

**DEVELOPMENT ASSESSMENT REPORT – DA104/20
DEMOLITION OF EXISTING PUBLIC AMENITIES AND INSTALLATION OF
REPLACEMENT PUBLIC AMENITIES
LOT 531 SEC 902158 & LOT 7002 DP 1075853
KREMER PARK, LIME STREET PORTLAND**

1. PROPOSAL

Council is in receipt of a development application (DA104/20) that seeks consent for the demolition of an existing public amenities block and the installation of a replacement facility adjacent to the children's playground in Kremer Park, off Lime Street, Portland. The existing facility is located partially within Lot 531 DP 902158 and partially within Lot 7002 DP 1075853.

The existing facility will be demolished and replaced with a new accessible self-cleaning facility that also includes baby changing facilities.

The existing building dates from the 1970s or 1980s and comprises separate female and male sections within a relatively plain, masonry building. The size of the toilet block will be slightly smaller than the existing facility.

The land subject to the proposal is relatively flat and contains the Kremer Park football field/showground, tennis courts, playground equipment, skate park. Residential dwellings are located adjacent to the skate park on Lime Street. The entire site containing Kremer Park is listed as an item of local heritage significance in the *Lithgow Local Environmental Plan 2014*.

The existing toilet block is shown in the picture below:



2. SUMMARY

To assess and recommend determination of DA104/20 with recommendation for approval subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description: Lot 531 DP 902158, Lot 7002 1075853
Property Address: Kremer Park , Lime Street, Portland



Kremer Park comprises Crown Reserve No. 40982 with Lithgow City Council appointed as Crown land manager under the provisions of the *Crown Land Management Act 2016*. Council has responsibility for the care, control and maintenance of the reserve.

4. ZONING

Kremer Park is zoned RE1 Public Recreation under the *Lithgow Local Environmental Plan 2014* (LEP) (see map extract below).



5. PERMISSIBILITY

The proposal is consistent with the long established use of the land for public recreation and is also consistent with the objectives of the RE1 Public Recreation zone. Use of the land for purposes of "public recreation (outdoor)" are permitted with consent in the LEP.

In addition to the above, the provisions of Division 12 of *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP) allow for certain works within parks and other reserves. Specifically, clause 65 (3) (vi) provides the following:

*(3) Any of the following development may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council—
(a) development for any of the following purposes—*

*...
(vi) amenities for people using the reserve, including toilets and change rooms,
...*

However, this clause does not allow for the demolition of buildings that are part of a local heritage item. Because Kremer Park is identified in the LEP as a heritage item, the proposed demolition works require development consent.

Clause 5.10 of the LEP requires development consent for the demolition of any part of a heritage item.

In summary, based on the above, the demolition of the existing amenities block requires development consent and is permissible under clause 5.10 of the Lithgow LEP. The installation of the new facility does not require consent in accordance with clause 65 of the Infrastructure SEPP as it is being installed by or on behalf of Council on a public reserve which means permissibility is not an issue in this regard.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Lithgow Community Participation Plan 2019

The proposed development has been placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners have been notified of the proposal. The proposal documents were placed on public exhibition for 14 days in accordance with the Participation Plan. No submissions were received in response to the public exhibition.

Policy 7.6 Development Applications by Councillors and Staff or on Council Owned Land

This policy requires that a development application relating to Crown land managed by Council be referred to an Ordinary Meeting for the consideration and determination by Council. Because Kremer Park is a Crown reserve under the care, control and management of Lithgow City Council, the application is reported to this Ordinary Meeting for determination in accordance with this policy.

5.2 FINANCIAL IMPLICATIONS

Section 94A (Section 7.12) Development Contributions Plan 2015

Because the application is for development by or on behalf of Lithgow City Council, the Section 94A Contributions Plan does not apply to this development.

5.3 LEGAL IMPLICATIONS

Crown Land Management Act 2016

Lithgow City Council is the appointed Crown Land Manager of Kremer Park, being Crown Reserve No. 40982. As the authority responsible for the care, control and maintenance of Kremer Park, Council is empowered under this Act to undertake the proposed works on the reserve.

Local Government Act 1993

The proposal involves alterations to existing water and sewer connections. The application has been referred to Council's Water and Wastewater Directorate for comment. Development consent is to be conditioned to require an approval under section 68 of this Act for water and sewer works before commencement. Appropriate conditions of consent will be imposed.

Environmental Planning and Assessment Act 1979

In determining a development application, Council as the consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.1 Any Environmental Planning Instruments

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	RE1 Public Recreation	Yes
5.10	Heritage conservation	Yes
7.5	Groundwater vulnerability	Yes

RE1 Public Recreation zone

The objectives of the RE1 zone are:

- *To 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 maintain or improve the water quality of receiving water catchments.*

The proposed development is consistent with these objectives.

Clause 5.10 Heritage conservation

Kremer Park is listed in Schedule 5 of the LEP as a heritage item of local significance (Item No. I306). This heritage listing applies to the entire area of Kremer Park (comprising Lot 7002 DP 1075853 and Lot 531 DP 902158). The key heritage elements of the site as identified in the Greater Lithgow Heritage Study 1997-98 (the basis of the LEP heritage listing) identify its use as a showground and associated connections with agriculture and pastoralism. The built elements on the site identified as having heritage significance are the complex of iron and timber buildings including pavilion with ventilating clerestory, sheepyards and pens, grandstand, other livestock display pens, other outbuildings and multipurpose arena.

In addition to the showground and related facilities/structures, Kremer Park also includes extensive recreation and sporting facilities. The amenities block that is proposed for demolition is not associated with the identified showground uses and structures and is of recent, non-contributory construction. Its demolition will not have any direct or negative impacts on the heritage character of the site. Further to this, the proposed replacement facility is of smaller scale and will result in a better fit for the site with less overall visual dominance. For these reasons, the proposal is considered acceptable and the provisions of LEP clause 5.10 have been adequately addressed.

7.5 Groundwater vulnerability

The LEP identifies the land as containing ground water vulnerability. The scale and nature of the proposal will have no direct or detrimental impacts on groundwater systems and the requirements of this clause are considered satisfied.

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4?

Nil.

5.3.5 Any matters prescribed by the regulations that apply to the land

No specific matters prescribed by the regulations have been identified that are applicable to the land.

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

Context and Setting: The proposal takes place within Kremer Park which contains a range of recreation facilities including football field, showground, tennis courts, playground equipment, skate park and other associated amenities. Residential dwellings are located adjacent to the site on Lime Street.

The proposal is compatible with the existing uses within the park and will not be out of context with the surrounding land uses. The proposed development will be located within an established recreational area and will have no major impact on the context and setting of the area.

Services: The new facility will connect to existing services to the site.

Access/traffic/carparking: No issues. A neutral effect on traffic and car parking is expected. The new facility will improve accessibility to the amenities for persons with a disability.

Heritage: Kremer Park is listed as a local heritage item in the LEP. No negative impacts on heritage values or the identified heritage character of the site is identified (see further commentary in section 5.3.1 of this report above).

Flora and Fauna: No issues. There is no significant flora in the vicinity of the site and the development will not impact negatively on any fauna habitat.

Social and Economic Impact: The proposal will result in positive social impacts through the improvements and upgrades to public infrastructure.

Waste: A moderate level of waste is expected to be generated during demolition works and the presence of asbestos materials in the existing building is anticipated. Standard demolition conditions will be imposed on the consent to ensure adequate regard is given to this risk.

Soils: The proposed development will have no significant impact on soils.

Air and Microclimate: There will be no significant impact on air or microclimate.

Natural Hazards: The site is not affected by any known natural hazards.

Noise and Vibration: There are no issues with noise or vibration.

5.3.7 The Suitability of the site for the development

The proposal will result in the upgrade and improvements to existing public amenities within a public reserve. The development is a suitable use of the site.

5.3.8 Any submissions made in accordance with this Act or the Regulations

No submissions were received in response to the public exhibition and notification of the proposal. Referrals were made to Council's technical staff for feedback and recommendations. Responses have been received and have been placed on the DA file. Recommended consent conditions have been incorporated into the assessment.

5.3.9 The public interest

The proposal will result in the upgrade and improvements to existing public amenities within a public reserve and is considered in the public interest.

6. DISCUSSION AND CONCLUSIONS

The proposal complies with the relevant provisions of the applicable Environmental Planning Instruments and will not result in any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT development application DA 104/20 is approved subject to conditions set out in Schedule A.

Report prepared by: Lachlan Sims, Acting Team Leader Development

Signed:...  ...

Dated:...5 August 2020....

Application reported to the Ordinary Meeting of Lithgow City Council held on 24 August 2020. Approved in accordance with the resolution of Council.

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority)

ADMINISTRATIVE CONDITIONS

1. The development is to be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.

CONDITIONS APPLYING BEFORE WORKS COMMENCE

2. Protection of adjoining areas

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin, and must be kept in place until after the completion of works, if the works—

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Note. Clauses 2.67 and 2.68 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

3. Signage

Prior to the commencement of any works a sign/s must be erected in a prominent position on the site:

- (a) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
- (b) Stating that unauthorised entry to the work site is prohibited and
- (c) Showing the name, address and telephone number of the principal certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

4. Toilet facilities

(1) Toilet facilities must be available or provided at the work site before works begin, and must be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

(2) Each toilet must—

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- (c) be a temporary chemical closet approved under the Local Government Act 1993.

5. Waste management

(1) A waste management plan for the work must be prepared before work commences on the site.

- (2) The waste management plan must—
 - (a) identify all waste (including excavation, demolition and construction waste material) that will be generated by the work on the site, and
 - (b) identify the quantity of waste material, in tonnes and cubic metres, to be—
 - (i) reused on-site, and
 - (ii) recycled on-site and off-site, and
 - (iii) disposed of off-site, and
 - (c) if waste material is to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
 - (d) if waste material is to be disposed of or recycled off-site—specify the contractor who will be transporting the material and the waste facility or recycling outlet to which the material will be taken.
- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

6. Run-off and erosion controls

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by—

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

7. Section 68 approval – plumbing works

Prior to the commencement of any plumbing or drainage works, an application under section 68 of the *Local Government Act 1993* is to be submitted to and approved by Lithgow City Council for connections to the existing sewer and to upgrade the water supply size to the development.

CONDITIONS APPLYING DURING THE WORKS

Note. The Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2008 contain provisions relating to noise.

8. Hours for demolition

Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no demolition is to be carried out at any time on a Sunday or a public holiday.

9. Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

10. **Demolition**

Any demolition must be carried out in accordance with AS 2601—2001, The demolition of structures.

11. **Asbestos**

- (1) The removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of any applicable legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia) and
 - (a) Only competent persons, or competent and registered persons shall carry out removal, and
 - (b) Removal of asbestos or material or material containing asbestos fibres, shall be in accordance with the NOHSC code of practice.
- (2) Any asbestos or other dangerous/hazardous material is to be stored, contained, transported and lawfully disposed of at an authorised and licensed waste disposal facility.
- (3) The handing and/or removal of any asbestos materials from the site must be carried out by a contractor licenced for asbestos removal. A copy of the contractor's licence must be submitted to Council prior to commencement of work.

12. **Maintenance of site**

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Copies of receipts stating the following must be given to the principal certifying authority—
 - (a) the place to which waste materials were transported,
 - (b) the name of the contractor transporting the materials,
 - (c) the quantity of materials transported off-site and recycled or disposed of.
- (4) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (5) During construction—
 - (a) all vehicles entering or leaving the site must have their loads covered, and
 - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (6) At the completion of the works, the work site must be left clear of waste and debris.

13. **Aboriginal objects discovered during excavation**

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—

- (a) all excavation or disturbance of the area must stop immediately, and
- (b) the person making the discovery must advise the Chief Executive (within the meaning of the National Parks and Wildlife Act 1974) of the discovery in accordance with section 89A of that Act.

Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

14. **Design for access and mobility**

Access to and within the new toilet structure shall comply with the requirements of AS1428.1 Design for Access and Mobility – General requirements for access – New building work and the Disability (Access to Premises – Buildings) Standards 2010.

15. **Plumbing and drainage**

- (1) Stormwater runoff from the roof of the new structure is to be drained and connected to the existing rainwater disposal system.
- (2) Any existing plumbing and drainage fixtures affected by the building works are modified or relocated in accordance with the requirements of the Council.
- (3) All plumbing and drainage work is to be carried out by a licensed plumber and drainer.
- (4) Water connections to be in accordance with Lithgow Council's Water Supply Policy 3.1 and Containment Backflow Prevention Policy 3.4 and AS/NZs 3500 Part 1.
- (5) Sanitary Drainage to reconnect to existing point of connection and be in accordance with AS/NZs 3500 Part 2 and LCC Sewer Connections Policy 3.5
- (6)

PRIOR TO OCCUPATION

16. **Section 68 approval – compliance**

Prior to the occupation or use of the new toilet facility, written confirmation of compliance with the terms of the Section 68 approval must be obtained from Lithgow City Council.

ADVISORY NOTES

AN1. **Ground snow load**

The structure shall be designed to withstand a minimum ground snow load of 1.370432kPa (based upon elevation of 928mAHD).