

## COUNCIL ASSESSMENT REPORT

### WESTERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE</b>	PPSWES-82
<b>DA NUMBER</b>	DA10.2021.19.1
<b>LGA</b>	Oberon Local Government Area
<b>PROPOSED DEVELOPMENT</b>	Oberon Sporting Complex (Recreation facility) – Concept DA
<b>STREET ADDRESS</b>	Lots 2 DP 1073827 and Lot 5 DP 2364 31 O'Connell Road, OBERON
<b>APPLICANT</b>	Oberon Council C/- Damian O'Shannassy
<b>OWNER</b>	Borg Panels Pty Ltd
<b>DATE OF DA LODGEMENT</b>	12 March, 2021
<b>TOTAL NUMBR OF SUBMISSIONS</b>	Exhibition Period: 17 May, 2021 – 21 June, 2021 9 Public submissions (one in favour of the development)
<b>RECOMMENDATION</b>	Approval subject to conditions of consent
<b>REGIONAL DEVELOPMENT CRITERIA (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Clause 3, Schedule 6 of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> prescribes that development with a capital investment of more than \$5 million where Council for the area in which the development is to be carried out is the applicant for development consent and Council is a party to an agreement or arrangement relating to the development.
<b>LIST OF ALL RELEVANT s4.15(1)(a) MATTERS</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021;</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• Oberon Local Environmental Plan 2013;</li> <li>• Oberon Development Control Plan 2001.</li> </ul>
<b>CIV</b>	\$10,000,000.00 (excluding GST)
<b>LIST OF ALL DOCUMENTS SUBMITTED WITH THIS REPORT FOR THE PANELS CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Council Assessment Report;</li> <li>• Attachment A Draft Conditions of Consent.</li> <li>• Attachment B, proposed plans: <ul style="list-style-type: none"> <li>○ Site Layout Plans</li> <li>○ Concept Staging Plans – amended 18.02.2023</li> <li>○ Conceptual Access Plans – amended 18.01.2023</li> <li>○ Noise Impact Assessment</li> <li>○ Traffic and Parking Impact Assessment Report</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Flora and Fauna Assessment Report</li> <li>○ Access Report</li> <li>○ Contaminated Site Assessment</li> <li>○ Statement of Environmental Effects – amended 23.03.2023</li> <li>○ Landscape Plan</li> <li>○ Site Survey</li> </ul>
<b>CLAUSE 4.6 REQUESTS</b>	Not Applicable
<b>SUMMARY OF KEY SUBMISSIONS</b>	<ul style="list-style-type: none"> <li>• Extend Herborn Street along the southern boundary to enable further subdivision of the allotments in Scotia Avenue as part of this development.</li> <li>• Management of impacts offsite, such as construction noise and dust.</li> <li>• Management of site safety and security.</li> <li>• Management of dust, construction noise and general noise associated to the operation of the club.</li> <li>• Impacts associated to lighting and spill of Light.</li> <li>• Site landscaping.</li> <li>• Consideration of boundary fencing for site safety and security for neighboring dwellings.</li> <li>• Has a business plan been prepared for the proposed development, including costs associated with transition costs and financial consequences of transferring title of the existing sports ground to BORG. What are the financial arrangements with BORG, what is the longer-term financial plan in relation to funding, operation costs and impact on rates.</li> <li>• Consideration of including the Hockey Fields into the first stages of development.</li> <li>• Design considerations to improve the proposed facility.</li> </ul>
<b>PREPARED BY</b>	Jaclyn Burns
<b>DATE OF REPORT</b>	20/03/2023

#### Summary of s4.15 matters

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

Yes

#### Legislative clauses requiring consent authority satisfaction

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

Yes

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

#### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

No

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

No

#### Conditions

Have draft conditions been provided to the applicant for comment?

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

Yes

## 1. EXECUTIVE SUMMARY

### 1.1 Purpose of Report

The purpose of this report is to seek determination from the Western Regional Planning Panel for a Concept Development Application No. DA10.2021.19.1 (PPSWES-82) for the purpose of *Recreation Facility (outdoor)*.

The characteristics of the proposed concept development include:

- Recreation Facility (Outdoor) comprising:
  - 2 full sized rugby fields
  - 1 hockey field
  - 3 netball courts
- Ancillary building comprising:
  - Registered Club (upper floor), change rooms, office, storage rooms, change rooms, first aid / physio room, amenities, and tiered spectator seating.
- Walking/cycling perimeter pathway and fitness stations.
- Amenities and maintenance facilities
- Car and bus parking facilities comprising 146 spaces (142 standard car parking spaces and 4 accessible parking spaces), and an additional area for 100 overflow car parking spaces.
- Children's playground
- Earthworks, site access, storm water drainage, landscaping, and lighting.

The subject site is known as 31 O'Connell Road, OBERON, comprising of Lots 2 DP 1073827 and 5 DP 2364.

### 1.2 Recommendation

That the Western Regional Planning Panel grant consent to the Concept Development Application No. DA10.2021.19.1 for a *Recreation Facility (outdoor)* and sports clubhouse, incorporating an ancillary registered club, tiered seating, changerooms and amenities subject to conditions included in the Draft Notice of Determination (see Attachment 1), pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended. Stages 1 to 6 (inclusive) as subject to separate consent(s) being obtained.

### 1.3 Summary

The proposed development is defined as a Recreation Facility, being “*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).*”

The development is Integrated Development and Regionally Significant Development in accordance with Clause 3, Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021. General Terms of Approval have been granted by Essential Energy (see proposed conditions of consent) and Transport for NSW have advised in their correspondence of the 29 November 2022, that consent can be granted subject to conditions of consent after initially refusing to grant concurrence on the 11 November 2022. Full details are provided within **Section 6** of this report.

The application seeks approval for a Concept Development Application for the Oberon Sporting Complex. The consent being sought is for the concept only, any subsequent staging works will require separate consent(s) to be obtained. The concept development proposed consists of:

- Recreation Facility (Outdoor) comprising:
  - 2 full sized rugby fields
  - 1 hockey field
  - 3 netball courts
- Ancillary building comprising:
  - Registered Club (upper floor), change rooms, office, storage rooms, change rooms, first aid / physio room, amenities, and tiered spectator seating.
- Walking/cycling perimeter pathway and fitness stations.
- Amenities and maintenance facilities
- Car and bus parking facilities comprising 146 spaces (142 standard car parking spaces and 4 accessible parking spaces), and an additional area for 100 overflow car parking spaces.
- Children's playground
- Earthworks, site access, storm water drainage, landscaping, and lighting.

The proposed operating hours of the licensed club are 8am to 12am.

Vehicular access to the site, from O'Connell Road, is required to be provided.

The development is proposed to be undertaken in Six (6) stages as a Concept Development, of which further development consent is required to be obtained in accordance with 4.22(4) (a) of the *Environmental Planning and Assessment Act, 1979*. The proposed stages are:

- Stage 1 – construction of the sporting fields and lighting, site access road and associated intersection, earthworks (including site drainage and on-site detention), temporary car park (including 146 spaces), temporary amenities and change rooms, sewer, and pump room.
- Stage 2 – construction of the registered club.
- Stage 3 – construction of the permanent carpark (and overflow) and landscaping.
- Stage 4 – construction of netball courts.
- Stage 5 – construction of hockey fields and formalised field access.
- Stage 6 – construction of playground facilities, pathways, and fitness stations

Section 37 of the Environmental Planning and Assessment Regulation, 2021 requires that the amendment of a development application, such as the change of the assessment of a DA under to a Concept Development Application under Clause 4.22 of the Act, must apply to the consent authority for an amendment to the development application and that application must be made on the NSW planning portal.

It is also acknowledged that Section 38 of the Environmental Planning and Assessment Regulation, 2021, Determination of application for amendment of development application requires that the consent authority may, through the NSW planning portal, approve or reject an application for an amendment to a development application submitted under section 37. The statement of Environmental Effects has been reissued to reflect the applicants intent to amend the current application.

The site is partially located within the buffer area of mapped bushfire prone land (to the northwest of the site), the proposed use of the land for the purpose of a sporting complex and maintenance of the site would identify the development is being low threat, as per A1.10 of Planning for Bushfire Protection 2019.

The site, being located within close proximity of the Oberon Timber Complex, is within a designated buffer area. Section 6.6 of the *Oberon Local Environmental Plan, 2013* requires the

consent authority to consider the impact of the proposed development upon the Oberon Timber Complex in relation to noise, odour and other emissions.

The site is serviced by existing electricity infrastructure. Other services such as sewer, water and stormwater infrastructure will be required to be provided/extended to service the site.

#### 1.4 Site History

The subject site is zoned RU6 Transition and consists of a combined area of 13ha with a largely cleared area suitable for the proposed footprint of the development. Majority of the site is undisturbed, with grass vegetation associated to a past use of stock grazing. There are no significant structures, existing development or consents associated to the site.

#### 1.5 The Site and Locality

The site comprises of two allotments having a frontage to both O'Connell Road (State Road) and Albion Street (Regional Road). The site also adjoins Oberon's industrial precinct, and in the past has been a transitional area or buffer from the Oberon Timber Complex and residential land use to the south. Residential land zoning (R1) – General Residential) adjoins the site to the south, and B6 zoning to the (enterprise corridor) to the west. The land to the east is also zoned RU6 and is in the same ownership as the subject site.



**Figure 1: The subject site locality and context.**

#### 1.6 Submissions:

The proposal was notified in accordance with the Council's Community Participation Plan from the 17 May 2021 to 21 June 2021. The notification included the following:

- An advertisement in the local newspaper Oberon Review (4 weeks during the exhibition period).
- Notification on Council's website.
- Notification letters sent to adjoining and adjacent properties (500m radius, with 212 letters sent).

The Council received a total of nine submissions (one submission in support) from the public. A further two submissions were received from the Oberon Hockey Association and Oberon Tigers Rugby League (seniors and juniors) club and Oberon Rugby Leagues Football Club.

As Integrated Development the application was referred to:

- Transport for New South Wales
  - o S138 of the Roads Act, 1993 for a road opening into a classified road O'Connell Road.
  - o Further information requested (Concurrence withheld). Subsequent consultation with Council on the 29 November 2022 indicating concurrence could be granted subject to conditions of consent.

Referrals were made to:

- Transport for New South Wales
  - o Referral under State Environmental Planning Policy (Transport and Infrastructure) 2021, clause 2.119 Development with frontage to classified road and clause 2.122 Traffic-generating development as an ancillary carpark with 50 or spaces with frontage to a classified road (former Clause 104 of the Infrastructure SEPP).
- NSW Police
  - o Referral in accordance with Councils Memorandum of Understanding
  - o Provided recommended conditions for consent
- Advance Energy
  - o Referral in accordance with Clause 2.48 State Environmental Planning Policy (Transport and Infrastructure) 2021 (former Infrastructure SEPP)

### **1.7 Key Matters for Consideration:**

These issues are discussed in more detail in **Section 6** of the report.

#### Amendment to the development application

On the 31 May 2022 the applicant requested that the development application be amended to a concept application in accordance with section 4.22 of the EP&A Act, 1979. As detailed in the June 2022 Briefing Report to the JRPP.

The proposed change to the assessment of the application was requested by the applicant as the additional information requested by the assessing officer was unable to be provided. The intent of the applicant is to seek approval for a concept DA to allow for greater time and flexibility to address the complex issues associated to the proposed development whilst still complying with the requirements stipulated within the grant funding agreement with the Office of Sport and Bushfire - Local Economic Recovery Fund.

An amended Statement of Environmental Effects and concept staging plan addressing the proposal for a Concept DA and staging of the application was provided to the assessing officer on the 23 March 2023.

#### Vehicle movement and traffic

Transport for New South Wales (TfNSW) requested additional information to be provided pursuant to section 138(2) of the Roads Act, 1993 and clause 104 of the State Environmental Planning Policy (Infrastructure) 2007 (or clause 2.119 Development with frontage to classified road and clause 2.122 Traffic-generating development as an ancillary carpark with 50 or spaces with

frontage to a classified road of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

Additional information was provided to TfNSW for assessment in an amended traffic report on the 12 September 2022. Concurrence was withheld by TfNSW in their correspondence of the 11 November 2022.

Further consultation between TfNSW and Councils Director of Technical Services was undertaken, and it was subsequently advised on the 29 November, 2022 that concurrence could be granted subject to conditions of consent. Full details of the discussion between Councils Director of Technical Services and TfNSW is provided in **Section 6**.

#### Permissibility of the Licensed Club

The Statement of Environmental Effects defines the development as *Recreation Facility* (outdoor) including a sports clubhouse including an ancillary registered club, tiered seating, changerooms and amenities.

A registered club, is defined as: “*registered club* means a club that holds a club licence under the *Liquor Act 2007*”

A *registered club* is not permissible with the RU6 Transition Zone, nor is a function centre. The use of the sports clubhouse was not clearly articulated within the original Statement of Environmental Effects submitted for consideration at the time of the initial and 2<sup>nd</sup> subsequent Panel Briefing; however, it is understood that the ancillary use is proposed to support the sporting complex by providing facilities and amenities for the members and users of the sporting fields and courts, and is not independent of the recreation facility.

The registered club aspect of the development will provide an additional use to support the various sports clubs using the site (fields and courts), through provision of food and drink, and open seating spaces. This issue is further discussed in **Section 6**.

#### Stormwater Management

The control and management of stormwater over the site has not been adequately addressed. In the assessment of this application additional information has been requested reflecting details of stormwater management for the site. A stormwater management plan is required to minimise adverse impacts on properties caused by stormwater runoff from developments and to ensure that the quality of water entering our waterways is not adversely affected by pollutants resulting from the development of the site.

#### Earthworks

The extent of earthworks proposed has not been clearly articulated in the proposed plans. A condition of consent has been proposed to mitigate any potential impacts associated to the substantial earthworks required for the proposed development.

## **2. THE SITE AND LOCALITY**

### **2.1 The Site**

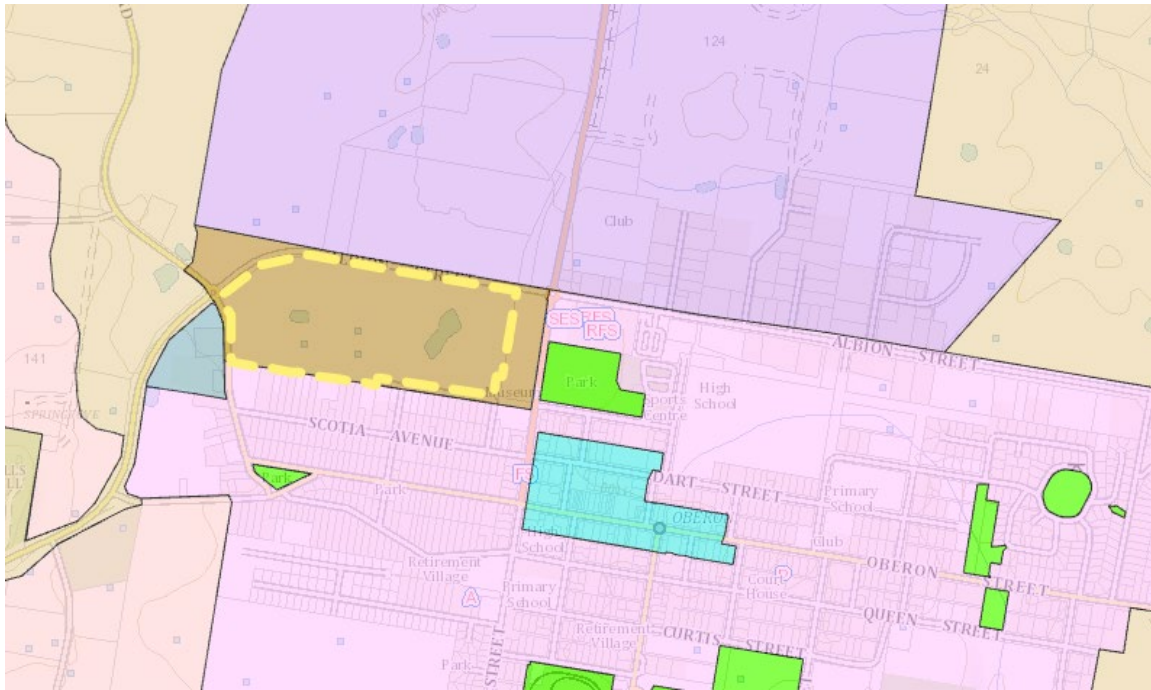
The subject site is proposed within Lot 2 DP 1073827 and Lot 5 DP 2364, being known as 31 O’Connell Road, Oberon consisting of a combined area of 13 hectares, zoned RU6 Transition. The subject site is bounded by:

- Albion Street to the north, zoned IN1 – General Industrial
- Lot 1 DP 1087682 is vacant land to the east of the development site, zoned RU6 Transition
- Existing residential development to the South off Scotia Avenue and Herborn streets. Zone R1 – General Residential.









**Figure 4: Location of the proposed Sporting Complex relative to adjoining land use zones.**

### 3. THE PROPOSAL AND BACKGROUND

#### 3.2 The proposal

The application seeks approval for a Concept Development Application for the Oberon Sporting Complex. The consent being sought is for the concept only, any subsequent staging works will require separate consent(s) to be obtained. The concept development proposed consists of:

- Recreation Facility (Outdoor) comprising:
  - 2 full sized rugby fields
  - 1 hockey field
  - 3 netball courts
- Ancillary building comprising:
  - Registered Club (upper floor), change rooms, office, storage rooms, change rooms, first aid / physio room, amenities, and tiered spectator seating.
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- Car and bus parking facilities comprising 146 spaces (142 standard car parking spaces and 4 accessible parking spaces), and an additional area for 100 overflow car parking spaces.
- Children's playground
- Earthworks, site access, storm water drainage, landscaping, and lighting.

The development is proposed to be undertaken in Six (6) stages as a Concept Development, of which further development consent is required to be obtained in accordance with 4.22(4) (a) of the *Environmental Planning and Assessment Act, 1979*. The proposed stages are:

- Stage 1 – construction of the sporting fields and lighting, site access road and associated intersection, earthworks (including site drainage and on-site detention), temporary car park (including 146 spaces), temporary amenities and change rooms, sewer, and pump room.
- Stage 2 – construction of the registered club.
- Stage 3 – construction of the permanent carpark (and overflow) and landscaping.
- Stage 4 – construction of netball courts.
- Stage 5 – construction of hockey fields and formalised field access.

- Stage 6 – construction of playground facilities, pathways, and fitness stations

The proposed sporting fields incorporate the following characteristics:

Primary Elements:

- Rugby League field – Ground 1 – 100m x 68m
- Rugby League field – Ground 2 – 100m x 68m
- Netball Courts x 3 – 30m x 15.5m each
- Playground • Fitness Stations - perimeter course

Ancillary Elements:

- Parking area
- Scoreboards
- Tiered seating areas adjoining each field or court.
- BBQ and sundeck area
- Lighting Hours of operation Sporting events and training held between 8am – 9pm outdoors.
- Other aspects such as meetings, coaching and team development, presentations and social events will occur within the registered club within the hours of operation proposed below.

Use:

- Training, competitions, recreational purposes

Size (overall):

- 36,021m<sup>2</sup>

The proposed ancillary building incorporating the registered club includes the following characteristics:

Elements (internal) Upper Level:

- Seating areas
- Bar
- Kitchen
- Canteen
- Amenities
- Managers office
- Club store – netball Lower Level
- Change rooms
- First aid / physio room
- Cleaners supply and storage room
- Sports and field maintenance equipment
- Club store – League
- Club store – Hockey
- Hockey plant

Hours of operation:

- 8am – 12am (midnight)

Use:

- Food, drink, management offices, first aid and physio, maintenance, storage and change rooms. Meetings, team building, presentations or social events relating to the use of the site as a recreational facility.

Size Overall 1,567m<sup>2</sup>

- Lower level: 400m<sup>2</sup>
- Ground level: 629m<sup>2</sup>
- Registered club: 538m<sup>2</sup>



**Figure 5 Extract from the proposed site plan, Crawford Architects 2021.**



**Figure 6 Extract from the proposed staging plan (Stage 1), Crawford Architects.**

### 3.2 Background

The development application was lodged on 23 March 2021. A chronology of the development application since lodgement (brief overview) is outlined below including the Panel's involvement (briefings, deferrals etc.) with the application:

**Table 1: Chronology of the Development Application**

Date	Event
23 March 2021	DA lodged
26 April, 2021	Initial request for further information by the assessing officer
11 May 2021	DA referred to external agencies
17 May 2021	Exhibition of the application
26 May, 2021	Request for further information received - Essential Energy
31 May, 2021	Request for further information received - NSW Police
1 June, 2021	Request for further information received - TfNSW
7 July 2021	Request by the assessing officer for further Information from the applicant including issues raised by the submissions and those issues requested on the 26 April 2021.
28 July 2021	1 <sup>st</sup> Western Regional Planning Panel briefing
31 May, 2022	Confirmation received (email) from the applicant that the DA be treated as a concept development application.

<b>7 June 2022</b>	2 <sup>nd</sup> Western Regional Planning Panel Assessment briefing. Advice provided regarding the applicants request to amend the Development application to a Concept Application.
<b>1 July, 2022</b>	In addition to the information requested by the Panel in the briefing notes, the applicant was requested to provide additional information requested from the applicant: <ul style="list-style-type: none"> <li>• Site survey addressing the requirements of essential Energy</li> <li>• The provision of a Stormwater Management Plan</li> <li>• Details requested in relation to the proposed operation of the Sports Club relative to its permissibility on the RU6 Zone</li> <li>• The provision of a proposed servicing plan, sewer, water, stormwater, and hydraulic services</li> <li>• The provision of a proposed earthworks plan including details of management of offsite impacts</li> <li>• The provision of an amended statement of environmental effects addressing sustainability, safety, and security.</li> </ul>
<b>12 September, 2022</b>	Referral of the amended Traffic and Parking Impact Assessment Report to Transport For NSW.
<b>11 November, 2022</b>	Response received from Transport for NSW – withholding concurrence.
<b>29 November 2022</b>	Modified response received from Transport for NSW granting concurrence subject to conditions of consent.
<b>30 November, 2022</b>	Addendum to the Statement of Environmental Effects received from the applicant addressing the proposed concept DA and proposed staging.
<b>13 December 2022</b>	3 <sup>rd</sup> Western Regional Planning Panel Assessment briefing. Advice provided regarding the applicants request to amend the Development application to a Concept Application.
<b>23 March, 2023</b>	Amended information provided: <ul style="list-style-type: none"> <li>• Concept Staging Plans</li> <li>• Conceptual Access Plan</li> <li>• Amended Statement of Environmental Effects</li> </ul>

The Third Planning Panel briefing meeting was held on 13 December 2022. At the meeting the panel discussed key issues and matters to be addressed by the applicant as follows:

1. *Clause 55(1) of the Environmental Planning and Assessment Regulation, 200 requires an agreement has to be made with the Panel (Consent Authority) to allow the development application to be amended to a Concept DA.*

Comment: the applicant has amended the Statement of Environmental Effects to address the request the proposed amendment. The amended statement has been uploaded by the applicant to the NSW Planning Portal

2. *Concept DA is to include a plan that identifies the proposed staging and what stages if any the concept DA is seeking approval for.*

Comment: An amended Statement of Environmental Effects and staging plan has been provided.



3. *Concept DA is to include the staging to indicate all the necessary works required for that stage to operate independently of any other future stages.*

Comment: The staging plan indicates the works required in each stage, including the incorporation into the proposal of a temporary parking area and temporary amenities.

4. *Concept DA is to include indicative designs and plans to demonstrate how all the proposed development stages can be ultimately constructed.*

Comment: The staging plan indicates the works required in each stage.

5. *Confirmation that a Public Meeting is required given that the 11 submissions are all “unique” submissions.*

Comment: Discussions at the 2<sup>nd</sup> Planning Panel Meeting confirmed that a Public Meeting was required. No further information has been provided by the applicant in this regard.

6. *Whether the ‘registered club’ is able to receive consent as an ancillary development to the overall sporting facility.*

Comment: further detailed information has been provided by the applicant regarding the operation of the proposed ‘registered club as ancillary to the sports complex. Please refer to the Statement of Environmental Effects. It is still recommended that conditions of consent be imposed regarding the operation of the ‘registered club’.

## **4. STATUTORY CONSIDERATIONS**

### **4.1 Concept Applications**

When assessing a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’). These matters as are of relevance to the development application include the following:

- (a) the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (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.*

Clause 4.22 of the EP & A Act states, in relation to the assessment of Concept Applications.

- (1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

Comment: The subject application is considered to be a concept development application that sets out concept proposals for the development of the site and this application enables the lodgement of subsequent development applications for detailed proposals at a later date.

- (2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.*

Comment: The application is for the concept only and does not involve additional stages as part of this application. It is acknowledged that consent is required to be obtained for the 6 stages proposed.

*(3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*

Comment: The applicant has requested the development application be treated as a concept application. Please refer to the Statement of Environmental Effects and concept staging plan.

*(4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*

*(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*

*(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent. The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.*

Comment: It is noted that the granting of consent for a concept development application does not authorise the carrying out of development unless otherwise specified by 4(a)(b) above. As previously noted, the application is for a concept application only and proposes additional stages for future development. Having regard to this clause a condition of consent will be imposed stipulating as such.

*(5) The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications*

Comment: Noted. An assessment of the likely impacts of the concept proposal to the extent it is deemed appropriate against section 4.15 is provided below.

Section 83B(5) makes it clear that where a concept proposal does not include any physical works, the consideration of impacts of carrying out the development may be deferred until when a subsequent development application for physical works is made. The amendments enable the consent authority to determine the most appropriate time to assess construction impacts, based on the individual proposal and the level of detail known.

The development application has been assessed in line with the relevant matters of consideration prescribed by section 4.15 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2001.

## **4.2 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Oberon Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies is outlined in Table 2 and considered in more detail below.

**Table 2: Summary of applicable State Environmental Planning Policies**

<b>EPI</b>	<b>Matters for consideration</b>	<b>Comply (Y/N)</b>
<b>Biodiversity and Conservation SEPP</b>	Koala habitat protection 2021 applies to the application.  The Flora and Fauna report concluded an assessment of koalas and their habitats in accordance with this SEPP and concluded habitat on-site is not considered to be core koala habitat.	Y
<b>Planning Systems SEPP</b>	Chapter 2 – State and regional development applies to the application. The application is Council related development over \$5 million and is regionally significant development in accordance with Part 2.4 and Schedule 6 – clause 3.	Y
<b>Resilience and Hazards SEPP</b>	Chapter 4 – Remediation of land applies to the application. A Preliminary Site Investigation was undertaken and no indication of gross contamination which would constrain the development of the site for its proposed land use, and confirmed the site is suitable for the intended use without remediation.	Y
<b>Transport and Infrastructure SEPP</b>	Chapter 2 - clause 2.48 - Determination of development applications— other development) – electricity transmission.  Essential Energy advised on 27 February 2023 subject to detailed design drawing being provided, they see no impediment to the access being provided at that location.	Y
	Chapter 2 - clause 2.118 – Development with frontage to classified road and clause 2.121 - Traffic Generating Development. In the latest response from TfNSW (29 November 2022), concerns over the proposed intersection design along O’Connell Road.  Through compliance with the proposed conditions of consent, it is considered the development can operate, and be managed to ensure the efficient and ongoing operation of the site, classified road and the local road network.	Y

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The site has an area of over one hectare and is subject to chapter 3 – Koala habitat protection 2021 applies to the application. Oberon Council does not have a koala plan of management.

A Flora and Fauna Report has been submitted with the application by Narla Environmental which concludes that it is expected that approximately 7.38 ha of vegetation identified as Exotic Dominated Vegetation is required to be removed from the site.

The proposed Landscape Plan will see the planting of native species that will significantly increase the biodiversity value of the Subject Site, providing foraging and future breeding habitat for many threatened species considered likely to occur.

Five farm dams are proposed for removal, the development has proposed two large bio-retention swales that should replace the biodiversity value of the farm dams into the future.

It is not anticipated that any threatened flora, or fauna will be impacted by the proposed development. Impact mitigation and minimization measures, as outlined in this report, are to be implemented to reduce impacts to native vegetation and fauna where possible.

### **State Environmental Planning Policy (Planning Systems) 2021**

The application is regionally significant development under Part 2.4 Regionally significant development and Schedule 6 – clause 3 of the SEPP as Oberon Council is the applicant for the development and the capital investment value of the development exceeding \$5 million.

Accordingly, the Joint Regional Planning Panel (JRPP) is the consent authority for the application.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Under clause 4.6 of the SEPP, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied 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.

The lots comprising the development site consist of vacant land. Council's records indicate a potential historic land use associated to a cattle/sheep dip site on the property.

A preliminary site investigation was undertaken by Envirowest Consulting. The preliminary site investigation determined no indication of gross contamination which would constrain the development of the site for its proposed land use, and confirmed the site is suitable for the intended use without remediation.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The application was referred to Essential Energy under clause 2.48 of the SEPP. Essential Energy advised the development may have conflict with electrical infrastructure located on the site. Essential Energy advised on 27 February 2023 subject to detailed design drawing being provided, they see no impediment to the access being provided at that location.

Further information is required and has been included as potential conditions of consent.

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The application was referred to Transport for NSW (TfNSW) under clause 2.118 and 2.121 as the site has frontage to a classified road (O'Connell Road) and the development triggers traffic-generating development as the car park associated with the development has a capacity greater than 50 vehicles with access within 90m of a classified road and will also generate greater than 50 vehicles per hour during peak usage.

TfNSW identified several concerns regarding the traffic impact of the development, particularly concerning the afternoon weekday peak vehicle impact, and traffic impact from events. Through the implementation of traffic controls measures and an event management plan, it is considered the development can operate, and be managed to ensure the efficient and ongoing operation of O'Connell Road and local road network as detailed above.

For detailed consideration of this matter, refer to assessment under Key Matters.

### **Oberon Local Environmental Plan 2013**

The relevant local environmental plan applying to the site is the *Oberon Local Environmental Plan 2013 (OLEP 2013)*. The site is zoned RU6 Transition.

The development land use is defined as recreation facility (outdoor) and associated ancillary registered club under *OLEP 2013*. *The recreation facility* is considered permissible in the RU6 Transition zoning, subject to development consent, with the operation of an ancillary 'registered club'.

The proposal is considered consistent with the zone objectives as follows:

- *To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect and maintain land that provides a transition between the Oberon Timber Complex and adjoining residential land.*

The LEP also contains controls relating to development standards, miscellaneous provisions, and local provisions. The controls relevant to the proposal are considered in Table 3 below.

#### *General Controls and Development Standards*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in Table 3 below.

**Table 3: LEP Controls.**

<b>Consideration of the LEP Controls</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Comply</b>
Minimum subdivision Lot size (CI 4.1)	Nil requirements	N/A not proposing subdivision of lots	N/A
Height of buildings (CI 4.3(2))	Nil requirements	N/A	N/A
FSR (CI 4.4(2))	Nil requirements	N/A	N/A
Land acquisition (CI 5.1)	Nil requirements	N/A	N/A
Heritage (CI 5.10)	Requirements for Heritage Item & Conservation Areas	Does not contain a listed item, and is not in the vicinity of an item or HCA	N/A
Flood Planning (CI 5.21)	Requirements for Flood Prone Land	No flood mapping in the LEP	N/A
Earthworks (CI 6.1)	Various considerations for cut and fill	Discussed below	Yes
Riparian Land (CI 6.3)	40m distance from watercourse	No watercourses are mapped on the subject site. An existing dam on site will be filled.	Yes
Essential Services (CI 6.4)	Requirement to connect to all necessary services.	Connection to reticulated water and sewerage will be required to service the proposed development. Electricity is available to the site, and vehicular access is via a new access from O'Connell Road.	Yes



Development within a designated buffer (CI 6.6).	Acoustic Attenuation Measures	The site is located within the Industrial Buffer area. The intent of this notation in the OLEP 2013 is to Inform land uses, established within this zone, that a Heavy Industry operates within it. In the current circumstances, the proposed development is consistent with the operational environment within the delineated buffer area.	Yes
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**Clause 6.1 Earthworks:** earthworks are proposed for the development, as such assessment under this clause is required.

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

Comment: Cut and fill across the site is for the purposes of creating a level/functional site for the proposed development and managing stormwater drainage within the site (including for the development of an OSD basin).

Stormwater measures have been indicated on the concept plan for onsite detention to manage impacts of stormwater, however no earthworks or stormwater management plan have been provided.

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

Comment: Proposed earthworks are ancillary to the proposed use of the site. A Stormwater and Earthworks Management Plan and Construction Management Plan will be required as conditions of development consent prior to the determination of Stage 1.

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

Comment: The application is supported by a preliminary contamination investigation, which identifies that the site does not require remediation of the site. An Earthworks Management Plan will require details of any proposed fill required on site.

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

Comment: Adjoining properties to the south (in particular) are viewed as sensitive receivers. Again, a Stormwater and Earthworks Management Plan and Construction Management Plan will be required as conditions of development consent prior to the determination of Stage 1.

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

Comment: An earthworks management plan will be required to detail the source of fill and the destination of any excess excavated material.

*(f) the likelihood of disturbing relics,*

Comment: AHIMS search by applicant found no Aboriginal sites or places within the search area.

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

Comment: A Stormwater Management Plan will be required prior to the determination of Stage 1.

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

Comment: Extensive landscaping is proposed for the site, in the meantime a sedimentation and erosion control plan and construction management plan will address any potential off site impacts during construction. The Stormwater Management Plan will ensure stormwater detention and treatment will address any potential off-site impacts.

### **Clause 6.6 Development within a designated buffer**

Clause 6.6 of the OLEP is to inform future land uses that there may be impacts on their operation due to their proximity to the existing Oberon Timber Complex. In the circumstances of the subject application, the proposed land use will be compatible.

On balance, the proposal is generally consistent with the LEP. Any issues not addressed in the applicant's response have been addressed via conditions of consent.

### **4.3 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments applicable to the proposal.

### **4.4 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The *Oberon Development Control Plan 2001* ('the DCP') is relevant to this application. The development is generally consistent with the DCP requirements.

## **Part D – Commercial & Industrial Development**

### D.4.1 Building Setback

The proposed development is located further than 6 metres from both O'Connell Road and therefore complies.

### D.4.2 Building Façade

The proposed development is located greater than 30m from the front boundary, it will be set below the road elevation along O'Connell Road and will therefore will not have a dominant impact upon the public domain and existing streetscape.

### D.4.5 Access Driveways

The development allows for both cars and trucks to enter and exit the site from a public road in a forward direction. A final access design has been conditioned.

### D.4.7 Signs

A traffic signage plan has been included as part of this application. The application does not include any proposed signage.

## **Part F – Vehicle Circulation & Parking**

The application provides for a 146 space carpark and area for 100 overflow car parking spaces. A Licenced Club, according to Oberon's DCP 2001 requires a minimum parking requirement for a Club, as follows:

- 1 space per 6m<sup>2</sup> public area in Bars and Lounges;
- plus 1 space per 10m<sup>2</sup> public area in Dining Rooms;
- plus 1 space per 3 seats in Auditorium;
- plus 1 space per 2 employees.

The Club will not include an auditorium and the number of employees is unknown at this stage, however, a staff of 10 would be a reasonable number to assume for assessment purposes.

The parking provision for sporting fields is not provided in the Oberon DCP, according to the Traffic and Parking Impact Report, neither do the DCP's for surrounding LGA's such as Blue Mountains, Bathurst and Orange. The report provides the following analysis:

*"A project for a sports complex at Tuggerah on the NSW Central Coast used the parking rate from the Wyong DCP 2013 of 50 spaces per field. However, this project was much larger than the proposed Oberon Sports Complex and consisted of nine sporting fields, comprising four international sized rugby fields, three international sized soccer fields, one AFL field and one premier field to international rugby configuration."*

*This parking rate could potentially be applied to the proposed two rugby league fields and the hockey field but not to the netball courts. A more appropriate parking rate for the netball courts would be 20 spaces per court based on the Lake Macquarie DCP parking rates for an indoor recreational facility.*

*Based on the above, the parking requirement for the Oberon Sports Complex could be:*

- 3 x Sporting Fields @ 50 spaces per field = 150 spaces.
- 3 x Netball Courts @ 20 spaces per court = 60 spaces.

*This is considered to be a worst-case scenario as the rugby league and hockey fields are unlikely to require the same number of spaces as the international standard facilities at Tuggerah. It is also unlikely that the 3 sporting fields and 3 netball courts are likely to be used at the same time except during special events."*

A temporary car park is proposed as part of the staging plan. The car park will be provide at stage 1 consisting of 197 spaces. The temporary carpark will consist of 200mm thick of 20mm densely graded base (DGB) rolled and compacted.

#### F.7 Design, Access and Construction

- Materials: The final car parking area is a hardstand space within the front setback area. Overflow parking surface material has not been specified. The Temporary carpark will be rolled road base.
- Disabled: 4 accessible parking spots are provided.
- Landscaping: A landscaping plan has been provided which will enhance the overall site. Turf and vegetated area within the front setback will screen the car parking area from the streetscape.
- Signs: No traffic signage plan has been included as part of this application.

### **H.3 – Community Consultation – Development Applications**

The development was notified in accordance with Councils Community Participation Plan.

#### **4.5 Provisions of any Contributions Plan**

The *Oberon Development Contributions & Water Management Works Plan (Amendment) 2004* is relevant pursuant to section 7.18 of the EP&A Act.

The Plan requires that commercial and/or industrial development pay developer contributions at either 0.25% of the Capital Investment Cost or 4 x ET (whichever is greater). The calculation and application of contributions will be payable at the first stage of the development.

#### **4.6 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

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

#### **4.7 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Part 4, Division 1 of the regulation contains matters that must be taken into consideration by a consent authority in determining a development application. No matters are relevant to the application.

#### **4.8 Section 4.15(1)(b) - Likely Impacts of Development**

The consideration of impacts on the natural and built environments includes the following:

#### Context and setting

The subject site is located across two allotments, in the RU6 Transition Zone. The site is on the periphery of the Oberon industrial area to the north and on the edge of the R1 General Residential

zone to the south. The site is predominantly cleared of vegetation and historically, the site has agricultural grazing.

The site has been left vacant as a “buffer” between the Oberon Timber Complex and Oberon township to minimise conflict between land uses within this zone and land uses within adjoining zones and to protect and maintain land that provides a transition between the Oberon Timber Complex and adjoining residential land.

The proposed use will integrate and contribute to the industrial uses to the north, commercial uses to the west and adequate buffer setbacks to the south. Landscaping of the completed site will only enhance visual amenity of the area.

The existing industrial buildings in the vicinity of the site vary in scale and density. The timber complex area to the north of the subject site has numerous multistorey buildings and highly visible structure. Given the anticipated nature of the proposed recreation facility in this locality, the development remains compatible with the context and setting.

#### Public domain

As the site is adjacent to existing and dominant industrial development, the visibility of the site from the public domain is acceptable. The implementation of landscaping to the site will lessen the visual intrusion of the development from the public domain.

#### Utilities

The proposed development will require power, water, and sewer utilities, all of which are available. No details have been provided by the applicant however the Director of Infrastructure Services indicates that connection to services is achievable.

#### Heritage

There are no heritage items within close proximity of the proposed development. The closest heritage item is approximately 350 metres to the east and there is no direct line of sight between the development and the State significant Oberon Railway Station Group. No heritage conservation area impacts on the development site. In regard to aboriginal heritage, an AHIMS search by applicant found no Aboriginal sites or places within the search area.

#### Water

The appropriate management of water onsite, and the developments potential impact to waterways and adjoining land use in the vicinity of the site is a primary concern for this Development Application. The management of water was unclear in the information supporting the application and Oberon Council, requested additional information and clarification regarding the management of water. A Water Management Plan will be required prior to the determination of Stage One.

*Groundwater:* The development will not result in interception with groundwater.

*Flooding:* The proposed development is not located within a floodplain, therefore was not further addressed by this study.

#### Soils

Soil testing as part of the Contamination Investigation and concluded that the site is suitable for the proposed use with no remediation required.

A sedimentation and erosion control plan has been proposed as a condition of consent associated to the first stage of the development and to be maintained until site coverage is established.

#### Air and microclimate

The impacts of the development on the air and microclimate, especially during the construction phase have not been addressed by the applicant. As significant earthworks are proposed as part of the development additional information will be required to be provided for assessment as part of Stage One.

#### Flora and fauna

The application was supported by a Flora and Fauna Assessment Report (Narla Environmental). A field survey was conducted and found that no threatened fauna was identified.

#### Energy

The development will use energy from via the mains powerline. The Statement of Environmental Effects does not provide any further assessment regarding energy consumption, or sustainability matters. Information was requested of the applicant to address potential sustainability practices for the site in particular relating to water reuse and energy efficiency.

#### Noise and vibration

The application is supported by a Noise and Vibration Impact Assessment (Spectrum Acoustics). The modelling undertaken as part of the report concluded that:

*“A noise Impact assessment has been undertaken into the operation of the proposed Oberon Sports Complex, located of O’Connell Road, Oberon, NSW has been conducted.*

*The assessment has considered noise emissions from typical and worst-case noise generation at the sports complex and licensed club.*

*The report contains a number of recommendations in relation to sirens and PA. systems which are aimed at minimising noise emissions.*

*The assessment has found there will be no adverse noise Impacts from the operation of the facility or associated traffic.”*

A construction management plan has been proposed as a condition of consent addressing potential construction noise and vibration impacts.

#### Safety, security and crime prevention

The application was referred to the NSW Police for comment (21 May 2021) in accordance with Oberon Council’s Memorandum of Understanding. NSW Police raised concerns with the proposed development as at the time of referral no CPTED plan had been prepared. A subsequent CPTED report has been prepared addressing the issues raised by NSW Police.

Conditions of consent were provided as part of the NSW Police referral response and have been included as part of the draft conditions.

#### Social impacts in the locality

The development has potential for adverse health and social impacts, if matters such as noise, dust and odour are not managed, as noted above and assessed below. The Statement of Environmental Effects (and associated documentation) notes some mitigation measures have been put in place, such as hours of operation, landscaping, and operational practices to minimise any adverse social impacts of the development. However, Oberon Council requests for additional information and clarification on measures to reduce adverse social impacts. These have been addressed as proposed draft conditions of consent.

#### Economic impact in the locality

The development will have a positive economic impact on the locality. The development will result in the creation of jobs, to operate the facility. Construction jobs will also be created. The development will have positive economic impacts.

#### Cumulative impacts



The development will be the first development on the subject site, so will not have cumulative impacts regarding the site development. However, it will have cumulative impacts in relation to the overall development of the area.

Conditions of consent regarding generation and limitation on noise generation and stormwater management, for example have been included to mitigate cumulative impacts.

#### 4.9 Section 4.15(1)(c) - Suitability of the site

The proposed development is located within the RU6 – Transition zone. The site is undeveloped, and is suited to a recreation facility, due to its proximity to adjoining and surrounding industrial uses. The site is not constrained by native vegetation or riparian buffers and can suitably accommodate the proposed development. The site is in the vicinity of several sensitive receivers which have the potential to be impacted by this type of development if it is not addressed and managed.

#### 4.10 Section 4.15(1)(d) - Public Submissions

Submissions are considered in **Section 5** of this report.

#### 4.11 Section 4.15(1)(e) - Public interest

The proposal development achieves balanced and orderly outcomes and is therefore considered to be in the broader public interest.

### 5. REFERRALS AND SUBMISSIONS

#### 5.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment, concurrence, and referral as required by the *Environmental Planning and Assessment Act, 1979* and outlined below in Table 4.

**Table 4: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Integrated development (s4.46 of the EP&amp;A Act)</b>			
TfNSW	S138 - <i>Roads Act, 1993</i> Connect a road (whether public or private) to a classified road	<p>A strategic design of the access intersection including the following within the design:</p> <ul style="list-style-type: none"> <li>A Basic Right turn treatment (BAR) in accordance with Figure A6 of Austroads Guide to Road Design Part 4: 4: Intersections and Crossings – General 2020 and RMS Supplements. The BAR treatment is to be sealed, designed and constructed for a 60km/h speed environment and be able to accommodate a 26m b-double passing a 12.5m vehicle accessing the development.</li> <li>A Basic Left turn treatment (BAL) in accordance with Figure 8.2 of Austroads Guide to Road Design</li> </ul>	<p>On the 29 November, 2022 updated advice and proposed conditions of consent were provided. Please refer to <b>Section 6</b> for further discussion.</p> <p>Councils Director of Technical Services considers that the treatments identified by TfNSW can be accommodated.</p>

		<p>Part 4A: Un-signalised and Signalised Intersections 2020 and RMS Supplements. The BAL facility is to be sealed designed and constructed for a 60km/h speed environment and be able to accommodate a 12.5 m vehicle accessing the development.</p> <ul style="list-style-type: none"> <li>The design is to indicate changes required to the road environment, signage and parking areas required to accommodate the turn treatments. This is to include impacts on the on street parking availability and any existing property accesses.</li> </ul>	
<b>Referral/Consultation Agencies</b>			
Transport for NSW	<p>CI 104 – Infrastructure SEPP (Development with frontage to a classified Road Clause 2.118)</p> <p>Clause 2.121 – Traffic Generating Development</p>	See comments above.	See comments above.
NSW Police	In accordance with Councils MOU for commercial and industrial developments.	CPTED (Crime Prevention through Environmental Design) report required.	Yes – Conditions of Consent imposed
Essential Energy	Infrastructure SEPP	<ul style="list-style-type: none"> <li>Existing overhead powerlines are impacted by the development – Conditions of consent imposed.</li> </ul>	Yes – Conditions of Consent imposed. Essential Energy advised on 27 February 2023 subject to detailed design drawing being provided, they see no impediment to the access being provided at that location.

## 5.2 Council Referrals

The development application has been referred to Councils Director of Technical Services for review as outlined **Table 5**.

**Table 5: Consideration of Council Referrals**

Officer	Comments	Resolved
Director of Technical Services	<p>Referral for:</p> <ul style="list-style-type: none"> <li>- Proposed servicing of the facility, sewer, water &amp; storm water</li> <li>- Flood potential / overland flow</li> <li>- Comments regarding traffic and parking</li> <li>- Street lighting</li> <li>- Thoughts on the potential to extend Herborn Street along the southern boundary to enable further subdivision of the allotments in Scotia Avenue.</li> <li>- Any other comments/concerns.</li> </ul>	<p>Conditions of consent can be imposed and further assessment at subsequent DA stage(s).</p> <p>Councils' response is as follows:</p> <ol style="list-style-type: none"> <li>1. Proposed servicing of the facility, sewer, water and stormwater.  <i>The facility can be serviced with town reticulated water from the O'Connell Road.</i>  <i>The facility can be connected to sewer into the existing sewer reticulation in Herborn/Crete Street Oberon most likely gravity feed to a Pump Station at the bottom of the site then pressure pumped to connecting MH. This of course is all relative to the final FFL of the buildings</i>  <i>The facility has the ability to dispose of storm water from the site, which can be discharged to the eastern end of the site whereby flows can discharge into an existing stormwater system whereby the current natural flows discharge east in a large underground storm culvert down Albion Street.</i> </li> <li>2. Flood potential/overland flow;  <i>This site has the ability to be constructed free from inundation</i> </li> <li>3. Any comments relating to traffic management/ parking.  <i>Traffic flows will not be an issue coming into the sporting complex site from the 'O'Connell Road which is one of the main roads into Oberon. I do not predict there will be q-length delays that will impact upon normal traffic conditions similarly to the existing sporting facility off Lowes Mount Road, Oberon. There is ample provision for parking of vehicles onsite including buses in times of large events.</i> </li> <li>4. Street lighting;  <i>Street Lighting on the O'Connell Road appears satisfactory, and I don't believe there is a need for further lighting or upgrade.</i> </li> <li>5. Your thoughts on the potential to extend Herborn Street along the southern boundary to enable further subdivision of the allotments in Scotia Avenue  <i>Whilst this is possible, may not be wise to encourage additional development in proximity to the sporting complex e.g. noise. However I am not completely opposed.</i> </li> </ol>

### 5.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from the 17 May, 2021 to 21 June, 2021. The notification included the following:

- An advertisement in the local newspaper Oberon Review (4 weeks during the exhibition period);
- Notification on Council's website;
- Notification letters sent to adjoining and adjacent properties (500m radius, with 212 letters sent);

The Council received a total of nine submissions (One in support) from the general public. A further two submissions were received from the Oberon Hockey Association and Oberon Tigers Rugby League (seniors and juniors) club and Oberon Rugby Leagues Football Club. The issues raised in these submissions are considered in **Table 6**:

**Table 6: Community Submissions**

Submission	Council Comments
<p><b>Community Submissions:</b></p> <ul style="list-style-type: none"> <li>• Thoughts on the potential to extend Herborn Street along the southern boundary to enable further subdivision of the allotments in Scotia Avenue as part of this development?</li> <li>• management of impacts offsite, such as construction noise and dust.</li> <li>• Management of site safety and security.</li> <li>• Management of dust, construction noise and general noise associated to the operation of the club.</li> <li>• Impacts associated to lighting and spill of Light.</li> <li>• Site landscaping.</li> <li>• Consideration of Boundary fencing for site safety and security for neighboring dwellings.</li> <li>• Has a business plan been prepared for the proposed development, including costs associated with transition costs and financial consequences of transferring title of the existing sports ground to BORG. What are the financial arrangements with BORG, what is the longer-term financial plan in relation to funding, operation costs and impact on rates.</li> </ul>	<p>Noted. No formal response provided from the applicant.</p> <p><i>Councils Director of Technical Services advises that it is possible, to extend Herborn street, however the intersection with O'Connell Road would need to be further considered.</i></p> <p><i>Potential impacts associated to potential off-site impacts such as dust, light spill, construction noise, general noise have been addressed via draft conditions of consent requesting further information, such as a Construction Management Plan.</i></p>
<p><b>Oberon Hockey Association:</b> Proposal requested to provide 1 netball court as part of stage one to facilitate the hockey field in the first stage of development.</p> <p><u>Rationale:</u> The Oberon Netball Association was not active at the time of the submission being provided and the Oberon Hockey Association was active with 55 registered players</p>	<p>Noted. Initial indication provided that the Hockey Fields would be undertaken as part of stage One (1). However, subsequent staging of the development has resulted in the Hockey Fields being proposed as part of Stage 5. No further</p>

	comment/rationale has been provided by the applicant.
<p><b>Oberon Tigers Rugby League (seniors and juniors) club and Oberon Rugby Leagues Football Club:</b></p> <p>1 Expand the footprint of the proposed site to facilitate improvements to the existing concept plan and also cater for future growth. Consider encroachment into Lot 1 DP 1087682 in the initial design.  <u>Reasoning:</u> The car park needs to be larger to accommodate +50% vehicles, including coaches and disabled parking. This is based on a 'bay count' of the existing plan versus the current volume.</p> <p>2 Reorientation of the current lay-out of fields so that the Hockey and Netball Courts are re-located towards the North Street.  <u>Reasoning:</u> The Rugby League games often require 'payment at the gate' to attend matches.</p> <p>3 By moving the netball and hockey courts as per 'Recommendation 2', the car park can be located closer to the licensed club.  <u>Reasoning:</u> Currently we estimate a 50 meter + walk from the car park to the club. This is not an optimum solution for disabled persons, club patrons or any deliveries to the club.</p> <p>4 Extend the 'dead ball' area (the area at the end of the last marking on each playing field at either end) by 40 meters at each end.  <u>Reasoning:</u> Currently there are more playing fields at the existing ground. In order to accommodate mini football, this space will be required otherwise two additional fields of dimensions 90m x 48m would be required.</p> <p>5. Include a 30-metre buffer zone between the two football fields.  <u>Reasoning:</u> In addition to this, the fields need to be further apart so as to allow officials to clearly control games and not be distracted or confused (players included) with any whistles or 'calls' from the other field. Bathurst St Pat's grounds are good examples of this.</p> <p>6. Each field and each sport to have fencing around it so as to clearly delineate activity.  <u>Reasoning:</u> By having each sport cordoned off with fencing (obviously allowing access through gates) it will be easier to manage events and each club can have its own facilities in line with their specific requirements.</p> <p>7. Change rooms need to accommodate players and officials.</p>	<p>No formal response provided by the applicant.</p> <p>Council has created a Sporting Complex Sub Committee to address the design issues and community concerns/expectations.</p> <p>All local sporting associations are invited to be part of the committee.</p>



<p><u>Reasoning:</u> The existing sheds have 3 showers which is a minimum standard.</p> <p>Existing change room size 68m<sup>3</sup> – this is not sufficient for 20 players, officials and sports trainers. Each change room is required to be a minimum 75m<sup>2</sup>.</p> <p>Referees room to cater for 6 officials (male and female required). Each with one shower and toilet, locker space.20m<sup>2</sup></p> <p>First aid room required 16m<sup>2</sup></p> <p>Public toilets at ground level including disabled toilets.</p> <p>Canteen must be easily accessible in a high foot traffic area. Canteen must have additional storage rooms for freezers, excess stock and supplies. 2 req (one for senior league and one for junior league).</p> <p>Relocate keg room closer to bar. On advice from bar staff.</p> <p>Require a cool room to be added. The keg room does not serve as a room – there needs to be a separate facility for cold storage.</p> <p>Include a meeting room that can be used for the clubs or for hire.</p> <p>Include a trophy room. A separate room or area needs to be included ensure the rich history of the club lives on.</p> <p>Add a conference/function room.</p> <p>Include an undercover smoking area.</p>	
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## 6 KEY MATTERS

The following key matters are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 6.1 Traffic and Transport

#### Access, transport and traffic

Referral to TfNSW has been made under the ISEPP 2007, as this use is a traffic generating development with direct frontage to a State Road and as integrated development under 138 of the Roads Act, 1993 as a private road will need to be connected to O'Connell Road (State Road). TfNSW requested additional information be provided as part of the assessment of the application and further advice was provided by email on the 29 November 2022.

For full disclosure, the initial response from TfNSW (received on 11 November 2022) to the amended Traffic and Parking Impact Assessment by Ryan, Barker and Stewart. The response by TfNSW states:

*"The information does not include a strategic design of the proposed Basic Right (BAR) and Basic Left (BAL) turn treatments demonstrating that there is adequate room available within the road reserve to accommodate the turn treatments and identify any traffic and asset impacts of the proposed works.*

*Accordingly, TfNSW withholds its concurrence pursuant to Section 138(2) of the Roads Act 1993. To review its position, TfNSW requires additional information as provided in **Attachment 1**."*

Attachment 1 details the additional information required:

*"A strategic design of the access intersection including the following within the design:*

- *A Basic Right turn treatment (BAR) in accordance with Figure A6 of Austroads Guide to Road Design Part 4: 4: Intersections and Crossings – General 2020 and RMS Supplements. The BAR treatment is to be sealed, designed and constructed for a 60km/h*

speed environment and be able to accommodate a 26m b-double passing a 12.5m vehicle accessing the development.

- A Basic Left turn treatment (BAL) in accordance with Figure 8.2 of Austroads Guide to Road Design Part 4A: Un-signalised and Signalised Intersections 2020 and RMS Supplements. The BAL facility is to be sealed designed and constructed for a 60km/h speed environment and be able to accommodate a 12.5 m vehicle accessing the development.
- The design is to indicate changes required to the road environment, signage and parking areas required to accommodate the turn treatments. This is to include impacts on the on street parking availability and any existing property accesses.”

Councils Technical Services Director has reviewed the response from TfNSW and addressed the preliminary concerns, via email dated 24 November 2022, relating to the suitability of O’Connell Road to accommodate the required treatments, and stated:

“Dear Howard,

Thank you for your time this morning allowing me to clarify a few key points in relation to the vehicle movements along the O’Connell Road primarily between the Albion and Carrington Street intersections. Whilst I reiterated that all heavy vehicle movements especially 26m b-double vehicles turn from the south bound lane of the O’Connell from Bathurst and the Abercrombie Road into Albion Street which is the designated ‘Heavy Vehicle By-pass’ for Oberon.

Whilst I appreciate that the TfNSW gazetted mapping for b-doubles currently includes the section of the O’Connell Road mentioned above, I can confirm that no vehicle of the size uses this section of road. A 26-metre b-double vehicle would in my view have difficulty rounding the corner from O’Connell Road into Carrington Avenue without substantially crossing the centre line of the trafficable carriageway.

Therefore, per our discussion we understand the reason why TfNSW would not originally permit direct access from Albion Street, subject of the designated Heavy Vehicle By-pass. Further to our conversation today I concluded:

That:

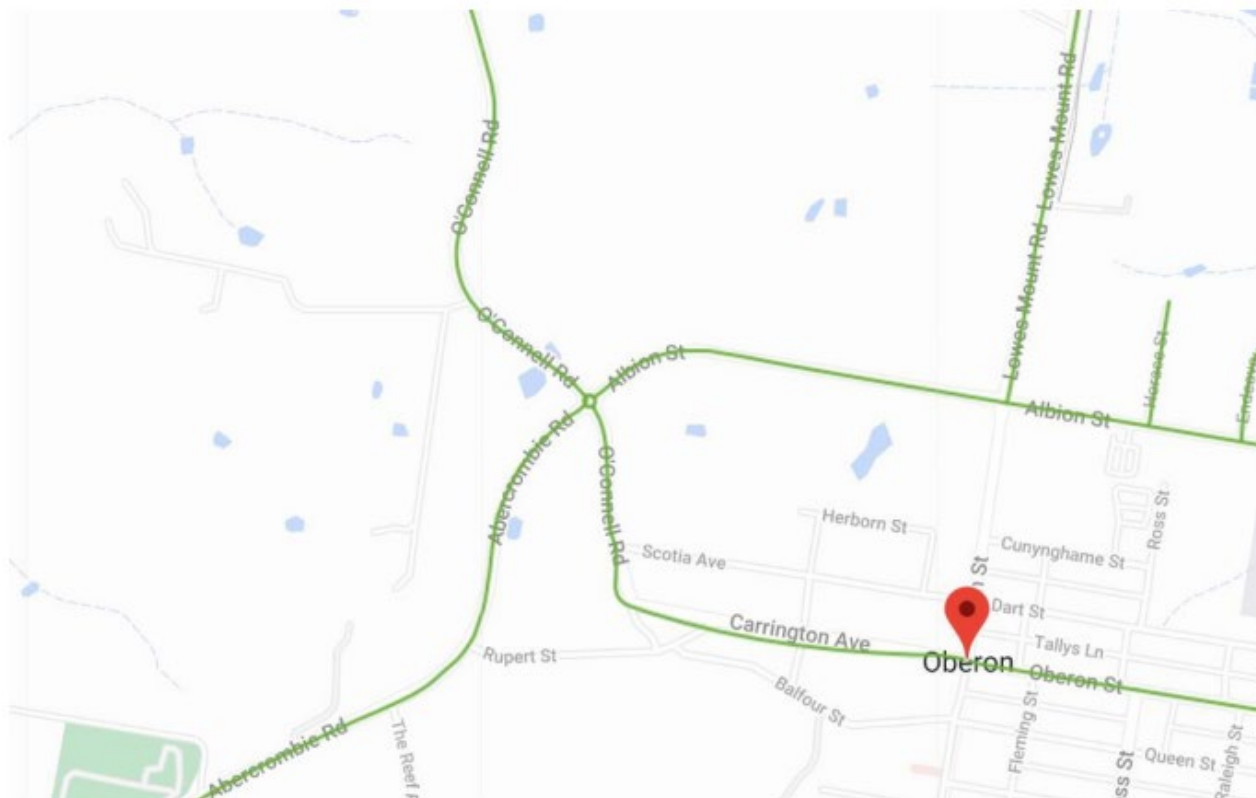
\* B-doubles do not use the above section of the O’Connell Road leading to Carrington Avenue, even though TfNSW recognise this section in the approved gazetted heavy vehicle mapping.

\* The Road reserve of O’Connell Road between Albion Street & Carrington Avenue is 20.115m in width and could accommodate for any BAR/BAL Treatment, even if slight modification of kerb alignment is required a BAR/BAL treatment is possible. Council will make this a condition of its consent and provide design alike to demonstrate this is achievable.

\* Council will pursue discussions with TfNSW Freight personal to have the above gazetted section of State Road declassified for heavy vehicle use, subject of the by-pass which was established over 20 years ago.

Please can you confirm from our discussion and the above information that TfNSW recognise the above facts and in-principle are supportive of the preliminary discussions which would provide in principle approval to the selected location for the new access. The new access is intended to be constructed in accordance with a basic Austroads BAR/BAL design treatment, but not accommodating a design requirement for 26m b-doubles which don’t use this section of road.”

For the benefit of the Panel, a copy of the B-Double limits map has been provided below , as Figure 6:



**Figure 6: B-Double Limits Map (TfNSW, 2022)**

A further response from TfNSW was provided to Council (in response to Councils Director of Technical Services email) via email on the 29 November 2022:

*"I refer to our conversation on Thursday last regarding the status of O'Connell Road and Carrington Avenue and the ability of Council, via the JRPP, to determine the Development Application without the Roads Act concurrence of TfNSW.*

*I confirm my advice that O'Connell Road and Carrington Avenue are 26m B-double authorised according to the TfNSW GML restricted access vehicles mapping. Which I have utilised in the assessment of the DA referral to TfNSW. While this may be improbable the use is authorised and a consideration for the final design of the turn treatments.*

*I also note my advice to Damien Damian O'Shannassy on 11 November 2022 and confirmed today that Council is not restricted from determining the Development Application (which I note Damien indicated is a concept da and further detailed DA's would be required) without the Roads Act concurrence for the BAR and BAL which would be constructed under a Works Authorisation Deed process.*

*Should Council be satisfied to accept this risk relating to the unknown full extent of the works required, and other risks such as removal of parking in front of affected businesses along O'Connell Road, the potential for need to carry out kerb realignment and potentially move other services and infrastructure to achieve the BAR BAL, and any other currently unidentified impacts that the strategic design of the BAR BAL would identify, it could proceed requiring the proposed turn treatments as condition of consent with the details of the design to be finalised during the Roads Act Works Authorisation Deed approval process post consent.*

*Again, Council would need to be prepared to accept the risks that the extent of the works required is somewhat unknown and in addition in determining the development under Part 4 of the*

*Environmental Planning and Assessment Act 1979, note it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent. This environmental assessment is not conducted as part of the Roads Act approval process.*

*Should Council wish to determine that application on this basis pursuant to clause 2.122 of SEPP (Transport & Infrastructure) 2021 TfNSW provides the following recommended conditions for Council's consideration.*

- Prior to the commencement of construction works a Traffic Management Plan (TMP) is to be prepared in consultation with Oberon Shire Council. The TMP is to demonstrate that the construction works and delivery of construction materials to the site will not adversely impact the safety and efficiency of the O'Connell Road.*
- The TMP is to be reviewed and updated in response to any changes in operating conditions. A copy of the TMP is to be provided to contractors and employees as a part of the site induction and a copy made available to TfNSW on request.*
- All activities including loading and unloading of goods associated with the development be carried out on site in the dedicated areas providing adequate manoeuvring area for the design vehicle.*
- Landscaping, signage and fencing is not to impede sight lines of traffic or pedestrians within or when passing, entering or departing from the site. Safe Intersection Sight Distance (SISD) must be provided and maintained at the intersection of the driveway with Forest Road.*
- All signage including any proposed internally lit signs is to be contained within property boundaries and designed to meet the objectives of Transport Corridor Outdoor Advertising and Signage Guidelines 2017.*

*The following conditions should be included to manage future Roads Act approval processes.*

- Prior to the issue of any Occupation Certificate for or the operation of the development the access driveway is to be constructed to provide a Basic Right Turn Treatment (BAR) in accordance with Figure A6 of Austroads Guide to Road Design Part 4: 4: Intersections and Crossings – General 2020 and RMS Supplements. The BAR treatment is to be sealed, designed and constructed for a 60km/h design speed.*
- Prior to the issue of any Occupation Certificate for or the operation of the development the access driveway is to be constructed to provide a Basic Left turn treatment (BAL) in accordance with Figure 8.2 of Austroads Guide to Road Design Part 4A: Un-signalised and Signalised Intersections 2020 and RMS Supplements. The BAL facility is to be sealed designed and constructed for a 60km/h design speed.*
- As road works are required on Carnarvon Highway (HW28) {should read O'Connell Road}, a classified (State) road, TfNSW will required the developer to enter into a Works Authorisation Deed (WAD) with TfNSW. TfNSW will exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD.*
- Prior to the commencement of construction work impacting traffic on O'Connell Road, the proponent is to contact the TfNSW Road Access Unit at [road.access@transport.nsw.gov.au](mailto:road.access@transport.nsw.gov.au) to determine if a road occupancy licence (ROL) is required. In the event an ROL is required provide the consent number in the road occupancy licence application. Please note that up to 10 working days is required for Road Occupancy Licence applications to be assessed and processed. <https://roads-waterways.transport.nsw.gov.au/business-industry/road-occupancy-licence/index.html>. “*

The Traffic and Parking Impact Assessment report provided to TfNSW provides the following information:

*“O'Connell Road has a posted speed limit of 50km/hr at this location, with 3 metre wide carriageways in each direction and 3 metre sealed road shoulders with kerb and gutter. The sight*

*distance measured from the proposed entry/exit to/from the site is approximately 150m to the north and 110m to the south.*

*When assessed against the requirements of Austroads 'Guide to Road Design Part 4' Appendix A Figure A10 Warrants for treatments on the major road at unsignalised intersections for traffic speeds of less than 100km/hr, a BAR/BAL type intersection would be required at the main entry/exit into the site in O'Connells Road. This is based on the daily maximum bi-directional peak of 130 vehicles per hour on O'Connell Road as indicated in the 7 day tube counts (see Section 2.4.3).*

*Note that the estimated peak hour traffic generated from the site is 106 vehicles an hour only during the time prior to and after a main game fixture is occurring on site or in the scenario when all playing fields are used simultaneously. This would generally occur on a Saturday which is outside of the peak times in O'Connells Road indicated in Section 2.4.3.*

*However, even if the peak times coincided with each other according to Austroads 'Guide to Road Design Part 4' Figure A10, a BAR/BAL intersection would still be required. The existing O'Connell Road pavement in the vicinity of the site is 12 metres wide consisting of 2 x 3 metre wide travel lanes and 3 metre wide sealed shoulders with kerb and gutter. With the provision of some 'No Stopping' signage and potentially an upgrade to the pavement depth in the road shoulders (subject to a Getoech Report) the existing road formation could be able to accommodate a BAR/BAL type intersection."*

## **6.2 Impact on Sensitive Receivers**

The nature of the development will result in generation of dust and noise, especially during the construction period(s) which impact on all receivers, particular sensitive receivers. These issues were raised during the assessment of the application to assess potential environmental impacts resulting from the development. No further information has been received.

Conditions of consent have been imposed regarding the provision of a Construction Management Plans, details on the operation of the proposed sporting club, earthworks plans, and Erosion and Sediment Control Plans prior to the commencement of the First stage of development.

## **6.3 Stormwater Management**

The nature of the development will result in unknown stormwater impacts, both on and off site. These issues were raised during the assessment of the application and additional information requested from the applicant. As no further information has been received, a Stormwater Management Plan, is required to assess the potential impacts.

Conditions of consent have been imposed regarding the provision of construction management plans, stormwater management plans and the like, prior to the commencement of the First stage of development.

## **6.4 Earthworks**

Details were requested during the assessment of the application in relation to the extent of earthworks required for the proposed development, as well as offsite impacts associated to the assumed extensive earthworks required. As no further information has been received from the applicant a condition of consent has been imposed requiring detailed plans and information associated to existing and proposed site levels, cut and fill, batters drainage as well as the operation and management of the site during this first stage.

## **6.5 Permissibility of the Sports Club**

The proposal incorporates the development of an ancillary sporting clubhouse with lower ground level training rooms, canteen, store rooms and associated sporting club amenities and Ground floor registered club facilities.

Licensed Club, comprising;

- 367.1m<sup>2</sup> GFA licensed club area, including:
  - Approx. 110m<sup>2</sup> in dining area, and
  - Approx. 257m<sup>2</sup> in bar and lounge
- 11.7m<sup>2</sup> GFA gaming room

The registered club will house the Oberon Leagues Club and will be licensed to serve alcohol. From information derived from the Noise Impact Assessment prepared by Spectrum Acoustics (2020) and submitted with the DA, the club may be in use, at times, between the hours of 10am to 12am, seven days a week. The ongoing ownership of the land, the management of the sporting complex and operation of the club facility is unclear.

Councils Statement of Environmental Effects states:

*"The building comprising the registered club is proposed as an ancillary use to the dominant use on-site, being the recreation facility (outdoor).*

*The ancillary use is proposed to support this use, providing facilities and amenities for the members and users of the sporting fields and courts, and is not independent of the recreation facility. The registered club aspect of the development will provide an additional use to support the various sports clubs using the site (fields and courts), through provision of food and drink, and open seating spaces.*

*Like many sponsorship businesses / venues for sporting clubs, this area will be utilised for presentations, meetings, post-game social events and the like. It is unlikely that people outside of the recreation facility itself will attend the club, given other alternative uses of a similar kind are available in the area.*

*Per the definition, patrons must be members, or a guest of the members to attend the club. The registered club only exists because of the dominant use and is proposed to further support this use. Patronage of the proposed club is anticipated to be cohort of spectators of the sporting fields being over the age of 18.*

*That is many attendees to the site will not have their drivers' licenses and RSA guidelines aside will not be of legal age for the consumption of alcohol.*

*To ensure consistency with this consideration, the following conditions of consent are acceptable:*

- *Cessation of the ancillary use should the dominant use cease.*
- *Hours of operation of the ancillary use, to be consistent with or less than the dominant use.*
- *Limited use of the ancillary portion of the site, until such time the dominant use has been constructed in its entirety."*

Comment:

There is consistency between the proposed registered club and the dominant recreation facility (outdoor) use. The proposed use is consistent with the operation and intent of the dominant use. It will provide an additional service to support the various sports clubs and patrons using the site (fields and courts), through provision of food and beverages. These areas will be utilised for presentations, meetings, post-game social events and the like. Without this ancillary use, site maintenance and longevity may not have the ability to be achieved. This ancillary use will increase financial expenditure on the site, to support the dominant use into the future. It also encourages attendance to the site, through the provision of food and beverages for consumption during spectating.

There is no conflict between the proposed recreational facility development and the proposed registered club. Rather, the proposed development aims to further support the concept development on-the site for both existing and future elements that are interrelated. The uses cannot be separated in form and do not act independently from each other.

Subject to conditions of development consent, the operation of the sporting club can be undertaken in an ancillary and subservient manner.

## **7. CONCLUSION AND RECOMMENDATION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations current at the time of lodgement, as outlined in this report.

Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The application is recommended for approval subject to a conditions of consent.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B Amended Plans