

**SUBJECT: SUPPLEMENTARY REPORT – DAC 10/12/19 DA2019/00588
– 6 BAVN ROAD, BROADMEADOW - RECREATION
FACILITY (INDOOR), CARPARKING AND AMENITIES
BUILDING**

**APPLICANT: WESTERN SUBURBS (NEWCASTLE) LEAGUES CLUB LTD
OWNER: VENUES NSW
NOTE BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY,
PLANNING AND ASSESSMENT**

PART I

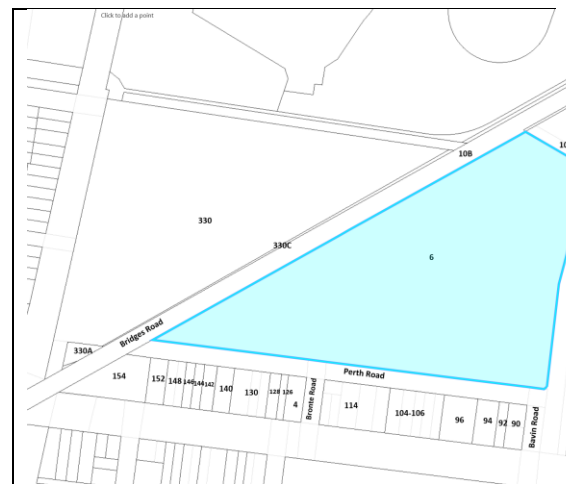
BACKGROUND

An application has been received seeking consent for a recreational facility (indoor), car parking and amenities building at 6 Bavin Road Broadmeadow NSW 2292.

The submitted application was assigned to Senior Development Officer, William Toose for assessment.

The application is referred to City of Newcastle's (CN) Development Applications Committee for determination as the construction value of the proposed development (\$18,453,600) exceeds the staff delegation limit of \$10M.

A copy of the plans for the proposed development is appended at **Attachment A**.



Subject Land: 6 Bavin Road Broadmeadow

The proposed development was publicly notified in accordance with CN's Public Notification policy and 2 submissions have been received in response.

The concerns raised by the objectors' in respect of the proposed development are discussed in Part 2 of this report and relate to the potential impacts of the proposed development on the Westpac Rescue Helicopter Service's (the Service) operations.

In response to concerns raised in the submissions, amended plans were provided which included changes to the northern-eastern car park layout and positioning, altered servicing arrangements and some minor design changes to the proposed building. These changes were specifically undertaken to assist in minimising any potential adverse impact on the Service's current operational requirements.

Additionally, the applicant also removed field lighting previously proposed at the northern end of the training field.

The amended proposal was supported by the findings of a specialist report, which provided an overview of the Service's operations. The report noted that the area required for maintenance operations is not located within the Service's current leased area. The report concluded that the amended development would not significantly impact the existing operations of the Service at the site. The amended proposal was not re-notified as the design amendments were considered to be minor in nature, resulting in an improved development for the site.

Following an urgent injunction application made by the Service on the afternoon of 3 December 2019 the Land and Environment Court (LEC) made an order that Council was restrained from determining the application until 2pm on 10 December 2019 when the matter was again before the Court. The parties were then encouraged to enter into negotiations. Council invited a further submission from the Service in relation to the amended application.

Following a conciliation between the parties on 6 December 2019, a further submission was received from the Service on 10 December 2019. The further submission reiterated previously held concerns and contained an amended proposal which included a further reduction to the number of car spaces (9 spaces) within the north-eastern car park, a requirement for the north-eastern car park to be used by the applicant's staff only, the inclusion of a designated Helicopter Operations Area on the subject site and additional landscaping (ie. hedges). The applicant has advised that it supports the amended proposal raised by the Service.

The amended proposal is now considered an acceptable form of development for the site and is considered to satisfactorily address the concerns raised by the Service, subject to the implementation of the above design changes and the imposition of specific conditions of consent as set out in the Draft Schedule of Conditions at **Attachment B**.

The injunction implemented by the LEC on 3 December 2019 has now been removed by the Court as all parties have agreed on the proposed changes and this matter is now able to be determined.

As a result of agreement between the parties regarding the amended proposal, the Service discontinued its application to the Court. The injunction implemented by the LEC on 3 December 2019 was lapsed at 2pm on 10 December 2019 as all parties have agreed on the proposed changes. The Court proceedings are now completed and this application is able to be determined.

Issues

- 1) Potential impacts of the proposed development on the Service's operations. The proposed development was amended to assist in minimising potential adverse impacts on the Service's operations.

- 2) Traffic and Carparking. The amended development will provide a total of 130 car parking spaces on site, resulting in a surplus of 17 car spaces above the recommended rate of the Newcastle Development Control Plan 2012 (NDCP 2012). The proposed development is considered to be acceptable with regard to its impacts on local traffic conditions, pedestrian safety and traffic management measures.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is considered to be acceptable subject to compliance with appropriate conditions.

Recommendation

- A. That DA2019/00588 for a recreational facility (indoor), car parking and amenities at 6 Bavin Road Broadmeadow be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment B**; and
- B. That those persons who made submissions be advised of Council's determination.

Political Donation / Gift Declaration

Section 10.4 of the Environmental Planning and Assessment Act 1979 requires a person to disclose "reportable political donations and gifts made by any person with a financial interest" in the application within the period commencing two years before the application is made and ending when the application is determined. The following information is to be included on the statement:

- a) all reportable political donations made to any local Councillor of Council; and
- b) all gifts made to any local Councillor or employee of that Council.

The applicant has answered **NO** to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable political donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

PART II

1.0 THE SUBJECT SITE

The subject site is Crown Land managed by Venues NSW and forms a recreation area known as 'District Park', located within a wider area identified as the 'Hunter Sports and Entertainment Precinct'. The Precinct includes the Newcastle International Hockey Centre, Hunter Stadium, tennis and basketball courts and the Newcastle International Paceway.

The subject site is legally described as Lot 3284 in DP 1049501. It comprises a triangular shaped parcel of land with an overall area of approximately 7.02ha. The site has a frontage to Bavin Road (to the east) of approximately 247m and to Perth Road (to the south) of approximately 437.16m. The site is bound by the Styx Creek open drainage channel to the north-west.

Existing development within the site is limited to a small single-storey brick building used as a public toilet, located along the site's southern boundary; a concrete cricket pitch in the south-western portion of the site; part of two pedestrian footbridges located along the north-western boundary, providing access over the adjoining Styx Creek drainage channel; and an at-grade hardstand car park and fencing located in the north-east of the site, associated with the Westpac Rescue Helicopter Base.

With the exception of the existing car park access from Bavin Road, servicing the Westpac Base, no formal vehicle access is currently available to the subject site.

The site is devoid of significant vegetation, with the exception of tree plantings along the boundaries. These fig tree plantings form part of a local heritage-listed item, 'Remnant Plantings, District Park', however are not located within the development site.

2.0 THE PROPOSAL

The application seeks consent for:

- i) Construction of a 2-storey indoor recreational facility, built in 2 stages, for use by the Newcastle Knights, including a range of athlete training and ancillary injury management and rehabilitation facilities, associated administration and support services, as well as ancillary public facilities.
- ii) Construction of a single-storey public amenities building as part of stage 1.
- iii) Construction of a 28 space at-grade car park in the south-east of the site, on the southern side of the Centre of Excellence (CoE) building as part of stage 1.
- iv) Construction of a 68 space at-grade car park in the south-west of the site, accessible from Perth Road as part of stage 1. These spaces will be available for users of the playing fields on an unrestricted basis.
- v) Construction of a 34 space carpark in the north-east of the site for use exclusively by players and team managers as part of stage 1.
- vi) Ancillary landscaping and drainage infrastructure.

The remainder of the works associated with the broader redevelopment of the site are being undertaken separate to this proposal as exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.

The proposed facility will generally be operating between 6:00am and 10:00pm, daily. The typical operating hours of the individual users and / or components of the facility include:

- i) Playing Group and Coaching Staff: 8:00am – 5:00pm (Mon-Sun)
- ii) Administration staff (including sports science): 8:30am – 5:30pm (Mon-Fri)
- iii) Café: 7:00am – 7:00pm (Mon-Sun)
- iv) Other squads: 5:00pm – 9:00pm (Mon-Sun)
- v) Waste Collection and Deliveries: 6:00am – 8:00am (Mon-Fri)

Amended plans have been provided to address the Service's operational requirements. These amendments include:

- i) Removal of 36 spaces from the north-eastern car park and the provision of a dedicated garbage vehicle collection bay along Bavin Road, to ensure that the northern end of Bavin Road remains unobstructed at all times by vehicles associated with the CoE development.
- ii) Removal of the four light towers to illuminate the northern training field.

A copy of the current amended plans is appended at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to **Attachment C**).

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the associated Regulation and the NDCP 2012. Two submissions were received in response and primarily relate to the potential impacts to the Service's operations at the Broadmeadow base, including:

- i) Aircraft Test Flying
- ii) Aircraft Movements and Flying
- iii) Access to and from the Broadmeadow Base
- iv) The Service's Northern Carpark
- v) Lighting
- vi) Dust and Foreign Object Debris
- vii) Aircraft Downwash and Noise

- viii) Car parking and traffic movements
- ix) Characterisation of proposed development
- x) Inconsistencies with the objective of the RE1 Public Recreation zone
- xi) Suitability of site
- xii) Public interest

The objector's concerns are addressed under the relevant matters for consideration in the following section of this report.

4.0 INTEGRATED DEVELOPMENT

The proposal is not 'integrated development' pursuant to Section 4.46 of the Act.

5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

5.1 Provisions of any environmental planning instrument

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 requires that where land is contaminated, CN must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

A Detailed Site Investigation (DSI) has been submitted in support of the application which concludes that the land is suitable for the proposed use.

CN's Senior Environmental Protection Officer considers the proposal to be acceptable and has recommended a number of conditions be imposed on a consent (refer to **Attachment B**). On this basis the provisions of SEPP 55 have been met.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) is one of a suite of Land Management and Biodiversity Conservation reforms that commenced in New South Wales on 25 August 2017.

The Vegetation SEPP works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW. Part 3 of the Vegetation SEPP contains provisions similar to those previously contained in cl.5.9 of the Newcastle Local Environment Plan 2012 (NLEP 2012) (clause now repealed) and provides that

CN's Development Control Plan can make declarations with regard to certain matters, and further that CN may issue a permit for tree removal.

The proposal has been assessed in accordance with NDCP 2012 and is considered to be satisfactory.

State Environmental Planning Policy No 64—Advertising and Signage

The proposed signage is acceptable having regard to SEPP 64 requirements and the nature of the development.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

Clause 2.1 Land Use Zones

The subject property is included within the zoned RE1 - Public Recreation zone under the provisions of the NLEP 2012. The development is permissible with development consent as a Recreation facility (indoor) including ancillary administration and retail areas. While the proposed café is intended to function as an ancillary component of the recreation facility (indoor), it is also permissible with consent as a 'restaurant or cafe'.

The proposed development is consistent with the objectives of the RE1 - Public Recreation zone, which are:

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

Consistent with the objectives of the RE1 zone, the proposed development involves the use of part of the site for indoor recreational purposes. It also seeks to revitalise the broader site to facilitate and encourage its use for organised sport and recreational activities, including the provision of enhanced public amenities and additional car parking.

The recreational activities associated with the proposal and future redevelopment of District Park are also compatible with, and complementary to nearby existing and future development within the Broadmeadow sports precinct.

The following summarises an assessment of the proposal against the provisions of NLEP 2012 that are primarily relevant to the proposed development:

Clause 2.7 Demolition Requires Development Consent

Conditions are recommended to ensure demolition works and disposal of material is managed appropriately and in accordance with relevant standards.

Clause 4.3 Height of Buildings

The site is not subject to a maximum height of buildings requirement.

Clause 4.4 Floor Space Ratio

The site is not subject to a maximum Floor Space Ratio requirement.

Clause 5.10 - Heritage Conservation

The site immediately adjoins a heritage item of local significance, known as 'Remnant Plantings, District Park' (Item No. 37) located within the road reserve of Bavin Road.

A Statement of Heritage Impact has been submitted with the application. The Heritage Impact Statement found:

"The Remnant Plantings of District Park, previously an established avenue have been reduced to a piecemeal collection of individual trees though there remains some evidence of where previous trees were located within the avenue. The aesthetic quality of the plantings within the curtilage has been severely impaired through tree loss and over pruning for the sake of traffic along Bavin Road. The aesthetic significance of the avenue within the curtilage has been reduced to little".

An assessment of the likely impact of the proposed works on the heritage significance of the site has been undertaken. The Statement of Heritage Impact concludes:

"With the exception of the proposed driveway crossing and minor repair works to the pavement, the existing road surface will remain unchanged. The entrance to the proposed car park at the northern corner of the site has been configured to avoid the existing heritage trees. Works to provide the new car park entrance have been assessed by the Consulting Arborist to be acceptable for the ongoing survival of the adjacent heritage trees.

New tree planting outside the Centre of Excellence will assist in the reestablishment of the former avenue of trees which existed on the site, though are of a species and location selected and designed to be better manageable into the future thus respecting the Heritage Item and working with the new building.

'The proposed works are respectful of the significance of the Remnant Plantings, District Park heritage item and will have a positive impact upon the item.'

Clause 6.1 – Acid Sulfate Soils

The site is affected by Class 5 acid sulphate soils. A site-specific Acid Sulfate Soil Management Plan has been submitted with the application. Compliance with the Plan is included as a recommended condition. The proposed development is considered satisfactory in this regard.

Clause 6.2 - Earthworks

Minor filling is proposed to raise the building above the required flood level. Minor excavation is required for the installation of infrastructure and services. The level of earthworks proposed to facilitate the development is considered to be acceptable having regard to this clause.

5.2 Any draft environmental planning instrument that is or has been placed on public exhibition

There is no exhibited draft environmental planning instrument relevant to the application.

5.3 Any development control plan

Newcastle Development Control Plan (NDCP 2012)

The main planning requirements of relevance in the NDCP2012 are discussed below.

Flood Management - Section 4.01

CN's Senior Development Officer (Engineering) has provided the following comments in relation to the proposal:

"A detailed flood model has been developed to assess potential flood impacts associated with the proposed works.

Part of the site where the Centre of Excellence building is proposed to be located is identified as a floodway during a Probable Maximum Flood event. Additional modelling was undertaken which shows that the works will result in a relocation of an identified floodway within the site and a slight increase in the floodway around the intersection of Perth and Bavin Roads. The modelling provided demonstrates that there will be no adverse flood impacts as a result of the proposed development works.

The architectural plans provided show a ground floor level of 8.1m AHD satisfying the minimum floor level requirement. CN's DCP guidelines recommend that for this level of risk, new building have a flood refuge designed to resist the flood forces of a Probable Maximum Flood event. The first-floor level of the COE building is 12.1m AHD providing a refuge for building users. "

Accordingly, the proposal is acceptable in relation to flooding.

Safety and Security - Section 4.04

The proposal involves the establishment of a new indoor recreational facility on the site, offering a high level of activity, casual surveillance and patron and community safety within the site and surrounding area. It will also provide appropriate lighting and security measures to protect the safety of players, staff and the local community.

Social Impact - Section 4.05

The proposed development is likely to result in a number of positive social and economic impacts, including the following:

- i) The proposal will support the growth of the broader Hunter Sports and Entertainment Precinct.
- ii) The proposal will provide training facility to serve the needs of one of a professional sporting team. It will also provide ancillary public spaces.
- iii) The proposed amenities building will provide a facility for referees and necessary storage areas for future users.
- iv) The proposal will provide increased activity and surveillance to a currently under-utilised area.
- v) The creation of jobs during the construction and operational phases.

No negative social impacts of the proposal are anticipated.

Soil Management - Section 5.01

Details of sediment control have been provided by the applicant and are considered to be acceptable. The proposed development achieves the objectives and controls within this section of the NDCP 2012.

Land Contamination - Section 5.02

Land contamination has been considered in this assessment report, in accordance with SEPP 55.

Vegetation Management - Section 5.03

In support of the proposed works, the applicant has submitted an arborist's report that details species, location, size, health and value. The report is prepared in accordance with CN's tree assessment requirements and provides advice and recommendations regarding tree retention and protection.

There will be five trees removed during the works, all of which are shown to be recent plantings and in reduced health. All the trees belonging to the heritage listing will not be affected by the works.

The submitted report has been prepared in accordance with CN's tree assessment requirements and it is considered that the proposed tree removal is acceptable. The amenity of the area will not be significantly impacted in respect of the local character and appearance.

Aboriginal Heritage - Section 5.04

Reference to the Aboriginal Heritage Information Management System confirmed that there are no sites of Aboriginal significance recorded on the site.

Heritage Items - Section 5.05

This issue is discussed under Clause 5.10 Heritage of NLEP 2012.

Archaeological Management - Section 5.06

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or NLEP 2012 as an 'Archaeological Site'. A condition has been included in the consent that references the recommendations of the Statement of Heritage Impact.

Landscape Open Space and Visual Amenity - Section 7.02

A landscape plan has been provided with the development application in accordance with this section of the NDCP 2012.

Appropriate plant species have been selected with due consideration to safety and security, maintenance requirements and to maximise amenity for site users and the public. Importantly, the proposal allows for the protection and retention of the heritage-listed street trees along Bavin Road.

Traffic, Parking and Access - Section 7.03

A revised parking assessment of the likely parking demand for the proposed development based on the NDCP 2012 and operational demands associated with the facility, is detailed below:

Use	Capacity	Car Parking Demand
Office	150m ²	31.4 (32)
Retail	61m ²	1.4 (2)
Café / Kitchen	4 staff	4
Players Facilities	30 players	30
Stage 2 office	1,227m ²	24.5(25)
Stage 2 Players	20 players	20
Total		113 spaces

The development has been amended to provide three separate car parking areas for the users of the CoE and District Park, including:

Car park	Stage	No. of spaces	Users
Northern	1	34	Newcastle Knights Football Club Players, coaches, team officials, referees and guests
Southern	1	28	Support staff, management and administration

South-western	1	68	Overflow for Stage 2, park users and the general public
Total		130	

This equates to a total parking provision for this development of 130 spaces, resulting in a surplus of 17 spaces above the recommended rate of NDCP 2012. Car parking access has been assessed by CN's Development Officer (Traffic) and is considered acceptable subject to relevant conditions.

Section 7.05 - Energy efficiency

The proposal is acceptable having regard to this section.

Stormwater- Section 7.06 and Water Efficiency - Section 7.07

The proposed stormwater management plan is in accordance with the relevant aims and objectives of the NDCP 2012. CN's Senior Development Officer (Engineering) has assessed the proposal and has confirmed it is acceptable subject to the inclusion of specific conditions of consent. Accordingly, the proposal is acceptable in relation to water management.

Waste Management - Section 7.08

The applicant has prepared a detailed Waste Management Plan, which addresses waste minimisation and litter management strategies. Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

Waste collection vehicles will be able to stop along the Bavin Road frontage for pick-up at the driveway location without affecting traffic. After waste collection, the waste contractor will continue north along Bavin Road and be afforded access to the car park to turn around and return southwards in a forward direction. Restrictions will be applied to the spaces required to facilitate manoeuvring to prevent parking between 6am and 9am. As the car park is a private car park utilised by staff and players, this arrangement can be effectively managed through workplace inductions, appropriate line marking and the like.

Based on the submitted information, the proposal is considered to be acceptable.

Public Participation - Section 8.0

The proposal was notified to neighbouring properties for 14 days in accordance with the provisions of NDCP 2012. Two submissions objecting to the proposal were received.

Comments are provided in Section 4.2.6 below.

Development Contributions

Sections 7.11 and 7.12 of the Environmental Planning and Assessment Act 1979 enables CN to levy contributions for public amenities and services. The proposed development would attract a development contribution to CN, as detailed in CN's Development Contributions Plans. A condition requiring this contribution to be paid has been included in the Draft Schedule of Conditions (refer to **Attachment B**).

5.4 Planning agreements

No planning agreements are relevant to the proposal.

5.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000. In addition, compliance with AS2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

No Coastal Management Plan applies to the site or the proposed development.

5.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Impacts upon the natural and built environment have been discussed in this report in the context of relevant policy, including NLEP 2012 and NDCP 2012 considerations. In addition, the following impacts are considered relevant:

a) Character, Streetscape, External Appearance, Urban Design, Height, Bulk and Scale

The proposed development is acceptable having regard to the proposed height, external appearance, character, bulk and scale.

b) Traffic, Access and Parking

The proposal has been assessed by CN's Senior Development Officer (Traffic) and found to be acceptable, subject to draft conditions included in **Attachment B**. CN's Senior Development Officer (Traffic) provided the following comments:

Traffic Generation

"The traffic consultant has analysed the traffic generating impacts of this development on the operation of the existing intersections of Lambton Road / Bavin Road and Lambton Road / Bronte Road – key intersections for access to the site. The sidra modelling coupled with site observations has confirmed that pre development Lambton Road operates with acceptable levels of service for all through traffic, however the right turn movements both into and out of Bavin and Bronte Roads experience excessive delays during peak periods.

The RMS's 'Guide to Traffic Generating Developments' estimates that the development will generate in the order of 259 daily vehicle trips with 64 trips in the am peak and 58 trips in the pm peak periods

The distribution of this generated traffic with 80% of vehicles egressing the site via the Bavin / Lambton Road intersection translates to a doubling of existing traffic numbers exiting Bavin Road during peak periods. This traffic increase however only represents a small percentage of total traffic utilising this intersection and therefore insufficient nexus exists with this development for possible upgrade works at this intersection. Discussions with the Roads and Maritime Services and CN's Traffic Section and have confirmed that there are no immediate plans for upgrades to this intersection.

While a conservative approach has been adopted for traffic distribution in reality one would see a more equal distribution of traffic across the Bavin and Bronte intersections subject to queue lengths and waiting times with a further option of the left turn movement being utilised should delays become excessive."

Road network

"The operation of the existing Perth / Bavin Road intersection raises a number of safety concerns centring around intersection priorities, driver sight lines and the location of parked kerbside vehicles. In order to address these issues, it is recommended that the applicant extend Perth Road through to the eastern boundary of the unformed Bavin Road and therefore create a t-intersection at Perth / Bavin Roads. An appropriate condition has been recommended for this application in relation to this matter. Furthermore vehicular access to the site is via the existing intersection of Perth / Bavin Roads and an existing 4.0m wide sealed access road that also services the Westpac Rescue Helicopter Site. It is acknowledged that this development proposal has the potential to increase informal parking along Bavin Road raising concern given the proximity of the existing stormwater channel and the absence of any vehicle barrier. It is therefore considered appropriate that the developer formalise this area along Bavin Road through the installation of appropriate bollards and /or fencing associated regulatory signage to prevent parking."

Comment: The proposed development is considered to be acceptable with regard to its impacts on local traffic conditions, pedestrian safety and traffic management measures.

c) Amenity (Privacy, Overshadowing and Views)

View Loss

The development does not result in an unreasonable impact on views or outlook. There are no significant views that will be impacted in this location. The proposed development will alter the general outlook due to a change to the size and scale of buildings on the site, but this is considered to be acceptable.

Overshadowing

No overshadowing will occur to surrounding development. Overshadowing of public domain areas (both within and beyond the site) from the new building is minor in the context of the large and expansive nature of District Park and its surrounds. It is also noted that the shadows extending across Bavin Road will predominately occur in areas that are currently shaded by existing mature trees.

d) Environmental

Contamination

The proposal has been assessed by CN's Senior Environmental Protection Officer and found to be acceptable, subject to draft conditions included in **Attachment B**.

CN's Senior Environmental Protection Officer provided the following comments:

"A detailed contamination assessment has been submitted with the application: Douglas Partners Pty Ltd, Targeted Detailed Site Investigation for Contamination, December 2018 (DSI).

The DSI outlined the results of soil sampling at 20 locations and four groundwater monitoring wells. The significant majority of soil samples met the appropriate landuse criteria excluding one location at the south west of the site which indicated a moderate exceedance of Benzo (a) pyrene against open space / recreational criteria (the results however were below industrial / commercial criteria). The report indicated the possible cause for this contamination may be related to buried asphalt / building materials in fill identified in this area. The report indicated that a suitable Remedial Action Plan should be developed for this area of the site which could include offsite disposal or onsite management. The ESU understands this part of the site is not currently subject to DA 2019/00588 and development of this land is being undertaken via an alternative planning pathway. It is noted that any required remediation of this part of the site will be required to be undertaken in accordance with SEPP 55 as either category 1 or category 2 remediation.

Sampling of soil within and adjacent to the area of the site subject to DA 2019/00588 did not indicate any exceedances of the appropriate land use criteria.

Groundwater assessment indicated minor heavy metal concentrations which are typically identified in groundwater testing within Newcastle.

Based on the lack of significant contamination identified, the DSI concludes that the land is suitable for the proposed landuse, however due to the areas of the site which were historically filled, the DSI recommends that site works should be undertaken with reference to a construction and environmental management plan (CEMP) prepared by the contractor which outlines procedures for soil handling, segregation and an unexpected finds protocol due to the presence of fill materials across the site, which may include hazardous building materials."

5.7 The suitability of the site for the development

The site is considered suitable for the proposed development. The suitability of the land to accommodate recreational facilities is established by the site's RE1 zoning under the NLEP 2012. The site is an appropriate size to accommodate the proposed development, including adequate space for vehicular access and car parking. The site is within an area well serviced by infrastructure and public transport.

Given the current condition of the site and the current and historical land use activities, it is considered that the site is suitable for the proposed development.

5.8 Any submissions made in accordance with this Act or the regulations

The application was notified in accordance with CN's NDCP 2012 for a period of 14 days. Two submissions were received during the notification period.

The key issues raised within the submissions have been discussed previously in this report.

The following table itemises the potential impacts to the Service's operations at the Broadmeadow base, as identified in the Service's original submission, and a response to each matter raised.

Issue	Applicant's response
Aircraft Test Flying	<p><i>The proposed CoE Building is located at the perimeter of the 7.02ha District Park. It occupies only a small area of the wider parkland (approximately 7%). As such, subject to suitable arrangements being implemented, we see no reason why construction of the building in its current location would physically impede the Service's test flight operations.</i></p> <p><i>This is confirmed by the findings of a specialist report prepared for Venues NSW by JJ Ryan Consulting which provides an assessment of the Westpac Rescue Helicopter Service's operations associated with the proposed Newcastle Knights' CoE development proposal.</i></p> <p>Specialist report provided. The amended proposal response is supported and considered acceptable.</p> <p>An amended proposal has been submitted which includes a reduction to the number of car spaces within the north-eastern car park, a dedicated "hover" area measuring 3,344m², a dedicated "maintenance and test flight" area measuring 6,234m². In this respect, the proposed development is now considered acceptable.</p>
Access to and from the Broadmeadow Base	<p><i>"The proposed design changes, including the removal of 27 spaces from the north-eastern car park and the provision of a dedicated garbage truck collection bay along the Bavin Road alignment, will ensure that the northern reaches of Bavin Road remain unrestricted at all times by</i></p>

	<p><i>vehicles associated with the CoE development.</i></p> <p><i>The new 28 space south-eastern car park will also have access off Bavin Road, but its ingress and egress point will be closer to the intersection of Bavin and Perth Roads, well clear of the Service's Base at the northern end of Bavin Road.</i></p> <p><i>Additionally, Wests has no objections should CN consider it necessary to enforce parking restrictions along Bavin Road to ensure that vehicular movements along the thoroughfare are not inhibited."</i></p> <p>Clear access to Bavin Road will be achieved. The applicant's response is supported and considered acceptable.</p>
<p>Encroachment of Northern Carpark on Land</p>	<p><i>Existing Service development, including the fenced compound and formal car park areas, currently encroach within the subject site boundaries. We are not aware of any development consent, lease, license or other arrangement with the landowner (Venues NSW) which authorises the use of the fenced compound. Notwithstanding, we have proposed to reduce the overall size of the north-eastern car park such that it now does not impact upon the Service's current operations in this area, and most particularly the fenced compound and car park. The western edge of this car park now aligns with an existing chain-wire fence on the site.</i></p> <p>The applicant's response is supported and considered acceptable.</p>
<p>Lighting</p>	<p><i>It was originally proposed to install four light towers to illuminate the northern high- performance training field. The towers were to be located at each corner of the field and installed in accordance with relevant Australian Standards.</i></p> <p><i>Following consideration of the concerns expressed by the Rescue Helicopter Service regarding the impact of these light towers on its operations, the installation of the light towers is now no longer proposed.</i></p> <p>Lighting has been removed and as such the applicant's response is supported and considered acceptable.</p>
<p>Dust and Foreign Object Debris (FOD)</p>	<p><i>The Service has raised specific concern with impacts arising from concrete dust on helicopter engines. Consulting engineers GHD advise there will be no</i></p>

	<p><i>requirement for the mass storage of cement as a result of using ready mixed concrete (produced off site) and therefore no potential source of cement dust from such activities will occur.</i></p> <p><i>Dust generation from construction and excavation will be managed through measures such as wetting down work areas / stockpiles, stabilising exposed areas, covering loads on all departing trucks and working to weather conditions.</i></p> <p><i>Following approval, a Construction Management Plan will be prepared for the site which will include a range of measures and protocols to manage air quality for the duration of the construction period.</i></p> <p>The applicant's response is supported and considered acceptable. Adequate conditions are proposed in this regard.</p>
<p>Aircraft Movements and Flying</p>	<p><i>It is important that the Service's operations are effectively managed to enable the use and enjoyment of adjoining areas of RE1 zoned land located beyond the Service's boundaries. Should the Service's operations impose a safety risk to the use of District Park, and their activities become more restricted through an increase in the number of people utilising District Park and the Precinct for sporting / recreational pursuits, this is a matter for the Service to address. We note that JJ Ryan Consulting opine that other options are available to the Service to perform activities associated with routine maintenance, including but not limited to hover checks and test flights.</i></p> <p>As discussed above, an amended proposal has been submitted which includes a reduction to the number of car spaces within the north-eastern car park, a dedicated "hover" area measuring 3,344m², a dedicated "maintenance and test flight" area measuring 6,234m². In this respect, the proposed development is now considered acceptable.</p>
<p>Aircraft Downwash and Noise</p>	<p><i>As noted above, District Park is currently open to public use 24/7. As such, impacts from aircraft downwash and noise impacts upon current park users should already be a key consideration of the Service, with signage installed where appropriate. As detailed on the amended plans it is evident that the proposed northern car park is no closer to the fenced compound than the existing car park. While the existing car park is used predominantly by staff of, and visitors to the WHRS facility, there is no restriction on</i></p>

	<p><i>access. As such the impact of the proposed carpark on WHRS operations will be no greater than that resulting from the presence of the existing car park.</i></p> <p>As discussed above, the amended proposal is now considered acceptable.</p>
<p>Government Services Impact</p>	<p><i>Approval of the proposed development will not impact on activities undertaken on or above the Broadmeadow Base. This is confirmed by the findings of the specialist report prepared for Venues NSW by JJ Ryan Consulting referred to above.</i></p> <p>As discussed above, the amended proposal is now considered acceptable.</p>
<p>Car parking and traffic movements</p>	<p><i>It is observed that if the Service is currently experiencing a deficiency in on-site car parking associated with its current usage, then the Service should be exploring ways to increase its own on-site car parking provision within the boundaries of its own leased land. It would be unreasonable for the Service to expect that it can unilaterally utilise another leaseholder's land to meet their car parking needs.</i></p> <p>Noted and the proposal is considered acceptable in this regard.</p>
<p>Traffic and parking</p>	<p><i>A revised assessment of the likely parking demand for the proposed development, as amended, based on the NDCP 2012 and operational demands associated with the facility, is detailed below:</i></p> <p><i>Having regard to the DCP provisions, the provision of 139 spaces within the car parks will result in a surplus of 26 spaces which, overall, is likely to have a significant positive impact on on-street parking availability in the locality. Most importantly, during Stage 1, the 68 parking spaces in the south-western corner of the site will be available to the general public at all times. This additional car parking area will effectively reduce demand for on street parking in the area.</i></p> <p><i>Having regard to the above findings, no impact on existing Service's car parking and traffic movements are anticipated as result of the proposed CoE Building and the broader redevelopment of District Park.</i></p> <p>Car parking and traffic impacts have been considered and the proposal is considered to provide sufficient and</p>

	adequate arrangements in this regard.
Characterisation of development	<p><i>The CoE building is characterised as a 'recreation facility (indoor)'.</i></p> <p><i>While the training, playing and mini fields could be characterised as a 'recreation facility (outdoor)', this does not preclude them from being undertaken as exempt development under SEPP (Infrastructure).</i></p> <p><i>The ISEPP aims to allow for the efficient redevelopment of surplus government owned land. This is achieved, by enabling certain development for particular purposes to be carried out either as exempt or complying development. As provided below, Division 12 of the ISEPP includes criteria which specifically relate to 'Parks and Other Public Reserves' such as District Park which forms part of Reserve No. D84753.</i></p> <p><i>Having regard to clause 66(1)(a), the redevelopment of District Park and associated public recreation facilities and CoE training and field components of the project are considered to be development for the following purposes:</i></p> <p><i>Construction or maintenance of:</i></p> <ul style="list-style-type: none"> <i>a) Walking tracks [clause 66(2)(d)(i)]</i> <i>b) Construction of sporting facilities [clause 66(2)(d)(ii)]</i> <i>c) Play equipment [clause 66(2)(d)(vii)]</i> <p><i>The proposed works will be undertaken by the Wests Group on behalf of Venues NSW (Crown Land Manager), and thus satisfy the 'prescribed circumstances' set down in Clause 66(2).</i></p> <p><i>Having regard to land tenure, scope of works and statutory context under which the works will be undertaken, we are of the view that the proposed redevelopment of District Park can be undertaken as exempt development, as set out in clause 66(1) of the ISEPP, and that those works are being carried out in prescribed circumstances as set out in clause 66(2) of the ISEPP.</i></p> <p>Noted and the proposal is considered acceptable in this regard.</p>

The application was re-notified to the Service for 7 days, between 4 December 2019 – 10 December 2019. The following table lists the Service's further submission:

Issue	Service's further submission
Aircraft Test Flying	<i>As noted above under the Amended DA part of the</i>

	<i>proposed car park and field remains in the recommended buffer zone with the flight operations and aviation safety impacts outlined above.</i>
Lighting	<i>It is not clear to the Service whether other lighting will be provided for the field which could also impact operations.</i>
Aircraft Movements and Flying	<i>District Park is undeveloped and is not highly used by the public. The Service has conducted flying operations across District Park for many years and manages its operations in conjunction with the use of adjoining spaces.</i> <i>The Service is not able to use alternative areas such as areas near the trotting track or Magic Park to conduct hover checks and test flights as this would involve flying an unserviceable aircraft over third party infrastructure.</i>
Aircraft Downwash and Noise	<i>District Park is undeveloped and is not highly used by the public. The Service has conducted flying operations across District Park for many years and the impacts of downwash and noise are currently managed by the Service in that context.</i> <i>As noted by the applicant, the existing car park is primarily used by Service staff and visitors.</i> <i>The new northern carpark would be used by third parties with motorcycle parking (which poses the highest risk for damage due to a motorcycle's lighter weight) proposed for the area that is closest to the area where the Service would propose to conduct its hover checks within the buffer zone</i>
Government Services Impact	<i>For the reasons set out in the body of this submission the Service considers the Amended DA in its current form will impact on the activities at the Broadmeadow Base.</i>

An amended proposal was submitted on 10 December 2019 which included a further reduction to the number of car spaces (9 spaces) within the north-eastern car park, a requirement for the north-eastern car park to be used by the applicant's staff only, the inclusion of a designated Helicopter Operations Area on the subject site and additional landscaping (ie. Hedges).

It is considered that the issues and concerns raised in the Service's submissions as outlined above have been adequately addressed by the submission of the amended Site Plan, dated 9 December 2019 (included in **Attachment A**) and through the imposition of specific conditions of consent as set out in the Draft Schedule of Conditions at **Attachment B**. All parties have agreed with the proposed changes.

The proposed development does not raise any other significant general public interest issues beyond matters already addressed in this report. The amended

proposal is now considered an acceptable form of development for the site as discussed within this report.

5.9 The public interest

This report has addressed the various concerns raised in the submissions received in response to the public notification and relevant referral procedures.

Forming part of the broader redevelopment of District Park, the proposal will facilitate the provision of sporting and recreational facilities in Newcastle.

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

The proposed development provides for the orderly economic development of the site for purposes for which it is zoned and will not have any negative social or economic impacts.

No adverse impacts on nearby development, the environment, traffic, parking, heritage, flooding, drainage are anticipated as a result of the development.

The proposal is considered a quality design development that will provide an indoor recreation facility that is in the public interest.

6.0 CONCLUSION

The proposal is a permissible form of development and meets the objectives of the RE1 Public Recreation zone.

The proposal is acceptable against the relevant heads of consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in **Attachment B** are included in any consent issued.

ATTACHMENTS

Item 23 Attachment A: Updated Submitted Plans - 6 Bavin Road Broadmeadow - Under separate cover

Item 23 Attachment B: Updated Draft Schedule of Conditions - 6 Bavin Road Broadmeadow - Under separate cover

Item 23 Attachment C: Updated Processing Chronology - 6 Bavin Road Broadmeadow - Under separate cover

Item 23 Attachments A-C are distributed under separate cover