

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW110
DA Number	DD010.2015.00000935.001
LGA	Wollondilly Shire Council
Proposed Development	Demolition of existing structures, bulk earthworks, remediation of land, staged subdivision to create 425 residential lots, 4 managed reserve lots (Lot 1001. 1002, 1003 & 1004), 1 residue lot (Lot 901), drainage infrastructure, landscape works and vegetation removal
Street Address	37, 41 & 46 Marsh Road and 1 Production Avenue, Silverdale Lots 1301, 1302, 1303 & 1304 DP 1236986
Applicant/Owner	Simba Developments Pty Ltd
Date of DA lodgement	16 December 2015
Number of Submissions	Advertising of original proposal 2 March 2016 – 14 submissions Advertising of amended proposed 17 August 2016 – 9 submissions 19 December 2016 – Wollondilly Shire Council resolved to make a detailed submission opposing to the proposed subdivision of the old Lion Park site. Total submission = 24
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV = \$34,176,432
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environment Protection and Biodiversity Conservation Act 1999 (Cth) • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulations 2000 • Contaminated Lands Management Act 1997 • Threatened Species Conservation Act 1995 • Native Vegetation Act 2003 • National Parks and Wildlife Act 1974 • Roads Act 1993 • Rural Fires Act 1997 • Water Management Act 2000 • State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 44 — Koala Habitat Protection • State Environmental Planning Policy No 55—Remediation of Land • State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 • Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997) • Wollondilly Development Control Plan 2016 • Wollondilly Developer Contributions Plan 2011 • Draft Western City District Plan • Wollondilly Dedication of Land Policy • Wollondilly Planning Agreement Policy.

List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Location map • Zoning map • Plan of subdivision • Staging plan • Survey plan including demolition details • Building envelope plan • Landscape plan • Engineering and civil plan • Draft conditions of consent
Report prepared by	Think Planner (consultant)
Report date	18 June 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (\$7.24)? **Yes**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

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ATTACHMENTS

Attachment 1 – Location map

Attachment 2 - Zoning map

Attachment 3 – Plan of subdivision

Attachment 4 – Staging Plan

Attachment 5 - Survey Plan including Demolition Details

Attachment 6 - Building envelope plan

Attachment 7 - Landscape plan

Attachment 8 - Engineering and civil drawings

Attachment 9 – Draft Notice of Determination

1 Executive Summary

- 1.1 Council is in receipt of a Development Application from Simba Developments Pty Ltd seeking approval for the demolition of existing structures, bulk earthworks, remediation of land, staged subdivision to create 425 residential lots, 4 managed reserve lots (Lot 1001, 1002, 1003 & 1004), 1 residue lot (Lot 901), drainage infrastructure, landscape works and vegetation removal. The proposed plan of subdivision and staging plan are provided as **Attachments 3 and 4** to this report.
- 1.2 The Development Application was notified for a period of 30 days on 2 March 2016 and 17 August 2016 as per the Wollondilly Development Control Plan (DCP) 2016. A total of twenty-four (24) submission were received including a detailed submission from Wollondilly Shire Council.
- 1.3 The site is part zoned R2 – Low Density Residential and part E2 Environmental Conservation pursuant to the Wollondilly Local Environmental Plan (LEP) 2011 (refer Attachment 2). Subdivision are permissible under Clause 2.6 of the LEP. A minimum lot size of 450m² applies to the subject site.
- 1.4 The site is identified as bush fire prone land. Council's records also show that it contains Shale Sandstone Transition Forest (High Sandstone Influence), which is listed as a Critically Endangered Ecological Community (CEEC) under Schedule 1A of the Threatened Species Conservation Act, 1995.
- 1.5 The proposal is consistent with the aims and objectives of *State Environmental Planning Policy (State and Regional Development) 2011* and the following legislations and environmental planning instruments.
 - Environment Protection and Biodiversity Conservation Act 1999 (Cth)
 - Environmental Planning and Assessment Act 1979
 - Environmental Planning and Assessment Regulations 2000
 - Contaminated Lands Management Act 1997
 - Threatened Species Conservation Act 1995
 - Native Vegetation Act 2003
 - National Parks and Wildlife Act 1974
 - Roads Act 1993
 - Rural Fires Act 1997
 - Water Management Act 2000
 - State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
 - State Environmental Planning Policy (Infrastructure) 2007
 - State Environmental Planning Policy No 44 — Koala Habitat Protection
 - State Environmental Planning Policy No 55—Remediation of Land
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997)
 - Wollondilly Development Control Plan 2016

- Wollondilly Developer Contributions Plan 2011
 - Draft Western City District Plan
 - Wollondilly Dedication of Land Policy
 - Wollondilly Planning Agreement Policy
- 1.6 The Development Application was referred for comments externally to Roads & Maritime Services, Endeavour Energy, NSW Rural Fire Service, Department of Primary Industries – Water, Water NSW (ex Sydney Catchment Authority), Office of Environment and Heritage, Cth Department of Environment and Energy, Department of Planning and Environment, Sydney Water, Councillor Barta, to which no concerns have been raised.
- 1.7 The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, including likely impacts, the suitability of the site for the development, and the public interest, and the proposed development is considered appropriate.
- 1.8 This report provides a brief commentary on compliance with all relevant legislation. The officer's detailed assessment report is located on the file.
- 1.9 Considering the above, it is recommended that the Sydney Western City Planning Panel determine the Development Application pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979* and grant consent subject to the to the conditions as provided at **Attachment 9**.

2 Site and Context

- 2.1 The land is legally identified as Lots 1301, 1302, 1303 and 1304 in DP 1236986 and described as No. 37, 41 & 46 Marsh Road and 1 Production Avenue, Silverdale (subject site). It is located on the north-western edge of the township of Silverdale and the south eastern extent of the township of Warragamba, bounded by Production Avenue to the north, Warradale Road to the northeast and Marsh Road to the east and southeast.
- 2.2 The land to the north of Production Avenue contains the Warragamba Recreation Reserve, whilst the land to the northeast of Warradale Road contains land once occupied by a theme park. The land to the east of Marsh Road contains existing residential development within the Silverdale village. Silverdale village contains a small village with a chemist, bakery, medical services, hairdresser, beauty salon and a local supermarket (**refer Attachment 1**).
- 2.3 The land adjoining to the south is vacant and is zoned for future residential development and is currently the subject of a development application (Development Application No. 010.2015.00000434.001) for a residential subdivision.
- 2.4 The subject site has a total land area of 42 hectares. It is an irregular shaped parcel of land with frontages of 225m to Production Avenue in the north and 359m to Marsh Road in the east. The site also has frontage to land that is zoned E2 Environmental Conservation and this corridor of land extends along the north eastern boundary of the site for more than 500m.
- 2.5 The site is situated on the lower eastern slopes of a hill. The ground surface slopes gently downwards from the east and the north east. The site lies at elevations between 170m and 190m above Australian Height Datum (AHD). The western site boundary is adjacent to the Warragamba Dam Catchment managed by Water NSW (ex Sydney

Catchment Authority). The site is within the Megarittys Creek Catchment. This catchment drains to Megarittys Creek located east of the site. Megarittys Creek drains into the Warragamba River downstream of the Warragamba dam located to north-west of the site.

- 2.6 The site is heavily vegetated. The vegetation is identified as Shale Sandstone Transition Forest (High Sandstone Influence), which is listed as a Critically Endangered Ecological Community (CEEC) under Schedule 1A of the Threatened Species Conservation Act, 1995. The Biobanking Assessment Report accompanying the development application has identified the key ecological values of the site as follows:

- 4.05 hectares of native vegetation across two plant community types (PCTs), including:
 - 0.76 hectares of Narrow-leaved Ironbark - Broad-leaved Ironbark - Grey Gum open forest, equivalent to the Shale Sandstone Transition Forest CEEC.
 - 3.29 hectares of Red Bloodwood - Grey Gum woodland.
- Habitat for several threatened species including 2.83 hectares of the Cumberland Plain Land Snail.

3 Background

- 3.1 The subject site has historically been utilised in its most recent history by the Bullen Family for an outdoor recreation facility known as the “African Lion Safari Park” (the Park). Consequently, portions of the site have been cleared for private roads. Native vegetation was extensively cleared or thinned to re-create the “savannah experience” so that the lions could be more easily seen.
- 3.2 To support the operation of the Park, a manager's residence was also located on the site. The site ceased to be used for public operations in 1991. Animals were kept on site until approximately 1995. Since then, the site been abandoned and consequently the structures are all derelict, particularly after the Christmas bushfires of 2001.
- 3.3 After the closure of the Park, the subject site was rezoned for urban development by Amendment 71 to *Wollondilly Local Environmental Plan 1991* (WLEP 1991) which was gazetted on 23 February 2007. The site was zoned primarily 2(a) Residential A and 7(e) Environmental Protection (Ecological Significance). The rezoning applied to both the subject site and the lot to the south, known as 65 Marsh Road (Lot: 2 DP: 588912).
- 3.4 Following the exhibition of the draft LEP Amendment the (then) developer and the Minister of Planning entered into a voluntary planning agreement (VPA) to deliver State infrastructure. The (then) developer also entered into a Voluntary Planning Agreement (VPA) with Wollondilly Shire Council. The existing State VPA and VPA with Council are reviewed later in this report.
- 3.5 The *Wollondilly Local Environmental Plan 2011* (WLEP 2011) commenced on 23 February 2011 by publication on the legislation website. The plan confirmed the site is part zoned R2 Residential Low Density and part E2 Environmental Conservation (**refer Attachment 2**). The Lot Size Map shows a minimum lot size of 450m² applying to the R2 zoned land on this site and 100 hectares is the minimum lot size for land zoned E2 Environmental Conservation.
- 3.6 The E2 zone was allocated to land having frontage to Warradale Road. The allocation of this zoning to this portion of the site was based on a Flora and Fauna Assessment prepared by Ecological Australia in 2005 which was undertaken to assist in the initial

rezoning assessment of the site. The zonings recommended, and their placement, reflected the quality and 'quantity' of vegetation present on site at that point in time.

4 The Proposal

- 4.1 The applicant seeks development consent for a Torrens title subdivision to create 425 residential lots, 4 managed reserve lots (Lots 1001, 1002, 1003 and 1004), 1 residue lot (Lot 901), remediation of land and vegetation clearing in 9 Stages (**refer Attachment 4 – Staging plan**). A variety of lot size ranging from 450m² to 846m² is proposed. The proposed residential lots will be released in a series of stages.

Stage	Number of residential lots	Number of public reserve lots
Stage 1	71	1 (Lot 1003)
Stage 2	50	
Stage 3	56	1 (lot 1002)
Stage 4	31	
Stage 5	59	
Stage 6	56	
Stage 7	69	1 (Lot 1001)
Stage 8	33	1 (Lot 1004)
Total	425	

- 4.2 The applicant also seeks to vary the frontage width requirement under the Wollondilly Development Control Plan. In support of the variation, a building envelope plan is submitted for those lots seeking variation (**refer Attachment 6**). The building envelope plan demonstrates that each lot can support a dwelling house with a building footprint of 150m² and comply with the required setbacks.
- 4.3 Stage 9 (Residue Lot 901), which adjoins the neighbouring Hill View Development Pty Ltd proposal (Lot: 2 DP: 588912), will be the subject of a separate future development application. Residue Lot 901 has the potential to create 29 residential lots.
- 4.4 The works associated with the development of the site will include the following (**refer Attachments 3, 4, 5, 7 & 8**):
- Staged construction of the subdivision;
 - Demolition of remaining dilapidated structures located on the site;
 - Remediation of the site in accordance with Remediation Action Plan;
 - Earthworks associated with the Torrens title subdivision;
 - Torrens title subdivision of Lot: 1 DP: 588912 to create 425 residential allotments;
 - Construction of associated drainage and water quality improvement works;
 - Dedication of relevant drainage structures to Council;
 - Dedication of cycleways to Council;
 - Dedication of fire trail to Council;
 - Dedication of road reserves; and
 - Environmental protection works.

Site Rehabilitation

- 4.5 Development consent is also sought for the rehabilitation of the site via a Remedial Action Plan (RAP), prepared by Coffey and dated 9 June 2016. The primary areas of environmental concern are in the north of the site (refer to Figure 1 and 2). The cluster of areas identified in the RAP as “Areas requiring remediation/management area” are predominately located in the north of the site, away from the initial construction stages of the subdivision. The initial stages of the development in the south-east section of the site enable the sequential development of the site as shown on the staging plan.
- 4.6 To comply with Clause 7 of *State Environmental Planning Policy No. 55- Remediation of Land*, the recommendation of the RAP will be conditioned to ensure that the site subject to appropriate remediation activities and final validation can be made suitable for future residential developments.

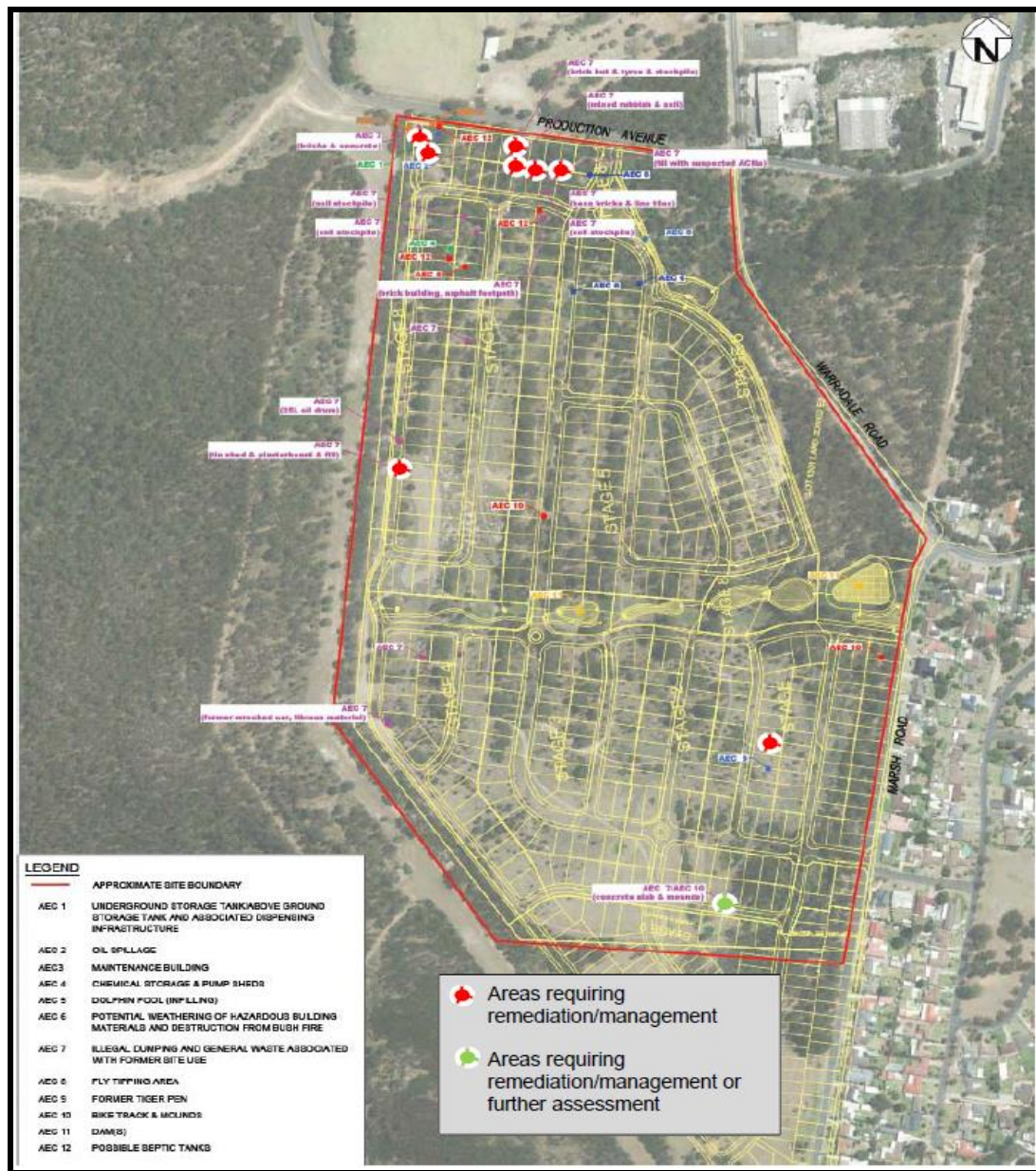


Figure 1 - Site plan (not to scale) showing identified contamination on-site

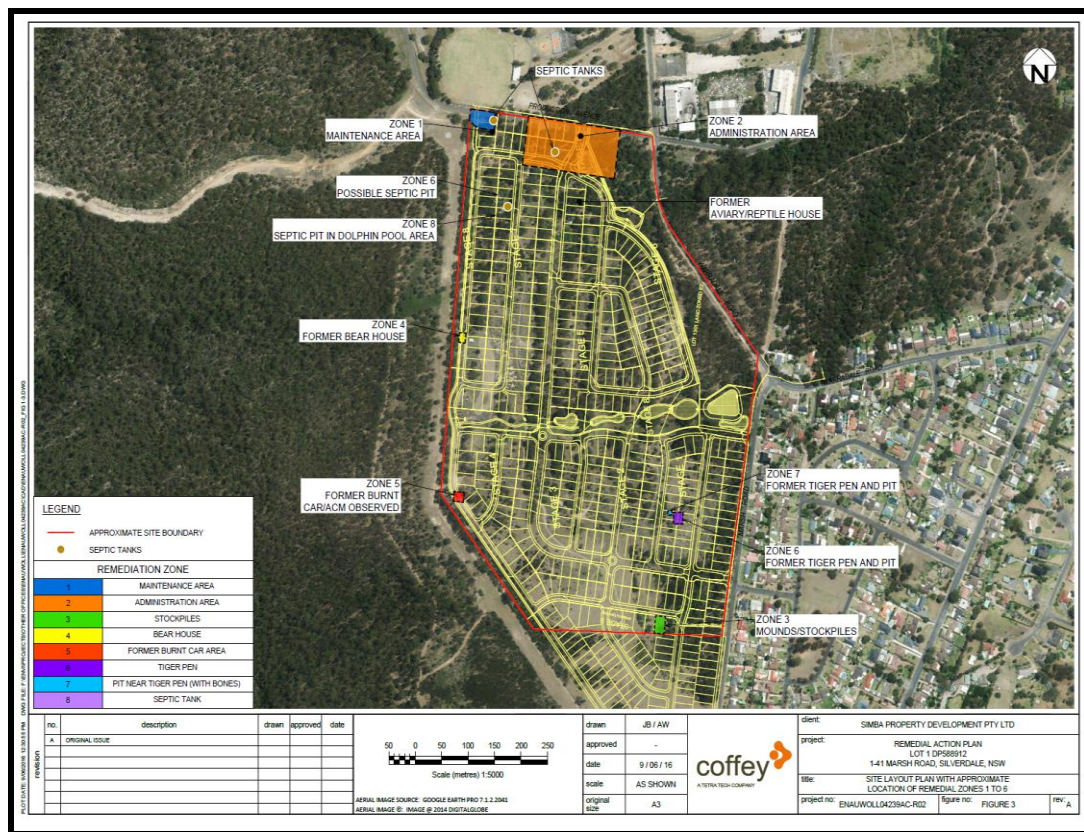


Figure 2 - Site layout plan with approximate location of remedial zones 1 to 6

Voluntary Planning Agreement (VPA)

- 4.7 The current VPAs between Council and the State Government were prepared essentially to enable the subdivision of both lots 1 & 2 DP 588912. The LEP was subsequently gazetted and the terms of the VPA were agreed so that the development would not result in a cost burden to the existing community.
- 4.8 The context in which these agreements were originally drafted has changed significantly in that:
- the two sites (Lots 1 and 2 DP 588912) are in separate ownership,
 - changes to State Government requirements for the collection of State Infrastructure Charges (SICs). Clause 6.1 of WLEP provides the mechanism for the collection of state infrastructure contributions. The previous mechanism for the collection of SICs was pursuant to Clause 51 of the repealed WLEP 1991.
 - BioBanking has been introduced as a means of managing environmental attributes of site,
 - The yield of development on the site has altered.
- 4.9 Since the purchase of the land, Simba have now commenced negotiations with Council and State Government to establish planning agreements which reflect the change in ownership, current requirements of the community and changes in legislative requirements.

State Planning Agreement – Satisfactory Arrangements

- 4.10 On 2 January 2012, Simba and Minister for Planning and Infrastructure executed a State Planning Agreement. The Planning Agreement provides that the Developer will make a monetary contribution of \$9,264 per lot for the purposes of the provision of designated State public infrastructure within the meaning of clause 6.1 of the

Wollondilly Local Environmental Plan 2011. The amount of the monetary contribution will be payable in instalments prior to the issue of each relevant subdivision certificate as set out in Schedule 4 to the Planning Agreement.

- 4.11 The Deputy Secretary, Growth, Design & Programs on behalf of the Secretary of Department of Planning and Environment, issued a revised Certificate for Satisfactory Arrangement on 2 January 2018 for contribution to the provision of designated State public infrastructure in relation to the subject development.

Council Voluntary Planning agreement

- 4.12 A VPA was executed with Council in 2006, and its terms were agreed so that the development of the site would result in an appropriate provision of infrastructure for the community. However, this VPA was never acted on, and the context in which this Planning Agreement was originally drafted has changed significantly in that:
- the two sites (Lots 1 and 2 DP 588912) are in separate ownership. This complicates separate development of the two allotments as discussed further later in this report.
 - BioBanking has been introduced as a means of managing environmental attributes of site.
 - The yield of development on the site has altered.
 - The infrastructure proposed when the Agreement was prepared in 2006 may not be relevant to today's needs.
 - Council now requires maintenance contributions to be paid for some types of community infrastructure.
- 4.13 The above matters need to be addressed when considering the infrastructure requirements of the proposed development and as a result the existing Planning Agreement is considered to be redundant and needs to be replaced.
- 4.14 Discussions between Council and the applicant in relation to a new Planning Agreement have been in progress and Council agreed to exhibit a new draft VPA at its meeting in April 2016.
- 4.15 In summary the draft VPA endorsed for exhibition includes (inter alia) the following key provisions and public benefits:
- It provides for the deregistration from the land of the existing 2006 Planning Agreement;
 - It provides for a monetary contribution of approximately \$5 million which will include funds for the following:
 - Regional playground at Warragamba
 - Youth recreation facility at Warragamba
 - Major road upgrading works including Marsh Road and other roads in the locality
 - Dedication of land on the development site for recreation purposes for use by residents of the development and other people;
 - Embellishment of the recreational area;
 - Dedication to Council of lands protected by a Biobanking Agreement and in perpetuity funding for maintenance
 - Dedication of a perimeter reserve including cycleways
 - Dedication of drainage infrastructure to Council;
 - Payment of money for in perpetuity maintenance of the drainage infrastructure and other lands to be dedicated

- 4.16 A copy of the draft VPA recommended for exhibition is included. Further revision to the draft VPA is required and is not finalised, therefore exhibition of the Draft VPA has not commenced. As a result, and to ensure that the VPA is concluded on terms satisfactory to Council and in line with the version adopted for exhibition, it is recommended that a condition is imposed for the applicant to provide a draft Planning Agreement prior to the issue of a Construction Certificate.

Dedication of Land

- 4.17 The applicant proposes to dedicate to Council; drainage reserves, managed reserves, cycleways, managed Asset Protection Zone (forming part of the perimeter road reserve). The land that is zoned E2 Environmental Conservation which is located along the Marsh Road is planned to be dedicated to Council as part of the VPA. The draft VPA letter from the applicant explains their intention to create that land parcel and then dedicate it to Council while making a monetary contribution to Council to facilitate the ongoing management of that lot and the site forming the majority of the E2 Environmental Conservation zoned land.

BioBanking

- 4.18 A BioBanking Assessment Report (BAR) prepared by Biosis, dated 9 December 2016 has found that Shale Sandstone Transitional Forest (SSTF) is located on the southern portion of the site. This vegetation community is listed as a critically endangered ecological community (CEEC) under the *Threatened Species Conservation Act 1995* (TSC Act) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
- 4.19 The portion of the property zoned as R2 Low Density Residential has been assessed as part of a BioBanking statement and forms the 'development site', while the majority of the E2 Environmental Conservation zone has been assessed as part of a BioBanking agreement and forms the 'BioBank site' (refer to Figure 3). As such separate Biodiversity Assessment Reports (BARs) have been prepared for the development site and the BioBank site.



- 4.20 A total of 0.91 hectares of the E2 Environmental Conservation zone will be required for environmental protection works, including drainage works as well as a cycleway associated with the proposal. 0.80 hectare will be managed as a drainage reserve in accordance with the VPA and Vegetation Management Plan (VMP). The VPA and VMP will also incorporate the ongoing management of Asset Protection Zones (APZs) and reserves throughout both the remainder of the development site which is zoned R2.

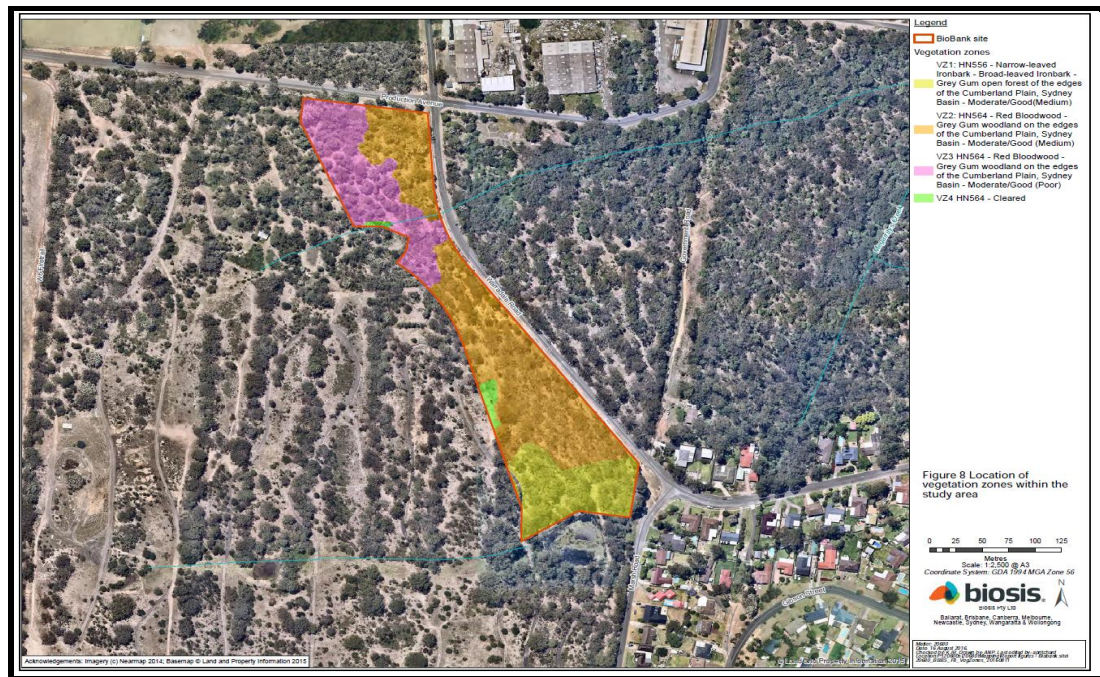


Figure 4 - Location of vegetation zones within the study area

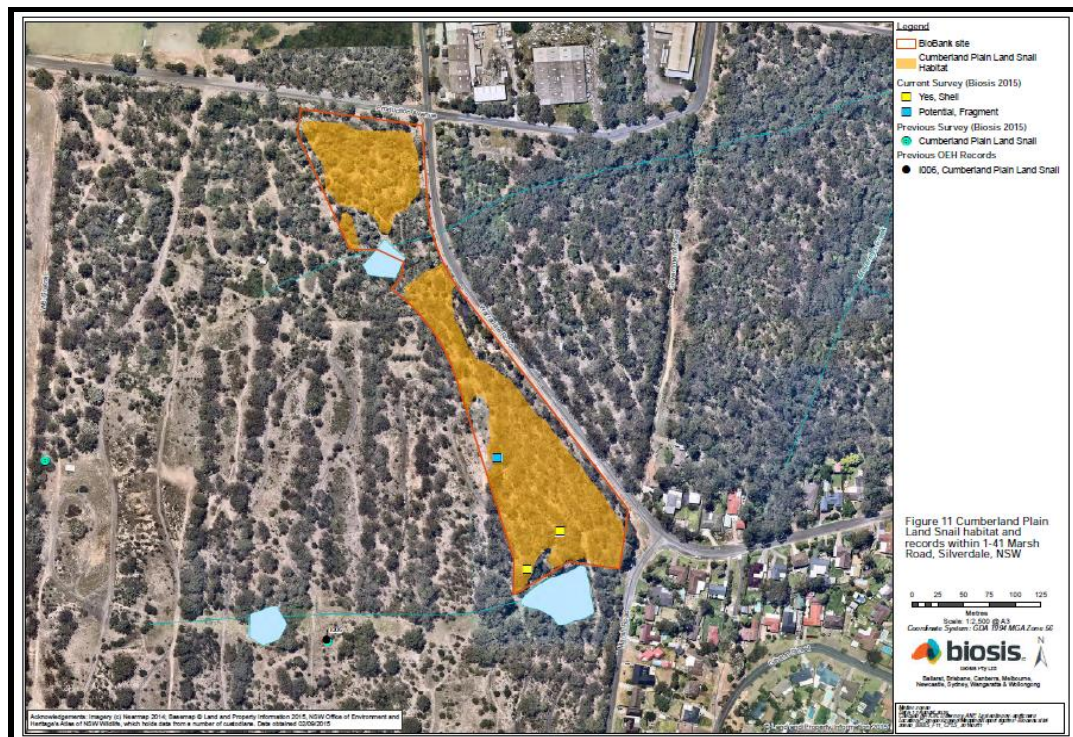


Figure 5 - Cumberland Plain Land Snail habitat and records within the study area

- 4.21 The requirement for BioBanking the site has resulted from the requirement of biodiversity offsets vegetation clearance associated with the development of the R2 zoned land. The proposed development will require the removal of SSTF. Due to the degree of impact to this CEEC, it is proposed to partially offset losses of vegetation and fauna habitat resulting from the proposed development through the retention of most of the land zoned E2 Environmental Conservation within a proposed BioBank site.

Environmental Protection Works

- 4.22 The applicant has prepared a Vegetation Management Plan (VMP) to address vegetation management strategies for the following: -
- weed control and prevention
 - storm water control
 - re-vegetation and regeneration
 - protection and maintenance of vegetation of conservational value
 - protection of the habitat and corridor value of the area
 - control of access to the site
 - monitoring, evaluation and reporting.
- 4.23 It also deals with management procedures for asset protection zones (APZ) to comply with NSW Rural Fire Service (RFS) requirements.
- 4.24 This VMP recommends guidelines to the developer so that the activities occurring within the revegetation and environmental conservation areas will not result in more than minimal affect to retained vegetation on site.
- 4.25 This VMP applies to all areas of retained native vegetation within the managed reserves and Asset Protection Zones within the subject site, excluding the Biobank Site which is to be managed in accordance with a Bio banking Agreement (Refer to Figure 6 and 7 below).



Figure 6 - Landscaped VMP areas

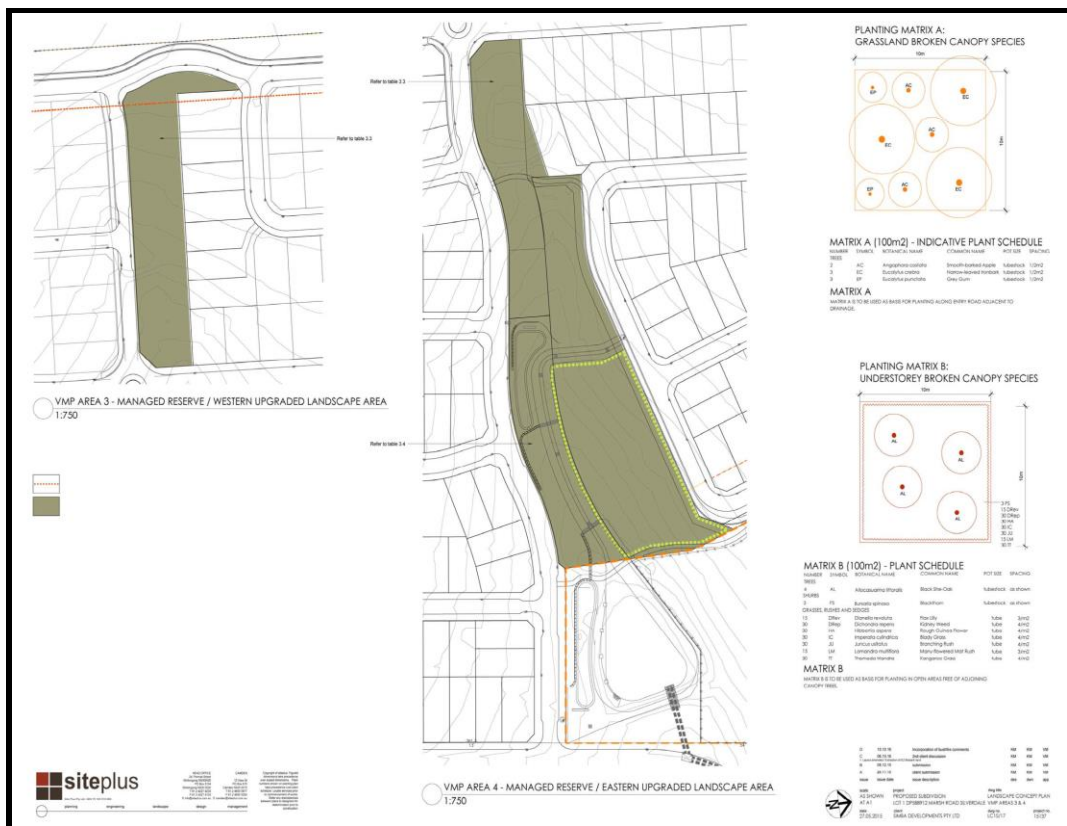


Figure 7 - Landscaped VMP areas

5 Assessment

Environmental Planning and Assessment Act 1979 – Section 4.15(1).

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA.

(a)(i) the provisions of any environmental planning instrument:

5.1 State Environmental Planning Policy (State and Regional Development) 2011 (SEPP 2011)

- (a) In accordance with Schedule 7 Regionally significant development of SEPP 2011, the proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) \$34,176,432 which exceeds the \$30 million threshold. While Council is responsible for the assessment of the Development Application, determination of the Application will be made by the Sydney Western City Central Planning Panel.

5.2 Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

- (a) The proposed development will require the removal of *Shale Sandstone Transition Forest in the Sydney Basin Bioregion* (Shale Sandstone Transition Forest). This vegetation community is listed as a CEEC under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The proposal requires referral to the Department of Environment and Energy (DEE) for a controlled action under the *Environmental Protection Biodiversity Conservation Act 1999* (EP&BC Act). The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC ACT) requires referral to and approval from the Commonwealth Minister for the Environment and Energy for actions which have, may have, or are likely to have a significant impact on a matter of National Environmental Significance (NES) or Commonwealth lands.
- (b) Approval was granted on 14 June 2017 subject to conditions. These conditions are included as Schedule 3 attached to the draft notice of determination.

5.3 Water Management Act 2000

- (a) The proposal will undertake works and activities within forty (40) metres from the top of bank of mapped watercourses that are located on adjoining land and/or traverse the site.
- (b) The application has been forwarded to the NSW Department of Primary Industries - Water (DPI Water) in accordance with Section 4.46 of the EP & A Act in respect to a Controlled Activity Approval under Section 91 of the *Water Management Act 2000*. DPI Water provided the following advice: -
- An assessment has been undertaken in accordance with the requirements of the Water Management Act 2000
 - A controlled activity approval is required, and a condition of consent is recommended to ensure that a Construction Certificate is not issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.

- The applicant must apply for a controlled activity approval after consent has been issued by Council and before the commencement of any work or activity on the waterfront land.
- (c) The General Terms of Approval are included as Schedule 4 attached to the draft Notice of Determination.

5.4 Rural Fires 1997

- (a) The application was referred to the New South Wales Rural Fire Services in accordance with Section 4.46 of the EP & A Act in respect to a Bush Fire Safety Authority required under Section 100B of the *Rural Fires-Act 1997*.
- (b) The Bushfire Protection Assessment has been reviewed by NSW Rural Fire Service and a Bushfire Safety Authority has been issued. The approval is for the subdivision of the land only and any further application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of the 'Planning for Bush Fire Protection 2006'.
- (c) Conditions of consent for the deemed bushfire safety authority are included in Schedule 5 attached to the draft Notice of Determination.

5.5 National Parks and Wildlife Act 1974

- (a) The application was referred to the National Parks and Wildlife Service NSW (NPWS) in accordance with Section 4.46 of the EP&A Act in respect to a grant of Aboriginal heritage impact permit in accordance with Section 90 of the *National Parks and Wildlife Act 1974*.
- (b) Three (3) items of Aboriginal Significance have been found on the site. It is proposed that these three (3) items be removed under an Aboriginal Heritage Impact Permit (AHIP). The NPWS have issued an AHIP for the removal of the items.

5.6 Roads Act 1993

- (a) RMS raised no objection to the proposal and advised that it is more appropriate for Council to review the safety and efficiency of the proposed access arrangement. Council's Development Engineering Section have recommended that, local road improvement works are needed to cater for the additional local traffic. These works are required to be undertaken along the Silverdale Road reserve to accommodate the development.

5.7 Threatened Species Conservation Act 1995 (TSC Act)

- (a) The objects of this Act are as follows:
 - (i) *to conserve biological diversity and promote ecologically sustainable development, and*
 - (ii) *to prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and*
 - (iii) *to protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and*
 - (iv) *to eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities, and*

- (v) *to ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and*
 - (vi) *to encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.*
- (b) A BioBanking Assessment Report (BAR) has been prepared for the development site and the BioBank site. The assessment has concluded that:
- Shale Sandstone Transitional Forest (SSTF) is found on the southern portion of the site which is listed as a critically endangered ecological community (CEEC) under the NSW Threatened Species Conservation Act 1995 (TSC Act); and
 - The Cumberland Plain Land Snail (Snail) (*Meridolum cameovirens*) which is listed as a threatened species under the TSC Act has been also found on the site.
- (c) It is considered that the proposed development is consistent with and responsive to the objects of the TSC Act.
- (d) Under Part 7A of the TSC Act, the applicant proposes to offset the proposed clearing on the development site using biodiversity offsets that improves biodiversity values at the BioBank site and compensates for loss of biodiversity on the development at another site.
- (e) On 15 March 2017, a BioBanking Statement (Statement ID: 32) was issued by the Acting Chief Executive of the Office of Environment and Heritage on the basis that the development, combined with the retirement requirements and on-site measures, will improve or maintain biodiversity values in accordance with the TSC Act. The determination was made on the basis of the impact of the development on biodiversity values in accordance with the BioBanking Assessment Methodology.
- (f) Schedule 2 to the BioBanking Statement sets out the ecosystem and species credit retirement conditions. Table 1 and 2 of Schedule 2 summarises the Ecosystem credits required to be retired as follows:
- Narrow-leaved Ironbark – Grey Gum open forest of the edges of the Cumberland Plain, Sydney Bioregion – 479 credits;
 - Red Bloodwood Grey Gum open forest of the edges of the Cumberland Plain, Sydney Bioregion – 276 credits; and
 - Cumberland Plain Land Snail – 158 credits.
- (g) Credit retirement shall be staged in accordance with the proposed clearing on the development site, see Figure 8. This credit requirement will be partially offset by the works and vegetation proposed in the E2 zoned land resulting in forty-three (43) ecosystem credits for the native vegetation on site and 20 species credits for the Cumberland Plain Land Snail.
- (h) As each construction stage is released, the relevant credits will be obtained to enable the development and release of that land. There are conditions of consent that require development to be carried out in accordance with the BioBanking Statement and supporting staging plan.

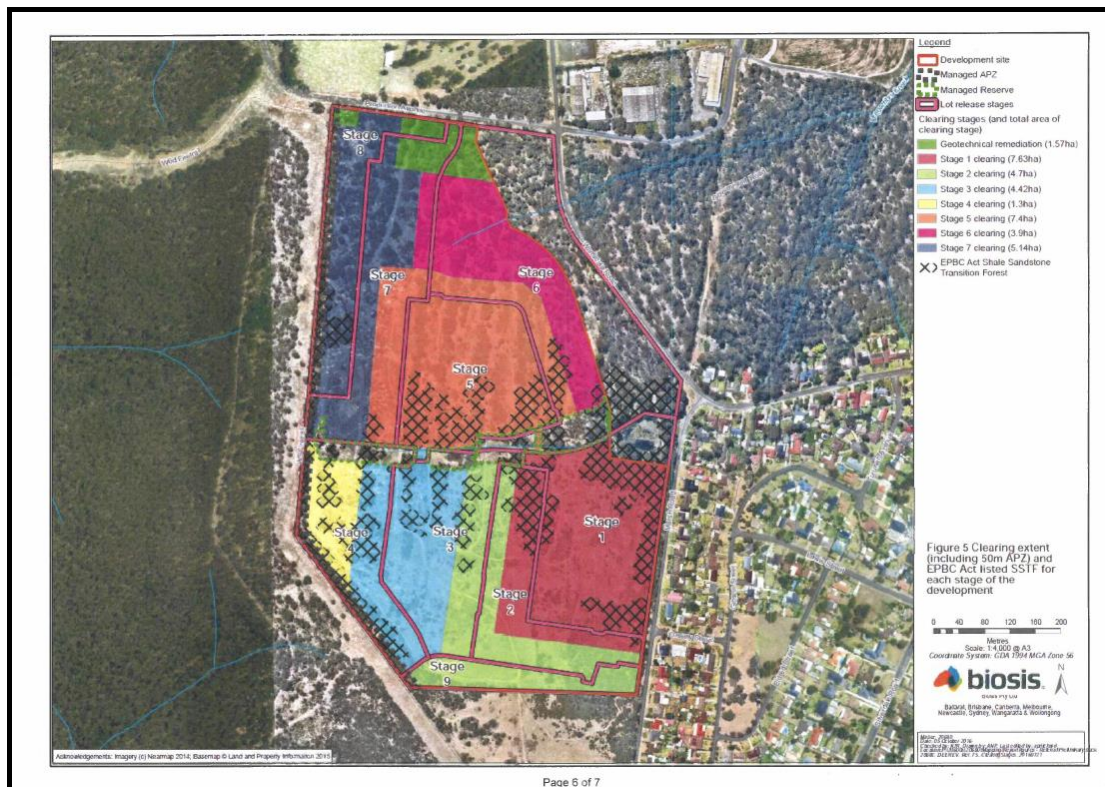


Figure 8 – Credit Retirement

5.8 Native Vegetation Act 2003

- (a) The clearing of native vegetation within land zoned E2 Environmental Conservation will be required for the drainage works and is subject to approval under the Native Vegetation Act. The loss of vegetation from this area has not been included in the current offset calculations, as clearing of native vegetation requiring approval under the Native Vegetation Act is not development for which BioBanking is available.
- (b) Approval for clearing of vegetation for drainage works in land zoned E2 Environmental Conservation will require approval from Local Land Services under the Native Vegetation Act 2003. Consideration has also been given to threatened species, populations or ecological communities):
 - Of the 0.78 ha of land, 0.45 ha of native vegetation in the form of Narrow-leaved Ironbark Broad-leaved Ironbark - Grey Gum open forest and Red Bloodwood - Grey Gum, including 0.28 hectares of habitat for Cumberland Plain Land Snail and 0.38 hectares of Shale Sandstone Transition Forest CEEC.
 - The drainage works are not considered to result in a significant impact to threatened species, populations or ecological communities.

5.9 Contaminated Lands Management Act 1997

- (a) The development application is supported by a Phase 2 Contamination Report and Remedial Action Plan Prepared by Coffey. The Phase 2 Contamination Report concludes that
- (b) *The extent of contamination in the southern part of the site (Stages 1 to 6) are relatively minor in scale and complexity and can be remediated comparatively quickly. The extent of contamination in the northern areas (stages 7 and 8) are potentially greater and will need to be undertaken during and following vegetation*

removal. Additional assessment and remediation can be undertaken in conjunction with the program of development works.

- (c) The Phase 2 Contamination Report informs the RAP which in turn identifies the following preferred remedial strategy.
- *Excavate and dispose offsite to landfill of the heavy metal / asbestos / pesticide-impacted surface*
 - *Soils and stockpiles, followed by validation of the excavations;*
 - *Visual asbestos clearance inspections following removal of bonded ACM on top of ground surface;*
 - *Excavation of deeper petroleum hydrocarbon contamination soils in the north-western area of the site (and removal of the UST, if encountered);*
 - *Further characterisation of groundwater contamination, with contingency options to include management, pathway containment (e.g. vapour barrier) or active in-situ remediation; and*
 - *Due to the relatively large site area, incorporating an unexpected finds protocol to manage other*
 - *Possible (not yet identified) contamination (if any).*
- (d) The RAP has also identified validation methodology and procedures and appropriate measures in the event of unexpected finds of potential contamination on site.

5.10 Environmental Planning and Assessment Regulation 2000

- (a) The proposal does not contravene the Environmental Planning and Assessment Regulation.

5.11 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

- (a) The land subject to this development application includes land that is zoned E2 Environmental Conservation located at the corner of Marsh and Warradale Roads. The subdivision to create the parcel of E2 land has been processed according to the provisions of Clause 2.75 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. This section of the Codes SEPP states that

*“The subdivision of land, for the purpose **only of any one or more of the following**, is development specified for this code:*

- (a) creating a public reserve,*
- (b) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.”*

- (b) As the development application is not only a subdivision for the creation of a public reserve or only to excise a lot to be used for a public purpose but rather for the purposes of creating a large urban release residential subdivision which also results in an environmental lot. Hence the creation of the E2 lot can be considered as long as this is created prior to the proposed subdivision.

- (c) The subdivision to create the E2 land has been registered with the NSW Land Registry Services and evidence of this has been provided to Council. The plan of subdivision creates two lots: the E2 lot and the remaining residential land.

5.12 State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

- (a) In accordance with Clause 104 of ISEPP, the proposed development has been referred to the NSW Roads and Maritime Services for review and comment. Schedule 3 of SEPP (Infrastructure) 2007 states that subdivision of land creating 200 or more allotments is considered traffic generating development to be referred to the RMS.
- (b) The application has been referred to RMS with the following comments are provided:
- No objection is raised to the proposed development subject to the access arrangements the broader road network complying with Council's Development Control Plan.
- (c) As the proposal complies with the access arrangements within Council's Development Control Plan and the RMS has raised no objection to the proposal, the provisions of ISEPP have been satisfied.

5.13 State Environmental Planning Policy No 44 - Koala Habitat Protection

- (a) *State Environmental Planning Policy No 44 - Koala Habitat Protection* (SEPP 44) applies to the whole of the Wollondilly Local Government Area. Part 2 of SEPP 44 applies to the proposed development.
- (b) The proposed development is supported by a Biodiversity Assessment Report (BAR) prepared by Biosis Pty Ltd, dated 2015 (Project no. 20680). The BAR assessment provides the following assessment of Koala habitat on the subject site.

"The study area contained one feed species listed as preferred species in accordance with SEPP 44. The Grey Gum constitutes 15% of the overstorey tree species within HN556 PCT. In addition, there is a growing body of evidence that identifies the importance of shelter (non-food) trees to koalas. On this basis, surveys for the koala were included as a part of targeted, including tree assessment and opportunistic searching around the base of trees for scats. Using the methodology outlined in Section 6 of Commonwealth of Australia (2014) the study area does not contain habitat critical to the survival of the koala."

- (c) In accordance with clause 8 of SEPP 44, a council must satisfy itself that the land is a potential habitat and whether or not the land is a core koala habitat before granting any consent.
- (d) Based upon the information provided by the applicant, the land is not considered to be core koala habitat and the consent authority may determine the development application without further assessment.

5.14 State Environmental Planning Policy No. 55 – Remediation of Land

- (a) Section 7 Contamination and remediation to be considered in determining development application.

- (b) The development application is supported by a Phase 2 Contamination Report and Remedial Action Plan Prepared by Coffey. The RAP concludes that subject to appropriate remediation work the site is capable of development for residential purposes.
- (c) An appropriate condition is recommended that prior to the issue of any Subdivision Certificate for the development Council shall be provided with a Category “A” Site Audit Statement under the Contaminated Land Management Act, 2008 which confirms that the site is suitable for *“Residential with accessible soil, including garden (minimal home grown produce contributing less than 10% fruit and vegetable intake), excluding poultry”*.
- (d) Subject to appropriate remediation works and validation, the site can be made suitable for the intended residential purposes. The recommendations of the RAP will be conditioned accordingly.

5.15 Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (SREP 20)

- (a) While the subject site is not located within the boundary of SREP 20, it is considered that assessment against the SREP is warranted due to the site predominantly draining into the Hawkesbury Nepean Catchment
- (b) The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and strategies set out in Clause 6. Provision will be made for adequate erosion and sediment control measures to ensure sediment because of the development is not deposited in the Hawkesbury Nepean River via the stormwater system.
- (c) Stormwater run-off from the proposed development will be via drainage easements leading into the detention basins. The proposed method of stormwater management has been identified as the most suitable method of stormwater drainage for the proposed development. Council’s Development Engineer has reviewed the proposed development regarding stormwater drainage and is satisfied with this aspect of the proposal.
- (d) A comprehensive and complete assessment against all relevant SREP No. 20 controls can be found on Council’s file.

5.16 State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

- (a) This Policy applies to land within the Sydney drinking water catchment. The subject site is located partially within the Sydney drinking water catchment. In accordance with Clause 10(1) of the SEPP, a consent authority must not grant consent to the carrying out of development under Part 4 of the Act on land in the Sydney drinking water catchment unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.
- (b) Based on the information provided, development on the portion of the site currently within the drinking water catchment has been assessed by Water NSW as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.
- (c) Water NSW would therefore concur with granting consent to the application, subject to the conditions provided in their letter dated 14 March 2016 being incorporated into any conditions of consent. These conditions of consent are in the proposed draft conditions.

5.17 Wollondilly Local Environmental Plan 2011 (WLEP)

- (a) WLEP applies to the site. The proposed development has been assessed to comply with the provisions of the LEP. A detailed assessment against the provisions of the LEP has been undertaken and is located on Council's file.

(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

5.18 Draft Environment State Environmental Planning Policy (Draft SEPP)

- (a) The Draft Environment SEPP concluded public exhibition on 31 January 2018. The purpose of the SEPP is to consolidate seven (7) existing SEPP's into a consolidated document to simplify the rules for a number of water catchments, waterways, urban bushland and the Willandra Lakes World Heritage Property. As the Draft Environment SEPP is not considered imminent or certain, no significant weight to this proposed planning instrument has been given in this instance.

(a)(iii) the provisions of any development control plan

5.19 Wollondilly Development Control Plan 2016

- (a) A comprehensive and complete assessment against all relevant volumes and controls in WDCP 2016 is located on the file. The proposed development is considered generally consistent with the objectives and controls of WDCP 2016.
- (b) Variations are proposed with the development application to control 2.4(2) of Volume 3. Majority of the lots are compliant with minimum dimensions; however, variation to minimum lot width is proposed for proposed lots 157, 355, 356, 538, 655, 656, 705, 706, 707, 729 and 822.
- (c) These allotments propose widths below the minimum requirements of control 2.4(2). The non-compliance is a direct result of the proposed allotments location with the road networks, including on bends, arcs or irregular corners.
- (d) Despite this, the application proposes building envelopes to demonstrate that the lots are of a sufficient to enable the construction of a dwelling of an appropriate and satisfactory size.
- (e) As the non-compliances are shown as unlikely to detrimentally affect the allotment's potential for an appropriate sized dwelling, and as they are a result of locations within the road network, support for the variations is deemed appropriate and is recommended.

(a)(iia) the provisions of 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.

- 5.20 As stated earlier in the report, discussions between Council and the applicant in relation to a new Planning Agreement have been in progress and Council has resolved to exhibit a new draft VPA at its meeting in April 2016.

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

5.21 There are no matters prescribed by the regulations.

(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

5.22 Context and setting

- (a) The development proposal is located on land that was previously used for rural related purposes. The land was rezoned to permit urban development more than a decade ago in 2007. At that time Wollondilly Shire Council envisioned the site being capable for urban development with the minimum lot size control of 450m². When these policies and planning controls were established the desired future character for this land experienced a significant step change which is not dissimilar to other urban release area developments within the Shire.
- (b) In the circumstances where there is a changing and emerging character for urban release area development there are 2 key issues that need to be considered to ensure the development integrates with the surrounding development and community. The first issue is the interface with the existing and surrounding development. To address the interface, the proposed subdivision layout has been designed to provide large residential lots along these sensitive interface areas. Large lots will provide a better transition to the other style residential lots that are located on the eastern side of Marsh Road. The proposal also comprises plans to construct pedestrian pathways and cycleways to link and integrate the new development with the existing surrounding development.
- (c) The second key issue to address where the character and context is changing is the creation of a high-quality garden setting. The proposed subdivision layout has been designed around the retention of a large corridor of E2 zoned land at the corner of Marsh Road and Warradale Road. The preservation of this high-quality biodiversity corridor enables the conservation of the highest quality flora and fauna on the site. The large areas of proposed passive and active open space which form the east west spine of the development site (also dual purpose as drainage and stormwater infrastructure) serve to complement the E2 land further enhancing the garden setting of the proposed subdivision.
- (d) The landscape concept plan and entry statement feature which are also incorporated in the proposal, facilitate further plantings and embellishment which facilitate the creation of an appropriate garden setting for the proposed subdivision.
- (e) Therefore, it can be concluded that the proposal is commensurate with the emerging context and setting of the site in that it has been designed with a sensitive interface to the existing surrounding community and that the proposal incorporates features of a garden setting to ensure a high-quality landscape embellishment occurs on site.

5.23 Access and traffic

- (a) The proposed road network is consistent with the form and objectives of the DCP 2016 Volume 2 – Urban Release Areas Section 2.2 Marsh Road, Silverdale (Former Lion Safari Park). This section of the DCP identifies a hierarchy of

streets that give a safe and connected public transport, vehicular, pedestrian and cycleway network.

- (b) The proposal includes appropriate local road links to collector roads and intersection treatments that accommodate future precinct traffic generated by the development. The design of internal roads complies with the DCP in terms of width and hierarchy.
- (c) The development delivers pedestrian pathways and shared pedestrian/bicycle pathways through the development that are consistent with the DCP.
- (d) The proposed road network complies with the requirements of DCP and can accommodate the traffic generated by the development.
- (e) Construction vehicle access is to be managed through a Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control to be submitted and approved prior to the issue of a Construction Certificate. This matter is recommended to be suitable conditioned.

5.24 Flora and fauna

- (a) The Development Site has been subject to a full Biodiversity Assessment and BioBanking Statement 32 has been issued by the Office of Environment and Heritage (OEH) in regard to the proposed development and associated infrastructure.
- (b) The proposed BioBank site within the E2 zone has been subject to a full Biodiversity Assessment and is being reviewed by OEH for BioBanking purposes.
- (c) The applicant has complied with the Threatened Species Conservation Act, as it applies to the Shale Sandstone Transitional Forest (SSTF) and Cumberland Plain Snails present on site.
- (d) The proposal also required referral to the Department of Environment and Energy (DEE) for a controlled action under the *Environmental Protection Biodiversity Conservation Act*. A controlled action approval has been received by Council on 14 June 2017 and the conditions are included as Schedule 1 to the recommended conditions of consent.

5.25 Social and economic impacts

- (a) The proposal represents a significant contribution towards the establishment of a new greenfield master planned estate in Wollondilly Shire Council. The proposed subdivision delivers open space and biodiversity land that facilitate a high-quality living environment for the future residents. The new cycleways and pedestrian pathways proposed, which link back into the surrounding neighbourhood will permit an active lifestyle for residents as well as the existing and surrounding local community.
- (b) Consultation with the local infrastructure service providers has occurred during the assessment of this development application which reveals that all public utility infrastructure can be made available to the site with simple amplification of these services. Therefore, the land is ideally positioned to deliver housing for the local community. The proposal will not only provide major social and economic benefits to the wider community but also to the future residents of the estate.

(c) the suitability of the site for the development

- 5.26 The proposed development has adequately addressed the key concerns including bushfire, traffic, drainage, tree removal/landscaping and accessibility. In addition, the layout of the proposed subdivision and its location are within proximity of the existing local centre amenities of Silverdale. The proposed development is compatible with surrounding and adjoining land uses; therefore, Council can be satisfied that the site is suitable for the proposed development.

(d) any submissions made in accordance with this Act or the regulations.

- 5.27 On 2 March 2016, the development application was advertised for a period of 30 days. A total of fourteen (14) submissions were received by Council.

On 17 August 2016, the amended development application was re-advertised for a period of 30 days. A total of nine (9) submissions were received to the re-advertised application.

On 19 December 2016, Wollondilly Shire Council resolved to make a detailed submission to the Planning Panel opposing, in its current form, the development application for subdivision of the old Lion Park site.

In total, there are twenty-four (24) submissions received for this development application. Issues raised by the submitters are addressed below.

Common issues raised by submitter	Assessor Comment
Traffic	<p>The proposal is supported by a Traffic Impact Assessment concludes that:</p> <ul style="list-style-type: none">• The available sight lines to/from the new intersections to serve the subdivision are satisfactory as they exceed the Safe Intersection Sight Distance Requirement of Austroads.• The internal road widths are sufficient to cater for 2-way traffic flows.• The development proposal is sufficient to enable access and circulation by a Heavy Rigid Vehicle which exceeds Council's garbage truck turn path and size requirements.• The proposed new intersections to serve the new subdivision and the existing intersection configurations surrounding the site will operate at a very good level of service with minimal delays.• The peak hour vehicle trips generated by the proposal will not have any unacceptable impacts on Marsh Road or the surrounding road network. <p>Notwithstanding this, a broader traffic study was undertaken by an independent traffic consultant which takes into account all the urban release area development occurring in this locality. Council's traffic engineer has reviewed the findings of this</p>

Common issues raised by submitter	Assessor Comment
	<p>report and recommends the following road/intersection upgrading work:</p> <ul style="list-style-type: none"> • Upgrading of the intersection of Marsh Road and Silverdale Road such as pavement improvements, kerb and gutter, widening and associated drainage • Road safety Improvements to the intersection of Marsh Road and Silverdale Road including but not limited to signage and line-marking • Full reconstruction and widening of Marsh Road <p>These new local road upgrades and intersection upgrading work is required to be completed as per the recommended conditions of consent.</p> <p>The conditions of consent require submission of a construction traffic management plan. This plan is to ensure the noise, dust and local traffic impacts are appropriately managed during the construction period.</p>
Loss of rural character	<p>The land was previously used for rural related purposes however in 2007, the decision to rezone the land for urban development was endorsed by Council. At this time the minimum lot size control and site-specific Development Control Plan was also endorsed by Council.</p> <p>The loss of rural character is not resulting from this development but is a decision made by Council more than 10 years ago to support development of the land for urban purposes.</p> <p>The minimum lot size requirement is published in the LEP as 450m² and suggestions that this should be increased to 750m² would require an amendment to the LEP. This cannot be enforced for the current development application and cannot be used as ground or a reason for refusal. It is noted that minimum lot sizes throughout the growth areas of Sydney range between 500m² through to 125m². Although a minimum lot size of 450m² seems a dramatic change to the existing lot sizes in Silverdale, there has been a significant shift in population growth and minimum lot size standards. In comparison a minimum lot size of 450m² is reasonably large for an urban release area.</p> <p>It is estimated that the average new dwelling is approximately 200m² and in the case, there the minimum lot size is 450m², this permits a site to be developed with a large area of green space and</p>

Common issues raised by submitter	Assessor Comment
	<p>landscape embellishment. Deep soil planting and landscape embellishment will ensure this development blends with the surrounding existing communities and creates a high quality residential community.</p> <p>There is a suggestion that a masterplan is needed for the development of this land however, there are not statutory provisions to require a masterplan. In this case there is a site-specific Development Control Plan to guide development of this land and the proposal has been considered against these relevant provisions. Generally, the proposal complies with the relevant requirements of the Development Control Plan and where there are variations proposed then this has been addressed to Council's satisfaction.</p> <p>The African Lion Safari Park has not operated from the site for more than 15 years and the site remains underutilised since that time. The proposed subdivision seeks to develop the land in accordance with the zoning provisions and relevant development standards.</p>
Community infrastructure needed	<p>Community related infrastructure including new schools, retailing facilities, emergency services, medical services and the like will likely be required when the large number of new urban release areas within the Shire are developed. There are existing services within Warragamba township which provides a local centre servicing the local community. As demand increases the local community facilities will also be under pressure to increase. There is ample land that is zoned to permit further development of local retailing services and the like.</p> <p>The provision of schools is managed by the NSW Department of Education and as the number of school aged children increases within this precinct then new school placements can be accommodated within the existing local schools. The development of 425 new residential lots alone does not demand its own new school site. It is considered that amplification of existing schools can cater for the new population.</p> <p>The proposal provides more than 15,000m² of passive open space areas which form an east to west spine through the development. There is a local playground already located across to the Northern side of Production Avenue and this will service the new residents. The new pedestrian pathways and cycleways will link the new</p>

Common issues raised by submitter	Assessor Comment
	community back through to Warragamba and these existing active open space facilities.
Cycleways and pedestrian pathways	The subdivision layout has been designed to cater for new pedestrian and cycleways along the eastern boundary of the site where the site interfaces with the Sydney Water land as well as a path that is directly adjacent to the E2 corridor. These new cycleways are to be delivered by agreement by the developer and have been committed to in the VPA.
Public utility infrastructure	<p>Water and sewer services will be augmented to service the site because of the development proposal as required.</p> <p>All proposed lots are to be serviced by reticulated sewage and water.</p> <p>Sydney Water notes that there is sufficient trunk water capacity to service the proposed subdivision and that the subdivision will be serviced via extensions from the existing 200mm water main in Marsh Road and the 250mm main in Warradale Road.</p> <p>In terms of waste water there is sufficient trunk waste water capacity to service the proposal with a wastewater extension being required to service the proposed subdivision from 225mm main located within Lot 2 Warradale Road which will provide a point of connection at least 1m inside all the property boundaries.</p> <p>Appropriate conditions of consent are recommended to ensure services are provided to all lots prior to the release of a subdivision certificate for a lot on the subject site.</p> <p>Electricity is available to the site and negotiations will occur with Endeavour Energy for its extension through the site.</p>
<p>Wollondilly Shire Council</p> <p>A submission was received from Wollondilly Shire Council which raises similar concerns as addressed above. Each key issue raised is listed and addressed as follows.</p>	<p>Inappropriate density</p> <p>At the time of rezoning for the land from rural to urban purposes there was no maximum floor space ratio controls applied to the site. The density is generally controlled by the minimum lot size. The proposed development complies with the minimum lot size requirements.</p> <p>Small lot sizes</p> <p>The minimum lot sizes proposed comply with the development standards of the Wollondilly LEP.</p>

Common issues raised by submitter	Assessor Comment
	<p>Sympathetic design with larger blocks to Warragamba</p> <p>The lots that front onto Warradale Road are the largest lots within the development scheme. This intention is to align with council's vision for creating a cohesive integration between the proposed development and the existing community within Warragamba.</p> <p>Impact on roads and infrastructure</p> <p>Please refer to discussion above related to both access and traffic impacts along with public utility infrastructure.</p> <p>E2 zone should be extended</p> <p>A development application cannot seek to extend an existing zone. This would need to be facilitated by a planning proposal.</p> <p>Loss of koalas</p> <p>Biosis carried out a biodiversity assessment report which reveals that:</p> <p><i>The study area contained one feed species listed as preferred species in accordance with SEPP 44. The Grey Gum constitutes 15% of the overstorey tree species within HN556 PCT. In addition, there is a growing body of evidence that identifies the importance of shelter (non-food) trees to koalas. On this basis, surveys for the Koala were included as a part of targeted, including tree assessment and opportunistic searching around the base of trees for scats. Using the methodology outlined in Section 6 of Commonwealth of Australia (2014) the study area does not contain habitat critical to the survival of the koala.</i></p> <p>In accordance with clause 8 of SEPP 44, before a council may grant consent to an application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself whether or not the land is a core koala habitat.</p> <p>Based upon the information provided by the applicant, the land is not considered to be core Koala habitat and the consent authority may determine the development application without further assessment.</p>

Common issues raised by submitter	Assessor Comment
	<p>Evacuation concerns in the case of flooding</p> <p>The proposed area for residential subdivision is not affected by the flood planning level as they proposed lots are located above the flood level.</p> <p>Requests the panel meeting occur on an evening to permit residents to attend</p> <p>Objectors will be advised about the proposed meeting date for the Joint Regional Planning Panel. The Panel meeting dates are normally during day time hours.</p> <p>A Councillor or staff member would like to address the panel meeting.</p> <p>There is an opportunity for representations to occur at the Joint Regional Planning Panel meeting.</p>

(e) The public interest

- 5.28 The proposed development has addressed the requirements of the relevant planning instruments and development controls including the objectives of the zone. The proposed development has demonstrated that the site is suitable for the proposal. The proposal promotes residential subdivision of land to accommodate the growth predicted in the NSW Government's A Plan for Growing Sydney and the draft Western City District Plan. The proposal development will include public facilities including a future park and land dedicated to for public recreation and associated amenities. Council can be satisfied that the proposal is in the interest of the public.

6 External Referrals

- 6.1 The subject Development Application was referred to the following public agencies as summarised in the table below.

External agencies	Response
RMS	24 August 2016, RMS has reviewed their level involvement on classified regional roads and advised that any proposed works on Silverdale Road would require S138 consent from Council and concurrence from RMS under S138 of the Roads Act 1993 subject to the applicant demonstrating the proposed works are acceptable and comply with relevant standards.
Endeavour Energy	24 March 2016, generally comments provided. Supporting documents were forwarded to the applicant at the request of Endeavour Energy.
RFS	4 November 2016, a conditional Bush Fire Safety Authority was issued under s100b of the Rural Fires Act 1997. The recommended conditions will be incorporated into the Notice of Determination.

Department of Primary Industries – Water	3 May 2016, General Terms of Approval issued. The applicant is also required to apply for a Controlled Activity Approval prior to the commencement of works. This will be conditioned.
Water NSW (ex Sydney Catchment Authority)	On 14 March 2016, concurrence was granted to the proposed development by Water NSW subject to conditions which are provided in Schedule 1. The recommended conditions will be incorporated into the Notice of Determination.
Office of Environment and Heritage	8 April 2016, General Terms of Approval issued for those known Aboriginal sites requiring an Aboriginal Heritage Permit (AHIP) pursuant to s90 of the National Parks and Wildlife Act 1974. The amended application did not amend the original advice and the general terms of approval are provided in Schedule 2.
Cth Department of Environment and Energy	Approval granted on 14 June 2017 subject to conditions.
Department of Planning and Environment	A revised notice of Satisfactory Arrangements was issued by the Department of Planning and Environment on 2 January 2018. This Planning Agreement requires a contribution of \$9,264 per residential allotment.
Sydney Water	Sydney Water has raised no objection to the application. Water, wastewater and connection options have been provided.
Cubbitch Barta	Three (3) items of Aboriginal Significance have been found on the site. It is proposed that these three items be removed under an Aboriginal Heritage Impact Permit (AHIP). The NPWS have issued an AHIP for the removal of the items.

7 Internal Referrals

- 7.1 The subject Development Application was referred to the following internal sections of Council as summarised in the table below:

Internal Referrals	Response
Development Engineer	Satisfactory subject to conditions.
Environment Officer	Satisfactory subject to conditions. Contamination - no concerns subject to the imposition of conditions to ensure the remediation of land prior to the issue of a subdivision certificate.
Section 94	The current VPAs between Council and the State Government were prepared essentially to enable the subdivision of both lots 1 & 2 DP 588912. The VPA with the State Government lapsed some years ago, though a new one has been prepared.

	<p>A VPA was executed with Council in 2006, and its terms were agreed so that the development of the site would result in an appropriate provision of infrastructure for the community.</p> <p>The context in which the Council Planning Agreement was originally drafted has changed significantly in that:</p> <ul style="list-style-type: none"> • the two sites (Lots 1 and 2 DP 588912) are now in separate ownership. This complicates separate development of the two allotments as discussed further later in this report. • BioBanking has been introduced as a means of managing environmental attributes of site. • The yield of development on the site has altered. • The infrastructure proposed when the Agreement was prepared in 2006 may not be relevant to today's needs. • Council now requires maintenance contributions to be paid for some types of community infrastructure. <p>As a result, the existing Planning Agreement is considered to be redundant and needs to be replaced. Discussions with the applicant commenced in relation to a new Planning Agreement but were not concluded.</p> <p>To ensure the discussions with the applicant and Council are finalised there is a condition recommending the applicant to provide a draft Planning Agreement prior to the issue of a Construction Certificate.</p> <p>The developer has agreed to enter into a Voluntary Planning Agreement which will comprise payment of monetary contributions, works and dedication of land. The VPA is to be reported to the Council meeting on 19 February 2018 for endorsement to exhibit the VPA.</p> <p>The contribution of money and carrying out of works are proposed at each stage of the development. The dedication of land to Council is proposed to occur in the later stages of the development following the carrying out of works under the VPA and consent. Key works include:</p> <ul style="list-style-type: none"> • Dedication of land • Drainage Infrastructure and Reserves
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	<ul style="list-style-type: none"> • Local Parkland including a regional all abilities childrens' playground • Passive Open Space • Asset Protection Zone • On-site Cycleway • Local Traffic Infrastructure including bus shelters, bike racks, traffic lights and directional signage.
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8 Conclusion

8.1 The Application has been assessed and found generally compliant with the relevant requirements of the following legislation:

- Environmental Planning and Assessment Act 1979, Environment Protection and Biodiversity Conservation Act 1999 (Cth)
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- Contaminated Lands Management Act 1997
- Threatened Species Conservation Act 1995
- Native Vegetation Act 2003
- National Parks and Wildlife Act 1974
- Roads Act 1993
- Rural Fires Act 1997
- Water Management Act 2000
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 44 — Koala Habitat Protection
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997)
- Wollondilly Development Control Plan 2016
- Wollondilly Developer Contributions Plan 2011
- Draft Western City District Plan
- Wollondilly Dedication of Land Policy
- Wollondilly Planning Agreement Policy.

And is therefore recommended for **Approval**.

9 Recommendation

9.1 The Development Application be Approved by the Sydney Western City Planning Panel, subject to the Draft Notice of Determination provided at **Attachment 9**.