**REGIONAL PLANNING PANEL**

**(Hunter Central Coast)**

**Supplementary Planning Report**

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| **RPP No** | **2017HCC027** |
| **DA Number** | DA/1029/2017 |
| **Local Government Area** | Central Coast Council |
| **Proposed Development** | 56 lot subdivision (50 small lot housing development, 2 x battle axe lots for the intent of 2 x dual occupancies), 3 residue lots, road construction and associated works in 2 stages |
| **Street Address** | 27-61 Nikko Road, Warnervale, Lot 1 DP.349727 |
| **Date lodged** | 18 August 2017 |
| **Applicant** | Kingston Property Fund No2 Pty Ltd |
| **Architect:** | Shaddock Architects |
| **Number of Submissions:** | 19 submissions (original DA) |
| **Estimated value:** | CIV $24,801,392 |
| **Regional Development Criteria** | Capital investment value exceeding $20 million |
| **List of All Relevant s4.15(1)(a) Matters** | * *State Environmental Planning Policy* *(State and Regional Development) 2011.* * *State Environmental Planning Policy 55 – Remediation of Land* * *State Environmental Planning Policy (Infrastructure) 2007* * *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* * *State Environmental Planning Policy 44 – Koala Habitat Protection* * *Wyong Local Environmental Plan 2013* * *Wyong Shire Development Control Plan 2013* * *Chapter 1.2 - Notification of Development Proposals* * *Chapter 2.1 – Dwelling House and Ancillary Structures* * *Chapter 2.3 – Dual Occupancy* * *Chapter 2.11 - Parking and Access* * *Chapter 3.1 Site Waste Management* * *Chapter 3.6 – Tree and Vegetation Management* * *Part 4 – Subdivision* * *Chapter 6.5 – Warnervale South* |
| List all documents submitted with this report for the panel’s consideration | **Attachment 1 – Applicant’s amended plans and information**  **Attachment 2– Numerical compliance tables**  **Attachment 3– Revised draft recommended conditions**  **Attachment 4- Previous Documents considered by the Panel (Council Assessment Report, Plans, Numerical Compliance Tables, and Draft recommended conditions)** |
| Recommendation | **Conditional Approval** |
| Report by | **Ross Edwards – Senior Development Planner** |

**CENTRAL COAST COUNCIL**

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|  | Development Assessment |
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| **Proposed 56 lot subdivision (50 small lot housing development, 2 x battle axe lots for the intent of 2 x dual occupancies), 3 residue lots, road construction and associated works in 2 stages** | | |

DA/1029/2017 Author:R Edwards

**Summary**

This supplementary report relates to Development Application No. DA/1029/2017 for a 56 lot subdivision (50 small lot housing development, 2 x battle axe lots for the intent of 2 x dual occupancies), 3 residue lots, road construction and associated works in 2 stages at 27-61 Nikko Road, Warnervale. The matter was initially considered (and deferred) by the Regional Planning Panel at its meetings of 27 November 2019 and 29 April 2020.

**Applicant** Kingston Property Fund No2 Pty Ltd

**Owner** Kingston Property Fund No2 Pty Ltd

**Application No** DA/1029/2017

**Description of Land** 27-61 Nikko Road, Warnervale, Lot 1 DP.349727

**Proposed Development** Staged development – Stage 1: 56 lot subdivision which includes small lot housing (50 Dwellings), 2 battle-axe lots, a park, 3 residue lots, road construction and associated works Stage 2: Construction of a dual occupancy and Torrens title subdivision on two (2) of the battle-axe allotments (Lots 27 and 28 proposed under Stage 1 of the development).

**Site Area** 35.97ha

**Zoning** R2 – Low Density Residential

**Value of Works** $24,801,392

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**Recommendation**

1. ***That the additional information be considered in the Panel’s determination of the application.***
2. ***The Hunter and Central Coast Regional Planning Panel as consent authority grant consent to Development Application No 1029/2017 for a 56 lot subdivision (50 small lot housing development, 2 x dual occupancies), 3 residue lots, road construction and associated works in 2 stages on Lot: 1 DP: 349727, 27-61 Nikko Road, Warnervale subject to the conditions provided in attachment 3.***
3. ***That Council advise those who made written submissions of its decision.***
4. ***That those Government Authorities who made written submissions be notified of the Regional Planning Panel Decision.***

**Background**

The development application was considered by the Regional Planning Panel at its meeting held Wednesday 27 November 2019.

The Planning Report recommended the following:

*1 The Hunter and Central Coast Regional Planning Panel as consent authority grant Deferred Commencement consent to Development Application No 1029/2017 for a 61 lot subdivision (56 small lot housing development, 2 x dual occupancies), 3 residue lots, road construction and associated works in 2 stages on Lot: 1 DP: 349727, 27-61 Nikko Road, Warnervale subject to the conditions attached.*

*2. That Council advise those who made written submissions of the decision.*

*3. That Council advise those Government Authorities who made written submissions be notified of the Hunter and Central Coast Regional Planning Panel decision.*

The Panel deferred a decision on the application pending the resolution of several issues as outlined in the minutes as reproduced below:

*“The Panel determined to defer consideration of the development application to allow for the following to be addressed:*

* *The applicant is to undertake further consultation and discussion with AUSGRID and other adjoining land owners to obtain land owners consent for the proposed sewer line over their properties in order to provide greater certainty than an agreement will be obtained to ensure the proposed sewer line connection can be developed as proposed. The plans are to be updated to show the agreed sewer line alignment to enable Council to assess and such impacts;*
* *Council to consider seeking legal advice on the wording of any conditions relating to the proposed sewer line connection, and provide confirmation that the application meets owners’ consent requirements and provided certainty of the outcome;*
* *The applicant is to review in consultation with Council the provision of a neighbourhood park within the subject site, with appropriate amenity and inclusions provided to service the proposed new community and surrounding community with a different type of passive community open space than that provided within the nearby sportsground. The location, size and design of the neighbourhood park are to be shown on updated architectural and landscape plans.*
* *An addendum planning report is to be provide by the applicant that details the revisions outlined above, including but not limited to a description of the revised number of dwellings and lots to accommodate the neighbourhood park.*

*The decision was unanimous.”*

In addition, the Panel requested that a further review be undertaken in relation to the potential contamination of the site, including a review of the draft conditions of consent relating to contamination with a particular emphasis on the timing of actions in relation to remediation and site audit, including addressing remediation of zinc and copper, as identified in the site contamination report.

The development application was considered by the Regional Planning Panel at its meeting held Wednesday 29 April 2020.

The Planning Report recommended the following:

1. *That the additional information be considered in the Panel’s determination of the application.*
2. *The Hunter and Central Coast Regional Planning Panel as consent authority grant consent to Development Application No 1029/2017 for a 61 lot subdivision (56 small lot housing development, 2 x dual occupancies), 3 residue lots, road construction and associated works in 2 stages on Lot: 1 DP: 349727, 27-61 Nikko Road, Warnervale subject to the conditions provided in attachment 2.*
3. *That Council advise those who made written submissions of its decision.*
4. *That those Government Authorities who made written submissions be notified of the Regional Planning Panel Decision.*

The Panel deferred a decision on the application pending the resolution of several issues as outlined in the minutes as reproduced below:

1. *The panel agreed to defer the determination of the matter for the following information.*
   1. *Submission of amended plans that:*
2. *Reduce Lots 1 to 14 to maximum of 10 lots and revise the buildings accordingly. Buildings should be single detached dwellings and provide some variety in roof profile/form and streetscape character.*
3. *Consolidate Lots 151 and 152 as one (1) lot and review the building on this lot. Building should be a detached dwelling that addresses both street frontages.*
4. *Identify Lot 522 as an interim park to be available for use of residents until such time as OS3, OS4 and OS5 identified on Figure 10* *Open Space Works in the Warnervale District Contribution Plan are completed.*
   1. *A revised landscape plan is to be prepared reflecting the above changes including identifying a landscape solution for Lot 522, which includes minimising tree removal and embellishment with appropriate facilities for use as a passive recreation area.*

*A restriction as to use is to be registered on the lot to ensure the ongoing use of the site as a park for the residents of the subdivision until the completion of OS3, OS4 and OS5 identified on Figure 10 Open Space Works in the Warnervale District Contribution Plan.*

1. *The panel resolved that the amended plans be re-advertised.*
2. *That Council prepare a further report addressing the amended plans and the following matters:*
3. *Structure of the Conditions of Consent to ensure that the conditions are drafted reflecting the correct certification regime.*
4. *Additional conditions requiring all contamination information and consideration to be required before issue of both a construction certificate for building works and subdivision works certificate.*
5. *Additional conditions requiring contamination matters to be validated before both issue of a subdivision certificate and occupation certificate.*
6. *Condition regarding appropriate restriction on use and release regarding the interim park on Lot 522.*
7. *Subdivision of E3 Environmental Management.*
8. *When this information has been received, the Panel will hold another public determination meeting.*
9. *In the event that amended plans are not provided within a timeframe identified by Council – a further report be prepared advising the Panel of this.*
10. *Where amended plans are not provided the Panel will determine the matter electronically based on the information previously provided.*

**Further Information and Applicant’s response**

Following the deferral of the matter by the Panel, the applicant provided amended plans and a formal response to the Panel’s request for information as outlined in the minutes of the meeting (29 April 2020). This information was received by Council on 10 June 2020 and is provided in full as *Attachment 1* for consideration by the Panel. Discussion is provided below in respect of the matters for A, B and C of the Panel’s aforementioned decision.

1. ***Submission of Amended Plans***
2. Amended plans

The proposed amended design of the development has reduced proposed Lots 1 to 14 to be a maximum of 10 lots. The proposed dwellings on Lots 1 to 10 are single detached dwellings and comprise of a variety of different facades and rooflines to provide streetscape character.

The proposed amended design of the development has consolidated proposed Lots 151 and 152 to create proposed Lot 11. Proposed Lot 11 comprises an area of 701.2m² and includes a single storey dwelling which addresses both street frontages.

The proposed lot sizes of Lots 11 and 54 comprise an area of 701.2m² and 597.5m² respectively and are compliant with the lot size requirement of 450m² of Clause 4.1 of the Wyong Local Environmental Plan 2013 (WLEP 2013). In the instance where the lot sizes are less than the minimum standard being proposed Lots 1 to 10, consent is sought under the provisions of Clause 4.1B which is addressed below.

An assessment has been undertaken against the proposed changes to the dwellings on proposed Lots 1 to 10. The proposed small lot dwelling houses on Lots 1 to 10 achieve the objectives of Clause 4.1B (5) of the WLEP 2013 as these dwellings are single storey which will have a minimal impact on adjoining land in terms of visual impact and overshadowing. The proposed development will be commensurate with the adjoining residential development and are consistent with the objectives of the R2 Low Density Residential zone which seek to maintain and enhance the residential amenity and character of the surrounding area.

The proposed development complies with the relevant provisions of Chapter 2.1 and Part 4 Subdivision of the Wyong Development Control Plan 2013 (WDCP) in relation to car parking, servicing of the site, adequate pedestrian and vehicular access and each dwelling will comply with BASIX and provide adequate stormwater management. A table of compliance is included with this report as attachment No. 2.

The relationship between each of the dwellings is considered satisfactory and having regard to the provisions of Clause 4.1B (5) the proposed development is supported.

The proposed amended design of the development has identified Lot 54 (Lot 522 on the previous version of plans) which is on the corner of Nikko and Kanowna Road for a proposed interim park to function as open space until such time as nearby Open Space Works in the Warnervale District Contribution Plan are completed.

The proposed corner lot (Lot 54) for the intent of a park consists of an area of 597.5m² which does not comply with the minimum corner lot size of 700m² of Section 4.1.2 of WDCP Part 4 subdivision and a variation is proposed to the corner lot size. The variation is addressed in detail below.

Corner lot size

Section 4.1.2 of WDCP – Part 4 – Subdivision states the following in relation to corner lot sizes:

*a) Corner lots should have a minimum area of 700m² for the purpose of providing adequate area for addressing dual streetscape impacts, privacy issues, setback implications and intersection sight lines. The larger area will also provide opportunities for subdividable corner lot dual occupancies.*

The proposed corner lot size is 597.5m² which results in a variation to the control equating to 14.6%. The proposed corner lot size of Lot 54 is considered satisfactory for the following reasons:

* The proposed corner lot is for the intent of a park and the size of the lot is of a suitable area, and location in which to provide a passive recreation area for the residents. The proposed park is conditioned to be maintained as a park until such time Open Space Works (identified on Figure 10 as OS3, OS4 and OS5) in the Warnervale District Contribution Plan are all completed.
* The proposed development has demonstrated (through the provision of house designs) that the other proposed undersized corner lots within the development are capable of being developed for the purpose of a dwelling house in accordance with the requirements of Wyong DCP – Chapter 2.1 – Dwelling Houses, Secondary Dwellings and Ancillary Structures, particularly having regard for the relevant setbacks and private open space areas.
* The corner lot is of a reasonable size (in excess of 450m²), orientation and shape capable of achieving suitable levels of solar access and amenity for future residents of a suitably designed dwelling on this site once it is no longer needed as an interim open space area.

The proposed corner lot size is considered satisfactory and accordingly, the variation as proposed is supported.

The remaining element of the proposed development is unaltered to what was previously proposed and presented to the RPP meeting held on 29 April 2020.

1. Revised Landscape Plan

A revised landscape plan has been provided which reflects the changes to the proposed Lots 1 to 11 and identifies a landscaping solution within the proposed park being Lot 54 which includes the retention of existing trees. It is conditioned as part of the consent that seating and play equipment are to be provided within the proposed park for the purpose of providing a place used by the future residents for passive recreation. Details of the required seating and play equipment are to be provided on an updated landscape plan prior to the issuing of the Subdivision Works Certificate. Please refer to condition 2.15(A) within the draft conditions of consent which is included with this report as attachment No. 3.

Council’s Ecologist has reviewed the proposed amendments and is in favour of the tree retention. The trees to be retained within the park have been conditioned to be protected prior and during construction works. Please refer to conditions 4.17(A), 4.18(A), 5.19(A) and 5.20(A) within the draft conditions of consent which is included with this report as attachment No. 3.

The proposed park is conditioned to be maintained as a park until such time Open Space Works (identified as OS3, OS4 and OS5 on Figure 10) in the Warnervale District Contribution Plan are all completed. This is to ensure that the ongoing use of the park is maintained until the other planned future public parks in the areas that will service the residents are completed in accordance with the Warnervale District Contribution Plan. Please refer to condition 6.19(A) within the draft conditions of consent which is included with this report as attachment No. 3.

1. ***Notification***

The proposed lot layout, dwellings, road layout and associated works within the development site were re-notified to the adjoining residences and previous objectors in accordance with the provisions of Chapter 1.2 of the WDCP between 26 June to 24 July 2020. In response, a total of 3 submissions were received which raised the following issues with the amended design of the proposal:

* The proposed loss of vegetation will impact on the ecology in the area.

Comment:

The applicant has provided a number of Flora and Fauna Assessment Reports including a Vegetation Management Plan (prepared by Enviro Ecology) with the application to assess the potential impacts to the vegetation and ecology of the area. The assessment has satisfactorily demonstrated that the proposed development will not have a significant impact on the ecology within the area subject to recommended conditions. After considering this matter in detail, Council staff are satisfied with the report and plans and have concluded that there will be no significant impact on the ecology within the area. A number of native species are to be included in the landscape plantings throughout the development site under a recommended condition.

* The proposed development will create traffic impacts in the area.

Comment:

A Traffic Impact Assessment Reports and a Railway Level Crossing Impact Report prepared by Intersect Traffic were provided with the application which demonstrated that the proposed development will not have a significant impact on traffic within the area. Council’s Staff (Development Engineer and Traffic and Transportation Engineer) reviewed and assessed the reports and were satisfied that the proposed development will not have a detrimental impact on traffic in the area.

* Traffic concerns regarding the intersections of Warnervale Road and Nikko Road and Wyreema Road and Nikko Road.

Comment:

Traffic Impact Assessment Reports prepared by Intersect Traffic were provided with the application to demonstrate that the proposed development will not have a significant impact on traffic within the area and the intersections within the vicinity of the site. Council’s Staff (Development Engineer and Traffic and Transportation Engineer) have reviewed the Traffic Impact Assessment Reports dated 3/8/17 and 21/05/19 prepared by Intersect Traffic and is satisfied that the proposed development will not have a detrimental impact on traffic in the area or cause unreasonable traffic impacts on the intersections within the area.

The application was referred to Council’s Traffic and Transportation Engineer who advised that while this is a large development it is not a significant traffic generator and will not have an impact on the local road network or on the nearby level railway crossing.

The following comments were provided in relation to traffic generation:

*The proposal has been amended to consist of the construction of 54 lots (down from 70 originally proposed). The development consists of 47 x 4 Bed Single Storey Dwellings (freestanding), 3 x 3 Bed Single Storey Dwellings (freestanding), and 4 x 4 Bed Two Storey Dwellings (semi-detached).*

*The RMS’ Guide to Traffic Generating Development’s and the RMS Technical Direction TDT 2013/04 provides specific advice on the traffic generation potential of various land uses.*

*The RMS rates for low density residential are:*

*PM peak (1) hour = 0.78 per dwelling in regional areas. (Maximum 0.9)*

*AM peak (1) hour = 0.71 per dwelling in regional areas. (Maximum 0.85)*

*Therefore, the additional traffic generated by the proposed subdivision can be calculated as:*

*PM peak hour trips = 54 lots x 0.9 vtph = 49 vtph.*

*AM peak hour trips = 54 lots x 0.85 vtph = 46 vtph.*

*This equates to less than 1 vehicle movement per minute on average in the AM and PM peaks, which will not have a significant impact on the surrounding road network.*

*In its letter dated 10 June 2019 Roads and Maritime Services (RMS) recommended that Council consider the cumulative impacts of the densification of developments in Warnervale and Wadalba on various intersections in the vicinity of this subdivision.*

*In 2012, Council engaged Hyder Traffic Consultants to undertake a Traffic and Transport Study for the planning area known as Precinct 7A.*

*The purpose of Hyder’s traffic study is to assess the performance of existing and future network capacity within the study area. Hyder used the RMS’s Central Coast Regional Strategic Model together with its own TransCAD modelling software. For assessing individual intersection capacity, Hyder used SIDRA software. Future years modelling was undertaken for 2021 and 2031 using land use data sourced from Council.*

*The traffic model included the cumulative growth from following planned developments including:*

* *Precinct 7A;*
* *Wyong Employment Zone (WEZ);*
* *Bruce Crescent;*
* *Warnervale Town Centre (WTC);*
* *The Lakes Anglican Grammar School;*
* *Precinct 14, and*
* *Wadalba Precinct*

*Therefore, Council has considered the cumulative effects of this and other proposed developments in the greater Warnervale area.*

*Traffic generation for the site that is subject to this development application was included in the study and the applicant will be required to pay development contributions towards intersection upgrades in accordance with section 7.11 of the Environmental Planning and Assessment Act 1979.*

* The infrastructure in Warnervale are in poor condition which are required to be upgraded.

Comment:

The proposed development is subject to the Warnervale District Contributions Plan and the Shire Wide Infrastructure, Services and Facilities Development Contributions Plan. The contributions which apply to the development will be conditioned as part of the consent and will contribute to providing infrastructure within Warnervale including the upgrading/maintenance of roads and pathways within the area. This is included in the Contribution Plan.

The proposed development is conditioned to provide full road construction within the development site and a turning head on proposed road 4. This includes new kerb and guttering, street signage, pavement marking and street stormwater drainage systems throughout the development in accordance with Council’s Civil Design Guidelines. In addition, infill road pavement construction (up to half road) is required to be undertaken by the applicant adjoining the proposed kerb and guttering for Nikko and Kanowna Roads. It is conditioned that the civil infrastructure works are to satisfactorily transition to the existing infrastructure.

The proposed development is providing sewer which will be connected to Council’s existing sewerage infrastructure on Virginia Road which will benefit the existing and future residents within the area. This is conditioned under Section 306 and 307 of the *Water Management Act 2000* which applies to the development.

The development is proposing to provide footpaths along the frontage of Nikko Road and Kanowna Road and through the development. Street lighting will be provided throughout the development site and all services for the development will be provided below ground.

* The proposed development will create unreasonable impacts on the nearby railway level crossing.

Comment:

The Railway Level Crossing Impact Report prepared by Intersect Traffic assessed the adequacy of the railway crossing which demonstrated that the proposed development will not have a significant impact on traffic within the area and the intersections within the vicinity of the site. Additionally, Council and Sydney Trains have reviewed the report and are both satisfied that the proposed development will not have a detrimental impact on traffic in the area and will not cause unreasonable traffic impacts on the nearby railway level crossing.

* There should be a new road connecting Kanowna Road to Virginia Road.

Comment:

Under the adopted future road layout pattern within Chapter 6.5 of the WDCP 2013, Kanowna Road is not required to be connected to Virginia Road nor is it necessary according to Council’s Staff (Development Engineer and Traffic and Transportation Engineer).

* The proposed development is an overdevelopment of the site and is not consistent with the established development in the area.

Comment:

The proposed development site is located within the Warnervale South Urban Release Area which envisages and plans for more residential housing for the area and the proposal is generally compliant with the controls of WLEP 2013 and Wyong Development Control Plan 2013. The site is considered to be consistent with the future planning of the area towards residential dwelling houses and the proposal on this site is therefore in a suitable context for the nature, scale and type of development proposed. Although the size of the lots and the density of the housing is greater than the existing surrounding housing, the proposal is consistent with the planning controls that apply to small lot housing and as such is not viewed as an overdevelopment of the site.

The proposed development meets the objectives of the *Central Coast Regional Plan 2036,* as the intent of the development is to provide an affordable choice of housing to suit the needs and lifestyles of the residents while sustaining the natural environment.

* The minimum lot size should be 450m² in the R2 Low Density Residential zone.

Comment:

The minimum lot size within the R2 Low Density Residential zone which applies to the site is 450m². However, the proposed development is utilising the provisions of Clause 4.1B of WLEP 2013 which permits lots sizes to be less than the minimum lot size requirement on R2 zoned land providing the land is subdivided into 5 or more lots and the proposal has demonstrated compliance with Clause 4.1B(5). The proposal has demonstrated that the development complies with the requirements of Clause 4.1B(5) of WLEP 2013 and the proposed lot sizes which are less than 450m² are supported.

* Bushfire safety

Comment:

The application was referred to the NSW Rural Fire Service (RFS) under Section 4.46 of the *Environmental Planning and Assessment Act 1979* who considered the location of proposed development and proposed APZ’s are satisfactory. Accordingly, a Bushfire Safety Authority was granted for the development by the RFS dated 23 July 2020.

* Footpaths are to be provided along Nikko Road and surrounding roads.

Comment:

The development is proposing footpaths along the frontage of Nikko Road and Kanowna Road and through the development. The proposed development is subject to the Warnervale District Contributions Plan and the Shire Wide Infrastructure, Services and Facilities Development Contributions Plan. The contributions which apply to the development will be conditioned as part of the consent and will contribute to providing infrastructure within Warnervale including the upgrading/maintenance of roads and pathways within the area. This is included in the Contribution Plan.

* Nikko Road should be widened as part of the proposed development.

Comment:

The existing road width of Nikko Road was assessed by Council’s staff (Development Engineer) and the road width was determined to be suitable for two cars to pass therefore Nikko Road is not required to be widened.

Infill road pavement construction (up to half road) is required to be undertaken by the applicant adjoining the proposed kerb and guttering for Nikko and Kanowna Roads. It is conditioned that the civil infrastructure works are to satisfactorily transition to the existing infrastructure.

* There are no shops or petrol stations in Warnervale.

Comment

There are existing shops, services and petrol stations located within the nearby suburbs of Wadalba, Kanwal and North Wyong. The future Warnervale Town Centre is also planned to provide these facilities for Warnervale residents and surrounding suburbs once established.

* The zoning of the land being R2 should not be changed.

Comment

The zoning of the land which is R2 Low Density Residential is unaltered as part of this development. The land is identified as R2 Low Density Residential under Draft Central Coast Local Environmental Plan (CCCLEP) 2018.

* A community garden should also be provided with the development.

Comment

The development proposes a park on Lot 54 which comprises an area of 597.5m² for the use of the residents. The park will provide an area for passive recreation which includes landscaped gardens. A community garden is not required to be provided in addition to the proposed park.

The proposed park is conditioned to be maintained as a park until such time as Open Space Works (identified as OS3, OS4 and OS5 on Figure 10) in the Warnervale District Contribution Plan are completed. This is to ensure that the ongoing use of the park is maintained until the other public parks in the areas are completed in accordance with the Warnervale District Contribution Plan.

1. ***Matters to be addressed***
2. The revised draft conditions of consent have been updated to reflect the correct certification regime. A copy of the draft conditions of consent is included with this report as attachment No. 3.
3. Additional conditions in regard to contamination information and consideration have been included within the revised draft conditions of consent under the headings “Prior to the issuing of the Subdivision Works Certificate” and “Prior to the issuing of the Construction Certificate” for the dwellings. This is to ensure that the site has been remediated to suitable level for residential development. A copy of the draft conditions of consent is included with this report as attachment No. 3.
4. Additional conditions have been provided within the draft conditions of consent under the headings “Prior to the issuing of the Subdivision Works Certificate” and “Prior to the issuing of the Occupation Certificate” which requires that the site has been validated and is clear of contamination for residential development. A copy of the draft conditions of consent is included with this report as attachment No. 3.
5. The proposed park is conditioned to be maintained as a park until such time as OS3, OS4 and OS5 identified on Figure 10 Open Space Works in the Warnervale District Contribution Plan are completed. Please refer to condition 6.19(A) within the draft conditions of consent which is included with this report as attachment No. 3.
6. The majority of the site is zoned R2 low Density residential that is split into two sections by a drainage corridor that is zoned E3 Environmental Management within the middle of the site.

Drainage along this corridor is provided to the development to the west of the Northern Railway Line with stormwater flowing via culverts under the train line into the drainage corridor into the wider downstream catchment to the east.

Clause 4.1 requires new lot sizes created by subdivision to comply with the minimum lot size established by the Lot Size Map (LSM). The size of any lot resulting from a subdivision of land to which Clause 4.1 applies is not to be less than the minimum lot size for the subject site.

The portion of the site zoned E3 is proposed to be created as a separate lot (lot 55) which is to be excised from the rest of the subdivision. Whilst the minimum allotment size for E3 land is 40 hectares it is considered that an exception to the minimum lot size is not required for the following reasons:

* The current area of E3 zoned land is 2502.7m². The proposed subdivision is not seeking to further subdivide the land within this zone.
* This area of E3 land and the zone boundary was dictated by the width of the riparian corridor which extends into the adjoining lots to the east of the subject site and the location of the E3/R2 zone boundary.
* The creation of this allotment complies with the requirements of Clause 4.1(1)(c) in that it is protecting the physical characteristics of the land and the intent of the E3 zone.
* The excising of this lot is exempt development under the provisions of Clause 2.75 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

It is considered that the excising of this lot (under the minimum allotment size of 40 hectares) is reasonable in this instance as it is intended to be for the purpose of a stormwater management system and is not further subdividing/reducing the existing area of the E3 zone.

The proposed subdivision does not contravene the provisions of subclause 4.1(3) of the WLEP 2013 therefore the proposal is supported. The E3 zoned land (proposed Lot 55) will be dedicated free of cost to Council as required by the Warnervale District Contributions Plan and this has been addressed under recommended conditions. Please refer to condition 6.19(A) within the draft conditions of consent which is included with this report as attachment No. 3.

Other matters for consideration

The amended design of the proposal was referred to the NSW Rural Fire Service (RFS) for consideration. The RFS issued their concurrence within a revised Bushfire Safety Authority issued for the development dated 23 July 2020 which has been included in the recommended conditions of consent. Please refer to condition 1.4(A) within the draft recommended conditions which is included with this report as attachment No. 3.

The amended proposal was internally referred to Council’s Development Engineer, Traffic and Transportation Engineer, Ecologist, Water and Sewer Section and Contribution Officers who each raised no objections to the amended design of the proposal.

**Conclusion**

Additional information in respect of the proposed development has been provided to address the matters raised in the Regional Planning Panel meeting of 29 April 2020.

The proposal is recommended for approval subject to conditions.

**Attachments**

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Attachment 1 – Applicant’s amended plans and information

Attachment 2 – Numerical compliance table

Attachment 3 – Revised draft recommended conditions

Attachment 4 – Previous Documents considered by the Panel (Council Assessment Report, Plans, Numerical Compliance Tables, and Draft recommended conditions)