



DA No.	DA/348/2022
Date of receipt	4 May 2022
Proposal	Subdivision of 1 lot into 2
Street address	7A Park Parade Parramatta
Property Description	Lot 1 Deposited Plan 1244328
Applicant	City of Parramatta Council, c/- Mecone
Owner	Parramatta Park Trust
Submissions	None – Notification not required
List of All Relevant s4.15 matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Sydney Harbour Catchment) 2005• Parramatta Local Environmental Plan 2011• Parramatta Development Control Plan 2011
Recommendation	Approval
Report by	Brad Roeleven, Executive Planner

1. Executive summary

This report considers a proposal to subdivide the site into 2 Torrens title allotments to facilitate the Parramatta Aquatic Centre which is currently being built at 7A Park Parade Parramatta.

Assessment of the application against the relevant planning framework has not identified any fundamental issues of concern. The application is therefore satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979. Approval of the application is recommended.

2. Site context

This application relates to the new aquatic centre at 7A Park Parade, Parramatta, being Lot 1 Deposited Plan 1244328. That allotment, outlined in red at Figure 1 below, has an area of about 19.73ha and is owned by the Parramatta Park Trust. Around 2.36ha of that site will be leased from the Trust for the centre.

The site is located to the west of the railway line which separates Mays Hill from the remainder of Parramatta Park. It is positioned at the western edge of the Parramatta CBD and borders the boundary with the Cumberland LGA to the west. Its primary frontage is to Park Parade, with secondary frontages to Pitt Street, and the Great Western Highway.

The surrounding area is characterised by a mix of land uses, consisting of low- to high-density residential dwellings to the west and south, whilst commercial land uses being located to the east. Located to the north-west is the Westmead health precinct. The immediate site is bordered by Park Parade to the north and Prabha Memorial Walk and Parramatta High School to the south.

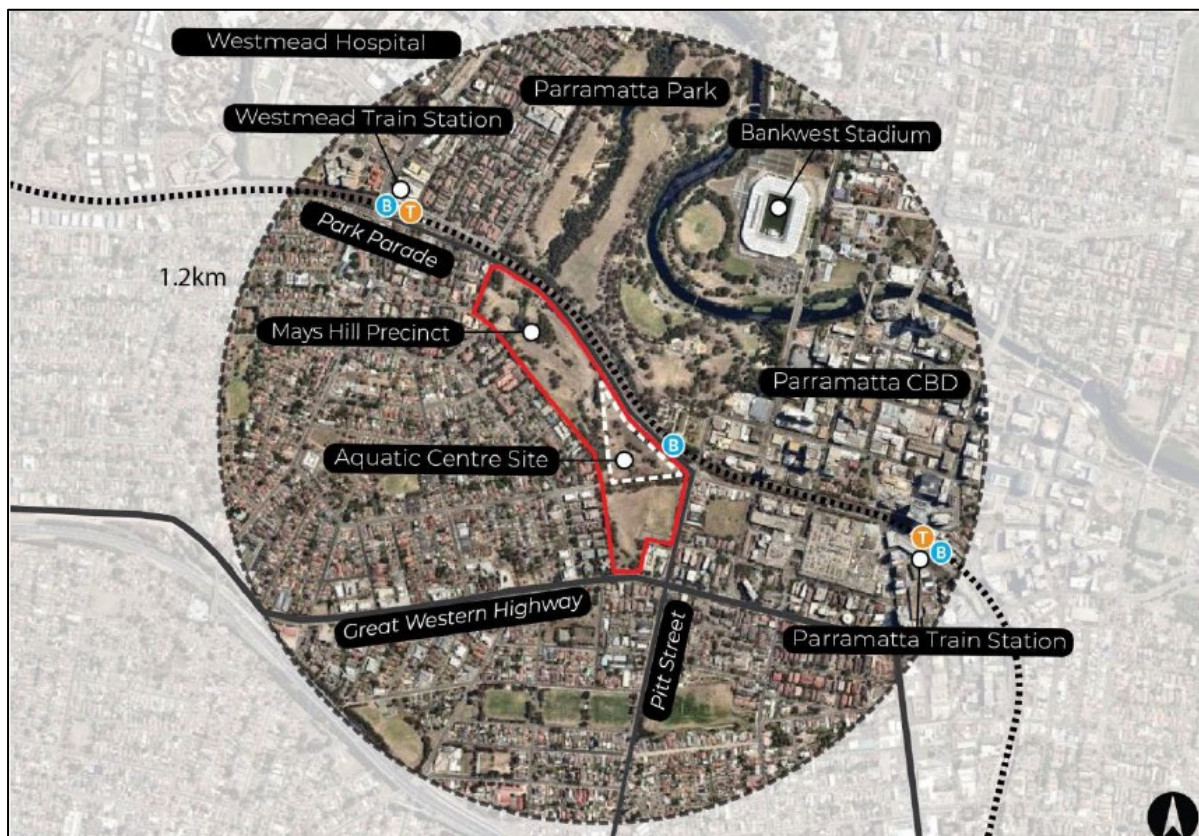


Figure 1: Locality plan

3. Proposal

Consent is sought for the Torrens title subdivision of Lot 1 DP1244328 into two lots as shown at Figures 2 and 3 below. In summary the proposal comprises:

- Proposed lot 11, for the aquatic centre, with an area of 2.36ha
- Proposed lot 12, being the balance of this part of the Park, with an area of 17.18ha.

Relevant new easements are created for the following purposes:

- Drain water
- Water supply

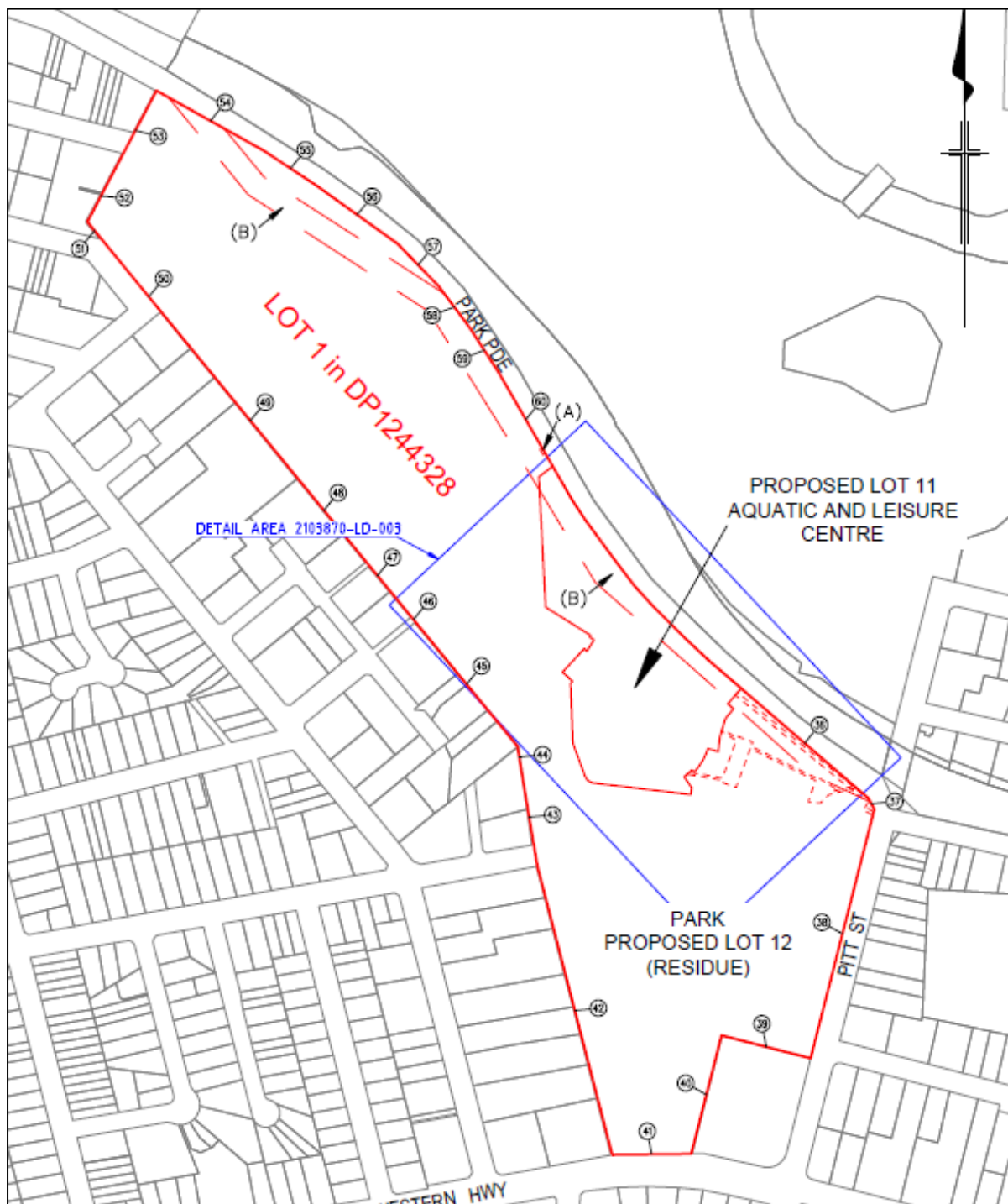


Figure 2: The proposed subdivision.

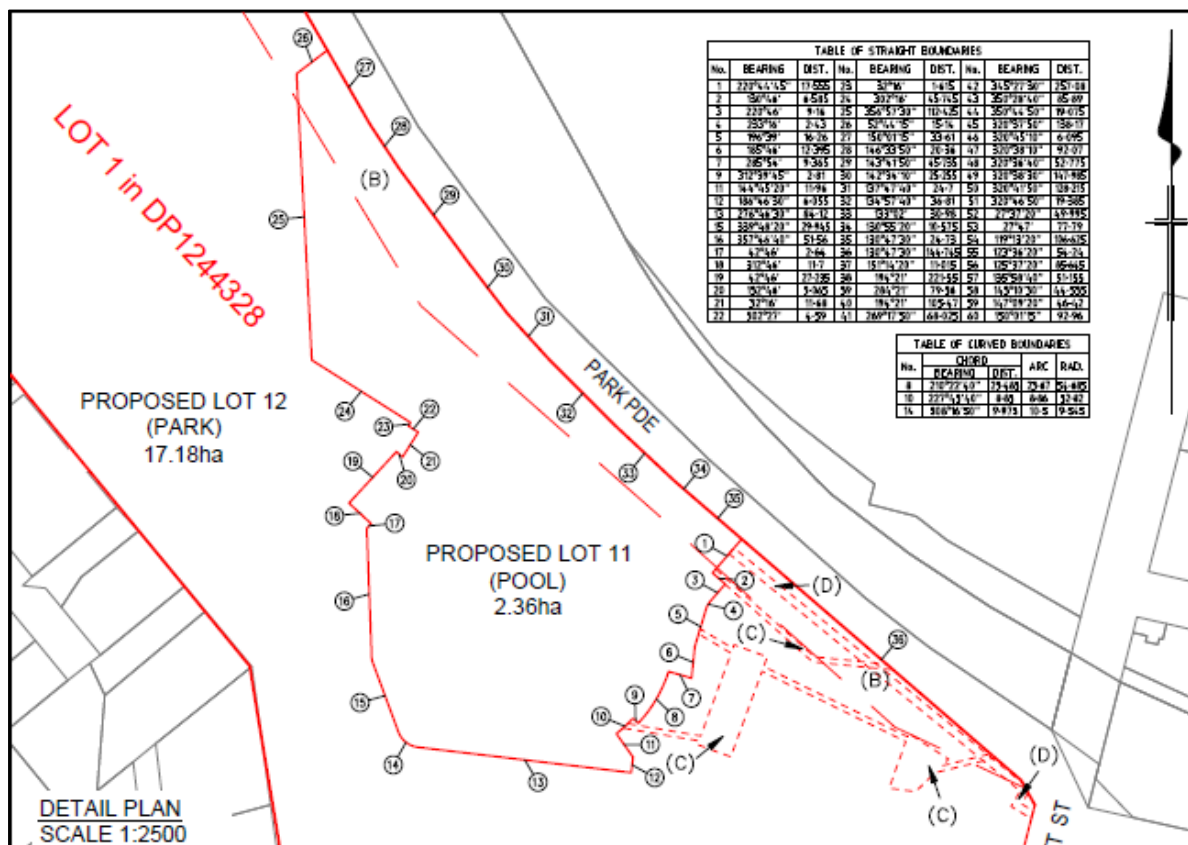


Figure 3: Proposed Lot 11 with proposed easements.

4. Related applications

A summary of previous applications for this site is shown below:

Table 1: Related applications

DA number	Scope of works	Status
DA 277/2020	Construction of the new Aquatic Leisure Centre Parramatta. The scope of works includes site works (cut and fill); tree removal; and a new leisure centre comprising a 50m outdoor pool and multiple indoor pools; associated facilities including cafe, health club and program rooms; 197 at grade car parking spaces; bus drop off area; landscaping works and signage. The application is Integrated Development under the Heritage Act 1977.	Approved 10 December 2020
DA 277/2020/A	Section 4.55(1A) Modification to DA/277/2020 seeking amendments to Conditions 8, 9 and 10.	Approved 9 June 2021
DA 277/2020/B	Section 4.55(1A) modification to DA/277/2020 seeking amendments to conditions 54, 57 and 130.	Approved 23 December 2021
DA 277/2020/C	Section 4.55(1A) Modification to DA/277/2020 seeking to amend condition 43 and delete condition 44 (works in Park Parade).	Approved 30 March 2022
DA 277/2020/D	Section 4.55(1A) Modification to DA/277/2020 seeking amendments to various conditions relating to ESD and landscaping.	Approved 16 August 2022

5. Referrals

The following internal and external referrals were undertaken:

Table 2: Referrals

HNSW	General Terms of Approval issued.
Sydney Water	No objections – conditions provided.
Sydney Trains	No objections – conditions provided
Catchment Engineer	Concerns raised - see section 11.2
Heritage Advisor	The proposed subdivision will not have any significant environmental impacts, nor will the proposal substantially change the character, environmental or heritage values of the area, retaining the integrity of the State listed heritage item known as 'Parramatta Park and Old Government House' (100596).
Strategic Assets	No objections
Open Space and Natural Resources	No objections – no conditions required.

6. Environmental Planning and Assessment Act

6.1 Section 4.15: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

Table 3: Section 4.15(1)(a) considerations

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 7
Section 4.15(1)(a)(ii) - Draft environmental planning instruments	Refer to section 8
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 9
Section 4.15(1)(a)(iiia) - Planning agreement	Refer to section 15
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 10
Section 4.15(1)(b) - Likely impacts	Refer to section 11
Section 4.15(1)(c) - Site suitability	Refer to section 12
Section 4.15(1)(d) - Submissions	Refer to section 13
Section 4.15(1)(e) - The public interest	Refer to section 14

7. Environmental planning instruments

7.1 Overview

The instruments relevant to the assessment of this application are:

- Section 4.46 of the Environmental Planning and Assessment Act
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta Local Environmental Plan 2011.

Compliance is addressed below.

7.2 Section 4.46 Environmental Planning and Assessment Act 1979

The land is listed as a heritage item on the State Heritage Register [Item SHR0059] being part of the 'Parramatta Park and Old Government House and Domain site'. The application is therefore integrated development under Division 4.8 of the *EP&A Act* as a related approval is required under section 60 of the *NSW Heritage Act 1977*.

Consistent with section 4.47 of the Act, Council sought and received General Terms of Approval from Heritage NSW, whose requirements are included in the draft conditions provided at **Attachment A**.

7.3 State Environmental Planning Policy (Resilience and Hazards) 2021 – Remediation of Land

Chapter 4 of this Policy requires the consent authority to consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use. The question of remediation was addressed and resolved as part of related DA 277/2020 which approved the aquatic centre, the construction of which is now well progressed. It is further noted that:

- This application does not seek to change the use of the land; and
- No physical works are proposed

The proposal is therefore satisfactory when considered against this Chapter of the Plan.

7.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 10 applies to land within the Sydney Harbour Catchment which includes all land within the Parramatta local government area. It aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

The application is not inconsistent with this Policy, noting its purpose and scope.

7.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. Chapter 2, Infrastructure, is relevant and is considered below.

- *Part 2.3 Development controls - Division 15 – Railways*
Clause 2.97 – Development adjacent to rail corridors

This clause requires a consent authority to take into consideration the comments of the rail authority where a development would:

- likely have an adverse effect on rail safety, or
- involve the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or
- involve the use of a crane in air space above any rail corridor, or
- be located within 5 metres of an exposed overhead electricity power line that is used for the railways or rail infrastructure facilities.

Notwithstanding the scope of this application, the proposal was nevertheless referred Transport for NSW given the land is already burdened by an easement for Sydney Trains, which will continue to apply to both proposed Lots 11 and 12.

TfNSW has confirmed it has no objection subject to the two conditions it has nominated. Those matters are included in the draft conditions provided at **Attachment A**.

7.6 Parramatta Local Environmental Plan 2011

Zoning and permissibility

The site is zoned 'RE1 Public Recreation' as shown below:

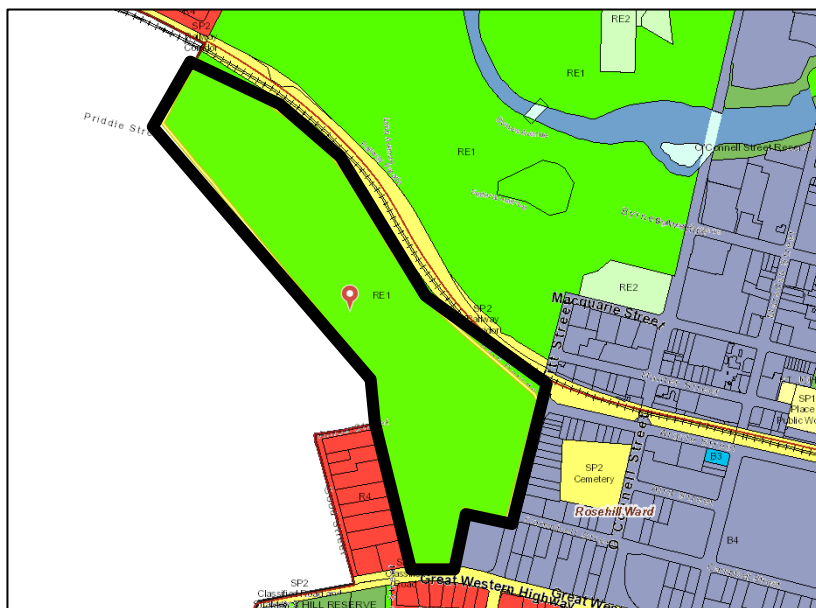


Figure 4: Extract taken from the Council GIS Online.

Subdivision is permissible within all zones via clause 2.6 of the Plan.

Zone objectives

Clause 2.3(2) requires the consent authority to have regard to the zone objectives when determining a development application. For land zoned RE1 Public Recreation, those objectives are:

- *enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To conserve, enhance and promote the natural assets and cultural heritage significance of Parramatta Park.*
- *To create a riverfront recreational opportunity that enables a high quality relationship between the built and natural environment.*

To the extent they are relevant and noting that the subdivision is an ancillary aspect of the aquatic centre, the proposal is not inconsistent with those objectives.

Remaining provisions

Consideration of the remaining provisions of the Plan which may be relevant to this application are addressed in the following table:

Table 5: PLEP 2011 compliance table

Clause	Comment	Complies
Clause 4.1 Minimum subdivision lot size	No minimum lot size standards apply.	Yes
Clause 5.10 Heritage	<p>The site forms part of Parramatta Park which is listed as a heritage item (I00596) of State significance under Parramatta LEP 2011.</p> <p>Consideration of the effect of the proposed development on the heritage significance of that item has been undertaken by both council and HNSW as required by clause 5.10(4) – refer to details at table 2 above.</p> <p>The application is supported by a HIS as required by clause 5.10(5).</p> <p>From the assessment by council and HNSW, no requirement for a CMP has been identified.</p> <p>Clauses 5.10 (7)-(10) are not relevant.</p>	Yes

8. Draft environmental planning instruments

8.1 Draft Parramatta Local Environmental Plan 2020

Council has prepared a planning proposal for a new local environmental plan. The focus of the planning proposal is harmonisation (or consolidation) of existing LEP controls. The planning proposal does not propose major changes to zoning or increases to density

controls. The planning proposal has been publicly exhibited and is currently with the Department for finalisation. There are no changes proposed to the existing controls relevant to the assessment of this application.

9. Development control plans

9.1 Parramatta Development Control Plan 2011

This DCP comprises the following sections:

- Part 1 – Introduction
- Part 2 – Site Planning
- Part 3 – Development Principles
- Part 4 – Special Precincts
- Part 5 – Other Provisions

Only Part 3 (residential subdivision) and Part 5 (strata subdivision) address matters for subdivision, and neither is relevant in this instance.

10. The Regulations

There are no matters in relevant to this application.

11. The likely impacts of the development

11.1 Adequacy of subdivision design

The configuration of Lot 11 is unconventional, however is acceptable noting its particular purpose is to allow the aquatic centre to be separated from the balance of Parramatta Park, to implement and fulfill the terms associated with a long-term lease agreement between Council and the Park Trust. Accordingly the subdivision design is “orderly and economic” given those specific circumstances.

11.2 Management of infrastructure

As shown at section 3, ancillary aspects of the aquatic centre for the management of its stormwater are located within Lot 12, which will continue to be owned by Parramatta Park Trust.

Council’s Catchment and Development Engineer advises that the only concern with the subdivision is what ramifications arise from that circumstance, noting that separate to any required easements, Council also requires positive covenants on OSD and stormwater systems to ensure they are maintained. Those restrictions are required to be registered on title, and so the issue is – can such a covenant be registered on the title of land which is NOT related to the pool (i.e. a covenant on Lot 12 and not Lot 11).

The applicant has advised that the Lessee of Lot 11 (i.e. Council) manages all maintenance matters and that such therefore resolves any concerns in this regard.

Notwithstanding this, if the required Covenant cannot be achieved via the subdivision as proposed and its associated lease/instruments under the Conveyancing Act, then it will be

necessary for the boundaries of Lot 11 to be altered to align with all of the infrastructure easements currently nominated over Lot 12. The covenant can then be registered on Lot 11 to satisfy condition 196 of DA 277/2020. No adverse outcomes have been identified from any such change to Lot 11 and the matter can be addressed at the subdivision certificate stage.

12. Site suitability

Subject to the conditions nominated at **Attachment A** the site is suitable for this development.

13. Submissions

The application was notified consistent with the Parramatta DCP from 13 May 2022 until 10 June 2022. No submissions were received.

14. Public interest

Subject to resolution of the issues of concern as addressed by the conditions at **Attachment A**, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

15. Development contributions and Planning Agreements

15.1 – Developer contributions

On 20 September 2021, the City of Parramatta (Outside Parramatta) CBD Contributions Plan 2021 came into effect and applies to all land within the City of Parramatta LGA excluding the Parramatta CBD and Sydney Olympic Park Authority. However, this Plan does not apply to Development undertaken by or on behalf of Council, and accordingly no contribution is required.

15.2 – Voluntary Planning Agreements

There is no VPA to consider.

Summary and conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval of the development application is recommended, subject to the nominated conditions.

RECOMMENDATION

APPROVAL SUBJECT TO CONDITIONS

- (a) **That** the Parramatta Local Planning Panel (PLPP), exercising the functions of Council, pursuant to Section 4.16 of the Environmental Planning and Assessment Act

1979, grant **development consent** to DA/348/2022 subject to attached conditions of consent, and for the following reasons:

The reasons for the conditions imposed on the application are:

1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning instrument.
2. The proposed development is permissible in the RE1 Public Recreation zone and is satisfactory when considered against Section 4.15 of the Environmental Planning and Assessment Act 1979,
3. The proposal allows for the heritage values the site to be retained.
4. Approval of the application is in the public interest.

DRAFT CONDITIONS OF CONSENT

Development Consent No. 348/2022

Property address: 7A Park Parade Parramatta (Lot 1 Deposited Plan 1244328)

GENERAL MATTERS

1. The development is to be carried out in accordance with the following plans prepared by Land Surveys endorsed with Council's Stamp, **except as amended by conditions** of this consent and/or any plan annotations:

Drawing No & Issue	Title	Date
LD - 002, Rev D	Proposed Subdivision within Mays Hill Reserve, Lot 1 DP 1244328	12/04/22

Reason: To ensure the work is carried out in accordance with the approved plans.

2. No approval is given for any physical works at the site. Separate development consent is required for such works.

Reason: To protect the amenity of the area and uphold public safety.

3. This consent shall lapse five (5) years from the date of determination unless the approved subdivision has been registered in accordance with this consent. Development consent for the use of land does not lapse if the approved use of any land, building or work is actually commenced prior to the date on which the consent would otherwise lapse.

Reason: To satisfy the requirements of Section 95 of the Environmental Planning and Assessment Act.

4. A separate application must be made for a Subdivision Certificate. That application is to be accompanied by the documentation noted elsewhere in this Notice

Reason: To comply with the requirements of the Environmental Planning and Assessment Act 1979 (as amended).

5. The development shall be completed in accordance with the attached General Terms of Approval (GTA) issued by Heritage NSW dated 22 June 2022 (Ref: HMS ID 1091).
6. Sydney Trains require compliance with following matters:
 - a. Sydney Trains existing HTTL easement for 33kv fdr 749 transmission line must be maintained at all times and is not to be impacted by the creation of any new easements.
 - b. The Applicant/Developer shall not at any stage block the access points for the maintenance of Sydney Train's 33kv fdr 749 transmission line and should make provision for easy and ongoing 24/7 access by rail vehicles, plant, and equipment to support maintenance and emergency activities.

Prior to the issue of a Subdivision Certificate

7. No Subdivision Certificate shall be issued until evidence is provided that an approval under Section 60 of the Heritage Act 1977 has been granted, and all of its conditions satisfied.

8. An application for street numbering must be lodged with Council for approval, prior to the issue of a Subdivision Certificate.

Note Notification of all relevant authorities of the approved street numbers must be carried out by Council.

Reason: To ensure all properties have clearly identified street numbering, particularly for safety and emergency situations.

9. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of each Subdivision Certificate. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Reason: To ensure the requirements of Sydney Water have been complied with.

10. A Notification Agreement outlining the electrical construction requirements and associated fees shall be obtained from an energy provider prior to the release of the Subdivision Certificate.

Reason: To ensure electricity supply is available to all properties.

11. The Subdivision Certificate application must be accompanied by the following:

- (a) Evidence of payment of all relevant fees;
- (b) A Deposited Plan of Subdivision including any necessary boundary adjustment to manage maintenance provisions for OSD and stormwater systems; and a Deposited Plan Administration Sheet;
- (c) Plans and or/Instrument(s) under the relevant sections of the Conveyancing Act 1919, to the satisfaction of council, detailing all required Positive Covenants, Restrictions on the Use of the Land and Easements as necessary to give effect to the subdivision, including:
 - (i) All rights of way or easements as necessary to allow for full public access

- (ii) Easements for all utility services and stormwater drainage, overland flow and access for maintenance of stormwater facilities, including any WSUD measures
 - (iii) All relevant matters under any related development application.
- (d) Works-as-Executed Plans prepared by a Registered Surveyor to demonstrate that all utility services, stormwater drainage infrastructure and the like are contained within the easements being created.

Reason: To ensure appropriate easements, restrictions and covenants are created.

Advice

SYDNEY WATER

A. Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment. If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

B. Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:
<https://www.sydneywater.com.au/plumbing-building-developing/plumbing/backflow-prevention.html>

C. Water Efficiency Recommendations

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS (Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <https://www.sydneywater.com.au/your-business/managing-your-water-use/water-efficiency-tips.html>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

D. Contingency Plan Recommendations

Under Sydney Water's [customer contract](#) Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of a water service disruption.

For further information please visit the Sydney Water website at: <https://www.sydneywater.com.au/your-business/managing-trade-wastewater/commercial-trade-wastewater.html> or contact Business Customer Services on 1300 985 227 or businesscustomers@sydneywater.com.au.

Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after the date on which you receive this notice.

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) together with payment of the appropriate fee. The review must be lodged and determined within six (6) months of the date on which you received this notice.

Note: To enable the Section 8.2 review to be considered within the six (6) month timeframe prescribed by under the Environmental Planning and Assessment Act 1979, it is advisable to lodge the application for review under Section 8.2 as soon as possible to facilitate the statutory timeframes.

Section 8.2 does not apply to complying development, designated development, or a determination made by Council under Division 4 in respect of Crown applications.