

## COUNCIL SUPPLEMENTARY REPORT

### SYDNEY NORTH PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSNH-430 - DA/975/2023
<b>PROPOSAL</b>	Redevelopment of Westleigh Park for a recreational facility
<b>ADDRESS</b>	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
<b>APPLICANT</b>	Hornsby Shire Council
<b>OWNER</b>	Hornsby Shire Council Sydney Water Corporation (42 Quarter Sessions Road)
<b>DA LODGEMENT DATE</b>	25 September 2023
<b>APPLICATION TYPE</b>	Integrated DA
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 3, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 recreational facility over \$5 million and Council interest.
<b>EDC</b>	\$72,585,000 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Clause 4.3 Height of Building
<b>KEY EPIs</b>	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
<b>TOTAL UNIQUE SUBMISSIONS</b>	Unique Public Submissions 2023 - 123 Unique Public Submissions 2024 - 110
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	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
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	Not applicable.
<b>RECOMMENDATION</b>	Approval subject to conditions
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	4 December 2024
<b>PLAN VERSION</b>	Civil drawings - Revision P6 Amenities buildings - Revision D
<b>PREPARED BY</b>	Richard Kinninmont, Gyde Consulting Pty Ltd (Independent Assessor)
<b>COI DECLARATION</b>	No conflict of interest declared
<b>DATE OF REPORT</b>	3 December 2024

## EXECUTIVE SUMMARY

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- 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.
- A comprehensive assessment report dated 13 November 2024 was provided to the Sydney North Planning Panel scheduled for consideration at its meeting on the 4 December 2024.
- A site inspection was held with the Sydney North Planning Panel on 29 November 2024 and the Panel sought clarification on the following issues:
  1. Adequacy of response to SEARs.
  2. Whether the adopted Plan of Management for Westleigh Park deals with community land.
  3. The 3 conditions required by Sydney Water as detailed in their owners' consent letter.
  4. Response to submission sent directly to Panel.
- All matters have been satisfactorily addressed as outlined in the body of this supplementary report.

## 1 SEARS

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Secretary's Environmental Assessment Requirements (SEARS) were issued on 31 July 2020 and a subsequent extension of time was granted until 30 September 2023.

A pre-lodgement meeting was undertaken with the applicant on 24 August 2023 and the importance of addressing the SEAR's requirements was highlighted verbally and in the subsequent written minutes that were provided to the applicant following the meeting.

A declaration has been provided by the applicant in accordance with Part 8, Division 5 of the Environmental Planning and Assessment Regulation 2021 confirming that the EIS has been prepared in accordance with the Regulation and contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure.

The EIS addresses the SEARS (1473) and includes a detailed assessment of all potential impacts of the proposed development on the existing environment (including direct, indirect, and cumulative impacts) and outlines appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts. The EIS has addressed: strategic and statutory context, community and stakeholder engagement, contamination and remediation, soil and water, waste management, hazards and risk, human health risk, air quality, noise and vibration, traffic and transport, biodiversity, bushfire, visual & heritage.

The identified Environmental Planning Instruments, Policies and Guidelines referenced in the SEARS (1473) have also been addressed in the EIS. Community and stakeholder engagement requirements are specifically addressed under Section 4 of the EIS.

The EIS and supporting documents were comprehensively addressed in the independent assessment of the application.

Specific issues relating to contamination, remediation, hazards, health risks, soil, water, noise, vibration and geotechnical issues were assessed by an independently engaged specialist consultant from Martens Consulting Engineers. Traffic and Transport issues were assessed by an independently engaged specialist consultant from TTPP Traffic and Transport consultants. Biodiversity and ecological issues including the adequacy of the Biodiversity Assessment report (BDAR) were assessed by an independently engaged specialist consultant from Travers Ecology.

The assessment of the application also specifically addresses these SEARS (1473) requirements under Section 3.9 (*Section 4.15(1)(b) - Likely Impacts of Development*) of the assessment report. Relevant Agency referrals and Concurrence requirements are detailed under Section 4.1 of the assessment report. Community Consultation requirements are detailed in Section 4.3 (*Community Consultation*) of the assessment report.

## 2 ADOPTED PLAN OF MANAGEMENT

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Westleigh Park comprises land classified as community land in accordance with Chapter 6, Part 2, Division 1 of the Local Government Act (LG Act), 1993. The LG Act also establishes core objectives for all categories of community land. The significance of the prescribed core objectives is to ensure that any activities or uses of the land are consistent with the core objectives for the prescribed land categorisation.

Community land within Westleigh Park is categorised as Sportsground, Natural Area (Bushland) and General Community Use and reflects the optimum relationship of uses and facilities to the park's physical characteristics and for access to those facilities by the community.

The Westleigh Plan of Management (PoM), June 2023 was prepared to comply with the Local Government Amendment (Community Land Management) Regulations and associated amendments to the Local Government Act 1993 (LG Act), section 42 (LG Act), which commenced on 1st January 1999.

Council is responsible for maintenance of Westleigh Park to a standard that responds to the requirements outlined in the PoM.

A separate Master Planning Study culminated in the adoption by Council of the Westleigh Park Master Plan Report 2023. This plan integrated the approaches to site remediation and earthworks to facilitate development of recreational facilities having close regard for the environmental values of the site. The Master Plan also coordinates the various strategies that need to be pursued to optimise the community benefit of the parkland.

The Development Application has considered the requirements of the Westleigh Plan of Management and the Westleigh Park Master Plan, and the facilities, infrastructure and management of lands are considered to reflect and align with the aims and objectives of these documents.

### **3 SYDNEY WATER REQUIREMENTS**

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Section 23 (1) (Persons who may make development applications) of the *Environmental Planning and Assessment Act (Regulations) 2021* states the following:

- (1) *A development application may be made by—*
- (a) *the owner of the land to which the development application relates, or*
  - (b) *another person, with the written consent of the owner of the land.*

The Development Application (DA) has been made by Ms Fiona Leatham on behalf of Hornsby Shire Council and is supported by a landowner's consent letter dated 15 June 2023 to the lodgement of the DA from Sydney Water for Part 42-82 Quarter Sessions Road, Westleigh (comprised in Lot 100 DP1217395) known as the Westleigh Reservoir.

The letter from Sydney Water elaborates upon numerous conditions which have been the subject of ongoing discussions with Council. This letter is attached as Annexure A. The following specific condition of consent is included to address these requirements:

#### **Sydney Water Requirements and Sefton Road Extension**

1. Prior to works commencing design and engineering documentation must be provided to Sydney Water for approval outlining all potential impacts upon current operations of the Thornleigh Reservoir site in relation to the Sefton Road Extension (Road Extension). The documentation must demonstrate that all key engineering requirements specified by Sydney Water have been satisfactorily addressed. These requirements include (but may not be limited) to the following:
  - i. Maintain structural integrity of the dam and associated infrastructure, including all pipework, valve chambers and all parts of the embankment.
  - ii. Maintain ease of access to existing and proposed Sydney Water assets, to continue to operate and maintains assets safely.

- iii. Meet all necessary obligations associated with Dam Safety Regulations; and
  - iv. Maintain security of all critical water supply assets within the Thornleigh Reservoir site.
2. The use of the Sefton Road extension through the Thornleigh Reservoir site (proposed under Stage 1B & Stage 2) must be determined and agreed upon in consultation with, and to the satisfaction of, Sydney Water and if necessary detailed in the Revised Plan of Management as required under the terms of this consent.

**Reason:** *To maintain the security of Sydney Water's infrastructure and to ensure water supply and operational capabilities are not compromised.*

## 4 LATE SUBMISSION

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A late submission dated 22 November 2024 has been received through the Department of Planning, Housing and Infrastructure from Joel Burgess (via email) having regard to concerns raised by Bob Syron (Registered Aboriginal owner of Worimi Guringai Lands) in relation to ensuring that any references to "Guringai Country" are geographically accurate.

It is noted that there is ongoing debate within the Aboriginal community and more broadly about traditional group names, membership, nation or group boundaries and there is a variety of complex and interrelated factors that determine the composition, name and memberships of traditional owner groups and geographic locations of certain nations or group boundaries. It is generally accepted that this is a matter to be determined by the Aboriginal communities themselves.

As discussed in the independent assessment report the notification of the Development Application attracted submissions relating to the consideration of Aboriginal Cultural Heritage and whether appropriate consultation had been undertaken in accordance with "Aboriginal Cultural Heritage Consultation" requirements for proponents. The documentation provided by the applicant in support of these issues which included a consolidated Aboriginal Cultural Assessment Report (ACHAR) were considered in detail by Heritage NSW and General Terms of Approval were granted in accordance with Section 4.47 of the *Environmental Planning and Assessment Act, 1979*.

The terms of approval require that a Section 90 Aboriginal Heritage Impact Permit (IHIP) be sought prior to the commencement of any works. The General Terms of Approval along with specific conditions recommended to be included as part of the consent require baseline recording, preservation and protection of the Westleigh Scarred Tree and Westleigh Rock Shelter.

The accuracy of Nation or tribal aboriginal boundaries were not considered to be a material issue in relation to the circumstances of this particular assessment. Notwithstanding, it is noted that further consultation with the Aboriginal community must be undertaken as part of the permit process and if necessary, these issues can be further discussed at this time. It is also noted that the preparation of a Cultural Heritage Management Plan is a requirement of the General Terms of Approval.

Aboriginal Heritage including the relocation of the Scarred Tree is specifically addressed as key issues under Section 3.9 of the independent assessment report.

Specifically, it is also recognised that the Department of Planning, Housing and Infrastructure in its response to Mr Syron dated 30 August 2024 has recorded the matters raised in the submission and has undertaken to ensure that any future references to the Guringai Country within strategic plans are accurate and will reflect the evidence submitted in support of the submission.

## 5 RECOMMENDATION

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It is recommended that Development Application No DA/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**.

*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: Sydney Water Consent letter dated 15 June 2023
- Attachment B: Revised Draft Conditions of Consent