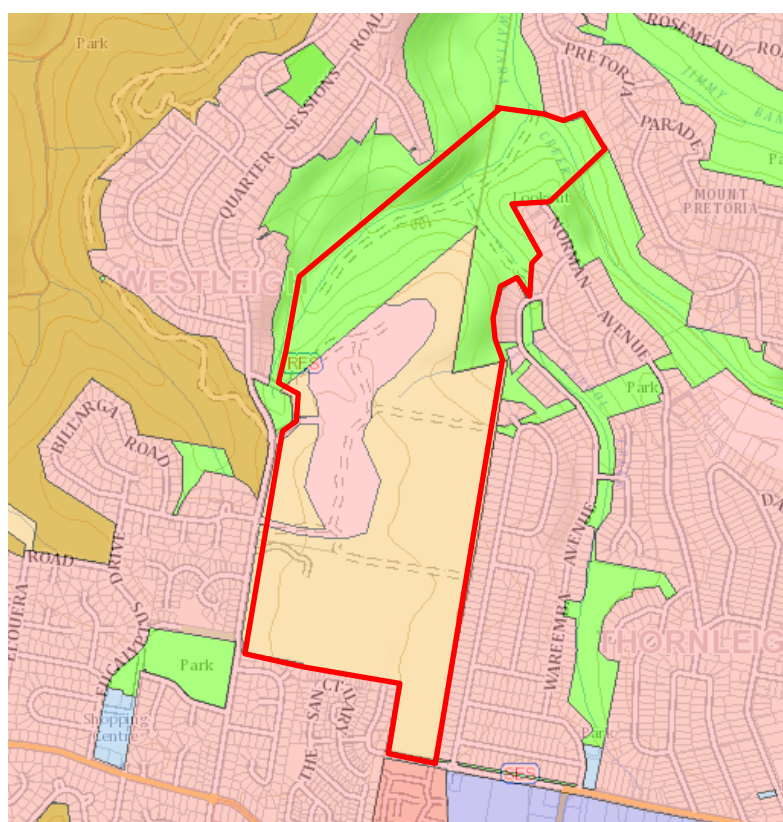


Figure 8 Extract of HLEP Zoning Map (Source: NSW Legislation)

RE1 - Public Recreation R2 - Low Density Residential C3 - Environmental Management

The objectives of the site's zones are:

RE1 Public Recreation

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

- *To protect and maintain areas of bushland that have ecological value.*

R2 Low Density Residential

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.*

C3 Environmental Management

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To protect the natural environment of steep lands and floodplains within the catchment of the Hawkesbury River.*
- *To enable low impact agritourism and tourist and visitor accommodation that is compatible with the environmental values of the zone.*

The proposal is consistent with these zone objectives for the following reasons:

- The proposal will promote the management of the land in a manner that protects and enhances the values and quality of the land, provides a range of recreational activities and settings, that are compatible with adjoining land uses.
- The proposal adopts appropriate management methods for the protection and preservation of the identified sites of Aboriginal cultural heritage significance.
- The proposal will remediate contaminated lands and restore and manage areas with special ecological, scientific, cultural or aesthetic values.
- The proposal will facilitate the public enjoyment of the land and one that implements measures directed to minimising or mitigating associated impacts.
- The proposal will facilitate a high-quality sporting and recreational facility that will service the day-to-day needs of the community and region and will be compatible with the surrounding low density surrounding land uses.

3.3.6.2 General Controls and Development Standards

Table 4: Consideration of the HLEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	40ha - C3 zoned land 500m ² - R2 zoned land	No subdivision proposed.	N/A
Height of buildings (CI 4.3(2))	R2 zoned land - 8.5m C3 zoned land - 10.5m RE1 - No control	11m 33m	No (Refer to CI 4.6)

Control	Requirement	Proposal	Comply
FSR (CI 4.4(2))	N/A	N/A	N/A
Exception to development standards (CI 4.6)	Consent may be granted even though the development would contravene a development standard	Refer to Section 3.3.6.3	N/A
Heritage (CI 5.10)	Circumstances under which development consent is required.	The site is not indicated as a heritage item and is not adjacent to a heritage item or located within a Heritage Conservation Area. The Aboriginal Cultural Heritage assessment (ACHA) identified a number of known and potential sites of Aboriginal cultural significance on the site, most notably AHIMS site 45 6 3657 Westleigh Scarred Tree with PAD.	Yes
Flood planning (CI 5.21)	Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied.	The site is not within an identified flood planning area.	N/A
Public Bushland (CI 5.23)	(3) Development consent must not be granted to development that will disturb, or is reasonably likely to disturb, public bushland unless the consent authority is satisfied of the following— (a) the disturbance of the bushland is essential for a purpose in the public interest, (b) there is no reasonable alternative to the disturbance,	a) The proposed development is for a purpose in the public interest as it implements the adopted Westleigh Park Masterplan 2023 and other strategic documents (Section 3.1). b) The scale of land required to provide playing fields means there are no reasonable alternatives that do not require disturbance to bushland. c) The siting and design approach taken seeks to	Yes

Control	Requirement	Proposal	Comply
	<p>(c) the development minimises the amount of bushland to be disturbed,</p> <p>(d) the development includes measures to remediate the disturbed bushland.</p>	<p>minimise impacts to public bushland.</p> <p>d) The proposal includes remediation of bushland including:</p> <ul style="list-style-type: none"> existing exotic vegetation to be removed and restored. some existing MTB trails to be closed and rehabilitated. contamination within the native bushland areas will be remediated (where accessible) via handpicking measures. 	
Acid sulphate soils (CI 6.1)	Development consent is required for the carrying out of certain works on land shown on the Acid Sulfate Soils Map.	The site is not identified on the Acid Sulfate Soils Map.	N/A
Earthworks (CI 6.2)	Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider a range matters.	The impacts of the civil works have been adequately documented, and sufficient information has been received to demonstrate the impacts of the earthworks will be minimised (refer to Section 3.9).	Yes
Terrestrial Biodiversity (CI 6.4)	<p>Development consent must not be granted unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be</p>	<p>The site is mapped 'Biodiversity' on the Terrestrial Biodiversity Map.</p> <p>The proposed development has been sited and designed to consider the condition, value and significance, fragmentation, disturbance and diminishing structure, function and composition and impacts on connectivity.</p> <p>The development footprint is predominantly located on land previously cleared to minimise impact.</p>	Yes

Control	Requirement	Proposal	Comply
	managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.		

3.3.6.3 Exceptions to Development Standards

A request to vary the height development standard has been prepared in accordance with the requirements of Clause 4.6 of the HLEP. As the development application was lodged in September 2023, the amendments to clause 4.6 pursuant to the standard instrument (as in effect from 1 November 2023) do not apply.

This clause provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tender to hinder the attainment of the objectives of the zone.

The variations relate to lighting poles and fencing in 3 locations, as described in Figures 9 and 10.

Platform	Structure	Height above egl	Control	Variation
Northern	North west Light Pole	29m (25m + 4m fill)	10.5m	18.5m (176%)
Central	Central west Light Pole	33m (30m + 2-3m fill)	8.5m	24.5m (288.2%)
	10m Fencing - North	10m (0m - 1m cut)	8.5m	1.5m (17.6%)
Southern	South west Light pole	38m (30m + 8m fill)	10.5m	27.5m (261.9%)
	10m Fencing	12m (10m + 1-2m fill)	8.5m	3.5m (41.1%)

Figure 9 Extract of Clause 4.6 Height Variations (Source: Cl.4.6 Request)

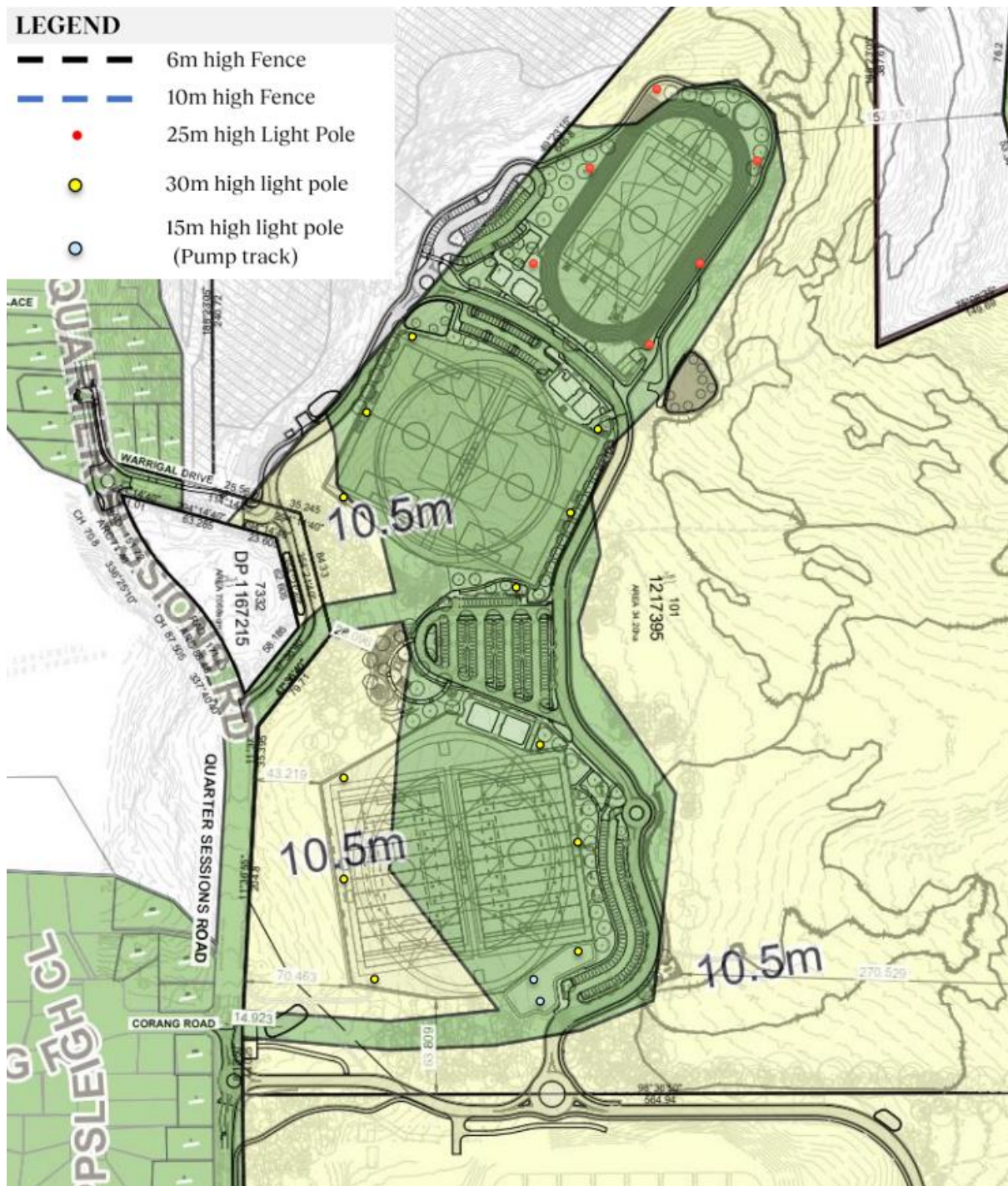


Figure 10 Extract of Proposed Site Plan and Height Variations (Source: CI4.6 Request)

Clause 4.6 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2008] NSW LEC 118, Preston CJ clarified the correct approach to dealing with a written request under Clause 4.6 to justify the contravention of a development standard.

In relation to determining the matter under Clause 4.6(3)(a), the consent authority must be satisfied that the applicant's written request adequately addresses the matter as opposed to the determining authority making its own judgement regarding whether compliance is unreasonable or unnecessary. Additionally, the clause does not require that a non-compliant development should have a neutral or beneficial effect relative to a compliant development.

In relation to determining the matter under Clause 4.6(3)(b), the environmental planning grounds clause, non-compliant development is not required to result in a 'better environmental planning outcome for the site' relative to a compliant development. Instead, the requirement is only that there are sufficient environmental planning grounds to justify the development standard contravention.

The consent authority must be satisfied that the written request provided by the applicant under Clause 4.6 addresses both the unreasonable and unnecessary test and demonstrates sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

- (a) *The consent authority is satisfied that:*
 - (i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *The concurrence of the Planning Secretary has been obtained.*

Unreasonable or Unnecessary Clause 4.6(3)(a)

There are five common methods by which an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the development: Initially proposed for objections under clause 6 of SEPP 1 in *The decision of Wehbe v Pittwater Council* [2007] NSWLEC 827 Pearson C summarised and applied these methods to written requests made under Clause 4.6 in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [61-62]. These five methods are generally as follows:

1. *The objectives of the standard are achieved notwithstanding noncompliance with the standard.*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

It is not required to demonstrate that a development meets multiple methods as listed above, and the satisfaction of one can be adequate to demonstrate that the development standard is unreasonable or unnecessary. The Clause 4.6 request submitted with the DA states the proposed contravention is consistent with the objectives of the height of building development standard and has relied on Test 1 to demonstrate that compliance with the development standard is both unreasonable and unnecessary and provides the following justification:

- The proposal seeks to deliver recreational facilities and facilities as Council intended with the purchase of the land.
- The fencing and lighting structures are characteristic of recreational facilities within suburban residential areas and are therefore not out of character with the area. In addition, recreational facilities are expressly permitted within the R2, RE1 and C3 zones.
- Therefore, the proposal is not considered to be unreasonable or unnecessary:
 - The proposal satisfies the objectives of the relevant zones.
 - The proposal will not result in adverse impacts to the amenity of the surrounding area Construction of the access.
 - The bulk and scale are compatible with the existing and desired future character of the area.
 - The proposal will provide recreational facilities envisaged under the relevant planning controls for the site.
 - There will be no unreasonable visual or light spill impacts from the variation.
 - The proposal is generally compliant with the development controls.

The Applicant also draws on the principle that the underlying objective or purpose be defeated or thwarted if compliance was required. The reasoning being that recreational facilities are permitted within the relevant zones, and to accommodate such uses, high fencing and lighting is required to ensure the facilities are fit for purpose and compliant with the relevant Australian Standards.

It is noted that the objectives of Clause 4.3 of the HLEP are as follows:

“to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.”

With reference to the reasoning provided by the applicant above, it is considered that the proposed variation from the development standard meets the objective of Clause 4.3. Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case.

The applicant also relies on the absence of environmental impacts arising from the non-compliance with the development standard, and the largely compliant nature of the development when assessed against the relevant legislative and Hornsby Development Control Plan requirements (discussed in the body of this report) and asserts that the site is suitable for this development on that basis. It is

considered that the applicants request to contravene the height development standard on this ground is also well founded.

For the reasons outlined above, it is considered that the written request to contravene the height of building standard adequately demonstrates that the objectives of the height of buildings development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding non-compliance with the standard.

Environmental Planning Grounds - Clause 4.6(3)(b)

In addition to demonstrating that compliance is unreasonable or unnecessary, Clause 4.6(3)(b) requires that there are sufficient environmental planning grounds to justify contravening the development standard. In demonstrating that sufficient environmental planning grounds exist it must be demonstrated that the planning grounds are particular to the circumstances of the development on the subject site (summarised from *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [60]. The applicant provided the following planning grounds for the contravention of the development standard.

- The proposal is consistent with the objectives of the zoning of the site and the objectives of the height building standards.
- The non-compliant structures do not result in any unacceptable impacts on the amenity of surrounding development.
- The non-compliant structures ensure that the facilities are fit for purpose and have been accommodated without adverse environmental impact.

It is considered that the proposed variations to the height standard are reasonable built environment outcomes, both within the subject site, and to the adjoining residential development. Notwithstanding the non-compliance with numerical standards, the proposal does not give rise to any material adverse amenity impacts to any adjoining property. The structures respond reasonably to the slope of the site.

It is considered that the environmental planning grounds stated within the written request are sufficient with respect to Clause 4.6(3)(b) and that the stated grounds are specific to the proposed development and the circumstances of the development site. It is therefore considered that the written request adequately demonstrates compliance with the clause and is acceptable in this regard.

The written submission therefore satisfies that Clause 4.6(3)(b) of the HLEP and is adequately addressed.

Public Interest and Clause 4.6(4)

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

- (a) *The consent authority is satisfied that:*
 - (i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *The concurrence of the Planning Secretary has been obtained.*

With regard to (a)(i), the written request is considered to adequately address the matters required to be demonstrated as outlined above. With regard to (a)(ii), the proposed development is considered to be in the public interest based on the applicants reasoning and because it is consistent with the objectives of the particular standard and the objectives for height of building contained within the HLEP.

With regard to (b), on 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation). The Secretary's concurrence may not be assumed by a delegate of council if:

- The development contravenes a numerical standard by greater than 10%.
- The variation is to a non-numerical standard.

3.4 Section 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

Section 3.42 of the EPA Act states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

3.5 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no relevant draft instruments.

3.6 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The Hornsby Development Control Plan 2024 was adopted by Hornsby Council on 10 July 2024 and came into effect on 18 July 2024. Whilst the previous DCP was in force when the application was submitted, there are no savings provisions. Therefore, the proposal has been assessed against the most current DCP.

The DCP compliance table (Attachment B) demonstrates the application is generally consistent with Hornsby DCP 2024.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the assessment (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Hornsby Shire Council s7.11 Development Contributions Plan 2020-2030*
- *Hornsby Shire Council s7.12 Development Contributions Plan 2019-2029*

The s7.12 Development Contributions Plan has been considered but as per part 2.8, an exemption should be provided '*in respect of development applications made by or on behalf of the Council for community infrastructure including... recreational facilities*'. Therefore, no contributions are required under this Contributions Plan.

The s7.11 Plan does not apply as the proposal does not generate the need for additional services but rather provides recreational facilities.

3.7 Section 4.15(1)(a)(iia) - Planning agreements under Section 7.4 of the EP&A Act

There are no planning agreements entered into and there are no draft planning agreements proposed for the site.

3.8 Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 25 - Concurrences and/or Approvals.

In accordance with Section 25 of the Regulation relevant Concurrences and/or Approvals bodies have been listed in the EIS and where necessary responses have been sought and included as part of this assessment. These are detailed in Table 6 of this report.

Section 28 - Biodiversity Conservation Act

In accordance with Section 28(2) of the Regulation, the BDAR which accompanies the DA has been prepared under the BC Act and contains the necessary biodiversity credits information.

Section 30B - Council-related development applications

The DA is a 'council-related development application' for the purpose of the Regulation which is defined in Schedule 1 Clause 9B of the Act as follows:

"Council-related development application means a development application, for which a council is the consent authority, that is— (a) made by or on behalf of the council, or (b) for development on land, other than a public road within the meaning of the Local Government Act 1993—

- of which the council is an owner, a lessee or a licensee, or*
- otherwise vested in or under the control of the council.*

Section 35B (2) - Additional requirements for development applications involving contravention of development standards.

The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

The application is accompanied by a written Clause 4.6 submission to a variation from Clause 4.3 (height) of the HLEP which is a development standard.

Section 42 - Consent authority to seek general terms of approval

In accordance with Section 42, for integrated development applications the Council must seek general terms of approval from relevant Authorities.

- General Terms of Approval have been granted by Heritage NSW being the Authority under Section 90 of the NPW Act.
- General Terms of Approval have been granted by the Environmental Protection Authority (EPA) under the PoEO Act - (Clause 15, Schedule 1).

Section 44 - Notice of proposed consultations about Aboriginal heritage impact under National Parks and Wildlife Act 1974

If a development application relates to development that requires an Aboriginal heritage impact permit (AHIP) under the NPWA, the Planning Secretary must notify the consent authority that Aboriginal community consultation is required under that Act.

The applicant is aware that any works that impact AHIMS site 45-6-3657 (Westleigh Scarred Tree) will require authority under the NPWA. Consultation with Registered Aboriginal Parties (RAPs) and stakeholder bodies is ongoing.

Section 45 - Notification of general terms of approval

Relevant approval bodies have given written notice of their decision about the general terms of approval in relation to the development application.

Section 51 (1) - Concurrence under Biodiversity Conservation Act 2016

The applicant has not sought a reduction in biodiversity credits.

Section 61 - Australian Standard AS2601 - Demolition of Structures

The proposal must be assessed against the provisions of AS2601 as it involves demolition of buildings. The recommended conditions of consent require all work to be undertaken in accordance with the prevailing standards and statutory requirements.

Section 66A (council-related development applications)

The application has been assessed by an Independent Assessment Officer.

Section 69 - Compliance with Building Code of Australia

Any building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA) and will be conditioned as part any development consent.

Section 193 - Principles of ecologically sustainable development

The EP&A Regulation 2021 requires the following four (4) principles of ecologically sustainable development to be considered in assessing a project:

1. *The precautionary principle.*
2. *Intergenerational equity.*
3. *Conservation of biological diversity and ecological integrity.*
4. *Improved valuation and pricing of environmental resources.*

An analysis of these principles and how they have been incorporated into the design and ongoing operation phases of the development is detailed in the EIS.

3.9 Section 4.15(1)(b) - Likely Impacts of Development

The key likely impacts identified through the assessment process relate to:

- Biodiversity (Flora and Fauna) including clearing of native vegetation
- Aboriginal Heritage including relocation of the Scarred Tree
- Contamination and remediation

- Traffic and access both during construction and operation and capacity of the surrounding road network

Biodiversity (Flora and Fauna)

The site comprises several vegetation communities including Sydney Turpentine Ironbark Forest (STIF) which is listed as Critically Endangered under the EPBC Act and as a Critically Endangered Ecological Community (CEEC) under the BC Act. STIF is also a Serious and Irreversible Impact (SII) candidate entity. Duffy's Forest has also been identified on site which is listed as an Endangered Ecological Community (EEC) under the BC Act.

The bushland areas also contain several threatened flora species and provide habitat for threatened fauna species. Threatened species on site include:

1. *Darwinia biflora* (under the EPBC Act and BC Act); and
2. *Tetratheca glandulosa* (under the EPBC Act)

Various Plant Community Types (PCT) have also been identified.

The proposed development triggers the Biodiversity Offsets Scheme (BOS) and consequently a Biodiversity Development Assessment Report (BDAR) accompanies the development application. The BDAR describes the biodiversity values within the subject land and development footprint, describes the direct and indirect impacts and outlines the measures to be taken to avoid, minimize and mitigate impacts to the biodiversity values present within the subject land and development footprint.

The application is supported by a BDAR outlining how the proposal has been designed to avoid and minimise impacts on biodiversity values.

Council's strategic studies demonstrate the need for additional sporting facilities such as ovals and mountain bike trails. The report acknowledges the Westleigh site was strategically selected as the most suitable and effective location to provide a multi-purpose facility to address unmet demand in a location that is substantially cleared and therefore, avoiding the provision of such facilities on more constrained lands or locations within the Shire where there may be greater environmental impacts.

Following selection of the site as a preferred location, the report comments that to avoid impacts a number of design options were considered and evaluated. The selected design of the facility concentrates the development footprint in largely cleared areas or portions of the site with exotic vegetation. Furthermore, in refining the design to avoid and minimise impacts, the report outlines the following amendments have been incorporated in the proposal:

- A reduction in the area of impact by 17,510m² (1.36ha) associated with the sports field platforms and access roads from the concept within the Westleigh Park Masterplan 2019 to the final DA design.
- Reduced contamination remediation area containing Sydney Turpentine Ironbark Forest by 96% or 3.68ha.
- Realignment of the access road to retain trees originally proposed for removal.
- Redesign of the amenities buildings and associated asset protection zones reducing impacts by 6,037m².
- Reducing the length of the existing informal mountain bike trail network from 11.7km to form a formal system with a total length of 6km, reduced by 5.712km (or 49%); and

- A total land area of 3.5ha will be restored to native bushland.

In summary, the report demonstrates the process the applicant has undertaken to avoid impacts in the site selection process and design of the facility. Further, the proposal has been the subject of a number of refinements and amendments throughout the application process to minimise biodiversity impacts.

Notwithstanding the process undertaken to avoid and minimise impacts, a total of 64 ecosystem credits and 34 species credits are required to offset the residual impacts across the subject land. The offset credit requirements will be imposed as specific conditions on the consent [Condition No. 12].

A separate referral under the EPBC Act was made to the Commonwealth, which assessed impacts to the MNES identified above. The Referral assessed whether the proposed action is likely to constitute a significant impact to any MNES. The biodiversity assessment undertaken concludes that the proposal is unlikely to result in a significant and irreversibly impact on that community. On 6 May 2024 the Commonwealth determined that the proposed action was not a controlled action and does not require approval under the EPBC Act.

Tree Preservation and Bushland Management

The proposal will involve clearing of approximately 1.66 hectares of native vegetation, urban bushland and exotic vegetation and weeds.

There are 154 trees identified for removal, including 6 dead trees and 10 which are exempt species. A further 184 trees may potentially be impacted by the development but appear suitable for retention using sensitive construction methodologies. Accordingly appropriate conditions are included to ensure all works within the TPZs are supervised by the project Arborist [Condition Nos. 21, 41, 64, 65, 84 and 131].

To compensate for the proposed vegetation removal, extensive new landscaping is proposed, particularly around the perimeter and spectator areas around sports fields, along the roads and within car parks and around the playground and amenities buildings. This will include planting 159 new native trees, 343 native shrubs and 49,736 native ground covers.

In addition to formal landscape treatment on-site there is significant bushland regeneration and rehabilitation proposed to be carried out in accordance with the BDAR and associated Vegetation Management Plan. The VMP includes site preparation, weed control, revegetation, seed collection monitoring and reporting to ensure protection of flora and fauna outside the development footprint and to manage indirect impacts of the development.

The independent Landscape and Arboricultural consultant have reviewed the application and provided no objection subject to the inclusion of conditions of consent [Condition Nos. including but not limited to 18, 21, 22, 23, 80, 117, 120, 128 and 133].

Contamination and Remediation

Historically, the site has been subject to contaminating land uses, including a night soil depot and tarring plant, timber pole manufacturing and treatment, municipal landfill site, borrow pit and former NSW Rural Fire Services (RFS) firefighting training site involving the use of PFAS. Whilst some remediation works have previously been undertaken (PFAS removal associated with the former RFS training facility), this application proposes various strategies to ensure appropriate remediation of the remaining contaminated material located on site are achieved to facilitate the delivery of the new recreational facility.

Supporting remediation strategy documents including Remedial Action Plans (RAP) and site audit reports have been developed to manage the identified land contamination. The proposed remediation works

primarily involve the treatment of soil via a “cap and contain” method as well as disturbance of an aggregate area of contaminated soil of more than 3 hectares. Due to the sensitive ecological setting of the surrounding bushland areas, the cap and contain method will occur within the sports grounds, roads, and car parking areas. Other alternative remediation strategies will apply to the surrounding bushland areas.

The remediation of the site throughout each stage of development to full operation will be enforced, regulated and monitored via the imposition of specific conditions of consent [Conditions Nos. 92, 93, 95, 96 and 97].

Traffic

As the development will be delivered in stages, the supporting traffic studies are based on future year scenarios, modelled for each of the stages of park operation. The investigations and modelling data have been undertaken to develop the Westleigh Park Plan of Management, Westleigh Park Master Plan 2023 and the development proposed under this application.

Vehicle access to the site is proposed via Quarter Sessions Road, Warrigal Drive and a new link road via Sefton Road. Works to introduce three new vehicular entries to the site as follows:

- **Warrigal Drive Entry:** Upgrade of Warrigal Drive, including resurfacing of a section of the road reserve, associated drainage works and construction of a new roundabout at its intersection with Quarter Sessions Road.
- **Quarter Sessions Road Entry:** Construction of a new vehicular entry on Quarter Sessions Road near Corang Road including the construction of a new roundabout; and
- **Sefton Road Entry:** Extension of Sefton Road to facilitate a new entrance road across the Thornleigh Reservoir site, being Lot 100 DP 1217395.

The HDCP 2024 does not provide car parking rates for recreational facilities. In circumstances where there are no car parking rates provided for certain development, the HDCP 2024 states that a car parking demand assessment should be provided. As such, the TIA has determined car parking demand of the proposed development be based on a ‘First Principles’ assessment.

Off-street parking is to be provided in four open-air car parking areas located throughout the site.

TTPP (Independent Traffic assessor) requested additional justification on the first principles assessment for peak parking demand as the assessment had assumed 75% of attendees for the next game would arrive whilst a game is on when considering cross over of parking demand. This was requested due to concerns over back-to-back games resulting in a 100% overlap of attendees, which may risk parking demand being underrepresented. Whilst it is acknowledged that on-site car parking is rarely provided for the 100th percentile demand, the potential impacts of the overflow demand should be considered.

The Applicant provided additional justification on 19 September 2024 for the use of 75%, including clear separation of game start times and staggered arrival and departure times. It is considered that the parking assessment has been undertaken given the typical operation of the park and is therefore acceptable. It is recommended that this operational requirement be included within the Plan of Management and a specific condition of consent imposed to ensure separation of game start times and staggered arrival and departure times [Condition No. 72].

A range of traffic-related impacts have been identified as matters of consideration. These include the traffic impacts and carparking generation requirements relevant to the proposed development and the

likely impacts upon the surrounding street network across all stages of the project. Public and private transport services and bicycle and pedestrian networks have also been identified as matters to consider.

There is a Council commitment to deliver external road upgrades, being Duffy Avenue/Chilvers Road/The Esplanade upgrade to mitigate background traffic growth and the signalisation of Chilvers Road/Sefton Road for traffic and pedestrian accessibility, in the years 2027 and 2032 respectively.

TTPP concludes that these intersection upgrades should meet the demands of any traffic generation of the development whether construction or operational, particularly as mentioned the Chilvers Road/Sefton Road intersection prior to any high utilisation of the Sefton Road access by either construction, Park or through traffic (excluding emergency and maintenance vehicles). It is noted that the actual delivery timeline is subject to approval of the Traffic Control Signal designs by TfNSW, the outcome of community consultation and Council's capital works program.

A Road Safety Audit (1 July 2024, Stanbury Traffic Planning) was commissioned by the Applicant that considered both the existing road conditions/geometries and future road upgrades proposed at the vehicle site accesses. The Road Safety Audit identified a range of Corrective Action Requests that the Applicant has considered and where related to the vehicle site accesses incorporated mitigation works in amended Civil Drawings.

To ensure that the external road infrastructure meets the demands of the use throughout both the construction and operational stages of the development and until completion, TTPP (Independent Traffic assessor) has provided the following recommendations in relation to the abovementioned external road upgrades:

1. Prior to the issue of any construction certificate for Stage 1A, the applicant must prepare engineering drawings for:
 - a. Quarter Session Road South Access. The drawing must incorporate all agreed mitigation works in Corrective Action Request 1 of the Road Safety Audit (1 July 2024, Stanbury Traffic Planning).
 - b. The drawings must be provided to and approved by the certifier and the relevant road Authority.
2. Prior to the occupation of Stage 1A, the following external road works must be completed:
 - a. All works on the Quarter Session Road South Access
 - b. All works must be completed to the satisfaction of the certifier and the relevant Road Authority.
3. In relation to Stage 1B works the proposed Sefton Road Extension can only be used for emergency and maintenance vehicle access, until such time the external road works (detailed in point 5a. and 5b. below) under Stage 2 are constructed.
4. Prior to the issue of any construction certificate for Stage 2, the applicant must prepare engineering drawings for:
 - a. Quarter Session Road/ Warrigal Drive North and South Accesses. The drawing must incorporate all agreed mitigation works in Corrective Action Requests 2 and 3 of the Road Safety Audit (1 July 2024, Stanbury Traffic Planning), as well as incorporate additional traffic calming from the south of the new roundabout at Warrigal Drive North in response to the Road Safety Audit findings.

- b. All agreed mitigation works for Sefton Road in Corrective Action Requests 4 to 9 of the Road Safety Audit dated 1 July 2024 and prepared by Stanbury Traffic Planning.
 - c. The drawings must be provided to and approved by the certifier and the relevant road Authority.
5. Prior to the occupation of Stage 2, the following external road works must be completed:
- a. Quarter Session Road/ Warrigal Drive North and South Accesses.
 - b. Upgrade of the intersection of Sefton Road/ Chilvers Road to include traffic control signals, as presented in Figure 4.2 of the Traffic Impact Assessment (26 July 2023, Bitzios) dated 26 July 2023.
 - c. All agreed mitigation works for Sefton Road in Corrective Action Requests 4 to 9 of the Road Safety Audit dated 1 July 2024 and prepared by Stanbury Traffic Planning.

All works must be completed to the satisfaction of the certifier and the relevant road Authority.

Having regard to the above recommendations, it is noted that the upgrade to the Duffy/Chilvers/Esplanade intersection is already substantially completed under Council's works programme, and, on this basis, the applicant has requested that this intersection upgrade be completed prior to the occupation certificate for Stage 2.

TTPP also asked for consideration of improvements to pedestrian and cyclist connectivity between the park and surrounding residential areas. The Applicant amended the Civil Drawings to identify that a shared path is now proposed to be included along the northern side of Warrigal Drive and north along the eastern side of Quarter Sessions Road to provide improved pedestrian and cycle access to the site.

The TIA concludes that the traffic generated by the proposed development will not contribute to adverse impacts upon the surrounding road network and sufficient off-street car parking is proposed to adequately accommodate the activities to be carried out on site.

The abovementioned requirements have been resolved through recommended conditions of consent [Conditions Nos. 109, 112, 116, 118, 119, 121 and 122].

Non-European Heritage

Four significant Aboriginal cultural heritage were identified within the subject site:

- **Site 1** AHIMS site 45-6-3657 Westleigh Scarred Tree with PAD
- **Site 2** AHIMS site 45-6-3658 Westleigh Rock shelter with artefacts and PAD
- **Site 3** Westleigh (potential) PAD
- **Site 4** Thornleigh (potential) PAD

Of these, only Site 1 has the potential to be directly impacted.



Figure 11: Aboriginal Heritage sites (Source: Scribe)

An Aboriginal Cultural Heritage Assessment Report (ACHAR) was requested by Heritage NSW to inform their general terms of approval (integrated development application). The ACHAR details the statutory consultation process with Registered Aboriginal Parties (RAPs); incorporates the arboricultural, archaeological and geoarchaeological field assessments; and discusses the findings of the targeted consultation workshops. The ACH investigations undertaken for the project were conducted between February 2019 - June 2024.

An arboricultural assessment has determined the Scarred Tree is dead and the condition of the tree now poses safety concerns associated with falling limbs and potential future collapse. The proposed development seeks to ensure the significance and cultural values of the Scarred Tree are preserved via relocation and conservation in an alternative location. The proposed location for the Scarred Tree is identified on Drawing 3707.GA.07 Issue 10 in the Landscape Plans.

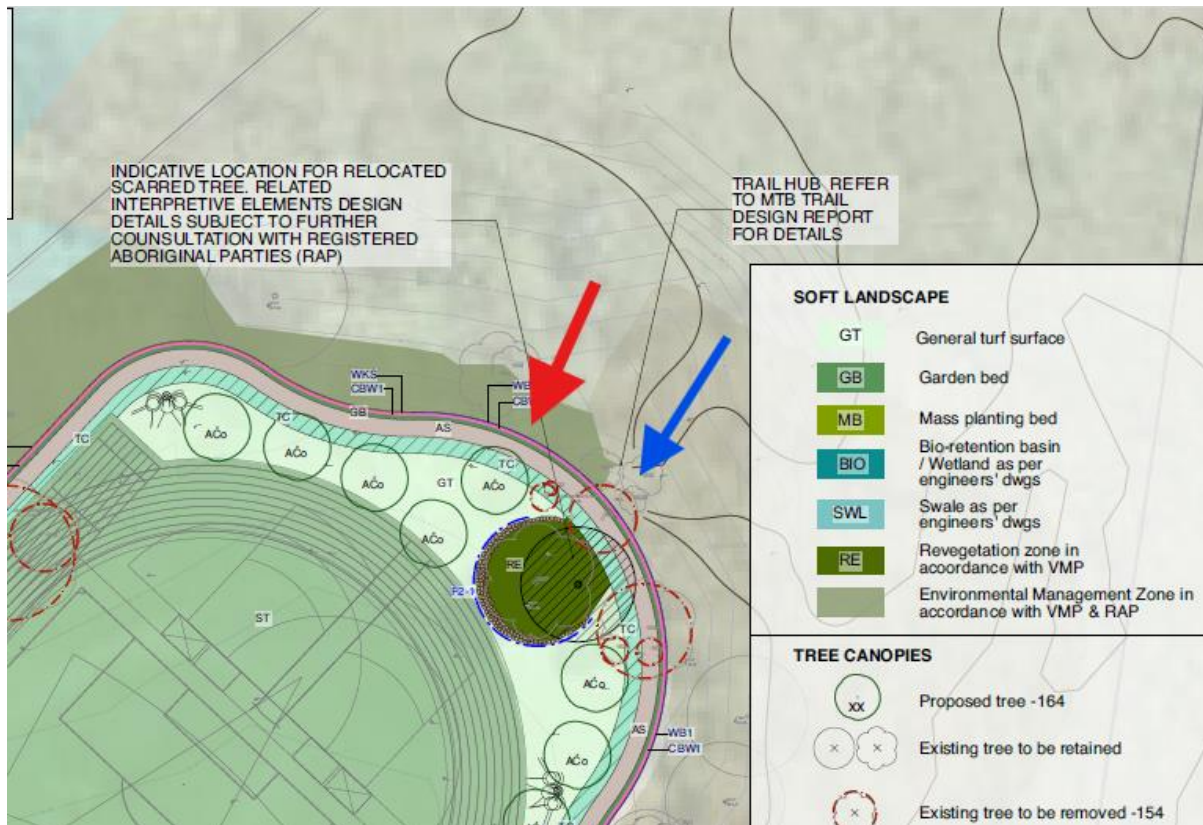


Figure 12: Extract of Drawing 3707.GA.07 Issue 10 in the Landscape Plans (Source: Environmental Partnership)

Preliminary concerns were raised in relation to the potential conflict between the proposed location of the Scarred Tree and the Northern Mountain Bike Hub. In response to these concerns the applicant advised:

- *The Northern Mtn Bike Hub is a low key access point to the northern trails that will be identified through signage only. There is no other infrastructure proposed to be installed at this point.*
- *There is a 9m setback between the proposed tree location and the crash barrier around the northern edge of the development.*
- *The Northern Mountain Bike Hub is separated by a small concrete retaining wall/hob, a crash barrier, a 2.5m wide shared path and 1.5m turfcrete path to facilitate emergency access.*
- *Access to the Northern Hub will be located approximately 15-20m further to the west of the Scarred Tree.*

In this regard it should be noted that this design is conceptual only and requires further approval in the form of an Aboriginal Heritage Impact Permit (AHIP) which will be subject to further consultation with the RAPs and NSW Heritage Council.

Given the rapid state of deterioration and decline of the Scarred Tree, it is recommended that protection and preservation measures be implemented prior to the commencement of the project and shall be carried out before any works commence in relation to Stage 1A and throughout building works until such a time as relocation is lawfully permitted (or prior to the occupation certificate for Stage 2). Conditions of consent will be imposed to ensure this requirement [Condition Nos. 33 and 50]. It is also recommended that a report be prepared to identify immediate works required to ensure the structural

integrity of the tree in the intervening period until the tree is re-located to facilitate future works as part of Stage 2.

Westleigh Shelter AHIMS 45-6-3658 GTLAC identified a rock shelter containing two artefacts on the soft floor sediments. Located under a portion of the proposed bike track, the shelter has suffered from post contact camping (evidenced by the presence of a steel bed frame) and significant spalling (delamination) of the roof strata.

The Westleigh Rock Shelter will be avoided by general project activities. Notwithstanding, conditions of consent are proposed to ensure harm mitigation actions including:

- the development of a comprehensive baseline record of the shelter prior to the commencement of construction activities
- co-ordinated site visits to occur at regular intervals/as required pre- and post-major construction activities.
- Geotechnical vibration monitoring to ensure that the structural integrity of the Shelter is not adversely impacted.
- develop a cultural heritage management strategy to guide future management. These requirements will be imposed as a recommended condition of consent [Conditions 34 and 51].

Bushfire

The subject land is mapped as bush fire prone on the Hornsby Shire Council bush fire prone land (BFPL) map. The proposed development falls within the Flame Zone (high risk). A Bushfire Risk Assessment report prepared by Ecological Australia addresses the requirements of Planning for Bushfire Protection 2019.

Waterways

The site contains two watercourses, one named watercourse, Dog Pound Creek, which is located to the north, and one unnamed creek ('Larool Tributary North'), which drains to the northeast.

Construction activities are not anticipated to significantly impact any of the waterways. The project has potential for erosion and sedimentation during earthworks activities and therefore potential impacts to water quality.

A series of stormwater runoff and discharge management measures have been considered as part of the development design process to improve water quality and reduce the increase in storm flows associated with the proposed development. Likely acceleration of leaching of pollutants from the fill and polluting downstream receiving waterways has also been adequately considered and mitigated.

Appropriate stormwater and discharge management measures will be enforced via recommended conditions of consent [Conditions Nos. 26, 27, 28 and 89].

Landform

The revised design scheme for the sporting field platforms has been amended to ensure minimal import or export of fill which is an appropriate design response to the natural environment.

The detailed Design Report for the Mountain Bike Trails prepared by DirtArt dated July 2024 indicates that 560 tonnes of soil is required across approximately 6kms of trails. The fill is primarily dedicated to Trails N4, N5, N8, N13 and N18. The applicant has advised that based on a conservative estimate this will entail approximately 46 truck movements for Stage 1A, (23 loaded

movements inbound and 23 empty movements out). This has been estimated based on a 30-tonne load on a truck and dog to accommodate bulking factor. The proposed fill will be stockpiled within proximity to the Mountain Bike trails and where necessary, helicopter drops will be utilised to address ecological constraints in relation to this part of the site.

The recontouring of the tracks must be implemented to avoid significant level changes where possible and designed to mitigate erosion, soil degradation and avoid adverse impacts to mature trees and vegetation of ecological value. In this regard, it is recommended that the imported fill must be virgin excavated natural material (VENM) and the proposed earthworks associated with the Mountain Bike trails shall be undertaken under the supervision of the Appointed Project Ecologist. This requirement will be imposed as a recommended condition of consent [Condition Nos. 23 and 80]

Air Quality

An Air Quality Impact Assessment (AQIA) prepared by Northstar Air Quality Pty Ltd dated 1 July 2024 identifies potential air quality impacts generated by:

1. Dust emissions associated with temporary construction related activities; and
2. Vehicular traffic exhaust emission associated with the ongoing operation of the site.

The sensitive receptors have been identified as residential properties adjacent to the local road network surrounding the site, including areas in proximity to Warrigal Drive where road and driveway entry upgrade works are proposed. The pollutants considered as part of the analysis include nitrogen dioxide and particulate matter.

Construction phase activities will involve construction works and associated vehicle traffic. A qualitative assessment regarding the potential impacts from these activities has been carried out in consideration of guidance published by the Institute of Air Quality Management in the United Kingdom which has been adapted by Northstar for application in Australia. That assessment showed there to be a medium risk of dust soiling and health risk impacts associated with earthworks, and construction traffic, while demolition, construction activity, and track-out activities were associated with low risks.

Gaseous emissions generated from vehicles and plant and machinery would be controlled to acceptable standards during construction with mitigation measures in place [Condition No. 17].

The Remedial Action Plan indicates that asbestos and hydrocarbons (coal tar) are likely to be present at locations across the Project site. The conceptual site model developed by Coffey (2020) indicates that there is a moderate likelihood of exposure to asbestos and hydrocarbons if disturbed or exposed, respectively. Prior to removing asbestos, an Asbestos Control Plan will be developed. Air quality will be monitored throughout construction and Asbestos removal will be undertaken under the supervision of a Licensed Asbestos Assessor. The RAP outlines contingency measures and should complaints of odour (and dust) be received, or should excessive asbestos be detected in air monitoring results, work would be stopped, and the remediation plan would be reviewed and adjusted.

The assessment for the operational or day-to-day usage of the facility is expected to be negligible at all distances from roadside, on a longer-term basis.

Kitchen exhausts will be present within the canteen areas. All kitchen exhausts will be designed, installed, and operated to meet Australian Standard AS1668.2-2012. Given the separation distance of the kitchen exhaust from surrounding sensitive receptor locations, odour impacts associated with the use of the canteens are anticipated to be minimal.

Based upon the information presented in this AQIA, the study does not consider there is an air quality constraint associated with the construction or operation of the Project. Mitigation measures, commensurate to the scale and nature of the construction works and the level of risk identified have been recommended. [Condition No. 17].

The recommendations contained within the Air Quality Impact Assessment (AQIA) will be imposed as specific conditions of consent [Condition No. 61].

Built Form

The primary built form comprises 3 proposed amenities buildings, retaining wall structures and light poles associated with each sports field platform.

All amenities buildings are single storey and have been sympathetically designed with a contemporary low profile. The external materials and finishes have been selected to connect with the surrounding bushland setting, enable natural ventilation and articulate the scale of the buildings.

Other built-form elements of the proposal include the children's playground, park furniture including seating, picnic shelters with picnic tables and seating, bin enclosures, drinking fountains, bollards and bicycle racks. Sports fencing, palisade fencing, security fencing and street and car park lighting also form part of the proposal.

The proposed built form responds to the constraints of the site and is considered appropriate for a contemporary and high quality recreational and sporting facility.

Visual Impact

The northern end of the site forms part of a wide ridgeline which is densely vegetated. A cleared plateau occupies the central and southern half of the project area. The southern end contains the existing Thornleigh Reservoir. Dense bushland of approximately 100 metres to 320 metres wide adjoins all site boundaries, apart from the southern boundary adjacent to the Thornleigh Reservoir.

The proposed development and associated activities largely occupy the cleared, plateau area within the site and therefore will be bounded by the existing bushland and Thornleigh Reservoir.

A Visual Impact Assessment (VIA) has been prepared and is based on the planning principles established in *Tenacity Consulting v Warringah Council* 2004 and the methodology set out in the Technical Supplement guideline for landscape and Visual Impact Assessment released by the Department of Planning and Environment, August 2022 (the Guidelines).

The VIA includes consideration of all potentially affected properties, key viewpoints and the public domain (Figure 13).



Figure 13: Depicting viewpoints (Source: EIS, pg. 331)

The VIA demonstrated that where views of the development are available, only part of the development will be visible.

Potential viewpoints and associated sensitive receptors to the south of the existing Thornleigh Reservoir located on Lot 100 DP 1217395 were analysed and are not anticipated to result in any material visual impacts due to the substantial setback distance and bushland surrounding the southern end of the development footprint.

Residential properties immediately adjoining the Thornleigh Reservoir site to the south, located on The Sanctuary and Sefton Road are set back approximately 300 metres from the proposed development. This setback distance has been measured from the rear boundaries of the residential properties to the southern lot boundary of Lot 100 DP 1217395 (62 Quarter Sessions Road) which is the subject lot within which the proposed sports field platforms will be located.

As such, it is considered that the development will not be visually prominent in these views. It should also be noted that there are no significant level differences between these properties and the development which would permit views to the proposed works.

Given the extent of bushland surrounding the proposed development footprint, visibility of the development will be limited. One view corridor (Viewpoint 3) would result in a noticeable change as viewed from the new entry road entry from Quarter Sessions Road on the western frontage of the site. The development would be significantly setback from this location and whilst a large gabion retaining wall, sports fencing and light towers would be initially visible on construction, the proposed dense revegetation would ultimately screen most of the development, mitigating any perceived impacts. Before and After representations of this Viewpoint are illustrated in the Figure 14.

It is considered that the surrounding public domain and residential properties will largely remain unchanged in terms of the visual context and identified/assessed views to the site.

An Obtrusive Lighting Assessment of the sports lighting, amenities blocks, and lighting of public roads and carpark lighting has been prepared. The proposed lighting design meets the lighting criteria requirements for Australian Standard 4282:2019 for category A3 medium district brightness being for suburban areas. In addition, to minimise potential impacts, the lighting is to be permitted for use only between sunset and 10pm and only when sporting activity is taking place [Condition Nos. 29 and 108].



Figure 14: New entry road from Quarter Sessions Road on the western frontage of the site (Source: EIS)

Construction

A Construction Environmental Management Plan (CEMP) has been prepared to address the potential impacts arising from the construction work and to ensure appropriate measures are implemented during all phases of the construction process. Condition No. 17 will ensure compliance with all relevant standards to manage potential impacts including noise, vibration and dust.

The proposed construction working hours will align with Hornsby Shire Council's guidelines as follows:

- 7:00am to 5:00pm Monday to Saturday (inclusive)
- No works on Sundays or Public Holidays; and
- Safety Inspections are permitted to take place from 6:30am on working days.
- Construction Site Layout

Noise (construction and operation)

An Acoustic Impact Assessment (AIA) has been prepared Marshall Day dated 5 July 2024 which provides an assessment of the potential noise and vibration impacts associated with the construction and operation of the proposed development.

The operational noise from the park has been calculated according to ISO 9613-2:1996 and assessed against the Hornsby Shire Council Policy and Guidelines for Noise and Vibration Generating Development. The road traffic noise from additional traffic generated by the park has been assessed against the NSW EPA Road Noise Policy (RNP).

The following project related activities have been identified as likely sources of potential noise and vibration impacts:

1. Sports/recreation activities, vehicle movements within the site and road traffic during the operational phases; and
2. Construction activities and road traffic during the construction phases of the development.

The surrounding sensitive receivers include residential development to the northwest at Wareemba Avenue, east at Koorngal Avenue and Talpa Close, south at Sefton Road and west at Quarter Sessions Road and Warrigal Drive. Notwithstanding this, the proposed recreational activities, car parking areas and internal roads are generally setback significant distances from the neighbouring residential areas given the extent of bushland surrounding the development.

Noise assessments from on-site operational phase activities assume a weekend daytime worst-case scenario of 4 full pitch soccer games (or 8 half pitch soccer games) with a total of approximately 720 spectators on site. An evening worst-case scenario with 8 half pitch soccer training sessions occurring concurrently has been considered (approximately 200 participants, no spectators).

Noise from on-site operational phase activities such as sport play, carparks and internal roads are generally predicted to be below the applicable day and evening noise criteria, due to the large setback distances to neighbouring residential areas. The exception is to the residential receiver at 52 Sefton Road where a 4 dB exceedance is predicted in the evening period. However, the impact from traffic on the Sefton Road extension was anticipated when the Sanctuary Gardens subdivision was approved, and acoustic mitigation was conditioned for the construction of this dwelling. As such no additional mitigation measures would be required for this dwelling.

Similarly, operational noise impacts from additional vehicle movements on public roads are also predicted to be generally compliant for access routes along Quarter Sessions Road and Warrigal Drive. For residences in Sefton Road, Sanctuary Gardens, more significant impacts are predicted as this section of road is currently a dead end with no through traffic. However, the through connection of Sefton Road was also anticipated at the time of the subdivision development and noise controls were required to be applied to the dwellings on Sefton Road to address the future impacts.

The design and setback of dwellings on this section of road were assessed on the basis that the extension of the road would be provided at a future time. On this basis the predicted exceedance of the

external RNP (non-mandatory) noise goals have been addressed already by way of consent condition 14b of DA 1439/99 and accordingly, no additional mitigation would be required.

There are several noise sources associated with the different phases of construction that have the potential to increase noise at the nearest noise sensitive receivers. The construction noise assessment is based on preliminary and indicative data on construction equipment and processes. It will be necessary for a construction contractor to prepare a specific Construction Noise and Vibration Management Plan based on the final selected construction methodology, plant and equipment proposed for the works.

Subject to the recommended mitigation measures and circumstances outlined in the AIA prepared by Marshall Day Acoustics and dated 5 July 2024 it is considered that the construction and operation noise and vibration impacts generated by the construction and operation of the recreational facility will be acceptable.

Noise and vibration from construction activities will be mitigated as far as practicable because of the large distances from the works to the residential receivers. The AIA has recommended that noise impacts that result from the proposed construction activities can be suitably addressed by the following mitigation measures: -

- Community consultation and negotiation
- Scheduling of activities and providing respite periods
- Management work practices
- Construction noise control measures
- Complaint handling procedure

As part of the construction of the Mountain Bike trails a helicopter will be used to lift construction material into place in the sensitive bushland along the eastern side of the site. This is predicted to involve around 94 loads of materials. The AIA has recommended that the proposed dates and times for helicopter lifts should be communicated with affected residents ahead of time and be limited across 2 days to minimise noise impacts. It is recommended that Helicopter lifts be addressed and identified in the Construction and Environmental Management Plan in consultation with suitably qualified consultants. These requirements will be imposed via recommended conditions of consent [Condition Nos. 17 and 114].

The proposed hours of operation are:

- Park - 6:30am to 10:30pm, 7 days a week.
- Sports fields - 7am to 10pm, 7 days a week.

Councils Acoustic consultant has advised that these hours of operation have not been fully assessed within the applicants AIA in relation to noise impacts as they fall within the night time period under the Environmental Protection Authorities guidelines (Night: 22:00 to 7:00 Monday to Saturday and 22:00 to 8:00 Sundays & Public Holidays). Consequently, it is uncertain whether compliance is achieved during night time, in particular having regard to sleep disturbance requirements.

In these circumstances, it is recommended that the hours of operation for the use of the park and sports fields (including shutdown and patron departure) be restricted to the following:

- **Monday to Friday** - 7:00 am to 10 pm
- **Saturday** - 7:00 am to 10 pm

- **Sunday and Public Holidays - 8:00 am to 10 pm**

The proposed use and operation of the Mountain bike trails will be managed under the Plan of Management and will be subject to regular review which is a requirement under this document. However, the hours of use of the mountain bike facility must not be outside the above hours of operation of the overall Park. These requirements will be imposed via a recommended condition of consent [Condition Nos. 72 and 103].

Operations & Management - regular use & event mode

The proposed development is supported by a Plan of Management (POM).

The POM provides details in relation to the hours of operation, site access and carparking, construction and operation requirements through each stage, event management, waste and cleaning requirements, maintenance protocols, noise management, lighting operation, site security, vegetation management, emergency evacuation, bushfire closure practices, review mechanisms and complaint contact details. The POM will be revised and enforced via a recommended condition of consent [Conditions Nos. 72 and 103].

Any use other than for the purposes of recreational facility, such as special events, will require separate approval to be sought. The requirement for separate approval for any event will be stipulated within the POM for the site. [Condition Nos. 72 and 103].

Signage

The application does not include adequate details in relation to the signage proposed to the Mountain Bike trails and consequently a proper assessment could not be conducted in relation to Council's requirements for this type of development. As such, no approval is granted for any future signage for the proposed Mountain Bike trails [Condition No. 11].

Safety, security and crime prevention

The proposed design successfully incorporates measures to address the key crime prevention through environmental design (CPTED) principles:

- **Surveillance**
 - The main entrance to the site is clearly visible from Quarter Sessions Road and will be promoted as the main point of entry to the site.
 - Sightlines to the main shared pedestrian/cycling path entry are available from both Quarter Sessions Road and the new entry road.
 - Buildings have been designed to ensure a high level of surveillance on all sides, in particular with the entries to amenities and change rooms centrally located and accessed from an open central breezeway, visible from both sides.
 - An Operational Management Plan (OMP) has been prepared for the site. The OMP identifies that Westleigh Park will be patrolled by Council's site security resources as per all other Council owned and operated parks and recreation facilities.
 - Site security surveillance will monitor and discourage anti-social behaviour. Police will be called to report illegal or anti-social behaviour.
- **Access Control**
 - Westleigh Park will retain all existing site fencing along existing boundaries.

- Boom gates will be installed and operated at the three vehicle entry points being Warrigal Drive, Quarter Sessions Road and Sefton Road to prevent any unauthorised vehicular access to the site after hours.
- The boom gates will be operated in accordance with the Operational Management Plan for the site, being opened and closed by Council rangers or security staff.
- Signage will be installed clearly identifying the operating hours of the park to reinforce the times at which the site is open to the public in a bid to discourage entry to the site outside of operating hours and to ensure public safety.
- Lighting will operate throughout the park between the hours of sunset and 10.30pm (10.00pm for the sports fields). The operation of the lighting throughout the park will clearly distinguish when the park is open to public use.
- All security hardware is to be installed to restrict unauthorised access to buildings.
- Territorial Reinforcement
 - The proposed Westleigh Park recreation areas and sporting complex are a highly sought after recreational facility, providing much needed sporting facilities for the Shire. The use of the site by sporting groups will be promoted to a wide range of sporting clubs. This will ensure the community ownership of such a public space.
 - Clear signage and lighting will be installed to ensure a legible and inviting entrance.
 - Signage will be installed to clearly advise the operating hours of the park, with closure of the facility including trails at night.
- Space Management
 - The use of the site will be promoted to a wide range of user groups by ensuring the spaces are flexible and accessible. This will attract a greater number of people to the site which will improve surveillance of the space.
 - Any damage will be repaired promptly, and regular maintenance will be undertaken of all internal and external fixtures and surfaces. Repairs and maintenance should be documented clearly to enforce accountability to relevant staff.
 - Maintain all access points, including shared paths and stairs, to ensure they remain in good working order and accessible.
 - Encourage a strong staff presence across the facility during the hours of operation to provide access control and organised surveillance over the publicly accessible spaces.
 - The amenities buildings are located next to parking and sporting fields with plenty of light and activity creating a safe environment / location for users.
 - All amenities' buildings have a central breezeway which people can walk through distinguishing more private and public spaces and encouraging community ownership of these areas.
 - Skylights are created above the breezeways to bring natural light into the space which counteract dark shadowed spaces which often encourage crime.
 - Coloured glazed brickwork is used in the breezeways of each amenities building providing reassurance of location and natural wayfinding and an easy to clean surface.

- Natural light is also brought into the change rooms (by way of skylights) in lieu of light fittings which can be damaged and vandalised.
- Change and bathroom amenities are centralised accessible off the breezeway creating a sense of security and safety for users and increases opportunity for seeing and being seen by natural surveillance.
- The breezeways are gated at night making it clear that these areas are not accessible during these times.
- The buildings have curved edges to improve line of—sight and eliminate the creation of hidden pockets. Materials used are robust and low maintenance reducing the look of urban decay and neglect.
- The brickwork walls are designed with protruding bricks not only to create interest and local artwork but to create an anti-graffiti surface to eliminate signs of neglect and vandalism.
- There are no climbable elements on the facade and opportunities to access restricted areas.
- Landscape design, streets and pathways have also been designed to suit each amenities building to minimise the buildings being 'out of the way' encouraging crime.

Having regard to the abovementioned measures the proposed design is considered to satisfactorily respond to the principles of CPTED.

Social impact

The proposed redevelopment will result in additional sporting facilities for the locality and will improve the standard of sporting facilities available to the local and regional community. Specifically, the key social benefits delivered by the proposed development include:

- A modern recreational facility including sports fields and associated facilities for AFL, cricket, football, rugby and athletics sporting events, mountain bike tracks (trails) and walking tracks. It will also introduce opportunities for passive recreation including picnics (e.g. barbeque facilities and picnic shelters), walking and children's play (e.g. and playground).
- Remediation of a large, contaminated site (i.e. reducing existing hazard and risk).
- Safer and sustainable mountain bike trail network for the mountain biking community by redesigning the existing unauthorised mountain bike trails by closing, redirecting or relocating those trails from the environmentally sensitive areas and upgrading existing trails to an international mountain biking standard.
- Improved active transport infrastructure through the delivery of a shared pedestrian and cycleway network.
- The restoration, rehabilitation, revegetation of cleared areas of the existing remnant native vegetation, removal of exotic species and weeds and regeneration and protection of areas of sensitivity vegetation and fauna.
- Conservation of significant aboriginal areas and the retention of the Aboriginal Scarred Tree (by relocation) and provide opportunities for its celebration, interpretation and sharing knowledge/education of the wider community.

- Increased opportunities for Connecting with Country and the acknowledgement and celebration of the Aboriginal cultural significance of the site.
- High quality in terms of built form and architectural treatment to enhance CPTED in public domain. The design of the sporting facility is of a very high standard and will enhance the visual amenity of the park for other users of the park who may not be members of the sports clubs that utilise the sporting facilities.
- Energy efficiency and environmental sustainability with ESD features to reduce energy consumption during the life of the proposed development.
- Improved amenity and functionality of an existing Council asset that was purchased in 2016 and has been earmarked for active and recreation purposes.
- Optimise the use of the site for recreational purposes, whilst balancing the environmental constraints of the site.

Economic impact

The proposal will positively contribute to the economic vitality and active urban character of the locality. Specifically, the key economic benefits delivered by the proposed development include the following:

- The proposed development results in the orderly and economic use of existing Council assets.
- The proposal is estimated to provide employment of approximately 50 people during construction.
- Economic benefits for local retail and services from construction worker users when operating spending in the area.
- Increased value of Council and community assets.
- The upgrade of Council facilities has the potential to incentivising further investment in the surrounding area.
- Increased demand to live in the area due to attraction to recreation facilities.

3.10 Section 4.15(1)(c) - Suitability of the site

The site is suitable for the proposed development considering:

- the proposal is permissible subject to development consent.
- the site has been identified through a comprehensive strategic and master planning process.
- the site is serviced by necessary transport, utilities and infrastructure.

3.11 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 4.3 of this report.

4 REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 6.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence/Consultation Requirements (s4.13-14 of EP&A Act)			
Environment, Energy & Science Group, DPIE	S7.12(2) <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
RFS	S4.14 of the EP& A Act 1979 -Consultation and Development Consent - Certain Bushfire Prone Land.	RFS provided recommended conditions in relation to: Asset Protection Zone Constructions Standards Internal access roads Water and utility services General advice - Flame Zone considerations RFS recognised that the site is constrained and that the proposed development falls within the Flame Zone. Please refer to RFS letter dated 11 October 2024.	Yes
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 - SEPP (Transport and Infrastructure) Development near electrical infrastructure	Ausgrid does not object. Ausgrid overhead powerlines are within the vicinity of the development, therefore the developer should refer to SafeWork NSW Document - Work Near Overhead Powerlines: Code of Practice. Concurrence has been granted.	Yes
Transport for NSW	Section 2.122 - SEPP (Transport and Infrastructure) Traffic generating development (Schedule 3).	Traffic signals would require the consent of TfNSW under section 87 of the Roads Act 1993. TfNSW recommended the inclusion of two conditions relating to bus stops and large events [Conditions Nos. 19, 20 and 121].	Yes
Integrated Development (S 4.46 of the EP&A Act)			
Heritage NSW	Aboriginal Heritage Impact Permit (AHIP),	General Terms and conditions of approval:	Yes

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
	issued by Heritage NSW under Section 90 of the NPW Act 1974.	<p>A s.90 Aboriginal Heritage Impact Permit for the proposed works must be sought and granted prior to the commencement of works. Consultation with the Aboriginal community undertaken as part of the Aboriginal Heritage Impact Permit application. Heritage NSW have also recommended that consultation with the register Aboriginal parties must be maintained. Updates on the project to the registered Aboriginal parties every 6 months to ensure the consultation is continuous is recommended.</p> <p>Refer to the letter from Heritage NSW dated 23 August 2024.</p>	
Environmental Protection Agency (EPA)	Clause 47-49 of the Protection of the Environment Operations Act 1979 - (Clause 15, Schedule 1)	<p>The proposal includes the remediation of contaminated soil within an area of approximately 9.2 hectares. An Environment Protection Licence (EPL) will be required for the scheduled activity of 'contaminated soil treatment' at the site, as described under Schedule 1 of the Act. A separate application to the EPA to obtain an EPL is required.</p> <p>The EPA reviewed supporting documents and have provided the conditions if the development application was to be approved. Refer to the attached letter from the EPA dated 13 September 2024.</p>	Yes

4.2 Council Officer and Independent Sub-consultant Referrals

The development application has been referred to various Council officers for technical review as outlined Table 7. Independent consultants have been used in the assessment of traffic, contamination, landscaping, biodiversity and acoustic to avoid any real or perceived conflicts of interest.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Traffic	The independent consultant has raised concerns regarding traffic generation, operational parking demand, Quarter Sessions Road Access, Sefton Road upgrades, rural fire access road requirements, traffic calming devices, and car parking. These issues were subsequently addressed by the applicant as considered in more detail in the Key Issues section of the report.	Yes
Landscaping	The independent consultant raised issues concerning mapping discrepancies and matters requiring further clarification. These matters were addressed by the Applicant dated 30 September 2024. Following the updated information, the consultant concluded that the documents can be relied upon, providing no conditions.	Yes
Contamination	The independent contamination consultant noted that extensive site investigations have been carried out over several years to ensure thorough understanding and characterisation of the contamination present at the site. The consultant found that the onsite containment of asbestos is a recognised and well-established remediation approach, endorsed by relevant consent and health authorities. Specific conditions of consent were recommended for inclusion relating to remediation [Conditions Nos. 92, 93, 95, 96 and 97]. In terms of the geotechnical reports, the consultant noted that there is missing information in the geotechnical report regarding boreholes along the western site boundary. This has been addressed through a specific condition of consent [Conditions Nos. 32]. The consultant concluded that the relevant contamination and geotechnical reports can be relied upon.	Yes
Building Surveyor	The Council's Certification team raises no objections to the amended plans and does not recommend any additional or modified conditions of approval.	Yes
Environmental Protection	The Council's Environmental Protection Officer reviewed the proposal and supports proceeding to the preparation of approval conditions relating to construction.	Yes
Biodiversity	The independent biodiversity consultant identified key issues within the BDAR that appeared to be deficient or where further justification was required to support their conclusions. This includes references to indirect impacts to the Sydney Turpentine Ironbark Forest (STIF) regarding lighting, dust, and noise impacts, as well as insufficient buffer applied for indirect impacts and mitigation measures and impacts on trees. The Applicant provided additional information dated 20 September 2024 which resolved or provided further justification to the BDAR. Following this, the consultant confirmed he was satisfied with the responses and is of the view that the BDAR adequately assesses the likely impacts of the development.	Yes
Acoustic	The independent consultant has raised issues that required further detail and clarification, including, detail regarding operational noise and construction noise contour mapping. The Applicant provided additional information from Marshall Day dated 19 September 2024 to address these two outstanding items. Following this, the consultant concluded that all matters have been addressed.	Yes

Officer	Comments	Resolved
Heritage	Council's Heritage Officer reviewed the submitted Heritage Impact Statement ('HIS') and Aboriginal Cultural Heritage Assessment Report (ACHAR). The Heritage Officer notes that before granting development consent, approval of the Aboriginal Heritage Impact Permit (AHIP) is required from Heritage NSW. All conditions received from Heritage NSW are incorporated within the consent.	Yes

4.3 Community Consultation

The development application was placed on public exhibition and was notified to adjoining and nearby landowners on two separate occasions between 9 October 2023 to 20 November 2023; and 9 August 2024 to 6 September 2024.

The map below illustrates the location of those nearby landowners who were notified.

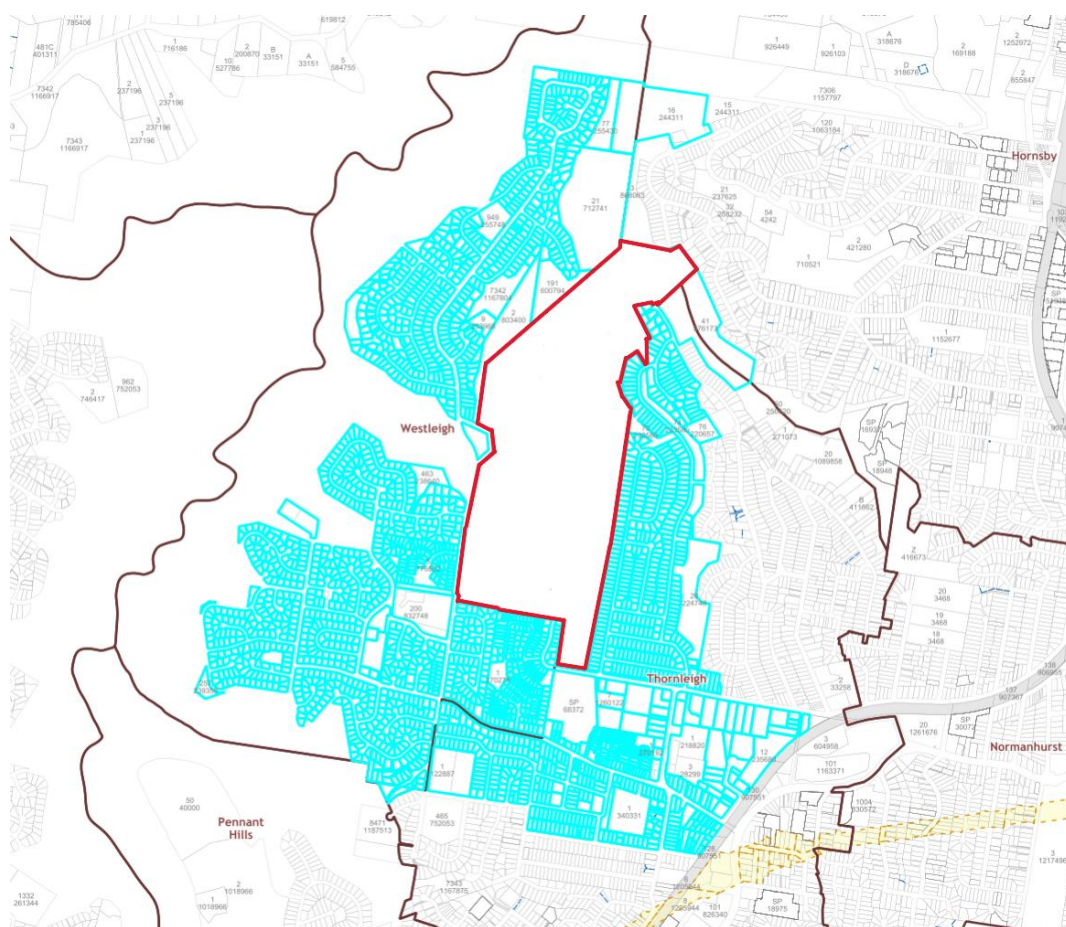


Figure 15: Map of properties notified.

A total of 223 submissions were received, including 125 unique submissions objecting to the development and 35 in support of the development, as shown in Figure 15 and 16.

A graphic representation of the key issues raised in the submissions is included in Figure 17, and a response to matters raised is provided in Table 8.

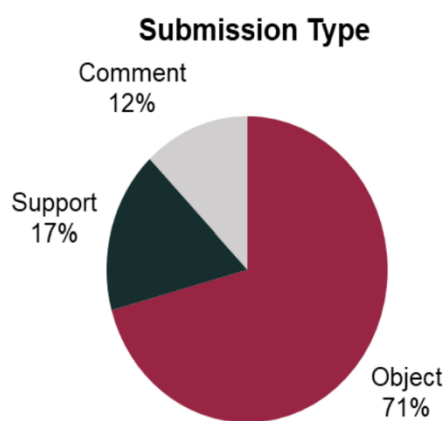


Figure 15: Submissions Received 2023 (Source: Gyde)

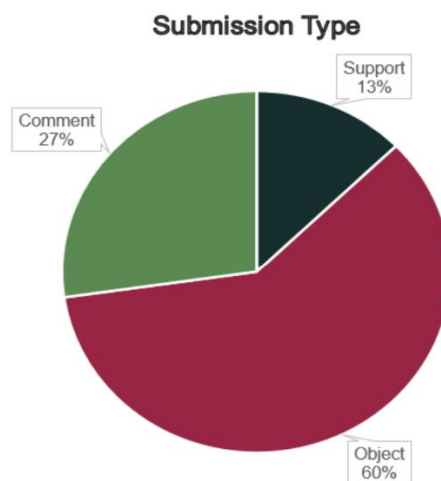


Figure 16: Submissions received 2024 (Source: Gyde)

Top 10 Reasons for Objection

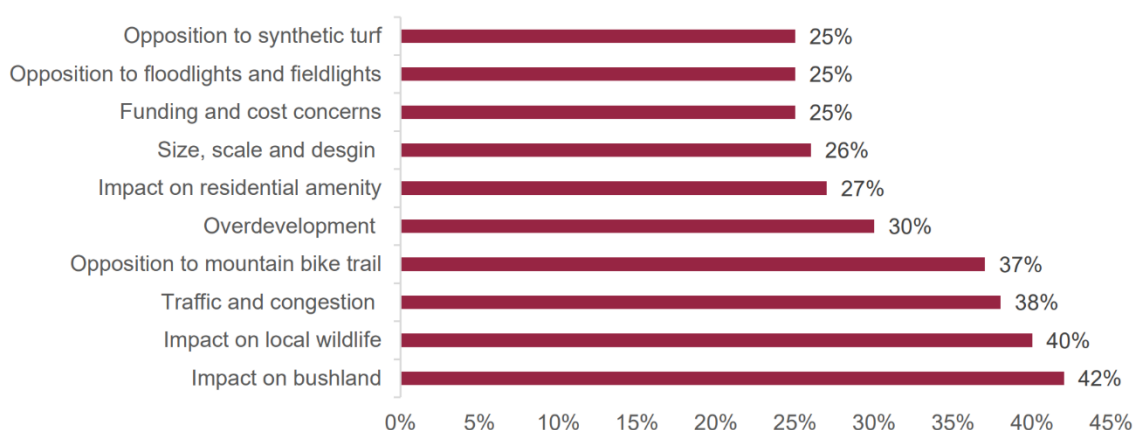


Figure 17: Top 10 reasons for Objection, 2024 (Source: Gyde)

The majority of issues raised in submissions are addressed in the body of this report. The following table provides a further response to issues raised in submissions and comments on additional issues not previously addressed.

Table 7: Community Submissions and Responses

Issue	Response
Aboriginal Heritage impacts	<p>Issues were raised in relation to relocation of the Aboriginal Scarred Tree / agreement of the Registered Aboriginal Parties / lack of consultation with MLALC / validity of Aboriginal groups consulted / due process.</p> <p>Refer to Section 3.9 of this report and the General Terms of Approval from Heritage NSW included at Attachment C.</p>

Issue	Response
Overdevelopment of site/ scale of development	<p>The adopted Concept Master Plan for the site envisages multi-use sporting fields, amenities buildings, grandstands, and maintenance sheds, play facilities, bushwalking tracks, mountain bike trails and car parking areas and access roads.</p> <p>The proposed development responds positively to the specific constraints of the site and has balanced public demands, cultural heritage values, biodiversity / landscape impacts and residential amenity to ensure an appropriate and sympathetic design response which will deliver a high-quality sporting and recreational facility to meet the needs of the local and regional community.</p> <p>The proposed development has been demonstrated to not unreasonably impact the amenity of surrounding properties. Technical reports, including those addressing traffic, remediation, biodiversity, acoustic and geotechnical considerations have been provided and demonstrate the site is capable of being developed in the manner proposed without material adverse impacts.</p>
Operational concerns	<p>A Plan of Management supports the application as detailed in Section 3.9 of this report.</p>
Accessibility	<p>The proposal provides access for people with a disability, including accessible car parking, continuous accessible paths of travel, the equitable provision of accessible facilities to provide inclusive design to meet the anticipated requirements of users and visitors to the facility. [Condition No. 78].</p>
Hours of operation	<p>The hours of operation are proposed to be limited by conditions of consent to 7:00am to 10:00pm, Monday to Saturday and 8:00am to 10:00pm Sunday and Public Holidays.</p> <p>Mitigation measures have been incorporated into the Plan of Management to ensure no unreasonable impacts result from the use of the facility [Condition No. 102].</p>
Dog Pound Creek Biobank Site	<p>The proposed development does not involve any works or result in any adverse impacts to Dog Pound Creek Biobank Site.</p>
Cost	<p>The cost and economic viability or funding of the project is not a matter of consideration that would prevent the approval of the application.</p>
Inadequate amenities building and spectator seating.	<p>Three (3) Amenities buildings have been architecturally designed and sited to support the three (3) playing fields. The amenities buildings include meet all relevant accessibility, building and construction standards.</p> <p>The National Construction Code/ Building Code of Australia stipulates the number of male, female, and unisex accessible sanitary facilities required for Australian buildings based on the facilities likely patronage.</p>

Issue	Response
	<p>This requirement will be imposed as a recommended condition of consent [Condition No. 13].</p> <p>The proposal includes sports field seating, park seating, picnic shelters with picnic tables.</p>
<p>Construction of Mountain Bike Tracks and use by E-Bikes</p>	<p>The MTB detailed design report outlines the trail designs, trail levels, construction methods, environmental management requirements, code of conduct and emergency and safety protocols.</p> <p>Appropriate conditions will be included to manage potential arboricultural and biodiversity impacts arising from the construction of the MTB trails.</p> <p>To protect sensitive bushland along the eastern side of the site during construction of the Mountain Bike Trails, a helicopter will be used to lift construction material into place in. The proposed dates and times for helicopter lifts will be communicated with affected residents ahead of time.</p> <p>E-bikes can have a greater impact to trails that are not designed to or constructed to accommodate them, particularly at the initial stages of the use of the tracks and following rainfall events. A regular maintenance program will be incorporated into an amended Plan of Management and signage will be provided to highlight areas of potential hazards along the track and indicate appropriate code of conduct for all users.</p>
<p>Synthetic Playing Fields</p>	<p>Synthetic turf is proposed for the central pitch to assist with the demand for sporting fields within the LGA. These surfaces are used extensively as they can handle a longer duration of seasonal use as compared with natural grass. It is estimated there are approximately 181 synthetic turf sports fields in NSW.</p> <p>The RFS has not raised an objection to the synthetic surface on fire safety grounds. Councils' Ecological advisor also supports the proposed development and does not consider that the synthetic field will result in any unreasonable environmental impacts upon ecological habitat or specific species.</p> <p>A report into the ongoing use of synthetic turf in public open spaces in NSW which was released by the NSW Chief Scientist and Engineer (CSE) in late 2022 concluded that health risks through direct (such as dermal, ingestion and inhalation) or indirect contact (such as leachate and microplastic runoff) and thermal comfort impacts from synthetic turf is likely to be low. Sports related injuries such as lower body, head and abrasion injuries occur at comparable levels to natural surfaces.</p> <p>The report recommended that any synthetic surface should be managed via a best practice "review, monitor and replace" requirement which would assist in ensuring the integrity of the surface adopted and minimise potential adverse health consequences. This will be imposed as a condition of consent and required to be included in the operational Plan of Management [Condition No. 72].</p>

Issue	Response
Conflict of Interest	The author of this report is employed as a full time Senior Associate at Gyde and is not a member of a Planning Panel or have any material personal interests or company positions that would influence, or could reasonably be seen to influence, the decisions they take or the advice they give in relation to the assessment of this Development Application.

5 PUBLIC PARTICIPATION

Section 4.15(1)(d) of the EP&A Act requires Council to consider “any submissions made in accordance with this Act”.

5.1 Community Consultation

The public exhibition process and submissions received are discussed in Section 4.3 of this Report.

5.2 Public Agencies

Agency referrals are discussed in Section 4.1 of this Report.

5.3 Section 4.15(1)(e) - Public interest

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built form and environmental outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

On balance, it is considered the proposed development will result in positive social and economic outcomes for the community.

Proposed bushland regeneration and on-going management of sensitive areas, as well as the remediation of contaminated lands provide positive environmental outcomes.

The proposed development has been demonstrated to not unreasonably impact the amenity of surrounding properties. Technical reports, including those addressing traffic, remediation, biodiversity, acoustic and geotechnical considerations have been provided and demonstrate the site is capable of being developed in the manner proposed without material adverse impacts.

Accordingly, it is considered that the approval of the proposed development would be in the public interest.

6 RECOMMENDATION

It is recommended that Development Application [DA No 975/2023] for the redevelopment of the site for playing fields, amenities buildings and other recreational facilities and associated works at 42 and 62 Quarter Sessions Road, Westleigh be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

The reasons for this decision are:

- The proposed development and use of the site is permissible with consent.
- The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- All jurisdictional pre-requisites for the grant of consent have been satisfied.
- The assessment of the revised proposal concludes that potential impacts arising from the development are reasonable and where necessary, can be mitigated or minimized to an acceptable level.
- The development has been designed and located to minimise impacts on significant vegetation and bushland.
- The application includes a Clause 4.6 written request to vary the maximum height of buildings development standard which is considered well founded and able to be supported as it has adequately demonstrated:
 - The height of buildings control is a development standard and is not excluded from the operation of Clause 4.6.
 - Compliance with the development standard is unreasonable and unnecessary in this instance.
 - There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposal is in the public interest because it provides much needed social infrastructure to support the recreational needs of the local and regional community.
- The proposed development does not create unreasonable environmental impacts to adjoining development including loss of vegetation, visual bulk, acoustics, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: DCP Compliance Table
- Attachment C: Public Agency Comments

- Attachment D: Clause 4.6 Request
- Attachment E: Clause 4.6 Request
- Attachment F: Sport Field Design Plans
- Attachment G: Architectural Plans
- Attachment H: Landscape Plans
- Attachment I: Civil Drawings - Part 1
- Attachment J: Civil Drawings - Part 2
- Attachment K: Civil Drawings- Part 3
- Attachment L: Civil Drawings - Part 4
- Attachment M: Civil Drawings - Part 5
- Attachment N: Civil Drawings - Part 6
- Attachment O: Lighting Plans (Westleigh Park)
- Attachment P: Operational Plan of Management