



DECISION STATEMENT

Division 5.1 Review of Environmental Factors

Embellishment of Avenel Park, Canley Vale

Strategic Land Use Planning
City Strategic Planning

Introduction

Fairfield City Council is the proponent and determining authority for the embellishment of Avenel Park for a multipurpose outdoor recreation facility (the proposed activity).

The proposed activity for the new outdoor recreational facility includes:

- Skate park
- Multi-sports court
- Badminton court
- Outdoor table tennis
- Outdoor gym
- Ninja obstacle course
- Multi sports wall
- Kickaround space (lawn area)
- Play space with play equipment
- Misting station
- Gathering space including shade structure
- Shade structures and feature element
- Custom signage
- Bike parking
- Amenities block
- Perimeter loop track
- Fencing
- Lighting
- Tree planting and landscaping

The proposed activity meets the criteria for 'development without consent', requiring preparation of a Review of Environmental Factors (REF) in accordance with Part 2.3, Division 12 Parks and other public reserves, of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (the SEPP).

A REF was prepared by Fairfield City Council in January 2024 to assess the potential impacts of the proposed activity. The REF was prepared in accordance with Part 5 of the Environmental Planning and Assessment Act 1979 (EP&A Act), clause 171 of the Environmental Planning and Assessment Regulation 2021 and relevant provisions of the SEPP.

The REF was placed on public exhibition for consultation from 20 May 2023 to 30 June 2023. A total of 46 responses were received supporting the proposed activity recommending several facilities and activities local residents would like to see for the future of Avenel Park. This is reflected in the outcome of the design of the embellishment of the park.

To allow the proposed activity to proceed, Fairfield City Council must make a determination of the REF in accordance with Part 5 of the EP&A Act.

The objectives of this Decision Statement are to:

- Assess the environmental impacts of the proposed activity and determine the significance of those impacts.
- Document consultation with agencies and the public.
- Explain clearly why the key conclusions in the REF have been justified.
- Make a determination of the proposed activity to discharge the duty under section 5.5 of the EP&A Act.

Description of Proposed Activity

The proposed activity is for the embellishment of Avenel Park as illustrated in figure 1 below. The scope of works involves the following:

Stage 1 – Site establishment and environmental protection

- Secure site perimeter boundary.
- Establish site office, amenities, and plant/material storage areas.
- Establish traffic and other environmental controls in accordance with the Construction Environmental Management Plan (CEMP).
- Install water and sediment management controls in accordance with an erosion and sediment control plan protect, secure and relocate any affected services.

Stage 2 – Earthworks, drainage, natural playground, and landscaping

- Undertake minor earthworks to establish design levels.
- Prepare footings and retaining walls (as required).
- Undertake planting and tree planting throughout the site.

Stage 3 – Construction of multisport court, skate park, play equipment, amenities, central plaza, outdoor fitness and kickabout lawns

- Undertake traditional construction for all sports courts and site structures.
- Undertake planting for kickabout lawn.
- Construct playground in accordance with Australian Standard 4685:2021 (Playground equipment and surfacing general safety).
- Undertake construction and landscaping works for central plaza.
- Construct outdoor fitness and skate park.

Stage 4 – Finishing work

- Restore disturbed areas and engage in maintenance period.



Figure 1. Concept Plan

Consultation

Consultation for the proposed activity was undertaken in accordance with Fairfield City Council Community Engagement Strategy. A summary of the consultation undertaken with the general public and stakeholders is provided below. Full details of all consultation undertaken for the proposed activity are included in the Summary of Community Consultation document (A5920708).

During preparation of the REF, the following consultation tasks were undertaken:

- Survey via QR codes located within Avenel and Emerson Park
- Social media release for feedback response from the public
- Survey pamphlet
- Letter sent to surrounding residents

The REF was placed on public exhibition for a period of 40 days from 20 May 2023 to 30 June 2023. All relevant internal stakeholders were also notified as part of the REF process regarding technical advice on the design and implications of the park embellishment project.

The above consultation tasks included consultation timeframes and details on how to make a submission on the proposed activity.

A total of 46 responses was received with all being from local residents in support of Council's intention to upgrade the park. All responses received and details of how they have been considered have been taken into account in the REF and design of the park.

Consideration of Environmental Impacts

Site description and locality:

The subject site is located at 1-27 Avenel Street, Canley Vale and is formally known as Lot 1 DP 982009. The site is an irregular lot situated at the corner Avenel Street (north) and Sackville Street (unclassified regional road) facing east of the subject site.

The proposed activity is situated within the site zoned RE1 Public Recreation under Fairfield LEP 2013. The proposed activity is consistent with the objectives of the zone to provide public open space and recreational purposes adjoining Orphan School Creek from south of the site.

The site is mostly vacant land with the exception of the small, outdated amenity building and footpath connecting the creek line to other nearby public open space/recreational areas such as Endeavour Park (approx. 200 m east) and Adams Park (approx. 200m west). The wider surrounding catchment area contains low residential type developments.

The subject site is identified as potential investigation area for Aboriginal heritage, affected by both overland and mainstream low to medium flooding and adjoins the riparian corridor at Orphan School Creek.

Environmental impacts:

The REF details the proposed activity, assesses the potential impacts of the proposed activity on the environment and provides management measures to avoid, minimise, manage and/ or offset those impacts.

The main issues raised in the REF relate to, and are summarised below:

- Contamination
- Aboriginal Cultural Heritage
- Overland Flooding
- Flora and Fauna
- Pedestrian Safety, Access, and Traffic Management

Contamination

A Preliminary Site Investigation (PSI) Report prepared by SMEC investigating whether there is potential contamination. Methodology included through searching records of past and present activities on site. Based on the history and observations identified, the areas of interest of potential contamination included areas containing existing structures, presence of unknown fill, historical agricultural activities on the site, potential risks of sewer main failure and Sydney Water's temporary compound that is now decommissioned. Based on the recommendations of the PSI, a Detailed Site Investigation (DSI) was prepared by SMEC.

Testing methodology for the DSI undertook grid sampling points in 34 locations throughout the site and found that test pits generally comprised of silty sandy clay underlain by a clayey silty alluvial layer. Test Pit 22 and Test Pit 22a however identified fragments of Asbestos Containing Materials (ACM) between 0.1 and 0.5m below ground level located on the furthest northeast corner of the site. The DSI states that the site can be made suitable for the proposed recreational development, subject to the remediation of the site so that contamination does not present an unacceptable result to human health of the environment.

Council further engaged SMEC to prepare a Remedial Action Plan (RAP) to remove/ reduce residual contaminant concentration levels at the site by delineation of asbestos impact soils. The RAP approach to remediate the site by offsite disposal to suitably licensed facility followed by validation sampling accompanied by a Site Validation Report for the removal of impacted soils. The DSI and RAP further recommends that an unexpected finds protocol has been imposed within the REF for the Construction Environmental Management Plan (CEMP) to outline measure to be adopted during the civil earthworks stage. The reason is to manage potential risk of unexpected asbestos found in areas outside the covered RAP.

Based on the above assessment, the mitigation measures taken to remediate the site are considered acceptable.

Aboriginal Cultural Heritage

Under Council's Aboriginal Heritage Study, the site is identified as a potential investigation area for Aboriginal Heritage. An Aboriginal Due Diligence Assessment Report prepared by Coast Heritage in accordance with Heritage NSW Due Diligence Code for the Protection of Aboriginal Objects in New South Wales.

The assessment considered the environmental setting and historical context of the site to what is currently known about past Aboriginal use of the area, and the results of a field inspection. It was noted at the time of the assessment of the proposed activity was at concept design stage as no details of the proposed ground disturbance was developed. It was however noted that the upper part of the soil of a depth of 0.5-0.5m below the current ground surface appears to comprise of fill and is unlikely to contain in situ Aboriginal Archaeological deposits. In addition, there would also be deeper disturbance due to the realignment of the sewer that runs throughout the site and sub-services for the amenity block.

In this regard, it is determined that ground disturbance for the proposed activity shall be contained within areas that have previously been disturbed, that is, the upper 0.4-0.5m of the soil profile, and existing service trenches. As the activity site preparation will not disturb land below the 0.5m soil profile, it is considered that the scope of works will not impact Aboriginal heritage.

It is noted that all Aboriginal sites ('objects') are protected under the *National Parks and Wildlife Act 1974*. As precaution, the following conditions are imposed to protect unexpected of potential Aboriginal heritage, items, or relics if something is unearthed during excavation or construction.

- The detailed design of the proposed upgrade should ensure that all works requiring ground disturbance are contained within areas and depths known to be already disturbed.
- Once the detailed design of the proposed activity is available, the Aboriginal Heritage Due Diligence Assessment Report be updated, and reviewed by Gandangara LALC.
- An Aboriginal heritage induction should be provided to the works team by the Gandangara LALC, in order to outline the statutory protection provided by the *National Parks and Wildlife Act 1974*, and outline the procedure to be followed in the event of an unexpected find.
- Gandangara LALC should be provided with an opportunity to inspect or monitor excavation.
 - An unexpected finds protocol should be implemented for the life of the project. The unexpected finds protocol should be adhered to if unforeseen Aboriginal objects or bones suspected of being human are identified during the works, site workers must: a. Not further disturb or move these remains.
 - Immediately cease all work at the location.
 - In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, notify the Heritage NSW Environment Line on 131 555 as soon as practicable and provide available details of the objects or remains and their location. The Gandangara LALC should also be notified to assist in the determination of appropriate management for the objects or remains.

Flooding

The subject site is affected by medium to low by both overland and mainstream flooding. The site is relatively flat however slopes approximately 0.6m south towards Orphan School Creek. Minimal filling of no more than 0.5m central of the scoping area is proposed to level out ground levels to existing footpaths and vegetation that will remain on site.

The REF was referred to Council's Catchment Branch who reviewed the REF and advised that a Flood Impact Assessment was not required. No issues were raised regarding the proposed activity subject to the following conditions:

- All structure shall be designed to:
 - withstand the forces of floodwater, debris, and buoyancy up to and including the 100-year average recurrence interval (ARI) flood event; and
 - use flood compatible building materials up to and including the 100yr ARI flood level.
- An appropriately qualified engineer shall provide certification of compliance with items a) and b) as part of the final design package.
- Where possible, existing contours will be maintained.
- Direction of flow to be maintained.
- Overflow to be maintained and unobstructed.

Based on this above, the effects of the proposed works are negligible the proposed activity will not significant obstruct the existing overland flow path.

Flora and Fauna

The Flora and Fauna Assessment has been prepared by Narla in accordance with the Environmental Protection and Biodiversity Conservation (EPBC) Act 1999 and Biodiversity Conservation Act 2016.

Flora assessment

The site is in proximity to Orphan School Creek, a riparian corridor that contains Cumberland Blue Box River flat Forest (endangered ecological community under the EPBC Act). The proposed activity scoping area has been designed to be located away from this area to ensure there will be no impact on this environment.

Approximately 0.12 ha of Urban Exotic/Native Vegetation and 0.38ha of Manicured Lawn will be impacted to accommodate the proposed activity within the site.

All vegetation conforming to the locally occurring threatened ecological community is located outside of the site and will not be impacted by the proposed activity.

Fauna assessment

With regards to threatened fauna, the proposed activity will have low impacts to potential foraging habitat and negligible impacts to potential breeding habitat for these species. In the unlikely event that these species forage within the site, the proposed removal of vegetation will have low impacts to foraging habitat given the large areas of suitable foraging habitat in the surrounding area and in their migratory range. No anticipated net loss of breeding habitat is expected as these species do not breed within or in close proximity of the site.

The REF was referred to Council's Natural Resources Team and Open Space Assets Team who raised no issues regarding the proposed activity and supports the recommendations outlined in Section 6.1. of the report that prior to the implementation of the activity, the proponent should commission the services of a qualified and experienced Ecologist with a minimum tertiary degree in Science, Conservation, Biology, Ecology, Natural Resource Management, Environmental Science or Environmental Management. The Ecologist must be licensed with a current Department of Primary Industries Animal Research Authority permit and New South Wales Scientific License issued under the BC Act.

The Ecologist will be commissioned to:

- Undertake any required targeted searches for threatened flora prior to vegetation clearing
- Undertake an extensive pre-clearing survey which includes targeted searches for threatened fauna threatened flora and Priority Weeds, and delineating habitat-bearing trees and shrubs; and
- Supervise the clearance of any habitat trees or shrubs identified during the pre-clearing survey (native and exotic) in order to capture, treat and/or relocate any displaced fauna.

It is determined that the proposed activity is unlikely to a significant impact on these species. The proposed activity will improve the existing landscape therefore providing a positive outcome.

Pedestrian Safety, Access, and Traffic Management

The embellishment of the park will introduce new and improved recreational facilities and has the potential to attract more pedestrian and vehicle users than current. The activity does not propose on-site parking and will rely on active transport, on-street parking along Avenel Street and parking facilities at nearby recreational areas.

Current users of the park generally are bystanders walking along the creek line to nearby to more established recreational areas. In this regard, the number of unexpected users is unsure at this stage. It is noted that the main attraction for the park is intended for younger people/teenagers. Therefore, the parking demand is likely to be low and existing parking space along the street (for approx. 40+ vehicles) is likely to be sufficient for the proposed activity.

It is, however, recognised that there is potential for the proposed activity to impact on the local road and pedestrian safety. In this regard it is recommended that the ongoing monitoring of the activity once in operation be undertaken to determine if pedestrian and car parking upgrades are required for the facility. This is to be done through a pedestrian and transport management plan to monitor pedestrian and parking demand for the site and the need to upgrade the existing road and active transport infrastructure in the surrounding area by way of signage, line-marking, additional parking etc to be determined in consultation with Council Traffic and Road Safety Section.

Conclusion

The REF addresses the requirements of Section 5.5 of the EP&A Act by considering the fullest extent possible, all matters affecting or likely to affect the environment from the proposed activity. The REF also considers factors prescribed under clause 171 of the EP&A Regulations 2021.

The REF also considers the requirements of the Commonwealth Environmental Protection and Biodiversity Conservation Act (EPBC Act) 1999, and any impacts on Commonwealth land.

Based on the REF document, other information and the advice from other relevant determining authorities:

- The proposed activity is not likely to have a significant impact on the environment and therefore an EIS is not required.
- The proposed activity will not be carried out in a declared area of outstanding biodiversity value and is not likely to significantly affect threatened species, populations or ecological communities, or their habitats or impact biodiversity values, meaning a species impact statement and biodiversity assessment report are not required.
- The proposed activity may proceed.
- Mitigation measures and reasons of conditions to eliminate, minimise and manage environmental impacts are set out within the REF document and detailed in Appendix A1.

Determination

I certify that I have reviewed and endorsed the contents of this REF document and, to the best of my knowledge, it is in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under clause 170 of the EP&A Regulation, and the information it contains is neither false nor misleading.



Kerren Ven
SNR STRATEGIC PLANNER
CITY STRATEGIC PLANNING
As Review Officer

Date: 06/03/2024



Andrew Woodley
DIRECTOR
CITY STRATEGIC PLANNING
As Delegate

Date: 6 March 2024

Conditions of REF:

PART A – ADMINISTRATIVE CONDITIONS

A1. OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this REF.

A2. TERMS OF REVIEW OF ENVIRONMENTAL FACTORS

The activity may only be carried out:

- (a) in compliance with the conditions of this REF.
- (b) in accordance with the REF document,
- (c) in accordance with the Civil Drawings specified in Attachment A2; and
- (d) in accordance with the Summary of Safeguards in Attachment A1 below.
- (e) In accordance with recommendations outlined in the following technical reports:
 - (i) *Aboriginal Due Diligence Assessment Report prepared by Coast History and Heritage dated 15 August 2023 (obj ref: A5834726)*
 - (ii) *Remedial Action Plan prepared by SMEC, reference. '30018088.V03', dated 20 October 2023 (obj ref: A5898202)*
 - (iii) *Geotechnical Investigations prepared by Green Geotechnics, reference 'GG11095.001'. dated 13 July 2023.*
 - (iv) *Flora and Fauna Assessment Report prepared by Narla Environmental, reference. 'FFCC25', dated March 2024.*

A3. NOTIFICATION TO LANDOWNERS

The Project Manager must notify adjoining landowners in writing within 20 metres of the site at least two (2) days prior to the commencement of any construction works on site in accordance with Council's Community Engagement Strategy.

A4. UTILITIES AND SERVICES

Before the construction of any utility works associated with the development, the Applicant must obtain relevant approvals from service providers.

A5. EVIDENCE OF CONSULTATION

Where conditions of this REF requires consultation with **Sydney Water**, the Project Manager must:

- (a) consult with the relevant party and record keep correspondence, licensing, permits etc; and
- (b) record keep details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

A6. **STRUCTURAL ADEQUACY**

All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the Building Code of Australia (BCA).

A7. **COMPLIANCE**

The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

A8. **ADVISORY NOTES**

All licences, permits, approvals and consents as required by law must be obtained and maintained as required for the development. No condition of this REF removes any obligation to obtain, renew or comply with such licences, permits, approvals and consents.

PART B – SITE SPECIFIC ENVIRONMENTAL CONDITIONS

B1. **FLORA AND FAUNA**

1. Tree Protections

Australian Standard 4970 (2009) Protection of Trees on Development Sites (AS-4970) outlines that a Tree Protection Zone (TPZ) is the principal means of protecting trees on construction sites. It is an area isolated from construction disturbance so that the tree remains viable. Ideally, works should be avoided within the TPZ.

A Minor Encroachment is less than 10% of the TPZ and is outside the structural root zone (SRZ). A Minor Encroachment is considered acceptable by AS-4970 when it is compensated for elsewhere and contiguous within the TPZ.

A Major Encroachment is greater than 10% of the TPZ or inside the SRZ. Major Encroachments generally require root investigations undertaken by non-destructive methods or the use of tree sensitive construction methods.

2. Assign a Project Ecologist

Prior to commencing any clearing or construction activities that may impact new habitat features, fauna, or threatened species, the proponent shall commission the services of a qualified and experienced Ecologist. The Ecologist must hold a minimum tertiary degree in Science, Conservation, Biology, Ecology, Natural Resource Management, Environmental Science, or Environmental Management. Additionally, the Ecologist must be licensed with a current Department of Primary Industries Animal Research Authority permit and New South Wales Scientific License issued under the BC Act.

No habitat features (e.g. nests or hollow-bearing trees) have been identified within the Subject Site. The Ecologist will provide advice and guidance on the management of habitat features, fauna, and threatened species throughout the project duration.

3. Unexpected Finds Procedure

In the event that any fauna, habitat features (e.g. nests) or threatened flora species are unexpectedly discovered during any clearing or construction works, the following steps shall be taken:

- (a) Cease work in the vicinity of the find immediately and notify the Environmental Site Representative.
- (b) Any new habitat that will be impacted (e.g. nests) must be removed with the Ecologist present.
- (c) Fauna species shall be managed in accordance with the Ecologist's recommendations, which may include self-relocation. If a fauna species is injured or suspected to be injured, a licensed fauna handler or rescuer (e.g., WIRES) shall be contacted for further assistance.
- (d) Threatened flora species shall be managed in accordance with the Ecologist's recommendations, which may include reassessment of works to avoid impacts to the species. If avoidance is not feasible, a translocation plan shall be implemented.
- (e) Work shall only resume when deemed safe to do so by the Ecologist.

4. Landscaping/ Revegetation

The proposed landscaping/revegetation of the Subject Site should involve the planting of species associated with the adjacent naturally occurring TEC vegetation type, Cumberland Blue Box Riverflat Forest. Hybrids and invasive species should be avoided as per Fairfield Biodiversity Strategy 2022: Principles for Selecting Flora Species: Landscape Planting.

Trees to be removed from the Queens Jubilee project are to be replaced with 45L stock.

5. Erosion and Sedimentation

Appropriate erosion and sediment control should be erected and maintained at all times during construction in order to avoid the potential of incurring indirect impacts on biodiversity values. As a minimum, such measures should comply with the relevant industry guidelines such as 'the Blue Book' (Landcom 2004).

6. Storage and Stockpiling of Soil and Materials

Allocate all storage, stockpile, and laydown sites away from any vegetation that is planned to be retained. Avoid importing any soil from outside the site in order to avoid the potential of incurring indirect impacts on biodiversity values as this can introduce weeds and pathogens to the site. If materials are required to be imported for landscaping works, they are to be sterilised according to industry standards prior to importation to site.

7. Weed Eradication and Suppression

Weed removal is proposed as part of the proposal to improve the condition of the locally occurring native community that is present within the entire Project Area. Two (2) Priority Weed identified during the site assessment are to be completely removed from the Subject Site:

- *Olea europaea subsp. cuspidata* (African Olive); and
- *Anredera cordifolia* (Madeira Vine).

B2. ABORIGINAL HERITAGE

1. Changes to ground disturbance

Ground disturbance for the proposed activity shall be contained within areas that have previously been disturbed, that is, the upper 0.4-0.5m of the soil profile, and existing service trenches. The detailed design of the activity must ensure that all works requiring ground disturbance are contained within areas and depths known to be already disturbed.

Upon detailed design stage, the present *Aboriginal Heritage Due Diligence report by Coast History and Heritages dated 15 August 2023 (obj ref: A5834726)* should be updated, and reviewed by Gandangara LALC.

2. Unexpected finds protocol

- (a) An Aboriginal heritage induction should be provided to the works team by the Gandangara LALC, in order to outline the statutory protection provided by the *National Parks and Wildlife Act 1974* and outline the procedure to be followed in the event of an unexpected find.
- (b) Gandangara LALC are to be provided with an opportunity to inspect or monitor excavation.
- (c) An unexpected finds protocol should be implemented for the life of the project. The unexpected finds protocol should be adhered to if unforeseen Aboriginal objects or bones suspected of being human are identified during the works, site workers must:
 - i. Not further disturb or move these remains.
 - ii. Immediately cease all work at the location.
 - iii. In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, notify the Heritage NSW Environment Line on 131 555 as soon as practicable and provide available details of the objects or remains and their location. The Gandangara LALC should also be notified to assist in the determination of appropriate management for the objects or remains.
- (d) Once finalised, copies of this report should be forwarded to the Gandangara LALC, and to the Registrar of the Aboriginal Heritage Information Management System.

B3. FLOOD MANAGEMENT

1. Structures

All structure shall be designed to withstand the forces of floodwater, debris, and buoyancy up to and including the 100-year average recurrence interval (ARI) flood event and use flood compatible building materials up to and including the 100yr ARI flood level.

An appropriately qualified engineer shall provide certification of compliance this condition as part of the final design package.

2. Flooding – General

- (a) Where possible, existing contours of the site are to be maintained.
- (b) Direction of flow shall be maintained.
- (c) Overflow to be maintained and unobstructed.

B4. LIGHTING

All outdoor lighting shall comply with, where relevant, AS1158.3.1-2005 Pedestrian Area Lighting and AS 4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

B5. CONTAMINATION

1. Remediation Action Plan and Site Validation

All remediation works are to be undertaken in accordance with the Remediation Action Plan prepared by SMEC, reference no. '30018088.V03' dated 20 October 2023.

Removal of asbestos must be undertaken by a suitably licensed contractor and an asbestos clearance certificate must be provided before waste classification, disposal and site validation is undertaken.

2. Further Investigations

Prior to the commencement of works, the relevant recommendations detailed in the Detailed Site Investigation (Contamination), prepared by SMEC, reference no. '30018088.300' dated 22 September 2023 must be implemented.

The applicant must undertake additional sampling and analysis of potentially contaminated soils within AEC 4 (Sydney Water compound) following decommissioning of the site.

3. Unexpected Finds Protocol for Contaminated land and Asbestos

An Unexpected Contaminated Land and Asbestos Finds Procedure must be prepared as part of the CEMP before the commencement of any works and must be followed should unexpected, contaminated land or asbestos be excavated or otherwise discovered during construction. The Unexpected Contaminated Land and Asbestos Finds Procedure must outline the steps to be undertaken to identify, report and manage any signs of potential environmental concern encountered during earthworks/redevelopment works. The Unexpected Finds Protocol must be endorsed by an EPA-accredited site auditor.

B6. FILLING WITHIN A SITE

Any excess fill and or fill imported into the site to fill within the proposed works site must meet the criteria of "Virgin Excavated Material" or "Excavated Natural Material" as defined in NSW EPA Environmental guidelines – and written verification provided to Council.

PART C – ENVIRONMENTAL MANAGEMENT, REPORTING & AUDITING

C1. ENVIRONMENTAL MANAGEMENT PLAN REQUIREMENTS

Management plans required under this REF must be prepared in accordance with relevant guidelines, and include:

- (a) details of:
 - (i) the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - (ii) any relevant limits or performance measures and criteria; and
 - (iii) the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
- (b) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
- (c) a program to monitor and report on the:
 - (i) impacts and environmental performance of the development; and
 - (ii) effectiveness of the management measures set out pursuant to paragraph (b) above;
- (d) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
- (e) a program to investigate and implement ways to improve the environmental performance of the development over time;
- (f) a protocol for managing and reporting any:
 - (i) incident and any non-compliance (specifically including any exceedance of the impact assessment criteria and performance criteria);
 - (ii) complaint;
 - (iii) failure to comply with statutory requirements
- (g) a protocol for periodic review of the plan.

C2. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

The Project Manager must prepare a Construction Environmental Management Plan (CEMP) in accordance with condition C1. As part of the CEMP required under this REF, the Project Manager must include the following, but not limited to environmental management factors:

- (a) *Air Quality*
- (b) *Dust Minimisation*
- (c) *Noise and Vibration*
- (d) *Erosion and Sedimentation Controls*
- (e) *Imported Soils*
- (f) *Contaminated land*
- (g) *Flora and Fauna*
- (h) *Waste management*
- (i) Traffic management and control
- (j) Unexpected finds Contamination
- (k) Unexpected finds protocol for Aboriginal Heritage

C3. OPERATIONAL TRANSPORT AND PEDESTRIAN MANAGEMENT PLAN (OTPMP)

Within 6 months of the operation of the activity, an OTPMP must be prepared addressing the following:

- (a) Be prepared in consultation with Council's Traffic and Transport Branch;
- (b) pedestrian analysis including the identification of safe route options – to identify the need for management measures patrons are able to access and leave the site in a safe and efficient manner;
- (c) the location of all car parking spaces used by the site facilitation.
- (d) the need for location and operational management procedures located within the project site during activities in operation including traffic control arrangements; to avoid potential staggard queuing;
- (e) the need for provision of services to compensate for any lack of public transport services in the locality;
- (f) delivery and services vehicle access and management arrangements;
- (g) potential traffic impacts on surrounding road networks and need for mitigation measures to minimise impacts, including measures to mitigate queuing impacts while accessing on-street parking; and
- (h) an ongoing traffic and pedestrian monitoring and review program.

The Project Manager must prepare the OTPMP in accordance with the requirements of condition and must include the following:

- (a) Describe the role, responsibility, authority and accountability of all key personnel involved in the management of the activity.
- (b) describe the procedures that would be implemented to:
 - (i) receive, handle, respond to, and record complaints;
 - (ii) resolve any disputes that may arise;
 - (iii) respond to any non-compliance
 - (iv) respond to emergencies; and

C4. REPORTING AND AUDITING

Any condition of this REF that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance reporting and independent auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the activity to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.