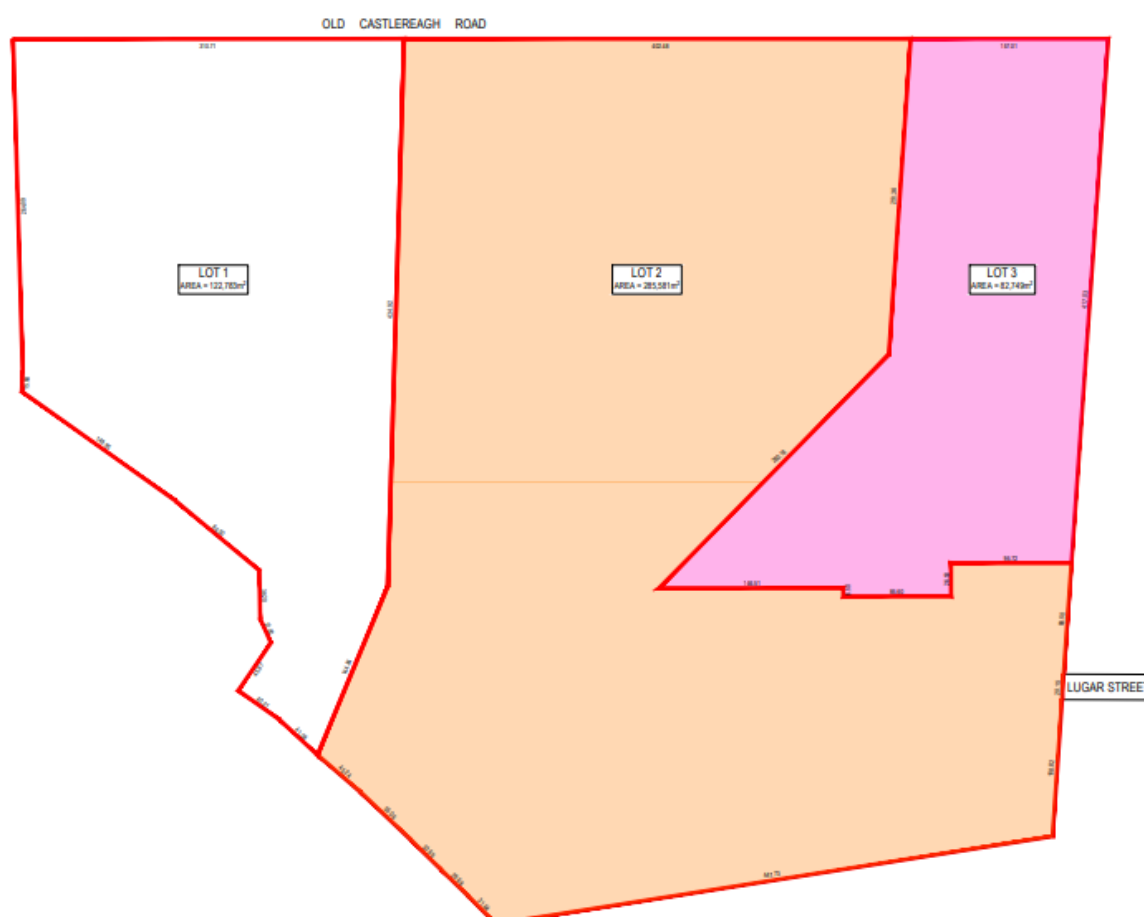


Penrith Lakes Employment Lands Boundary Adjustment

Development Application Assessment Report (DA23/17598)

March 2024





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Penrith Lakes Employment Lands Boundary Adjustment (DA23/17598)
Assessment Report

Published: March 2024

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure (the Department) assessment and evaluation of the Development Application for a boundary adjustment at the Penrith Lakes Employment Lands located at 14-68 Old Castlereagh Road, Castlereagh lodged by Great River NSW Pty Ltd. The report includes:

- an assessment of the modification against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the modification during the assessment process
- an assessment of the likely environmental, social and economic impacts of the modification
- an evaluation which weighs up the likely impacts and benefits of the modification, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether the consent should be modified and any conditions that should be imposed.

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1 Introduction

1.1 The Proposal

On 19 December 2023, Great River NSW Pty Ltd (the applicant) submitted a development application for a boundary adjustment of two lots at 14-68 Old Castlereagh Road, Castlereagh. The boundary adjustment seeks to alter the common boundary of lots 2 and 3 in DP 1263486 to increase the size of Lot 2 by approximately 10Ha, whilst decreasing Lot 3 by approximately 10Ha.

1.2 Project location

The subject site is located at 14-68 Old Castlereagh Road, Castlereagh in the Penrith City local government area (LGA) and within the Western Sydney region of NSW (see

The site, along with Lot 1 DP 1263486 forms part of the approved Nepean Business Park subdivision, a 93 lot community title subdivision. The development consent has not yet been acted upon, and works have not commenced.

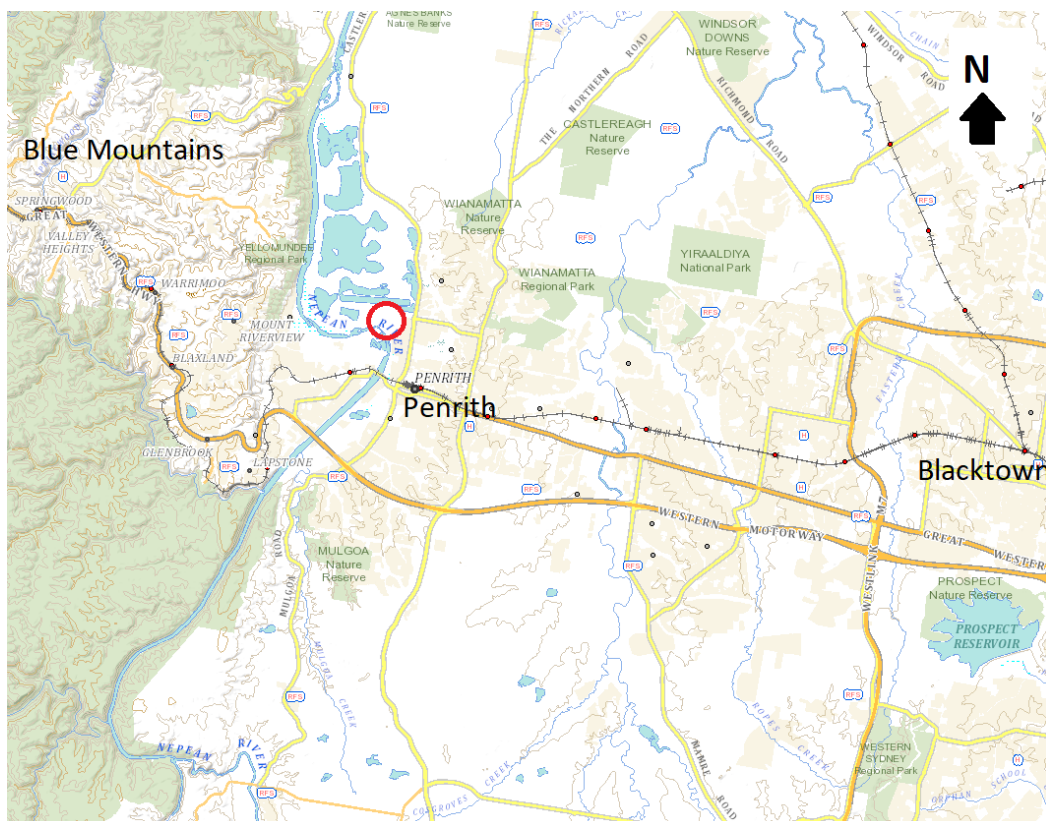


Figure 1 and Figure 2).

The site is legally known as Lots 2 and 3 in Deposited Plan 1263486. It is irregular in shape and has an area of approximately 36.8 hectares. The site is bound by Old Castlereagh Road to the north,

existing industrial developments and Lugard Street to the east, existing industrial developments and the Nepean River to the south and vacant land associated with the Penrith Lakes Scheme to the west. The site is highly disturbed and has recently been filled in the course of rehabilitation works, which are occurring on the site following its previous use as a tailings pond for quarrying. The works are expected to take between 1 and 3 years to complete.

The site is located in the Penrith Lakes Scheme and is zoned as 'employment' under *State Environmental Planning Policy (Precincts - Western Parkland City) 2021* (Western Parkland SEPP).

The site, along with Lot 1 DP 1263486 forms part of the approved Nepean Business Park subdivision, a 93 lot community title subdivision. The development consent has not yet been acted upon, and works have not commenced.

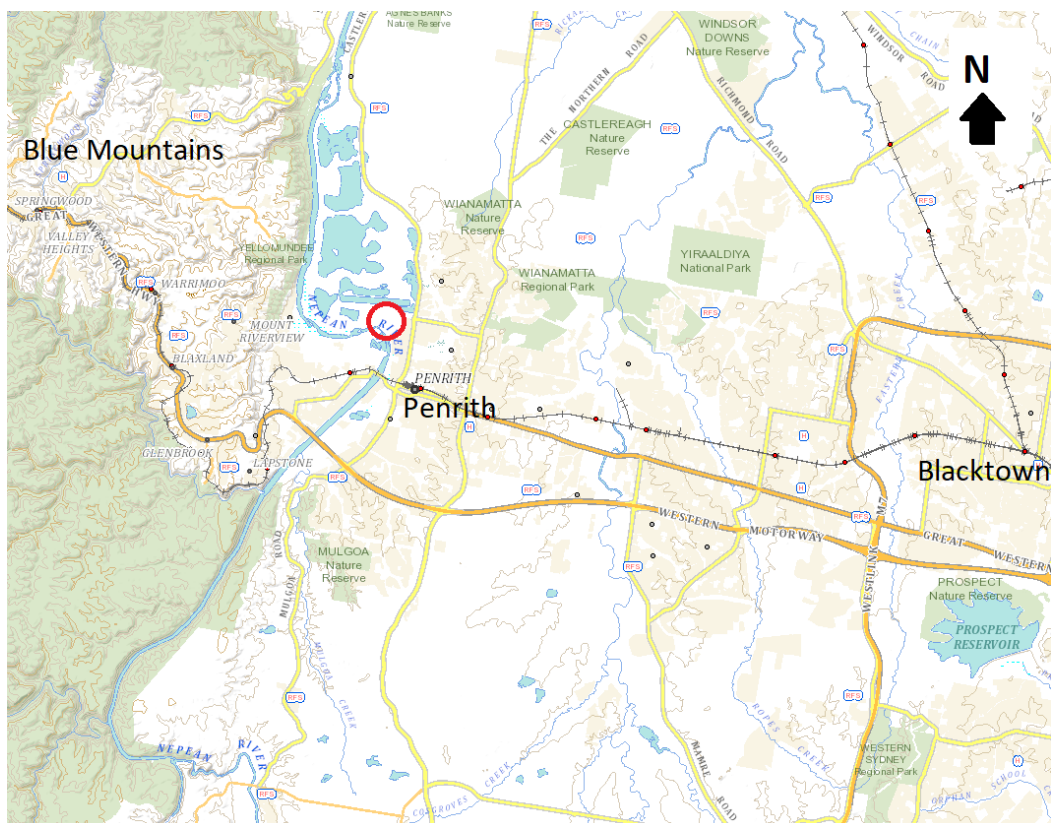


Figure 1 | Regional context map, subject site highlighted in red (Source: ePlanning Spatial Viewer)



Figure 2 | Local context map (Source: NearMap)

1.3 Penrith Lakes Scheme

The Penrith Lakes Scheme (the Scheme) is a 30-year quarrying and rehabilitation proposal being undertaken by the Penrith Lakes Development Corporation (PLDC) in accordance with a Deed of Agreement, dated 11 August 1987 (amended 14 August 1989), with the NSW Government. The extent of the Scheme is identified in Figure 3.

The Scheme is located within the Nepean River floodplain. It is being transformed from a sand and gravel quarry into a water-oriented recreation park, with land suitable for rural, tourism and employment uses. Quarrying activities on the site ceased in September 2015. Since then, PLDC has been progressively rehabilitating the site.

Development on the Penrith Lakes site is governed by the Western Parkland SEPP. The Penrith Lakes Scheme comprises approximately 80 ha of waterways, 110 ha of parklands, 118 ha of environmental area, 33 ha of employment area and 52 ha of tourism area, and 1,330 ha of unzoned land subject to future land use planning, following the completion of flood investigations and community consultation.

The subject site is zoned part Environmental and part employment under the Western Parkland SEPP.

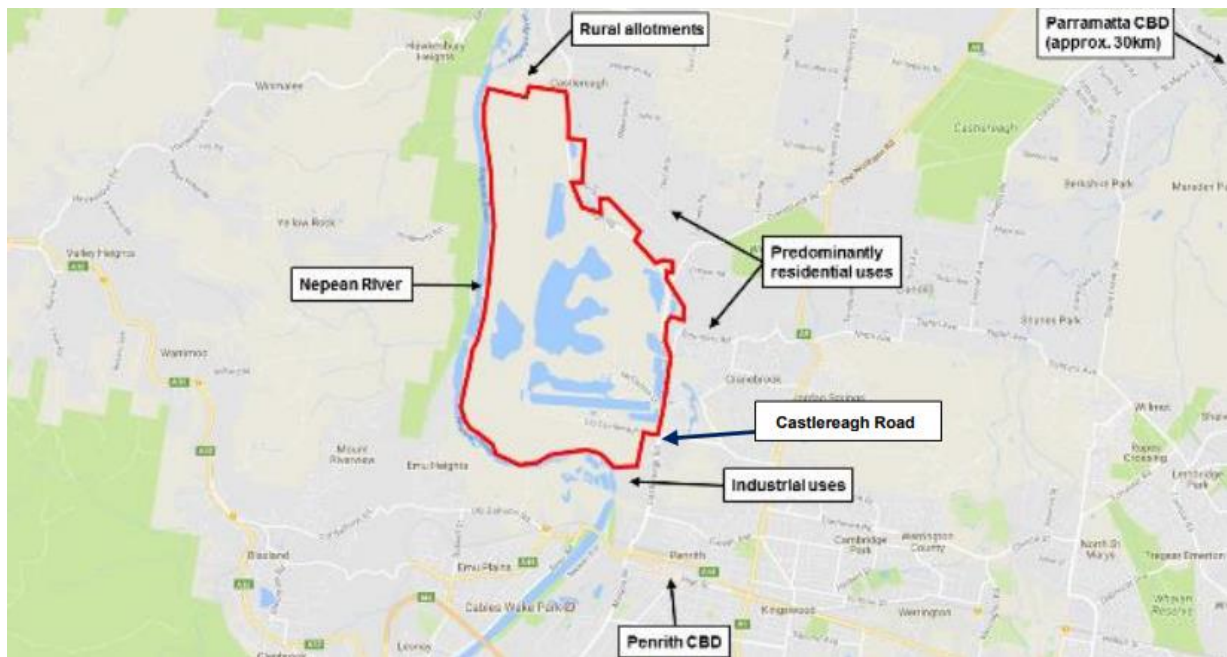


Figure 3 | Penrith Lakes Scheme boundary outlined in red (Source: Google Maps)

1.4 Related projects and works

1.4.1 Nepean Business Park

On 31 March 2022, development consent was granted by Land and Environment Court for the development of the Penrith Lakes Employment Lands Subdivision DA9876.

The consent included approval for:

- Torrens Title Subdivision of the site into 5 lots including four environmental lots and one residual lots
- Community Title Subdivision of the residual lot into 93 lots and 1 community title lot across 13 stages.
- Construction of associated roads, stormwater, earthworks and landscaping

The Torrens Title Subdivision of the site and Community Title lot layout are identified in **Figure 4** below.

The development consent has been modified once since approval (DA9876-Mod-3).

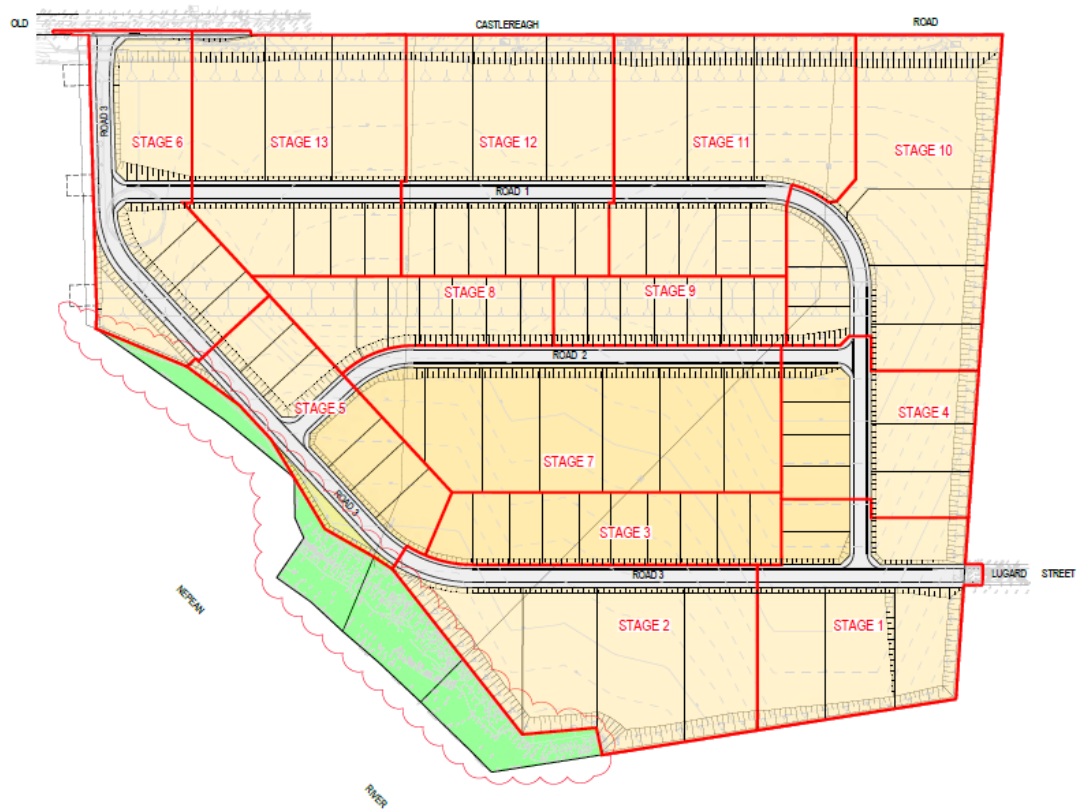


Figure 4 | Approved Community Title Subdivision (Source: DA9876 Stamped Plans)

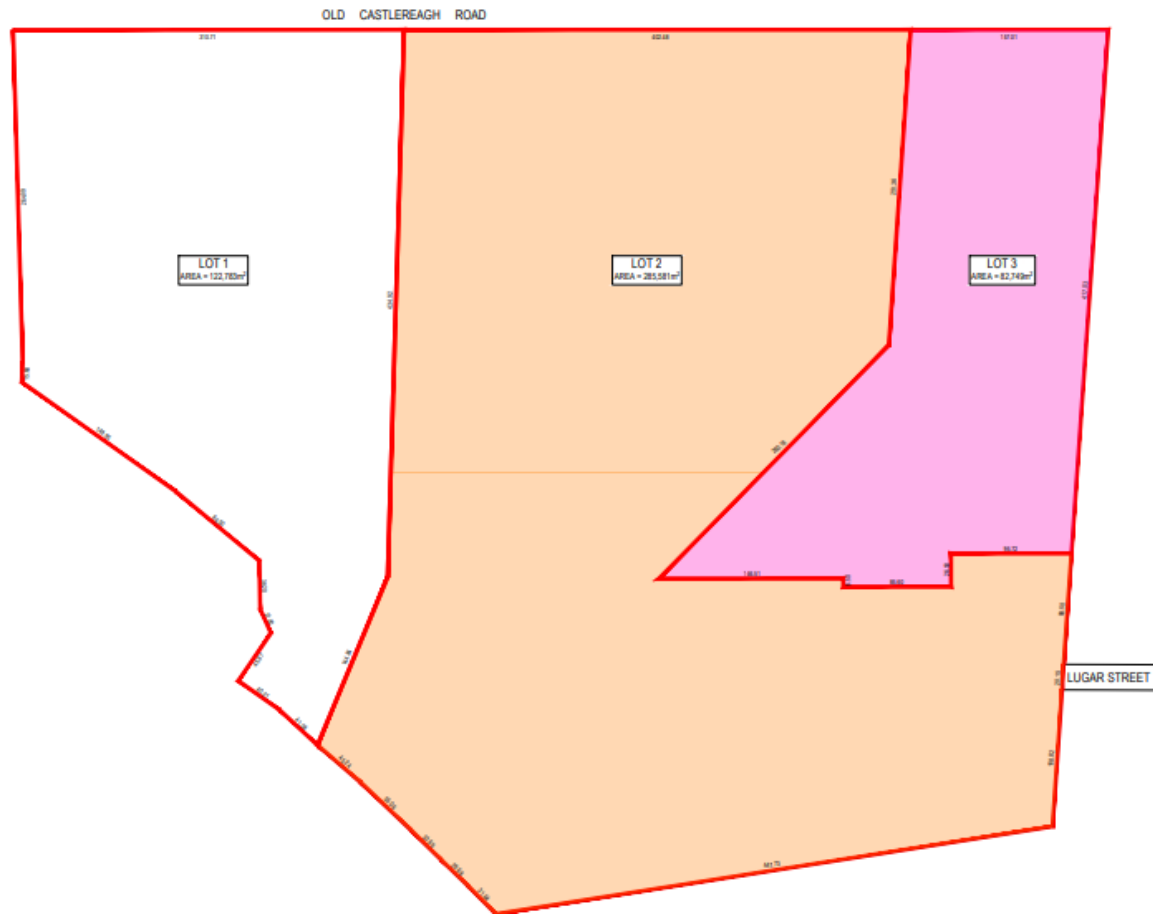
2 Proposed modification

2.1 Boundary Adjustment

The proposed development seeks consent for the subdivision of Lot 2 DP 1263486 and Lot 3 DP 1263486 by changing the common boundary between the two lots. The adjustment will transfer approx. 10Ha from Lot 3 to Lot 2. The existing subdivision is shown in Figure 5 and the proposed subdivision is shown in Figure 6.



Figure 5: Existing Lot layout



2.2 Applicant's justification

The applicant has stated that the boundary adjustment is required to ensure that the commencement of Stage 1 works under DA9876 can proceed entirely within Lot 2. The applicant has also stated that no physical works are required to establish the boundary adjustment and that the development will have no impact on the approved business park subdivision.

3 Statutory context

3.1 Permissibility and assessment pathway

Details of the legal pathway under which consent is sought and the permissibility of the project are provided in Table 1 below.

Table 1 | Permissibility and assessment pathway

Consideration	Description
Consent authority	The Minister for Planning and Public Spaces (the Minister) is the consent authority for this development application pursuant to clause 5.7(a) of the State Environmental Planning Policy (Precincts – Western Parkland City) of the as the subject site is within the employment zone of the Penrith Lakes Scheme boundary.
Decision-maker	In accordance with the Minister’s delegation dated 9 March 2022, the Director, Regional Assessments may determine the application as: <ul style="list-style-type: none">• Council has not made an objection• there are less than 15 public submissions in the nature of objection• a political disclosure statement has not been made.
Permissibility	The proposed subdivision is permitted with consent in accordance with Clause 5.18 of the Western Parklands SEPP

3.2 Mandatory matters for consideration

3.2.1 Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department’s consideration of these matters is shown in Table 2 below.

Table 2 | Matters for consideration

Matter for consideration	Department's assessment
<ul style="list-style-type: none"> - Environmental planning instruments, - proposed instruments, - development control plans - planning agreements 	<ul style="list-style-type: none"> - The Department has considered the relevant EPIs at Appendix B. - No proposed instruments are relevant to the development application - The Department has considered the relevant DCP at Appendix C. - No Planning Agreements are applicable to the proposed development.
EP&A Regulation	Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for fees (Part 13, Division 3) have been complied with.
Likely impacts	The likely impacts of the proposed development have been considered in Section 5 of this report. The Department concludes that all environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
Suitability of the site	The Department has considered the suitability of the site in Section 5.
Public submissions	No public submissions were received during exhibition.
Public interest	The Department has considered the public interest at Section 6.

3.2.2 Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (s 1.3) including the principles of ecologically sustainable development. Consideration of those factors is described in **Appendix B.**

As a result of the analyses in **Appendix B**, the Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development (ESD).

4 Engagement

4.1 Exhibition of the Development Application

4.1.1 Public exhibition of the Development Application

After accepting the development application, the Department:

- publicly exhibited the project from 17 January 2024 until 30 January 2024 on the NSW planning portal
- notified occupiers and landowners in the vicinity of the site about the public exhibition
- notified and invited comment from Penrith City Council.

4.1.2 Summary of submissions

The Department received one submission Penrith City Council during the public exhibition period of the development application. Zero (0) public submissions were received.

The issues raised by Council in their submission are summarised below:

- the boundary adjustment should be consistent with the DCP and Western Parkland SEPP
- the lot layout should be checked against the other site approvals to ensure it is consistent
- the proposal should consider whether there are any implications to outstanding land contamination, bulk earthworks and/or geotechnical compaction matters occurring on the site,
- the site is bushfire prone and a bushfire assessment report should be prepared.
- the DCP requires access to Lugard Street which will be removed for Lot 3 as a result of the boundary adjustment.
- a condition of consent should be in place requiring a certificate of compliance for the current 2 year plan for remediation works should be issued prior to subdivision certificate being issued.

4.1.3 Response to Submissions

Following the exhibition period, the Department issued a Request for Information seeking a Response to Submission (RtS) on 31 January 2024.

The applicant provided a response on 7 February 2024 that addressed the comments raised by Council in their submission.

5 Assessment

5.1 Boundary Adjustment

The development seeks approval to adjust the common boundary of Lot 2 and 3 DP 1263486. The development seeks to increase the size of Lot 2 by approx. 10Ha and decrease the size of Lot 3 by approx. 10Ha. The proposed boundary adjustment will comprise a 'paper subdivision' with no physical works on site proposed or required to facilitate the adjustment.

The applicant has stated that the adjustment is required to facilitate the development of the site for a business park subdivision (DA9876). At present the two lots are in separate ownership, and the adjustment will transfer land to the owner of Lot 2 to facilitate the commencement of works. The adjustment will ensure that the stage 1-3 works under DA9876 will be entirely contained within Lot 2.

A comparison of the approved subdivision under DA9876 as well as this consent are identified in Figure 7.

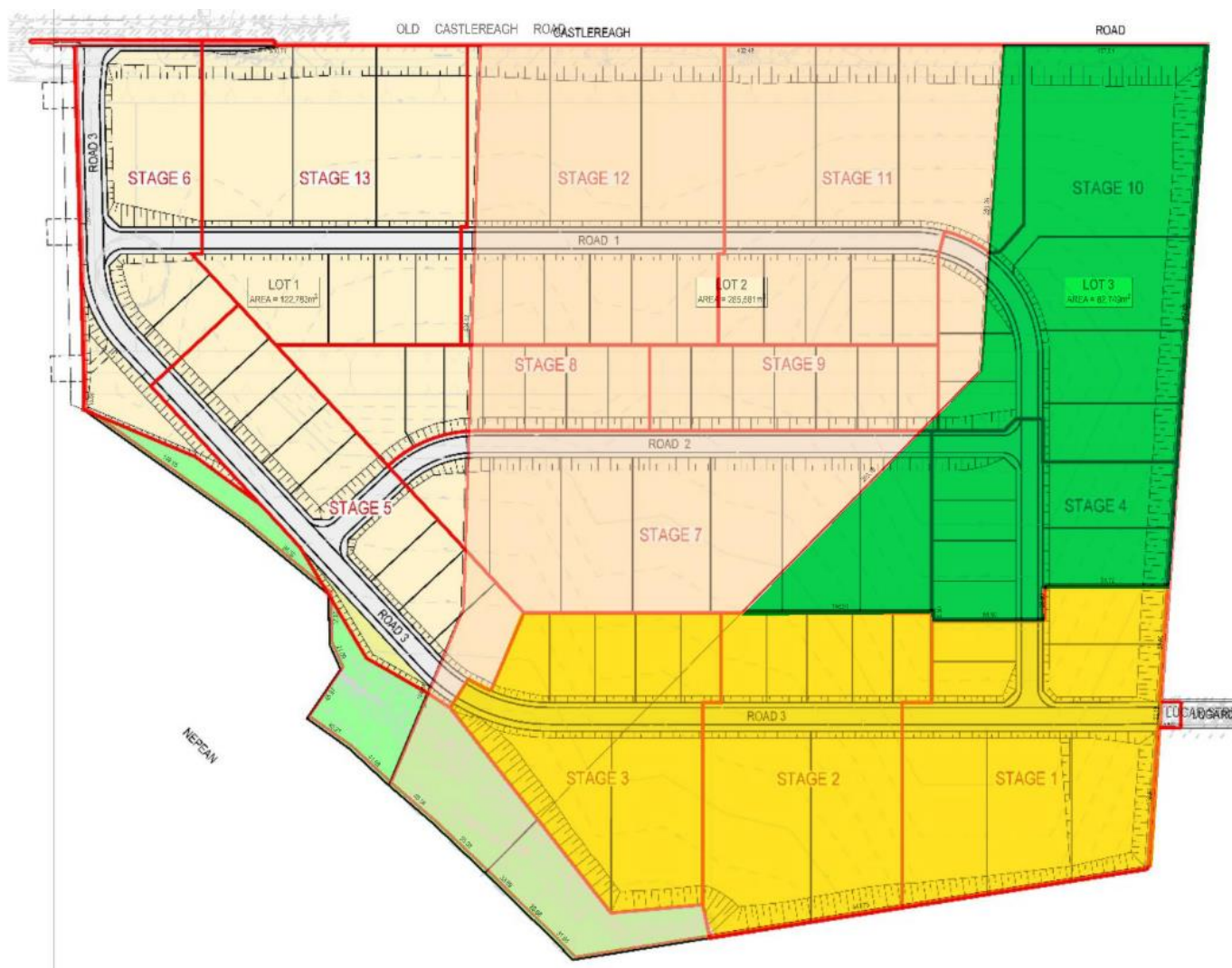


Figure 7 | Proposed boundary adjustment overlaid with the approved subdivision under DA9876. Proposed Lot 3 in green, stages 1-3 of DA9876 in yellow. (Source: Approved plans and applicants' documentation)

Council provided comments on the boundary adjustment including:

- whether the boundary adjustment is compatible with the existing approved subdivision layout
- whether consideration of matters such as stormwater, parking and flooding should be undertaken at this stage
- access should be provided to Lugard Street

In the RtS, the applicant stated that the proposed boundary adjustment is consistent with the staging of DA9876. Further to this, the applicant outlined that the remediation, earthworks and geotechnical compaction works are currently underway in accordance with existing development consents applying to the subject site and those works will continue in accordance with those consents. This application is compatible with, and has no impact on, the land and works approved with existing consents.

With respect to the access to Lugard Street, the applicant stated that Stage 1 of DA9876 will create publicly accessible road connection to Lugard Street. The proposed boundary adjustment will not change the alignment of, or connectivity to, publicly accessible roads and future connections to essential services and utilities as approved with DA9876

The Department considers the boundary adjustment acceptable for the following reasons:

- the proposed boundary adjustment will comprise a legal transfer of land from Lot 3 to Lot 2 and will not require any works on site
- the boundary adjustment lot layout is compatible with the Stages 1-3 subdivision under DA9876, as seen in **Figure 7**
- the subject site is currently being remediated, with no services or easements running through the area of Lot 3 to be transferred.
- the adjustment will remove road access for Lot 3 to Lugard Street but provide it for Lot 2. Lot 3 will continue to have lot frontage to Old Castlereagh Road. The Department notes that the DCP stipulates access from Lugard Street which will be provided to Lot 2
- the Department is satisfied that suitable measures are in place under DA9876 to provide access and stormwater and flooding mitigation and management, and further consideration of these matters is not warranted under this consent.

5.2 Bushfire

The subject site is identified as being bushfire prone land. No bushfire report was provided with the development application.

Council in their submission stated that a Bushfire Assessment Report should be provided to consider the developments compliance with Planning for Bushfire Protection 2019 (PBP).

The applicant stated in the RtS that 100B of the Rural Fires Act 1997 (RF Act) does not apply to the site as the subdivision is not for residential purposes and the development is not for a Special Fire Protection Purpose. Therefore, a Bush Fire Assessment is not required.

The Department notes that the developments compliance with PBP must be considered pursuant to s4.14 of the EP&A Act, irrespective of whether the development meets the requirements for integrated development pursuant to 100B of the RF Act. Notwithstanding, the Department has not requested a bushfire assessment report and has undertaken an assessment of the development with the relevant provisions of PBP at **Appendix D**.

The Department is satisfied that the proposed development does not compromise the future development on the lot (as approved under DA9876) complying with PBP.

5.3 Certification of fill and site suitability

Penrith Council in their submission recommended that the Department consider whether there are any implications to outstanding land contamination, bulk earthworks and/or geotechnical compaction matters occurring on the site as a result of the boundary adjustment.

Council also requested conditions of consent be imposed requiring certification of the remediation works under the Penrith Lakes Scheme (DA1-4) and the current 2-year plan to ensure that the site is suitable for the proposed development.

In the RtS, the applicant stated that the matter of fill is already suitably addressed by Condition E26 to DA9876. This is not a matter that can be applied to DA23/17598 because this DA23/17598 does not seek consent for any earthworks and does not apply to the entire site to which DA9876 applies.

The Department notes that remediation works on the subject site are currently underway under a separate development consent. Further to this, the Department notes that this development application does not seek to undertake any physical works on the site nor any future use for the site, as such the Department does not consider it warranted to require the certification of works under a separate development consent.

The Department considers that the site is suitable for the proposed development (being a paper subdivision) in its current state without any need for the certification of remediation works.

6 Evaluation

The proposed development application seeks to alter the common boundary of Lot 2 and 3 DP 1263486.

The Department has reviewed the development application and assessed the merits of the proposal, taking into consideration all environmental issues associated with the proposal have been thoroughly addressed.

The Department's assessment of the proposal concludes that:

- it will result in negligible environmental impacts that can be appropriately managed via conditions of consent
- the development will facilitate the development of the site for employment generating purposes.

The proposal is considered to be in the public interest as it would provide public benefits, including:

- facilitating the development of the site for continued employment opportunities for the Western Sydney region
- have negligible additional environmental impacts above the existing approved development

Based on its assessment, the Department considers that the development is justified and in the public interest, and that the site is suitable for the proposed development. The Department recommends that the development application for the boundary adjustment be approved, subject to the recommended conditions of consent.

7 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- agrees with the key reasons for approval listed in the notice of decision
- grants consent for the boundary adjustment (DA23/17598), subject to the conditions in the attached instrument of modification.
- signs the attached instrument of consent (Appendix EError! Reference source not found.).

Recommended by:



Chris Eldred
Senior Planning Officer
Regional Assessments

Recommended by:



Erin Murphy
Team Leader
Regional Assessments

8 Determination

The recommendation is adopted by:

A handwritten signature in blue ink, appearing to read 'K T' followed by a horizontal line.

Keiran Thomas

Director

Regional Assessments

Glossary

Abbreviation	Definition
Council	Penrith City Council
Department	Department of Planning, Housing and Infrastructure
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental planning instrument
ESD	Ecologically sustainable development
LEC	Land and Environment Court
LGA	Local government area
LEP	Local environmental plan
Minister	Minister for Planning and Public Spaces
Planning Systems SEPP	State Environmental Planning Policy (Planning Systems) 2021
Secretary	Secretary of the Department of Planning, Housing and Infrastructure
SEPP	State environmental planning policy

Appendices

Appendix A – List of referenced documents

Statement of Environmental Effects

<https://www.planningportal.nsw.gov.au/daex/exhibition/nepean-business-park-boundary-adjustment-da2317598>

Submissions

<https://www.planningportal.nsw.gov.au/daex/exhibition/nepean-business-park-boundary-adjustment-da2317598>

Appendix B – Statutory considerations

Objects of the EP&A Act

A summary of the Department's consideration of the relevant objects (found in section 1.3 of the EP&A Act) are provided in Table 3 below.

Table 3 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	<ul style="list-style-type: none">The development does not seek to undertake any physical works on site, and as such will not impact on the states natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<ul style="list-style-type: none">The development does not seek to undertake physical works on site, with the development comprising a paper subdivision. Notwithstanding, the development will not lead to adverse economic environmental or social impacts as a result of the boundary adjustment.
(c) to promote the orderly and economic use and development of land,	<ul style="list-style-type: none">The development does not propose physical works, however will facilitate the subdivision of the site under a separate development consent.

Object	Consideration
(d) to promote the delivery and maintenance of affordable housing,	<ul style="list-style-type: none"> • Not applicable to the proposed development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<ul style="list-style-type: none"> • The development will have no impact on the any native animals, plants or ecological communities and their habitats as no physical works are proposed.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<ul style="list-style-type: none"> • The development does not propose any works on site, as such there will be no impact on built and cultural heritage.
(g) to promote good design and amenity of the built environment,	<ul style="list-style-type: none"> • No buildings works are proposed.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	<ul style="list-style-type: none"> • No buildings works are proposed.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	<ul style="list-style-type: none"> • The application is being considered by the Department as the site is within the Penrith Lakes Scheme for which the Minister is the consent authority.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<ul style="list-style-type: none"> • The application was publicly exhibited as discussed in Section 5.

Environmental Planning Instruments (EPIs)

State Environmental Planning Policy (Precincts - Western Parkland City) 2021

Chapter 5 of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Western Parkland SEPP)

The proposal is consistent with the aims of the Policy and has been assessed against relevant matters listed for consideration including clause 5.15 regarding land use zones, clause 5.38 regarding flood planning.

The statutory matters for consideration under Schedule 5(2) for development applications and Part 5.5 additional provisions for zoned land include a requirement for supporting technical reports and

plans to address environmental and amenity issues such as traffic, flood risk and management, water quality, heritage and contamination. The proposal was accompanied by these supporting technical reports.

The proposal is consistent with relevant development controls of this Chapter and can be supported.

The Department has considered the applicable provisions of this SEPP in **Table 4**:

Table 4 | Clause 5.12 Development for the purposes of implementing the Penrith Lakes Scheme

Requirement	Comment
Part 5.2 Development Control 5.18 Subdivision – Consent Requirements Land to which this Chapter applies may be subdivided, but only with development consent.	The application seeks to subdivide the Lot 2 and 3 by way of boundary adjustment. The application is seeking development consent.
Part 5.3 Permitted or prohibited development on zoned land	The site is located in on employment zoned land. Pursuant to clause 5.18, the development is permissible with development consent.

Requirement	Comment
<p>Part 5.5 Additional provisions for zoned land 5.27 Development on land zoned Employment</p> <p>Development consent must not be granted for development on land zoned Employment unless the consent authority has considered the following –</p> <p>(a) a water quality management plan and water operations plan for the Penrith Lakes Scheme that are endorsed by the Planning Secretary as being appropriate for the Scheme,</p> <p>(b) a traffic and transportation plan that includes proposals about the management of traffic impacts caused by the development,</p> <p>(c) whether a stable foundation exists or can be developed for the development,</p> <p>(d) whether the existing development platform (including subgrade) is or can be adequately protected from scour by the discharge of a 1:100 ARI (average recurrence interval) flood event,</p> <p>(e) whether the proposed development appropriately allows for potential differential settlement given the existing geotechnical conditions and the proposed foundation and for the geotechnical conditions present at the site to prevent excessive total and differential settlement.</p>	<p>(a) a water quality management plan has been endorsed by the planning secretary for the Penrith Lakes Scheme, notwithstanding, the proposed development does not propose any physical works and therefore will have no impact on the implementation of the plan</p> <p>(b) a traffic and transportation plan was not provided with the application, however as per above, the development does not propose any physical works and therefore will have no traffic or transport implications.</p> <p>(c) the site is currently undergoing remediation works to provide the stable foundation for future development, as yet the remediation works have not concluded. Notwithstanding, the development does not propose any physical works nor will there be any change in the current land use as a result of this boundary adjustment.</p> <p>(d) the development does not propose any works on the site, notwithstanding, the site is currently undergoing remediation works and will be subject to further works under DA9876 to ensure the site is compatible with the known flooding constraints of the site.</p> <p>(e) the development does not propose any works on the site, notwithstanding, the site is currently undergoing remediation works including compaction to ensure future development can appropriately be accommodated on the lot.</p>
<p>Part 5.6 Miscellaneous provisions Part 5.38 Flood planning</p> <p>The objectives of this section are :</p> <p>to minimise the flood risk to life and property associated with the use of the land,</p> <p>to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p>to avoid significant adverse impacts on flood behaviour and the environment.</p>	<p>The subject site is identified as being flood prone.</p> <p>(a) and (b) The development does not seek to undertake any physical works on the site and therefore there will be no change to the risk to life or property.</p> <p>(c) as physical works are proposed, the Department considers the development would not have an impact on flood behaviour</p> <p>The Department is satisfied that the development is consistent with the objectives of this clause.</p>

Requirement	Comment
<p>Development consent must not be granted for development on land to which this Chapter applies that is at or below the flood planning level unless the consent authority is satisfied that the development—</p> <p>is compatible with the flood hazard of the land, and</p> <p>is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>incorporates appropriate measures to manage risk to life from flood, and</p> <p>is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p>	<p>The department has considered the points (a) to (e) below:</p> <p>The development does not seek to undertake any physical works on the lot that could alter the existing flooding impacts.</p> <p>Given no structures are proposed, and no change to the existing landform is proposed the development, the department considers the development would not impact the flood behaviour or affectation to adjoining properties</p> <p>No physical works are proposed nor any change in land use. The development will have no impact on the risk to life or property.</p> <p>Given no physical works are proposed, it is considered that the development would not adversely impact the environment</p> <p>Based on the above, the Department considers that the development would not result in an unsustainable social or economic cost.</p>
<p>(1) Development consent must not be granted for development on land zoned Employment, Residential or Tourism unless the consent authority is satisfied that the development will not adversely affect the safe and effective evacuation of the land and the surrounding area.</p>	<p>As the development does not propose any physical works nor any change of use for the site, the development will have no impact on the safe and effective evacuation of the land and the surrounding area.</p>

8.1.1 State Environmental Planning Policy (Resilience and Hazards) 2021 (Reliance and Hazards SEPP)

The Resilience and Hazards SEPP includes the provisions of the former State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP), State Environmental Planning Policy No. 33 Hazardous and Offensive Development (SEPP 33) and the State Environmental Planning Policy No. 55 Remediation of Land (SEPP 55).

Chapter 4 of the Resilience and Hazards SEPP contains the provisions of the former SEPP 55.

The Applicant did not submit a contamination assessment with the application. Notwithstanding, the Department has considered the suitability of the site for the proposed development and notes that no physical work is proposed on site, nor is any change in the land use proposed.

Given the information available, the Department considers that the site is suitable in its current state without the need for further investigation or remediation works.

Appendix C – Penrith Lakes Development Control Plan

The Penrith Lakes Development Control Plan (the DCP) applies to the Tourism and Employment zoned land of Penrith Lakes. As the site is partly within the Employment zone, it applies to the development application. The Department has considered the proposed development against the DCP noting that the scope of works for the proposed boundary adjustment does not propose any physical works and both lots will be further developed under a separate development consent. Therefore, the Department considers that the proposed development is not inconsistent with the objectives and controls of the DCP.

Appendix D Planning for Bushfire Protection 2019

Planning for Bushfire Protection 2019 (PBP) applies to all development on bushfire prone land. The proposed development does not seek a specific land use for the future lots, however the Department considers it likely that future lots would be used for Commercial and/or industrial land uses.

Section 8.3.10 of PBP applies to commercial and industrial development, and where no residential component is proposed (such as the proposed development), the development should be considered against the aims and objectives of PBP. The Department has considered the development against the aims and objectives of PBP at Table 5.

Table 5 | Planning for Bushfire Protection 2019 considerations

Aim/Objective	Department Response
<p>The aim of PBP is to provide for the protection of human life and minimise impacts on property from the threat of bush fire, while having due regard to development potential, site characteristics and protection of the environment.</p>	<p>The proposed development seeks to undertake a boundary adjustment of Lots 2 and 3. No physical works are proposed, and the development will comprise a ‘paper subdivision’.</p> <p>The development will not increase the bushfire risk of the site, noting that future development will be undertaken on the lots pursuant to DA9876 that provides for a detailed subdivision. DA9876 comprises conditions towards the implementation of Bushfire Protection Measures. Further consideration of PBP will be undertaken as part of the detailed development of each future lot.</p> <p>The Department is satisfied that the development does not increase the risk to life or property.</p>
<p>The objectives of PBP are to:</p>	
<ul style="list-style-type: none"> - afford buildings and their occupants protection from exposure to a bush fire 	<p>No buildings are proposed as part of this development.</p>
<ul style="list-style-type: none"> - provide for a defensible space to be located around buildings 	<p>No buildings are proposed as part of this development.</p>
<ul style="list-style-type: none"> - provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent the likely fire spread to buildings 	<p>No buildings are proposed as part of this development.</p>
<ul style="list-style-type: none"> - ensure that appropriate operational access and egress for emergency service personnel and occupants is available 	<p>No access to the site is proposed as part of this boundary adjustment. Detailed subdivision of the site pursuant to DA9876 contains conditions requiring the implementation of ingress and egress and evacuation.</p>
<ul style="list-style-type: none"> - provide for ongoing management and maintenance of BPMs 	<p>Noted. No bushfire protection measures are proposed or considered warranted under this development. Detailed Bushfire protection measures will be implemented as part of the detailed subdivision of the site under DA9876.</p>

Aim/Objective	Department Response
<ul style="list-style-type: none"> - and ensure that utility services are adequate to meet the needs of firefighters 	<p>No utility connections proposed as part of this boundary adjustment. Detailed subdivision, including the provision of utilities is required under DA9876.</p>

Appendix E – Recommended Instrument of Consent

The instrument of consent can be found on the Department’s website as follows:

<https://www.planningportal.nsw.gov.au/daex/exhibition/nepean-business-park-boundary-adjustment-da2317598>

Appendix F – Notice of Decision

The notice of decision can be found on the Department’s website as follows:

<https://www.planningportal.nsw.gov.au/daex/exhibition/nepean-business-park-boundary-adjustment-da2317598>